



City Of Attleboro, Massachusetts

ZONING BOARD OF APPEALS
GOVERNMENT CENTER, 77 PARK STREET
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MINUTES

MARCH 8, 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, March 8, 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, Cathy Merkle, Kathy Rautenstrauch, Kent Richards, Sandra Varrieur

Zoning Board Members Absent: None

The Board heard Case #5385, the application of Poyant Signs, Inc. for a special permit pursuant to §17-9.0 SPECIAL PERMITS and §17-16.3 ADMINISTRATION to install a wall sign that exceeds the maximum allowable area under §17-16.9 TABLE OF PERMITTED SIGNS & DIMENSIONAL REGULATIONS, the subject premises being located at 228 Washington Street, more specifically Assessor's plat #64, lot #40, located in the General Business and Planned Highway Business zoning district.

The Board read the Form Z3 - Request to Withdraw Petition, submitted by Andrew Kenyon of Poyant Signs, Inc., received March 5, 2018, relative to Case #5385.

Chairman Hutchings made a motion to allow the petitioner to withdraw without prejudice application of Poyant Signs, Inc. for a special permit, Case #5385. Cathy Merkle seconded the motion. All voted in favor.

The Board heard the continued public hearing for Case #5378, the application of Stateline Auto Brokers, Inc. for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.1 USE DESIGNATIONS for the storage of motor vehicles associated with an establishment selling used automobiles on an adjacent lot, the subject premises being located at Westminster Ave and Chartier Street, more specifically Assessor's plat #3, lot #66 and #207A, located in the Industrial zoning district.

The Board read the letter from attorney Edward Casey of Casey Law Offices, P.C., dated March 8, 2018, asking the Board to continue the public hearing relative to Case #5378.

Chairman Hutchings made a motion to continue the public hearing. Cathy Merkle seconded the motion. All voted favor.

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

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, dated February 19, 2018, relative to Case #5372.

Chairman Hutchings made a motion to continue the public hearing. Cathy Merkle seconded the motion. All voted favor.

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

The Board heard the continued public hearing for Case #5381, the application of Briarleaf, LLC for a variance pursuant to §17-8.9 VARIANCES from the minimum required distance between parcels on which a public or private school is located pursuant to §17-10.15(D)(1)(D) REGISTERED MARIJUANA DISPENSARY USES and from the minimum required distance between parcels on which a daycare is located pursuant to §17-10.15(D)(1)(E) REGISTERED MARIJUANA DISPENSARY USES to accommodate the establishment of a registered marijuana dispensary; the subject premises being located at 527 Pleasant Street, more specifically Assessor's plat #225, lot #5B, located in the Industrial and General Residence -A zoning district.

Chairman Hutchings announced that he is an employee of an abutting business and therefore recused himself from the public hearing. He appointed Cathy Merkle as Acting Chair.

Speaking in favor of the petition was attorney Edward Casey who explained that he is before the Board requesting relief from a dimensional requirement. He stated that he is representing Jon Brucks who is the owner of the company that owns half of Building #11 located at 527 Pleasant Street. He stated that it is an industrial condominium unit. He stated that his client will be seeking a special permit from the Municipal Council for a registered marijuana dispensary. He stated that when lots on the Texas Instruments campus were sold to private developers, each building was placed on its own "pork chop" lot to provide frontage on Pleasant Street. He explained that they are seeking relief as the "rat tail" portion of his client's property is within the prohibited proximity to schools and a daycare center as specified in the Zoning Ordinance. He stated that the building and the proposed registered marijuana dispensary that would be located within it is far from both the YMCA and Amego School. He suggested that the Zoning Ordinance's language is a bit confusing and it is difficult to discern whether the distances are relative to the distances between lot lines or buildings. He stated that Mr. Brucks does not own the land surrounding his condominium, as it is considered common area. He stated that as a result, he feels it makes sense to argue that the measurement should be taken from the edge of the building, which is the extent of his sole ownership and the proposed use.

