

BROCKTON PLANNING BOARD MINUTES

Tuesday, May 16th, 2023 - 6:00 PM

RESCHEDULED FROM TUESDAY, MAY 2ND, 2023

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; the members present are Toni Goncalves, Larry Hassan, Jim Sweeney, and Marty Crowell. Also present were Director Rob May, Evan Sears (Planner 1), and Admin Isaiah Thelwell.

Items Requesting Continuances

Review and Acceptance of Minutes

The Board reviewed the minutes of the last Planning Board meeting that took place on 04-13-23.

A motion to approve the minutes was properly made by Larry Hassan, seconded by Jim Sweeney. The motion was unanimously approved (4-0).

ANR Applications

Lot Releases

Requests For Extension

Street Acceptances

**Deanna Road
Dondi Road**

Per Planner Evan Sears, both streets are byright , and not much to comment on.

A motion to accept the street was properly made by Larry Hassan and seconded by Jim Sweeney and unanimously approved (4-0)

Proposed Zoning Change

1. Discussion - Hybrid Planning Board

Marty Crowell expresses her preference for in-person meetings over Zoom for public hearings. She mentions her difficulties with Zoom and raises concerns about older individuals who may not be familiar with the platform. Toni Goncalves discusses the efficiency and convenience of Zoom meetings, while also acknowledging that some people may prefer in-person meetings. The discussion among board members revolves around the pros and cons of using Zoom and the possibility of revisiting the topic based on public feedback. Marty Crowell agrees to give Zoom meetings a chance and see how they work before forming a final opinion.

2. Preliminary Subdivision

Property: Woodard Avenue

Applicant: Patrick Hefferman

Representative: J.K Holmgren Engineering

Scott Faria, representing Patrick Hefferman, presents a Preliminary Subdivision proposal for a property. The property is located at 94 Woodard Avenue and has frontage on two streets. Scott Faria explains that the existing property is about 42,000 square feet with a house located at the front. The proposal is to divide the property into 3 lots. Lot A would have 23,000 square feet and include the existing home. Lots B and C would each have a little over 9,000 square feet and feature proposed 4-bedroom homes with 2-car garages. The proposed homes would be smaller colonial-style houses, with dimensions of 30 by 36 feet.

Board members ask questions regarding the frontages of neighboring properties. Scott Faria mentions that the frontages of the surrounding properties are generally smaller than the proposed lots, with 90 feet of frontage for the two new lots and approximately 60 feet for neighboring properties on Wyoming Avenue.

Marty Crowell raises a concern about potential opposition from neighbors since the proposed subdivision would be in someone's backyard. Scott Faria acknowledges that they haven't encountered any opposition yet but expects that any issues would likely be brought up at the zoning board meeting. Larry Hassan, comments that he lives nearby and believes the proposed lot sizes are reasonable considering the neighborhood's lot sizes. He also asks about an existing garage on the neighboring property and whether it is included in the proposed subdivision. Scott

Faria clarifies that the garage is on their property and will be removed, along with a shed, to accommodate the subdivision.

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

4. Definitive Subdivision

Property: 652 North Cary Street

Applicant: David & Darlene Cohen

Representative: PMP Consulting

Attorney Jim Burke and Engineer Ed Jacobs, present a revised Subdivision proposal on behalf of David and Darlene Cohen. They had previously submitted a Preliminary Subdivision proposal that was denied by the Zoning Board of Appeals. Jim Burke expresses David's concern about the inconsistency in the approval process, as similar projects were approved on the same evening David presented his proposal. To address this issue, they decided to present a Definitive Subdivision plan to the planning board, seeking approval and maintaining control within the Planning Board's jurisdiction.

Ed Jacobs explains the revised proposal, showing a 50-foot wide roadway with a 60-foot cul-de-sac. The plan includes two lots with frontage and area that exceed the current ordinance requirements. The proposed lots would have over 30,000 square feet of area and adequate frontage. Jacobs mentions that they have done similar projects in other towns, often with a single driveway and no curb, along with a fire truck turnaround. They suggest a 40-foot wide roadway and a 52-foot radius at the cul-de-sac to accommodate these requirements. The lots in the revised proposal meet the required frontage and area criteria. Jacobs concludes the presentation by stating that the proposed plan is in line with the surrounding towns and hopes that the Planning Board will appreciate and approve it.

