



City Of Attleboro, Massachusetts

ZONING BOARD OF APPEALS
GOVERNMENT CENTER, 77 PARK STREET
ATTLEBORO, MASSACHUSETTS 02703
TEL 508.223.2222 FAX 508.222.3046

MINUTES

JULY 14, 2022

In accordance with the provisions of the General Laws of Massachusetts, Chapter 40A, as amended, public hearings were held on Thursday, July 14, 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 Case #5625, the application of Karen Bloch 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 structure, and 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 a covered porch onto an existing single family dwelling, the subject premises being located at 397 Locust Street, more specifically Assessor 's plat #105, lot #70, located in the Single Residence -C zoning district.

Speaking in favor of the application was Karen Bloch who stated that she is seeking relief to build a covered porch on the front of her home. She explained that her mother-in-law is partially paralyzed and that she would like to create an entrance/exit that allows her to access the home without assistance. She stated that she had previously been granted a variance for an addition and noted that due to restrictions through the Conservation Commission, the height had to be increased by 6-feet, creating too many stairs for her mother-in-law to traverse. She stated that her house was built in the 1800s so it is pre-existing non-conforming with respect to the front yard setback requirement. She stated that she is seeking a 14-foot variance and a special permit. She noted that she had submitted revised plans in response to the Staff Report.

Director of Planning and Development Gary Ayrassian sought confirmation that the access could not be placed in the rear of the property due to the wetlands.

Ms. Bloch answered yes.

Speaking in favor of the application was Greg Bloch who stated their intent is to make it as easy as possible for his mother to enter and exit the home.

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

The Board heard Case #5626, the application of Tim Beland 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 a farmer's porch 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, the subject premises being located at 15 Solomon Street, more specifically Assessor 's plat #46, lot #10, located in the General Residence -A zoning district .

Speaking in favor of the application was Rob Pelfrey who explained they are looking to replace the existing porch with a new farmer's porch. He noted that the porch will not extend further into the front yard setback than the existing one that they want to replace.

Sandy Varrieur inquired about the extent of the variance they are requesting.

Mr. Pelfrey replied a 10-foot variance from the front yard setback.

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

The Board heard Case #5624, the application of 21 Park Street, LLC for a variance pursuant to §17-8.9 VARIANCES from the minimum lot area/density requirement under §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to construct twenty-three (23) residential units whereby all of the residential units are above the first floor of the building located at 19-21 Park Street, a special permit pursuant to §17-9.0 SPECIAL PERMITS to reduce the required minimum number of off-street parking stalls in the Central Business zoning district pursuant to §17-5.9(F) GENERAL PARKING AND LOADING SPACE STANDARDS, a special permit pursuant to §17-9.0 SPECIAL PERMITS and §17-5.6(A) LOCATION OF PARKING AND LOADING SPACES to allow the use of off-street parking stalls located on private property within three hundred (300') feet of the subject premises, and a special permit pursuant to §17-9.0 SPECIAL PERMITS and §17-5.7 MUNICIPAL PARKING LOTS to allow the use of off-street parking stalls located on municipal parking lots within 1,000-feet of the subject premises, the subject premises being located at 19-21 Park Street, more specifically Assessor's plat #28, lot #8, located in the Central Business zoning district .

