

PLANNING BOARD MINUTES

Tuesday, August 2, 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 ask 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; members present: Toni Goncalves, Larry Hassan, Jim Sweeney & Pourita Das. Also present were Director Rob May, Evan Sears (Planner 1), Rhode Germain (Admin 1), Deputy Chief Ed Williams and Admin to the Board Pamela Gurley.

Items Requesting Continuances

N/A

The chair asked Pam to provide clarification on the 4 member board to which she replied that all 4 members would need to vote to either accept or reject a proposal.

Date Change for September Meeting:

The next Planning Board Meeting date was changed to **Thursday, September 1st, 2022** as requested by the chair Toni Goncalves.

Review and Acceptance of Minutes

The Board reviewed the minutes of the last Planning Board meeting that took place on 6-7-22. A motion was made by Jim Sweeney, seconded by Larry Hassan and unanimously passed (4-0) to accept the minutes of 6-7-22 meeting as presented.

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

ANR Applications

1. Thatcher Street

Piece of property declared surplus by the city and to correct an encroachment sold to the abutter. The ANR was filed to separate the surplus area from the remainder of the property.

A motion to approve was properly made by Larry Hassan, seconded by Jim Sweeney and unanimously passed (4-0) to approve the ANR Application.

2. 7 & 15 Chilton Road

The ANR was filed to preserve a historic stone wall which currently bisects the two properties. The plan changes the lot lines to incorporate the entire wall onto one property.

A motion to approve was properly made by Jim Sweeney, seconded by Larry Hassan and unanimously passed (4-0) to approve the ANR Application.

Lot Releases

1. Stonehill/Tiffany Parcel 6-073 Tiffany Dr.

Developers of Stonehill/Tiffany have requested the release of Parcel 6-073 Tiffany Dr. All work has been completed on the roadway; the office has received the required documentation from the DPW as well as the as built plan for the road.

A motion to grant was properly made by Jim Sweeney, seconded by Pourita Das and unanimously passed (4-0) to release the parcel.

2. Lot A Farrington St.

The owner of 50 Farrington Street has requested the release of Lot A. The city will continue to hold 50 Farrington St. as surety until the work is completed and inspected (DPW) for Lot A.

A motion to approve was properly made by Larry Hassan, seconded by Pourita Das and unanimously passed (4-0) to release the parcel.

Release of Covenant

Greenfield Acres (1965)

The attorney for the current owner of the Augusta Avenue subdivision has requested release of the covenant for the Greenfield Acres project from 1965 that was still on record.

A motion to approve was properly made by Larry Hassan, seconded by Jim Sweeney and unanimously passed (4-0) to release the covenant.

Street Acceptances

N/A

Proposed Zoning Change

N/A

1. Permission to Return to ZBA

Property: 1449 Main St.

Applicant: Alicia Fernandes

Representative: Attorney John Creedon

Attorney John Creedon stated that he had addressed the issues raised by the ZBA. He felt that the changes met the threshold of a “substantial change” to the overall plan.

The director said that after speaking with the City Solicitor, that moving parking from one area to another was not a substantial change.

Noting the four members, Attorney John Creedon questioned the simple majority due to the 1 vacancy position in the Planning Board, to which Director Rob May provided more clarification after looking at the Massachusetts General Law, section 16 of Chapter 40A. which states that “No appeal, application or petition which has been unfavorably and finally acted upon by the special permit granting or permit granting authority shall be acted favorably upon within two years after the date of final unfavorable action unless said special permit granting authority or permit granting authority finds, by a unanimous vote of a board of three members or by a vote of four members of a board of five members or two-thirds vote of a board of more than five members, specific and material changes in the conditions upon which the previous unfavorable action was based, and describes such changes in the record of its proceedings, and unless all but one of the members of the planning board consents thereto and after notice is given to parties in interest of the time and place of the proceedings when the question of such consent will be considered”.

Attorney John Creedon requested a 3 member majority to carry the vote, however, Toni Goncalves decided to proceed with a four member majority based on the Massachusetts General Law, section 16 of Chapter 40A.

Attorney Creedon requested a continuance to the next meeting as he disagreed with the decision to proceed with a four member vote for the majority.

A motion to continue to the next meeting was properly made by Larry Hassan, seconded by Jim Sweeney and unanimously passed (4-0).

2. Permission to Return to the ZBA

Property: 88 Emmet St.

