



# City Of Attleboro, Massachusetts

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

**JUNE 9, 2022**

In accordance with the provisions of the General Laws of Massachusetts, Chapter 40A, as amended, public hearings were held on Thursday, June 9, 2022 at 6:30 p.m. in the Municipal Council Chambers located at Government Center, 77 Park Street, Attleboro, MA 02703, relative to the following:

Zoning Board Members Present: Chairwoman Cathy Merkle, Johnny Bender, Kathy Rautenstrauch, Kent Richards, and Sandra Varrieur

Members Absent: None

The Board heard the continued public hearing relative to Case #5598, the application of City of Attleboro for a special permit pursuant §17-9.0 SPECIAL PERMITS and §17-12.0 FLOODPLAIN DISTRICT for work/excavation within the 100-year floodplain associated with the replacement of the Pitas Avenue bridge over the Seven Mile River, the subject premises being located within the Pitas Avenue right-of-way, located in the Single Residence -B zoning district and Single Residence -C zoning district .

The Board read the Form Z1 - Request to Continue a Public Hearing to July 14, 2022, submitted by Public Works Superintendent Michael Tyler on behalf of the City of Attleboro, received June 9, 2022, relative to the city's special permit application for Pitas Avenue, Case #5598.

Cathy Merkle made a motion to continue the public hearing to July 14, 2022. Kent Richards seconded the motion. All voted in favor to continue the public hearing.

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

The Board heard the continued public hearing relative to Case #5582, application of Anthony Properties Realty, Inc. for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.4(#3) TABLE OF USE REGULATIONS - RESIDENTIAL for the construction of a 323-unit multi-family development contained in four buildings, a special permit pursuant to §17-9.0 SPECIAL PERMITS and §17-10.2 EARTH REMOVAL for an earth removal operation associated with the construction the multi-family development, a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-5.9(E) GENERAL PARKING AND LOADING SPACE STANDARDS to allow a reduction from the requisite minimum number of off-street parking spaces pursuant to §17-5.10 TABLE OF OFF-STREET PARKING REGULATIONS, a special permit pursuant to §17-9.0 SPECIAL PERMITS and §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS to alter a pre-existing non-conforming commercial building and parking lot, a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.5(#23) TABLE OF ACCESSORY USE REGULATIONS to construct two drive-thru windows in association with the proposed commercial/restaurant buildings, a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-16.3 ADMINISTRATION to vary from the sign standards by exceeding the maximum number of signs on the site, variance pursuant to §17-8.9 VARIANCES to exceed maximum allowable number of stories for a residential building under §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS, a variance pursuant to §17-8.9 VARIANCES from the provisions of §17-5.9(D) GENERAL PARKING AND LOADING SPACE STANDARDS to exceed the maximum permissible entrance/exit driveway width, 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 of some parking stalls, and a variance pursuant to §17-8.9 VARIANCES from the provisions of §17-5.9(A) GENERAL PARKING AND LOADING SPACE STANDARDS to allow some off-street parking stalls to be located within the in minimum requisite front yard setback, in association with the construction of a mixed-use development consisting of 323-unit multi-family residential dwelling units, two commercial/restaurant buildings and associated drive-up windows, a children's day care center, travel lanes, parking lots, landscaping, lighting, public amenities, water and sewer infrastructure, stormwater management system, utilities, and associated grading, the subject premises being located at 754 Newport Avenue, more specifically Assessor's plat #69, lot #26B, located in the General Business zoning district and General Residence -A zoning district.

Speaking in favor of the application was attorney Edward Casey who requested an extension of time to July 31, 2022 on behalf of Anthony Properties Realty, Inc.

Cathy Merkle made a motion to grant an extension of time to July 31, 2022. Kent Richards seconded the motion. All voted in favor to grant an extension of time.

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

The Board heard the continued public hearing relative to Case #5604, the application of Ashli's Farm, Inc. and Ashli's Extracts, Inc. for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-10.15 MARIJUANA BUSINESS USES to establish a marijuana cultivation and manufacturing facility, a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-10.2 EARTH REMOVAL for an earth removal operation associated with the construction of the marijuana facility, a special permit pursuant to §17-9.0 SPECIAL PERMITS to modify the minimum screening and bufferyard requirements pursuant to §17-4.4.5 REQUIRED SCREENS AND BUFFERYARDS, a variance pursuant to §17-8.9 VARIANCES from the minimum required distance between a proposed marijuana business and a residential zoning district pursuant to §17-10.15(G)(3)(A) MARIJUANA BUSINESS USES, a variance pursuant to §17-8.9 VARIANCES to exceed the maximum permissible entrance/exit driveway width pursuant to §17-5.9(D) GENERAL PARKING AND LOADING SPACE STANDARDS, a variance pursuant to §17-8.9 VARIANCES from the provisions of §17-5.1 OFF-STREET PARKING REQUIREMENTS to reduce the required off-street parking stall dimensions, and a variance a variance pursuant to §17-8.9 VARIANCES from the provisions of §17-5.11 TABLE OF OFF-STREET LOADING REGULATIONS to reduce the required minimum number of off-street (un)loading stalls, the subject premises being located at 76 Frank Mossberg Drive, more specifically Assessor 's plat #145, lot #1A, located in the Industrial zoning district.

Speaking in favor was attorney Edward Casey who requested an extension of time to July 31, 2022 on behalf of Ashli's Farm, Inc. and Ashli's Extracts, Inc.