Speaking in favor of the application was attorney Edward Casey of Coogan Smith, LLP who stated that this landmark building was originally constructed in the 1930s. He stated that his client purchased it in 2017. He stated that historically, the first floor has been leased to several different banks and the floors above have housed offices. He stated that they have struggled to find commercial tenants. He stated that they have found several to occupy the first floor, but the market is driven by the need for residential housing within walking distance of public transportation. He stated that they are proposing to convert the office space located above the first floor into residential units consisting of 4 two-bedroom units, 18 one-bedroom units, and 1 studio unit for a total of 23 units. He stated his understanding that in the Central Business zoning district, the City has encouraged adapting older, historical, commercial or industrial buildings for more modern uses, as they are no longer generally practical for non-residential uses such as office space. He stated that parking relief is required to accommodate the conversion. He stated that the application calls for parking on private property located within 300-feet of the subject premises, but that since the application was filed with the city, his client is now looking to amend the application to propose acquiring the necessary off-street parking solely from nearby municipal lots located within 1,000-feet of the subject premise. He suggested a condition could be applied requiring proof of the leased parking spaces prior to the Building Inspector issues occupancy. He stated that they are planning to pursue a five-year lease with multiple 5-year renewal options, but that they will have to go before the Municipal Council for a license due to the multi-year nature of the contract. He stated that the Staff Report called out the need for relief for density, as their proposed projects does not satisfy the minimum lot area requirement for the density that they are proposing. He stated that to accommodate the proposed number of units, 28,000 square feet of lot area would be required. He stated that they are redeveloping an existing building and feel the odd shape of how it contours with the road is ample justification for a lot area variance.

Mr. Ayrassian noted that the proposed land use is by-right, as they are maintaining commercial uses on the first floor, so relief is being sought only for the off-street parking and land area, not land use. He stated that the applicant is proposing to reduce the off-street parking requirement from the required 52 parking stalls to zero (0) spaces and are proposing to provide 27 parking spaces in surrounding municipal lots. He asked why the relief for parking within 300-feet of the site on private property was being withdrawn.

Attorney Casey explained that his client also owns property across the street on Park Street, next to the church, that could have potentially provided some parking capacity. He stated, however, that they are going to

propose a multi-story residential building for that site, which will require its own parking. He asserted that the City has been adamantly advocating the development for workforce housing and the desire to attract people with disposable incomes to live in the downtown close to public transportation. He stated that the target market for a building like this are professionals working in Boston. He stated that such residents can help the downtown thrive, as they will utilize local restaurants and retail.

Speaking in favor of the application was Denis Keohane, the applicant, who stated that he redeveloped a similar building in New Bedford, which has similar zoning laws, into 20 market-rate apartments. He stated that since buying this building in 2017, he has lost many of his tenants due to the pandemic. He stated that he also invests in small restaurants and is looking to put a new Portuguese/Italian restaurant in the downtown.

Mr. Ayrassian advised the Board that the public hearing will have to be continued because the variance that attorney Casey requested must be advertised.

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.

Attorney Jack Jacobi spoke in favor and explained that they are having trouble obtaining the revised plan from their engineer and hoped to have it for the next meeting.

The Board read the Form Z2 - Request for an Extension of Time to August 31, 2022, submitted by attorney Jack Jacobi on behalf of David Turner relative to the variance application for 235 Tiffany Street.

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

Cathy Merkle made a motion to continue the public hearing to August 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 #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 of the application was attorney Jack Jacobi who asked the Board an extension of time, as they are still working through responses to the stormwater management peer review report. He stated that Mr.

Blais, their project's engineer, had fallen and has been unable to work for weeks and so they are slightly behind schedule. He requested an extension of time to September 30, 2022.

Cathy Merkle made a motion to grant an extension of time to September 30, 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 the continued public hearing relative to 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.

Attorney Ed Casey reminded the Board that his client is seeking to convert an existing industrial building into a self-storage facility. He stated that the Board had asked him to speak with the Police Chief about the proposed security system. He stated that he spoke with the Chief and that Chief Heagney indicated that he had no additional concerns. He stated that he believes that they have satisfactorily addressed all of the staff's comments.

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

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. He stated that the Conservation Commission approved the project, that he received a letter that the project will not have a negative impact from the Natural Heritage Endangered Species Foundation, and that they anticipate a final decision from DEP by the end of the month.

Mr. Ayrassian confirmed that the Conservation Commission approved the project. He also stated that the applicant submitted the revised plans, that he reviewed them, and that he found them acceptable. He recommended that the Board close the hearing.

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

The Board heard the continued public hearing relative to 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.

The Board reviewed the letter from Mariela Peña, received July 8, 2022, in response to the Staff Report.

