



City Of Attleboro, Massachusetts

ZONING BOARD OF APPEALS
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MINUTES

JULY 9, 2020

In accordance with the provisions of Massachusetts General Laws, Chapter 40A, as amended, the Zoning Board of Appeals held a public meeting on Thursday, July 9, 2020, at 6:30 p.m. remotely via Zoom, relative to the following:

Zoning Board Members Present: Chairwoman Cathy Merkle, Kathy Rautenstrauch, and Sandra Varrieur

Zoning Board Members Absent: Kent Richards

The Board heard Case #5507, the application of Jeffrey Robinson for variances pursuant to §17-8.9 VARIANCES from the minimum front yard and side yard setback requirements pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to accommodate the construction of a carport, the subject premises being located at 57 Owen Street, more specifically Assessor's plat #19, lot #413, located in the Single Residence -A zoning district.

Speaking in favor of the application was Jeffrey Robinson who stated that he has two children and parking has become an issue at his home. He stated that they have installed a driveway towards the back end of his yard and that he would like to install a carport over a portion of it next to his existing shed to provide more parking capacity on his property.

Cathy Merkle asked if he is proposing to take down the fence around his property for the cars to enter the new driveway.

Mr. Robinson stated no and that they are proposing to install a gate in the fence. He noted that they are constrained on where they can place the carport because of a telephone pole on Booth Street. He stated that due to this hardship, they need to request the variances.

Director of Planning and Development Gary Ayrassian asked whether cars are proposed to be parked side by side under the carport.

Mr. Robinson replied that the carport is 17-feet wide and that he is proposing for the cars to be parked one in front of the other.

Mr. Ayrassian noted that it looked like it will be a tight squeeze between the side property line and the utility pole to enter the driveway.

Mr. Robinson replied that there is about 14-feet of clearance.

Mr. Ayrassian asked whether Mr. Robinson spoke with his next-door neighbor about the proposal.

Mr. Robinson stated that he informed all of his neighbors and that they are in support, as it will reduce the number of cars parked on the street.

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

The Board heard Case #5508, the application of Zachary M. Nigro for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.4(#10) TABLE OF USE REGULATIONS - RESIDENTIAL to construct twelve (12) multi-family dwelling units contained in three (3) buildings for the elderly and handicapped, the subject premises being located at 868 Pleasant Street, more specifically Assessor's plat #124, lot #1, located in the Single Residence -D zoning district.

Speaking in favor of the application was Zachary Nigro who stated that they are proposing to construct a 12-unit complex for 55 and older residents. He stated that there is a need for such housing that is affordable and easy to maintain. He stated that the project has the support of Director Madeleine McNielly of the Council on Aging. He stated that the site currently contains a single family house that is a blight and needs to be taken down. He stated that their proposal involves the construction of three townhouse clusters of four units each. He stated that they are proposing 21 parking spaces. He sought to emphasize that it will not be a nursing home, instead geared towards active adults over 55 years of age. He stated that they felt the proposed number of parking spaces is sufficient for such a demographic.

Cathy Merkle questioned whether the age restriction applies to someone who is handicapped.

Mr. Nigro replied that they would have a maximum of one unit available for someone under 55, but their goal is for the project to provide elderly housing across the board. He noted that they are proposing two fully compliant ADA requirements. He stated that the project also proposes a community garden area, to help encourage a true community to develop. He stated that they intend for the site to slope slightly, to accommodate the necessary septic and stormwater management systems. He stated that he understands that staff questions the proposed number of units, but that they are meeting all of the dimension requirements.

Director of Planning and Development Gary Ayrassian stated that he disagreed. He stated that in the Single Residence-D zoning district, a minimum of 20,000 square feet is required for a single unit. He asked how the applicant arrived at the total of 12 units with a lot a little more than double that size.

Speaking in favor of the application was architect Nick Nigro who stated that the unit calculation was based on what the site could handle from a septic system perspective.

Mr. Ayrassian reiterated that the zoning calls for 20,000 square feet per unit.

Senior Land Use Planner Stephanie Davies noted that residential cluster development appears as a separate use, but that use is not permitted in this zoning district.

Mr. Zachary Nigro stated that they wanted to provide the most housing as possible since there is a shortage. He stated that for the Board to minimize that amount, it will be to the detriment of future senior residents.

Mr. Ayrassian stated that a philosophical debate on the issue is irrelevant. The Board is bound to uphold the City's Zoning Ordinance.

Speaking in favor of the application was Craig Cygawnoski of RIM Engineering who asked for the definition of a unit.

Mr. Ayrassian replied that definitions are clearly laid out in the Zoning Ordinance.

Ms. Davies stated that two-families are not even allowed in this zoning district. She stated her understanding that the existing house is a two-family and thus a pre-existing, non-conforming. She stated that no form of multi-unit housing is allowed by right in this district.

