

PLANNING BOARD  
Tuesday, March 3, 2020 – 6:00 P.M.  
GAR Room - City Hall  
**Meeting Minutes**

Members present: Vice Chair Craig Pina, Larry Hassan and Reggie Thomas also present Deputy Chief Edward Williams and Planning Director Rob May and Administrative Assistant Pamela Gurley.

Acceptance of Minutes

A motion was made (Thomas), seconded (Hassan) and unanimously passed to accept the minutes from 2/4/20 as presented.

Endorsement of ANR Plans, Subdivision Plans and/or Lot Releases

The ANR for the commercial property at 553 Forest Avenue was signed; the Trinity 40R Approval letter was signed. The board was advised that the office had received the inspection letters from the DPW as well as a check as substitute surety for the remaining work and voted unanimously to release the following lots: 1 & 3 N. (738) N. Cary St.

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1. Permission to Return to the ZBA – **Withdrawn**

Property: 598 N. Main St.

ZBA Denial: 3-12-19

Planning Board Denial: 10-1-19

Applicant: Maria Flores/Attorney John McCluskey

The board was advised that the office received notification from the attorney that the applicant was withdrawing their application at this time.

2. Definitive Subdivision - **Continued to April 7, 2020**

Property: Map 37, Plots 4, 6 & 18 Augusta Ave. and Plot 36 Prospect St.

Lots: 18

Owner/Representative: Frederick Hebshie/Curley & Hansen

3. Definitive Subdivision - **Continued to April 7, 2020**

Property: Plot 2 Belgravia Ave.

Lots: 4

Owner/Representative: Curley & Hansen

4. Site Plan Approval – Two Commercial Buildings - **Continued to April 7, 2020**

Property: 568 Montello St.

Applicant/Representative: Gen 3 Realty LLC/JK Holmgren

5. Preliminary Subdivision

Property: Plot 41 Palmer St.

Lots: 2

Owner/Representative: James Van Lam/Land Surveys

Craig Pina said he was recusing himself from participation but would remain in the room to make quorum.

Applicant's statement: Bruce Malcolm said he was submitting a preliminary plan for the purposes of being allowed to proceed to the board of appeals; he said this was an unusual lot; he said that the lot was made smaller by the state taking for West Street; he said when dividing the parcel he tried to equalize the areas.

Comments: The members were previously provided with the comments from the City Engineer; Rob May explained that if the state took the property and it was conforming at that time then we would need to treat it as if it was still conforming; that is not the case here; he said this is a bad example of a subdivision. The members agreed with the director of planning.

Reggie Thomas asked the director if he had a suggestion; he said he would like to see this denied and said although the existing lot does not meet current zoning, there may be support for a zoning variance for one house.

No public comment.

Action/Decision: Motion to deny the preliminary application; The board felt the existing property would be more suited for one single family home and stated that the proposed internal lot line is illogical and was an example of why this should remain one lot.

Motion: Thomas

Second: Hassan

In favor: 2

Opposed: 0

Pina abstained

Bruce Malcolm stated he was not looking for approval; he was just here so that the board could send a letter to the ZBA so he could apply for a variance and the board had no right to deny the application. He was informed that the preliminary is the first step in the subdivision process and that the board has the ability to deny, approve with recommendation or approve. Either an approval or an approval with conditions allows the applicant to proceed to the next phase.

## 6. Preliminary Subdivision

Property: 496 N. Cary St.

Lots: 2

Owner/Representative: Charles Macy/Scott Faria, JK Holmgren/Attorney John McCluskey

Applicant's statement: Scott Faria said that the existing property is a large piece of property and they are looking to create two lots; he said there are two points of frontage on N. Cary; one with 50' and the other with slightly less than 40'. He said the home at #492 is using the 50' strip as their yard; he said they are proposing to cut off the property at the access and giving him an easement retaining the actual frontage; he said they are also proposing an easement for a common driveway using the 40'. He said access to the two homes will be from other lot and both lots have 40,000.