Updates to the staff report reflected that the Building Inspector agreed with the interpretation of the equivalent retail uses.

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

The Board heard the continued public hearing relative to 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.

Tatiana Taforo spoke in favor of the application and stated that her husband spoke with the neighbor who lives on the side of the house where the variance is being requested and went over the plan with them. She stated that they did not have any issues with the project. She stated that she requested that they send an email to the Board confirming their consent, but she confirmed that they verbally conveyed their support.

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

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 reviewed the consent from abutting residents to the proposed improvements to the Pitas Avenue bridge submitted by Public Works Superintendent Michael Tyler, dated June 13, 2022, relative to the special permit application of the City of Attleboro to replace the Pitas Avenue bridge, Case #5598.

Speaking in favor of the application was Eric Silva of PARE Corp. who stated that they have discussed the project, the projects impacts, as well as the temporary and permanent easements that the city will need to install the new bridge project. He stated that the abutters did not oppose the project and were in agreement to conveying the necessary easements. He distributed updated plans to the Board. He stated that as a result of working with MADOT, they removed a portion of the guardrail that previously extended into the neighbor's property and replaced them with curved end posts instead, which the resident found preferable. He stated that in terms of stormwater, the upgraded plan proposes a Stormceptor unit with a Cultec reserve area that leads to a stone swale. He stated that in discussions with the Conservation Agent however, the Agent is leaning towards a system with limited maintenance and that his preference is that PARE Corp. remove the Cultec unit.

Cathy Merkle asked whether the upgraded design had been presented to the Conservation Commission.

Mr. Silva replied no, that they have not yet filed their Stormwater Management Permit application and Notice of Intent application with the Commission. He stated they are anticipating filing them by July 27, 2022 with public hearing being heard on August 10, 2022.

Mr. Ayrassian suggested the applicant hold off on presenting further before the Zoning Board until they have revised the plans that address any concerns raised by the Conservation Commission and the city's stormwater management engineering peer review.

Mr. Silva stated that he expects to next appear again before the Zoning Board in September and asked that the public hearing be continued until then.

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

The Board heard the continued public hearing relative to 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 he did not anticipate that they would have anything further to present until the Board's August meeting. He stated that they have hired a wetland scientist to delineate the wetlands on the property. He stated that there have been discussions about donating a portion of the property to the Attleboro Land Trust.

Mr. Ayrassian stated that it would be incredibly helpful if the surveyor placed stakes along Thayer Farm Road that delineate the location and width of the proposed common driveway in advance of the next meeting so that it is visually clear where the entrance is proposed on the road's curvature. He requested that the Board be notified when the stakes are placed.

Attorney Casey requested an extension of time to September 30, 2022.

Cathy Merkle made a motion to grant an extension of time to September 30, 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 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, and #209 through #211, located in the General Residence -A zoning district .

Speaking in favor of the application was José Cruz who asked the Board to continue the public hearing and requested a time extension.

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

Cathy Merkle made a motion to grant an extension of time to September 30, 2022. Kent Richards seconded the motion. All voted in favor to grant an extension of time.

Speaking in opposition was Jackie Solberg of 25 Torrey Street who asked for the results of the applicant's discussions with the Planning staff regarding lot frontage.

Mr. Ayrassian stated that the question of sufficient frontage is mutually exclusive from the requested zoning relief before the Board, which is in regards to lot width. He stated that the Zoning Board's decision, if it were to grant the lot width variance, will have no bearing on lot frontage.

Speaking in opposition was Debra King of 26 Torrey Street who stated that she wanted to state her continued opposition for all of the reasons she has presented at previous hearings.