Mr. Ayrassian stated that by the current standard, the property in question could support no more than two units.

Ms. Davies noted that the current proposal is for approximately one unit per 4,500 square feet.

Mr. Nick Nigro stated that they are proposing four units per cluster. He stated that in each cluster, two units would be one bedroom and two would be two bedroom, 1,100 square feet and 1,300 square feet respectively. He stated that their septic has been designed for 18 beds. He stated that there would also be two ADA units.

Ms. Davies pointed out that this is different from what was submitted in the original application.

Mr. Nick Nigro stated that the plans have been updated since the original submission.

Ms. Davies requested that a copy of the most up-to-date materials be submitted to the Board. She questioned the use for the area at the rear of the two middle units.

Mr. Nick Nigro stated it is a cathedral ceiling and in the ADA units, a lift.

Mr. Zachary Nigro stated that the design is geared towards favorable aesthetics.

Ms. Davies questioned the decision to install lifts in the two units rather than just designing single story units.

Mr. Nick Nigro stated that the goal of the project is economy and efficiency, which can be achieved by maintaining a similar design between units. He stated that adding the lift is just a slight alteration. He stated that they have also updated the plan to create walk-out basements to avoid the originally proposed retaining wall. He stated that they are proposing a colonial style with two front steps to provide slight penetration to the **façade**.

Ms. Davies asked how the ADA units would be accessed.

Mr. Nick Nigro replied that the ADA units are set back slightly to create space for a small access ramp. He stated that several small snow storage areas have been identified, but that for larger snow events, a contractor would have to remove the snow from the site.

Mr. Cygawnoski stated that they have begun the necessary soil testing for the septic system, but that with the COVID-19 pandemic, the Health Agent has been unavailable for several months. He noted that the ground water is relatively high in the area, but they are still in the process of determining concrete numbers. He stated that accordingly, they have designed the system to be raised up, with cul-tec units under the parking lot with catch basins and grease traps.

Mr. Ayrassian asked whether the applicant has filed for stormwater with the Conservation Commission yet.

Mr. Cygawnoski replied no, that they need to complete the soil testing before the stormwater design can be completed.

Mr. Ayrassian asked if there was an estimated timeframe in which the application will be filed.

Mr. Cygawnoski stated that they are hoping to have the Health Agent out again within the next several weeks and they will file the application sometime after that.

Mr. Zachary Nigro stated that he understands the Department's preference for applicants to file before multiple Boards simultaneously, but that they don't have control over COVID and the back log that has resulted in the Health Department as a result. He stated that they are hoping to submit the application as soon as possible.

Mr. Ayrassian stated his opinion that the driveway appears to be the primary focus of the development and that he didn't feel much thought was put into the layout or design. He stated that the surrounding area is comprised entirely of single family homes, so four unit complexes do not fit in well. He stated that without any of the buildings orientated towards Pleasant Street, there is no curb appeal, forcing you to look at the sides of the buildings, rather than the fronts. He asked whether the applicant would consider shifting the buildings and reorienting them.

Mr. Nick Nigro replied that they have looked at a variety of layouts and that they settled on the design they did to meet the necessary dimensional requirements. He stated that the orientation of the buildings is dictated by the required setbacks and location of the septic systems. He stated that he felt the view was more of an angled front-on view than strictly the sides of the buildings.

Mr. Ayrassian stated that he appreciated Mr. Nigro's opinion, but that he did not agree. He asked whether all of the designs were based on fitting 12 units on the site.

Mr. Nick Nigro answered yes.

Cathy Merkle noted that aesthetics are irrelevant if the Zoning Ordinance has not been met, which is what the staff has been saying.

Mr. Zachary Nigro stated that he did reach out to the neighbors across the street and that they did not seem to have any concerns about the aesthetic appeal of the project. He stated that in fact, they found what is proposed to be a vast improvement over what currently exists.

Mr. Ayrassian asked that information be submitted relative to the affordability of the units, so it can be compared with MA housing and federal HUD standards.

Mr. Nick Nigro stated that they are not seeking an affordability designation in any legal sense. He added that their use of the term affordability relates to the scale and scope of the project.

Ms. Davies stated that if the project is not meant to be affordable by governmental standards, it should not be described and promoted as such.

Mr. Ayrassian asked whether a fire flow test has been submitted.

Ms. Davies answered no.

Mr. Zachary Nigro stated that fire safety was considered in the design and that hydrants are shown on the plan.

Ms. Davies sought to confirm whether the units are proposed to be equipped with sprinklers.

Mr. Zachary Nigro replied yes, and that it is required by building code.

Mr. Ayrassian suggested that the applicant schedule a meeting with the staff to discuss density and the site layout.

Mr. Zachary Nigro stated that they are open to the staff's suggestions.

Mr. Ayrassian stated that the project as proposed looks like any other multi-family development in the area and that housing geared towards senior citizens are not designed as 2.5 to 3 story structures but rather single level structures. He stated that even the design of the units does not correspond to elderly housing.

