



City Of Attleboro, Massachusetts

ZONING BOARD OF APPEALS
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MINUTES

JANUARY 11, 2018

In accordance with the provisions of Massachusetts General Laws, Chapter 40A, as amended, the Zoning Board of Appeals held a public meeting on Thursday, January 11, 2018, at 6:30 p.m. in the Municipal Council Chambers, 77 Park Street, relative to the following :

Zoning Board Members Present: Chairman Keith Hutchings, Kathy Rautenstrauch, Kent Richards Cathy Merkle, and Sandra Varrieur

Zoning Board Members Absent: None

The Board heard the continued public hearing for Case #5372, the application of Baymark Health Services, Inc. for special permits pursuant to §17-9.0 SPECIAL PERMITS under §17-3.4 (#12B) TABLE OF USE REGULATIONS or §17-3.1 USE DESIGNATIONS to operate a medical office/health care facility and under §17-5.9(E) GENERAL PARKING AND LOADING SPACE STANDARDS to reduce the requisite number of off-street parking stalls; the subject premises being located at 21 North Main Street, more specifically Assessor 's plat #31, lot #11, located in the Central Business zoning district.

The Board read the Form Z1 - Request to Continue a Public Hearing submitted by attorney Patrick Sullivan on behalf of Baymark Health Services, Inc., received January 9, 2018, requesting that the public hearing be continued to February 8, 2018 relative to Case #5372.

Chairman Hutchings made a motion to continue the public hearing to February 8, 2018. Kent Richards seconded the motion. All voted in favor.

There being no one else to speak, the public hearing was continued.

The Board heard the continued public hearing for Case #5371, the application of 1124 Washington Street, LLC for variances pursuant to §17-8.9 VARIANCES under §17-5.1 OFF STREET PARKING REQUIREMENTS to reduce the required dimensions of off-street parking stalls, under §17-5.9 (A) GENERAL PARKING AND LOADING SPACE STANDARDS from the minimum required street setback for off street parking, under §17-5.9 (B) GENERAL PARKING AND LOADING SPACE STANDARDS to allow vehicles to back on to the street, and under §17-5.9 (D) GENERAL PARKING AND LOADING SPACE STANDARDS to allow a driveway to exceed the maximum width requirement; as well as a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-5.9(F) GENERAL PARKING AND LOADING SPACE STANDARDS to reduce the requisite number of off-street parking stalls, the subject premises being located at 1124 Washington Street, more specifically Assessor's plat #16, lots #61 and #61A, located in the General Business zoning district.

The Board read the email and reviewed revised site plan from attorney George Spatcher submitted on behalf of the petitioner, received January 9, 2018, to Senior Land Use Planner Stephanie Davies relative to Case #5371.

Speaking in favor of the application was attorney George Spatcher who submitted a revised plan containing minor changes. He stated that they are showing five parking spaces at 97 Turner Street for the applicant's business. He stated that the multifamily building will be maintained and that five other parking spaces on that property remain and are devoted to that use. He stated that they are proposing a total of 18 parking stalls for the proposed business, which means that they now need only a 28% reduction in parking. He stated that he discussed the site plan with the Building Inspector and that the Inspector expressed no concerns with the plans and deferred to the Zoning Board on how to proceed.

Planning and Development Director Gary Ayrassian noted that the first two parking spaces on the adjoining property appear to be in the front yard setback.

Attorney Spatcher stated that although those spots are not marked, they are presently in active use by residents. He stated that his client intends to install a fence along the property line to discourage people from parking in the Mr. Donut parking lot and cutting through to the property.

Mr. Ayrassian stated that overall, he found the revised plan to be far superior to the original plan that was previously presented.

Attorney Spatcher requested permission to amend the application and allow parking within the front yard setback.

Chairman Hutchings made a motion to allow the petitioner to amend the application and request relief to allow parking off-premises and within the front yard setback. Sandra Varrieur seconded the motion. All voted in favor.

Attorney Spatcher stated that as his client has purchased 97 Turner Street, the former owner of that property no longer has any objections.

Mr. Ayrassian stated his concern that the abutter notifications would change when including the additional lot with parking. He stated that it would trigger the need to obtain an updated list of abutters and re-advertise the hearing.

There being no one else to speak, the public hearing was continued to February 8, 2018.

The Board heard the continued public hearing for Case #5370, the application of Good Shepherd Lutheran Church for a variance pursuant to §17-8.9 VARIANCES under §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS from the minimum front yard setback requirement to install a sign, the subject premises being located at 60 May Street, more specifically Assessor's plat #64, lot #65, located in the Single Residence -B zoning district.

Speaking in favor of the petition on behalf of the applicant was Rick Deppisch. He explained they are seeking to renovate the existing sign that is located on the site. He stated that the existing wooden sign was installed in 1991 and has worn considerably. He stated that the location of the sign footings was dictated by an existing drainage pipe. He stated that the sign's lighting system was disconnected because it posed a hazard. He stated that they would like to install LED spot lights for the new sign.

Chairman Hutchings inquired about the distance between the proposed sign and the lot line.

Mr. Deppisch stated that he was unsure, but knew that it does not meet the required 30-foot front yard setback.

