

PLANNING BOARD

TUESDAY, JANUARY 5, 2021 - 6 PM

Meeting Minutes

Bob Pelaggi introduced himself and called the January 5, 2021 meeting of the Brockton Board to order and read the following statement: This meeting is being recorded in accordance with the government order suspending certain provisions of the Open Meeting Law General Law chapter 38 section 20. Real time public participation and comment can be addressed to the planning board utilizing the zoom virtual meeting software for remote access; this application will allow users to view the meeting and send a comment or question to the chair via the question and answer function submitted text comments will be read into the record. For those of you joining by phone press star nine. If you want to asked a questions please raise your hand. A copy of this recording will be on the city's web pages. All votes will be done via roll call to ensure account accuracy. As your name is called please indicated that you are present. The following members were in attendance: Robert Pelaggi, Craig Pina & Larry Hassan, Toni Goncalves and Reggie Thomas. Also in attendance were Director Rob May, Staff Planner Raisa Saniat and Administrative Assistant Pamela Gurley

A motion was properly made (Pina) seconded (Goncalves) and unanimously passed by a roll call vote to accept the minutes from the 12-10-20 and 12-17-20 meetings.

Endorsement of ANR Plans, Subdivision Plans and/or Lot Releases
ANR - 93 Pleasant St

The chair said that they board had received a memo stating that there was a prior history of zoning relief for this property and there is a concern that the division of this property would conflict with that variance. He asked if there was a possibility of continuing this to another meeting. The admin said that the 21 days will have expired prior to the next meeting and without an agreement to freeze the time clock for approval this would be a constructive approval.

A motion was properly made (Pina) seconded (Thomas) to approve with the hopes it does not prevail citing that the board had concerns that this division of the property would conflict with the previously approved use variance issued by the ZBA on June 27, 2017. Motion failed to carry by a roll call vote with all voting in the negative.

Request for Extension:
NeighborWorks Housing Solutions
70 Highland St.

Noelle Humphries from NeighborWorks said that they are in the process of seeking financing; she said they have applied and received positive feedback on their application and will be re submitting an application and feel that they have a good chance for funding. She said although they believe that their permit is still valid under the current state of emergency, but believe it is prudent to request 18 month extension at this time.

Bob Pelaggi asked if all permits were still frozen and Rob May said that he believes that it was lifted. He said that the city is continuing to work with Neighborwoods on their Historic Tax Credit application.

Craig Pina asked if they could grant them a two year extension and was told they could grant up to two years. Bob Pelaggi asked if any work had been done and was told that they cannot start until they receive the tax credits; Noelle Humphries said if they are awarded the credits they will proceed to closing on the property. Rob May said they have made some improvements to the building to protect its integrity with the city's permission.

A motion was properly made (Pina) seconded (Goncalves) and unanimously passed by a roll call vote to grant a two year extension to the current site plan approval.

1. Permission to Return to the ZBA - **Continued to February 2, 2021**

Property: 68-70 Field Street

ZBA Denial: 7-14-20

Applicant: Marie Lorquet/Attorney John Creedon

2. Definitive Subdivision - **Continued to February 2, 2021**

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

Lots: 18

Owner/Representative: Frederick Hebshie/Curley & Hansen

3. Preliminary Subdivision

Property: Map 74 Plots 18 Market & 1-4 Copeland St.

Lots: 2

Owner/Representative: Juan Trochez/Land Surveys

Bob Pelaggi said he understands that the office reached out to the attorney several times requesting that they forward a continuance with no response. Without the agreement for a continuance and to freeze the time clock for approval they board will need to take action tonight.

A motion was properly made (Hasson) seconded (Goncalves) to approve the preliminary plan with the hopes that it does not prevail. Motion failed to carry by a roll call vote with all voting in the negative.

4. Preliminary Subdivision

Property: 42 Quincy St.

Lots: 5

Owner/Representative: Springfield Ventures Realty Trust (Harriman/Morrissey)

Scott Faria, JK Holmgren Engineering/ Attorney Phil Nessralla

Attorney Nessralla said this is an *ambitious* 5 lot subdivision; he said there are no small lot sizes; he said the applicant is proposing what is called estate lots; he said Brockton's zoning was not designed for estate lots; he said he has reviewed the staff report and some points are valid and true; most of the property is non conforming; the plan is bringing positivity to that area; the street has has several lots of the proposed size; he

said there is the question on creation of 45' lots but believes that this will be beneficial to the neighborhood and city; he said they are willing to work with the board to make adjustments.