Mr. Nick Nigro agreed that is not a typical design, but that they feel there is a demographic of independent, active seniors the housing would suit.

Mr. Zachary Nigro agreed that they have done a significant amount of market research on the subject.

Ms. Davies questioned what makes this project different from any other condominium.

Mr. Nick Nigro replied that they will have deed restrictions in place to maintain the 55+ nature of the complexes.

Ms. Davies stated that that does not make any sense, that she agreed with Mr. Ayrassian's comments, and that she is surprised that the proposal is not designed with any single-story dwellings considering the demographic Mr. Nigro says he is targeting.

Cathy Merkle noted that she and her husband are both 55+ and that the next house that they buy will not have two stories.

Zachary Nigro stated that he feels the Board is taking a very narrow view of what they are seeking to accomplish. He stated that their goal is to create as much housing as possible and that it is not meant to be a nursing home approach. He stated that they felt like they've done a reasonable job.

Cathy Merkle stated that until the density issue is resolved, there is not much comment that can be made as such a fundamental issue has the propensity to significantly alter the entire plan.

Speaking neither for nor against the proposal Edward Mitchell of 876 Pleasant Street who explained that he is a direct abutter to this proposal. He asserted that his community has not be involved in the design of this project at all. He stated that he was not approached directly regarding the project. He stated that when they purchased their home, they were told nothing would be constructed in the area and since then 40 acres have been converted into a subdivision behind their home. He stated that the developer involved with that project had the decency to keep them informed and ask how he could better work with them. He asked how this many units could be constructed on such a small parcel. He stated that he has concerns about the septic with the high ground water and additional traffic. He asked whether a traffic light would be installed. He expressed concern about noise and how it will affect property values in the area. He stated that the proposed snow storage looks to be very close to his property and he will want to know more. He asked where the existing bus stop would be put and whether sidewalks would be installed. He stated that he didn't feel like the project has been thought through very well and he'd like to see more effort put into it.

Mr. Ayrassian noted that although the applicant said that he reached out to abutters that may not have literally meant everyone.

Speaking in opposition were Leslie Palermo of 867 Pleasant Street. She stated that her home is directly across the street from this project and she supports every concern raised by her neighbor Ted. She stated that their primary issue is the potential for additional water ending up in their basements and yards, much like what followed the development of the nearby subdivision. She stated that secondly, she is most concerned with traffic and that ideally, she would like to see the access drive moved to Richardson Avenue. She stated that it is an interesting proposal and she wants the developer to be successful, but that a lot of thought should be given

to the existing water problems in the area. She stated that she also would like to see some green space preserved.

Speaking in opposition was Anna Civitarese of 865 Pleasant Street who stated that she is next door to Leslie, across the street and agrees with her other neighbors' concerns. She stated that she just bought her house in December and expected that there would be development in the area. She stated that her biggest concern is with the traffic, as Pleasant Street has turned out to be even more dangerous than she expected. She stated that she has a lot of difficulty just getting in and out of her driveway daily and that the intersection of Richardson Avenue and Pleasant Street is a very difficult spot. She suggested that some sort of traffic or caution signal could be beneficial. She stated that she is also concerned with the drainage in the area, as her home is at one of the lowest points on that side of the street, so already has existing issues she is attempting to resolve. She stated that her neighbors have informed her that the issue has gotten worse over the years. She stated that the subdivision that went in on the other side of the street removed a lot of the tree cover in the area and she would like to see any greenery that can be retained. She stated that this proposal has the potential to change the area quite a bit and that no one from the project had reached out to her for feedback.

Ms. Davies stated that the idea of having a driveway to the site from Richardson Avenue has some merit to help reduce traffic, but she stated she was unsure of how much frontage the lot has on Richardson, which may make such an approach impossible.

Speaking in opposition was Corbett Thursby of 876 Pleasant Street who stated that he had reached out to some of his neighbors to see if anyone knew what was going on, as no one reached out to them. He stated that his neighbor Kyle Kania of 857 Pleasant Street had expressed concerns to him relative to the density of the project, as well as potential impacts on drainage.

The Board read the letter from Virginia Cooper Buchanan of 19 Richardson Avenue, received July 6, 2020, to the Zoning Board of Appeals expressing concerns about the proposed development.

Ms. Davies noted that she had spoken with Health Agent Alan Perry and that he indicated that eight observation holes had been installed and that percolation tests would be performed at a later date. She stated that he said the septic design they submitted would limit the design to 18 bedrooms.

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

The Board heard Case #5509, the application of David Reilly for variances pursuant to §17-8.9 VARIANCES from the minimum lot area requirement, pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to accommodate the subdivision of an existing lot into two non-conforming lots, the subject premises being located at 45 Spruce Lane, more specifically Assessor's plat #88, lot #6 and #7, located in the Single Residence -D zoning district.