Chairman Hutchings stated that an exact measurement is necessary so that the Board may weigh whether to grant the variance.

Senior Land Use Planner Stephanie Davies noted that according to the plans, it looked like a variance of 27-feet from the minimum front yard setback requirement is being requested. She stated, however, that it is not a definite answer because the applicant does not show the sign's columns on the plan.

Planning and Development Director Gary Ayrassian asked where the sign is proposed to be located in relation to the site's driveway and whether it will obstruct sight lines.

Mr. Deppisch stated that the new sign will be an improvement, as it is lower to the ground than the existing sign.

Ms. Davies noted that the sign specifications that Mr. Deppisch was showing to the Board were different from those submitted with the application.

Chairman Hutchings stated that he would like to continue the public hearing to February 8, 2018 in order to allow the applicant to submit final plans, measurement, and distances.

Mr. Deppisch consented to the continuation of the public hearing.

There being no one else to speak, the public hearing was continued.

The Board heard continued public hearing for Case #5360, the application of 4 Park Street, LLC for a variance pursuant to §17-8.9 VARIANCES under §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS from the minimum lot area requirement to accommodate the establishment of 49 dwelling units and a special permit pursuant to §17-9.0 SPECIAL PERMITS to reduce the requisite number of off-street parking stalls under §17-5.9(F) GENERAL PARKING AND LOADING SPACE STANDARDS, the subject premises being located at 2-4 Park Street, more specifically Assessor's plat #31, lot #2 and #4, located in the Central Business zoning district.

David Sisson spoke in favor of the application. He stated that due to their inability to find sufficient parking in the area, they have reduced their renovation plans. He stated that at this time, they reduced their renovations plans to add only eighteen (18) new apartments and that they no longer plan to renovate the theater space. He reminded the Board that there are currently fourteen (14) apartments in the building and that they are proposing to increase that number to thirty-two (32) in total. He stated that this change reduces the area variance that they need. He distributed revised plans as well as letters regarding their attempt and ability to secure 20 parking spaces at 27 School Street. He stated that the Wastewater Department and the Water Department confirmed that there is sufficient sewer and water capacity in the municipal system.

Mr. Ayrassian asked for a map showing the location of the proposed off-site parking spaces.

Mr. Sisson answered that he does not have one, stating that the lot is a little less than one-half mile south of the site. He stated that they have been unable to find parking within 300-feet of the site or within 1,000-feet of the site.

Mr. Ayrassian questioned the practicality of prospective residents walking approximately one-half mile to and from a parking lot to and from their place of residence.

Mr. Sisson suggested that it was a similar distance to the train station.

Cathy Merkle argued that there is a very big different between walking one-half mile to public transportation walking one-half mile lugging groceries.

Mr. Sisson stated that the Board had asked him to discuss the effects of the proposal on traffic and safety in the downtown. He stated that such effects can be difficult to determine, as the application does not propose to generate any traffic due to the lack of available parking. He stated his belief that residents will drive to the site to drop things off only and that the building will have designated loading spaces to allow for such use. He stated that there is likely to be more people and traffic, but that it would be difficult to quantify in a traffic study. He stated that the proposed project will bring less cars into the downtown.

Chairman Hutchings stated that realistically, potential tenants will be told that there is no on-site parking before they rent.

Cathy Merkle argued that the City could end up with an empty building if no one is interested in renting an apartment without available parking.

Ms. Davies stated her sense that residents are likely to use the rented spaces only in the winter, when they cannot park on the street. She noted that it seems preferable to the other option of no parking at all.

Mr. Sisson insisted that they are trying to negotiate parking spaces that are closer to the building but have not been able to manage it to this point.

Mr. Ayrassian asked whether any of the proposed units have only one bedroom.

Mr. Sisson replied that all of the proposed units are one bedroom units.

Mr. Ayrassian recommended that a more informative and detailed site plan be submitted.

Mr. Sisson stated their eagerness to have Board render its decision this evening. He stated that plans will be submitted showing the parking lots and addressing the traffic concerns a little more closely. He stated there is a loading dock at the rear of the building and that they could show that up to six cars can park in the back alley.

Chairman Hutchings questioned whether one would then have to back out of the alley.

Mr. Sisson answered no, stating that there is a complete alley system behind the building with no dead-ends.

Cathy Merkle sought to confirm that the back of this building is accessible from Bank Street and the cut-through near Sanford Street.

Mr. Sisson replied yes.

Cathy Merkle noted the previous concern from the Fire Department relative to the state of the theater space being a fire hazard. She queried that if that area is not slated for development for apartments, how will it be made safe for residents.

Mr. Sisson stated that the owner would love to redevelop that space into apartments as well at some point but that there are no such plans at this time.

Cathy Merkle questioned whether the theater space will be brought up to code.

Mr. Sisson stated that such work has already been performed and the space has fire alarms and sprinklers.

Cathy Merkle sought to confirm that the theater space would not be utilized for storage by the residents.

Mr. Sisson replied no and stated that it would remain empty. He questioned whether the Board feels amendable to the revised plan showing fewer units.

Cathy Merkle stated that it hinges on parking for her and that if the requisite parking could be provided, she would consider voting in favor.

