

## PLANNING BOARD

FEBRUARY 2, 2021 - 6 PM

Bob Pelaggi introduced himself and called the February 2, 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, Larry Hassan, Toni Goncalves and Reggie Thomas. Also in attendance were Director Rob May, Staff Planner Raisa Saniat and Administrative Assistant Pamela Gurley.

The chair stated that they were currently a four person board (all applicant's had been previously advised) and that for site plan approval and zba returns they will need to carry all four members.

### Meeting Minutes

#### Acceptance of Minutes

Minutes from two January meetings were not completed.

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

None

#### Return of Surety - Chilton Woods Subdivision (Ferrone)

Received all inspection letters, but waiting for final as built plan. Will move this to next months meeting agenda.

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### **Zoning Change**

#### 1. Sect 27-50 Appendix C, Article VII (Buildable Lots)

Rob May said that the city and building department are looking to increase the fees paid for buildable lot determinations. As the fees are in the ordinance this process is required.

Bob Pelaggi asked if this was the fee paid to city and was told it would be; he was also told this would cover any work by outside counsel for title searches.

No public comment.

A motion was properly made (Hassan) seconded (Thomas) and unanimously passed by a roll call vote to recommend the chance favorably.

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## 2. Site Plan Approval

Property: 955 Belmont St.

Proposal: Service Station/Convenience Store

Representative: Attorney Danielle Dufault

Attorney Danielle Dufault introduced her team. She said this is a raze and redevelopment of the property; she said tech review was completed in July 2020; and they received con-com approval on 12-16-20; she said the plan reflects the requested changes by con com (she thanked the COB for helping them through this process). She said that some of the revisions included the location of a portion of the development outside the 25' no touch, snow removal was relocated to the opposite side of property as well as dumpster location and taking the suggestion of the agent they were able to incorporate native species to the landscape plan.

Bob Pelaggi asked about the percentage of greenspace and was told they are providing more than double the green space requirement(10% requirement.... 25% proposed) and they are keeping the mature trees. He said he does not want to see them planting "starter plants/contractor plantings" and wants to see more mature plantings. He said he does not see any stabilized construction entrances. Michael Gazdacko said that they will add a stabilized construction detail at each entrance. Bob Pelaggi said as a condition of approval the final plan needs to show the entrances with details.

Dep Ch Williams said he previously submitted his comments; he asked what their current storage license capacity was and was told that they are not seeking any new licenses; he said he wants to make sure that the current license covers the new UST's; Michael Gazdacko said that they are reducing the fueling capacity from four 10,000 gallon UST's to two 15's.

No public comment.

A motion was properly made (Hassan) seconded (Goncalves) and unanimously passed by a roll call vote to grant site plan approval with the standard conditions as well as the addition condition that the plan is to be revised to show the location of two stabilized construction entrances on the plan as well as the detail sheet.

## 3. Site Plan Approval

Property: .863 Belmont St.

Proposal: Used Car Lot

Representative: JK Holmgren

Scott Faria said this is the site of the closed restaurant on Belmont St.; he said they are proposing to raze the newer section of the building and keep the remaining portion as a sales office. He said they went to tech review in October and as a result added curbing along rear of parking lot and at the request of concom extended the siltation. He said they have received ZBA approval; there is currently no drainage on the site and they are proposing a new drainage system. He said they received the comments from the planning department and will make the entrance off Belmont St. 24' wide; by loosing a parking spot. He said they expected to be completed with concom but there was no meeting in January so they will be looking for a continuance to the March meeting.

Bob Pelaggi asked them to add a stabilized construction entrance to the plan and asked if there was any repair work that would be done on the site. Scott Faria said that SNE has a repair shop up the street...and there is to be no repair on the site per the ZBA.

Bob Pelaggi said that the plans show customer parking are at spaces 61 & 67 and Rob May asked what their license was for and was told 58. Bob Pelaggi asked if they could eliminate space 66. Scott Faria said he will show the car show locations on the revised plan.

Regarding green space Bob Pelaggi noted that the back area is the majority of the green space and the front is a bio retention area; he asked if they would add some additional green space in the front.

Continued to 3-2-2021 by agreement of the parties.

4. Permission to Return to the ZBA - **Continued to March 2, 2021**

Property: 68-70 Field Street

ZBA Denial: 7-14-20

Applicant: Marie Lorquet/Attorney John Creedon

5. Permission to Return to the ZBA

Property: 598 N. Main St.

ZBA Denial: 3-12-2019

Applicant: Maria Flores

Bob Pelaggi said that he looked at the materials submitted and the ZBA denial and asked the applicant to explain what new and different materials were submitted that would cause the board to allow them to return to the ZBA.

