

## **PLANNING BOARD MINUTES**

**August 3, 2021 – 6:00pm**

Members present: Toni Goncalves, Larry Hassan, Jim Sweeney and Sam Ambroise  
Also present were Director Rob May and Admin Pam Gurley.

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### **Review and Acceptance of Minutes**

A motion was properly made (Ambroise) seconded (Sweeney) and unanimously passed to accept the minutes from 6-1-21.

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

#### **ANR Applications**

93 Pleasant St.

The admin stated that there was a minor drafting error on the last plan for this property and this version is correcting that error.

A motion to endorse was properly made (Hassan) seconded (Ambroise) and unanimously passed.

#### **Lot Releases**

N/A

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### **Street Acceptances**

Berkley Street

Councillor Dennis Eaniri said the street abutting Berkley are all public ways (Warren, Market and Rutland).

Sunset Avenue

Councillor Eaniri said that currently one half of Sunset Ave. is private and the other half is public.

A motion was properly made to recommend the street acceptances favorably to the City Council (Ambroise) second (Sweeney) and unanimously passed.

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Permission to Return to the ZBA - **CONTINUED TO OCTOBER 5, 2021**

Property: 68-70 Field Street

ZBA Denial: 7-14-20

Applicant: Marie Lorquet/Attorney John Creedon

Definitive Subdivision - **CONTINUED TO SEPTEMBER 8, 2021**

Property: Map 16 Rt 188 Part of PI 97 Pleasant Street

Lots: 18

Applicant: CLM Development

Representative: W Engineering

Definitive Subdivision - **CONTINUED TO SEPTEMBER 8, 2021**

Property: Map 11 Rt 56 PI 25 Rockland Dr. Map 16 Rt 188 Part of PI 97 Pleasant St

Lots: 17

Applicant: Chilton Realty Trust

Representative: Jacobs Driscoll Engineering

Subdivision - Continued to **OCTOBER 5, 2021**

Property: 53 Cypress Drive

Lots: 4

Representative: ET Engineering

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1. Permission to Return to the ZBA

Property: 63 LaFoye St.

ZBA Denial: 2-11-20

Applicant: Attorney Paul Clancy/Express Enterprises

Attorney Paul Clancy said they applied to the ZBA to split the lot and were denied. He said the revised plan shows that the existing home will sit on proposed lot 2 and the new home would be a 2.5 story colonial; he said that the owner has now moved into the existing home. He said the revised plan shows a 34x23 colonial; substantially smaller in size than original proposed; he said his two elderly parents live in Boston and he would like to construct the home for his parents.

Sam Ambroise noted that each lot will have only 70' of frontage; Attorney Clancy said that the lots in that area do not meet that requirement (zoning) and it is consistent with the neighborhood.

The director said that the petitioner is taking an average lot for neighborhood; but the existing lot is substandard by zoning and he is proposing to make it more substandard; he said that a substantial change would be the size of the lots...not size of home.

A motion was properly made (Ambroise) seconded (Sweeney) and unanimously passed to deny the request for permission to return to the ZBA.

It was suggested that if the applicant was truly building a home for his parents it might be easy to add an addition to the existing home for them.

2. Permission to Return to the ZBA - **CONTINUED TO OCTOBER 5, 2021**

Property: 134 Armiston Street

ZBA Denial: 5-11-21

Applicant: Armiston St. Realty LLC.

3. Permission to Return to the ZBA

Property: Parcel ID 021-006 (plot 6) and 021-005 (plot 5) Holland/W. Chestnut/Linwood

ZBA Denial: 6-8-21

Applicant: David Lynch/Lynch's Towing

Attorney Phil Nessralla said that this is one of the few properties (applications) that meet the criteria for a substantial change; he said that they have eliminated the LED sign entirely and they are no longer looking to transfer the salvage license to the property. He said that the remediation of the soil will on the site will be a substantial cost to the applicant.

Sam Ambroise asked what is happening to the salvage license and Attorney Nessralla said that he will not be transferring that license. The chair asked if he will be using the property for towing and used cars only and Attorney Nessralla said yes and noted that all lighting will face away from the homes. Jim Sweeney said he would like to see a condition that a minimum of 20'tall arborvitae are to be planted on the top of the proposed 6' high berm.

The director said that not moving the salvage yard license limits the use of the property; he said there will be less traffic on West Chestnut St. because he will not have to transverse the city as he does now.

A vote was taken to recommend the request favorably to the ZBA; it was pointed out that that there was no public comment taken and the vote was negated and the public portion was opened.

Athena Diorio spoke on behalf of her mother (735 W. Chestnut St.); she said that she also has a petition from the neighborhood. She said that the land is zoned agricultural/residential and is considered prime agricultural land by the state. She said that taking down a sign and eliminating the salvage yard does not seem a significant chance. She said that many of the homes in the area are split levels ...it will be seen; it will be a huge impact on the neighborhood...it is a single family neighborhood and the tow lot will change the area...there will be a dramatic shift with 100's of cars. The chair reminded everyone that this was a request to return to the ZBA, not approval of the project, the project would need ZBA and Site Plan approval.