Attorney McCluskey said the 50' easement will still be frontage for the lot and the land owner at 492 would have the legal use of the property.

Comments: The members were previously provided with the comments from the City Engineer, Conservation Agent and Dep. Ch. Williams, copies were provided to the applicant. Reggie Thomas asked why they can't use the 50' as access to the proposed lot and Attorney McCluskey said it would impact the existing homeowner at 492 and they are trying to be good neighbors.

Craig Pina asked what the hardship was and Attorney McCluskey said hardship is the way its laid out. He asked if the wetlands were flagged and Scott Faria said that it was taken from GIS and if approved they would have the property flagged and file with conservation.

Reggie Thomas said that the shared driveway is an issue; he said he would much rather see a separate driveway on the left...giving each property its own driveway entrance.

Larry Hassan said they are creating a retreat lot and that the COB does not allow retreat lots; he agreed that he would rather see separate driveway entrances.

Rob May said over time the property has been subdivided and re-subdivided leaving what is left. He said the lot with the 50' of frontage may be buildable; he said they should look at combining the two parcels and re-subdividing. He said the proposed "use easement" is creating a self imposed "hardship" creating a retreat lot and the need for a shared driveway.

No public comment.

Action/Decision: Approve to allow the applicant to file with the ZBA for necessary relief with the following conditions: Plan is to be revised to show access to lot B from the existing plot 41-1; the access to lot A shall be from the existing 39.50 feet of frontage on North Cary St.'There is to be no shared (driveway) access.

Motion: Thomas

Second: Hassan

In favor: 3

Opposed: 0

#### 7. Preliminary Subdivision

Property: 135 Elliot St.

Lots: 2

Owner/Representative: Fenton Assoc./JK Holmgren

Applicant's statement: Scott Faria said the zoning line separates the two pieces of property; the front parcel is zoned R2; he said they are proposing to create two 13,000 sf lots; he said they are proposing to build a total of six units with 18 parking spaces.

Comments: The members were previously provided with the comments from the City Engineer, Conservation Agent and Dep. Ch. Williams, copies were provided to the applicant.. Craig Pina asked how they will access the parking and was told that parking will be through another piece of property and between the two buildings; he asked what if the property was sold and was told there will be a permanent easement.

Larry Hassan asked where the current parking for the business was and where it will be; Scott Faria said they need five or six spaces and there is ample parking for industrial building; Larry Hassan asked if the proposed building was in the flood plain and was told that the property was not in the flood plain by Scott Faria.

Rob May said that the letter from the Conservation Agent states that the property may be in the flood plain; he said that the business parking is in a residential district and once divided the property will need a variance; he said they will need to buffer residential to commercial uses; (Scott Faria said they will ask for a variance from screening). Rob May also asked how would you enter or exit the commercial building once the new building is up and he was told they would have to have an easement for that also.

Action/Decision: Approve to allow the applicant to file with the ZBA for necessary relief with following comments: Applicant needs to address the issues of potential filling of potential floodplain; the board also felt that the newly created residential lots should be screened from the existing industrial building.

Motion: Thomas

Second: Hassan

In favor: 3

Opposed: 0

#### 8. Definitive Subdivision

Property: Plots 42 & 43 West Chestnut St.

Lots: 3

Owner/Representative: Meadow Woods LLC/Gallagher Engineering

Applicant's statement: Frank Gallagher said approval for roadway was granted about 6 weeks ago under site plan review; he said they have filed for definitive subdivision approval for the creation of three house lots; he said all three lots are conforming, however lot 3 is questionable as to buildability because of wetland issues. He said this is the same plan approved under site review except for the addition of the house lots.

Comments: Craig Pina said he would like to see the cul de sac be built out for for an emergency turn around.