Maria Flores said she is requesting to do mixed use with commercial space on the bottom and residential on the top floor; she said she was denied by the ZBA because of the lack of egress; she said that the fire escapes for the egress leaned over the neighbor's property; she is now going to build a deck to extend all the way around to have the second egress.

Bob Pelaggi said this is a two story building; the proposal is a florist shop on the first floor and two apartments on the second floor. He said that the ZBA decision clearly said there was no hardship....that granting of mixed use would derogate from the zoning bylaws....he said that this suggests that they are attempting to discourage the mixed use.

Maria Flores said that the denial was for the lack of egress...each apartment will now have two egresses; Bob Pelaggi said she is still looking for mixed use.

Toni Goncalves said it looks like she was denied from going from one to two family. Mrs. Flores daughter said that her mother bought the property as a two family.

Larry Hassan asked if there were currently two apartments on the second floor and was told it was set up as a two family. He said they did receive comments from the Deputy

Chief stating that the second egress can not share a staircase with another unit. Bob Pelaggi said that each apartment has to have two independent egresses. When asked what was on the first floor they were told a store.

Rob May said that at one time there was a commercial unit on the first floor and single apartment on the second floor; he said sometime the second floor apartment was changed changed to two units; he said that non conformity lapses after two years of non use.

Bob Pelaggi said that it sounds like from the last decision that the ZBA will not be in favor of granting that request for mixed use.

Toni Goncalves said she agrees with the chair; she said they should consider going back to one unit and that may be considered a substantial enough change.

Councillor Shirley Asack said she was at the ZBA meeting and remembers the board giving suggestions for proposed changes to the plans and asked if this could this be postponed.

Rob May asked that the Dep Ch address the egress issue and was told by him that each unit needs an independent second stairway and suggested that they check with the building superintendent; he said if the egress is modified it would be acceptable.

Bob Pelaggi said that the board needs some clarification regarding the written decision and what was told to the applicant; he also said that they need to modify the plan to split the egresses.

Toni Goncalves agreed that they need clarification of as to what was said at the ZBA.

Bob Pelaggi said that even if the changes are made he wanted them to understand that there is no guarantee that they will receive permission to return.

A motion was properly made (Goncalves) seconded (Hassan) and unanimously passed by a roll call vote to continued until the March 2nd meeting.

#### 6. Permission to Return to the ZBA

Property: 1 Millett St.

ZBA Denial: 7-28-20

Applicant: Pearlie Investments

Francesca Alves said that she owns a multi family in a C-2 zone; she said she purchased it as a three family; as it has been empty for more than two years it lost its non conforming use; she said that when she went to the ZBA they were concerned that there was a lack of parking and not enough green space; she has changed the plan from a three family to a two family.

Bob Pelaggi asked if she had seen the ZBA decision and she said yes and that said she has addressed the concerns of the building department since being notified. Bob Pelaggi said if the structure was a legal three family and pre dated zoning why they needed zoning approval. Francesca Alves said it is zoned commercial and lost its non

conforming use because it has been vacant for more than two years. She said she has been actively trying to obtain a permit from the building department; she was told it would be better suited as a two family. Bob Pelaggi asked her if she was concerned that the city has said that the building needs to come down; she said she was concerned and was told she needed to secure the building.

Rob May said that the building is gutted out...probably could be salvaged as a two unit; he said he is concerned about the proposed dormer as it could be easily converted into a third unit.

Bob Pelaggi asked the applicant to explain her substantial changes and was told that the original plans were for a three family she said now the second and third floors will be combined to one townhouse unit.

Toni Goncalves said that the second apartment will have 4 bedrooms.... and said it still looks like space is available to convert that unit to a apartment. Dep Ch Williams said it is common to combine two units into one townhouse unit. He also said that the front stairway was built without any foundation; that there are large holes in the existing foundation; the stairway is in different location on the plot plan than on architectural. The chair questioned if the egress was sufficient and said she needs to address the stairs in the ROW.

Larry Hassan said based on what has been reviewed she might want a continuance to address the issues. ....he said that the property needs a lot of work but she is trying to fix up the property.

Toni Goncalves asked if the board could send this back to the ZBA with conditions.

Councillor Susan Nicastro said this property has been a problem for four years; she said there has been a succession of owners and several foreclosure auctions. She said she is not sure the property is big enough for a two family. She said it used to be combined with property next door; that the property zoning has reverted back to commercial and she does not see a substantial change.

A motion was properly made (Goncalves) seconded (Thomas) and unanimously passed by a roll call vote to grant permission to return to ZBA with the conditions that the plan be revised to address the issues of the steps within the city right of way and the issue of the unpermitted exterior stair case,

#### 7. Definitive Subdivision - **Continued to March 2, 2021**

Property: Plot 2 Belgravia Ave.