John Theodore (719 W. Chestnut St.) said he lives directly across from the site and said that this residential area is becoming vastly commercial; he said this project is bad area for this; it will increase in traffic and there are already many accidents.

Dan Schooler (362 Linwood St.) asked about the kind of machinery that will be used...he said that the machines used for cutting tires causes bad air quality; he said that the selling of car parts will bring in rif raf to the neighborhood.

Councillor Dennis Eaniri said this is a Brockton business person who wants to continue to do business in Brockton...he has had a business for many years in the city. He said he is attempting to put in a traffic light at Linwood and W. Chestnut before he leaves office to slow traffic down; he said that the area is a commercial/industrial zone area.

Alex Mendes (367 Linwood St.) said he is concerned about his well water...concerned about oil and chemicals leaking into the ground. He said that traffic is bad now and it is hard to get across the intersection.

745 W. Chestnut St. said they live across from Holland and W. Chestnut and can already hear the noise from another business on the street.

Steve Dirksmyer (380 Linwood St.) said this is a residential area; (and the project) will dramatically change the neighborhood; his house site across from vacant property...its a business in a residential area; bought in a residential area not a commercial area

Robert Mcfadden (95 Overton St) said he is concerned about the contamination of water and oil in the ground. The chair said that those concerns would be handled through the site review process.

The owner of 20 Holland St. said he wanted to be recorded in favor and said there is quite a bit of business already in the area.

The chair stated that the board will need another motion and another vote.

A motion was properly made (Ambroise) seconded (Sweeney) and unanimously passed to grant permission for return to the ZBA; new and substantially different information was presented: the roof signage has been eliminated and the salvage license will not be transferred to this site. The following condition has been incorporated: 20' high arborvitae are to be planted on the top of the proposed 6' berm.

#### 4. Site Plan Approval

Property: 912 Crescent Street

Applicant: KG Collective

Proposal: Retail Marijuana

Attorney Scott Rubin said the proposal is to use a portion of the building for the sale of retail marijuana and the remainder of the building will be used for the existing restaurant.

Scott Faria said that the plans show a slight variation from tech review; he said they squared off the building, made significant improvements in landscaping, there is a one way traffic pattern (enter from Crescent St. and exit on Hope.)

The director said that this site has been before the board several times; the board granted site plan approval and a subsequent return to the ZBA. He said he reviewed the changes.

Jim Sweeney asked if he would (Faria) explain the parking change made at the request of the ZBA. Scott Faria said that the spaces were perpendicular and at the suggestion of the ZBA chair they were changed to have a slight slant.

A motion was properly made (Sweeney) seconded (Hassan) and unanimously passed to grant site plan approval with standard conditions.

## 5. Site Plan Approval

Property: 93 Pleasant Street

Applicant: Legal Greens

Proposal: Marijuana Cultivation

Attorney Richard Stati said that the application operates a retail establishment at property. He said that the applicant has received a special permit and variance from the ZBA and appeared before tech review and all items were addressed including added stormwater management and a small amount of open space. He said she is an empowerment applicant.

Nicole Dunphy said that parking area is currently gravel and will be paved; there will be new concrete sidewalks along Hereford St.; they added pitch to properly get the drainage to go where they want it to go; there will be an underground detention system; runoff from the parking lot runs S to N and enters a bio retention area; the plan was reviewed by the city engineer and he has no additional comments; there will be new sewer of Hereford and the existing 6' fire off Pleasant will be maintained; he said they are in the process of drawing the necessary easements and there is no increase of impervious area and will be adding open space and greenspace in the parking lot area.

The director said that they are making significant improvement to both public and private investment and improvements to SW management and green space.

Jim Sweeney asked about lighting and was told there is a proposed pole light in the landscape area as well as six new wall packs.

Dep. Ch. Ed Williams plan does not work unless there is an egress all the way through Pleasant St. and he was told that had been submitted.

A motion was properly made (Sweeney) seconded (Hassan) and unanimously passed to grant site plan approval with standard conditions.

## 6. Definitive Subdivision

Property: Plot 2 Belgravia Ave.

Lots: 4

Applicant: Joe Kulle

Representative: Silva Engineering

Larry Silva said he did not initiate the original project; he said that Pilling Engineering was the original engineer. He said that the plan shows four lots with one on Herman and three on Belgravia; he said that their problem came with attempting to satisfy drainage concerns (from the residents and Beta Group). He said that with Belgravia being built out it required more drainage; he said they could not come to an agreement with con-com; Beta wanted improvements to the ditch (intermittent stream channel); he said they looked for a way to pull back the project and be able to move forward; this current plan removed one house lot and pulled back the drainage so that they were outside the con-com jurisdiction. He said at the last con-com meeting they agreed to leave the NOI open and if the project is approved by the planning board they will withdraw the NOI. He said the plan shows extensive controls on stormwater in the area; they added a turn around for fire; extended the sewer and still need to go back to ZBA to amend previous variance.

