

## PLANNING BOARD MINUTES

WEDNESDAY, NOVEMBER 4, 2020 6 PM

Bob Pelaggi introduced himself and called the November 4, 2020 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 be asked a question 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 indicate that you are present. The following members were in attendance: Robert Pelaggi, Toni Gonsalves, Craig Pina & Larry Hassan; Reggie Thomas was not in attendance.

Also in attendance were city planner Rob May, administrative assistant Pamela Gurley and the planner introduced Raisa Saniat as the new staff planner.

A motion was properly made (Pina) seconded (Gonsalves) and unanimously passed by a roll call vote to accept the minutes of 10-6-2020.

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

The chair asked the admin to go over the "housekeeping" matters.

ANR application for 166 Fairview Ave. - The plan shows that several small pieces of the property (lots A, B & C) are being added to the back of three properties along Fairview Ave. The remaining property is being combined with another property owned by the same property owner. Parcel frontage size will still be conforming.

A motion was properly made (Pina) seconded (Hassan) and unanimously passed by a roll call vote to endorse the plan as an ANR.

ANR application for 56 Cherry St. - This is a combining of several commercial lots and a redivision of them into two commercial lots.

A motion was properly made (Gonsalves) seconded (Hassan) and unanimously passed by a roll call vote to endorse the plan as an ANR.

### Request for Lot Releases

138 Carl Avenue (lots 1 & 2) - Request to release the existing home and the new lot; we have received notification from the DPW that the partials were brought in off the street and inspected.

107 & 111 Guild Road - same as above

496 N. Cary St. (Lots A & B) K/N/A 490 & 500 - Although we have received the necessary information from the DPW, the applicant has not yet recorded the plan. He

has asked that we release the lots pending recording information as he has completed the only work within the ROW.

Pam Gurley stated that this is the time of year (as road opening permits may cease during winter months) that contractors attempt to get their utilities into the road and inspected with the hope of building the actual home over the winter months.

A motion was properly made (Pina) seconded (Hassan) and unanimously passed by a roll call vote to release lots 1 & 2 (138 Carl Ave.), 107 & 111 Guild Rd and lots A & B (496 N. Cary St.) with the condition that the releases for N. Cary are held until the necessary recording information is received.

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1. Permission to Return to the ZBA

Property: 68-70 Field Street

ZBA Denial: 7-14-20

Applicant: Marie Lorquet/Attorney John Creedon

Attorney Creedon said this is the old Max's Blues Cafe; he said the current owner wants to expand from 90 seats to 129 which means she will need an additional 8 parking spaces; he said the past owner had problems with on street parking; he said the new owner has a lease agreement for a property on N. Montello St. and that under the recent change to zoning she will no longer need a special permit for a restaurant. He said she does need site plan approval. He said he is asking that the board either vote to table or take no action to allow for the site filing. He said the chairman of ZBA said there would be no need for ZBA as the planning board is the permit granting authority. He requested a continuance to January.

A motion was properly made (Pina) seconded (Gonsalves) and unanimously passed by a roll call vote to table until January.

2. Permission to Return to the ZBA

Property: 14 Battles Street

ZBA Denial: 11-13-19

Applicant: Valentino Gomes/Attorney John Creedon

Attorney Creedon said this ZBA denial was about a year ago; he said they had concern about a fifth bedroom in the basement (which was a change to what was already approved) that was below grade; he said the new plan shows an egress window and feels this is a material change...there is no longer a bump out window; he said the city building inspector has approved the egress window.

Craig Pina said he believes this is a substantial change as the egress was the concern. Deputy Chief Williams said that the plans do look like they meet code.

Rob May said the ZBA decision clearly states that a reason for denial was for insufficient documentation; no site plan was submitted and there is still no site plan.

Toni Gonsalves said she would have liked to see the site plan.

Craig Pina asked Attorney Creedon if there was a site plan and was told he will file one with the ZBA.

The chair said noted that they will need a certified site plan.

A motion was properly made (Pina) seconded (Hasson) and unanimously passed by a roll call vote to grant permission to return to the ZBA.

