

The Brockton Planning Board held a meeting on November 5, 2014 at 7:00 PM in the GAR Room, City Hall. Members present: Acting Chair James McCarthy, Gary Keith, Ollie Spears, David Wheeler, Paul Morin, and Ross Messina. Also present were Pamela Gurley Planning Board, secretary, Rob May, Director of Economic Development and Planning and Staff Planner Shane O'Brien.

**Endorsement of Plans/ Minutes  
(ANR Plans, Subdivision Plans and/or Lot Releases)**

Lot Release – Lots 4 & 7 Bellevue Circle

Ken Kostka asked the Board for release of two additional lots. He explained that the City will still be holding two lots as surety and the value of the lots is in excess of \$100,000 a piece. He said there is about \$85,000 of work left to complete including the top coat on the road. The Board felt that their interest would be protected by holding the remaining lots and reminded Mr. Kostka that he would either need to finish the work or place a cash bond sufficient to complete the remaining work in order for the last lots to be released. Mr. Kostka said it was his intention to complete everything but the top coat. He said he would prefer not to finish the road until more homes are built.

A motion was properly made (Spears), seconded (Wheeler) and unanimously passed to release lots four and seven Bellevue Cir.

**1. Permission to Return to ZBA**

Applicant: John Lopes

Property: 684 Crescent Street

Representative: Attorney John Creedon

Attorney Creedon said that the applicant is in the process of renovating the old "maple alleys". He said he received approval from the ZBA for the original restaurant layout, but once construction began decided to increase the size of the restaurant after removing the alleys. He said that the plans submitted to the ZBA showing the proposed changes were inadequate. He said the ZBA wanted to know what the additional space would be used for. He said the new plans show the location of the warehouse (the warehouse space is the former alleys). The plans also propose to relocate a bathroom to have it closer to the restaurant; a function hall to the east; a brides room; the restaurant is on the west side and the remaining space allocated for dry for storage. The amount of seating remains the same (205). Mr. Lopes has spent \$300,000 in renovations to date.

A motion was properly made (Spears), seconded (Keith) and unanimously passed to grant permission to return to the ZBA. The Board agreed that new and substantially difference information had been submitted.

## **2. Definitive Subdivision**

Applicant: Michael Haikal

Property: Plots 15 & 17 George Street (Two Lots)

Representative: Bruce Malcolm, Land Surveys Inc.

Mr. Malcolm said that a variance had been previously issued by ZBA allowing for a reduction in lot size and frontage. He said that the abutters along rear were concerned about runoff so they are proposed earth berm along rear to create a holding area in a severe storm. He said the front of property grades towards the street. At the Board's request Henry Nover of Nover Armstrong was asked to look at the proposed drainage and agreed with the general design, but asked that they leave a 10' undisturbed buffer to the rear and extended the berm along the sides of the property. He said those changes are incorporated in to the latest plan.

Mr. May said he met with Mr. Malcolm and that the changes suggested have been made.

Opposed

Mr. Joules said he lives adjacent to property and is concerned about addition water. He passed around pictures of the lot.

Margret Palms, 63 Lafoye St. said she is concerned about traffic...it is a busy street and there is a school close by; she said there is no one that can guarantee that the water problems will not get worse if two more homes are added.

Mr. May suggested that the street side work be done first; he said the berm straddles both lots and they will need an easement. Mr. Malcolm said the deeds will contain a deed restriction.

Mr. Spears asked Mr. May for his opinion and Mr. May said he believed that the improvements suggested by NAA will ultimately help out the neighborhood.

A motion was properly made (Spears) and seconded (Keith) to issue a standard approve of the definitive subdivision as presented with the following special condition:

Prior to the sale of the lots, the Board is to receive a copy of the deed restriction for each lot outlining the homeowners responsibility for maintenance of berm as well as noting the location of the ten (10) foot wide undisturbed buffer along the back of the properties.

In favor: Spears, Keith, Messina, Morin and Wheeler

Opposed: McCarthy

Waiver Request

A motion was properly made (Keith), seconded (Messina) and unanimously approved to grant the waivers as submitted.

