

PLANNING BOARD MINUTES

APRIL 6, 2021 – 6:00pm

VIA ZOOM

Bob Pelaggi introduced himself and called the April 6, 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, Reggie Thomas, Toni Goncalves James Sweeney. Also in attendance were Director Rob May, Staff Planner Raisa Saniat and Administrative Assistant Pamela Gurley.

Reorganization of the Board

A motion was properly made (Hassan) seconded (Thomas) to nominate Toni Goncalves as chair of the planning board. As there were no further nominations the chair called for a vote: Motion was unanimously passed by a roll call vote.

A motion was properly made (Pelaggi) seconded (Sweeney) to nominate Larry Hassan as clerk of the planning board. As there were no further nominations the chair called for a vote: Motion was unanimously passed by a roll call vote.

The members agreed to leave the representative to ZBA and traffic open at this time and to wait to fill them until the board's remaining slots are filled.

Rob May recognized Bob Pelaggi and thanked him for his service to the board; Pam Gurley also stated that this was Reggie Thomas' last meeting also. The staff and board members thanked both Bob and Reggie for their service and said they will be missed.

Review and Acceptance of Minutes

A motion was properly made (Goncalves) seconded (Hassan) and unanimously passed by a roll call vote to accept the minutes from 2-23-21 & 3-2-21.

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

ANR Applications

93 Pleasant St.

The admin said this was the second time this has been submitted; the first time the board had a concern with the division of the property that the proposed parking would not be in conformance with the prior ZBA decision. This version accommodates for parking for the existing home.

10-12 Harvard St.

The admin said that this was a division of existing two homes existing on a preexisting non conforming lot. There is a recommendation from the DPW that if the lots are separated that the utilities should be separated also.

Azu Etoniri asked to speak on this and said that he will make sure that the utilities are separated; and pointed out to the board that ANR plans do not have conditions. The chair said he agrees with the DPW and said if the utilities are connected from one house to another separation will avoid any issues if the properties are sold separately.

A motion was properly made (Hassan) seconded (Goncalves) and unanimously passed by a roll call vote to endorse the ANR plans for 10-12 Harvard St. and 93 Pleasant St.

Lot Releases Requests

41 Draper St. & 78 Kingman

The admin said that the original home was on Kingman Ave; the property was split and the new lot address is 41 Draper St. She said that the utilities were pulled off the street she has received the necessary inspection letters from the DPW.

A motion was properly made (Goncalves) seconded (Thomas) and unanimously passed by a roll call vote to release both lots from covenant.

Woodland Park Lots: 26, 27, 28,29,30,31,32, and 33 (Home Numbers: 38, 44, 54, 60, 59, 55, 49, and 41)

The chair said that the members received a note from the neighborhood association stating there is a lack of performance on the part of the developer; he said he would like the department to forward that correspondence to the developer and continue this continue for a month. Not all issues are planning board issues.

The admin said that the developer has placed a check for \$60,000 as surety to release the remaining lots. She said that we have received estimates from the paving company, landscaper and engineer for the remaining work. She said it is the developers choice to change the method of surety.

Larry Hassan said he read letter and took a drive up there and work is going on there. He said he would like to know about the missing gate. He said that the fencing is a property owner

issue, but is on board with continuing for a monthly to see if the developer responds. Reggie Thomas agreed.

A motion was properly made (Hassan) seconded (Thomas) and unanimously passed by a roll call vote to alert the developer of the neighbors concerns and continue for a month.

236 & 240 W Chestnut St.

The admn said that the existing home was demolished and that unfortunately during the early covid period a building permit for both new homes was issued without lot releases from the board. Once the error was found a hold was put on the remaining permits and has remained in force. She said once that was done she heard from the applicant, explained the process he needed to follow to release the lots. She said there was no further communication until just recently.

She said that the homes are up however the applicant still did not understand that as part of this approval he was required to grind and overlay the road and just had the road patched. We finally just received an estimate for the grind and overlay work and a check for that amount plus a 20% contingency.

A motion was properly made (Hassan) seconded (Thomas) and unanimously passed by a roll call vote to release both lots from covenant.