Chairperson Toni Goncalves, raises a question about the final construction of the private way and its adherence to the original plan. She mentions that the private way was intended to lead to a city road, but it is unclear if that plan will be realized. Jacobs explains that the private way will not be accepted by the town as a finished road. Instead, it will function more like a driveway. He states that they are requesting waivers for certain requirements such as sidewalks, pavement, and curbing. This change in approach is due to the original plan being denied, which had larger lot sizes and frontage. Goncalves expresses confusion about the proposed changes and questions if

the private way will be paved or gravel. Jacobs clarifies that the driveway will be paved, including a 20-foot wide driveway leading to a garage and a turnaround area for emergency vehicles.

Director Rob May explains that the proposed design does not meet the requirements of the town ordinance, which specifies that new construction should be on an approved street built to city standards. He indicates that this may pose a challenge for approval. Burke provides insight into the process of obtaining waivers under the Subdivision Control Law. He mentions that this approach, with modifications and waivers, is commonly used in neighboring towns for small lot Subdivisions. He reassures the board that the proposed design does not deviate significantly from what is typically seen. He further explains that many towns have similar provisions, such as retreat lots or state lots, allowing for a smaller frontage and the construction of a driveway. He emphasizes the need for a safe turnaround area for vehicles and mentions that backing down the driveway would not be ideal. The discussion continues, and it becomes apparent that the proposed design will require waivers to deviate from certain city requirements. The board members express their concerns and seek more information about the design and its compliance with regulations.

Public Comment

Councillor Jack Lally - Councillor Jack Lally expresses his understanding of the questions the board is currently grappling with. Lally mentions that he has spoken to the applicant and their counsel, indicating his familiarity with the applicant as a constituent and someone from the neighborhood. He acknowledges that the applicant has been forthright and maintains a good rapport with the neighbors. Lally commends the applicant for taking the initiative to personally visit the neighbors and discuss their plans, even though he had suggested a meeting himself. He acknowledges receiving an anonymous letter that raised concerns about privacy and respect for the neighbors. While he does not go into the specific details of the letter, he wanted to voice the concerns raised and thank the applicant for being proactive in connecting with the neighbors. Lally expresses confidence that the board will address the questions and concerns they have and reach a satisfactory conclusion. Jack concludes by thanking the board for their time and expressing his trust in their judgment and efforts. The chair requests a concise list of the waivers, The waivers primarily pertain to the width of the pavement, radius at the street intersection, and the size of the turnaround. The chair suggests addressing each waiver individually.

A motion to approve with standard conditions and the following waivers was properly made by Larry Hassan, Seconded by Marty Crowell, and unanimously approved (4-0).

5. Site Plan Approval

Property: 157 Centre Street

Applicant: WR Construction

Representative: WR Construction

Per Kerry Jordan, The applicant WR Construction have purchased an old meat factory and plan to convert it into residential apartments with a common space below. Jordan mentions that they have gone through the Planning Board and Zoning processes, and their plans have been approved. They also have the necessary permits, including a stormwater permit. The project includes 24 apartments with public parking and a full turnaround for fire safety. They have addressed concerns raised by neighbors, including lighting placement, parking, and towing. Kerry Jordan mentions ongoing communication with neighbors and addressing their concerns, such as potentially painting lines white and installing bollards in front of lobby doors. Kerry touches on other topics such as snow removal, working hours for construction, and the relocation of a power line that currently goes through a window. Kerry Jordan clarifies that they have their own snow removal company and they will remove snow from the site. Regarding working hours, they mention adhering to city ordinances and police department advice, with construction taking place between 7 am and 10 pm on weekdays and until 11 pm on Saturdays, although they do not plan to work beyond 7 pm. James Sweeney asks for specific details about the discussions with neighbors, and Kerry Jordan mentions topics such as lighting, line painting, bollards, and snow removal. There is some confusion regarding the power line relocation, but it is confirmed that the existing power line going through a window will be relocated according to the plans.

Toni Goncalves mentions that the Zoning Board of Appeals would like to see the addition of exterior architectural lighting, which Kerry Jordan confirms has been addressed and included in the plan. Larry Hassan also mentions that Deputy Fire Chief Williams approves of the plan, even though he could not attend the meeting.