Section IV: Design Standards: B. Streets 3. Width (George Street is an existing public way) Section V: Required Improvements for an Approved Subdivision: C. Curbs and Sidewalks; Section III: B3 (Definitive Plan Contents) J. Profiles, N. Typical cross section and B4 Impact Study; Section III Procedure 3.Contents.

Applicant agreed to secure the subdivision by a covenant.

### **3. Definitive Subdivision**

Applicant: Shawn Fitzgerald

Property: 495 Pearl Street (Two Lots)

Representative: Bruce Malcolm, Land Surveys Inc.

Continued to December 2, 2014 by agreement of the parties.

### **4. Definitive Subdivision**

Applicant: 288 Linwood Street Realty Trust

Property: 288 Linwood Street (Nine Lots)

Representative: Attorney John McCluskey

Added in error; not scheduled for this meeting.

### **5. Definitive Subdivision**

Applicant: Mike Juliano, Franklin School LLC

Property: Plot 54 Sawtell Avenue (Nine Lots)

Representative: John Holmgren, JK Holmgren Engineering

Mr. Holmgren said that Mr. Juliano purchased the Franklin School property from the city through the RFP process. He said the Ward Councillor requested that only single family homes be built on the site. The new proposal decreases the impervious area. They have addressed the DPW comments in this revised plan and will agree to overlay the roads.

Mr. McCarthy said he still feels that the lots are congested. Mr. Holmgren said that the layout in conformance with rest of area. The homes are on smaller lots in this area.

Mr. McCarthy said that there was an opinion letter from the City Solicitor regarding the issue of the sewer moratorium in Ward 6 and recommending that the Board could approve the subdivision with the stipulation that the applicant receive the necessary connections.

Mr. McCarthy said he would like to see the sidewalks repaired. Mr. Juliano said he intends to repair the sidewalks that he disturbs.

A motion was properly made (Spears) to issue a standard approval of the subdivision with the condition that the applicant received the necessary City

Council approval for sewer connections. There was no second and the motion was withdrawn.

The Board discussed the DPW request for paving all three roads. Mr. Juliano felt that he should not be required to pave Sawtell Avenue as he would not be working in the Road. The members agreed that since that was outside the limits of the subdivision they could not require Mr. Juliano to pave it, but suggested that he speak with the DPW to come to some solution. Mr. McCarthy said he would like the remainder to the roads paved as requested, which would be from the corner of the subdivision to the corner of Sawtell. Mr. Juliano said that his interpretation was that he needed to overlay just the limits of the subdivision. He was told that historically the requirement is corner to corner and curb to curb, but that the DPW has requested that the pavement go up to the corner including Sawtell. Mr. Juliano said again that he was not disturbing across the street as the utilities are on the subdivision side of the road (Arthur). Mr. McCarthy asked about the gas cuts and Mr. Juliano said he can't be responsible for that work. Mr. Juliano said that the utilities on Bellevue are on the opposite side of the road and will require him to work across the road.

Mr. Messina said that he did not think that the developer should be responsible to do any work outside the limits of the subdivision.

As there was no further discussion the Chair asked for another motion.

A motion was properly made (Spears) and seconded (Keith) to issue a standard approval with the following special conditions:

Approval is contingent upon the applicant receiving the necessary sewer connection approval from the City Council; the street is to be milled 1 ½" and overlaid with 1 ½" of new hot mix corner to corner curb to curb for length of subdivision and repair the sidewalks to DPW standards along length of the subdivision. The Board also noted the request of the DPW Highway Superintendent to overlay the street along the ANR lots and agreed that as that is outside the purview of the subdivision that the developer met with the DPW to come to an agreement relative to those lots.

In favor: Spears, Keith, Messina, Morin and Wheeler  
Opposed: McCarthy

The applicant has requested the following waivers from the Planning Board Rules and Regulations: Section IV: Design Standards: B. Streets 3. Width 8. C. Utilities; Section V: Required Improvements for an Approved Subdivision: C. Curbs and Sidewalks

A motion was properly made (Spears) to grant the waivers as requested. Motion was seconded by Mr. Wheeler for discussion purposes.