ZBA Denial: 5-10-22

Applicant: Jason Burrell

Attorney Chris Veale was asked by Rob May if he understood the four members' majority vote, to which he replied that he understood. Attorney Veale explained this was a proposal to convert a single family to a multi-family which was denied at the May's ZBA meeting with a vote of 3-2. He said they added 4 additional parking spots, however, Toni Goncalves mentioned that a change to parking was not a substantial change. Attorney Veale said they also added an entrance way and some greenspace which should be considered as major changes. He also mentioned that the majority of that street was multi-family.

Jim Sweeney reported that the project was denied at the ZBA due to no hardship and due to many neighbors speaking out against it. He also stated that the building needs some work. According to Rob May, per the City Solicitor, parking is not a substantial change. However, it's at the board's discretion to decide if the entrance way is a substantial change or not.

(There were no comments from the public)

A motion to return to ZBA was properly made by Jim Sweeney; there was no second.

A motion to deny was properly made by Larry Hassan, seconded by Pourita Das and passed (3-1). The votes were as follows: yes for Larry Hassan, Pourita Das, Toni Goncalves and no for Jim Sweeney.

3 Site Plan Approval - 40R (32 Residential Units/Commercial on Main St.)

Property: 142 Main Street

Applicant: 142 Main Historic LLC

Representative: Traggorth Companies LLC

Representative Dave Traggorth shared that 142 Main Street, formerly the Kennedy Department Store, was purchased about 6-8 months ago and will be a 14 million investment with 32 apartments (14-1 bedroom and 18-2 bedroom apartments) and 39 parking spaces, of which 5 will be on site and the other 34 will be leased to the Parking Authority. The building is 67 feet high and will have 5 stories.

They don't intend to change any footprint of the building and are not seeking any waivers. Per Dave Traggorth, this is a historic building and therefore, they will be pursuing historic tax credits. They already started the historic tax credit process.

Rob May mentioned how excited he is for this investment in Brockton. He also mentioned that the applicant had gone through Tech Review and a 40R review with BETA, which is an outside consulting firm who does peer review..

However, Rob May is asking that the garbage pick up area be removed and for it to have internal roll-out storage.

Toni Goncalves asked what parking spaces will be leased and Dave Traggorth mentioned that they have a commitment from the Parking Authority to lease them spaces in one of the two existing parking garages.

Pourita Das mentioned they needed two handicapped spaces instead of one and asked how many units would require handicapped spaces. Per Davis Square, two units may need spaces; however, she will check the requirements.

Pourita Das also expressed concern about the MEPFP equipment on the roof. Dave Traggorth mentioned that they have to answer the questions for the national park service; they will do view studies and therefore, they will not see it from the sidewalk.

Pourita Das asked how far away from the roof edge and was told it was at least 10 feet and she asked if there was any plan to hide that equipment with screens.

Per Jim Sweeney this is an outstanding project. However, Toni Goncalves expressed concern about the parking. Per Jim Sweeney, the garage is usually empty at night, and Rob May also confirmed that the garage was empty in the evening.

Dave Traggorth mentioned that he introduced himself to the local businesses and they are excited to see people coming back to the neighborhood. He also mentioned that Elvera's was reopening. Larry Hassan was excited to hear about Eliveria's reopening and asked what was in the basement; to which Dave Traggorth responded that it was laundry and storage, accessible via elevator.

(There were no comments from the public)

A motion to grant approval of the 40R project with standard conditions and the following special conditions was properly made by Jim Sweeney, seconded by Larry Hassan and unanimously passed (4-0). Special condition 1: There is to be no outside storage or pick up of trash barrels; trash is to be stored in a dumpster inside the building. Special conditions 2. The planning department is to receive proof of the recording of the required easement document prior to the issuance of a building permit.

4. Site Plan Approval

Property: 161 Mulberry St. (Health Services Building)

Applicant: Mass Electric (National Grid)

Representative: Vantage Builders

Representative Mark Meche explained this was a proposal to construct a new standalone Health Services building along East Ashland Street for National Grid. The project is an existing function on site but a new building that will serve the employee/staff of National Grid. It's a small scale building.

According to Al Trakimas, the existing driveway will remain and it will connect to all municipal services on East Ashland Street. They will increase some impervious area, but all trees will remain and they will have two catch basins that will discharge to dry wells. He mentioned that they have been through the Tech review process and have added shade trees along East Ashland as advised by the Tech review committee. He also mentioned that from an engineering point of view, there would be no traffic issues.