Lots: 4

Owner/Representative: Silva Engineering

#### 8. Definitive Subdivision

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

Lots: 15

Owner/Representative: Frederick Hebshie/Curley & Hansen

Attorney John McCluskey said they received ZBA approval for 15 total lots; 13 house lots; one of the lots has a home (#100) and one lot is not buildable for detention purposes; he said that the original subdivision was approved many years ago with many more lots.

Bill Self said this was originally proposed as an 18 lot subdivision; he said they have meet with the neighbors; listened to the board and re adjusted the plan; the final plan has 15 total lots with 13 buildable lots; #14 is a small lot that will be conveyed to and combined with the house at #100; lot 4 was created for detention purposes; most of comments from ZBA came from the home owners along Augusta who were concerned about water; in response to that they have added a swale along the properties as well as the requested privacy fencing; access has been provided along the back of the basin to allow for maintenance as requested by the city engineer; there is a 30' easement along lot 7; access to the subdivision is from off Prospect St.; there are existing hydrants on Cross Ave Ext and they have added two additional hydrants (there is also one existing hydrant on Prospect; the road will be improved out to Prospect St.; there will be sidewalks on both sides and they have provided a 10' planting easement to be used for planting of the trees on the lots so they are not in the sidewalk.

Bob Pelaggi asked what sheet shows the topos for lot 4 and was told 5B; he asked if there were any plans to vegetate the basin; Bill Self said it will be loamed and seeded ....mowed.. and will be controlled by the homeowners association. Bob Pelaggi asked if there were any plantings along the detention basin; Bill Self said the area is wooded now and they have no intention of clearing it, but they can install plantings along the gravel driveway.

Bob Pelaggi asked Todd Pilling how deep the basin would be in typical storm and how long will it be wet; Todd Pilling said that in a 100 year event it will drain in 24 hours; depth...1 foot of freeboard; in a 100 year storm it would be 2' deep; the chair asked if they had any concern about the water in the basin; Todd Pilling said it will not stay long in smaller storms.

Shirley Asack before the board numerous times; in support of the project; applicant met with residents; residents concerns have been addressed; nice to see that the applicants listened; vote favorably tonight

The Admin to the board explained that they will need to set up a homeowners associations for the street lights, stormwater and roadway.

A motion was properly made (Hassan) seconded (Goncalves) and unanimously passed by a roll call vote to approve the application with standard conditions.

Method of surety will be by covenant.

9. Preliminary Subdivision

Property: 42 Quincy St.

Lots: 4

Owner/Representative: Springfield Ventures Realty Trust

Scott Faria said they listened to the board's concerns and have revised the plan. He said the original plan had "estate lots" with 45' of frontage and the area was 45,000 not quite meeting the definition of an estate lot; he said they have eliminated one estate lot leaving two lots with 60' of frontage; lot 1 has 90' of frontage; he said lots 2 & 4 had 90' of frontage and now have 115' and were pushed back and they flipped the driveways; he said they added a 50' no clearing buffer along lots 1 & 3.

Bob Pelaggi said this plan is much improved and is pleased to see that it is diminished by one lot.

Dep Ch Williams said that the dog leg turn around on the estate lot looks short; Scott Faria said that the gravel driveway does continue and said it should be 20' long.

Bob Pelaggi said that he would like to see the house and driveway on lot 2 flipped; the applicant agreed to make that change.

Councillor Jeffrey Thompson said he supports the modified plan; he said he is happy that Mr. Morrissey listened to the board; he said the developer has agreed that they will maintain the 50' no touch buffer and is determined to have construction during the summer months so as not to cause an issue for the school.

A motion was properly made (Hassan) seconded (Goncalves) with Reggie Thomas abstaining and the remaining members voting unanimously by a roll call vote to allow the plan to proceed to the definitive stage with the condition that the house and driveway on lot 2 are to be flipped.

#### 10. Preliminary Subdivision

Property: 166 Fairview Ave.

Lots: 2

Owner/Representative: Christopher Mathers/Bill Self

Attorney Jim Burke said this was Judge Cortland Maters residence; he said it is a large parcel; the proposed new lot is being created where the existing tennis court is and will be in harmony with the existing neighborhood.

Bill Self said that the existing home at #166 will need a variance for side yard set back from the ZBA; he said the new home will be four bedrooms; its meets setback requirements and they will only need frontage and the side set back relief from the ZBA. He said that the remainder of the property will be left as is.

