

The regular meeting of the Bridgewater Planning Board convened at 6:30 pm.

MEMBERS PRESENT: Mr. Driscoll, Ms. Guarino, Mr. Ajemian, Mr. Geller and Mr. MacDonald

ALSO PRESENT: Mr. Akins, Associate member; Ms. Burke, CED Director and Mr. Romulus, Assistant Director

Mr. Driscoll advised the audience that the meeting was audio and video recorded.

1050B ELM STREET - THEORY WELLNESS

The public hearing was closed at the last hearing. Deliberation this evening on decision. Mr. Romulus was asked to put together a condition that would address odor control.

Mr. Romulus said he looked into the State of Colorado's regulations, the city of Denver and some other places to get some guidance. He did find that there are methods of measuring odor control, however, the Town of Bridgewater doesn't have those capabilities. There are also certain regulations that can be Sought, however, that would have to go through Town Council and the Town Manager to instill certain Regulations either Town Ordinance or Town code. The guidance he did find was thru the Cannabis Control Commission at the Commonwealth level, so he added a condition that reads "**A Marijuana Cultivator shall satisfy minimum energy efficiency and equipment standards established by the Massachusetts Cannabis Control Commission and meet all applicable environmental laws, regulations, permits and other applicable approvals including, but not limited to, those related to water quality quantity wastewater, solid and hazardous waste management, and air pollution control, including prevention of odor and noise pursuant to Massachusetts General Law 310 CMR 7.00: Air Pollution Control.**

Also, because there was a previously approved site plan, he added another condition as follows: **The Special Permit approval will run with the plans and conditions per the 1030 Elm Street Site Plan Approval on August 7, 2019.**

Mr. Romulus said that because he knew there was a concern over odor, he reached out to the Building Dept. asking if there were any complaints filed and the Building Inspector told him that no complaints have been received in the building dept.

Mr. Romulus explained that one standard in Mass. Is that these facilities will have carbon scrubbers so that is what the applicant demonstrated by submitting an engineered, stamped plan.

Mr. Ajemian noted that it was stated at the last hearing that new pollution control was put into the existing building and asked if that would be the same for the new one or more advanced? Matt Campbell stated that the fundamental structure of the building is a bit different. They are using the same ionization technology and will increase that per sq. foot of the new building to account for the different activity going on. On of the major changes is a more direct exhaust core coming out of the new facility; same technology but used in a different way. He said that the technology meets the State

requirements. Mr. Ajemian commented that he has gone by there and has smelled the marijuana odor and we also have a letter in the file from a woman who goes down that street every morning and smells the odor. He questioned if they are meeting the State regulations with the scrubbers, and you still get odor outside, what happens? Matt Campbell said they could add more infrastructure if there are complaints; he has had no formal complaints come across his desk, so there has been no reason to change anything with their current system. Certainly, he said, if complaints are made, they are obligated by law, to address them.

Mr. Akins stated that what concerns him is that we might have citizens who might complain, and we have no data to be able to say there is odor or not. Until we, as a Town, can judge that and have some type of method of judging that odor, we shouldn't issue special permits until we have that method to rate the odor. Mr. Driscoll said that we would have to rely on our Zoning Enforcement officer to address any complaints that we have. We have a stamped plan by the engineer indicating that they have done what is required and our Town Engineer has reviewed it and he doesn't know how we can regulate smell any more than we have done. Mr. Akins stated, "we need a way of detecting it and there were a couple of ways provided at the last meeting." Mr. Geller said that he went by there a couple of time and occasionally, he could smell an odor, however there wasn't a constant flow of that smell. He noted that there is competition up the street and he could smell it there too. He suggested, that with concern for the residents, that they revisit their existing conditions themselves and ask another engineer to look at it to try and get more control of it. He would hope that the new building far exceeds what they have now. Mr. Campbell said they certainly appreciate the comments and anything that comes across their desk they will address.