Pourita Das asked if the swing gate was existing, to which he answered that it was a new gate to fenced off the facility for security purposes.

(There were no comments from the public)

A motion to approve with standard conditions was properly made by Larry Hassan, seconded by Jim Sweeney and unanimously passed (4-0).

5. Preliminary Subdivision

Property: 21 Flint Rd., 655 East St., 657 East. St.

Applicant: Monty Construction

Representative: JK Holmgren

Representative Scott Faria explained this was a proposal to subdivide 1 lot into 2 lots (Lot A & B), expanding the subdivided lots sizes with portions of land taken from abutting Lots C and D. Lot A will have 12,000 square ft. existing homes, Lot B will have 30,000 square ft. Lots C and D will have about 75,000 square ft. They are asking for permission to file with the ZBA for the relief of the Lots.

Larry Hassan proposed an expansion of the rear property line of Lot A to meet Lot B as well as a reduction to 24 feet wide of the proposed driveway, to which Scott Faria agreed to do. According to Scott Faria, the frontage on East street is not being reduced.

Councilor Nicastro remarked that the name of the property owner Joseph Marise was signed incorrectly on the application. She also stated that the assessed owner at the corner of Flint and Sinclair was incorrect. The assessor should be 121-178.

She also wondered what the current use of the wooded land would be as well as the relief that would be needed from the Zoning Board. Scott Faria mentioned that the wooded land would remain the same and the East street Lots would need frontage relief, as well as area and Lot width for Lot A. She also asked if Lot C was a wetland, to which he replied that it wasn't and does not have to go to Conservation.

Per Councilor Nicastro, there was a letter dated 3-15-22 that denied the plan. She wanted to know what was the difference between the previous plan and now. Per Scott Faria, Lot D was not originally included in the plan.

(There were no comments from the public)

A motion to allow the application to proceed to the definitive stage with the conditions that the definitive plan show that the rear property line of Lot A extended to meet Lot B as well as a reduction to 24 feet wide of the proposed driveway, was properly made by Larry Hassan, seconded by Jim Sweeney and unanimously passed (4-0).

6. Preliminary Subdivision

Property: 70 Brookside Ave.

Applicant: Eusebio Oliveira

Representative: JK Holmgren

Representative Scott Faria explained this was a proposal to subdivide 2 lots into 4 lots so that 3 single family homes can be built on 3 newly formed lots. The area is surrounded by wetlands with a bridge for access to Lot C. They are looking for a preliminary approval for 4 Lots. If the ZBA approves, they will need Conservation approval due to the Wetlands.

Per Rob May, this is a mess of a property which is currently surrounded by the Wetlands with Lot C being the only access to Lot D. There's a claim of frontage on Lot D, however, it's not usable frontage since they can't cross the brook to get back to the property. There would need an easement across Lot C and all three parcels are in the flood zone, which makes it questionable how much of the site is buildable. Scott Faria is aware that the lots are located in the flood zone and would deal with this part with the Conservation commission.

Per Scott Faria, because it's for single family homes, drainage wouldn't be proposed.

Per Councilor Nicastro, it's not only Wetlands but the French Brook which swells in the Summer. She also mentioned speaking to an abutter on Brookside Avenue who received no notice about this meeting. Per Larry Hassan, a preliminary hearing does not require notice.

The Counselor also wondered what would happen to the concrete conservation on Lot D and whether an environmental assessment would be done because it was previously a tannery. She also mentioned that according to the GIS map, the French Brook runs along proposed Lot C and crosses Brookside Avenue and thus questioned access to the back land. Per Scott Faria, it would be through the existing driveway through Lot C and they would need an easement for Lot D.

The Counselor questioned the use of Lot D, however Scott Faria said he is unaware of any plans. She also raised concerns that the buildings on Lots A, B & C will affect the flow of water and therefore affect existing homes.

Per Attorney Jim Burke, all these questions will be discussed at the ZBA.

(There were no comments from the public)

A motion to deny was properly made by Jim Sweeney, seconded by Larry Hassan and unanimously passed (4-0).

7. Preliminary Subdivision

Property: 652 N. Cary St.

Applicant: Cohen Estates

Representative: PMP Associates

Representative Ed Jacobs explained this was a proposal to subdivide 1 lot into 2 lots. Current property is in the R1C zone with 80,509 SF and 152.3 feet of frontage.