Speaking in favor of the application was David Reilly who stated that they are seeking a variance to subdivide an existing house lot. He noted that the minimum area for lots in his neighborhood is 20,000 square feet. He noted though that the majority of the house lots on the street have less than 20,000 square feet of land. He stated that there is an existing single-family house on the lot and that they would like to subdivide the lot and create an additional buildable lot. He stated that both lots would contain less than 20,000 square feet of land, one of which would contain the existing house. He stated that each lot would have a frontage of 150-feet and he felt it would not be detrimental to the area.

Director of Planning and Development Gary Ayrassian asked when the existing house was built.

Mr. Reilly replied that he was unsure, but believed it was constructed sometime in the 1950s.

Mr. Ayrassian stated that Mr. Reilly does not have standing for relief under §17-4.3 SEPARATION OF LOTS, as there would need to be two existing structures on the same lot both of which constructed prior to the adoption of the ZONING ORDINANCE.

Mr. Reilly asserted that the neighborhood was established long before the zoning changed from 16,000 square feet to 20,000 square feet.

Cathy Merkle countered that he is still requesting the Board to create a non-conformity.

Mr. Ayrassian stated that he sees no hardship substantiating the variances.

Ms. Davies read into the record the letters of opposition from Robert Lamoureux and Bernadette DeBlander of 21 Spruce Lane, received June 23, 2020 and from John and Ann Ganley of 26 Constitution Avenue, received July 3, 2020.

Mr. Reilly stated that he bought the property in 2009. He asked when the zoning was changed to increase the minimum lot area from 16,000 square feet to 20,000 square feet.

Mr. Ayrassian replied in August of 1987.

Mr. Reilly insisted that only one lot in the area exceeds 20,000 square feet and that Spruce Lane is an established neighborhood. He stated that he disagrees that the lot is insufficient. He stated that his proposed Lot 6 would only be 22 square feet smaller than the smallest lot on the street and that his proposed Lot 7 would be 36 square feet larger than the smallest lot on the street.

Ms. Davies countered that proposed Lot 6 would be 3,456 square feet shy of 20,000 and that proposed Lot 7 would be 3,428 square feet shy of 20,000.

Mr. Reilly stated that there is sufficient lighting, water, and utilities, so an additional house would not stress the area.

Sandra Varrieur asked what type of house Mr. Reilly is proposing to construct.

Mr. Reilly replied a small cottage, similar to the existing one on the property. He stated that the existing house has about 875 square foot living space with a garage. He stated that the new house would be small enough to ensure it meets the necessary setbacks.

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

The Board heard the Case #5502, the application of Green River Cannabis Co., Inc. for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-10.15 MARIJUANA BUSINESS USES to establish a Marijuana Retailer, the subject premises being located at 1815 County Street, more specifically Assessor's plat #26, lot #278D, located in the Industrial zoning district.

Speaking in favor of the application was Ezra Parzybok who explained that 75% of marijuana sales are made on the black market, so his specialty is educating people on how to enter the industry legally. He stated that this project involves running a retail marijuana facility that will share space with an existing auto body shop. He stated that the two separate businesses will have separate access points - the marijuana facility from Venus Way and the auto body shop from County Street. He stated that the requirement for the marijuana use is for seven parking spaces and that they have provided 16. He stated that they anticipate employing seven full time employees and there will likely be a maximum of three working on the site at any one time. He stated that deliveries will be made through a sally port to be constructed by the side door. He stated that the ITE estimates 24 vehicle trips per hour per 1,000 square feet of retail space, which means 12 trips in and 12 trips out. He stated that the site is encumbered by a Montaup electrical easement for the power lines that traverse the

parking lot. He stated that they have reached out to Montaup to notify them of the plans, but that the applicant is simply leasing the space, so it is really an issue between the landlord and the electrical company. He stated that the property owner has been parking cars throughout the easement for years without issue. He stated that there are two residences within 300-feet of the site and that the abutting properties are industrial. He stated that a new stormwater management system is not proposed and no modifications are proposed to the existing one because they do not plan to disturb more than 2,500 square feet of earth. He stated that they are going to install porous pavement in the small section area that is slated for disturbance.

Mr. Ayrassian inquired about the square footage of surface area of the site they plan to disturb and install the porous pavement.

Speaking in favor of the application was Chris Cabral of Crossman Engineering who replied 1,864 square feet. He stated that that they felt the porous pavement would be appropriate since it will be a low traffic area and verified that the total land disturbance will be 2,400 square feet.

Mr. Parzybok stated that they anticipate vacuuming the porous pavement quarterly pursuant to industry standards to keep it functional.