### 3. Site Plan Approval

Property: 56 Oak Hill Way (commercial addition)

Applicant: Atlantic Mechanical

Representative: Vertex

Andrew Chagnon said the proposal is for a 10,000 SF refrigerator building. He said there is existing parking available to north of building for passenger vehicles and off property to the south is a detention pond and wetlands; he said the addition is proposed on existing pavement; the new roof drains will discharge into the existing system; there are two existing CB (one inside the building and one outside) he said the one inside will be relocated to the outside. They have submitted to con-com and received an OOC. He said there were a number of issued brought up at tech review and they were able to address some and have answers to the others.

He said that the addition will be sprinkled and fed from the existing line; when asked if there was an easement for off site parking; he said there is not easement and they have no need for the off site parking; he said there is an existing drainage easement that allows for drainage off site.

Bob Pelaggi questioned the snow storage area off site and wanted to make sure that their parking is not dependent on those spaces off site.

Andrew Chagnon said that the council women had asked if they intended any site beautification and said they intend to paint the front of the building.

Craig Pina asked if this was strictly a refrigerator area and asked if there was an need for additional loading docks and was told no.

Dep. Chief Williams said along with the refrigeration trucks they have about 20-30 box trucks that are used for deliveries; he said they currently refuel on site and that should be protected from wetlands. Joe Gratta (Atlantic Mechanical) said refueling will not be done in that area.

Rob May said the refueling of vehicles was new information and never brought up by the applicant. He asked if there was a proposal for containment. Andrew Chagnon said he was not aware that it was an issue and believes they comply with regulations.

Craig Pina said asked why that was an issue now and was told that they need to look at the CB system in case there is a spill. Bob Pelaggi said it would be work getting an answer from con-com as to whether they were aware of the refueling and have a concern.

Andrew Chagnon said it is an ongoing operation; there are no inlets in front of the building; they are operating under (Fire Dept.) regulations and will provide the information.

Joe Gratta said with the addition there will be no need for refueling on site. Deputy Ch Williams asked if they were speaking about the refrigeration trucks or the delivery vehicles.

Toni Gonsalves asked if there are also refueling delivery vehicles and Joe Gratta said he would check with the tenant.

The planner noted that the new addition is close to property line; he said the abutting property was taken by tax title; he suggested that the applicant negotiate an easement with the COB for construction; he also suggested that in exchange for an easement the city will allow the applicant to removal of the asphalt and loam and seed that area where the parking is currently.

Bob Pelaggi asked what the offset of the addition to lot line was and was told 6.8'; he also said this site should be totally independent from the COB property; no parking, not snow storage etc.

Craig Pina said he would like a 15' maintenance easement; Toni Gonsalves said she would like an answer to the issue of refueling. Joe Gratta said there will no reason to refuel on site....delivery vehicles will go to another re-fueling area.

Councilor Susan Nicastro said that she attended tech review; she asked if there was a written easement dealing with drainage; Bob Pelaggi said there is an existing agreement. She asked if access to the addition would be through the existing building and was told there will be no access from outside; she said she is pleased to hear they will be painting the building. She said that maybe the applicant should look at installing a fence. She said that one of conditions of approval would be a revision to show snow storage on their site and said that the COB has an abutters lot program where an abutter can buy up to 5,000SF of land.

Bob Pelaggi asked the planner what kind of easement they would needs and was told an easement for construction and a permanent maintenance easement of 10 to 15'.

Andrew Chagnon said they will craft some language to come to the city to negotiate an easement.

A motion was properly made (Pina) to issue a standard approval approval with the following special conditions:

There is to be no snow storage on City of Brockton property.

The current practice of re-fueling of vehicles on site will be discontinued.

Plan shall be revised to show a snow storage location on the property of 56 Oak Hill Way.

No building permit shall be issued and no construction shall commence until the applicant and or property owner successfully negotiates a temporary construction easement with the City of Brockton.

No building permit shall be issued and no construction shall commence until the applicant and or property owner successfully negotiates a permanent 10'

maintenance easement with the City of Brockton.

Seconded (Hasson) and unanimously passed by a roll call vote.