1. Permission to Return to the ZBA - **WITHDRAWN**

Property: 598 N. Main St.
ZBA Denial: 3-12-2019
Applicant: Maria Flores

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

Property: 68-70 Field Street
ZBA Denial: 7-14-20
Applicant: Marie Lorquet/Attorney John Creedon

3. Permission to Return to the ZBA

Property: 16 Albert St.
ZBA Denial: 11-10-2020
Applicant: Nelson Monterio

Attorney Sylvia Katsenes said the applicant's request to turn a single family to a two family was denied by ZBA; she said the applicant subsequently appealed to the Plymouth Superior Court and is reserving is right under appeal. She said that Sec 16 ch 40A does not apply as there has been no final unfavorable decision...the decision is not final because of the appeal. She said if there is another hearing before the ZBA and they can overcome some of the hurdles they may dismiss the (court) case. She said that the ZBA questioned the number of bedrooms...11 and that they have revised the plan to 8 bedrooms; 4 per apartment. She said they also raised the issue of the height of proposed structure (addition). The revised plan reduced the height from

37' to 35'; she said there were also two large attic rooms (bonus rooms) those rooms have been eliminated.

The chair pointed out that the ZBA found no hardship to which she said there is a hardship relating to the structure. She said that the original portion was built 1920, there was an addition added by prior owner built on a slab and a second addition was added to first addition; the slabs are on different levels. She said that the original portion is heated by gas and the remainder of house is heated by electricity. In order to to install gas a second story needs to be added to first story addition to run pipes from the basement etc.

Bob Pelaggi said that hardship is specific to the land.... shape, soils and topo; that he is able to use the property; he said the ZBA decision states that granting would derogate from the intent of the zoning; he said that their plot plan does not help their cause; they will also now need relief from side yard setback as it will be more non conforming. The chair asked if the applicant owns both properties and was told he has control over both properties.

The director said that they are two existing lots of record and and the vacant lot could be sold off and developed leaving little space for the existing home and no parking. He suggested that they be combined and said they board should have information as to what the neighborhood is like...are there any other two families.

The chair agreed and said that it would have been good to get that information. Nelson Monterio said that the house across the street is a two family; when the chair asked how he would know that Mr. Monterio said he should have looked it up....and said he should know the city. Toni Goncalves spoke and said that Mr. Monterio should not speak to them like that and was being condescending.

Attorney Katsenes said this proposal will enhance the neighborhood...and the application contained letters from the neighborhood in support.

The chair said he would like to see a plan of what the neighborhood looks like; Mr. Monterio said he is not changing the footprint; just going up; the chair said that the original building footprint is grandfathered and said you cannot make a non conforming property more non conforming. He said he would like to see a plan combining the two lots and showing the immediate properties side and rear; the board needs a more comprehensive site plan to make a decision. Attorney Katsenes said that hardship can be on the structure also.

Toni Goncalves said that she would also like to see both lots combined and agrees we need more information on the general neighborhood.

No public comment.

A motion was properly made (Goncalves) seconded (Hassan) and unanimously passed by a roll call vote to continue the matter to the May meeting to allow for the applicant to submit a more comprehensive site plan and to submit an ANR plan combining the two lots.

4. Site Plan Approval - Amendment

Property: 568 Montello

Project: Garage/Office

Representative: JK Holmgren Engineering

Scott Faria said the applicant wants to amend his prior site plan approval; he said that the revised plan eliminated middle curb cut; added additional greenspace and reduced size of building.

Bob Pelaggi said these would be minor changes minor changes.

No public comment.

A motion was properly made (Thomas) seconded (Hassan) and unanimously passed by a roll call vote to approve the amendment to the site plan approval as submitted.

5. Site Plan Approval

Property: 944 Warren Avenue

Project: Residential Units

Representative: ET Engineering

Azu Etoniru said the proposal is for a new three unit building. He said they are seeking to amend the prior site plan approval. He said they have completed tech review, addressed the comments with this plan, he said there is adequate on site parking, upgraded sw management, they changed traffic pattern for the entrance and exits and relocated the dumpster per BOH comments.

Bob Pelaggi asked where will the construction vehicles will enter the site and asked about a stabilized construction entrance; he was told there is to be no excavation at the entrance and exits and there is enough room within the site that the vehicle tires should be clean;...more than 200'.

Toni Goncalves noticed that planning requested that the entrance/exits remained the same. Azu Etoniru said that the store next door that blocks line of site and it makes better sense to use the new entrance/exit pattern. Rob May requested that they add additional signage.

No public comment.

