



# City Of Attleboro, Massachusetts

**ZONING BOARD OF APPEALS**  
GOVERNMENT CENTER, 77 PARK STREET  
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## MINUTES

MAY 10, 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, May 10, 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, and Sandra Varrieur

Zoning Board Members Absent: None

**The Board reviewed the letter from attorney Joelle C. Rocha of Kelly, Souza, Rocha & Parmenter, P.C., dated May 1, 2018, regarding the need for an additional foot of relief on the variance granted to Paul Benjamin for 3 Slocum Street, Case #5377.**

Speaking was Paul Benjamin of 3 Slocum Street who stated that the Board granted 12-foot variance this past January. He explained that as the house is slightly angled, the rear portion of the proposed garage is closer to the property line than originally planned, just over 3-feet from the property line. He stated that the discrepancy was discovered when he applied for a building permit.

Senior Land Use Planner Stephanie Davies confirmed that the plan presented to the Zoning Board at the time the special permit application was filed was misread, resulting in the wrong variance distance being granted.

Keith Hutchings made a motion to grant a variance pursuant to §17-8.9(A) VARIANCES of thirteen (13') 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. A discussion followed. All voted in favor.

**The Board heard Case #5393, the application of B&T Triboro, LLC for a variance pursuant to §17-8.9 VARIANCES from the minimum lot area requirement pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to construct a duplex, the subject premises being located at 92 Ottawa Street, more specifically Assessor's plat #60, lot #24, located in the General Residence-A zoning district.**

Speaking in favor of the application was attorney David Manoogian who stated that after filing the variance application, it was determined by the Planning staff and the Building Inspector that the relief that should be sought is a special permit to alter a pre-existing non-conforming lot. He asked the Board if it would consider amending the application on the floor.

Staff concurred and noted that the matter would not need to be re-advertised because the substance of the petition did not change.

The Board voted to amend the application on the floor to reflect a request for a special permit instead of a variance.

Attorney Manoogian submitted a letter of request to amend the application. He stated that his client purchased the subject lot with the belief that it was a conforming 12,000 square foot lot, as shown on the City Assessor's maps. He stated that he later found that the deed reflected only an 8,400 square foot lot. He stated that the existing structure on the property is in poor condition and needs to be razed. He stated the applicant's intent to construct a two-family dwelling, which is allowed by-right and will comply with all requisite setbacks. He stated that the proposed project is unlikely to have a negative impact on the neighborhood. He stated that the design complements the area, as there are a number of two-family dwellings and three-family dwellings in the neighborhood. He stated that the property is already connected to municipal sewer and water. He stated that the project will result in a much cleaner site, which will be an improvement to the neighborhood.

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

**The Board heard Case #5398, the application of New England Builds, Inc. for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS to construct a two-family dwelling on a pre-existing non-conforming lot, the subject premises being located at 74 Orange Street, more specifically Assessor's plat #46, lot #451, located in the General Residence-A zoning district.**

Speaking in favor of the application was Matthew Zuschlag of New England Builds, Inc who explained that he hoped to renovate the existing house when he purchased the property, but has since determined that the structure must be demolished. He stated that he is seeking a special permit to construct a duplex in its place on an undersized lot. He noted that although the lot is undersized, the new structure would meet all of the required setbacks. He submitted a footprint for the proposed two-family to the Board.

Chairman Hutchings inquired about the number of parking spaces.

Mr. Zuschlag replied that each would have two parking spaces.

Chairman Hutchings asked whether a turnaround would be constructed on the property or people would be expected to back-out into the street.

Mr. Zuschlag replied that people will back out on to the street in the same manner as numerous other properties in the neighborhood.

Kent Richards asked if there are multi-family homes in the area.

Mr. Zuschlag answered yes.

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

**The Board heard Case #5395, the application of William L. Provost and Kathleen A. Provost for variances pursuit to §17-8.9 VARIANCES under §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS from the minimum lot area, lot width, front yard setback, and side yard setback requirements associated with the subdivision of an existing lot and the creation of a buildable lot for**

**a single-family dwelling, the subject premises being located at 21 Tiffany Street, more specifically Assessor's plat #22, lots #127, located in the General Residence -B zoning district.**

Speaking in favor of the application was attorney Edward Casey who stated that his clients would like to preserve the small existing house located on the subject property while obtaining permission to create a second lot to construct a 34'x24' Cape-style dwelling. He stated that in order to achieve this, a number of variances are needed including a variance from the minimum lot area requirement because both proposed lots are non-conforming. He stated that the proposal, however, would be in keeping with other houses in the neighborhood. He stated that they are requesting a lot area variance of 3,308 square feet to make proposed Lot #1 a buildable lot and a lot area variance of just 1,567 square feet to make proposed Lot #2 a buildable lot. He stated that in addition, they are requesting a variance of 20-feet from the minimum lot width for requirement for Lot #1, a variance of 10-feet from the minimum lot width requirement for Lot #2, a variance of 12-feet from the minimum front yard setback for Lot #1, and a variance of 9-feet from the minimum side yard setback for Lot #1. He explained that although the existing house is very close to the lot line, it is pre-existing non-conforming structure. He stated that alternatively, his clients are looking into either the possibility constructing a 3-unit multi-family dwelling on the property by special permit or razing the existing house and building a two-family dwelling by-right. He stated his client's preference is the plan currently before the Board because they feel it better fits the existing neighborhood.