Mr. Driscoll asked Ms. Burke is the condition could include that they come back before us in 12 months like they did with Polar Beverages if there were any complaints to discuss this? Ms. Burke said yes, however, you have to remember they are not the only facility on the street with this type of business, so you have to be sure the complaints are from their business and not on the other business. You can condition it anyway you want. She advised the board that if there are complaints and they have violated conditions of approval; you can call them in at any time for review of their special permit. Mr. Akins questioned how you can go by people's opinion....some people a very sensitive to odor, while others are not. You need empirical there that are not subject to opinion, he said. He said he is suggesting that Bridgewater has that before we issue a special permit. Mr. Romulus noted that we must deal with the rules and regulations that we have right now, and the Planning Board's function is to condition, and enforcement is not our function. Mr. Akins felt that they should wait until the Council puts something in place. Mr. MacDonald suggested that the applicant is applying as the rules and regulations are in effect today and we can't hold them up indefinitely until the council does something that hasn't even been suggested to them. Mr. Driscoll suggested requiring a bond. Mr. Romulus recommended a one-year review as the best option and if there are complaints, we can revisit the special permit. He said you can request a bond, but it would have to be agreed upon by the applicant, or they can appeal if they want to.

Mr. Ajemian made a motion to approve the special permit with typical conditions, two conditions suggested by Elijah and add a condition that the special permit be reviewed within one-years' time, particularly for odor control. If there are complaints about odor, other measures will have to be taken. Mr. MacDonald seconded it for discussion.

Mr. Driscoll commented that Mr. Akins point was valid about being able to quantify the smell. Mr. Akins commented that if we allow the special permit now and the Town Council decides that it is wise to have the empirical devise to measure the odor, which he felt we should do, how does that affect the special permit? Mr. Driscoll questioned if we could condition it saying that any future

Odor regulations must be followed or met? Ms. Burke said you can't put regulations on them that don't exist today because they don't know what they are agreeing to. Mr. Akins stated, "without those regulations, I suggest we don't vote on the special permit." Mr. Geller suggested that if something does happen within the next year, then we make the applicant pay for the air testing quality outside the building by an independent engineer. Mr. Romulus said that seemed reasonable to have an outside contractor within the one year test the odor control systems. Mr. Driscoll asked if the members wanted that added as a condition? Mr. Ajemian commented that he felt his motion would cover that and those conditions could be put upon them at that time. He felt his motion was open ended and we would have a variety of options upon year review. It was discussed about the fact that if people have complaints of any kind, they must put those complaints in writing to the zoning enforcement officer or the applicant.

VOTE: UNANIMOUS

PUBLIC HEARING-722 BEDFORD STREET MODIFICATION

The public hearing on application by 722 Bedford Street LLC, Mark Oliari, for a proposed 12, sq. ft warehouse addition to existing building convened at 6:58 pm.

The public hearing notice that appeared in the Enterprise read into the record by Ms. Guarino. Green cards of notification received from Mr. Silva.

Email from Town Engineer read- had no issues as long as they meet the required parking.

Mr. Silva from SEA Engineering presented the plan. He said this is the third and final phase for this building. Not a lot of activity in building; just additional warehouse space; no new entrances to the building; some additional parking required so additional hard parking and gravel parking provided based upon the zoning for square footage; in this case, the zoning goes way beyond the actual operation; not a lot of activity; any given day there are 6 parking spaces used and that is on a busy day. The drainage was designed from the beginning anticipating a full buildout.

There was a proposed landscape plan provided.

Mr. Stan Kravitz informed the board that the windows shown in the rendering are fake and strictly for decoration. There are 8 people in the whole building; no additional trucks; strictly for storage.

There were no audience questions.

On a motion by Mr. MacDonald, seconded by Mr. Geller, it was unanimously voted to close the public hearing.

Mr. Romulus said his recommendation would be to approve with the standard conditions of approval, as it does meet all the requirements.

On a motion by Mr. Ajemian, seconded by Mr. MacDonald, it was unanimously voted to approve the modification with the standard conditions.