Ms. Davies noted that the Board is certainly in favor of porous asphalt, but asked how if only half of a driveway is proposed with the rest of the lot consisting of normal asphalt, how would the varied surface types be properly maintained. She asked how they will handle if the normal asphalt needs to be repaved in the future. She also asked how treatment of the surfaces for snow and ice can be differentiated. She stated that she did not see how both surfaces could be properly maintained in a piecemeal fashion.

Mr. Cabral replied that they do not intend to touch the existing pavement and that they will saw-cut to install the portion of pervious pavement.

Ms. Ayrassian replied that Mr. Cabral's response does not address Ms. Davies' question.

Mr. Parzybok stated that her point is taken.

Mr. Ayrassian agreed with Ms. Davies that no contractor is going to be able to properly treat the lot in the winter with sand and snow if part of it is impervious and part of it is pervious. He stated that he appreciates their resolve to install pervious pavers but having a parking lot partly consisting of an impervious surface and party if consisting of a pervious surface does not make sense. He said he realizes it is a cost savings but he is not sure this is where they ought to be thinking about cutting corners.

Mr. Cabral reviewed the photometric plan and stated that they are striving to provide sufficient illumination to discourage illegal activities. He stated that they are proposing wall-mounted lights on the building and two pole-mounted light fixtures for the parking area and entrance. He stated that four existing light fixtures will be maintained on the auto body side of the site.

Mr. Parzybok noted that all of the fixtures will be dark-sky compliant and directed downward.

Mr. Ayrassian sought to confirm that a 6-foot high chain-link fence topped with barbed wire is proposed between the marijuana facility parking lot and the auto body parking lot. He also asked whether the entire site is enclosed with fencing.

Mr. Parzybok replied in the affirmative to both inquiries.

Mr. Ayrassian asked whether the security plans have been submitted to the Police Department for review and comment.

Mr. Parzybok answered yes and explained they have been trying to schedule a time to sit down and discuss the plan with the Chief.

Cathy Merkle noted that the proposed marijuana business shares a wall with an existing, active, auto repair business that will continue to operate. She stated that the Fire Department will need to review this to ensure it meets fire codes.

Ms. Davies asked whether they would consider providing additional parking for the marijuana facility at the rear of the auto body site, if the Board deemed it necessary.

Speaking in favor of the application was attorney Constant Poholek who stated that they had met with the Police Chief in person several weeks ago and that he indicated a desire for an 8-foot high fence rather than 6-foot high fence to be installed. He stated that they will revised the plan to reflect this. He stated that the Police Chief had also expressed interest in a pole-mounted camera in the parking lot that can swing 180-degrees.

Mr. Parzybok stated that the proposed hours of operation are 10:00 a.m. to 8:00 p.m. weekdays and 10:00 a.m. to 6:00 p.m. on weekends. He stated that they would like to stay open later to reduce traffic during rush hour peaks.

Mr. Cabral stated that the anticipated peak traffic will be between 4:00 p.m. and 6:00 p.m., based on the size of the proposed facility. He explained that they expect one vehicle every five minutes between 4:00 p.m. and 6:00 p.m.

Cathy Merkle questioned whether they will be conducting business and sales by appointment only.

Mr. Poholek answered yes, that the majority of business will be done by appointment only.

Ms. Davies questioned the weekend traffic peaks. She stated that the report indicated 20 vehicles entering and existing. She asked the anticipated length of time people are expected to be in the store and the anticipated parking turn over. She stated that 20 visitors at once would exceed the proposed capacity of the parking lot.

Mr. Parzybok stated that they intend to provide curb side pick-up, which creates a shorter time frame for appointments. He stated that some patrons may need to enter the store to learn about the products, which would require up to 15 minutes of investigation. He stated that with COVID regulations, patrons will have to be turned away if they are over capacity. He stated that patrons will be encouraged to come outside of peak hours and to make appointments. He stated that the use is similar to that of a high volume restaurant that requires reservations. Mr. Parzybok stated that they have not worked out all of the details, but will do what is needed and make adjustments once the business opens. He noted that in comparison in terms of traffic, a Dunkin Donuts would be anticipated to have 100 trips per hour.

Mr. Ayrassian countered that a Dunkin Donuts would have a drive-through window, so it is not plausible comparison. He stated that especially when the business first opens, the novelty of the use would generate a traffic volume far in excess than projections. He stated that the traffic in a worst case scenario needs to be addressed so the site can be managed effectively. He asked whether there will be someone at the gate to communicate with building security. He asked whether there will be someone regulating traffic and rejecting patrons from the site if they are at capacity. He requested that a formal document be submitted to the Zoning Board describing their proposed methods of traffic control.

Mr. Parzybok stated that they are already proposing overflow parking at a neighboring business that has 200 spaces and typically only uses about 40 parking spaces. He stated that the Planning staff raised had questions about how the auto body business will be impacted by the proposed business and he stated that his response

was that it would not be impacted in any way because the uses would be separated by a fence. He explained that the owner of the auto body business intends to scale down the business as he is preparing to retire.