Cathy Merkle made a motion to grant an extension of time to July 31, 2022. Sandy Varrieur seconded the motion. All voted in favor to grant an extension of time.

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

The Board heard the continued public hearing relative to Case #5612, the application of David M. Turner 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 create a buildable lot, the subject premises being located at 235 Tiffany Street, more specifically Assessor's plat #86, lot #5A, #5D, #6, and #8C, located in the Single Residence -D zoning district.

There being no one present to speak, Cathy Merkle made a motion to continue the public hearing to July 14, 2022. Kent Richards seconded the motion. All voted in favor to continue the public hearing.

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

**The Board heard the continued public hearing relative to Case #5600, the application of S&A Fuels, Inc. for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS to expand a pre-existing non-conforming business use by adding a fried chicken eatery to an existing gasoline station/convenience store, the subject premises being located at 939 and 947 Newport Avenue, more specifically Assessor's plat #18, lots #486-#492, located in the Single Residence-A zoning district.**

Attorney George Spatcher spoke in favor and confirmed that the optional odor and pollution control module will be included for the proposed exhaust system. He stated that his client will have a contract with the installer to maintain the system every three months. He stated that in terms of parking, there are seven spaces in front of the store, eight spaces behind the store, and another eight spaces, for a total of 23 spaces.

Cathy Merkle sought confirmation that the business is strictly take-out.

Attorney Spatcher replied yes and asserted that there is no indoor or outdoor seating.

Speaking in opposition was Jeff O'Gara who stated that he has been coming to speak in opposition since 2014 when this property was originally approved for a gas station and convenience store. He stated that at that time, a traffic study was prepared and the Board decided to eliminate the drive-up window, restrict the operating hours, and identify snow storage areas. He stated that that approval did not acknowledge any type of restaurant. He stated that if a restaurant had been included in the initial traffic study, that he felt there would have been a very different outcome, as he feels the site is drawing additional traffic for patrons seeking the food. He stated that the site is developing into a truck stop, where the operators of large trucks are waiting on site for food. He stated that he has observed patrons parking in the spot for diesel gas when they can't find a parking space in front of the store. He asserted that the site does not have the necessary infrastructure to support the amount of traffic a restaurant draws.

Cathy Merkle confirmed that Mr. O'Gara has concerns with the food odors as well as for additional traffic.

Speaking in opposition was Mary Chun who queried whether the request before the Board is to change the site's zoning to accommodate the restaurant that is already operating.

Director of Planning and Development Gary Ayrassian replied no. He stated that the applicant is not before the Board to change the zoning.

She stated that she agrees with the concerns raised by Mr. O'Gara and continues to be in opposition.

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

**The Board heard the continued public hearing relative to Case #5611, the application of Debra Carroll for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.1 USE DESIGNATIONS to operate an artisan market, the subject premises being located at 129 Bank Street, more specifically Assessor's plat #47, lot #1, located in the Industrial zoning district.**

Debra Carroll stated that she has nothing further to present.

Senior Land Use Planner Stephanie Davies noted that the hearing had been held open for the staff to discuss with the Building Commissioner the calculations for parking. She stated that the Building Commissioner agreed with the parking calculations in the staff report. She stated that the junk car storage will be required to come before the Zoning Board for a special permit and the Municipal Council for a license, at which time the parking for that use would be regulated. She stated that there are 65 spaces on site and that staff have found there is more than enough for the current uses.

Speaking neither for nor against the application was attorney Ed Casey of Coogan Smith, LLP who noted that his colleague attorney Jack Jacobi had previously spoke in opposition to this proposal, due to concerns about vehicles potentially parking in the lot for their attorney office across the street to access this business. He stated that attorney Jacobi withdraws his opposition to the project.

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

**The Board heard the continued public hearing relative to Case #5614, the application of José Cruz 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 create a buildable lot, the subject premises being located at 0 Torrey Street, more specifically Assessor's plat #61, lot #203, #209, #210, and #211, located in the General Residence -A zoning district .**

Speaking in favor of the application was Leonard Bouffard of Civil Environmental Consultants, LLC who explained his client owns four lots on Torrey Street and that he is proposing to build housing. He stated that they are aware that they need to file with the Conservation Commission. He stated that the property is a pre-existing non-conforming lot. He stated that a lot width variance is being sought. Mr. Ayrassian disagreed with Mr. Smith's characterization of the lot as pre-existing, non-conforming. Mr. Bouffard stated that he traced back the deeds for the property to 1925 with the same configuration, but they are seeking a variance. Mr. Ayrassian stated that it does not make sense to pursue a variance if the is a pre-existing, non-conforming, lot. He stated that having pre-existing non-conforming status means the lot is grandfathered and therefore does not need the variance to make it a buildable lot.

Mr. Ayrassian went on to say that a 13-foot lot width variance is requested.

Mr. Bouffard stated that that is correct.

Mr. Ayrassian asked the rationale for the grant of the variance.

Mr. Bouffard replied the lot configuration. He stated that Torrey Street is an accepted public way, all the way to the end. He stated that they are looking to extend the pavement, as it ends just before the lot. He stated that they are also proposing a hammerhead turnaround at the request of the Fire Department to accommodate emergency vehicles.

Mr. Ayrassian asserted that what he is describing is a filing with the Planning Board for a street extension plan.