Cathy Merkle stated that likes the idea of the existing house being retained.

Speaking in favor of the application was Ronald Bergevine of 12 Patrick Street who stated that he is an abutter and that he does not have any objection to a single-family house being built as long as its driveway goes out onto Tiffany Street rather than onto Patrick Street. He stated that he has received the applicant's assurance that the driveway will not be brought onto Patrick Street. He stated that he had discussed the matter with at least two other neighbors who were also in favor of the proposed plan.

Speaking in favor of the petition was Jessica Bergevine of 12 Patrick Street who stated that her husband's family built the existing house at 21 Tiffany Street and that they would prefer to see the house retained. She asked for help to obtain documentation from the City regarding the location of her septic system.

Director of Planning and Development Gary Ayrassian stated given the age of the house, that she contact the DEP to find out if they have a copy of the septic plans. She questioned what will happen if the system gets damaged as a result of the construction of the new dwelling.

Ms. Davies noted that the contractor performing the work would be insured for any damage that he might cause on abutting properties.

Mrs. Bergevine noted that there is an obnoxious fence on the property and asked whether it will be taken down.

Speaking in favor of the petition was Bill Provost of 36 K-Marie Drive who explained that he bought the property from the Bergevines. He asserted that their septic system should not be anywhere near the proposed construction area. He noted that the fence that Mrs. Bergevine called obnoxious was installed by his current tenants at 21 Tiffany Street. He stated that the fence will be removed and the property cleaned up. He noted that a new fence might be installed to separate the properties.

Speaking in favor of the petition was Kathleen Provost of 36 K-Marie Drive who explained that they bought the property in 2006 with the intent of constructing a 3-unit multi-family dwelling. She stated that she and her husband own several multi-family properties throughout the city. She explained that they

changed their plans for the multi-family when the 2007 recession hit and they instead decided to just rent out the house. She stated that they have since decided to move forward with the current plan and hopefully create an affordable house for a family. She stated that she felt that demolishing the existing dwelling to build a two-family or a 3-unit multi-family dwelling would be disruptive to the neighbors.

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

**The Board heard the continued public hearing Case #5360, the application of David Sisson on behalf 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 32 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.**

Mr. David Sisson spoke in favor of the petition and distributed a handout illustrating the location of the drop-off area, traffic circulation, and distance to the parking spaces located on School Street.

Speaking in favor of the petition was Building Manager Mark LeVesque. He informed the Board that out of 14 current tenants, only two of them have an automobile and that the rest of the tenants utilize public transportation.

Mr. Sisson stated that the University of Massachusetts at Amherst will be performing an architectural case study of the building over the course of next year. He stated that there are 60-minute and 90-minute public parking spaces along the street. He stated that the Bank Street alley is proposed to be kept clear for emergency vehicles and that they are proposing a 20-foot wide drive aisle. He stated that drop-offs can occur anywhere along the alley-way and that there is a nook in the building outside of the path for fire trucks. He stated that dumpsters and the loading spaces will be in the Bank Street alley. He stated that at the Board's request, his client has been attempting to negotiate a parking agreement with the City. He stated that prices varied from \$40.00 per stall for unassigned surface parking to \$70.00 per stall for covered assigned spots. He stated that his client had previously presented parking one-half mile from the building that is available for only \$20.00 per parking stall. He stated that his client is very concerned about the cost of parking and that he does not feel it is something that can be borne by the future tenants. He stated that for each parking stall at the monthly cost of \$40.00 would equate to about \$300,000.00 for just parking over the course of 20 years. He stated that the monthly fee is \$30.00 for a parking stall in the City and that the rate drops to \$20.00 if one reserves 30 or more spaces. He stated that the intent of the project is to provide affordable housing to Boston commuters and other people who are unlikely to have cars.

Ms. Davies noted that his client is only proposing to provide parking for the additional apartments and not for the existing 14 units.

Chairman Hutchings stated that the other projects permitted downtown have required parking, such as Renaissance Station North. He stated that he understands that the building in question is pre-existing, but that the change in the number of units within it triggers the need for the site to be re-evaluated and as conforming as is reasonably possible. He stated that Zoning Board generously considered the fact that the retail units also require parking and is only asking that parking be provided for the residents.

Mr. Sisson stated that his client will be looking to do a white-box renovation of the commercial units to make them easier to rent.