Scott Faria said there is a total of 4 acres of land; lot 1 is the existing home; lots 2 & 5 have a proposed 100' of frontage and lots 3 & 4 are large and are the **estate lots** with reduced frontage. There will be 4 new driveways heading out to Quincy St. (five total) and they are looking to proceed to the ZBA and ask for relief.

Craig Pina said he has personal relationship to a lot owned lot on Debbie Road and that the applicant is willing to keep a 50' buffer along Debbie Road and remove the dead trees; he said this area is going to be developed and that the board has approved retreat lots in the past.

Larry Hassan asked what was the relief they needed from the ZBA and was told some need relief from frontage, lot width, setback.

Bob Pelaggi said he looked at standards for retreat lots that other communities have and that that a typical lot is at least double the required lot size; these are not that big. He said this plan is very dense.

Craig Pina said he heard from the neighbors and they want to see this.

Jim Morrissey said they have owned this since December; he said they identified identified 4 abutters to reach out to and spoke with each of them; he said they also had two meetings with Councillor Thompson. Because of the proximity of the school across the street they will agree that there will be no road work done until July & August and will agree to the requested buffer.

Bob Pelaggi said the two forward lots are small in size and asked if they would be colonials and was told they will.

Raisa Saniat said that the Baker School is directly across the street and five driveways will increase traffic concerns. Attorney Nessralla said this will not cause an adverse problem with only five homes.

Rob May said that four of the driveways are practically on top of each other and pointed out that the rest of the neighborhood has 70 to 80 feet of frontage; he said he does not have a problem with the retreat lot concept but that 45' of frontage is tight; the board has not approved less than 50 and would like to see those lot have more frontage.

Larry Hassan said he would also like them to flip the driveways on lots 2 & 5.

Toni Goncalves said that traffic is terrible there; that she lived in that area. She asked if they would flip the driveways and if there was anyway to get additional frontage on those small lots.

Craig Pina asked if they could make 50' of frontage on those two lots. Bob Pelaggi said they also have the opportunity to reduce the number of lots; they can make the two front

lots a little deeper to push the houses back. Jim Morrissey said he was hoping to keep the original driveway as it is.

Bob Pelaggi said he would like to see them come back with a revised plan.

Craig Pina said there is no need for them to come back; the chair said they should not approve a plan they have not seen. Attorney Nessralla said they could condition the plan modifications. Jim Morrissey said they will agree to continuance to revise the plans.

The admin stated that they received one email in support and it was from Dave Lynch.

Councillor Thompson said he walked the property with the owners; he said he agrees with the board's request for the increased frontage and reversal of the driveways; he said he was the proponent of the 50' buffer; the trees will provide some screening to those along Debbie Road. He said he is in favor of this project that the east side needs new single family home construction and he is looking forward to seeing high end single family homes.

Deputy Ch Williams suggested to the applicant that that look at a residential sprinkler for those two long lots; he said it is difference that a commercial system and is just an extension of the domestic service. He said he would be happy to get them the information if requested.

A motion was properly made (Pina) seconded (Goncalves) and unanimously (Thomas abstained) passed by a roll call vote to continue to the February meeting; the revised plan is to show the 50' buffer along Debbie Rd and the dead trees along Debbie Road are to be removed, the driveways flipped for lots 2 & 5; the retreat lots are to be increased to at least 50' of frontage and they are to look at pushing back some of the homes from the street.

Scott Faria said they should be able to push the houses back 20'. The admin said that she would be forwarding Attorney Nessralla some paperwork and asked that he complete it and send it back as soon as possible.

5. Definitive Subdivision

Property: 53 Cypress Dr., 0 & 300 Rockland St.

Lots: 5

Owner/Representative: Azu Etoniru, ET Engineering; George Haikal & Art Kotsiopoulos

The chair said that we have had no proof from the BOH and City Clerk relative to filing with those office and asked the planner if this hearing needs to be postponed until we receive confirmation. Rob May said that he believes they could hear the presentation but there can be no decision until confirmation is provided.