Speaking in favor of the application was Jon Brucks, the owner of half of Building #11 located at 527 Pleasant Street. He explained that he incorporated an electronic manufacturing business in 1988 that he previously operated out of the subject building. He stated that he sold his business in 2012 but retained the building and periodically leased to others for industrial uses. He stated that he lost a large tenant in May and has had trouble finding new tenants to lease the space, but has at least ten prospective marijuana dispensaries review the building. He stated that it seems like a registered marijuana dispensary would be the most profitable and reasonable use for the space and decided that he would start his own business. He stated his sense of urgency, as he understands there cannot be multiple dispensaries within a certain distance of one another and that if another is approved on the campus, he will be out of luck. He stated that he has formed a company to pursue this end and is in the process of applying to the state for Registered Marijuana Dispensary permits.

Attorney Casey emphasized that this would be for medical marijuana and not grown or sold for recreational uses. He stated that there would be no sales outside of the 3,000 square foot retail portion of the building. He stated that there are state standards for security and that Mr. Brucks is already interviewing consulting services and has met with the Chief of Police regarding his plans. He reiterated that the proposed use is a substantial distance away from the facilities frequented by children and that it would be impossible for anyone to know what is occurring inside the building from that distance. He stated that very limited signage is proposed and that it will simply state the name of the company. He noted the Board's desire to know the exact distances from property line to property line.

Cathy Merkle stated that she would also like to be provided with the distances from building to building. She asked Mr. Brucks if he is proposing to both grow and sell marijuana on site.

Attorney Casey replied yes. He stated that his client owns around 50,000 square feet of space and that the high ceilings and electrical service in the building make it an optimal setting for cultivation, as well as retail. He stated that he is proposing the use of 25,000 square feet for cultivation and only 3,000 square feet for the dispensary. He encouraged the Board to visit the site.

Speaking neither for nor against the application was YMCA CEO Robin MacDonald. She stated that she had met with Mr. Brucks and appreciates his transparency regarding his intentions. She stated that the preliminary plan seems realistic and understandable, but that she will not know whether it will have a positive or negative effect on the YMCA until more these dispensaries are built and their effects studied.

There being no one else to speak, the public hearing was continued to April 12, 2018.

The Board heard the continued public hearing of Case #5375, the application of Shawn A. Jorde for variances pursuant to §17-8.9 VARIANCES under §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS from the minimum lot width and lot frontage requirements 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.

Attorney Edward Casey spoke in favor of the application and explained that they are requesting a variance from the minimum lot frontage requirement and from the minimum lot width requirement to create a buildable lot. He stated that the subject property is located along the Attleboro and North Attleboro corporate line and that several months ago, the property was the subject of a proposed definitive subdivision plan that was ultimately withdrawn. He stated that they are proposing to build just one single family house on the 5.7 acres of land. He stated that they are requesting a variance of 4-feet from the minimum lot frontage requirement and a variance of 80-feet from the minimum lot width requirement. He stated that he met with the only concerned abutter in January and that the abutter had no objection to the relief being sought or with the proposed positioning of the house.

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

The Board heard the continued 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 who stated his clients' continued hopes to be imminently filing with the Conservation Commission for a stormwater permit. He stated that he has

not yet received the information from the applicant to move forward with that permitting process. He asked the Board to continue the public hearing.

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

The Board heard the continued 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 who stated that latest Conservation Commission meeting was cancelled due to a snowstorm. She stated that they are still awaiting approval of their stormwater management permit. She stated that a productive work session was held following receipt of the stormwater peer review and that minor revisions were made to subsurface drainage, which she stated does not affect the overall plan. She stated her anticipation of approval at the next Conservation meeting. She asked the Board to continue 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.

The Board read the letter from David Sisson on behalf of Mahesh Patel, dated February 22, 2018, to Mayor Heroux relative to Case #5360.

Speaking in favor of the petition was David Sisson who stated that he is awaiting a response from the City regarding the availability and cost for leasing municipal parking spaces. He stated that he hopes to have an answer shortly. He asked the Board to continue the public hearing to April 30, 2018.

Chairman Hutchings made a motion to grant an extension of time to April 30, 2018. Cathy Merkle seconded the motion. All voted in favor.