Chairman Hutchings stated that the Boston commuters are not likely to be entirely without a car. He stated that the tenants of Renaissance Station North use the majority of the parking and that development is directly across the street from the commuter rail station. He stated that it is unrealistic to not propose any on-site parking. He argued that the owner will pass the cost along to tenants and that people will either be willing to rent them at the proposed cost or not. He stated that he understands that the owner does not want to pay for the parking when the units are empty, but that that is the cost of doing business as a property owner.

Mr. Sisson stated that he did not understand how with the long-term value added of securing a license with the City, they would be charged more than the average resident.

Mr. Ayrassian stated that the average person who is charged \$30.00 a month only receives a parking space while his client who would be charged \$40.00 a month will also be receiving a special permit to build 18 apartment units. He stated that the applicant will be receiving a special permit that will provide him with an income stream. He stated that the average person who is charged \$30.00 a month only receives a parking space and nothing more. He stated that he does not understand how his client does not understand that he will be receiving value with the Parking Agreement and is balking at the \$10.00 premium. He stated that it does not make sense.

Cathy Merkle stated that if the applicant is marketing to Boston commuters, they can afford the cost of a rent that includes parking. She stated that the fact that the current tenants do not have cars is irrelevant.

Mr. Sisson affirmed his client's offer that stands at providing eighteen (18) parking spaces on School Street.

Speaking in opposition was attorney Jack Jacobi on behalf of Mark Cuddy, the owner of Cuddy Insurance Company who stated that his client continues to be extremely concerned with the parking issue associated with the proposed development and the potential negative impact it will likely have in the area. He stated that 18 spaces are insufficient for the proposed development and that no one will use the parking spaces proposed on School Street, as they are too far away. He requested that the Board deny the applicant's application if they are unwilling to add more local parking.

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

**The Board heard the continued public hearing Case #5372, the application of BAART Programs of Massachusetts and Baymark Health Services, Inc. for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.1 USE DESIGNATIONS to operate a medical office/health care facility, a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-5.9(E) GENERAL PARKING AND LOADING SPACE STANDARDS to reduce the required minimum number of off-street parking stalls, and a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-5.7 MUNICIPAL PARKING LOTS to allow parking in a municipal parking lot located within one thousand (1,000') feet of the building which they are intended to serve, the subject premises being located at 23 North Main Street (previously referred to as 21 North Main Street), more specifically Assessor's plat #31, lot #11, located in the Central Business zoning district.**

Attorney Patrick Sullivan spoke in favor of the application and informed the Board that his client has a parking agreement with the City that has been approved by the City Solicitor and the Mayor.

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

**The Board heard Case #5397, the application of Peter J. Bassett 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 pursuant to §17-16.9 TABLE OF PERMITTED SIGNS & DIMENSIONAL REGULATIONS, the subject premises being located at 1270 Newport Avenue, more specifically Assessor's plat #27, lot #4, located in the Planned Highway Business zoning district.**

Speaking in favor of the application was Ken Caputo who stated that they are seeking a special permit to exceed the fifty (50) square foot maximum area for a wall sign. He explained that the Bristol Place shopping plaza was constructed in the early 1990s and has had a number of anchor tenants. He stated that the Big K has left and that his client is now looking to subdivide the vacant floor space in order to accommodate a 22,000 square foot TJ Maxx. He stated that TJ Maxx will qualify under their internal specifications as an "anchor store" that entitles them to a larger sign, but that the design is well within their internal requirements for the center signage. He stated that given that the stores are very deep into the lot and that the front facades of the individual stores are about 1,150 feet from Newport Avenue, the only way to view the stores' wall signage is from the on-ramp to 95 North. He stated that a shopping plaza given such proximity from the highway relies on larger signage to be seen and that prospective tenants will not agree to move in without the necessary exposure. He explained that pylon signage is important to denote which stores are contained in the plaza, but that once inside the shopping center, motorists rely on a building's wall sign to find the store of interest. He noted that the development site contains a vast number of trees and other landscaping that obscure the view of the retail buildings. He stated that they are proposing new architecture on the **façade** to emphasize the new entryway to the smaller space. He stated that in the same plaza, the Home Depot has a sign that is 290 square feet in area and the Market Basket has two signs, one of about 480 square feet on the front **façade** and a 245 square foot sign on the side. He stated that the proposed signage is all about matching the existing scale on site. He stated that the sign for TJ Maxx is proposed to be seven feet, ten inches by thirty six inches. He stated that inadequate signage actually poses a public hazard, as motorists concentrate on locating the store rather than paying attention to the traffic and potentially cause accidents. He noted that there are also no abutters facing the front of the plaza.