Mr. Bouffard stated their intent to file with the Conservation Commission first and then file with the Planning Board.

Mr. Ayrassian asserted that they need to apply to the Planning Board now, as he questioned the adequacy of the frontage.

Ms. Davies noted that the Council votes indicate that Torrey Street was accepted to the end of the layout despite not being entirely paved to the end of the layout.

Mr. Ayrassian stated that that last piece of information is critical and he advised that the applicant prepare to file with the Planning Board, in addition to the Zoning Board and Conservation Commission, while the frontage matter is resolved.

Mr. Bouffard stated that the lot has frontage as the right-of-way is accepted to the end, despite not being paved.

Cathy Merkle suggested the applicant meet with the staff to work out the question of the lot's frontage.

Speaking in favor was Dave Dubeck of Century 21 who stated that he had previously listed the property about five years ago. He stated his support for more homes constructed in Attleboro.

Speaking in opposition was Jackie Solberg of 25 Torrey Street who stated she lives adjacent to where the home is proposed. She stated that Raymond Street is a paper road and contains both wetlands and a vernal pool, which she said does not appear on any of the plans. She stated that the pavement on Torrey Street ends at her neighbor's driveway, but that she did not think the pavement extended even 20-feet in front of this property. She stated that Torrey Street is not a wide road and she did not think a hammerhead turnaround would be sufficient to accommodate fire trucks. She noted that the closest fire hydrant is on Emory Street, at the entrance of Raymond Street, and suggested that the lot will have to be cleared at the opposite end to facilitate access.

Cathy Merkle stated that the matter before the Board is lot width, not lot frontage. Ms. Solberg asked how a hammerhead turnaround could be installed when the applicant does not own the street.

Mr. Ayrassian stated that one does not need to own a street to make improvements and that in this case, the hammerhead turnaround would be designed and constructed on private property, applicant's property.

Cathy Merkle asked Ms. Solberg if she would still be opposed to the proposal if the applicant gets all necessary approvals from the Conservation Commission and Planning Board.

Ms. Solberg answered yes. She stated that the property is beautiful and putting a duplex in there would change the whole environment of the neighborhood. She stated that the house is proposed to be less than 80-feet wide while her lot is 100-feet wide, so it would not fit in with the neighborhood. She added that her backyard would be looking at this new property's front porch and will be subjected to all the comings and goings of two additional families.

Speaking in opposition was Debra King of 26 Torrey Street who stated that her house is across the street from the proposed construction. She stated that she is in agreement with Ms. Solberg's statements.

Cathy Merkle asked whether Ms. King would still be in opposition if all of the other approvals were granted.

Ms. King answered yes, due to the potential detriment to the environment. She stated that she feels the lot is too close to the wetlands and that the construction will disrupt the delicate ecosystem.

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

**The Board heard the continued public hearing relative to Case #5590, the application of No Fossil Fuel, LLC for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.1 USE DESIGNATIONS to construct a ground-mounted solar photovoltaic facility, the subject premises being located at 179 Peckham Street, more specifically Assessor 's plat #209, lot #3, located in the Single Residence -D zoning district .**

Haskell Werlin spoke in favor and noted that they were before the Zoning Board in January and have been working with the Conservation Commission and DEP since that time at the direction of the Board. He explained that the wetlands had to be reflagged in February and it was determined that there was a potential vernal pool on the property, which required them to adjust the limit of work for the solar panels. He stated that they also worked through a review with Natural Heritage and Endangered Species Program staff. He stated that NHESP eventually deemed the project as having no adverse impact on endangered species. He stated that they are still in the post-closure use permit stage with DEP, but should receive their permit within the next 45 days. He stated that a work session was held with the City's stormwater management peer review consultant last week and that he felt they addressed all of the peer review consultant's comments.

Ms. Davies informed the Board that the Conservation Commission had not yet granted any approvals.

Speaking in favor of the application was Shawn O'Donnell of No Fossil Fuel, LLC who stated that the only change before the Commission was removing some of the proposed solar panels out of the 125-foot buffer yard that surrounds the potential vernal pool.

Ms. Davies asked Mr. Werlin to refresh the Board of the project's scope now that they have aligned the applications that are before the Commission with the application that is before the Board.

Mr. Werlin stated that the solar panels will be constructed on the Phase A and Phase B areas concurrently. He stated that solar panels on the Phase A area will be installed on the crown of the capped landfill while solar panels on the Phase B area will abut the wetlands. He stated that combined, the two phases will produce 2.39 megawatts of DC power. He stated that the energy will be transmitted from overhead poles to Peckham Street and then to the nearby substation. He stated that the project will not involve penetration of the landfill cap, as they are proposing to use concrete ballasts to anchor the panels.

Mr. Ayrassian sought confirmation that the concrete ballasts will hold the solar panels in place without any anchors or screws.

Mr. Werlin answered yes. He stated that the concrete ballasts are over-engineered such that the solar panels can withstand up to 110 mile per hour winds.

Mr. Ayrassian sought confirmation that the entire project is to be developed concurrently.

Mr. O'Donnell answered yes.

Mr. Ayrassian asked if the solar panels are fixed or articulate.

Mr. Werlin confirmed that the panels are fixed. He stated that they are oriented 180 degrees south to maximize solar gain.

Mr. Ayrassian questioned how the areas will be accessed.