Public Comment

Jed Hresko - Jed Hresko, a trustee at Soco Lofts, begins by introducing himself and mentioning that Soco Lofts is the existing 7-story brick building on the left-hand side of the plan. He explains that he can see the construction site from his window, as the property in the rear is owned by the developers. Hresko shares that he had a meeting on the construction site and captured the points of agreement and disagreement in an email. Out of the 12 points discussed, they agreed on nine, and three are still unresolved. One of the unresolved issues is the construction hours. Jed points out that the noise ordinance limits construction till 6 PM, and he wants clarification on the actual construction hours allowed in Brockton, including weekends. Director Rob May mentions that he contacted the building commissioner regarding the construction hours but hasn't received a response yet. He explains that the hours of operation are controlled by the

building department, and the Planning Board cannot grant extensions of time exceeding the City's designated hours in the Building Code.

Kerry Jordan shares the information she received from the Building Department. Stating construction is allowed from 7 AM to 10 PM on weekdays and from 7 AM to 11 PM on Saturdays. She notes that these hours are regulated by the police department. Toni Goncalves, suggests that if the board decides to pass the project, they can make compliance with the construction hours a condition. She also mentions that when construction work is done inside, it is generally quieter and suggests differentiating between outdoor and indoor work hours.

Hresko expresses his dissatisfaction with being lectured and states that the property manager answers to the trust, not the other way around. He mentions that his father is an architect and is currently involved in construction projects in Roxbury. He asserts that he reported violations to the police, building department, and fire department when necessary. Jed explains that they agreed to cooperate but cannot simply trust the developers on certain matters. He emphasizes the importance of having written documentation regarding construction hours, not just relying on verbal assurances. He reiterates that they want the construction hours to be clearly defined in writing as trustees representing the owners of Soco Lofts.

Toni Goncalves responds by suggesting that the construction hours be set from 7 AM to 5 PM, with the possibility of extending slightly later if needed to finish specific tasks. She reassures Jed that they can include these hours in the documentation, addressing his concerns about having written confirmation of the construction hours. James Sweeney expresses his opinion that restricting the hours too much would complicate the construction process, suggesting that starting at 7 AM might be too early and ending at 9 PM might be too late. Toni Goncalves acknowledges the temporary nature of the construction but still expresses concerns about the inconvenience it may cause.

A motion to approve with standard conditions and the following special conditions was properly made by Jim Sweeney, seconded by Marty Crowell, and unanimously approved (4-0).

Special Conditions:

- Construction hours will be limited to 7 AM - 5 PM on weekdays and & 8 AM - 5 PM on Saturdays with one hour of flexibility beyond the 5 PM on weekdays and Saturdays.

6. Site Plan Approval

Property: Industrial Boulevard Expansion

Applicant: Brockton Industrial

Representative: Eugene Sullivan

Per Gene Sullivan, a civil engineer representing Brockton Industrial Power LLC, presents an application to the board. He explains that they received approval in the past to construct a warehouse on a previously unused property along the Plain River. The construction of the

building is complete, and they are currently doing paving work while waiting for a tenant. Gene Sullivan shares his screen and presents the plan to the board. He explains that they propose extending the existing roadway from their property to create a loop and connect it to a cul-de-sac. This would provide better access to their site and improve navigation for drivers using GPS. He mentions that they are requesting permission to use 5-inch granite curbing instead of the standard 6-inch curbing.

Gene Sullivan also discusses the existing infrastructure, including catch basins and drainage systems, and mentions addressing concerns raised by the city engineer regarding a pond on the property. He assures the board that there is sufficient space to handle stormwater runoff. Larry Hassan asks for clarification on the entry and exit points from the roads, which Gene Sullivan explains, pointing out the two driveways and the cul-de-sac. Director May, expresses support for the proposed improvement, stating that it would enhance safety and circulation in the area. He also mentions that the water main will be extended, improving water pressure and supply. Overall, the board members express positive feedback on the plan.

Public Comment

Councillor Susan Nicastro - Susan Nicastro, Ward 4 City Councillor expresses her support for the construction of a building and addresses concerns about the extension of a public road. She acknowledges that the road was originally planned as part of a subdivision and asks if permission from neighboring property owners is necessary for its extension. Gene Sullivan responds that the road is an approved right of way and does not require permission from individual abutters. He also mentions that while the road was initially designed as a 50-foot roadway, the current construction adheres to a 40-foot width with a curved layout. Sullivan explains that the absence of sidewalks is due to space limitations. Despite this, Nicastro expresses her overall support for the building project and wishes success to the clients involved.