Azu Etoniru said that the plan before them shows that three properties involved; he said he will be making his presentation and asking for a continuance to revise the plan removing subplot 102 from the plan leaving only 300 Rockland and 53 Cypress. He said they are proposing a new road and that all lots have at least 100' of frontage; he said that the road meets the 50' ROW requirement with a sidewalk on one side only. He said they will be needing several waivers including to allow for offset pavement so the

pavement is not centered in layout. He said all runoff will be retained to meet SW management and MS4 requirements. He said they do have the receipt from BOH and said that the city clerk cancelled the appointment and asked them to mail the application which was done.

Craig Pina said he sees a hardship of size and shape with these lots.

Bob Pelaggi said that the plan is deficient in many ways; there is no profile, no drainage calculations etc; he said he has a specific concern on lot #3 and said that dashed line is at 20' and if you push it back to 30' you won't have a building box to support a house; Azu Etoniru said he will take a look at that.

Raisa Saniat said she is concerned about the location of the roadway to the wetlands and was told they will be filing with conservation.

Councillor Tim Cruise (for the record that one abutter is a relative) said he is seeing proposed requests for exemptions to many of the city's Subdivision Rules and Regs; he said he does not see anyway this can match the quality of the existing neighborhood; the proposed houses are small; depth to some of neighbors is small; they are creating their own hardship by doing this. He said if you are asking for that many exemptions it doesn't fit.

Vance & Valencia Mills, 211 Fairview Ave, said they are the owners of the other lot (the one being removed from the proposal); and said they are opposed to the development; they were approached by two individuals (Katsipoulos wanted them to give him that property) and informed that their property was worthless and he intended to just beautify the area; after that they spoke with George Haikal and he asked that they sell it to him; they said this project will impact them; they purchased the property because of the peace and quiet; and said this whole area has character and they will not be building character.

Denise Dragonetti, 233 Fairview Ave said her garage flooded after the last rain; area they are proposing to build on is wet she said some of the lots will be 20- 30' from her fence (the chair pointed out on the plan that the proposed dwellings are not that close).

Paul Packard, 69 Cypress said he received his notice yesterday and is opposed and will do everything to stop it.

Councillor Cruise said that the Packards may be part owner of what may be a private way; he said he has full respect for the board; he said that the applicant has not spoken with the neighbors and is trying to jam this in; he said he is asking the board to vote tonight to deny.

Paul & Mary Beth Koury, 82 Cypress, said that the development does not belong in this area and does not fit the neighborhood.

Bob Pelaggi said that lot 3 is troubling...they are looking to squeeze a house there and said he is concerned about the whole subdivision.

Toni Goncalves said she lives on Fairview Ave and believes they should have gone to the conservation commission with this first; the chair said at the very least they should have filed concurrently; he said conservation may influence changes on the plan.

Craig Pina said that the petitioner has requested an extension to March.

The chair suggested that they concurrently file with the conservation commission.

Azu Etoniru said he will do his best to address concerns and comments.

A motion was properly made (Pina) seconded (Thomas) and unanimously passed by a roll call vote to grant a continuance to the March meeting. (Request for a continuance has been received in writing with notification that approval time clock has been frozen.)

6. Site Plan Approval Amendment- Retail Marijuana

Property: 747 Centre St.

Representative: Patrick K. Sullivan, Esq., Lewis and Sullivan, P.C.

Attorney Patrick Sullivan said that this site was previously before the board and received approval for a retail marijuana establishment. He said that the approval did not include the residentially zoned portion of the lot; sometime after approval that the area along with several other parcels was rezoned; he said the ZBA special permit has been amended to allow for parking and they would like to amend the approval to include that portion of the lot.

Eric Dias said this is the old Webster Bank and the zoning line ran through it; per the decision they were not allowed to use the back lot and said this effectively created a dead lot; the removal of that restriction will allow the site to function as it was intended to; they have changed the traffic pattern, the fence has been eliminated to allow for two way traffic from the site and they revised the truck turning radius.

Bob Pelaggi asked if they were compliant with parking without the additional area and was told yes; he said he is glad to see that portion of the property functioning as part of the project.