Mr. Werlin showed the access by use of the site plan.

Ms. Davies asked whether any excavation is necessary.

Mr. Werlin answered no, as the existing mound of dirt on site will likely be used in the recreate area. He noted that if any soil leaves the site, it will be tested first, but that they do not foresee a need to remove anything.

Ms. Davies asked that they describe the proposed stormwater system.

Mr. Werlin stated that there is a stormwater basin near the recreate area.

Mr. Ayrassian asked where it is on the plan.

Mr. Werlin pointed to the site plan.

Mr. Ayrassian stated all he sees are contours and not a stormwater basin.

Mr. Werlin stated that it is in this general area.

Mr. Ayrassian stated that that is not acceptable and that they have to show the basin on the plan.

Mr. O'Donnell noted that they had to transition to a new engineer for the project, so have been trying to add the necessary detail.

Mr. Ayrassian stated that is fine, but that is no reason for leaving critical elements off the site plan.

Mr. O'Donnell that they were hoping for a decision tonight to complete the project before the winter and that they are on a tight timeline.

Mr. Ayrassian countered that the Board has been more than patient for the last six months. He stated that Mr. DeBenedictis and Mr. Werlin originally appeared before the Zoning Board in January and did not submit any new information or reappear before the Board until June 9<sup>th</sup> and now all of a sudden the Board is being asked to hurry up and render a decision. He stated that the applicant should have taken its time clock into consideration and moved things along quicker. He stated for the time being, they need to show the stormwater basins on the site plan.

Mr. O'Donnell asserted that they have faced delays with COVID and that the panels will take about four months to get up and running. He emphasized that it will be a great project for the state.

Mr. Werlin affirmed that they have been fielding legitimate requests before the Conservation Commission and were delayed waiting for the snow to melt to facilitate reflagging the wetlands.

Mr. Ayrassian stated that is all well and fine, but the Zoning Board is not going to rush and base a decision on an incomplete site plan because it will make the state happy. He stated that it's the applicant's responsibility to take all of that into consideration and proceed accordingly.

Ms. Davies asserted that the Zoning Board does not typically render a decision without a stormwater management permit first being granted by the Conservation Commission.

Mr. O'Donnell took responsibility for the timing issues and asked to work out a way to provide the additional materials regarding stormwater without having to return to their engineer, due to timeliness concerns.

Mr. Ayrassian advised Mr. O'Donnell to submit the revised plan as soon as they can.

Ms. Davies noted that all other staff comments had been addressed.

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

**The Board heard Case #5622, the application of Tatiana Taforo for a variance pursuant to §17-8.9 VARIANCES from the minimum side yard setback requirement pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to construct an addition onto an existing one-family dwelling and a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS to alter a pre-existing, non-conforming, residential structure to accommodate the renovations, the subject premises being located at 113 Hackett Avenue, more specifically Assessor's plat #18, lot #333, located in the Single Residence-A zoning district.**

Speaking in favor of the application was Tatiana Taforo who stated that she is seeking relief to build an addition that includes a garage onto to their single family home, so that her mother and brother can live with her.

Mr. Ayrassian asked whether living space will be provided above the garage.

Ms. Taforo replied that a bedroom suite will be provided for her brother on top of the garage, which will connect to the second floor of the existing home and that behind the garage will be her mother's bedroom, living space, kitchen, and bathroom.

Cathy Merkle sought confirmation that the addition is proposed in the rear of her existing home.

Ms. Taforo answered yes, both to the rear and to the side and that they will be extending back from their existing living room and removing an existing porch to accommodate the addition.

Cathy Merkle asked whether the addition is one- or two-stories high.

Ms. Taforo explained that the addition behind the garage that accommodates her mother's living area will be a single story, so she will not have to traverse stairs. She stated that the garage will be two stories to accommodate both cars and her brother's living space.

Speaking in favor of the application was Alexander Bilodeau of Bilodeau Construction who explained that the existing house is too close to the side yard property line, so a variance and special permit are being requested.

Johnny Bender asked what is on the side of the house where the variance is being requested.

Ms. Taforo answered that there is a neighbor on that side and that that they do not have any issues with the proposed addition.

Ms. Davies pointed out that the setback is for two feet from the property line and that the neighboring dwelling is set back, so the addition will be aligned with that neighbor's home.

Mr. Ayrassian asked Ms. Taforo if she showed the neighbor the plan.

Ms. Taforo stated that she does not recall, but that she did describe the situation to them.

Mr. Ayrassian advised her that it is prudent to show her neighbor the plan in the event they have any questions.

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

**The Board heard Case #5620, the application of Faith Witkos for 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 eliminate the requisite minimum number of off-street parking stalls associated with the establishment of a game and hobby store, the subject premises being located at 4 Park Street, more specifically Assessor's plat #31, lot #2, located in the Central Business zoning district.**

Speaking in favor of the application was Faith Witkos who stated that she and her husband operate Spooky Games, LLC, which is a retail and hobby game store. She stated that they want to open a Spooky Games store at 4 Park Street and are asking for a special permit to reduce their parking requirement to zero. She stated that the space at 4 Park Street that they would occupy contains 764 square feet. She stated that do not have any parking on the premises. She stated that the anticipated hours of operation are weekdays from 6:00 p.m. to 10:00 p.m., Saturdays from 12:00 p.m. to 10:00 p.m., and Sundays from 12:00 p.m. to 6:00 p.m. She stated that the maximum number of employees that they anticipate to work at the business at any given time is two and the maximum number of customers anticipated at one time would be 40. She stated that they propose 16 seats at tables and plan to increase the number of seats to 32.