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

The Board heard the continued public hearing relative to 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 of the application was architect David Sisson. He distributed information to the Board. He reviewed the proposal and list of relief that they are seeking. He stated that they submitted a letter to the Board addressing some of the outstanding questions regarding the kind and timing of events, number of attendees, and parking. He stated that they met with staff, the Building Inspector and Fire Department to talk about the events center. He stated that the Building Inspector and Fire Department had no particular issues with their proposal aside from limiting the maximum capacity to 275 people for the proposed space and noting that they would be subject to all applicable Building Code and Fire Code requirements for such a use, which Mr. Sisson stated he expected and is standard procedure. He stated that the type of events that they anticipate would be leasing the events center include business seminars, mixed martial arts events, theatrical performances, and lectures. He stated that events are slated to be held weekdays after 4:00 p.m. and weekends starting at 10:00 a.m. He stated that they anticipate running between 10 to 15 events per month. He submitted a visual illustrating where public parking facilities are located within 1,000 feet of the site. He stated that he was unsure how many of the parking spaces were available for leasing, but the City’s website cites there being over 900 spaces, including street parking, in the vicinity.

Sandra Varrieur asked whether business lectures had the potential to be held during the work day.

Mr. Sisson stated that his client is pursuing a particular business model for night and weekend events. Sandra Varrieur stated that she is concerned about parking in the area and that if the municipal parking keeps getting leased to individual businesses, there will be nothing left for everyday use by businesses and residents.

Cathy Merkle reminded the Board that the staff is preparing a parking report for the Board that it can apply to this case and future applications.

Mr. Sisson requested an extension of time to September 30, 2022.

Cathy Merkle made a motion to grant an extension of time to September 30, 2022. Kent Richards seconded the motion. All voted in favor to grant an extension of time.

Mr. Sisson asked the Board to continue the public hearing to September 8, 2022.

Cathy Merkle made a motion to continue the public hearing to September 8, 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.

Cathy Merkle asked Mr. Ayrassian to collect information and to prepare a report outlining the number of on-street parking spaces that are available in the Central Business zoning district and the number of off-street parking spaces that area leased and available to the public in municipal parking garage on Sanford Street as well as the number of off-street parking spaces that area leased and available to the public in municipal parking lots in the Central Business zoning district.

Mr. Ayrassian stated that he will.

The Board heard the continued public hearing relative to Case #5582, the 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 was attorney Jack Jacobi who stated that his sense that the Conservation Commission might render a decision on August 10, 2022, as he believes his client has resolved all outstanding issues with the stormwater management system and wetland resources. He stated that the archeological study of the site found no significant features that warranted any further investigations. He stated that they also have filed an application with the Army Corps of Engineers as to whether the site contains any wetlands under federal law, which will likely be a six month process. He stated that they made some changes to the site plan based on the architectural and traffic peer reviews. He stated that he was optimistic they may be able to conclude before the Planning Board and Zoning Board in August. He stated that they have taken out a portion of the boulevard entrance median as the driveway nears the residential area, allowing them to create more green space on both sides of the drive. He stated that they also made adjustments to define the transition from the commercial section at the front of the development to the residential section behind the commercial development. He stated that they are proposing a right turn in and right turn out only at the Miller's Roast Beef curb cut and have made the triangular configuration of that curb more robust to make any left hand turn out unworkable or as difficult as possible. He stated that as a result of feedback from the Planning Board and Zoning Board about traffic flow around the daycare center, they shifted the daycare forward towards Newport Avenue and as a result, extended the driveway easterly to create a long stretch of one-way traffic entering, and eliminated the pinch point immediately on the left hand side of that entrance that fed into the parking lot as previously proposed. He stated that his now accommodates two-way traffic flow around the building. He noted that they also redesigned the drive-through for the Greek restaurant. He stated that to make all the plan revisions related to the daycare center advised by the Planning Board and Zoning Board and the additional resulting plan changes that they effected all work, they had to slide a portion of the parking lot closer towards Newport Avenue whereby a portion of it now encroaches into the requisite front yard setback of Newport Avenue in one area by 4-feet and by 7-feet in another area, as shown on the plan. He stated that the actual distance however between the property line and the edge of the Newport Avenue right-of-way is 28-feet, which is more than the required 15-foot front yard setback requirement of the Zoning Ordinance.

