

The Brockton Planning Board held a meeting on November 4, 2015 at 7:00 PM in GAR Room, 3<sup>rd</sup> Floor, City Hall.

Members present: Chair David Wheeler, Ross Messina, Gary Keith, Andrea Burton, Robert Pelaggi and Ollie Spears. Also present were Pamela Gurley Planning Board secretary, Rob May, Director of Planning & Economic Development and Staff Planner Shane O'Brien.

## **1. Ch 27 Zoning – Article IV**

### Temporary Prohibition of Construction of New Personal Wireless Services Facilities

Mr. May said that the City does not currently have any ordinance regulating the location of cell towers. He said all applications for cell towers are handled by the ZBA and because of our lack of an ordinance we are susceptible to having our decisions being overturned in court. He said this ordinance would allow for a 180 day moratorium to study and draft language; this would be for any newly proposed cell tower. He said the effective date if passed by Council is the date of the first reading by Council.

Mr. Pelaggi asked if any research was done yet and Mr. May said the office is working with other planning departments to obtain their draft language. Mr. Keith asked how this would affect existing towers and Mr. May said all existing towers could be upgraded and maintained.

No one spoke from the public in favor or against the change.

A motion was properly made (Burton), seconded (Keith) and unanimously passed to recommend the proposed change favorably as outlined.

## **2. Site Plan Approval**

Property: 24 Washburn Avenue

Applicant: Joe Pires, MJ Auto Body

Representative: Scott Faria, JK Holmgren Engineering

Mr. Pelaggi abstained from participation in this matter.

Mr. Faria said Mr. Pires would like to add an 18x24 addition at the site of his existing auto body shop for some office space & kitchen up stairs for employees to have lunches. He said zoning requires five spaces and they are proposing six spaces; he said they added the dumpster location and chain link fencing to the plan per tech review comments. He said they are proposing to install VGC and a one foot planting strip along the Washburn Ave. frontage to force people to use the actual entrance.

Mr. Wheeler asked if the fencing will surround the entire site. Mr. Faria said they will be fencing along the property between them and #18 as shown.

Councillor Moises Rodriques said he has known the applicant for some time; that he runs a good business and was in favor of the project.

A motion was properly made (Keith), seconded (Spears) and passed unanimously to approve the plan with the standard conditions and the special condition that the fencing is installed as shown.

### **3. Site Plan Approval**

Property: 30 Meadowbrook Road

Applicant: Highpoint Treatment Center

Representative: Anson Cartwright, AC Architects

Mr. Cartwright said during the tech review meeting there was discussion regarding the need for cross easements to the property as they are now under separate ownership. He said he has submitted letter from the property owner granting High Point access to cross property. He said they have relocated the fire hydrant per Fire Dept. request and he said there is no water permit needed.

Mr. Pelaggi said that the DPW had a concern that the addition would sit on the existing services. The Board was told that the hydrant has been relocated so the building water lateral will not sit on existing service. He said the sewer is on the opposite side of the building is not an issue.

Mr. Spears asked if this space was for offices or beds and he was told offices and a new entrance.

Mr. Pelaggi said it looks like concerns of tech review committee were addressed.

There were no public comments.

A motion was properly made (Pelaggi), seconded (Burton) and unanimously passed to grant site plan approval for the project as submitted with the usual standard conditions.

### **4. Remand of Proposed Definitive Subdivision**

Applicant: Robert Carroll

Property: East Street (Knights Way)

Representative: Attorney Michael O'Shaughnessy & Todd Pilling, Pilling Engineering

Attorney O'Shaughnessy gave a brief overview and stated that they are agreeable to the following:

- Lot 9 (C-1 & C-2) will be none buildable with a deed restriction stating same
- The building on Lot 9 building will be demolished and the site returned to grade
- A Home Owners Association will be established
- He has no issue with making a condition of approval that the applicant secures an Inter-municipal Agreement (IMA) with the City of Brockton
- Regarding an IMA for emergency vehicle access and service Attorney O'Shaughnessy submitted letters from the East Bridgewater Fire and Police Department for the record stating they will be first responders to any East Bridgewater calls
- Proposing a 26' wide roadway
- Not opposed to additional plantings along the roadway per the Board's request

Mr. Pilling said the revised plan shows a widened road but that the drainage design did not change.

Mr. Keith asked who would be responsible to service the lines within Brockton City limits. Attorney O'Shaughnessy said Brockton could be responsible if they so chose. Mr. Wheeler said that should be addressed in the IMA.