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

**The Board heard Case #5392, the application of Artfx Signs 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 pursuant to §17-16.9 TABLE OF PERMITTED SIGNS & DIMENSIONAL REGULATIONS, the subject premises being located at 287 Washington Street, more specifically Assessor's plat #14, lot #73, located in the Planned Highway Business zoning district.**

Speaking in favor of the application was Shang Kessing of Artfx who stated that he is appearing on behalf of Namco Pools to request a special permit to install a wall sign that slightly exceeds the fifty (50) square foot maximum area for a wall sign. He noted that at the time the plaza was being renovated, the owner indicated that the proposed signage would be acceptable only to find out later that it did not comply with City standards. He stated that the building has 74-feet of frontage and thereby setting the wall sign area limit at a maximum 50 square feet. He stated that he is appealing to the Board to allow a wall sign that is 67.5-square feet. He noted that this is smaller than the temporary 68 square feet banner that is currently up. He distributed a hand-out to the Board illustrating the sizes of the signs that are directly adjacent to Namco. He suggested that the proposed sign will be similar to those on surrounding stores.

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

**The Board heard Case #5396, the application of Cannatech Medicinals, Inc. for a variance pursuant to §17-8.9 VARIANCES from the minimum required distance between a proposed registered marijuana dispensary and a parcel on which a recreational area is located pursuant to §17-10.15(D)(1)(F) REGISTERED MARIJUANA DISPENSARY USES; the subject premises being located at**

**220 O'Neil Boulevard, more specifically Assessor's plat #46, lot #56A and #58A, located in the Industrial zoning district.**

Speaking in favor of the application was attorney Edward Casey who stated that his client currently has a special permit application filed before the Municipal Council for a Registered Medical Marijuana Dispensary at 220 O'Neil Boulevard. He stated they have also already secured a Host Community Agreement with the City of Attleboro and obtained a Letter of Non-Opposition from the Municipal Council. He noted that a public hearing before the Municipal Council is likely to be scheduled some time in June. He stated that the subject building is larger than 3,000 square feet, but the dispensary portion of the business is limited to 3,000 square feet by the city's Zoning Ordinance. He noted that the Council recently amended the Zoning Ordinance relative to the requisite minimum distances between RMDs as well as the how to measure distances. He explained that they are seeking a special permit to open this facility within the minimum distance from "any public park, recreational area, or facility in which children commonly congregate", as there is a gymnastics facility located at 182 East Street. He stated that from the closest points of the buildings, the distance to the gymnastics center is about 300 feet, which fails to meet the minimum 500-foot requirement. He stated his belief that the Council's goal with these regulations is to reduce the chance of the facility becoming an attractive nuisance, drawing in susceptible young people, much like similar regulations that apply to businesses selling alcohol. He stated that there is a five-foot or a six-foot tall fence topped with barbed wire on the premises that runs from the intersection of O'Neil Boulevard with East Street all the way down to George Street. He stated that there is a second fence with barbed wire beyond that, creating a significant buffer for the property. He stated that the building is not even visible from the gymnastic center, as there is thick vegetation shielding it. He stated that for children who are patronizing the gymnastics facility to visit the RMD, they would have to walk the length of O'Neil Boulevard. He stated that even if they did walk that distance, they would be unable to access the facility, as the entrance is controlled. He noted that advertising marijuana in any respect is prohibited, so no signage is proposed to draw children.

Chairman Hutchings requested details on how the building will operate, including hours of operation.

Speaking in favor of the application was Steve Pimental of Cannatech Medicinals who stated that they must comply to strict guidelines of the Commonwealth's Department of Public Health. He stated that the facility will be very secure. He stated that all employees will be vetted by the state. He stated that their proposed tentative hours of operation are 9:00 a.m. to 7:00 p.m. and that they are willing to negotiate those hours with the Board. He noted that customers will not be consuming marijuana on the property, and that they will be strictly selling goods for home consumption.

Mr. Ayrassian inquired about the number of employees who would work on the premises at any given time.

Mr. Pimental stated that the business has a cultivation site in Fall River and so the Attleboro site will strictly serve as the dispensary.

Mr. Ayrassian clarified his desire to know the maximum number of employees who would be working on the site at any given shift.

Attorney Casey stated that there will be a mix of full-time and part-time employees, for a total of 40 positions. He stated that there will be 11-12 employees working at the facility at any given time. He stated that customers will park on the premises and that appropriate security, in terms of lighting, will be provided. He stated that clients will need to buzz to enter the building and provide two forms of identification. He stated that clients will leave after making a purchase, as there is no encouragement of consumption on site in the way of outdoor tables or picnic benches.

Mr. Ayrassian sought to confirm that cannabis would not be processed on site and that the only activity on the premises would be sales.

Mr. Pimental replied that all of the processing occurs in Fall River and that only the end product will be sold in Attleboro.

Mr. Ayrassian inquired about the proposed security system for the delivery trucks bringing the product to the site.

Attorney Casey pointed out the location of a secured delivery area at the rear of the building.

Mr. Pimental noted that the trucks used for transport have no markings and are tracked by the state using GPS in real time. He stated that deliveries are scheduled and security guards are ready and waiting when the truck arrives. He stated that they are proposing two independent security camera systems for the site to track all arrivals and departures. He stated that delivery times are intentionally varied. He stated that there is no set schedule. He stated that he is not aware of any security issues at other local dispensaries.

Attorney Casey noted that the City's Police Department has access to the security camera feeds.