Speaking in favor was Salvatore Cipolla who stated that in addition to selling games and other hobby products, they also intend to hold tournaments for table top games.

Mr. Ayrassian asked if they anticipate much of their customer base to be youths whose parents would drop them off or that would be walking or biking to the store, as this would reduce the need for parking.



Mr. Cipolla replied that Spooky World is geared towards people aged 8 to 99, so a portion of their audience is likely to be those who cannot drive. He suggested that they could provide preferential pricing to those who carpool to reduce pressure on parking demands, but added that they often see families gaming (and carpooling) together.

Ms. Witkos stated that teams of competitors are the target demographic and that they are likely to carpool, reducing the parking demands.

Mr. Ayrassian asked whether food or beverages will be served, as those have the potential to prolong a patron's stay and impact parking turn over and demands.

Mr. Cipolla replied just chips and soda will be available.

Johnny Bender noted that this location is close to the Reverend Larson Senior Center, which has been dealing with insufficient parking facilities. He stated that they have planned to promote on their website that parking can be found up to one-half mile away from the store.

Mr. Ayrassian pointed out that a municipal parking lot is available on Sanford Street adjacent to the YMCA, at the municipal parking garage on Sanford Street, at the municipal parking lot on North Main Street, at the municipal parking lot on Park Street at Gilbert Perry Square, at the municipal parking lot at City Hall, and on Riverfront Drive, which are all options within walking distance and available at 6:00 when the store opens on weekdays and all day on weekends.

Johnny Bender advised the applicants that they need to be sure to advertise accordingly.

Mr. Ayrassian asserted that this type of activity is what is needed in the downtown, businesses geared towards nighttime hours and cited the other retail businesses that recently opened in the downtown including Kimochi and the gourmet donut bakery. He noted that it can even prove to be a boon for there to be no direct parking, as patrons will have to walk around the downtown to get to their destination and encounter and frequent other stores that they may patronize.

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

**The Board Case #5619, the application of Mariela Peña for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS to alter a pre-existing, non-conforming use to convert a glass shop to a retail store, the subject premises being located at 250 South Main Street, more specifically Assessor's plat #45, lot #111, located in the General Business and General Residence -A zoning districts.**

Speaking in favor of the application was Anson Hussein who stated that he and Ms. Peña are the new owners of 250 South Main Street and they are seeking a special permit to convert the pre-existing use into a different business, a retail consignment store. He stated that they run a similar business for the last eight years in Brockton called Hayat's Closet. He stated that they do a lot of online sales, which is likely what they expect for this site. He stated that the business will not have a high volume of traffic and that it is more akin to a pick-up/delivery service.

Ms. Davies asked what they propose to do with the garage at the rear of the site.

Mr. Hussein replied that it will provide storage of supplies, goods, and wares associated with the retail consignment store.

Mr. Ayrassian speculated that since the use was changing from retail to another retail use, a special permit may not be warranted.

Ms. Davies stated that the site previously housed Anawan Glass which provided glass repairs and that the two businesses are different.

Cathy Merkle noted that she purchased a glass table from that store and that in addition to glass repair, they also sold products at retail and wholesale. She asked how long the prior use has been dormant.

Ms. Davies confirmed less than two years.

Mr. Ayrassian asked whether any discussions were held with the Building Inspector to determine whether the applicant needed a special permit.

Ms. Davies stated yes, but at that time the proposed plan was to put an auto repair shop in the rear garage.

Mr. Hussein stated that Ms. Peña has a lot of ideas, but he has encouraged her to stick with what they know, so they are proposing a sister consignment store at this site to the one they run in Brockton.

Mr. Ayrassian suggested that the interpretation of the uses be confirmed with the Building Inspector. He stated that if there is agreement that the use is moving from retail to retail, the application could be withdrawn without prejudice.

Speaking in favor of the application was Ryan Petty who stated that he has been a long time customer of the consignment store in Brockton and that he has seen how Ms. Peña and Mr. Hussein help the community. He stated that they sell tools at great prices, which helps struggling tradesmen. He asserted that it is a respectable business and he hopes the Board will grant their request.

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

**The Board heard Case #5618, the application of James Friedman 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 and a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.1 USE DESIGNATIONS to accommodate a common driveway; the subject premises being located at 48 Thayer Farm Road, more specifically Assessor's plat #108, lot #11, and Assessor's plat #196, lot #2B located in the Single Residence -D zoning district.**

Speaking in favor was attorney Edward Casey who stated that they are seeking a special permit to construct a common driveway on the left side of the existing property to access a large upland portion in the rear where they proposed to construct two single family homes. He stated that in order to do that, they also need both frontage variance and a lot width variance for the two proposed lots. He distributed a plan from 2006 showing the previously flagged wetlands at the time that a preliminary subdivision was being contemplated. He stated that that project was never pursued. He stated that they are now instead proposing just two Form A lots with a common driveway. He showed by use of the plan that the common driveway would traverse the pinch point of the wetlands. He stated that the circular driveway would be maintained for the existing home's continued use. He stated that this approach is being pursued to both minimize the impact on the environment and preserve the character of the neighborhood. He stated that he did not foresee any traffic congestion or safety issues with just two additional homes. He stated that they still have to flag the wetlands and ensure that both of the lots pass percolation testing.