Mr. Wheeler asked for public comment.

Jim Bosco, 719 East St., asked if the deed restriction would prohibit the construction of a cell tower. Attorney O'Shaughnessy said in his opinion it is a prohibition of residential construction on lot 9...it does not include a cell tower. Mr. Bosco said that at a prior meeting the planning board member from East Bridgewater said he felt strongly that E. Bridgewater would not approve a homeowner's association. He asked what happens if East Bridgewater does not approve the homeowner's association. Mr. Wheeler said that the portion of the roadway in Brockton will remain private. Mr. May said that without the road there can be no cell tower; Attorney O'Shaughnessy said they can use the existing driveway for access.

Mr. Bosco asked if the roadway in Brockton is less than what is required by the Planning Board's regulations, would the Board be setting a precedent...and why would any developer follow the standards. He said he is in strong opposition. Mr. Wheeler said that it is in the Board's purview to grant waivers depending on the circumstances of the project.

Laurie Simmons, 694 East St., asked if the building to be raised is behind her property and was told it is the existing structure. She said they have a residential neighborhood and was concerned about the number of homes in E. Bridgewater.

Miles Burke, 670 East St., said that the road is not wide enough (his property is on one side of the proposed street) and is worried that cars will go over his driveway.

Nancy McCyle, 720 East St., said she is concerned about possible water problems and is opposed. She said she already has a water issue from prior development and is afraid it will be worse.

Councillor Studenski said that he is totally opposed to this project and sees no benefit to the City of Brockton.

Public comment portion was closed.

Mr. Keith said there is too much grey area. Mr. May said that in order to grant any waivers the Board must find that the waivers benefit the public interest. Mr. Wheeler said that he does not see a benefit to public interest in Brockton.

Mr. Pelaggi said that the applicant has addressed the width of the roadway and that in his opinion the radius on East St. looks like it won't impact the neighbor. He said that a waiver in pavement width would be in the public interest as there will be less run off. He said the church parking should not reflect negatively on the applicant.

Mr. Wheeler said again he is concerned about the waiver requests and does not see a compelling public interest for granting them.

Attorney O'Shaughnessy said this project will be a huge benefit to the City. They will be removing the dilapidated building, adding a roadway and building homes to enhance the neighborhood. He said there will be no negative effect from traffic.

Mr. Keith asked how they would address the issue of the private road. Attorney O'Shaughnessy said that will have to be addressed with E. Bridgewater; they are only asking the Board to approve the section of the roadway within Brockton.

Mr. Spears asked that they address the neighbors concerns about water. Mr. Pilling said that once the building is removed and returned to grass there will be a 20% decrease in rate of runoff.

Mr. Wheeler said he would like to see granite curbing at the entrance area so that cars cannot jump the curbing.

Mr. Keith asked why they don't go through E. Bridgewater first and Attorney O'Shaughnessy said E. Bridgewater told them to come here first.

Mr. Pelaggi said he would like the pavement a little wider; he said he would also like to see the sidewalks wider. He said the cell tower is a concern of the neighbors and said the owner has never appeared before the board and asked Attorney O'Shaughnessy if it was the intention of the owner to put in a cell tower. Attorney O'Shaughnessy said the owner has a lease with a cell tower company.

A motion was properly made (Spears), seconded (Pelaggi) to grant a standard approval of the definitive subdivision with the following special conditions:

1. The portion of the roadway within the City of Brockton shall remain a private roadway. A homeowners association shall be created to repair and maintain the roadway and common areas.
2. The plan is to be amended to show straight faced granite curbing along East Street and both sides of Knights Way to where the curve becomes tangent.
3. The developer agrees to address the storm water runoff issue at 720 East St. as part of this project.
4. The developer agrees to seek an Inter-municipal Agreement for water services between the City of Brockton and the Town of East Bridgewater. Approval of this project is contingent upon this agreement being granted by the City of Brockton. See attached letters from Town of East Bridgewater Police and Fire regarding issues of public safety.
5. The project shall be approved by the Town of East Bridgewater and an Inter-municipal Agreement approved prior to any endorsement of the plan by the City of Brockton Planning Board.