Craig Pina said each time we have seen this project it has gotten better.

No public comment.

A motion was properly made (Pina) seconded (Goncalves) and unanimously passed by a roll call vote to amend the prior site plan approval to allow for parking on the rezoned part of the property.

7. Site Plan Approval - Retail Marijuana

Property: 156 Main Street

Representative: James A. Valeriani, Esq., The Mensing Group LLC

Attorney Jim Valeriani said he represents Victor Teixeira and Jose Andrade; he said his firm focus's is on marijuana permitting. He said this building (156 Main) is on the national register; he said that this company could help revitalize and rehabilitate the building; he

said there is no parking available and none required; there is public parking along Main and W Elm; he said long term parking for employees will be in the parking garage. He said in this district they are required to be on the second floor. Delivery will be three times a week and is done quickly; waste disposal will be disposed of as with the existing tenants; there is no waste of product. He said the building needs revitalization. There are no schools or other retail establishments within 500' per ordinance. He said he is dismayed at receiving the report two hours ago. He said regarding the elevator, it must be inspected and this is a code issue; the venting of the exhaust up to the roof is a building and electrical code issue and not in the purview of board. He said they will coordinate waste removal with the other tenants. The secondary power source was on the plan and they emailed their waste plan to the BOH on 11-5...as for odor control he said there are no odors and they could have stuck in a couple of air purifiers. He said they meet all the requirement of the use and is not seeing any issues. He said they were fully anticipating a favorable result.

The chair said he is looking at two sets of concerns; it looks that as a result of tech review they are looking for the specs for odor elimination and there is no ADA compliance of the elevator and no trash disposal plan.

Attorney Valeriani said that the ordinance requires that retail establishments be ADA compliant; any repairs and upgrades will be outlaid at time of construction; the chair asked if they have had anyone look at the elevator and was told not as of yet.

Craig Pina said that he is puzzled at the concerns...this is the only application that follows the intent of the ordinance...and sees no reason to deny. These issues are not board issues.

Rob May said that these issues are items are part of the SPA contained in the zoning ordinance; he said tech review wanted to make sure that they had an agreement with a trash company, that they showed an odor control plan; the specs for the outside location of stack and that the elevator needs to be operational.

Bob Pelaggi asked what agency will sign off on updated or an improved elevator and Attorney Valeriani said the building department, state elevator inspector and CCC. He said they will not be able to open if they are not accessible.

Rob May read read chat comments into the record from Bob Lewis, 148 Main St, relative to the lack of "secured loading" and several other concerns (opposed). No additional comments from public.

The chair said he wants to make sure that board does not exceed its authority but wants to make sure that it meets the requirements of the ordinance.

A motion was properly made (Pina) to issue an approve with standard conditions. On the motion the chair asked about the outstanding issues and Craig Pina said that he did not believe that the board has the right to add conditions and his motion does not contain them. Seconded (Thomas) and unanimously passed by a roll call vote.

8. Site Plan Approval - Retail Marajuana
Property: 165 Westgate Dr.

Representative: Scott Faria, JK Holmgren Engineering

Scott Faria said they were before tech review a year ago; he said this is an existing commercial building with several tenants; he said as a result of tech review they added a new fence around the dumpster, added an emergency generator; eliminated the construction entrance note and also also made one other change by eliminating four parking spaces they were able to some green space (he said they are required to have 12 parking spaces and have 13).

Attorney Phil Nessralla said there are 250 parking spots; he said that the principals have business degrees (B Good Restaurants) they are a good development team to operate the business and it will be a benefit to the city.

Craig Pina said there seem to be a lot of applicants for the last remaining licence and asked what puts them above those; Attorney Nessralla said it was never designed to be a horse race; he said after Carpenter's death more licenses were given out...he said it was never mentioned that it would be a horse race to the finish line. There are a lot of issues that need to be determined..legal and not.

Bob Louis said that the HCA is in the name of a different person; Attorney Nessralla said that that is the resident agent . Bob Louis said at the time the HCA was issued Attorney Nessralla was city solicitor.

No additional public comment.

A motion was properly made (Pina) seconded (Thomas) and unanimously passed by a roll call vote to grant site plan approved with the standard conditions.

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.