Mr. Pimental stated that they have had meetings with the Building Inspector, Fire Department, and Police Department for input on the project. He stated his understanding that the departments were generally on-board with the proposed security plans.

Chairman Hutchings pointed out that the only recent murder that has occurred in Attleboro has been drug related and that the Board wants to ensure that the facility is secure.

Attorney Casey stated that O'Neil Boulevard is not a common thoroughfare for children, reducing the chance of innocent bystanders in the event of a crime occurring. He stated that he believes that this was the purpose of the Council in relegating such facilities to the Industrial zoning districts in order to keep them away from children and the general public.

Mr. Ayrassian inquired about the gymnastics facility's business hours.

Senior Land Use Planner Stephanie Davies stated that classes for infants and young toddlers tend to be offered in the morning and classes for school-aged children ranged from 3:00 p.m. to 5:00 p.m. She stated that the site also hosts competitive gymnastics teams, so there are various programs throughout the day.

Chairman Hutchings inquired about the number of shipments and the general schedule.

Mr. Pimental confessed that he was unsure, as this is the first dispensary facility they will be opening. He estimated that deliveries could be two to three times a week, depending upon the demand. He noted that money will not be kept long-term on site and that bank deposits will be done frequently in a discreet manner.

Sandra Varrieur asked about the anticipated daily patient load.

Mr. Pimental stated that it will depend upon the demand in the area and noted that two to three other dispensaries are already proposed in Attleboro. He estimated 20 to 25 individuals per hour, with a quick turnover. He estimated a total of 200 people per day. He noted that many of the patients are anticipated

to be parents retrieving medication for their children. He noted that all of their products are prepackaged.

Ms. Davies questioned whether a retail component will be added to the facility should the Council lift the present moratorium on retail marijuana sales.

Mr. Pimental suggested that such a change in use would be up to the discretion of the City and that all of their permitting is in line for medicinal marijuana.

Attorney Casey noted that the state Cannabis Control Commission will begin regulating the cannabis business instead of the Public Health Department once recreational cannabis is allowed.

The Board read into the record the letter of opposition from Diane Martin of 182 East Street, received May 8, 2018.

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

**The Board heard the new public hearing for Case #5394, the application of SOWA, LLC 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; a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-5.9(E) GENERAL PARKING AND LOADING SPACE STANDARDS to reduce the required number of off-street parking stalls; and a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.5(#23) TABLE OF ACCESSORY USE REGULATIONS to construct a drive-through window in conjunction with a bank, the subject premises being located at 1 Highland Avenue and 5 Route 1A, more specifically Assessor's plat #64, lot #1A and 1B, located in the General Business zoning district.**

Speaking in favor of the application was attorney Jack Jacobi of Coogan Smith on behalf of SOWA, LLC. He explained that they have redesigned a substantial portion of the previously approved plan to accommodate two new tenants and changes for one other tenant. He noted that no changes are proposed to the previously approved Chick-fil-A portion of the property. He stated that the location of the Denny's restaurant is slightly shifted and slightly bigger. He stated that a Red Lobster restaurant has been added to the site as well as a Citizen's Bank with a drive-up window exclusively for an ATM. He stated that as a result of these changes, the other previously approved, larger, retail buildings have been proportionally reduced in size. He stated that all of the parking stalls would remain 9'x18' to match the balance of the shopping plaza.

Cathy Merkle asked whether one or two ATMs are proposed.

Attorney Jacobi replied one ATM is proposed. He stated that the proposed changes to the plan yield a requirement for 335 parking spaces and they are proposing 270 parking spaces. He noted that in comparison, the previously approved plan required 277 parking spaces and they provided 292 parking spaces. He stated that the proposed plan shows 22 fewer parking spaces. He stated that they are still developing plans for fencing and landscaping to protect the neighbors on the other side of Angeline Street.

Chairman Hutchings stated that plantings are important, but it's not crucial to the Board's review of the project.

Cathy Merkle agreed but noted that the Board is interested to see how the residents on Angeline Street will be protected from the proposed modifications.

Attorney Jacobi stated that their engineer will appear at the next meeting to present the traffic data and report.

Ms. Davies informed the Board that SOWA, LLC filed a Major Site Plan Review application with the Planning Board.

Attorney Jacobi added that they have also filed an amended Stormwater Management Permit application. He stated that their plan revisions resulted in the relocation of the inlets to the underground basins and that the Commission concluded that that would trigger the need for an amended Stormwater Management Permit. He stated his understanding that it will undergo a peer review by Horsley Witten Group. He noted that they will be before the Conservation Commission on June 6<sup>th</sup> and before the Planning Board on June 21<sup>st</sup>.

Mr. Ayrassian asked why they are requesting to reduce the dimension of all of the off-street parking stalls.

Attorney Jacobi replied that it would apply to the entire site as they are utilizing a shared parking plan.

Chairman Hutchings expressed concern about the stacking lane for the ATM drive-up window. He stated that the length of the stacking lane appears to be insufficient. He emphasized that bank patrons take a considerable amount of time making deposits.