Chairman Hutchings stated that the applicant is obligated to provide proof of having made a good faith effort to obtain parking spaces. He stated that the spaces need to be within a reasonable distance from the apartments.

Mr. Ayrassian expressed concern with residents parking on the street during the day because they do not feel like walking a distance that they consider too far, which then conceivably compounds the problem of parking because they will be competing with those who persons using the parking spaces for local business. He stated that he understands that the downtown area has a finite amount of real estate to identify parking within 300-feet, but asked Mr. Sisson if he attempted to negotiate with the City to obtain parking in a municipal facility that is close to the site, such as the municipal parking garage or the surface parking across the street on Bank Street.

Mr. Sisson replied that attempts have been made, but the City's spaces are three times more expensive than those available from private providers. He stated that the owner of the building is not willing to pay the city an unrealistic amount of money particularly for spaces when apartments might be vacant.

Sandra Varrieur noted that residents can park on the street after 6:00 a.m. until 8:00 a.m. when weather permits. He stated that older buildings will be more and more difficult to renovate because no land is being devoted to parking.

Cathy Merkle asserted her preference to see old buildings rehabilitated rather than new construction but stated that the parking issue is a greater problem. She stated that if a universal solution is not found, the Board will have the same issue before it again for each rehabilitation project with the availability of parking spaces in the area continually decreasing.

Mr. Ayrassian stated that he did not recommend approval of the plan at this time and suggested that the Board continue to discuss options. He stated that the City has a great opportunity with this proposed project and that we ought to continue the dialogue and find a reasonable solution.

Chairman Hutchings stated his opinion that under the circumstances, he will not reject the project simply on the grounds of insufficient parking. He stated that the Board needs to consider downtown parking needs moving forward for all uses.

Mr. Ayrassian stated that he and the Mayor have already spoken about this matter and that the Mayor will be appointing a task force to examine the matter and to make recommendations. He stated that the staff needs to finish up some ongoing projects and will then focus on this matter. He asked Board members to volunteer to serve on the task force when the Mayor announces his intent to appoint the committee.

Speaking in opposition was YMCA Executive Director Robin McDonald of the YMCA located at 63 North Main Street in Attleboro. She stated her appreciation for this evening's discussion and expressed on behalf of the YMCA their greatest concern with the parking. She stated that there were two separate traffic accidents in the parking lot adjacent to the YMCA last night as people were trying to enter and exit. She stated that they utilize a municipal lot that is regularly policed by the City and still have major parking problems. She stated that the proposed project will aggravate an already challenging situation for services and businesses already existing in the downtown. She stated that she understands the City's desire to see old buildings renovated, but she questioned whether there is the potential of a less intense use that would have lesser impacts on downtown parking and traffic. She stated that people coming to exercise at the Y do not even want to park across the street, so she cannot imagine apartment renters being willing to walk half a mile down Pine Street to access parking. She suggested that such a situation is likely to create a safety hazard during the winter when the sidewalks are not completely cleared of snow. She stated that residents are likely to instead utilize the municipal lots or on-street parking both of which are already over-burdened. She stated that developers in the downtown need to make arrangements for adequate parking to support their proposals and that although she understands there is a financial breaking point, it is up to the developer to decide whether he wants to undertake the project given the circumstances. She stated her hope that unless the developer can secure a reasonable number of parking spaces within a reasonable distance of the apartments, that the permits be denied.

Chairman Hutchings questioned the number of spaces that the YMCA has.

Ms. McDonald replied none. She stated that the Sanford Street public parking lot has 146 spaces and that on Monday, Tuesday, and Thursday nights, people are frequently circling, looking for parking. She stated that the Y has paid for non-exclusive use of the parking lot for members for up to two hours.

Chairman Hutchings stated that with no disparagement intended towards the Y, they are utilizing the municipal spaces and asked how is that any different that the applicant's desire. He suggested that the Y would be facing this same problem were they to redevelop.

Ms. McDonald stated that the people presently living in the Bates Building already have grandfathered relief. She stated that the patrons at the Y have been using the parking lot for about 140 years. She stated that she just does not want the parking situation to get worse.

Sandra Varrieur asked Ms. McDonald if she is familiar with the availability of parking spaces in the municipal lot adjacent to the library.

Ms. McDonald answered no.

Speaking in opposition was Mark Cuddy of FB Insured and Cuddy Insurance, located at 8 Park Street in Attleboro. He stated that his business has been in Attleboro since 1969. He stated that their primary concern is with the lack of parking in the area. He stated that his business pays for spaces for his employees in the garage behind the building. He stated that he is aware that his customers frequently have difficulty finding parking. He stated that there are 181 spaces in the public garage and many of those are reserved for monthly permit holders or by private entities, like the Park Street Condos. He stated that he applauds the applicant for his desire to renovate the building but that he does not feel that that location is appropriate for the kind of development being proposed. He stated that his business has been a great citizen of Attleboro for years and that should the proposed project be approved, it will be to his detriment business. He suggested that Board members spend some time in the area in the morning and evening, to see how difficult the parking situation truly is. He stated that he does not feel that his business should have to lose out on clientele because of this project.