A motion was properly made Hassan seconded (Thomas) and unanimously passed by a roll call vote to grant site plan approval with the standard conditions and the condition of additional signage.

6. Site Plan Approval

Property: 30 Intervale St.

Project: Mixed Use

Representative: Jacobs Driscoll Engineering

Greg Driscoll said that there was an original variance in 2019; the prior applicant applied to tech review and then re-filed with the ZBA to add an additional floor which was granted. At that time everything stopped. The property was recently sold and the current applicant received an OOC from the Conservation Commission and during that process Beta Group reviewed the SW. He said this proposal includes an addition off the back and additional floor; there will be five apartments on each floor for a total of 15 apartments; he said that the property is currently all paved; they are reducing the pavement and adding landscaping, have reduced runoff and added SW management, a new fence, a new 2" domestic service (he was reminded to apply for his water permit) and there will be 20 parking spaces and street parking is available for visitors.

Toni Goncalves said that he project will enhance the area; Larry Hassan also agreed that this is a well designed plan and said the neighborhood needs it

Dep Ch Williams said that he would recommend chain link around the dumpster enclosure or something like what was done at 47 Pleasant St.

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 standard conditions.

7. Preliminary Subdivision

Property: 50 Farrington

Lots: 2

Representative: JK Holmgren Engineering

Attorney Phil Nessralla said that the plan shows that they are proposing to subdivide the lot into two equal sections; it is an R2 zone and they will need ZBA relief.

Scott Faria said the existing property has 140' of frontage along Farrington; he said that the second second lot would be a two family; he said most of the existing properties in the neighborhood are smaller in size and this fits the neighborhood in lot area and use.

Bob Pelaggi said it look like they need relief from frontage and lot size; he suggested that they revise the plan to show 7,500 SF on new lot; he said that sice the existing structure is a three family it will also need relief; he also asked about the parking for lot A and was told there is a long driveway. He said that they will need to show parking for the ZBA as it will be a concern.

The chair asked the admin if they could condition a preliminary. She said they can condition that they can move forward to the definitive stage with specific conditions. The chair said that he wants to see #50 labeled as an existing three family; the lot lines are to be adjusted to re-balance the lots as discussed and that the plan is to show adequate parking for the existing three family.

A motion was properly made (Hassan) seconded (Thomas) and unanimously passed by a roll call vote to allow the applicant to proceed to the definitive stage with the conditions that the existing house is clearly labeled as a three family; the lot lines are to be adjusted to re-balance the lots (as discussed) and they plan shows adequate parking for the three family home.

8. Definitive Subdivision

Property: Part of plot 97 Pleasant Street

Lots: 18 Emilia Estates

Representative: W Engineering/CLM Development

Attorney Jim Burke said the was involved three years ago assisting on an adjacent subdivision on Cypress; he said as part of that process they did substantial community outreach; he said there was a concern from some councilors (at that time) that they would like to make sure it does not become a cut through; as a result of discussion they have created three proposed subdivisions and provided that vision to the planning department. He said that the extension of Cypress was a filed as a preliminary by Ed Jacobs and received ZBA approval.

This development will be an extension of Westbury; he said they are conforming in lot size but short of frontage. He said they a filing a definitive subdivision and requesting that the board grant the relief of frontage as allowed under the statute; he said they are also seeking a waiver from length of a dead end road. He said they had another meeting relative to public safety matters and have developed a plan for continuing access for emergency vehicles; he understands that the public hearing will be held at a later date.

Evan Watson explained the proposal and said all lots meet the required 125' X 100' and all lots are 30,000 SF lots; he said there are several oddly shaped lots (those areas will be used for drainage); they have done test pits and the drainage from just their site will be picked up and directed to a new detention basin; the detention basins are located in easement; the "skinny" areas are in the easement. They are proposing private sewer and pump stations; he said they will be seeking a waiver for street length; sidewalk construction, fire alarm boxes and street lighting...he said there are no street lights on other subdivision (to be verified). He said regarding emergency access they are proposing a gravel access road with gate to connect to other the other properties; he said that will also serve as easement to extend the water line.

Rob May spoke about the drainage; he said it currently sheet flows west to east and toward Braemore Road.

Reggie Thomas logged off.

Evan Watson explained the elevation of the property; drainage goes toward the south and the remainder to the farm land; he said they will be picking up the drainage to the south.

