

**The Planning Board held a meeting on February 2, 2010 at 7:00 in the GAR Room, City Hall. Members present: Chairperson Wayne McAllister, Anthony Donegan, Steve Demos, Susan Nicastro and Peter Gibbons. Also present was Secretary Pamela Gurley.**

### **1. Extension Request**

Definitive Subdivision Briarcliff Road  
Continued to March 2, 2010

Request was continued to the March 2, 2010 meeting to allow the developer to submit a status report.

Mr. Demos said that he feels that the rope across the roadway is not sufficient; he said there is still dumping and drinking going on there. He said he wants a locking gate and wants the area posted "no trespassing". He said he is a dangerous area because of gas stored there and the gas transmission line.

### **2. Request for Permission to Return to ZBA**

Property: 678 East Street  
Denial: April 14, 2009  
Applicant: T Mobile

James George, Tower Resource Management (T Mobile)

James George said that this is an entirely different application than was denied by the ZBA in April. He said since that time the property was sold and they have a lease with the current owners. He said that the building will be razed. He said that the power lines are to the rear of the property. They are proposing a 150' monopole.

The ZBA decision 4/14/09 was read into the record.

Jim Bosco (an interested party) asked and received a copy of the plans.

Mr. Demos said that the plans are not engineered correctly; there is no north arrow, no soils no elevations, no foundation, no anchor bolts etc. He asked the applicant if he has contacted the Town of Bridgewater since the property is in both Brockton and Bridgewater.

Mr. George said what they are looking at is a zoning drawing only and the issues he spoke of will be resolved by they time a permit is requested. He said they only notified the abutters; he said he did not think it was necessary to notify the town.

Mr. Gibbons asked how far in the pole would be from the street. Mr. George said from the center of East St. to the center of the tower is about 500'. Aesthetically He said he would like to make a recommendation that the pole be made to look like a tree. He said that since it is proposed to be in a residential neighborhood it should be hidden. Mr. George asked if that was a requirement and was told it will be the Board's recommendation to ZBA, and that the ZBA can make it a requirement.

Mr. Donegan asked if the monopole can be shorter. Mr. George said he can not answer that question without radio frequency engineer. He said that several other locations looked at and this was the best area. He was asked what criteria is looked at in determining location and was told cost, wetland mitigation, lease ability, radio frequency etc.

Mr. Demos asked whether the 15' wide utility easement is existing or proposed and was told that the lease incorporates a utility easement from the power source to the tower. He said that the final plan should state "proposed or existing".

Mr. McAllister asked if anyone had spoken to neighbors. Mr. George said he sent out the required abutter notification. He said they intend to try to work with neighbors....part of the process is to be a good neighbor. He said that they wait to see who shows up at the hearing and set up neighborhood meeting depending on the opposition.

Mr. McAllister read into the record the conditions for the Board granting permission to return to the ZBA. He said that except for filing snafu they would not be before the Board tonight. He explained that the previous owner had appeared before the ZBA for an entirely different project and had been denied.

A motion was made (Nicastro) and properly seconded (Demos) to grant permission to return to the ZBA with the recommendation that the tower is to be a tree type tower. In favor: McAllister, Demos, Gibbons, Nicastro and Donegan. Opposed: None

### **Other Business**

The Board discussed the addition of a requiring an MLC in 40R projects. This requirement was not included in the application that was originally designed by Concord Sq. for the previous City Planner. This requirement is included in all other filings before the Board.

Mr. Donegan made a motion that as of February 2, 2010 all 40 R applications shall contain an original Municipal Lien Certificate (MLC) showing that there are no outstanding taxes, water, sewer, refuse charges or municipal liens. The MLC shall be dated within 30 days of the filing date of the application. Seconded by Mr. Demos and unanimously passed. The secretary was instructed to immediately update the application with this change.

There was a brief discussion by Mr. Demos on the FY11 budget.

There was a brief discussion by Ms. Nicastro on the CARE proposal from the TRW. It was agreed that she would represent the Board and work along with the Conservation Commission and TRW. She will keep the Board updated.

A motion was made (Nicastro) and properly seconded (Donegan) for the Board to enter into executive session for the purposes of litigation. The Chair called for a roll call vote.

Member	Vote
McAllister	Yes
Donegan	Yes
Gibbons	Yes
Demos	Yes
Nicastro	Yes

## Executive Session

Several months ago Brockton Power requested a second technical review for the plant site; addition of two buildings

Told morning of the hearing by the Chairman that they would not be heard because of litigation with the Conservation Commission and the EFSB.

Brockton Power has brought suit against the Planning Board. Would like a vote to support chair's decision to not hear tech review. Did not bring suit until Xmas as there is no prescient .

At the time the chair made the decision there was no decision on the Conservation litigation; there is also the litigation filed with the EFSB.

Last Friday, administrative law judge issued their decision in favor of Brockton Power. Still need ZBA and some council approval.

SD – is the city supporting the Board – defending yes

Appropriate to support the action of the chairman.

No final con-com decision

No ZBA

Etc. wastes city resources

SN – motion of the board to affirm the chairman's decision of October 5, 2009 regarding Brockton Power's LLC's request for technical review.

SD second

Peter Gibbons abstained but wanted to record to state as a show of unity he supports the chairman.

SN – motion to return the \$3,000 filing fee paid by JKH on behalf of Brockton Power. Second Tony. Peter Gibbons abstained.

Go over case management conference statement