Speaking in opposition was attorney Melinda Kwart of Percy Law Offices on behalf of Community Counseling of Bristol County located at 5 Bank Street. She stated that her client owns the commercial condominiums located at 5 Bank Street and that their clients have an exceedingly difficult time finding parking. She stated that her client has leases for parking spaces with the City and she agrees with the concerns raised previously by Ms. McDonald. She stated that she personally attends classes at the Y and has witnessed people frequently being late to class because they are unable to find parking. She stated that as a member of the Planning Board, she agrees with the idea of a task force being appointed to work on a parking plan.

Speaking neither for nor against the proposal was attorney Ed Casey who stated that his offices are located in the Bronson Building at 8 North Main Street in Attleboro. He stated that as a tenant in the area for many years, he would like to provide some observations. He stated that Bank of America was on the first floor of 8 North Main Street for many years, having vacated five years prior. He stated that the building owners have been unable to find anyone to lease the space ever since. He suggested that it may partially be due to changes in the nature of the banking industry, but his understanding is that issues have also been raised by potential tenants relative to there being insufficient parking. He stated that this problem is something that must be addressed by the City if they want to create the vibrant downtown that everyone has been envisioning. He stated that the Y provides an important social service, including daycare, summer camps, and services for at-risk youths and that she was speaking to the continued viability of the downtown location. He stated that having a Y location in the downtown improves Attleboro's quality of life. He stated that he agreed with Mr. Ayrassian's and attorney Kwart's suggestion to form a Committee. He stated that parking garages are very expensive to build and he doubted that the one proposed for the TOD will solve the problem for these businesses in the downtown. He stated that maybe the City would consider taking property by eminent domain to provide additional parking. He stated his hope for a larger conversation to continue.

Speaking in rebuttal was Mr. Sisson and stated that all of the concerns raised highlight the challenge with parking in the area, which the applicant understands is the primary issue facing the project. He stated that the owner is just looking for an opportunity to use their existing, historic, building. He requested that the public hearing be continued and for an extension of time to March 31, 2018.

Chairman Hutchings made a motion to grant an extension of time to March 31, 2018. Cathy Merkle seconded the motion. All voted in favor to grant an extension of time to March 31, 2018.

There being no one else to speak, the public hearing was continued to February 8, 2018.

The Board heard or Case #5373, the application of Elizabeth Pare for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.5(#2D) TABLE OF ACCESSORY USE REGULATIONS to raise and keep more than six (6) chickens at her place of residence, the subject premises being located at 22 Summer Street, more specifically Assessor's plat #33, lot #61 located in the General Residence-A zoning district.

Speaking in favor of the petition was homeowner Alain Pare who stated that he and his wife are seeking a special permit to raise fifteen chickens. He stated that they currently have five and would like to increase that number to fifteen. He stated that they would be kept strictly for pets and recreation. He submitted a revised site plan and pictures detailing the conditions of the existing chicken coop.

Chairman Hutchings inquired about the distance from the nearest neighbor.

Speaking in favor of the application was Elizabeth Pare who stated that the coop is near the back of the property and is directly abutted by woods. She stated that there are no neighbors in close proximity.

Mr. Pare stated that they are very friendly with their neighbors and are not aware of any concerns.

Chairman Hutchings asked the applicants to confirm that they are not proposing to sell any chickens or eggs.

Mrs. Pare stated that the chickens will just be pets.

Chairman Hutchings asked how they will manage waste and in such a manner so as not to create any nuisances in the neighborhood.

Mr. Pare stated that he uses and will continue to use the waste to fertilize his garden.

Ms. Davies asked if the coop is entirely enclosed and has a roof.

Mr. Pare answered yes and stated that the birds are completely protected from predators.

There being no one else to speak, the public hearing was closed.

The Board heard the new public hearing for Case #5377, the application of Paul R. Benjamin for a variance pursuant to §17-8.9 VARIANCES under §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS from the minimum side yard setback requirement to construct a garage, the subject premises being located at 3 Slocum Street, more specifically Assessor's plat #19, lots #362, #363, and #364 located in the Single Residence -A zoning district.

Speaking in favor of the application was attorney Joelle Rocha who stated that her client is seeking a variance for the construction of an attached two-car garage onto an existing single-family dwelling. She stated that the direct abutter, Mr. Timothy Walsh, submitted a letter of support. She provided a copy of the letter to the Board.

Chairman Hutchings asked if the proposed garage will be one story.

Speaking in favor of the application was the homeowner, Mr. Paul Benjamin, who stated yes and that he intends to have a small amount of loft space in the garage for storage.

Attorney Rocha explained that the lot has frontage along two streets one of which is paved but that the fact remained that the lot is encumbered by two front yard setback requirements which is a unique hardship.

Mr. Benjamin explained that he has concerns about constructing the garage on the other side of the house, as he has had problems with the customers from the nearby Yankee Spirits liquor store driving onto his lawn. He also noted that in order to construct the garage on the other side of the house, he would have to relocate the electrical panel in his house. He explained that he has had health issues and that having the garage would greatly improve his quality of life. He stated that over 50% of the houses in his neighborhood have garages and that he feels it would fit in with the neighborhood.

Chairman Hutchings inquired about the distance between the proposed garage and the nearest house.

Mr. Benjamin replied that he was unsure, but estimated fifteen to twenty feet.