A new single-family house will be constructed on Lot 1 while the existing structures will remain on Lot 2. The proposed Lot 1 would have a single family house with 50,496 square feet, with 50 feet of frontage. Lot 2 will have 30,000 SF and a 102 SF frontage. Access to Lot 1 will be through a 24' wide driveway.

Jim Sweeney asked if the original Lot was conforming, to which Ed Jacobs explained that it lacked frontage, therefore these 2 lots would be more non conforming.

Pourita Das questioned if they needed to apply for variance when going to the ZBA. Per Ed Jacobs, if the ZBA approved the plan, then the definitive would need to be filed with more detail. Pourita Das also remarked that the lots are already non-conforming and dividing them will make two non-conforming lots.

Per Evan Sears, The porkchop shape of Lot 1 is meant to be prevented by the minimum lot width zoning ordinance to prevent these types of lots. The Lots must be 125 ft wide for at least 100 ft starting from the lot's front boundary, which in this case is N Cary St. Lot 1 would only be roughly 40 ft wide for the first 245 ft of the lot, along the driveway. Per Ed Jacobs, there are plenty of these types of Lots in other communities.

Pourita Das asked how long the driveway was, to which Ed Jacobs replied, 350'. She also questioned if a fire truck could get out, and was told they were providing a turn-around. Ed Jacobs asked Chief Williams to provide an answer. However, he held comments to see what ZBA does but mentioned that it was allowed before although he is not a huge fan.

(There were no comments from the public)

A motion to deny was properly made by Pourita Das, seconded by Larry Hassan and unanimously passed (4-0).

8. Definitive Subdivision - Two proposed lots

Property: 432 Crescent St.

Applicant: Signhere Investments LLC

Representative: JK Holmgren

Representative Scott Faria from JK Holmgren Engineering explained this was a proposal to divide a single lot, with an existing structure, into two separate lots (A and B). The existing house will remain on Lot A and a new single-family house will be constructed on Lot B.

The original plan was for three lots; however the plan was revised to show two lots and they were given approval to move forward and received ZBA approval.

Municipal water and sewer would come from Moulton street.

Pourita Das questioned if Lot A was a 3-family to which Scott Faria replied that it was an existing three family. Toni Goncalves remarked that Rob May's recommendation was no further subdivision of Lot A.

Public comments:

Public member Angelina questioned how far back the driveway would be on the Lot on Moulton street. Per Scott Faria, the house will be 32 ft from the street and 40 ft from the pavement. Per Angelina, it seems close to 44 Moulton Street. Per Scott Faria, the driveway will come off Moulton Street and thus meet the zoning requirements for the front setback.

A motion to approve the definitive plan with standard conditions and the special condition that there is to be no further subdivision of lot A was properly made by Jim Sweeney, seconded by Larry Hassan and unanimously passed (4-0).

The admin asked about surety; however, Scott Faria already left. Therefore, it will be asked to be sent in writing.

9. Definitive Subdivision

Property: Plot 2 Belgravia Ave.

Lots: 4

Applicant: Joe Kulle

Representative: Silva Engineering

Per Representative Larry Silva, this is a proposal to subdivide a single undeveloped parcel into 4 parcels. Single-family houses will be built on 3 parcels (Lots 1, 2, and 3) while Lot 4 will contain a drainage basin. There were originally 4 Lots, however there were many comments and hurdles for the proposed four lots-extensive drainage. Based on the Engineers, DPW, Conservation Commission and other consultants, the applicant was convinced to scale back to a three lot subdivision. The new proposal is a lot less invasive to the wetlands and therefore there was no conservation jurisdiction.

This project is to build on vacant Lot 1 located on Hermon Street, as well as on Lot 2 and 3 located at Belgravia which will provide improvements to Belgravia including turn-around for the Fire Department. The remaining Lot will just be used for stormwater. A benefit of the project is bringing sewerage onto Belgravia which will provide resources to existing houses as well. They will provide a berm to the houses on Hermon so that the water will not flow in that direction and slow down the stormwater.

They are hoping for the approval of the Board so they can go back to the ZBA to reinstate the prior ZBA approval. Belgravia is really not a paved road so it will be built, therefore they are looking for a waiver for granite and sidewalks so they can use Cape Cod Berm.