Mr. Ayrassian pointed out that the common driveway will need to be built to standards and specifications that can support the load of emergency vehicles.

Attorney Casey agreed and said he would reach out the Fire Department for specifications.

Mr. Ayrassian stated that he agreed with attorney Casey that it would be imprudent to pursue a subdivision such as the 2006 plan, as the proposal now before the Zoning Board will have lesser impacts on the environmental resources. He asked the applicant's timeline for filing the necessary permit applications with the Conservation Commission.

Attorney Casey stated that he was unsure at this time. He stated that at this point, he was testing the public hearing to see if there was extensive opposition to the Friedman's proposal.

Kent Richards stated his recollection of a previous proposed project for the site and that there may have been an endangered species found which stopped the proposal.

Speaking in opposition was Mike Davis of 99 Thayer Farm Road who stated he has concerns regarding the safety of the common driveway. He stated that a prior subdivision was proposed years ago for this site and that he came out in opposition at that time due to the bend in Thayer Farm Road which creates a safety hazard. He stated that he has less concern about this project if it is limited only two houses.

Speaking neither for nor against was David Ramsey of 40 Thayer Farm Road who stated that he does not know enough about the project to be in favor or opposition. He stated that he supports the Friedmans as responsible people and understands they have a right to develop their property.

Speaking neither for nor against was Mark Robinson of 5 Thayer Farm Road who stated that as a lifelong resident of the roadway, he is disappointed to see this land being developed, but understands the Friedmans have the right to develop their property. He stated that he felt two additional houses seems reasonable, but that any more than that is likely to burden the environment.

Attorney Casey stated that his client will move forward with flagging the wetland line. He requested the Board to continue the public hearing to the August meeting. He also requested an extension of time through August 31, 2022.

Cathy Merkle made a motion to continue the public hearing to the August 2022 meeting. Sandra Varrieur seconded the motion. All voted in favor to continue the public hearing.

Cathy Merkle made a motion to grant an extension of time to August 31, 2022. Sandra Varrieur seconded the motion. All voted in favor to grant an extension of time.

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

**The Board heard Case #5621, the application of Thomas O. Castro for a special permit pursuant §17-12.0 FLOODPLAIN DISTRICT to work/excavate within the 100-year floodplain to construct of a one-family dwelling, the subject premises being located at Thacher Street and Cypress Road, more specifically Assessor's plat #36, lot #462, #466, and #475, located in the Single Residence -B zoning district.**

Speaking in favor of the application was attorney Edward Casey who stated that the Castro family has never observed flooding at their property in all of their years living there.

Speaking in favor of the application was Ken McKenzie of Dunn McKenzie who stated that he is distributing a plan to the Board members with updated details. He stated that the shape of the lot has been altered to meet the requirements for compensatory storage by adding adjacent land outside of the flood zone. He asserted that the proposal to build a house on the property will not put any residents at risk. He stated that the lot was previously completely in the floodplain, but the added land has provided space to create compensatory storage. He stated that there is a table depicted on the plan that show the incremental grade excavations.

Mr. Ayrassian sought to confirm that the compensatory storage is created at the same contour of the 100-year floodplain elevation.

Mr. McKenzie replied yes, at each increment.

Mr. Ayrassian requested clarification.

Mr. McKenzie replied that they are providing the same amount of compensatory storage at each grade where they are filling.

Mr. Ayrassian asked what is the elevation of the 100-year floodplain.

Mr. McKenzie replied 111.1 feet. He stated that that some area was left above the floodplain to allow people to exit the site.

Mr. Ayrassian stated that all of the compensatory storage has to be provided at the 111.1-foot contour. He asked how close is the floodplain elevation to the proposed house.

Mr. McKenzie stated about 1-foot from the rear of the house and about 5-feet from the front of the house.

Ms. Davies stated that the plan is taking credit for providing compensatory storage in area that is already the floodplain.

Mr. McKenzie stated that his company's P.E. is on vacation and he is doing his best to explain the plan.

Cathy Merkle requested the engineer's attendance at the next meeting.

Speaking in favor of the application was Michael Castro of 9 Round Farm Road in Rehoboth who stated that he grew up at 96 Thacher Street and in his 48 years, he cannot recall the area ever flooding.

Ms. Davies countered that construction to floodplain standards is based on mathematical calculations, not anecdotes.

Johnny Bender noted that the storm of concern is the 100-years storm, so 48 years is not a long enough time span to be persuasive.

Sandra Varrieur asked if there has been water in area basements in the past.

Mr. Castro replied that they had issues at one point due to a neighbor's grading issue, but it resolved when the grading was fixed.

Speaking in opposition was Debora Scott of 11 Lake Shore Drive who stated that she has appeared for numerous meetings since 2017 to oppose the development of this area. She asserted that the area does flood. She stated that the City needs to protect its current residents. She argued that she pays her federal flood insurance. She stated that she has lived at her residence for 38 years and that they have seen two 100-year floods and the entire neighborhood was under water. She stated that any additional construction is going to further the negative impact the groundwater and exasperate the situation. She stated that she has had a permeable driveway installed to help mitigate the water issues. She stated that this construction will negatively impact the neighborhood.