Chairman Hutchings asked if any fencing is proposed. Mr. Benjamin replied that he has gradually been replacing the existing stockade fencing on his property with white vinyl fencing and that if the Board

grants the variance, he will replace the existing fencing on the garage side of the house as well and have it end at the back of the garage.

Chairman Hutchings asked for confirmation about the extent of the variance.

Ms. Davies stated twelve feet.

There being no one else to speak, the hearing was closed.

The Board heard the new public hearing for Case #5376, the application of Mark and Louis Cooper for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.4(3) TABLE OF USE REGULATIONS to construct a three-unit, multi-family dwelling; the subject premises being located at 90 Maple Street, more specifically Assessor's plat #46, lot #62A, located in the General Residence-A zoning district.

Speaking in favor of the application was attorney Edward Casey. He distributed revised plans. He stated that the lot contains 14,400 square feet and is located in the "GR-A" zoning district. He stated that the existing barn is seriously dilapidated and no longer has a roof. He stated that the house is in a similar state of disrepair and is not habitable. He stated that he understands the Zoning Board's desire to preserve the character of older homes rather than tearing down the older houses and replacing them with new multi-family structures but that he felt this case warrants an exception. He stated that they designed the three-unit multi-family dwelling each with its own garage. He stated that they contain 1,900 square feet of living space and three bedrooms. He stated that the abutter, Kevin Horrocks, submitted a letter of support. He stated that he was also aware of a letter submitted by attorney McGahan on behalf of a nearby industrial business that does not oppose the project. He stated that if the Board were to approve the project, the petitioner would make future residents aware that the residential development abuts an industrial use. He stated that he has delayed filing the Stormwater Management application with the Conservation Commission because he wanted to first obtain the Board's sentiments about the proposed project.

Mr. Ayrassian sought to confirm that should the Board give feedback indicating their warmth towards the proposal, an application will be filed with the Conservation Commission for stormwater.

Attorney Casey replied yes. He stated that there is sufficient municipal water and sewer services. He stated that he respects Ms. Davies' concern with the driveway being proposed along the bend in Maple Street. He stated that they will address that matter. He stated that he understands that the plan that they originally filed with the application was inadequate and that it provided very little detail and lacked any information relative to parking. He asked the Board to continue the public hearing so that his clients could have time to prepare a site plan to address the comments and concerns contained in the Planning Staff's report.

Chairman Hutchings sought to confirm that in order to satisfy the minimum parking requirements, one parking space will be provided in a garage and the others in front of the garage of each residential unit. Attorney Casey replied yes. He stated that 2.25 parking stalls are required for unit and that they will figure out a way to properly design the parking area.

Chairman Hutchings pointed out that on-street parking is not allowed on Maple Street, so sufficient parking will need to be provided for guests to the homeowners.

Mr. Ayrassian questioned what led Mr. Casey to think that a three-unit multi-family structure would not be welcomed well by the Board.

Attorney Casey recalled that he has observed the Board in the past not take kindly to the razing of single-family dwellings to replace with multi-family units and increasing the density in “general residence” neighborhoods. He noted that the building directly to the left is a six-unit multi-family structure. He stated that they sought to provide more architectural allure than is found in the surrounding multi-family structures.

Mr. Ayrassian agreed that it was an interesting design.

Chairman Hutchings reiterated his general view of opposing the conversion of single-family dwellings into multi-family structure in the “General Residence” zoning districts. He stated that he feels that that practice drives up the price of land and single-family dwellings. He stated, however, that in this situation, the existing house is in disrepair and it needs to be demolished and so he feels that his usual disinclination is really not applicable in this instance.

Ms. Davies stated that she calculated the proposed project has a building coverage of 23% and asked attorney Casey that she needs confirmation from the project’s engineer.

Kent Richards sought to confirm whether there are other multi-family buildings in the area.

Attorney Casey answered yes. He stated that there is a six-unit multi-family structure to the left of the subject premises and several 3-decker houses across the street. He stated that most of the area consists of multi-family housing.

Chairman Hutchings read the letter from attorney Michael T. McGahan of Coogan Smith, LLP on behalf of HMS Industries, Inc., dated January 11, 2018, relative to Case #5376. He noted that his normal opposition to such proposals does not apply in this case and that although he would prefer a two-unit to a three-unit, he felt that the application is not unreasonable given the nature and characteristics of the residential development surrounding the proposed project.

There being no one else to speak, the public hearing was continued.

The Board heard the new public hearing for Case #5375, the application of Shawn A. Jorde for a variance pursuant to §17-8.9 VARIANCES under §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS from the minimum lot width requirement to construct a single family dwelling, the subject premises being located at 0 Pleasant Street, more specifically Assessor’s plat #107, lot #15A, located in the Single Residence -D zoning district.

Speaking in favor of the application was attorney Edward Casey who stated that although relief is needed from both the minimum lot width requirement and from the minimum and frontage requirement, only one form of relief had been requested in the application and that only one form of relief was advertised. He stated that he and the staff spoke about this matter and that the correct thing to do is to continue the public hearing so that the application can be properly re-advertised.

Mr. Ayrassian concurred.

There being no one else to speak, the public hearing was continued.