FORM A-OLDFIELD ROAD- LOTS 12, 13 AND 14

There was a question raised by Mr. Driscoll whether this should be a minor modification of the open space subdivision plan. Ms. Burke said she is fine with it as an ANR plan. We have granted similar lot line changes with open spaces, as long as the open space amount stays the same, she said. Mr. Driscoll said he just wants to make sure we are doing it the right way. He felt that the open space was created under a special permit and that should be modified. Mr. Castignetti stated that if you were modifying the amount of open space approved under the special permit, he would agree, but we are not, he said. It is the exact same; an even swap and not increasing the size of any of those lots. Mr. Ajemian questioned the purpose of doing this? Mr. Castignetti explained that their most popular house is a 76' wide footprint and the lots are 100' wide and there is a 12' side yard setback requirement under zoning; this leaves them exactly 76 feet which is a bit tight

Ms. Burke said that in her opinion, this plan meets the requirements of an ANR and unless the board makes the determination that subdivision approval is required and if the Board doesn't endorse the plan with the 21 days, it is automatically approved and the Town Clerk can endorse it on April 6th.

Mr. Romulus noted that he had measured the lot lines exactly, and the plan actually adds some land to the open space.

Mr. MacDonald commented that precedence has been set on this; we should investigate it and go forward now in order to expediate it. Mr. Castignetti stated that the Special permit is based upon certain amount of open space, not specific to shape and configuration.

An Email received this evening from Mr. Etoniru read into the record:

The proposed Form A plan filed by Long Built Home is not a proper submission. The subdivision is an open-space special permit subdivision; therefore, the proposed lot line changes, including the open space modification requires at least a minor modification request application. The Planning Board should not endorse the Form A application at this time.

Mr. Castignetti said he was opposed to that decision.

Attorney Bobrowski felt both actions needed to be done....a minor modification for parcel A to be put into the open space and the ANR. Mr. Castignetti will bring in an application for a minor modification which can't be acted upon tonight because it is not on the agenda.

On a motion by Mr. MacDonald, seconded by Mr. Ajemian, it was unanimously voted to endorse the plan

RECODIFICATION PUBLIC HEARING

The public hearing convened at 7:28 pm.

The public hearing notice that appeared in the Enterprise read into the record by Ms. Guarino. There were approximately 14 people in attendance. A letter from Mrs. Chase, Old Farm Road was received and Nicole Holmes-80 Old Farm Road which were passed around for the members to review. Both wanted the removal of the "Special Permit" status for "large ground mounted solar array systems" in Residential A/B zone taken out and replaced with N.

Ms. Burke explained that what is before us tonight is draft #10 of the zoning ordinance recodification and reorganization of our zoning ordinances. It is before the Planning Board for a recommendation or non-recommendation back to the Council and then they will hold their own hearing before they act on it. It has been worked on now for over a year with Mark Bobrowski, the Town Engineer, Building Inspector, chairman Driscoll, Councilman Colombotos and Ms. Burke.

Mark Bobrowski from Concord, MA said he has been involved with Lane Use for the past 35 years and has provided 135 towns with recodification services. He said that recodification involves three things:

- To bring the Ordinance up to speed regarding statutory changes
- Resolve internal inconsistencies
- Fix glaring omissions-definitions are a good example of that.

He proceeded to go thru the 146-page document, page by page, that was shown on the big screen, explaining the changes. The yellow text is new and black is existing. He said that about 75% of the ordinance is the way it was before and, in some cases, he has added words that were better. He said he made some policy changes.

Section I-purpose and authority-no questions

Section II- Districts-Important to note that no new districts were created, and no boundaries of districts were changed. Zoning map is the same. Overlay districts remain the same. Section 2.5 added the following:

2.5.2 Parallel. Where a boundary is indicated as following approximately or parallel to a street, railroad, watercourse, or other body of water, it shall be construed to be parallel thereto and at such distance there from as dimensioned on the Zoning Map. If no dimension is given, such distance shall be determined by use of the scale shown on the Zoning Map.