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

The Board heard Case #5383, the application of Ronald Proulx for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.1 USE DESIGNATIONS to construct a common driveway, the subject premises being located on Lynn Drive, more specifically, Assessor's plat #74, lot #1R and #2R, located in the Single Residence -C zoning district.

Speaking in favor of the application was Stevie Carvalho of Farland Corp, who explained that they are proposing to construct a common driveway off of Lynn Drive to provide access to two proposed single-family dwellings. He stated that the wetland line has been approved by the Conservation Commission and that the applicant understands that he will file an application with the Conservation Commission to perform work in the WPZ; he noted that the work however is to remove a small amount of existing pavement, not to add any new pavement. He stated that at the City Planner's request, the pavement would be removed in order to smoothly taper the common driveway with the existing pavement so as to avoid any abrupt transition.

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

The Board heard the new public hearing for Case #5384, the application of UHS of Fuller, Inc. for a variance pursuant to §17-8.9 VARIANCES under §17-5.1 OFF STREET PARKING REQUIREMENTS to reduce the required dimensions of off-street parking stalls, the subject premises being located at 200 May Street, more specifically Assessor's plat #14, lot #75, located in the Single Residence-B zoning district.

Speaking in favor of the application was engineer Joe Casali of Joe Casali Engineering who explained that they had previously appeared before the Planning Board and presented a conceptual plan for the proposed parking lot renovations and that the Board had recommended that UHS of Fuller, Inc. seek relief from the Zoning Board for smaller parking stall dimensions. He explained that the renovations are intended to create some additional parking capacity, improve flow and safety, and to address flooding conditions. He stated that they are proposing to upgrade two separate parking areas. He explained that they want to modify the geometry of the visitor parking area, increase its parking capacity from 32 to 69, and to restripe the spaces. He stated that they are also proposing modifications to the employee parking areas located at the rear of the site, where one area currently contains 80 parking spaces and the other contains 50 spaces. He stated that they are proposing to increase the parking capacity in the employee lots by 27 spaces, which would result in a net increase of 7,885 square feet of impervious area. He stated that due to the topography of the site, they are seeking relief to reduce the dimensions of the parking stalls. He explained that the site has a significant slope that requires the installation of retaining walls, which will result in a terraced parking lot. He also noted that there is a high seasonal water table with a depth of only about 3.5-feet to 4-feet from surface, as well as a significant amount of ledge on the site. He stated that they would like to reduce the parking stall dimensions to 9-feet by 18-feet. He stated that this will help them achieve the LID goal of minimizing impervious area. He stated that the proposed parking lot renovations and stormwater management system upgrades would dramatically improve the site's flooding conditions.

Planning and Development Director Gary Ayrassian sought confirmation that the amount of turn-over in the parking lot is much less frequent, given the use, as compared to a shopping plaza where consumers are continually entering and exiting the premises.

Mr. Casali agreed. He stated that employees work set shifts, so there will not be ongoing turnover in the parking lots throughout the day.

Sandy Varrieur inquired about the number of beds at the hospital.

Mr. Casali replied that there are 102 beds and that they are required to have one parking space per bed. He stated that they currently have 162 parking spaces and are seeking to increase the capacity to 226 spaces.

Sandy Varrieur inquired whether the hospital has specific visitor hours.

Speaking in favor of the application was facility director Matt Moulton of Arbour Fuller Hospital who replied yes and that visiting hours are from 8:00 a.m. to 6:00 p.m. He stated that the facility provides valuable programs to the community and that they are looking to grow, but do not have the space to do so with the current parking arrangement. He also noted that the parking lots are unsafe, given the significant slope and not having been repaved since the late 1980s.

Mr. Casali confirmed that the slope in the back lot is approximately 9%.

Mr. Moulton noted that people have fallen down in the parking lots during inclement weather and that the hospital wants to provide a safe environment.

Chairman Hutchings sought to confirm that no additional building construction is proposed.

Mr. Casali replied no, and explained that they are simply addressing the parking accommodations.