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

**The Board heard Case #5623, the application of Brady Sullivan Properties for a special permit pursuant to §17-9.0 SPECIAL PERMITS and §17-3.4(#15) TABLE OF USE REGULATIONS - RETAIL, SERVICE, COMMERCIAL to operate a self-storage facility, the subject premises being located at 34 Forest Street, more specifically Assessor's plat #225, lot #2, located in the Industrial zoning district.**

Speaking in favor of the application was attorney Edward Casey who explained that the site is located in the former TI campus and his client is proposing to convert the existing industrial building into a 1,500 unit climate controlled self-storage facility. He stated that units would be of various sizes. He stated that the site will not have high traffic activity and there is plenty of parking. He stated that they are not proposing to alter the façade of the existing building.

Speaking in favor of the application was Michael Malynowski of Allen & Major Associates, Inc. who stated that the existing structure is two stories, has a brick façade, and formerly was an industrial use with many offices. He stated that they are proposing to gut the building's interior and construct storage units anywhere from 3'x9' to 10'x20' in size. He noted that they will also install freight elevators if needed and plan to utilize the existing loading docks that are equipped with overhead doors. He stated that the prior employee entrance to the building will be converted to the primary business entrance and that they would also expand the secondary entrance in the rear of the building.

Attorney Casey pointed out that the eventual tenant of the site has not been determined and they will have to return to the Board for any relief they made need regarding signage. He explained that without a confirmed tenant, the design may change and not satisfy the requirements of the Zoning Ordinance.

Ms. Davies asked what is proposed for the existing windows.

Mr. Malynowski replied that they will stay, as there will be a hallway around the periphery of the building for accessing storage units. He stated that two staff are proposed to be on premises, Monday through Friday from 9:00 a.m. to 6:00 p.m. and Saturdays and Sundays from 8:30 a.m. to 7:30 p.m. He stated that customers will have access to the site by way of a key code pad or fob from 6:00 a.m. to 11:00 p.m., seven days a week. He stated that they propose to install cameras in the hallways and a security system. He submitted a hand-out to the Board containing responses to the Staff Report.

Mr. Ayrassian asked whether the storage of people's valuables tends to attract crime.

Mr. Malynowski answered no, as converted industrial buildings tend to be very non-descript. He stated that all of the lighting inside the building will be motion controlled and all of the hallways will have cameras. He noted that the doors will have sensors and will be kept locked.

Mr. Ayrassian suggested that security systems can be compromised and encouraged the applicant to consult with the Police Chief to ensure the security plans are thorough and sufficient, as well as to find out if the Police Chief has any recommendations.

Attorney Casey noted that they are required to have a minimum of 12 parking spaces for the site and they are providing 51. He acknowledged that the Staff Report points out that the parking spaces' dimensions are only 9'x19' rather than the required 10'x20', but argued that this is a pre-existing non-conforming condition that they are simply seeking to maintain.

Mr. Malynowski stated that they are not proposing to add any additional lights, but rather maintain the existing fixtures on the building. He noted that if anything were to be added to the site plan, it would be directed downward, shaded, and dark-sky compliant.

Mr. Ayrassian asked what entity has control over the installation of additional lighting to the lot.

Mr. Malynowski stated that he was unsure. He stated that dual level lighting is provided for the walkways and that they cycle down to a night light scenario and then brighten up when motion is detected.

Ms. Davies asked whether the lights are on 24 hours per day.

Mr. Malynowski replied no, and stated that just enough light is maintained to provide security when the building is closed. He noted that according to ITE, the traffic generation for a research and development use of this size, which is permitted in the Industrial zoning district, anticipates up to 1,945 trips per day. He stated that mini-storage only predicts 260 trips a day, which is an 86% decrease in traffic. He confirmed that the units are leased for various terms of length. He noted that many attorneys and doctors rent spaces to store records.

Attorney Casey noted that the peak traffic time is anticipated to be Saturday mornings, during which one car is anticipated every seven to nine minutes.

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

**The Board heard Case #5617, 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 one additional multi-family dwelling unit, a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS to alter a portion of a pre-existing non-conforming mixed-used building into a community events center, and a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-5.9(F) GENERAL PARKING AND LOADING SPACE STANDARDS to eliminate the requisite minimum number of off-street parking stalls in the “CB” zoning district, 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.**

Speaking in favor was David Sisson who stated that the fourth floor of the existing, historic Bates Building located at 2-4 Park Street has not been occupied or used for a very long time and they are seeking relief to renovate it. He stated that they are proposing add one more multi-family dwelling unit and to create an events center that could accommodate several hundred patrons. He stated that their proposal for one more residential unit will put them over the lot area requirement by about 1,300 square feet.

Mr. Ayrassian asked how many residential units currently exist in the building.

Mr. Sisson replied 15. He stated that there are commercial uses on the first floor and second floor of the building. He stated that aside from adding an additional residential unit, they are also seeking relief to demolish the existing former boiler room, construct a new entryway and an enclosed stairwell, construct an elevator on the alleyway side of the building, and convert the former theater attic into an events center. He stated it will consist of one large room and a couple of restrooms.

Ms. Davies noted that they are proposing a capacity of 394 people and that the off-street parking requirement requires one parking space per every four occupants.

Mr. Ayrassian noted that parking relief will be needed from the Zoning Board and a permit will need to be sought from the Fire Chief regarding the maximum capacity of the events center.