Public Comments:

Linda Lynch, 31 Chestnut Dr., said he received prior approval for what was called a driveway and now he wants to build upon it; she said the road is a dead end; she said section 4 #5 of the planning board rules & regulations require road to be less than 700'; she said that the paperwork says its 938'; she said this road is going to the W. Bridgewater line; she said he (Albanese) has already filed for a subdivision in W. Bridgewater for 26 units.

Craig Pina said that the plan that was previously approved was same as presented tonight except for the addition of the house lots. He said site review has different standards; he said the cul de sac shortens the road to less than 700'.

Frank Gallagher said that if nothing more happens in W. Bridgewater the road will end at the cul de sac and it does not exceed the limit allowed. He said if there is no project in W. Bridgewater the road beyond the cul de sac is not necessary;

Richard Emanuel, 38 Alexanders Way, said his road is 720'; he said the rules and regulations define what a turn around is and asked who would build a road to nothing. He said Chestnut Woods had to put in the turn around. He said that there are times he has to wait to get out..wait and wait...26 more homes will only make is worse; if they don't do something with the traffic there will be a dangerous situation.

Craig Pina said the applicant will have to build the cul de sac; he said that the applicant has a right to file this application; he will still need an IMA to connect utilities to W. Bridgewater, but he has the right to utilities in Brockton; he explained that they only have control up to the town line. He said that the applicant is willing to put up money to address signalization along W. Chesnut.

Peter Lynch, 31 Chestnut Dr.; said he thought it was a driveway; he said that a street should not be approved that will have a negative impact on the city; that area is the narrowest section of the street and there is already too much traffic to that specific section of W.Chestnut; he said the applicant did apply with W.

Bridgewater last week; he asked if the con-com approval expired and was told by the ad min that they were issued an extension.

Ben Albanese asked if he could address the traffic and said traffic is arithmetic ... OCPC's traffic study said the increase in traffic would be 0.05%; these homes will not make it any worse.

Craig Pina said that residential developments do not add any substantial traffic; the problem is the lack of traffic enforcement.

Councillor Winthrop Farwell said he rarely comes to planning board meetings; he said access to W. Bridgewater will be through this road; he said that Brockton fire and police can get there quicker; he said this road is a pretext to getting approval of a project in W. Bridgewater. He said that people shop on line now and all that truck access will be through Brockton; there will be a significant increase of traffic through Brockton; he said the board needs to be realistic; he said the street should not be used to access any other municipality.

Ben Albanese said that the law does not allow a board to prohibit lawful access to a property and said there is no need for Brockton to supply fire or police.

Rep. Michelle Dubois, said she represents the W. Bridgewater; she said the board should make them follow the letter of the law; the dead end street should not be more than 700'; she said that maybe this is plan A and they should look at plan B; she said that George Millette owns land which landlocks Ben Albanese's land and he is attempting to build apartments to help W. Bridgewater reach its 40B requirement; there are 100's of apartments that Mr. Albanese could put there...she said she had a conversation with someone in the Town of W. Bridgewater about that.

Ward 4 Councillor Susan Nicastro said 1,000's of Ward 4 residents use w. Chestnut St. She said she believes more people would have come tonight if not for the conflict between the primary and meeting. She said the board's rules and regulations state that a roadway must have a curb line radius of 20' and a street line radius of 30'; she said the lack of radi creates a public safety issue and is grounds for denial; she said the rules & regulations only talk about land in Brockton; this road violates the rules and regulations...it exceeds 700' and he did not ask for a waiver....violating the rules and regulations; she said that papers were filed with W. Bridgewater for 30 lots and asked the board how could you not ask for traffic study....she said the board cant approve this.

Ben Albanese said he can not get occupancy if there is no road....he said if the roadway is not approved in W. Bridgewater there will be a cul de sac that ends in Brockton at less than 700'; he said he can get an easement on the Chin property

for the radius; but he said that when the city widened W. Chestnut St. the city made it non conforming.