The Board heard the new public hearing for CASE #5374, the application of Colbea Enterprises, LLC for special permits pursuant to §17-9.0 SPECIAL PERMITS under §17-3.4(#15A) TABLE OF PRINCIPAL USE REGULATIONS - RETAIL, SERVICE COMMERCIAL to demolish and reconstruct an automobile service station, and under §17-3.5(#23) TABLE OF ACCESSORY USE REGULATIONS to construct a drive-through window in conjunction with a coffee shop, as well as variances pursuant to §17-8.9 VARIANCES under §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS from the

minimum front-yard setback, under §17-5.9(A) GENERAL PARKING AND LOADING SPACE STANDARDS from the minimum required street setback for off-street parking, under §17-5.9(D) GENERAL PARKING AND LOADING SPACE STANDARDS to allow a driveway to exceed the maximum width requirement, and under §17-16.8(C)3) GENERAL SIGN STANDARDS to exceed the maximum number of wall signs affixed to the exterior of a building; the subject premises being located at 237 Washington Street, more specifically Assessor 's plat #14, lot #73E, located in the Planned Highway Business zoning district.

Speaking in favor of the application was attorney Elizabeth Noonan of Adler, Pollock, & Sheehan, P.C. who stated the applicant's intent to raze the existing gas station, car wash, and convenience store and to construct a new gasoline station with a "Seasons" convenience store. She noted that the site presently contains seven fuel dispensers. She stated that although the proposed site plan shows six fuel dispensers, their plan is actually now to propose only five fuel dispensers. The spacing between the fuel dispensers will be increased to improve traffic flow. She stated that the size and position of the canopy will remain. She stated a 30,000 gallon subsurface fuel tank for storing gasoline is proposed. She stated that they would like 24-hour, 7-day a week, operational hours just like the current Shell gasoline station. She stated that there would be about 10 to 15 employees but not more than three on the premises at a time. She stated that they are proposing a drive-up window in associated with a Mary Lou's coffee shop. She noted that they have made adjustments to the stacking lane in response to the city's Planning Staff report. She stated that they are requesting a variance for their signage. She stated that they are scheduled to appear before the Conservation Commission for their Stormwater Management Permit application next week.

Chairman Hutchings asked if "Seasons" is the brand of gasoline that will be sold.

Attorney Noonan replied no. She stated that the brand of gasoline that will be sold will be Shell and that "Seasons" is a convenience store chain.

Speaking in favor of the application was Paul Sylvia of Ayoub Engineering who stated that the size of the gasoline containment tanks will be state-of-the-art double-walled tanks with the latest alarm equipment. He stated that they are proposing to reduce the site's impervious area by 25%-30%. He stated that the area occupied by buildings will be reduced and that the area of the proposed convenience store is only 4,000 square feet. He stated that less building area is proposed and that their plan will increase green space on the site by 78%.

Mr. Ayrassian stated that that does not make sense in light of the information on the site plan.

Mr. Sylvia read the site plan and stated that he stands corrected and agreed with Mr. Ayrassian. He stated that the existing carwash will be demolished and that a new one is not proposed. He stated that as a result, sewer discharge and water consumption will be reduced. He stated that his engineering firm has developed nine gasoline stations with a "Seasons" convenience store on sites similar to this one. He stated that the landscape architect designed a plan specific for this property.

Cathy Merkle questioned the rationale for reducing the size of the subsurface gasoline tank size and the number of fuel dispensers.

Speaking in favor of the application was Andrew Delli Carpini, CEO of Seasons. He stated that their business model to install two 15,000 gallon fuel tanks, with one tank split between diesel and gasoline. He stated that fuel delivery trucks have a capacity of only 12,000 gallons, which factors into their model. He stated that regarding the reduction in fuel dispensers, their primary customer base is for convenience store and that they give dispensers as a trade-off to accommodate better traffic flow. Attorney Noonan asked whether more fuel deliveries are anticipated given the smaller subsurface gasoline tanks.

Mr. Delli Carpini replied that the fuel trucking company tracks deliveries and figures out when deliveries are necessary. He stated that deliveries are made during off-peak hours.

Mr. Ayrassian inquired about the plans for either on-site snow storage or removal.

Mr. Sylvia pointed out the snow storage areas on the site plan.

Mr. Ayrassian asked if they anticipate whether they will need to haul snow off the site.

Mr. Delli Carpini stated that he did not think so. He explained that he operates sites with less green space than the one being proposed and he has not needed to haul snow off any other site.

Mr. Ayrassian sought to confirm that Mr. Delli Carpini would be amenable to trucking snow off site if required by the Board.

Mr. Delli Carpini replied that it would be a challenge. He stated that he operates 50 locations presently and the logistics of hiring contractors would be complicated.

Mr. Ayrassian recommended that language be inserted on the site plan establishing the maximum height of a snow pile in order to avoid any visual obstruction to motorists. He stated that should the height of a snow pile exceed the limit, then they would need to truck snow off the site. He noted that the site is at one of the biggest and busiest intersections in the City of Attleboro and safety is of paramount importance to them. He requested Mr. Sylvia to explain the proposed stormwater management system.