Mr. McCarthy said that although the developer is requesting relief from curbs and sidewalks he would still be required to overlay the road repair the sidewalks and wants to make sure the approval letter was worded to reflect that.

Regarding the underground utilities, Mr. McCarthy said that if the pole is on side of house lot the Board has been requiring that the utilities go underground, however he said since road is being overlaid it is possible for all the utilities to go underground. Mr. Messina said that the overhead wires exist and the applicant should not have an un-necessary expense. Mr. McCarthy said the Rules and Regulations require that all new homes have underground utilities. Mr. Messina said he would agree with that if the applicant was installing roadway.

As there was no further discussion, the Chair called for a vote.

In favor: Spears, Keith, Messina, Morin and Wheeler

Opposed: McCarthy

The applicant stated that he would secure the subdivision by covenant.

## **6. Site Plan Approval**

Applicant: Aldi

Property: Pleasant St./Rt. 27

Representative: John Holmgren, JK Holmgren Engineering

Mr. Holmgren said the application is for a 17,000 SF market at the corner of Pleasant St. and Route 27. He said they have received preliminary approval for an additional traffic light across from the newly created Westgate Mall entrance. He said the plan shows additional greenspace, emergency exit signage, a crosswalk and flashing emergency lights on Pleasant Street and MassDot has begun working on the upgrades to the intersection.

Mr. Spears asked about the existing drive relocation. Mr. Murthy said during a prior design phase for a drug store the drive was moved as far as possible; and it was left in that location for this design. He said either traffic in and out of Westgate moves or traffic in an out of Aldi moves. They do not move at the same time. Mr. Spears asked about the light timing and was told it will depend on the time of day.

Mr. May said the Board members have a copy of the email sent from District 5 stating that all safety improvements contained in the traffic recommendation will be done by MassDot. Mr. Murthy explained the new proposed phasing for the intersection and said the phasing change has been accounted for in the Aldi plan.

Mr. Morin asked about the light at Pleasant Street and the lighting on the proposed building at Pleasant. Mr. Lourenco said they will add additional wall pacs if necessary and showed the Board a picture of the proposed light.

Mr. Wheeler read the email from MassDot into the record for the benefit of the abutters.

Mr. McCarthy asked why there is no pedestrian stop light proposed. Mr. Murthy said they would need to do a signal warrant analysis and intimated that the project wouldn't warrant an actual light. He said that this light will provide the safety the Board is concerned about for pedestrians and is approved by MassDOT.

Mr. May explained that if it doesn't meet the warrant Aldi's cannot put in a stop sign no matter what the Board may request.

Mr. McCarthy opened the meeting for public comment.

Opposed: Attorney Melinda Kwart said she represents St. Paul's Church. She said that St. Paul's wants to make sure that the Pleasant St. access is used for emergency access only. She said the Church would like to see the Pleasant Street area gated as they feel that without a gate that entrance will be used by the public. She said she the Church will be directly affected by this project and said they are worried about traffic building up which will block their only entrance. Mr. Hines said that the market may impact their use of the easement

Mr. Keith asked what the times of worship were at the Church and what Aldi's hours of operation would be. Mr. Holmgren said Aldi opens at 10 am. Mr. Hines said they have 8 am and 10 am services on Sunday. Mr. Morin said he sees the issue reversed; he said he sees people from Church leaving and cutting through the Aldi property.

Attorney Kwart said that the issue can be solved by a gate. Mr. Wheeler asked if the original plans called for a gate. Mr. Holmgren said a gate was discussed at technical review and they looked at various scenarios; he said the City has stated that they not want the Pleasant Street exist used as Aldi's entrance or exit.

Deputy Chief Charles Davis said he is opposed to a gate and there needs to be two ways to access property. He said he is open to any kind of signage, but the Fire Department wants that driveway left open.