Councillor Dennis Eaniri said he is the Councillor for Ward 3 and has no problem with the project; he said that the city was in court for two years over this and spent \$150,000 in legal fees; he said he is not looking for another lawsuit on this; he said we are spending a lot of time talking about W. Bridgewater...this is Brockton land and what happens with W. Bridgewater is yet to be seen; it may not happen for 2-3 years. The developer is looking for three house lots in Brockton. Regarding traffic he said he lives on W. Chestnut St. also; he said that the developer has made an obligation to help get a traffic control light by pledging \$100,000; he said that the issue is before the Traffic Commission and Tighe & Bond are doing the study...regarding the IMA he wondered why the city would say no to the sale of water and sewer.

Patricia Jacobson, 26 Alexander Way, said she appreciated the help of Councillors Nicastro and Farwell. She said she would be in favor of the Brockton homes but is against the burden of W. Bridgewater being adding it to our streets.

Diana Tosca said there are young children that access the street; she said that crossing the street is a problem; it is loosing the neighborhood feel; she too was grateful for the other councillors help and does not agree with the Ward Councilor and she said she does not want a traffic light right in front of her home; she said she does not mind 2-3 homes in Brockton; but this is a connecting road coming into our town and a lot has changed in 2.5 years ..she said it lacks logic to approve a connecting road to another town; she asked where the emergency exit would be located....she said it is misleading that the COB would not respond to an emergency.

Craig Pina asked Dep. Ch. Williams if he know how this will be handled; Dep. Ch. Williams said that Brockton has reciprocal agreements for mutual aid to adjoining towns in an emergency. He said the Fire Chief in W. Bridgewater is aware that the responsibility for the homes are his.

Peter Lynch said that he looked on line and Brockton fire is closer.

Craig Pina said he received two letters in opposition and read the letter from Martha Testa and Paul Landerholm into the record; he also read the comments from the chairperson regarding his recommendations into the record.

Public portion was closed.

Reggie Thomas asked what the length of the road to the turn around was and Ben Alanese said 675'.

Rob May said the proposal is for a 3 lot subdivision all within the City of Brockton with a proposed cul de sac at less than 700'; he said the extension of the road would only be necessary for access should they be approved by W. Bridgewater. The turn around in Brockton should be built out to Brockton standards and should be a condition of approval. If the road continues into W. Bridgewater it is no longer a deadend and the turn around in Brockton could be a temporary easement for roadway purposes which will allow fire and police the ability to turn around..

Ben Albanese said he would like to condition the contribution of the \$100,000 on the project in W. Bridgewater being approved otherwise it is just a 3 lot subdivision in Brockton.

Councillor Nicastro said they do not have property radii.

Rob May said that regulations require a 30' radius, but the developer has stated he can get an easement on the Chin property and suggested that any approval be conditioned on receipt of that easement.

Frank Gallagher said that the original radius was reduced by a taking by the COB; he said they can provide actual pavement radius; he was asked what side of the street the Chin property was on and was told the west.

Reggie Thomas said he was uncomfortable tying the money for traffic upgrades due to a project in W. Bridgewater to this project. He said it should be a condition of approval from W. Bridgewater.

Action/Decision: Motion to approve the definitive subdivision with standard conditions and the following special conditions: The roadway shall be no longer than 700 feet at the proposed cul de sac and the cul de sac shall be built out as shown on the plan; the applicant is to submit a revised plan showing an easement at W. Chestnut St on the westerly side to allow for a 30' turning radius.

Motion: Thomas

Second: Hassan

In favor: 3

Opposed: 0

Surety will be a covenant.

### **Annual Re-Organization of Planning Board**

A motion was made (Thomas), seconded (Hassan) and unanimously passed to postpone the re organization of the board to the April meeting.

Other Business

A motion was made (Thomas), seconded (Hassan) and unanimously passed to hire a consultant to review how our current rules and regulations addresses complete streets.

Updates from Board Members

**The listing of matters is those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.**