Cathy Merkle questioned whether the fence between the uses will be the same specifications as the perimeter fence.

Mr. Parzybok replied yes, but that they are reaching out to the electric company to ensure that it does not have any objections to the fencing.

Attorney Poholek stated that he had called the electric company and left a message, but has yet to hear back.

Mr. Parzybok stated that the site will be better maintained and controlled than it is now and that he does not anticipate any issues.

Attorney Poholek stated that abutting the land owner has parked under the power lines for years.

Cathy Merkle disclosed the fact that she is an employee of National Grid, as they maintain the Montaup easement, but that it would not influence her on this case.

Mr. Ayrassian asked whether the proposed perimeter fencing follows the perimeter of the parking lot or the property lines.

Attorney Poholek replied that there is an existing fence on the premises and they would just be increasing the height.

Mr. Parzybok noted that much like with liquor laws, marijuana consumption is not permitted on site. He stated that the vast majority of the products for retail are in child safe packaging and are stapled into a bag with the receipt. He stated that their standard is to call law enforcement if any package is seen opened or shared on site, as the business cannot afford to have any compliance issues. He stated that they had held a community outreach meeting to seek input from the abutters. He stated that one family expressed concerns that were eventually allayed. He stated that due to the high security environments at such facilities, they actually reduce crime in industrial areas, which tend to be less traveled and poorly lit. He stated that the current site is a bit downtrodden and that this proposal will help improve the area and site. He stated that there is data that supports an increase of up to 6% in the value of nearby residential property values. He stated that there are 140 marijuana retail stores open or in the process of opening nearby, so he feels that there is enough competition that the traffic will not be obscene. He stated their desire to be a more high-end, sophisticated, experience for their clientele. He stated that it is important for the business model to work within the community and they are aiming for it to be both attractive and secure.

Mr. Cabral refuted the assertion that they will have insufficient parking. He stated that their requirement is only for 7.05 spaces and that they are providing double that. He stated that the peak traffic of 20 visits is over the course of an entire hour, so it was unlikely that they would arrive all at the same time when the market is fairly saturated with product.

Mr. Parzybok stated that the current traffic on County Street is roughly 8,000 cars per day. He stated that the additional traffic generated by the site is approximately a 1.5% increase, which they feel is negligible. He stated that one of the abutters expressed concern about their store hours conflicting with school hours, which is why they are proposing opening at 10:00 a.m. which is well after the arrival time for the school day. He stated that deliveries will be random and highly regulated for security. He stated that the building will have a secure vault in the store, much like a jewelry store, where the product is stored nightly. He stated that cash is transported by armored car to the bank.

Mr. Ayrassian asked whether a lease agreement is in place.

Attorney Poholek answered yes.

Mr. Ayrassian inquired about the renewal term.

Attorney Poholek answered every five years.

Mr. Parzybok stated that although cannabis has an odor, they will comply with nuisance laws and provide sufficient ventilation. He stated that they are proposing an HVAC system that scrubs the area, creates reverse pressure, and passes through a carbon filter. He stated that since they are not proposing to do any cultivation, so most of the items are pre-packaged, reducing potential odors. He stated that the green areas on site will be mowed and they are not proposing any shrubbery or landscaping.

Cathy Merkle sought to confirm whether multiple entrances are proposed.

Mr. Parzybok stated that there is one entrance used only by staff and deliveries within a sally port and then an emergency exit.

Mr. Poholek stated that they are proposing directional signage on County Street directing patrons to Venus Way where the primary signage will be located.

Mr. Parzybok stated that state regulations do not allow any illuminated signs after business hours and that a marijuana facility cannot be located within 100-feet of residences. He stated that the closet point of their facility to any residence is 230-feet. He stated that the use requires connection to municipal sewer and they have identified a proposed location for connection.

Sandra Varrieur asked what will prevent patrons from coming to the facility without an appointment.

Mr. Parzybok stated that they plan to formally submit a letter regarding traffic mitigation. He stated that if there is no one in the store when they come in, they will be seen. He stated that they do not have a plan to reject customers who show up without an appointment. He suggested that they could put cones across the driveway when the lot is at capacity.

Speaking in opposition was Ana Champagne of 22 Jennie Way who stated that the first she heard about this project was through the advertisement in the Sun Chronicle and that she was not notified of the applicant's outreach meeting. She stated that she has many concerns and does not feel like she has had enough time to research and prepare. She expressed concern with negative impacts on her quality of life and the value of her home. She stated that she has read studies about such retail establishments and that apartment buildings have primarily experienced an increase in value rather than single family homes. She stated her sense that families are less likely to want to live near a marijuana facility. She stated that she does not like the prospects of any ugly 8-foot high wire fence and the increased police presence do to marijuana. She stated that she runs on the surrounding streets at night and her neighbors have children. She expressed concerns about everyone's safety with the likely increase in traffic.