#### 4. Site Plan Approval

Property: 28 Petronelli Way (proposed conversion)

Applicant: 28 Petronelli Way LLC

Representative: JK Holmgren Engineering

Scott Faria said that Ted Carman is proposing to take the existing building and convert it to 18 residential units. He said they have received ZBA approval and this plan addresses the comments from tech review. He said they have added the VGC, moved the dumpster location, added wheel stops to the parking area and will be replacing the existing sewer service with a new service.

He said the building takes up a majority of the lot; he said tenants will have the ability to park in the city garage across the street; he said there are three spaces in the rear of the property on Franklin St.; they have added some drainage under the truck parking area along front to take roof runoff and a small amount of landscaping (0 now/proposing 2%).

The chair asked if there was an agreement with the parking authority and was told yes. He asked which side of building will have the most construction and when told the east he asked that they show a stabilized construction area on the plan. He said it would be nice to see limited construction access and is assuming most will use Petronelli Way and exit out to Franklin; he said he is concerned about the tracking of debris on the public way.

A motion was properly made (Gonsalves) seconded (Hassan) and unanimously passed by a roll call vote to grant a standard approval with conditions and a special condition that a revised plan be submitted showing the location of the stabilized construction area.

#### 5. Site Plan Approval

Property: 19-31 Main Street (proposed conversion)

Applicant: New Vision Enterprises

Representative: JK Holmgren Engineering

Scott Faria said this property is located on the corner of Green and MainStreets. He said the applicant intends a rehabilitation of the building into three retail spaces and 22 residential units; he said 95% of the site is building; they added a truck parking area for delivery; a dumpster area; a small patio in the back; he said there is no drainage on site and will be installing subsurface infiltration for roof runoff; they added screening around the dumpster and are proposing a new sewer and water off Green St. He said they will be waterproofing the west side of the building and parking will be in the Carpenter garage. He said there is some on street parking along Green St. The chair said they should not count on street parking.

Craig Pina said this is similar to the floor plan that was presented previously by another developer.

Larry Hassan asked Scott to explain the parking; Scott Faria said there are 22 residential units (hoping for restaurant); he said that commercial property users can use the garage or park on street; there will be one space per unit made available if the tenant needs it; these spaces will be dedicated spaces in the garage.

The chair asked that they add stabilized construction entrance on the plan.

A motion was properly made (Pina) seconded (Hassan) and unanimously passed by a roll call vote to grant a standard approval with conditions and a special condition that a revised plan be submitted showing the location of the stabilized construction area.

#### 6. Preliminary Subdivision

Property: 134 Armiston Street

Lots: 6

Owner/Representative: Robert Kane/Atty. James Burke

Attorney Burke said this is a preliminary subdivision which will require zba approval; he said that the lots lack size and frontage; (enclosed on two sides by Ames Knoll Park) and believes this is an excellent re-use of the property; secluded cul de sac; minimal impact on surrounding neighborhood; he said they held an onsite with Councillor Lally.

Chi Man said the original plan was for six lots; the revised plan shows five lots; they have shortened the roadway some to have better frontage on the lots; revised plan has the corrected datum; they will work with the DPW to identify the pipe details; the contour lines were screened; he said they are looking for a waiver to reduce road layout from 50' to 40'; he said they will need variances for the lots; there will be an easement for the basin for maintenance; the detention pond is outside the 25' BZ; he said the Fire Dept. is comfortable with 30' of pavement but is concerned about the driveway to the existing house; Chi Man said they are looking for curb to curb pavement at 30'; proposing sidewalks on only one side; they need permission from National Grid and have reached out to them; he said the topo of the site slopes down to the rear of site and gravity sewer can not be built and they are proposing a pump station with force main; will work with the Gables to make sure they don't effect their existing utilities.

Craig Pina said he would want to see sidewalks on both sides of road with 30' of pavement; he noted we area a complete streets community.

Larry Hassan asked if fire can make that turn and if the city has any responsibility for pump station and was told they city has no responsibility regarding the pump station.

The chair said that the COB has not approved a 40' layout and said that the board may consider other waivers; Chi Man said it meets the existing width of Armiston.

Rob May said he is concerned with proposed width of road and width of pavement; he also said that the board has been consistent and not approved a layout of less than 50'.

Deputy Chief Williams said there is no radius at the street; the chair said they need to show radius at gutter line which is the more important radius.

