

PLANNING BOARD MINUTES

Tuesday, April 5, 2022 – 6:00pm

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. Toni Goncalves was not present; Larry Hassan chaired the meeting. Also present were Director Rob May, Evan Sears (Planner1) and Admin to the Board Pamela Gurley.

Items Requesting Continuances

Property: Plot 2 Belgravia Ave. - **Request for a continuance to 5-3-22**

Lots: 4

Applicant: Joe Kulle

Representative: Silva Engineering

Site Plan Approval - **Request for a continuance to 5-3-22**

Property: 466 Forest Ave. - Health Center Facility

Applicant: Neighborhood Health Center

Representative: Meridian Associates

Review and Acceptance of Minutes

A motion was properly made (Sweeney) seconded (Ambrose) and unanimously passed to accept the minutes from 3-1-22 as presented.

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

ANR Applications

Lot Releases

88 & 94 Kingman St.

This is a request to release the existing homes from the covenant so that the newly created lots can be sold.

A motion was properly made (Ambroise) seconded (Sweeney) and unanimously passed to release 88 & 94 Kingman St. from covenant.

Stonehill St. & Tiffany Dr.

A motion was properly made (Sweeney) seconded (Das) and unanimously passed to release the lot with frontage along Stonehill St. (parcel 60-27).

Street Acceptances

Aspen Street, Rodwell Street & Victory Street

A motion was properly made (Ambroise) seconded (Das) and unanimously passed to recommend the acceptance of the proposed public streets favorably to the City Council.

Zoning Change

1. Ordinance: Be it ordained by the City Council of the City of Brockton as follows: That the City Council adopt the following Amendments to the Section 24-24.4 "Adult use of Marijuana" relative to Regulation and Zoning of Marijuana: To strike the language "Marijuana Retailer operations shall not be conducted or located on the ground floor in C-3 Zones" in its entirety in Sec. 27-24.4 (b)(i).

Rob May said that we received notification that the two ordinance changes have already been approved by Council; he said he is recommending that the board complete the procedure. He said the city felt that permitting retail in the downtown on other than ground floor level would make the property owner put money into his building via elevators etc...creating more opportunities for future tenants.

Jim Sweeney said he is in favor of the change as no one will go to to an upper floor.

A motion was properly made (Ambroise) seconded (Das) and unanimously passed to recommend the change unfavorably to the Council.

The admin asked for clarification on the vote; Jim Sweeney stated he voted in opposition to the motion. The motion was remade and revoted.

A motion was properly made (Ambroise) seconded (Das) to recommend the proposed change unfavorably to the City Council. Four in favor of the unfavorable recommendation; one opposed (Sweeney).

2. Ordinance: Be it ordained by the City Council of the City of Brockton as follows: That the City Council adopt the following Amendments to the Section 24-24.4 "Adult use of Marijuana" relative to Regulation and Zoning of Marijuana: To strike the language "8 p.m." and insert it its place "10 p.m." in Sec. 27-24.4 (b)(ii).

A motion was properly made (Sweeney) seconded (Das) and unanimously passed to recommend the proposed change favorably to the City Council.

1. Definitive Subdivision (Two Proposed Lots) - Requested continuance to 5-3-2022

Property: 49 Keswick Road

Applicant: Cruise Properties

Representative: Curley & Hanson

2. Permission to Return to the ZBA

Property: 68-70 Field St.

ZBA Denial: 7-14-20

Applicant: Marie Lorquet/Attorney John Creedon

Attorney Creedon said that they are requesting another month's continuance; he said he was told that the contractor was not allowed to file the building permit application because of the prior zoning denial. The admin said she spoke with the contractor who advised that she only had the prior civil site plan and did not yet have a new certified site plan (they were no longer building an addition so they did not need SPA or any additional parking); he said he sent an affidavit to the building department stating that they have gone back to a plan with capacity of under 100. He said he is asking for one more month to make sure that the building permit is issued and the applicant doesn't need to go back to the ZBA for some reason. He said he has the new plan and will get us a copy.

(Chair asked if anyone from the public wished to speak; there were none.)

A motion was properly made (Sweeney) seconded (Ambroise) and unanimously passed to grant a continuance to the May meeting with the understanding that that the permit will be applied for prior to that time.

3. Permission to Return to ZBA

Property: 1449 Main St.

Applicant: Alicia Fernandes

Representative: Attorney John Creedon

Attorney Creedon said the applicant's filing with the ZBA to demo the existing small building to build a two family home in a C-2 zone was denied by the ZBA; he said the ZBA had issues with the proposed parking and traffic flow (he read a portion of the decision into the record). Azu Etoniru said the new plan shows a change in the parking flow; cars will no longer be backing out to Main St.; he said that they also moved building back slightly; this plan is providing traffic flow all around and feels that this is a very substantial change.