Cathy Merkle assured her that the hearing would not be closed tonight, so she will have more time to evaluate the application.

Ms. Champagne stated that the proposed access from Venus Way is likely to negatively impact her as she is on a nearby cul-de-sac. She stated that people already use her street as a turn round and that if the facility is at capacity, traffic will likely end up diverted to her neighborhood. She stated that she did not feel it was fair to put such a burden on her small neighborhood.

Speaking in opposition was Lynn Ferreira of 30 Jennie Way who stated that she has similar concerns to Ana's. She stated that the traffic from the nearby V-Tron business gets funneled right out in front of Jennie Way and that she has to clear three lanes of traffic to pull out onto County Street. She stated that the addition of this business makes traffic accidents much more likely. She stated that she does not want to see an 8-foot fence with barbed wire on top of from her front yard. She stated that she understands that the property is zoned industrial, but finds it unfair that neighbors will feel like there is a penitentiary across the street. She stated that she already suffers from light pollution as a result of the Abbott Action facility across the street and is concerned the marijuana business will make it worse. She stated that she was not notified of the outreach meeting and heard about this public hearing on Facebook. She stated that the Nova Farms marijuana facility is 1.5 miles away from her house and that there is another retail marijuana facility going in on Frank Mossberg Drive. She stated that she does not understand why the City needs to have three dispensaries within 1.5 miles of each other, as it will be a saturated market. She stated that they see a lot of waste management trucks and vehicles with Rhode Island license plates accidentally turning down their street already and does not want to see that increase. She stated that she is not against pot shops, as they provide great revenue for the City, but feels like there are better suited locations in the City. She stated that with the current traffic on County Street, a 1.5% increase due to this facility may seem inconsequential, but she anticipated similar increases for the other two nearby shops.

Mr. Ayrassian noted that the 1.5% background growth that the applicant referenced is not related directly to the proposed marijuana business but rather a natural growth from all forms of development. He stated that 1.5% background growth is an industry standard that is applied in traffic studies in addition to any increase in traffic generated by the proposed use.

Ms. Ferreira questioned whether the police are likely to be monitoring the site more. She asked whether the City has enough police officers to accommodate the increases in patrols.

Mr. Ayrassian stated that there is not a direct correlation with incremental increases in staffing. He noted that the site will be monitored through a sophisticated security system, for which the details cannot be disclosed. He stated that remote camera systems are proposed and that the Police Department carefully and meticulously review the site plan and security plan. He stated that the Zoning Board will not consider approval unless the Police Chief and Fire Chief are satisfied.

Speaking in opposition was Barbra Fernstrom of 636 Read Street who agreed with her neighbors' concerns. She stated that she hoped this project was not a done-deal, as she anticipates additional increased traffic due to the site's proximity to Rhode Island. She stated that she works at a hospital detox unit in Rhode Island and that all of her patients cross the line and go to Fall River to purchase marijuana. She stated that those people will now instead be coming to Attleboro. She stated that although the site is zoned industrial, her home is located in a residential zone. She stated that Venus Way was not always industrial. She stated that marijuana facilities are better suited in industrial areas like Frank Mossberg Drive. She stated that her strong opposition is primarily predicated on the depreciation of her home value and the increase in nuisance traffic.

Cathy Merkle assured Ms. Fernstrom that the project is not a "done deal". She stated that the Board is focused on hearing arguments both for and against and that the information provided by both parties is weighed to determine what is best for the neighborhood and City as a whole. She noted that the Board has not granted every marijuana business application that has been filed with them.

Ms. Fernstrom asserted that she is not against pot shops in general, but is against them being put in residential areas.

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

The Board heard the continued public hearing relative to Case #5503, the application of Bright Path Investment, LLC for variances pursuant to §17-8.9 VARIANCES from the minimum front yard and side yard setback requirements pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to accommodate the demolition of an existing single family dwelling and construction of a two-family dwelling, the subject premises being located at 14 Fisher Avenue, more specifically Assessor's plat #84, lot #50, located in the General Residence -B zoning district.

David Kantussi of Bright Path Investments, LLC spoke in favor of the application and stated that he submitted revised plans and that at the Board's recommendation, he is requesting a special permit to alter a pre-existing situation.

Cathy Merkle made a motion to amend the application to include a special permit to alter a pre-existing, non-conforming, lot. Sandra Varrieur seconded the motion. All voted in favor to allow the applicant to amend the application.

Ms. Davies reminded the Board that the applicant had been advised to move the grass strip to between the driveway and the property line and to show the parking space dimensions. She stated that they have also flipped the front stairway 90-degrees to minimize any intrusion into the front yard setback.

Cathy Merkle noted that the Board had also requested that the parking spaces be moved so that residents will not be opening their car door into the neighbor's existing fence.

Ms. Davies agreed that the request had been made but noted that the applicant had wanted to maintain a green space in the rear of the property.