Attorney Jacobi speculated that there is space for six cars.

Mr. Ayrassian argued that cars would end up queuing in the travel lane.

Attorney Jacobi stated that they will review the design and propose any necessary revisions to avoid the concerns that were expressed.

Sandra Varrieur expressed concern about the location of dumpsters and asserted that the residents along Newport Avenue be shielded from the unsightly features.

Attorney Jacobi replied that the dumpsters are located between the two retail buildings along Newport Avenue and that a tall stone wall shields the view of the dumpsters from Newport Avenue. He stated that the architecture of the buildings resembles residential buildings rather than stores. He emphasized that they are maintaining the very particular residential look to the retail buildings on the side facing the neighbors on Newport Avenue. He stated that the buildings are in the same location just smaller.

Mr. Ayrassian sought to confirm that the rooftop HVAC units are shielded from view, as well.

Attorney Jacobi replied yes.

Speaking in opposition was Wanda Gaban of 618 Newport Avenue. She stated that she felt the new design is too crowded and that there will be insufficient space for patrons to circulate on the site. She stated that there are already traffic problems with the surrounding shopping plazas and that additional development will exacerbate the congestion resulting in more traffic and accidents.

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

**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.**

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

The Board held a business meeting.

**The Board discussed Case #5393, the application of B&T Triboro, LLC for a variance pursuant to §17-8.9 VARIANCES from the minimum lot area requirement pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to construct a duplex, the subject premises being located at 92 Ottawa Street, more specifically Assessor's plat #60, lot #24, located in the General Residence-A zoning district.**

Keith Hutchings made a motion to grant a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS to accommodate the construction of a two-family dwelling, as shown on the site plan entitled "VARIANCE PLAN - #92 OTTAWA STREET" drawn by John H. Risser, R. L.S. of Risser Engineering Company, 93 George Leven Drive, Unit 3, North Attleborough, MA 02760, dated March 22, 2018. Cathy Merkle seconded the motion. A discussion followed and all voted in favor. Keith Hutchings made a motion to grant a special permit pursuant to §17-6.0 NON-CONFORMING USES, STRUCTURES AND LOTS to accommodate the construction of a two-family dwelling, as shown on the site plan entitled "VARIANCE PLAN - #92 OTTAWA STREET" drawn by John H. Risser, R. L.S. of Risser Engineering Company, 93 George Leven Drive, Unit 3, North Attleborough, MA 02760, dated March 22, 2018. Cathy Merkle seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

Keith Hutchings made a motion to dismiss a variance pursuant to §17-8.9(A) VARIANCES of one thousand six hundred (1,600) square feet from the minimum lot area requirement of ten thousand (10,000) square feet pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to accommodate the construction of a two-family dwelling, as shown on the site plan entitled "VARIANCE PLAN - #92 OTTAWA STREET" drawn by John H. Risser, R. L.S. of Risser Engineering Company, 93 George Leven Drive, Unit 3, North Attleborough, MA 02760, dated March 22, 2018. Cathy Merkle seconded the motion. The Board found that the appropriate form of relief is a special permit, not a variance. Therefore, the Board dismissed the requested relief in consideration of the applicant's request to amend the application.

**The Board discussed Case #5398, the application of New England Builds, Inc. for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS to construct a two-family dwelling on a pre-existing non-conforming lot, the subject premises being located at 74 Orange Street, more specifically Assessor's plat #46, lot #451, located in the General Residence-A zoning district.**

Keith Hutchings made a motion to grant a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS to allow the construction of a two-family dwelling on a pre-existing non-conforming lot, as shown on the site plan. Sandra Varrieur seconded the motion. A discussion followed and all voted in favor. Keith Hutchings made a motion to grant a special permit pursuant to §17-6.0 NON-CONFORMING USES, STRUCTURES AND LOTS to allow the construction of a two-family dwelling on a pre-existing non-conforming lot, as shown on the site plan. Sandra Varrieur seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

**The Board discussed Case #5395, the application of William L. Provost and Kathleen A. Provost for variances pursuit to §17-8.9 VARIANCES under §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS from the minimum lot area, lot width, front yard setback, and side yard setback**

**requirements associated with the subdivision of an existing lot and the creation of a buildable lot for a single-family dwelling, the subject premises being located at 21 Tiffany Street, more specifically Assessor's plat #22, lots #127, located in the General Residence -B zoning district.**