Mr. Sylvia replied that the system is designed to recharge 100% of all stormwater. He explained that their calculations indicate that with the enhanced green space resulting in less runoff, the existing stormwater management system will be able to contain all of the stormwater on the site.

Mr. Ayrassian stated that it sounds like they are proposing to utilize the existing stormwater management system.

Mr. Sylvia replied that they are.

Chairman Hutchings asked for an explanation.

Mr. Sylvia stated that the existing system will be read for functionality and effective treatment of stormwater. He stated that additional oil water separators will be added if necessary.

Mr. Ayrassian sought to confirm that there will be no sheet runoff from the site.

Mr. Sylvia answered no. He stated that there would be no runoff off the site.

Chairman Hutchings asked if they recall when the Shell station was last renovated.

Mr. Delli Carpini said that it probably has not been renovated since the time it was built sometime around 1988.

Mr. Ayrassian asked Mr. Sylvia to explain the derivation of the parking calculations.

Mr. Sylvia stated that according to the zoning ordinance, 14 spaces are required. He stated that they presently have 20 spaces and that they will be maintaining all of them.

Mr. Ayrassian asked whether they are including parking at the fuel dispensers towards their 20 spaces. Mr. Sylvia replied no.

Speaking in favor of the application was traffic engineer Shaun Kelly of Vanasse & Associates, Inc. who stated that they read the three signalized locations at the adjacent confluence of highways. He stated traffic counts were performed at the intersection of Route 123 and Route 1, with an average of 1,200 cars per day. He noted that the peaks tended to be at weekday mornings and evenings, as well as Saturday mid-day. He stated that a state audit had recently been performed and found crash rates in the area exceeded the state average. He stated that the neighboring new commercial plazas were taken into consideration when developing the traffic model. He stated that their project is anticipated to generate 253 trips in the morning, 50 trips in the evenings, and 146 trips on Saturdays. He noted that most of the trips are pass-by traffic. He stated that the project will cause a delay of one additional second, which likely will not be noticed. He stated that all of the site's driveways have acceptable levels of service. He stated that the maximum anticipated queue length at a driveway is three cars. He noted that the traffic lights along the corridor are being optimized, which should improve overall traffic conditions in the area. He stated that to develop numbers for the drive-up window, they monitored an existing store containing a Mary Lou's coffee shop. He stated that queues are typically only 2-3 vehicles and that the maximum observed queue during a 2-hour count was six cars. He stated that the site provides stacking for up to eight vehicles.

Cathy Merkle asked whether the Mary Lou's coffee shop that they monitored is located in a similarly heavily trafficked area.

Mr. Kelly replied that they monitored the one on Route 128 in Westwood and that it is fairly comparable.

Kent Richards asked whether Mary Lou's coffee shop just sells donuts and coffee.

Mr. Delli Carpini replied that they serve very limited donut and sandwich options and focus on coffee. He stated that they have 12 Mary Lou shops within "Seasons" locations.

Chairman Hutchings asked whether there is a walk-up counter inside the Mary Lou's coffee shop.

Mr. Delli Carpini replied yes.

Ms. Davies asked whether seating will be available in the Mary Lou store.

Mr. Delli Carpini answered not initially but that there is potential for it in the future. Mr. Ayrassian asked that the fuel delivery circulation pattern be presented.

Mr. Kelly replied that the truck will come off Route 1 southbound and enter the site by way of a right-hand turn. He explained it will exit the site at the western driveway on Highland Avenue and take a left-hand turn onto Highland Avenue.

Mr. Ayrassian requested Mr. Sylvia to compare the existing curb cut locations to the proposed curb cut locations.

Mr. Sylvia replied that they are not proposing any changes to the width or location of the existing curb cuts.

Chairman Hutchings asked whether the curb cut closest to the corner of Highland Avenue and Route 1 is going to continue to be for two-way traffic or just an exit or just an entrance.

Mr. Kelly answered that it would continue to serve two-way traffic.

Chairman Hutchings stated his concern with that design, as traffic is likely to back-up on account of the adjacent plaza.

Mr. Kelly replied that eliminating that curb cut would force everything on the site to shift to the west, creating traffic friction with the drive-up window.

Chairman Hutchings suggested that that curb cut be limited to exiting right-hand turns only.

Mr. Kelly stated that they feel that that is unnecessary because they did not observe a single driver making a left-hand turn onto Highland Avenue during the morning peak hour.

Ms. Davies noted that the orientation of the proposed fuel dispensers is different from existing conditions. She suggested that in anticipation of the new convenience store being busier, people may be more likely to try to use that curb cut.

Chairman Hutchings suggested that if patrons are not using the driveway, there is no need for it to be there at all.

Attorney Noonan replied that the applicant does not own the property and does not have the ability to concede such a change.

Chairman Hutchings stated that the Board could make it a condition of the decision.

Mr. Delli Carpini argued that people are creatures of habit and become accustomed to accessing sites in a routine fashion. He suggested that restricting site access is likely to create a traffic problem. He stated that if the site access is reduced to only two driveways, there could be issues if the use of one of the remaining is temporarily restricted due to snow conditions or construction. He suggested that even with signs restricting use, people are going to do as they please.