A motion to approve with standard conditions and the following waivers was properly made by Jim Sweeney, seconded by Marty Crowell, and unanimously approved (4-0).

7. Site Plan Approval

Property: Signature Healthcare

Applicant: Brockton Hospital

Representative: J.K Holmgren Engineering

Scott Faria, representing Signature Health , presents a Site Plan for the construction of utility buildings at the rear of the hospital on Quincy Street. The proposed buildings will house electrical rooms, fire rooms, and generators, addressing concerns raised after a fire incident earlier in the year. The plan aims to move these facilities outside of the hospital building. Faria emphasizes the need for approval to expedite the reopening of the hospital and mentions that

the proposed buildings will be constructed on an existing packing area, minimizing the loss of green space. He also highlights the inclusion of a lawn area and a stormwater management system to comply with city guidelines. The board members express their support and readiness to move forward with the project, emphasizing its priority status. No questions are raised by the board members.

A motion to approve with standard conditions was properly made by Marty Crowell, seconded by Jim Sweeney, and unanimously approved (4-0).

8. Site Plan Approval

Property: 1315 Main Street

Applicant: Teen Challenge

Representative: J.K Holmgren Engineering

Scott Faria, representing Teen Challenge, discussed their proposal for site plan approval. The project involves rebuilding an existing home on Clifton Ave that has fallen into disrepair. The current home has a wet basement and structural issues, so they plan to tear it down and rebuild in the same location. Additionally, they are proposing a 16 by 40 shed addition to a garage at 1305 Main Street for additional storage space. Faria mentioned that there were discrepancies between the final approved plan and the actual construction of a 3-story office building on the property. These discrepancies involved landscape areas and parking issues. They have been working with the Zoning Board of Appeals to address these concerns and ensure compliance with the required number of parking spaces and open space percentages. They have also been working with the city engineer and engaged a third-party consultant, BETA Group, to assess the drainage systems on the property. One specific issue raised by a neighbor at 32 Green Place was a landscape wall constructed between her property and the parking lot of the office building. Faria stated that they conducted extensive survey work to ensure there were no water drainage issues onto the neighbor's property. BETA Group's engineer visited the site and confirmed that there were no adverse impacts from Teen Challenge's property onto the neighboring property. The engineer recommended the installation of a French drain or under drain behind the building to improve drainage.

Despite receiving a letter from BETA Group supporting their position, they faced challenges reaching an agreement with the City Engineer. However, Faria expressed that they believe the consultant's opinion should be considered as they have always worked closely with consultants and complied with their recommendations in the past. Mr. Oscar Cruz explains that the grading of the yard was done with Veronica's permission and her son spread the fill. He argues that there is no stormwater issue and that the water pooling is due to water coming out of basements, including a neighbor's property. He mentions that there is a wall, they hired a third-party consultant to review, and according to their report, there is no issue with the wall. Toni Goncalves responds by stating that the wall is not supposed to be there according to the original plan, and it should be fixed. She raises concerns about approving work that was not in

compliance with the original approval. She asks if the applicant is willing to remediate the wall issue and address the neighbor's grading concerns.

John McCluskey strongly disagrees with Toni Goncalves' comment about non-compliance and argues that the building inspector has deemed their work to be in compliance. He suggests that any water issues can be resolved separately with the neighbor and that the video evidence shows the water is draining properly. Toni Goncalves asks for the video to be shown for the benefit of the public and other board members.

The video is played, narrated by John McCluskey. He explains that the water is draining into the proper areas and away from the neighbor's property. He points out that there are no puddles or issues near the wall. The video shows the absence of water pooling and supports their claim that there is no stormwater issue.

Art Cabral mentions that there have been changes in the property that have affected the movement of water. He explains that the water used to flow across the backyard, through the side, and to the front at a steep slope. However, after the development of a building, the water no longer follows the same path. Cabral observes puddling a few feet in from the wall, which is why there is a pipe pumping water out to the easement. He also mentions that the fill placed in the side yard disrupted the pump discharge, so the pipe had to be extended. John McCluskey disagrees, stating that the pipe has been there for years, but Cabral disputes this, referencing photos provided by Miss Stevens that show significant changes to the property. Marty Crowell interrupts to suggest hearing from City Council member Nicastro, who is present in the Zoom meeting..