Keith Hutchings made a motion to grant a variance pursuant to §17-8.9(A) VARIANCES of three thousand three hundred and eight (3,308) square feet from the minimum lot area requirement of twelve thousand (12,000) square feet pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to create a buildable lot, as shown as "Lot #1" on the plan entitled "SKETCH #2, PLOT PLAN OF LAND IN ATTLEBORO, MA" dated January 12, 2018. Cathy Merkle 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 one thousand five hundred and fifty-seven (1,557) square feet from the minimum lot area requirement of twelve thousand (12,000) square feet pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to create a buildable lot, as shown as "Lot #2" on the plan entitled "SKETCH #2, PLOT PLAN OF LAND IN ATTLEBORO, MA" dated January 12, 2018. Cathy Merkle 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 twenty (20') feet from the minimum lot width requirement of one hundred (100') feet pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to create a buildable lot, as shown as "Lot #1" on the plan entitled "SKETCH #2, PLOT PLAN OF LAND IN ATTLEBORO, MA" dated January 12, 2018. Cathy Merkle 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 ten (10') feet from the minimum lot width requirement of one hundred (100') feet pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to create a buildable lot, as shown as "Lot #2" on the plan entitled "SKETCH #2, PLOT PLAN OF LAND IN ATTLEBORO, MA" dated January 12, 2018. Cathy Merkle 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 twelve (12') feet from the minimum front yard setback requirement of thirty (30') feet pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to create a buildable lot, as shown as "Lot #1" on the plan entitled "SKETCH #2, PLOT PLAN OF LAND IN ATTLEBORO, MA" dated January 12, 2018. Cathy Merkle 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 nine (9') feet from the minimum side yard setback requirement of fifteen (15') feet pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to create a buildable lot, as shown as "Lot #1" on the plan entitled "SKETCH #2, PLOT PLAN OF LAND IN ATTLEBORO, MA" dated January 12, 2018. Cathy Merkle seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

**The Board discussed Case #5360, the application of David Sisson on behalf 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 32 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.**

Keith Hutchings made a motion to grant a variance pursuant to §17-8.9(A) VARIANCES of seventeen thousand two hundred thirteen (17,213) square feet from the minimum lot area requirement of thirty-seven thousand (37,000) square feet pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to accommodate thirty-two (32) multi-family dwelling units in a mixed-use building, as shown on the site plan entitled "1642 - 2-4 PARK ST." prepared by David M. Sisson, R.A. of David Sisson Architecture, P.C., 238 Fifth Street, Providence, RI 02906, dated July 6, 2017 revised through May 9, 2018. Cathy Merkle seconded the motion. A discussion followed. All voted in favor. Keith Hutchings made a motion to grant a special permit pursuant to §17-9.0 SPECIAL PERMITS from the provisions of §17-5.9(F) GENERAL PARKING AND LOADING SPACE STANDARDS to reduce the requisite minimum number of off-street parking stalls from one hundred sixty five (165) to zero (0) to accommodate thirty-two (32)

multi-family dwelling units in a mixed-use building, as shown on the site plan entitled "1642 - 2-4 PARK ST." prepared by David M. Sisson, R.A. of David Sisson Architecture, P.C., 238 Fifth Street, Providence, RI 02906, dated July 6, 2017 revised through May 9, 2018. Cathy Merkle seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

**The Board discussed Case #5372, the application of BAART Programs of Massachusetts and Baymark Health Services, Inc. for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.1 USE DESIGNATIONS to operate a medical office/health care facility, a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-5.9(E) GENERAL PARKING AND LOADING SPACE STANDARDS to reduce the required minimum number of off-street parking stalls, and a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-5.7 MUNICIPAL PARKING LOTS to allow parking in a municipal parking lot located within one thousand (1,000') feet of the building which they are intended to serve, the subject premises being located at 23 North Main Street (previously referred to as 21 North Main Street), more specifically Assessor's plat #31, lot #11, located in the Central Business 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 operate a medical office/health care facility, the subject premises being located at 23 North Main Street, more specifically Assessor's plat #31, lot #11, as shown on the site plan entitled "SITE PLAN - BAYMARK HEALTH SERVICES" drawn by Andrews Survey & Engineering, Inc., 500 East Washington Street, North Attleborough, MA 02760, dated November 13, 2017. Kathy Rautenstrauch seconded the motion. A discussion followed. All voted in favor. Keith Hutchings made a motion to grant a special permit pursuant to §17-9.0 SPECIAL PERMITS from the provisions of §17-5.9(E) GENERAL PARKING AND LOADING SPACE STANDARDS to reduce the required minimum number of off-street parking stalls from eighteen (18) to six (6) in association with the operation of a medical office/health care facility, the subject premises being located at 23 North Main Street, more specifically Assessor's plat #31, lot #11, as shown on the site plan entitled "SITE PLAN - BAYMARK HEALTH SERVICES" drawn by Andrews Survey & Engineering, Inc., 500 East Washington Street, North Attleborough, MA 02760, dated November 13, 2017. Kathy Rautenstrauch seconded the motion. A discussion followed. All voted in favor. Keith Hutchings made a motion to grant a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-5.7 MUNICIPAL PARKING LOTS to allow the substitution of nineteen (19) off-street parking stalls within the Sanford Street municipal parking garage, which is located within one thousand (1,000') feet of the building which they are intended to serve in association with the operation of an addiction treatment health care facility, the subject premises being located at 23 North Main Street, more specifically Assessor's plat #31, lot #11. Kathy Rautenstrauch seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