Rob May said that Attorney Creedon left out some of the decision language...*absent of evidence....no hardship was found*; he said that the lot is zoned commercial...there is a commercial building on it...it can be used as a commercial use.

In order to be granted permission to return to the ZBA the applicant needs to show a substantial change to the plan that addresses the reason that the plan was denied; he said that the primary reason was that there was no hardship; he said if this property was zoned residential and was a lot of record prior to zoning it would be bid enough for a single family home only.

Attorney Creedon said the parcel is surrounded by multi family and commercial properties; he said that shape and size and slop are an issue; he said that the planning board should not be concerned with hardship; but whether there was a substantial change in the plan.

Rob May said that he has contacted the law department and asked if the board would like to wait for an opinion from the City Solicitor. Jim Sweeney said he would like to hear what the law department says.

Sam Ambroise asked that they explain the substantial change to the parking; Attorney Creedon went over the plan.

Azu Etoniru said they had a robust discussion with the ZBA and said they were receptive to modifying the plan and returning to the ZBA. He said he is willing to wait for city solicitor's opinion.

Larry Hassan said that it looks like they have lost a majority of greenspace now; he was told that the green space exceeds the requirement for greenspace.

Pourita Das said that there will be a problem with parking space #1; she said there is only two feet between the edge of pavement and the porch and believes it should be five.

Jim Sweeney said that he can see where the the green space by space #4 will eventually end up being paved.

(The chair asked if anyone from the public wished to speak; there were none.)

A motion was properly made (Sweeney) seconded (Das) and unanimously passed to continue to the May meeting.

4. Site Plan Approval

Property: 534 N. Montello St.. - Auto Repair Facility

Applicant: Modern Auto

Representative: JK Holmgren

Scott Faria said Modern Auto is looking to construct and auto repair to keep all the work in house (the site is across the street from their existing business); he said they added the storm grate as requested and and the requested grading revision at the entrance.

There were no questions from the members.

(The chair asked if anyone from the public wished to speak; there were none.)

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

5. Definitive Subdivision (Three Proposed Lots)

Property: 135 Elliot Street

Applicant: Fenton Associates

Representative: JK Holmgren

Scott Faria said that this is an existing warehouse facility (which will remain) with a large grass area in front of the property; the front of the property is zoned R-2 and the rear of the property is zoned industrial; he said they have received an OOC from the conservation commission and previously received site plan approval.

There were no questions from the board.

(The chair asked if anyone from the public wished to speak; there were none.)

A motion was properly made (Ambroise) seconded (Sweeney) and unanimously passed to grant approval of the definitive plan with standard conditions.

The admin asked about surety and was told they will check with owner and advise.

6. Preliminary Subdivision (Three Proposed Lots)

Property: 432 Crescent St.

Lots: 3

Applicant: Signhere Realty

Representative: JK Holmgren

Larry Hassan said that the original application was for three lots and noted that the applicant has revised the plan to show two lots. Scott Faria said he is looking for preliminary approval so he can go to the ZBA. He said at the last meeting the planning board had issue with proposed number and size of the proposed lots as well as the need to back out into the street. He said this new plan shows a proposed colonial home on Henry St.; the existing house will keep the existing parking and will be building additional parking; he said this is a better plan.

Larry Hassan asked if they were still removing the garage and was told that the garage will now remain.

A motion was properly made (Sweeney) seconded (Ambroise) and unanimously passed to allow the applicant to move to definitive stage with following condition: There is to be no further subdivision of Lot A.

7. Preliminary Subdivision (Two Proposed Lots)

Property: 30 Twelfth Ave.

Applicant: Richard & Kathleen Lagerstedt

Representative: JK Holmgren

Scott Faria said that the existing property is a SF 40,000 SF lot; the proposal is to divide the property into a 7,000 and a 14,000 lots. He said that since the last meeting they updated the plan to show the gazebo area and as a result jogged the lot line to accommodate for the gazebo. He said he is looking for approval of the preliminary plan to let them go to the ZBA.

Larry Hassan said he would like to see that property line made into a straight line ...it will be cleaner as a straight line. Scott Faria said he was fine with that; there is not much difference between 12,000 or 15,000 SF.

Sam Ambrose asked about the conservation commission issue; Scott Faria said there is wetlands in the back that will require con-com approval. Jim Sweeney asked about frontage and Scott Faria said that it is adequate for that neighborhood. Pourita Das said it may be hard to seek con-com approval; and was told that the 25' no touch area is up to their (con-som) discretion.

A motion was properly made (Sweeney) seconded (Ambrose) and unanimously passed to allow the applicant to move to definitive stage with following stipulations:

- Applicant files with Conservation Commission
- Flood plain boundary is accurately mapped on site plan
- Wetlands are properly flagged
- New lot line separating plot is revised (red line)
- Variances are obtained for both proposed lots

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.