6. Parcels C-1 and D-1 shall be deed restricted as non-buildable. The plan shall be revised to include this notation and the Planning Board is to receive a copy of the recorded deed.
7. The developer must notify the DPW Engineering Division and the Planning Office in writing a minimum of 48 hours prior to the start of any work.
8. Street opening and curb cut permits are required. No work shall be done within city street layouts on weekends or holidays without the permission of the DPW Commissioner.
9. Inspections of all phases of construction are to be performed by the appropriate city agency and work is to all be in strict accordance with the approved plans. A minimum of 72 hours notice is required for all inspections. There is to be no work after 5 p.m. Monday through Friday and no work on Saturday or Sunday.
10. During the time of construction and especially during periods of inclement weather, the developer and/or his contractor are responsible to secure the site to make sure that there is no damage to the abutting properties. The developer and/or the contractor will be held responsible for any damage to abutting properties caused from his job site.
11. The City of Brockton will not be responsible for any storm water runoff issues possibly created with respect to the proposed new houses and any surrounding properties.

In Favor: Messina, Burton, Pelaggi and Spears  
Opposed: Keith & Wheeler

After a discussion between members the following sections of the Planning Board Rules and Regulations were granted waivers as follows:

A motion was properly made (Spears), seconded (Pelaggi) to grant waivers to Section IV B3 Width of right of way to be reduced from 50' to 40' and pavement width reduced from 34' to 26'.

Section IV B3 Width of right of way to be reduced from 50' to 40' and pavement width reduced from 34' to 26'.

Section V A3 Reduction of width of well compacted roadway binding gravel from 34' to 26'.

In Favor: Messina, Burton, Pelaggi and Spears  
Opposed: Keith & Wheeler

A motion was properly made (Spears), seconded (Pelaggi) to grant a waiver to Section V B4 Street lighting.

In Favor: Messina, Burton, Pelaggi and Spears  
Opposed: Keith & Wheeler

A motion was properly made (Spears), seconded (Pelaggi) to grant a waiver to Section V C as follows: straight faced granite curbing will be installed along East Street and both sides of Knights Way to where the curve becomes tangent with 18" wide cape cod berm installed on the remaining roadway.

In Favor: Messina, Burton, Pelaggi and Spears

Opposed: Keith & Wheeler

A motion was properly made (Spears), seconded (Pelaggi) to grant a waiver to Section V H as follows: the fire hydrant shall be located on the grass strip on the left side of the roadway.

In Favor: Messina, Burton, Pelaggi and Spears

Opposed: Keith & Wheeler

A motion was properly made (Spears), seconded (Pelaggi) to grant a waiver to Addendum B – Typical Residential Cross-Section

- a- Width of pavement reduced from 34' to 26'.
- b- Location of water line from 8.33' off centerline of road to the grass strip on the left side of the road.
- c- Location of the fire hydrant shall be on the grass strip on the left side of the road.
- d- Requirement for sidewalks on both sides of the road.
- e- Reduction of the grass strip adjacent to the sidewalk from 3' to .5'.
- f- Granite curbing straight faced granite curbing will be installed along East Street and both sides of Knights Way to where the curve becomes tangent with 18" wide cape cod berm installed on the remaining roadway

In Favor: Messina, Burton, Pelaggi and Spears

Opposed: Keith & Wheeler

Attorney O'Shaughnessy said the method of surety will be cash.

##### **5. Delegation of authority to respond to open meeting law complaints**

Mr. Wheeler said in regard to the alleged open meeting law violations he was requesting that the Board vote to delegate its authority to respond to the law office.

A motion was properly made (Spears), seconded (Burton) and unanimously passed to delegate authority to respond to the complaints to the Law Department.

##### **Unfinished Business**

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

Correspondence

Minutes

Updates from Board Members

Linwood Lot Releases

Developer Brad Cartwright said that the roadway is complete up to the binder course.

Mr. Pelaggi said there is no estimated value of the work left to be done and asked the applicant if he would ask for a smaller number of lots. Mr. Cartwright said the remaining lots will leave the City with sufficient collateral. He said the retention area needs to be finished within 30 days, the VGC is being installed and said he would be happy to walk anyone through the site. He said he would like to put in the foundations in. He said he will get the numbers to the City as soon as possible.

A motion was properly made (Spears), seconded (Messina) and unanimously passed to release the six requested lots.

Ms. Gurley said that there were ARN Plans for signature for Thatcher Street and Pearl Street. She said in both cases the property is City land being transferred and the Council Orders are attached. In the case of Thatcher St. there are cross encroachments on both the City and Everett's properties and this plan takes care of those. The Pearl St. property is being sold to Blue Dog Rescue.

In favor: Wheeler, Messina, Keith and Burton

Opposed: Spears

Abstained: Pelaggi

Meeting adjourned.