Public Comment

Councillor Susan Nicastro - Susan Nicastro, a lawyer and city councilor, expresses her support for Miss Victoria Stevens and her concerns regarding water issues on her property. Nicastro mentions that Miss Stevens discovered that the white blocks shown in the video were not intended to be there and believes that Teen Challenge is reluctant to remove them due to potential issues with the fill used on their property. She suspects that more fill was added than initially planned and that removing the blocks could cause the fill to collapse. Nicastro emphasizes that she is not an engineer but shares her suspicions based on the situation. Nicastro explains that Miss Stevens wanted two things: to prevent water from flowing into her house and property and to have a gate separating her property from Teen Challenge's driveway reinstated. However, Teen Challenge operates a catering business and believes they are protected by the Dover amendment, which allows them to use the driveway as a second means of egress. Nicastro raises concerns about the driveway potentially directing water towards neighboring wetlands.

She expresses her desire for a resolution and highlights the deficiencies in complying with the plan for the dormitory building on Clifton Street. She questions the ability to address the Clifton Street issue without considering the deficiencies in the 2017 plan. Nicastro emphasizes that

Miss Stevens is her constituent and has made significant efforts by hiring an engineer and lawyer to address the situation. She urges respect for Miss Stevens and her home. Nicastro concludes by reserving the right to speak further on the matter.

Veronica Stephens - Veronica begins by thanking the City Planning and engineering groups for their efforts. She explains that she allowed the construction of a neighboring house and cooperated with a group called Teen Challenge, who are involved in drug and alcohol rehabilitation. However, she describes various problems she faced, including water issues and damage to her property. Veronica believes that the construction caused water to accumulate in her basement and around her property. She accuses Oscar, the person responsible for building the neighboring house, of dumping soil on her property and diverting water onto it. She also mentions that a pipe was installed to redirect water onto the easement. Veronica expresses her desire for peace in her life and calls for the removal of two walls that were built illegally. She argues that these walls are causing problems not only for her but also for her neighbor, Mr. Tester. She states that Mr. Tester's easement agreement does not include the construction of the wall on his property, and she believes that the storm system in place won't handle the water properly. Veronica concludes by mentioning that she hired an engineer to confirm the issues she was facing and that she has video footage to support her claims. She expresses her hope that the Planning Board will review her letter and seeks restoration of her property according to the original plan.

Toni Goncalves expresses the need for the board to consult with legal and delays the decision-making process. John McCluskey clarifies that BETA, an engineering company, was hired by the city, not the applicant. Toni Goncalves emphasizes the need for further review and mentions a disagreement between the city engineer and BETA's report. Rob May suggests resolving the dispute by hiring a third engineering party. Craig Carchidi, an abutting property owner, urges both parties to find a resolution to the situation and emphasizes the importance of mitigating water drainage issues. After the speakers conclude, Rob May shares his perspective on the situation, acknowledging that Teen Challenge did not build according to the approved plan and referencing a report from BETA.

Veronica expresses her concerns about the construction and how it has affected the water drainage on her property. She mentions that her water has no place to go due to the construction carried out by Teen Challenge. She explains that historically, the water used to come to her property from the Teen Challenge field. However, with the new construction, the water is effectively trapped, and she cannot divert it onto other people's property due to legal constraints. Veronica describes how she is effectively surrounded by higher ground, such as an elevated easement and a wall, which prevents water from reaching her property. She mentions the idea of installing catch basins, but explains that the Teen Challenge team was not willing to install catch basins that would be pumped into their system. Instead, they wanted to use her property as an emergency overflow for their own storm system. Toni Goncalves, suggests the possibility of using PVC pipes through the wall to allow water drainage. However, Veronica expresses concerns that if the Teen Challenge system fails and the parking lot floods, the water would flow towards her property, as it is at a lower elevation. The conversation continues with

participants discussing the need for further deliberation, involving the city engineer and potential legal advice. They express the need for the parties involved to come together and find a compromise or solution to the issues raised. The discussion concludes with a motion to put public comment on hold and continue the matter at a later time.

A Motion to pause public comment and continue the meeting to August 1st was made by Marty Crowell and Seconded by James Sweeney and unanimously approved (4-0)

A motion was made to adjourn the meeting.