Mr. Sisson admitted that they are unable to accommodate any parking on the site.

Mr. Ayrassian inquired when they believe the events center would be open daily for business.

Mr. Sisson answered no earlier than 6:00 p.m. He stated that a number of theater companies have expressed interest in renting the space.

Mr. Ayrassian stated that that is wonderful and point out that the municipal parking garage is right next door and encouraged the petitioner to negotiate a lease agreement with the City.

Ms. Davies noted that she understood such an approach when considering apartments where residents are there daily, but she urged caution with leasing spaces for a use with inconsistent event scheduling. She did not think it was wise to restrict available parking spaces for such a use.

Mr. Ayrassian disagreed and stated this is precisely the type of use the city needs to encourage and embrace. He stated that besides, such uses would utilize municipal parking spaces after normal daily business hour use by employees and visitors.

Kent Richards inquired about the capacity of the municipal parking garage and the average daily usage.

Mr. Ayrassian stated that he did not know off the top of his head and stated that he would provide the Board with a report on the location of all municipal parking lots/garage, the capacity at each facility, the number of spaces currently set aside by lease agreements and monthly passes, and the available number of spaces at each facility. He reminded the Board not to forget on-street parking will also be available.

Cathy Merkle stated that that would be great.

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

#### **The Board held a business meeting.**

**The Board discussed Case #5593, application of JS Fuller TIC, LLC & Et. al. for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-12.0 FLOOD PLAIN DISTRICT to perform excavation work within the 100-year floodplain in association with the construction of a proposed 20,000± square foot warehouse building, the subject premises being located at 50 Fuller Avenue, more specifically Assessor's plat #21, lot #272 and #273, and Assessor's plat #24, lot #43A and #44A, located in the Industrial zoning district.**

Cathy Merkle made a motion to grant a special permit pursuant to §17-9.0 SPECIAL PERMITS for excavation work within the 100-year floodplain in association with the construction of a proposed 20,000± square foot warehouse building, as shown on the plan entitled "SITE REDEVELOPMENT PLANS 50 FULLER AVE ATTLEBORO, MA 02703", drawn and engineered by Stephen Mayer, R.P.E. of Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01801, dated December 21, 2021, and revised through April 21, 2022. Sandra Varrieur seconded the motion. A discussion followed. All voted in favor. Cathy Merkle made a motion to grant a special permit pursuant to §17-12.0 FLOOD PLAIN DISTRICT for excavation work within the 100-year floodplain in association with the construction of a proposed 20,000± square foot warehouse building, as shown on the plan entitled "SITE REDEVELOPMENT PLANS 50 FULLER AVE ATTLEBORO, MA 02703", drawn and engineered by Stephen Mayer, R.P.E. of Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01801, dated December 21, 2021, and revised through April 21, 2022. Sandra Varrieur seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

**The Board tabled Case #5607, the application of H&L Bloom, Inc. for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.1 USE DESIGNATIONS to operate a bus terminal/storage facility for public school busses, the subject premises being located at 947 Park Street, more specifically Assessor's plat #128A, lot # 1, located in the Single Residence -D zoning district and Single Residence -B zoning district.**

**The Board tabled Case #5609, the application of Brian Fischbach for a variance pursuant to §17-8.9 VARIANCES from the minimum front yard setback requirement pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to construct an addition onto an existing single-family detached dwelling and a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS to alter a pre-existing, non-conforming residential structure, the subject premises being located at**

99 Magnolia Street, more specifically Assessor's plat #6, lot #134, #135, and #136, located in the Single Residence-A zoning district.

The Board tabled Case #5613, the application of Keith Shepard 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 construct an addition onto an existing single-family detached dwelling and a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS to alter a pre-existing non-conforming residential structure, the subject premises being located at 741 North Main Street, more specifically Assessor's plat #91, lot #14B and #15, located in the Single Residence-D zoning district.

The Board tabled Case #5615, the application of YMCA of Attleboro 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 construct an egress onto a building and a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS to alter a pre-existing non-conforming non-residential structure, the subject premises being located at 44 Peck Street, more specifically Assessor's plat #28, lot #83, located in the General Residence -A zoning district.

The Board tabled Case #5616, the application of Tomasz and Anita Brojek for variances pursuant to §17-8.9 VARIANCES from the minimum lot area requirement, minimum lot width requirement, minimum front yard setback requirement, minimum side yard setback requirement, and the minimum rear yard setback requirement under §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS associated with Assessor's lot #95 and lot #96 located on plat #37, the subject premises being located at 0 and 9 Riverside Avenue, more specifically Assessor's plat #37, lot #95 and #96, located in the General Residence -A zoning district.

The Board tabled all remaining correspondence.

The Board scheduled a business meeting on June 16, 2022.

The Board tabled the pending minutes of September 9, 2021, September 9, 2021 (Executive Session), September 23, 2021, October 28, 2021, November 9, 2021, November 9, 2021 (Executive Session), November 10, 2021, November 18, 2021, December 9, 2021, December 15, 2021 (Executive Session), December 16, 2021, December 30, 2021 (Executive Session), January 13, 2022, February 10, 2022, March 3, 2022, March 3, 2022 (Executive Session), March 24, 2022, April 14, 2022, April 28, 2022, and May 19, 2022.

The meeting adjourned at 10:48 p.m.