Craig Pina said all new construction should conform to the rules and regulations.

Rob May said the plan is not clear and needs to show where the pavement ends, where it becomes private property and where the other lot (driveway) is.

Attorney Burke said he is just looking to proceed to ZBA.

The admin said that the board has only three choices: approve as is, approve with conditions or deny.

The chair said he is not in favor of a 40' layout; he said that the lots are fairly deep and an increase in road will decrease the lots; he suggested that they come back with a plan that addresses the issues of roadway.

The chair said that although this is not a public hearing he recognized the abutters that wished to speak.

Jamal Brathwaite asked if there will be any work done on Armiston St? He asked if they will be doing anything to clean up the intersection; he asked what the responsibilities of the HOA would be. Attorney Burke said there is no document drawn up; Jamal Brathwaite asked who will be maintaining the sewer pumping system and roadway; he asked if the will site have any CB's and if there would be blasting. The chair asked if there was ledge. Attorney Burke said this is just a preliminary plan and all that can be addressed at the definitive stage.

Elizabeth Laso said she is excited about the proposed homes but is concerned about the structural integrity of Armiston; she said the street is filled with families; she said the road is compromised by construction trucks from the Parkview Lane project; she said before any construction begins she wants a structural integrity test; she said she was notified by the gas company that there are problems with the pipe in the road; she said the new property owner took down the gate and is using Armiston; she said she is very frustrated; she was told by city that the COB will not perform the structural test...she said it will have to be paid by this developer; she said that Brophy and Philips had an addendum to the approval that made them do repairs to Armiston and install drains and CB's in the road.

Stephen Miller said that the subdivision south of them has smaller layout; he was told that was originally built out as a senior residential community.

The chair said he does not see this layout going forward; he said they can approve with conditions or allow the applicant to revise the sheet to address the roadway issues.

A motion was properly made (Pina) to approve the preliminary with the conditions that the developer adjust to the plan to comply with complete street standards; adjusts the intersection layout with portion of Armiston St. and the width of the proposed road to is to conform roadway layout in the rules and regulations.

On the motion:

Toni Gonsalves asked about the concern of the abutter about the integrity of the street. She asked about the comment made about the layout of the abutting street. The chair

said that Heritage was laid out to be a private way under the senior residential ordinance; it contained provisions for both public and private (40' private or 50' public for over 55).

Craig Pina said that said he did not feel that the existing condition of Armiston was the responsibility of the applicant. After some discussion the remaining members felt that he should be made aware of the existing road conditions and felt he should do the analysis.

The motion was amended to read as follows:

1. The developer is to revise the plan to comply with complete street standards;
2. The layout and width of the proposed street is to comply with the current Rules and Regulations of the Planning Board; and
3. The applicant will be required to pay for a structural analysis study of Armiston Street.

Seconded by Toni Gonsalves and passed by a unanimous roll call vote.

#### 7. Definitive Subdivision

Property: 678 East Street

Lots: 2

Owner/Representative: Benjamin Carroll/Munden Engineering

Rob May said he received a call from the city solicitor and as the case started out as remand from land court and it had very specific language she wants time to look at the language of the remand. She stated that the planning board may not have more authority than land court.

Attorney Scott Ford said we had already discussed this issue over the summer; their original proposal did comply with courts remanded decision; he said that Brockton had concerns with width of road being so narrow; he said that the remand says by stipulation of the parties not an order; he said he is willing to go back to the court with a stipulation or agreement with whatever is decided; the applicant is submitting a plan in more conformity. Attorney Ford said he will contact the solicitor. Ben Carroll said their next logical step is for a vote; this is what all parties want.

Attorney Ford said that both the public and the board raised concerns at the last meeting; this plan addresses those concerns; it shows conforming road and sidewalks on both sides; now added a house lot in Brockton. The Brockton lot will be connected to city sewer and they are proposing that remaining lots connect to COB; they also added a turn around in Brockton and they would like board to approve the plan.

Craig Pina said this is the best plan we have seen for this development; the applicant has gone above and beyond what we asked them to do.