Bob Pelaggi asked if there was any proposal to do anything in the back of the land....and was told that an ANR plan was previously signed to give neighbors some privacy....there is no other access to property and a small wetland area will prevent anything else from being built there.

Toni Goncalves said she is a direct abutter and will be abstaining from voting; but asked if they will be giving up the existing right of way.

Attorney Burke said that the prior owner had a right of way from Rockland St. to this property (used for hay fields); he said it is a useless ROW; his opinion is that the ROW

has been abandoned....they have no intention to use it. Bill Self said there is no reason for the owner of lot 2 to pass over and said he can release his rights. Attorney Burke said that the current owner has no issue with releasing his rights to the easement.

Councillor Tim Cruise was unable to be present but asked to be recorded in support of this request.

Phil Nessralla said that the right of way may relate to the property he owns; a separate lot denoted as 184 rear; Bill Self said he does not remember ever seeing a ROW connecting those properties; Jim Burke said he would speak with Attorney Nessralla.

Dave Cruise said that the applicant has presented a modest development of the land and is in favor of the project.

A motion was properly made (Hassan) seconded (Thomas) with Toni Goncalves abstaining and the remaining members voting unanimously by a roll call vote to allow the plan to proceed to the definitive stage.

#### 1. Preliminary Subdivision

Property: Plots 211R, 203 & 207 Waverly Park Ave.

Lots: 7

Owner/Representative: Hyacinth & Everett Realty/JK Holmren

Scott Faria said this is a 5 acre parcel off Waverly Park Ave.; the proposal is to develop it into 7 lots; all the lots need relief from frontage and some from area. He said that the biggest issue is that access to the property is through a separate 40' wide parcel of land. He said that there was an ANR in 1957 which created the 40' ROW and that the same party owned the back land; at that time he created the roundings at the entrance; and it was certainly the intention at the time to build a roadway. He said they will be seeking a waiver from the 50' requirement; he said they can meet the pavement width at 34'.

Bob Pelaggi said that the strip was created in 1957; the property owner had an obligation to ensure convenience, safety and access to the remaining property. He said that the (preliminary) plan is lacking some information; he asked what the width of Waverly Park was and what the current condition of the road was.

Scott Faria said that nothing speaks to grandfathered rights for construction standards; if we asked for a pavement width waiver to 28' he said they could add sidewalks along the 40' wide strip.

Rob May said that according to Mass GIS the Waverly Park layout is 40'; the chair said that the plan shows it as 50'.

Rob May said that in the last year two other applicants have come forward with layouts not at the 50' standard and they were told to come back at conforming standards.

Larry Hassan said that right of way and the width of Waverly Park may be a problem and asked if they had access from anywhere else.



Attorney Andrew Reservitz shared the 1957 ANR plan; he said it was clearly intended to be a roadway and feels that it was already been approved. Bob Pelaggi said that parcel C was not designated as a roadway....and said that the planning board never saw that plan. He said we need to have a consistent width of roadway. He said he does not know what exists on Waverly Park.

Attorney Reservitz said this application is consistent with the purpose of the subdivision control law and that the neighborhood would be improved. He asked if a more detailed plan would help...and was told by the chair that more info is better than less... but there is no guarantee; he said there is missing information that is required on a prelim plan.

Councillor Susan Nicastro said that lot C on that 1957 ANR could just as easily been a driveway...she said that the property was the Sons of Italy field; she said that she has received calls and emails from constituents because of their ZBA filing. She said she is concerned about no sidewalks along lot C; Waverly Park is narrow and said her first concerns is for the people that live there.

Bob Pelaggi asked when Sisco(?) took title to the land and was told 1953. The chair said that he had a window of time to develop the land. He said there are physical features to a 50' road that can't be accommodated in a 40' road; he said the sidewalks just end...and asked if reducing the density would help.

Toni Goncalves asked if the applicant wanted a continuance; Attorney Reservitz asked if lowering the impact of the number of lots would make a difference and said that they would like a chance to come back.

The admin said that the next meeting is beyond the time within which the board has to take action and asked if they would agree to freeze the statutory time clock to the March 2nd meeting. The parties agreed.

A motion was properly made (Hassan) seconded (Goncalves) and unanimously passed by a roll call vote to continue the hearing and freeze the time clock to March 2, 2021.

12. Preliminary Subdivision - Continued to March 2, 2021

Property: 76 South St.

Lots: 2

Owner/Representative: Adeline Larocque/JK Holmgren

**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.**

As you are aware the Commonwealth of Massachusetts and the City of Brockton are currently in a "State of Emergency" during the COVID 19 pandemic. Should you have any questions relative to this agenda, please email the Planning Department at: [planning@cobma.us](mailto:planning@cobma.us).