2.5.3 Dimensioned Boundary. Where a dimensioned boundary coincides within ten (10) feet or less with a lot line, the boundary shall be construed to be the lot line. 2.5.4 Right Angle. Where a boundary is indicated as intersecting the centerline of a street, railroad, watercourse or other water body, it shall be construed to intersect at right angles to said centerline, or in the case of a curved centerline, at right angle to the tangent to the curve at the point of intersection.

2.5.6 Dispute. Whenever any dispute arises on district boundaries as to the exact location of a district boundary line, the location of such line shall be determined by the Building Commissioner after consultation with the Planning Board.

2.6-SPLIT LOTS-The section entitled 3.30-purpose statements eliminated. He thought they were misleading to the general public. It is generally described in the Use table and dimensional table.

SECTION 3.0 -USE REGULATIONS

There is quite a bit of yellow changes which were gone thru one at a time. One of the biggest changes was to Home Occupations

Attorney Bobrowski spoke about large scale solar farms being allowed in a Residential AB district-He said those are political decisions and sometimes lump into legal decisions; he said that since he was here in January, the land court, by chief Judge Piper, ruled that the protection for solar is the same as protection for a church, school or child care center. (you can't prohibit or put under Special Permit but is subject to reasonable regulations, concerning bulk, height and dimensional control) The solar exemption is totally different in that it says no ordinance shall prohibit or unreasonably regulate solar energy systems except where necessary to protect public health safety and general welfare of the public. So, he actually wrote that you have to allow solar in all districts. In the use table it is a bit inconsistent with the SP; it should be Y across the board. . He did say that Judge Piper is a land court judge, not an appeals court judge. A land court opinion does not have the same precedential value as an appeal court judge or a supreme court has. He told the committee members that they have to make their own decisions; he has given them the last information he knows. He said he had a copy of Judge Pipers decision and gave it to Ms. Burke.

Mr. Ajemian questioned if 3.3 is essential for Airbnb and if so, so we need more regulation? Mr. Bobrowski said if he was going to do a regulation on boarders in a single family swelling to get an Airbnb he would do it on a short term lease, which was adopted as a statute that allows you to license and control them. He said they talked about it, but, didn't seem to be a need at this time. That is a policy choice. He can send something to Jen for the Board to look at.

SECTION 4.0 DIMENSIONAL REGULATIONS

4.31 height and 4.3.2 added verbiage

SECTION 4.4 Accessory structures-added verbiage-He works with the Building Inspector to address his issues; one of his biggest pet peeves was accessory structures; rules for fences changed. Added- Prohibited Accessory Structures

SECTION 5.0-NONCONFORMING USES AND STRUCTURES

5.1-applicability through 5.10 Eminent Domain-all new verbiage

SECTION 6-General regulations-parking; loading; signs

Carlton Hunt asked about electronic signs and billboards and the fact that they are on buildings and are not necessarily for the business? Mr. Bobrowski said billboards are not addressed; they are regulated by the Dept. of Transportation; he will make reference to the State regulations.

6.3- they tried to address noise, lights, traffic and site developments standard; .common sense regulations; does not apply to single family or two Family homes.

Mr. Akins asked about odor? Mr. Bobrowski said commented that odor and smoke can't be quantified. He did comment that in reference to marijuana, technical people can be hired to determine whether or not the odor control system that is being used is working.

A woman asked if the lighting applies to solar installation in neighborhoods? Mr. Bobrowski said he doesn't know what type of glare they are emanating, but it should apply; any glare from security lighting cannot go on to the adjoining properties. Mr. MacDonald questioned if it would apply to any glare that comes off the panels themselves? Mr. Bobrowski stated that he never heard that being an issue with solar, but if it is, he would stand to be corrected.

Mr. Frank Souza asked to go back to Section 6.1.23-he spoke about driving up Route 104 where there are a lot of businesses because it is a business district , have to come before the board to get their signs 4' off the property line and yet we are still carrying it at 16'? He questioned how many requests were denied and if so why....costing a lot of money for business to do that. Mr. Bobrowski noted that they will spend money anyway, because they would have to go thru site plan approval which addresses everything, including signs. He said he did not change the 16' but will put it on his list to discuss it with the board. He noted that he has made it easier for existing businesses because you just need a special permit, not a variance anymore.