Bob Pelaggi asked that they add the location and detail of all underground utilities (cable, gas, phone, electric); add that to one plan view only; he said he is encouraged to see the cul de sac in Brockton; they have made major improvements; Gigi Mulden said she can add a utility easement; Attorney Ford said that they are willing to add a note on plan that they will be constructed to the utility specifications of the utility provider.

Craig Pina said we do not ask other developers to go to this level of detail.

Gigi Mulden said all have own contractors have their own specifications, thats why there is an easement.

Toni Gonsalves said she agrees with the attorney about just adding the notation.

Rob May noted again that the solicitor wants time to research the legal questions.

Councillor Nicastro said that the waivers were changed again; Gigi Mulden said they are requesting CCB instead of VGC and a radius waiver.

The ward councillor said that the rules & regs state lot lines need to be rounded; Attorney Ford said this is more of a technical waiver. Councillor Nicastro said this requirement is important; there needs to be adequate radius. Bob Pelagi said that the paving radius is 37' where it meets East St. and said that radius meets the safety concerns; he explained difference in street radius to lot radius. She said the sidewalks stop short of East St. Bob Pelaggi said the issue of the lot radius would only be a problem if there were sidewalks on East St. She said she has asked the DPW Commissioner for a quote and said they may put them in areas that are more settled along East St.

Councillor Nicastro said she heard from the city solicitor about the court remand; she said it specifically says that lot 9 is not to be improved with a residential dwelling; the plan shows a home and they are not complying with the remand. Attorney Ford said that at the last meeting they heard that there is no benefit to Brockton and why are there no homes; this lot was added at the request of the city and said that would be a condition they could discuss with the land court.

Pina said that agreement was made as the residents said they would prefer to see a home there.

Attorney Ford said that parties to the dispute have reach a modification; this decision today allows them to build a better project; he said that the applicant can scrap this plan and build what the court ordered.

The chair said there are still a few things that need addressing and said there must be a reason that the city solicitor wants to look at this.

Attorney Ford asked that they move forward to a vote and said that the judgement of remand can be adjusted; he said he will reach out to the city solicitor.

Councillor Nicastro said they have had plenty of time to see the solicitor and her ward is going to be stuck with what happens here....she said the issues need to be resolved.

Attorney Ford asked his client if he would agree to a continuance to speak with the solicitor to amend the judgement of remand (and to add the utility easement detail). Ben Carroll said he would agreed to continuance to the December meeting and freeze the time clock for approval.

#### 8. Definitive Subdivision

Property: 135 Elliot Street

Lots: 3

Owner/Representative: JK Holmgren Engineering

Scott Faria said this was a previously filed preliminary; he said they have been to the ZBA. The back of the property is industrial with a large building and the front is residential; applicant is looking to build two three family homes. He said they need site plan approval and con-com approval.

Bob Pelaggi said that the board has serious concerns; given the potential impact of what con-com may want to see, this seems out of rotation. He said this should have been filed with con-com first to make sure there are no significant changes that would require a plan modification.

Scott Faria said he doesn't have an issue with a continuance.

The board agreed that because of the flood plain issues and the possibility of the need to amend the plan that they would like the applicant to clear conservation first.

Scott Faria suggested March; the admin asked him to agree that he was agreeing to freeze the time clock for approval (even though we are still in a state of emergency) which was done.

A motion was properly made (Pina) seconded (Gonsalves) and unanimously passed by a roll call vote to continue to March 2021 to allow for the applicant to apply and receive conservation approval; applicant agrees to freeze the statutory clock for approval to the March 2021 meeting.

#### 9. Definitive Subdivision

Property: 21 Union Street

Lots: 2

Owner/Representative: JK Holmgren Engineering

Scott Faria said they filed a preliminary application and had a hearing before the ZBA and were granted a variance. He said the applicant is looking to build a two family home on the new lot. Parking will not be an issue as the existing home has a two car garage and 90' driveway.

Craig Pina said that this was before zoning and that the lots were combined.

A motion was properly made (Pina) seconded (Hassan) and unanimously passed by a roll call vote to grant waivers to the following section of the Rules & Regulations.

Section IVB Streets - Union St. is an existing street

F Underground Utilities - above ground utilities are existing

Section VC - Curbs and Sidewalks - existing; see special condition #8.

**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.**