Paul Webby, 678 Pleasant, said his main concern is safety. He said that he has a Brockton Police report showing 131 accidents at the intersection; it is the worst intersection in the City; cars do not stop at the light and he feels that the addition of this market will cause more accidents.

Bob Kovner, Central Music, said his business will be impacted by this project. He said there are five markets within several miles of this site and this will only make traffic worse.

Arthur Giannaros, Santee Road, said the proposed store is one block from the intersection and he is concerned about traffic. He said Pleasant Street backs up to his building during the morning and evenings now.

Mr. May said that MassDot has agreed to address the problems with the existing intersection and traffic is a product of living in a City.

A motion was properly made (Spears) and seconded (Keith) to grant a standard special permit for site plan approval as submitted with the condition that there is to be emergency exit only signage at Pleasant Street.

On the motion: Mr. McCarthy said he is still concerned with the proposed "flashing yellow light" at Pleasant Street. Mr. Wheeler said he is also concerned about traffic but thinks that the improvements that are being made to intersection will make this a safer area.

In favor: Spears, Wheeler, Keith, Morin and Messina  
Opposed: McCarthy

## **7. Site Plan Approval**

Applicant: Bumper to Bumper  
Property: 583 Warren Avenue  
Representative: Larry Silva, Silva Engineering

Mr. Silva said that the applicant is looking to expand business. He said the used car license has been adjusted and the amount of cars decreased to allow for the necessary parking for this additional building. The applicant said that he has been approved for a water connection and the revised plan shows added trees on the Foster Street side and added greenspace between the buildings.

Mr. McCarthy asked how he was addressing snow removal and was told it would be stored on site. Mr. McCarthy asked how much the used car license reduced and was told from 33 to 14 cars and that he needs 26 spaces for building use.

Mr. Morin asked if the amount of greenspace was increased at all. Mr. Silva said they have 20% which is double the requirement.

A motion was properly made (Spears), seconded (Keith) and unanimously passed to issue a standard special permit for site plan approval of the plan as submitted.

## **8. Site Plan Approval**

ANR -1813 & 1829 Main Street

Applicant: Cumberland Farms

Property: 1813 & 1829 Main Street

Representative: Smolak & Vaughan

Matt Leitner - Civil Design Group

Attorney Smolak said that the location of the property is the existing Cumberland Farms at 1813 Main Street and the adjoining property at 1829 (existing auto sales lot). He said the entire site is almost all paved. The proposal is a 4,513 S.F convenience store with four gas dispensers with an overhead canopy and two 20,000 gallon storage tanks as well as new greenspace. There will be two points of access; one on Main Street and the other off Haywood Street. He said they have received ZBA approval and that the building will look similar to 306 Crescent St.

Mr. Leitner said they are consolidating the two lots. He said they also have an ARN plan showing the consolidating of the lots for signature by the Board tonight. He said right now there is a total of 5% greenspace on the two lots. They are eliminating one access along Main Street and adding pedestrian connectivity. There will be no parking allowed in front of building so as not obscure view of pumps; and there will be a new underground stormwater management infiltration system to mitigate up to 100% stormwater.

A motion was properly made (Spears), seconded (Keith) and unanimously passed to issue a standard special permit for site plan approval of the plan as submitted and also approve endorsement of the ARN plan as submitted.

### **Other Business**

Station Lofts – Mr. May said that Station Lofts is currently leasing four spaces in the municipal lot across the street; he said they are paying for the spaces and not using the parking. He said they are seeking relief from that requirement in their terms of approval.

A motion was properly made (Wheeler), seconded (Morin) and unanimously passed to grant relief from that stipulation of the approval.

Mr. May spoke to the Board about some proposed updates to their Rules & Regulations. He said he will be bringing a report to the Board within the next month outlining some suggested updates; he said they are in the process of making comparisons of what exists now to the surrounding towns' requirements.

Updates from Board members relative to attendance at Conservation Commission, Traffic Commission, ZBA, Technical Review Committee

Ross Messina said he was looking for a member to take over the Traffic Commission meetings. Mr. Spears said he would be willing to attend the meeting and was voted unanimously by the Board.