Mr. Bobrowski commented that the most important changes are traffic-giving the town the same power that the DOT had as to regulating local roads as they do on State roads. You can ask for traffic impact access, a study, mitigation, ask for deceleration, ban left turns, etc. Landscaping and screening follow with conditions that apply. This is creating a 20' wide buffer strip in the highway/business districts. Large parking areas now need one tree per 10 parking spaces; this is all waivable, he said, but this is the goal. Fencing, retaining walls, berms are all regulated here as part of landscaping. Dumpsters, truck loading area, HVAC equipment need landscaping around it.

Mr. Etoniru arrived at 8:12.

SECTION 7- Adult Entertainment-Special regulations -Most unchanged section- Needed to create a category for Adult Entertainment; allowed in the SBD; can't regulate a protected form of speech; this is just to make it constitutional.

No change to common driveways; didn't change wording on Marijuana recently adopted thru council; cleaned up some of the grammar.

7.6- Solar-Mr. Ajemian commented that in one section of 7.6.5 is states that it shall be fenced and in another it says may be fenced. Mr. Bobrowski felt he was right, and he will look at it again; he felt that it should be all large mounted be fenced for security and that small and medium may be fenced. On page 127 there are definitions of large, medium and small. Section 11-definitions. Mr. Ajemian suggested that something should be noted about the screening of large arrays. He also questioned why if it wasn't constructed within two years, permit would lapse? Mr. Bobrowski said it was in the special permit section and didn't have to be put in twice. He noted that it is a state law.

SECTION 8 -special residential regulations-

Retreat lots tightened up a bit to make it clearer.

Section 8.2 is new. You can, by special permit, have a flexible development with zero lot line; the idea is that it can be a condo form of ownership, it can be lotted or just on its own lot and because there are no lot lines, it allows creativity by the developer. There is a density bonus that is allowed; there is a 10% requirement for affordable and the open space requirement has been significantly reduced down to 35%. This could save some valuable land; there are many examples of this on the internet and he would be happy to give the members examples thru Ms. Burke. Mr. Hunt suggested making this the preferred method of development. Mr. Bobrowski felt that was covered in the preamble. He said it would be up to the Planning Board to point this out when a developer comes before them if the project seems appropriate for this. This invites creativity, rather than cookie cutter projects. Mr. Guarino questioned if this would help our percentages of affordable and she was told yes. She commented that this would be a great way to control what is developed, rather than a 40B project. A resident from Auburn Street asked if there were any requirements for them to make betterments such as sidewalks, widening of existing street that may be needed in the neighborhood? Mr. Bobrowski said the subdivision rules and regs could require that no roadway leading into the subdivision can be smaller than what is required in the new subdivision itself.

Mobile home Elderly community- not touched

Senior Housing, assisted living, long term care facilities addressed

Section 9-Special District Regulations-He took out the Waterford smart district because it was 45 pages, but it is still in effect: It is noted in italics

Flood plain didn't change.

PDD was eliminated as it is currently written because new opportunities are being missed out on; as things go along, people have new ideas. If someone has a good idea, bring it to us and if we think it is a good idea, we will work with you! It is not one size fits all....gives flexibility. He cited Lexington, Framingham and Burlington who have done this Mrs. Hanson expressed concern that the guidelines for development are being eliminated and no acreage requirement. Mr. Bobrowski said a project would have to be approved by 2/3 of the Planning Board and 2/3 of the Council. He explained the process. Ms. Burke noted that it could be anywhere as long as the underlying use is business or Industrial.

9.5- not changed-Elm Street

9.6-mixed use in CBD- Mr. Driscoll suggested that 9.6.6 section 1-says must comply with section 4.0...we never changed height in 4.0 to 4 stories, 45'. Scribner's error on dimensional table. Mr. Bobrowski will fix that. Mr. Driscoll felt the section was really unclear and asked that the language be cleaned up.