Sandy Varrieur inquired whether additional beds could be added without the construction of an addition.

Mr. Moulton replied that he did not think so, given state standards.

Cathy Merkle asked how many staff members work at the facility at any given time.

Mr. Moulton replied that he did not know, but noted that there are 350 people who work at the facility. He added that the condition of parking lots makes it difficult for rescue and emergency vehicles to access the site.

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

The Board held a business meeting.

The Board discussed Case #5384, the application of UHS of Fuller, Inc. for a variance pursuant to §17-8.9 VARIANCES under §17-5.1 OFF STREET PARKING REQUIREMENTS to reduce the required dimensions of off-street parking stalls, the subject premises being located at 200 May Street, more specifically Assessor 's plat #14, lot #75, located in the Single Residence -B zoning district.

Keith Hutchings made a motion to grant a variance pursuant to §17-8.9 VARIANCES from the provisions of §17-5.1 OFF STREET PARKING REQUIREMENTS to reduce the requisite minimum off-street parking stall dimensions from 10'x20' to 9'x18' in association with expansion and improvements to existing parking lots at the Arbour Fuller Hospital, as shown on the site plan entitled "PARKING LOT AND SITE IMPROVEMENTS - ARBOUR FULLER HOSPITAL - ATTLEBORO, MASSACHUSETTS", drawn and engineered by Joseph A. Casali R.P.E. of Joe Casali Engineering, Inc., 300 Post Road, Warwick, RI 02888, dated January 2018. Cathy Merkle seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

The Board discussed Case #5383, the application of Ronald Proulx for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.1 USE DESIGNATIONS to construct a common driveway, the subject premises being located on Lynn Drive, more specifically, Assessor's plat #74, lot #1R and #2R, located in the Single Residence -C zoning district.

Keith Hutchings made a motion to grant a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.1 USE DESIGNATIONS to accommodate the construction of a common driveway, as shown on the site plan entitled "SPECIAL PERMIT PLAN - LYNN DRIVE - ASSESSORS MAP 74, LOTS 1R & 2R, ATTLEBORO, MASSACHUSETTS", drawn by Christian Albert Farland, R.P.E. of Farland Corp., 401 County Street, New

Bedford, MA 02740, dated January 30, 2018. Kent Richards seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

The Board discussed Case #5375, the application of Shawn A. Jorde for variances pursuant to §17-8.9 VARIANCES under §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS from the minimum lot width and lot frontage requirements to create a buildable lot, 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.

Keith Hutchings made a motion to grant a variance pursuant to §17-8.9(A) VARIANCES of four (4') feet from the minimum lot frontage requirement of fifty (50') feet pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to create a buildable lot, as shown on the site plan entitled "VARIANCE APPLICATION PLAN - SINGLE RESIDENTIAL LOT - CHARTLEY POND ESTATES", drawn by Advanced Concepts Engineering Corp., 40 Walnut Street, Plainville, MA 02762, dated September 30, 2017. Kent Richards seconded the motion. A discussion followed. All voted in favor. Keith Hutchings made a motion to grant a variance pursuant to §17-8.9(A) VARIANCES of eighty (80') feet from the minimum lot width requirement of one hundred twenty (120') feet pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to create a buildable lot, as shown on the site plan entitled "VARIANCE APPLICATION PLAN - SINGLE RESIDENTIAL LOT - CHARTLEY POND ESTATES", drawn by Advanced Concepts Engineering Corp., 40 Walnut Street, Plainville, MA 02762, dated September 30, 2017. Kent Richards seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

The Board read the letter from Building Inspector William McDonough, dated February 23, 2018, to Looney Tuned Auto Sales relative to the violation of the approved site plan for the Class 2 car sales license.

Chairman Hutchings noted that there were twice as many cars on the site as there should have been. He stated that no records of zoning permits could be found, so it is assumed the site is grandfathered.

The Board read all remaining correspondence.

The Board tabled the draft meeting minutes from December 14, 2017, January 11, 2018, and February 8, 2018.

The meeting adjourned at 7:40 p.m.