**The Board discussed Case #5397, the application of Peter J. Bassett 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 pursuant to §17-16.9 TABLE OF PERMITTED SIGNS & DIMENSIONAL REGULATIONS, the subject premises being located at 1270 Newport Avenue, more specifically Assessor's plat #27, lot #4, located in the Planned Highway Business zoning district.**

Keith Hutchings made a motion to grant a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-16.9 TABLE OF PERMITTED SIGNS & DIMENSIONAL REGULATIONS to accommodate the installation of a two hundred eighty nine (289) square foot wall sign that exceeds the maximum allowable area of fifty (50) square feet by two hundred thirty nine (239) square feet, as shown on the site plan entitled "BRISTOL PLACE, 1130 NEWPORT AVENUE, ATTLEBORO, MASSACHUSETTS 02703 - TJ MAXX SITE PLANS" drawn by Center Mount Land Development, LLC, with an office at 70 Opal Avenue, Middleborough, MA 02346, dated April 16, 2018 and as shown on the elevations entitled "BRISTOL PLACE SHOPPING CENTER" designed by Harrison French & Associates, LTD, 31 Hayward Street, Franklin, MA 02038, dated February 22, 2018 and revised through April 17, 2018. Cathy Merkle seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

**The Board discussed Case #5392, the application of Artfx Signs 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 pursuant to §17-16.9 TABLE OF PERMITTED SIGNS & DIMENSIONAL REGULATIONS, the subject premises being located at 287 Washington Street, more specifically Assessor's plat #14, lot #73, located in the Planned Highway Business zoning district.**

Keith Hutchings made a motion to grant a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-16.9 TABLE OF PERMITTED SIGNS & DIMENSIONAL REGULATIONS to accommodate the installation of a sixty seven and a one-half (67.5) square foot wall sign that exceeds the maximum allowable area of fifty (50) square feet by seventeen and a half (17.5) square feet, as shown on the sign specifications entitled "NAMCO SOUTH ATTLEBORO, MA" drawn by Artfx, with an office at 27 Britton Drive, Bloomfield, CT 06002, dated March 2, 2018. Kent Richards seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

**The Board discussed Case #5396, the application of Cannatech Medicinals, Inc. for a variance pursuant to §17-8.9 VARIANCES from the minimum required distance between a proposed registered marijuana dispensary and a parcel on which a recreational area is located pursuant to §17-10.15(D)(1)(F) REGISTERED MARIJUANA DISPENSARY USES; the subject premises being located at 220 O'Neil Boulevard, more specifically Assessor's plat #46, lot #56A and #58A, located in the Industrial zoning district.**

Cathy Merkle made a motion to grant a variance pursuant to §17-8.9 VARIANCES of two hundred seventy-six (276') feet from the minimum required distance of five hundred (500') feet between a Registered Marijuana Dispensary and a parcel on which "any public park, recreational area, or facility in which children commonly congregate" is located pursuant to §17-10.15(D)(1)(F) REGISTERED MARIJUANA DISPENSARY USES, as shown on the site plan, entitled "HEALTH FOR LIFE DISPENSARY" drawn by Robert L. Davis, R.P.E. of InSite Engineering Services, LLC, 1539 Fall River Avenue, Seekonk, MA 02771, dated September 6, 2017, revised through April 3, 2018. Cathy Merkle seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

**The Board read the letter from attorney John F. D. Jacobi, III, dated April 26, 2018, requesting a one (1) year extension of time for the variance and special permit issued to Crugnale Properties, LLC for 95 South Main Street, Case #5322.**

Chairman Hutchings made a motion to grant an extension of six (6) months relative to the variance issued to Crugnale Properties, LLC for the development at 95 South Main Street, Case #5322. Cathy Merkle seconded the motion. All voted in favor to grant an extension of six (6) months relative to the variance.

Chairman Hutchings made a motion to grant an extension of one (1) year relative to the special permit issued to Crugnale Properties, LLC for the development at 95 South Main Street, Case #5322. Cathy Merkle seconded the motion. All voted in favor to grant an extension of one (1) year relative to the special permit.

**The Board read the email from Lyle Bookbinder of Mobilitie, received April 26, 2018, to Senior Land Use Planner Stephanie Davies requesting a correction to the special permit decision issued to Mobilitie, LLC for 480 Pleasant Street, Case #5366.**

Ms. Davies explained that a replacement pole is required, creating a total structure height of 34-feet. She stated that the decision needs to recognize the adjusted height for the antennae mounted on top as well as an error in the wattage that was referenced.

Chairman Hutchings made a motion to amend the decision to reflect the corrected height and wattage. Sandra Varrieur seconded the motion. All voted in favor to amend the decision to reflect the corrected height and wattage.

The Board reviewed all remaining correspondence.

The Board tabled the pending minutes December 14, 2017, January 11, 2018, February 8, 2018, March 8, 2018, and April 12, 2018.

The meeting adjourned at 9:53 p.m.