The chair asked how they addressed runoff issue and was told by pulling out the last home they were able to pull the project back. He said they are meeting storm water management requirements. She asked what the baseline of the water flow was. The director said that it looks like it slopes and might pick up some speed.

Larry Hassan asked what they intended to do with the drainage area and was told it would be non buildable...there would be a deed restriction...it will be permanently restricted.

He was told that the city would like to see that as a contiguous lot and under a homeowners association.

Paul Maliawco, 35 Herman St., said he has lived there for 20 years; he said his main concern is about where the water is going; he said looking at this plan it looks like he just moved where the water is flowing; he said he had an independent engineer review the project and he said that they cannot send the bulk of the water to the steam; he said it is not surface water...it is water that has bee infiltrated; he said he is still opposed; its always been about the water and how it effects them.

He said that con-com asked about the rates of flow...he would like to see BETA review this version before a decision is made by the board.

The chair said that conservation is not longer involved; The director said that they are no longer involved because the project has been moved outside their jurisdiction; he said they still had concerns about sheet flow...concerns about ground water. He said it may be good to see more analysis; he said that the house at #41 is below the bottom of the basin and water may flow in that direction.

Larry Silva said that in redesigning this they were sensitive to the issues; they increased the berm area so as not allow flow to go in the direction of Herman St. The chair asked how he know that was what would happen. Larry Silva said that they are grating the bermed area so that water will not flow in that area; he said that the homes in that area were built in the water table; regardless of what is done here, those homes in the water table will not be made better or worse; he said that he needs to make sure they are not exacerbating that problem.

The chair asked if he will stand by his statement and was told yes; she said that any liability would be theirs. Jim Sweeney asked if they had thought about holding the water in the area (basin), Larry Silva said that holding water may create a mosquito issue; they want it to dissipate over 72 hours; he was asked that outside of mosquito factor is there any other negative. Larry Silva said his client was asked to make improvements in Belgravia. Sam Ambroise said she also has concerns....the area has problem...how can you ensure that this design will not exacerbate an existing problem....she was told "this is what we do"...he said he is confident in his design reducing the overland flow; he said that drainage is a sensitive issue.

The chair asked if they would be willing to submit the analysis of pre and post; she said they will feel comfortable seeing that plan.

The admin stated that they will need a homeowners association and there may be a problem with the drainage lot being a separate lot. He should look at combining it.

The property owner at 29 Herman St. said that he is pumping water from last week; he said he pumps it out and it comes back in; he said they all have water problems and are just looking for a solution for stormwater.

The applicant asked for a continuance to the October meeting in order to submit the drainage information; the chair asked that he also submit plans with clearer graphics to show neighbors for that meeting.

#### 7. Preliminary Subdivision

Property: 88-94 Kingman

Lots: 4

Representative/Applicant: JK Holmgren/Modern Home Builders

Attorney John Creedon said that the preliminary plan is to divide 88 & 94 Kingman into four lots. He said the applicant has done two prior through lot subdivisions on that street...he is looking to build two new homes.

Scott Faria said that the applicant is looking to divide plots 2 and 3 into 4 lots with two new homes on Draper St.; each lot will be approximately 6,900 sf and the entire area is made up of lots of that size.

Larry Hassan said there are two existing homes and there will be two new homes. The director said they have already approved a similar development on that street and said that even with subdivision approval they will still need to go to ZBA.

The resident at 17 Draper St. said he was in favor and it will benefit the neighborhood and him; he is looking forward to having a house there.

The resident at 35 Draper was also in favor.

The applicant said he wants to clear the area and build two homes.

The chair asked if the plan shows the grind and overlay of the road and Scott Faria said he will add it to the definitive plan.

A motion was properly made (Sweeney) seconded (Hassan) and unanimously passed to allow the preliminary submittal to move forward to the definitive plan with the condition that the definitive plan shows Draper St. is to be milled down 1 1/2" and overlaid with 1 1/2" of hot mix from corner to corner curb line to curb line for the limits of the subdivision.

8. Preliminary Subdivision

Property: Plot 43 Clemens Ave.

Lot: 1 (roadway)

Representative/Applicant: JK Holmgren/John Harrington

Scott Faria said that the applicant owns a piece of property on deadend street.

The director said he does not believe this is a subdivision....he said in his opinion it should be a site plan approval as the turn around is not new right of way.

Scott Faria said he is looking for guidance.

Deputy Ch Williams said this is a dead end....a turn around will not work for them; he said he has no objections if they built the road to the end of the street but they have to extend the roadway and add a hydrant.

Scott Faria said he would like to withdraw his application.

A motion was properly made (Ambroise) seconded (Sweeney) and unanimously passed to allow the applicant to withdraw his application.

Meeting adjourned.