Mr. Carlton Hunt questioned what happened to section 9.7, 9.8 and 9.9- Design Review sections- committee and guidelines -There is no indication where it went; he questioned this before, he said. Mr. Bobrowski said it is in the rules and regulations. Mr. Hunt said it needed to be clarified. Mr. Bobrowski said it is in the Table of Contents.....site plan review is 10.6 Mr. Hunt stated that the people need to know where it is. There is a clean version on the web site.

Section 10-provision for the Planning Board added that didn't exist before.

Section 10.52-Special permit regulation standards added

Site plan approval section was busted; has some of the old language but fixed procedurally so it now comports with case law. New provisions at the end.

Section 10.8-reasonable accommodation for a detox center which is protected by Federal Law -sent to Board of Appeals.

Last section is definitions-

Mr. Bobrowski commented that this should be looked at every two years, because things change.

Mr. Berolini Old Farm Road wanted Large scale solar farms taken out of Section 7.6 and suggested an amendment to remove SP status in AB zones. Ms. Burke suggested that amendments are made to the council; the Planning Board is just making a recommendation on what is in front of them tonight. Mr. Berolini suggested that the board made a recommendation with amendment. He explained to Mr. Bobrowski the problems that he and his neighbors have had with a proposal wanting to go into their neighborhood and the fact that the Planning Board has turned down the proposal twice. Mr. Bobrowski said he just learned about a case on Feb. 4th. (the Dover amendment) and he would not recommend this until it is discussed with Attorney Rawlings. He provided a copy of the case to Mr. Burke; this judge ruled that solar arrays should be treated like churches, day care and schools that are legislatively protected. They are ruled the 4th member of this category that cannot be stopped. Mr. Berolini commented that another judge could say something different! He said he doesn't want to get bound in because one judge makes one ruling on one case because every situation is different. These are our bylaws and there must be some way that we can draft it that we could put restrictions on it in such a way that we can address this issue. He said he didn't buy in his residential neighborhood to be put in this position of living next to an Industrial project.

Mr. Ajemian commented that he would like to see large scale solar taken out of AB in the table of uses and see where it goes; he felt this board can make their own decision based upon what we think is right.

Mr. Driscoll felt that the Board could make recommendations to the Council. Attorney Bobrowski stated that is usually what you would do at this stage, is to prepare a cheat sheet of recommendations...you recommended as printed, except with the following.....he has some notes to that effect which he will get to Ms. Burke.

Mr. Bobrowski said the Dover amendment says that you can impose reasonable regulations; he read from the amendment.

On a motion by Ms. Guarino, seconded by Mr. MacDonald, it was unanimously voted to continue the hearing to March 18th at 6:30 pm

FORM A- 1233 PLEASANT STREET-TOWN OF BRIDGEWATER

Mr. Etoniru explained that this is for the National grid taking by the Town; it is the designated area for the intersection improvements; they have come to a financial agreement. Town Council has issued the order. He will get copies for filing and for record.

On a motion by Mr. MacDonald, seconded by Mr. Ajemian, it was unanimously voted to endorse the Form A plan.

Mr. Driscoll recused himself at 9:52 pm.

Mr. Ajemian took the chair.

CRIMSON HEIGHTS LOT RELEASE

Request received from Mr. Cincotta to release Lot 1 for a model home. Mr. Romulus recommended. The Board had done similar lot release for Oldfield Estates; no occupancy until road constructed.

On a motion by Mr. MacDonald, seconded by Mr. Geller, it was voted by the members present to release Lot 1 from the covenant for the model home.

MINUTES APPROVED

On a motion by Ms. Guarino, seconded by Mr. MacDonald, it was unanimously voted to approve the minutes of 2/5/20 and 2/19/20 with the suggested minor changes made by Ms. Guarino.

On a motion by Mr. Geller, seconded by Mr. MacDonald, the meeting was adjourned at 9:56 pm.

MINUTES APPROVED: _____ 4/15/2020