Cathy Merkle argued that 8-inches is not sufficient space for anyone to open a car door and exit a vehicle.

Speaking in favor of the application was Shevalin Grant who stated that they can relocate the parking spaces to the other side of the yard next to parking space #3 and parking space #4.

Cathy Merkle stated that she needed to review the revised plan before closing the public hearing.

Speaking in opposition was Kevin Doyle of 29 Fisher Avenue who stated that the lot is very narrow and does not even have 50-feet of frontage in an area that requires 100-feet. He stated that the request is not due to any hardship and that Fisher Avenue is already too densely settled. He stated that he found the requested variances to be extreme and that the proposal would make a pre-existing, non-conforming lot even more non-conforming. He asked where snow would be stored on site. He stated that as this property is located at the top of a dead-end street with no turn-around, any bottleneck will affect everyone on the street. He expressed concern that additional traffic will be backing up in his or his neighbor's driveways. He asserted that he would like the site to maintain a single-family dwelling, as he does not see any hardship warranting further changes.

Mr. Ayrassian noted that the existing house is dilapidated. He asked Mr. Doyle whether he thought that the existing condition of the property is better than the proposed improvements.

Mr. Doyle countered that he is not concerned about aesthetics, but with density.

Mr. Ayrassian asked Mr. Doyle if he would be in favor of the application if it involved constructing only a single family home.

Mr. Doyle answered yes and if it was built within the footprint of the existing foundation.

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

The Board held a business meeting.

The Board read the letter from Vahe Ohannessian of Boston Architects, received July 8, 2020, to Zoning Board Chairwoman Catherine Merkle regarding the affordability restriction condition contained in the decision issued to Marilyn Demusz for 30-32 Dunham Street (AKA 61 Pine Street), Case #4716A. With an appointment to speak with the Board was the current owner of the property and project, Vahe Ohannessian.

Mr. Ohannessian stated that his client bought the property in 2018 and stated that there has been some activity with the existing units and that they have begun the foundations and utilities for the next building to finish the other 11 units. He stated that the construction is on hold, however, as they have attempted negotiating with a variety of lenders, but the numbers are too risky for anyone to be willing to offer them a loan. He stated that he is requesting that the Board reconsider the affordability restriction required on two out of the 11 units. He stated that this change would reduce the risk of the project and allow them to obtain financing, since making those two units market rate will make the project more attractive to a lender. He stated that he cannot make any guarantees that the project would obtain financing, but he stated that the affordability restriction is definitely limiting their options.

The Board tabled the matter to review the case.

The Board read the letter from attorney David C. Manoogian, received June 5, 2020, to the Zoning Board of Appeals requesting a six (6) month extension of time to act on the variance issued to William B. Pitas, Jr., John H. Pitas, & Louis R. Pitas for property located at 0 Bishop Street, Case #5467.

Cathy Merkle sought to confirm that it was the first extension of time that has been requested.

Ms. Davies answered in the affirmative.

Cathy Merkle made a motion to grant a six (6) month extension for the applicant to exercise the variance for 0 Bishop Street, Case #5467. Kathy Rautenstrauch seconded the motion. All voted in favor to grant a six (6) month extension for the applicant to exercise the variance for 0 Bishop Street, Case #5467.

The Board reviewed the letter from Director of Operations Samantha Lennon of Green Street Power Partners, received July 9, 2020, to the Zoning Board, requesting a one (1) year extension of time relative to the special permit decision issued to Green Street Power Partners, LLC for 1395 Commerce Way, Case #5434.

Ms. Davies noted that this would be the second extension for the project, but that due to the COVID-19 pandemic, she recommended approval.

Mr. Ayrassian note that the Board previously granted a six (6) month extension and that the Board cannot grant more than a six (6) month extension, as special permits are statutorily limited to two years is not exercised.

Cathy Merkle made a motion to grant a six (6) month extension of time for the applicant to exercise the special permit for 1395 Commerce Way, Case #5434. Sandra Varrieur seconded the motion. All voted in favor to grant a six (6) month extension of time for the applicant to exercise the special permit for 1395 Commerce Way, Case #5434.

The Board tabled the email and plan from Geoff Lewis of Ajax Partners, received November 9, 2019, to Director of Planning and Development Gary Ayrassian, proposing minor alterations to the New England Sports Complex site access.

The Board tabled the letter from Director of Planning and Development Gary G. Ayrassian, dated October 8, 2019, to Planning Board Chairman Paul Danesi and Zoning Board of Appeals Chairwoman Catherine Merkle, regarding proposed changes to processes relative to public hearing legal advertisements.

The Board reviewed all remaining correspondence.

The Board tabled the pending minutes of November 14, 2019, December 12, 2019, January 9, 2020, February 20, 2020, May 21, 2020, and June 25, 2020.

The meeting adjourned at 10:45 p.m.