Toni Goncalves questioned if all major concerns with drainage were addressed, to which Rob May confirmed that many of the drainage issues were addressed; however, he is concerned that changing the elevation at the location of the first home will change the pitch of the slope. Also, although the second house has a berm, the first house does not have that protection; therefore, it may increase runoff towards Hermon. Another concern is with the creation of the three Lots on Belgravia. The DPW commissioner advised that the property should be combined and not left as a stand-alone lot; if left as a stand-alone lot there is a good chance that the lot will end up being owned and maintained by the City of Brockton. Per Larry Silva, they will remove the Lot line and make it one large Lot. He also mentioned there is a lot of water in Belgravia, however they will collect the water from the street which would be an improvement. Per Rob May, the city engineer Chike Odunukwe feels that the plans as submitted are fine and there will be no additional problems.

Larry Hassan questioned if there is a difference between the use of Cape Cod Berm versus Granite; to which Larry Silva answered that both will funnel water but Granite is more expensive. Larry Hassan also asked if the road would be paved, which was confirmed. Larry Silva also confirmed that drainage will be added to the road and therefore will be a big improvement.

Toni Goncalves confirmed with Rob May, if the project were to be approved, that the two parcels be combined and there should be no above ground utilities and sidewalks which will require a waiver.

According to Pam Gurley, per the Law Department, all subdivisions require an HOA until the roadway is accepted by the city of Brockton. However, per Larry Silva, they are not building a new road, just improving it therefore an HOA will not be needed.

Per Pam Gurley, the owners would have to be responsible for the lights as well as the detention basins. Larry Silva confirmed the owner of the second home would have to put in his deed that he will be responsible for the drainage since it will be in his Lot.

The chair questioned how the applicant would know they are responsible, to which Rob May answered it would be a condition for the subdivision to be filed in the plan.

Larry Silva questioned if driveway lights could be used instead of street lights, however Pam mentioned that the DPW commissioner did not entertain the idea of having driveway lights, therefore they would need a waiver.

Public comments:

Aristides Centeio, (29 Hermon street):

Aristides voiced his concern about the project. He spoke about purchasing his home a few years ago and has been dealing with not only runoff but also water in the basement from the water rising. He also mentioned that first time home buyers do not pay attention to the paperwork and therefore would not know how to deal with the drainage Lot.

Paul Maliawco, (35 Hermon street):

For Paul, the primary concern is the water level which he has been dealing with since he bought his house in 2000. According to him and based on the declaration of engineers he hired; we

cannot direct water to a point as it will still go into the ground and migrate into their properties. According to him, the whole idea of a drainage lot is setting up a dynamic to make sure their neighbor maintains the drainage lot which is another burden on them. He also questioned how to explain to a prospective buyer of his house that there is a drainage lot behind their home.

Per Larry Silva, they are not exacerbating the groundwater; peak rate of runoff will not exceed what it is now. According to him, a lot of the flow is coming from beyond (Maliawco) property. They want to make a responsible attempt to address stormwater management and they cannot make it worse. He can not correct a home built too low into groundwater, however they would not propose anything that would be detrimental to the neighborhood.

Pourita Das asked how they are dealing with the new impervious area (roof and driveway). Per Larry Silva, the only part going to the ground are the roof drains to the new homes; other stormwater is all surface flow and regulated through the stormwater basin. Pourita Das also asked if the downspouts were going directly into the ground. Per Larry Silva, since there was no home there, some went into the ground. However, in order to mitigate this issue, they have a stormwater management system. Pourita Das suggested creating a dry well to capture that water so that it doesn't add more water, to which Larry Silva responded that there are already chambers for each of the houses.

Per Pam, Chike reviewed the plan and was fine with it; however, left the waiver of granite curbing and sidewalk to the Planning Board to decide.

Per Rebecca, there are existing lights so they will not need another light. According to Larry Silva, there's no sidewalk for existing homes now, therefore there would need to get a waiver.

Pourita Das asked how the new transformer would be connected. Per Larry Silva, it would be up to National Grid.

A motion to approve the definitive subdivision with standard conditions and with the special condition that lots three and four are to be combined into one lot. with conditions was properly made by Larry Hassan, seconded by Jim Sweeney and unanimously passed (4-0).

A motion to approve waivers from the following sections of the rules and regulations was properly made by Larry Hassan, seconded by Jim Sweeney and unanimously passed (4-0) TSEC V, C. Curbs and Sidewalks

No sidewalk or granite curbing exists on the current portion of the road. A waiver request for no sidewalk was granted. Applicants will be allowed to install Cape Cod Berm in lieu of a vertical granite curb.

Applicants agreed to surety for the subdivision and were told that they could request a lot release for the lot on Herman St. once the plan and covenant were registered with the registry of deeds.

9:04: Motion to adjourn the meeting