Mr. Ayrassian asked why they are seeking relief for the width of the curb cut since they said that they are not changing the size or location of any of the curb cuts. He recommended that the Board dismiss the request for this relief, as the site is grandfathered.

Cathy Merkle inquired about the dimensions of the parking stalls.

Mr. Sylvia replied 10'x20'.

Kent Richards replied that the site plan appears to show 9'x19'.

Mr. Sylvia stated that he would check the plan.

Attorney Noonan noted that deliveries for the store are only done by box trucks.

Mr. Delli Carpini reiterated that tractor trailer deliveries will be for fuel only.

Chairman Hutchings inquired about the workforce.

Mr. Delli Carpini stated that they will employ upwards of 10-12 individuals on peak days and 4-6 people on typical days. He stated that this estimate includes the Mary Lou's staff.

Mr. Ayrassian asked why they did not consider redesigning the curb cuts.

Mr. Delli Carpini replied that the traffic consultant felt that maintaining the curb cuts was the best approach from a safety perspective. He stated that they use the same standard model for "Seasons" locations.

Mr. Ayrassian stated that it is hard to believe that they have the same model in other locations. He asked if it would be a deal breaker if the Board were to eliminate the curb cut closest to the Highland Avenue and Route 1 intersection. He stated that he has concerns about the continued use of that curb cut as the intersection has been an issue for decades.

Mr. Delli Carpini replied that he feels restricting the curb cut is likely to kill the deal. He stated that they do not own the property and that the owner is adamant that the curb cuts not be altered. He stated that closing a driveway on a site with a historic traffic pattern will wreak havoc and result in looping.

Mr. Ayrassian countered that the site design is completely new and people will need to be assimilate anyway.

Mr. Delli Carpini replied that the same people who use the Shell station today will use the "Seasons" site. He stated that Carpionato Group owns the property and that he will lease the site from them.

Mr. Ayrassian sought to confirm that the applicant was directed by Carpionato Group to not agree to any restrictions.

Mr. Delli Carpini replied yes.

Chairman Hutchings questioned why this project is being treated separately from the whole adjacent commercial center.

Mr. Delli Carpini stated that they have owned the property since 2007 and that the existing site is at the end of its useful life. Attorney Noonan submitted updated signage for the site.

Ms. Davies asked whether signage is proposed on two sides of the building.

Mr. Delli Carpini replied no, that they are just looking to have signage on the front face. He stated that they are proposing channel letters, which is not technically signage.

Ms. Davies pointed out that signage is also proposed for Mary Lou's coffee shop and the words "corner market".

Mr. Delli Carpini added that there is a "welcome" sign on the building's overhang.

Ms. Davies stated that the total proposed area of the signage exceeds the maximum 50-square feet, and therefore they would need to seek relief from the Zoning Ordinance.

Mr. Delli Carpini stated that there is an existing "Seasons" store in Cumberland on Route 146 if the Board is interested in visiting it for some perspective. He noted that as a family business, they will be running the store, not just developing it and walking away. He stated that they see themselves as the underdog competing with the likes of Cumberland Farms. He stated that they have fresh, high quality food delivered to the site every other day. He noted that they are hoping to start development of another store in North Attleboro in approximately 60 days.

There being no one else to speak, the public hearing was continued.

The Board held a business meeting.

The Board discussed Case #5373, the application of Elizabeth Pare for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.5(#2D) TABLE OF ACCESSORY USE REGULATIONS to raise and keep more than six (6) chickens at her place of residence, the subject premises being located at 22 Summer Street, more specifically Assessor's plat #33, lot #61 located in the General Residence-A zoning district.

Cathy Merkle made a motion to grant a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.5(#2D) TABLE OF ACCESSORY USE REGULATIONS to allow the petitioner to raise and keep ten (10) chickens for domestic purposes at her place of residence located at 22 Summer Street, as shown on the site plan. Kent Richards seconded the motion and a discussion followed. All voted in favor. The Board attached conditions.

The Board discussed Case #5377, the application of Paul R. Benjamin for a variance pursuant to §17-8.9 VARIANCES under §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS from the minimum side yard setback requirement to construct a garage, the subject premises being located at 3 Slocum Street, more specifically Assessor's plat #19, lots #362, #363, and #364 located in the Single Residence -A zoning district.

Keith Hutchings made a motion to grant a variance pursuant to §17-8.9(A) VARIANCES of twelve (12') feet from the minimum side yard setback requirement of fifteen (15') feet pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to accommodate the construction of a 24'x24' single-story attached two-stall garage at 3 Slocum Street, as shown on the site plan entitled "ATTLEBORO MASS. SURVEY PLAN A.P. 19, LOTS 362, 363, 364," surveyed by Marc N. Nyberg of Marc. N. Nyberg Association, Inc., 501 Great Road, Unit 104, North Smithfield, R.I. 02896, dated September 2017. Sandra Varrieur seconded the motion and a discussion followed. All voted in favor. The Board attached conditions.

The Board read all remaining correspondence.

The Board tabled the pending minutes from March 9, 2017, April 13, 2017, May 11, 2017, June 8, 2017, July 13, 2017, August 17, 2017, September 14, 2017, October 12, 2017, November 9, 2017, and December 14, 2017.

The meeting adjourned at 10:00 p.m.