Toni Goncalves asked how do you gain access to the new cul de sac and was told through Pleasant St.

Bob Pelaggi said that the irregular lots shapes meet lot size so the only relief will be frontage. Attorney Burke said that are asking the planning board for relief; the chair said that the ZBA may be amenable to 25,000 lots and that would take care of the irregular shaped lots. He said there is a concern about the length of road.

Larry Hassan said if a waiver is granted for road and the proposed emergency access is fine for public safety but what happens to the residents when there is an emergency and they can't get out.

Rob May said from Pleasant to Westbury is about 1,000' and said they will be adding an additional 1,000'; he said during previous subdivisions hearing there have been elected officials that have been concerned about waivers to the length of road; the emergency access may address the public safety issue but not the residential issues; he has proposed that the land owner propose an interconnection; he does not believe that that it would become a cut through; he shared his screen and explained that there are three proposed subdivisions; suggested that Braemoor connected to Cypress and Cypress connected to Leidie (Emilia).

Attorney Burke said that the key is public safety access; the inconvenience of access could happen at a 500' cul de sac. He said he received phone calls today from representation of community about this.

Deputy Chief Williams said he found a study done in 2004 (length of roadway); he said that the fire dept. carries 800' of hose. He said that the 700 feet has been stretched to 1,000 to 1,200; he said he has met with the applicant; he asked who would be responsible for maintaining the fire department access road...making sure it is clear; and once homeowners association takes over how is it enforced. He said there are still questions; he would like to see the presentations being made together.

Bob Pelaggi said he hade no idea about the concept plan; Attorney Burke said that the laid out the options for the community and one was an as of right traditional subdivision that went from Braemoor out to Pleasant St. about 50 people showed up at the ZBA hearing and were only quieted with the promise that Cypress would not be going through.

The chair was reminded that the City Solicitor has advised against opening the meeting to the public because of some issues that may exist with the public notice.

Toni Goncalves said she would like to discuss a second entrance; she asked if this was the same location where the residents along Pleasant St. had issues and if those issues were addressed. She as told that they had been.

The matter was continued to June 1, 2021 by agreement of the parties; the admin asked if they would be agreeable to freezing the time clock for approval through that date.

THIS ITEM WAS MOVED TO THE BEGINNING OF THE AGENDA PER THE APPLICANT'S REQUEST.

9. Site Plan Approval - 40 R
Property: 223/261 Thatcher St.
Project: 40R
Applicant: POUA Holdings LLC

Attorney Jim Burke said at this time they are looking for the board to move to close the public hearing. He said since the last meeting they have worked with Beta to address the remaining outstanding issues.

Bill Grogan said that they are agreeable with the five conditions that Beta has suggested be included in any approval issued. Brian Kutcher went over the Beta conditions.

Rob May wanted to clarify where the (\$100,000) came from and said it was money from the state, it is not money from the developer. He said that the developer agreed to add to the pot in the amount of \$5,000 for off site mitigation; the applicant has addressed the play areas that were discussed by the board members and the board needs to decide how much they would like the developer to set aside for offsite mitigation. It was agreed by the parties that the developer would have the sum of \$30,000 available for off site development and that money would be used prior to any state money. Any money remaining two years after the final certificate of occupancy is issued will be returned to the developer.

Toni Goncalves said she was in agreement.

Attorney Burke asked about a fidelity bond; he said there should be an understanding of what the use would be and that it is related to the project area. Rob May said they will include the DPW commissioner on anything that is proposed. Bill Grogen said he would like an open process for discussion as to what the money would be used for.

A motion was properly made (Goncalves) seconded (Thomas) and passed by a roll call vote with four voting in the affirmative (James Sweeney could not vote on this matter.) to grant 40R approval with the standard City of Brockton condition; the special conditions from BETA Group and that a bond of 30,000 be held by the COB to make necessary offsite traffic improvements in coordination with the developer; should the funds be not used with within two year after the last COO is issued the money will return to the developer.

Meeting adjourned 9 pm.

THE ITEMS LISTED ARE THOSE REASONABLY ANTICIPATED BY THE CHAIR,
WHICH MAY BE DISCUSSED AT THE MEETING. NOT ALL ITEMS LISTED, IN FACT,
MAY ALSO BE BROUGHT UP FOR DISCUSSION TO EXTENT PERMITTED BY LAW.