The Board read the letter from attorney John F. D. Jacobi, III of Coogan Smith, LLP, dated July 7, 2022, to amend the application of Anthony Properties Realty, Inc. by requesting an additional variance to allow off-street

parking stalls within the minimum front yard setback relative to its special permit and variance application for 754 Newport Avenue, Case #5582.

Cathy Merkle made a motion to amend the application to include a variance to allow off-street parking stalls within the front yard setback. Kent Richards seconded the motion. All voted in favor.

Attorney Jacobi stated that outlook areas and gathering places were also added to the site plan. He stated that one abutter expressed opposition to these features as well as to the dog park because of their proximity to the abutter's property. He stated, in rebuttal to the abutter's opposition, that the location of these amenities are not intended for large events and that they are unlikely to be seen or to have an impact on anyone's quality of life as they are separated by at least 175-feet from the closest neighbor with a thick natural vegetative screen. He stated that the dog park is only for the use of residents during daylight hours and that owners will be present to supervise their dog(s). He stated that the Planning Board directed them to develop more "New England"- style architecture, so their architect did a survey of New England commercial buildings to develop and temper their revised renderings. He stated that they had submitted perspectives from the surrounding residential roadways, showing how little of the development will be visible due to the existing vegetative screening that surrounds the development site.

Speaking in favor was traffic engineer Pat Dunford of VHB who stated that he included the analysis of an additional intersection in his traffic report, as recommended by the Board's traffic peer reviewer, GPI. He stated that the additional intersection is the one at the Shops on Washington plaza. He stated that he also double-checked the visibility coming out of both driveways, which he stated he found to be sufficient. He stated that they reviewed the trip generation and parking data to ensure that criteria are met based on segmentation of the various uses. He stated that the Board's traffic peer reviewer also recommended a Traffic Demand Management plan. He stated that numerous bike racks are also shown on the site plan. He stated that they also recommend that a Roadway Safety Audit be performed, which will identify existing roadway deficiencies in the area.

Mr. Ayrassian explained that such an undertaking would need to be a condition of approval, as it will be a long-term project.

Mr. Dunford stated that the development will offer shuttle service to and from the South Attleboro commuter rail state and that schedules will be made available to residents of the development. He stated that they have requested MADOT consider implementing an Opticom system to facilitate emergency personnel through the traffic signal. He stated that they are willing to revisit their trip generation data six months after opening, to ensure that things are accurate. He stated that the Board raised questions about the adequacy of the daycare parking lot capacity. He stated that in their investigations of other similar facilities, they found that 26 parking spaces is the peak demand, including staff. He stated that they are providing 27 parking spaces. He stated that the Board's traffic peer reviewer supported the concept of the Miller Roast Beef access being right turn in and right turn out only, which will also encourage drivers to use the main entrance with the traffic signal.

Mr. Ayrassian asked when revised plans would be submitted.

Speaking in favor was engineer Renee Codega of VHB who stated by the end of the month.

Attorney Jacobi requested an extension of time to September 30, 2022.

Cathy Merkle made a motion to grant an extension of time to September 30, 2022. Kent Richards seconded the motion. All voted in favor to grant an extension of time.

The Board read the letter regarding a preliminary subdivision plan submitted by attorney John F. D. Jacobi, III of Coogan Smith, LLP, dated July 8, 2022, regarding a proposed subdivision of 754 Newport Avenue relative to the applicant's special permit and variance application for 754 Newport Avenue, Case #5582.

Attorney Jacobi stated their intent is to meet the city's sign regulations by subdividing the property and that for transparency, they wanted to show the Zoning Board the plan at this time. He stated that they will be filing the subdivision plan with the Planning Board at a later. He stated that in the interim, they will be returning for signage relief.

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

The Board heard the continued public hearing relative to Case #5621, 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 engineer Brian Weiner of Dunn McKenzie, Inc. who stated that their initial approach to developing the site was to provide a net cut, but found that was not consistent with the requirements for compensatory storage. He stated that the property owner obtained more land out of the floodplain, which has allowed them to provide compensatory storage at each elevation of the floodplain. He stated that the lot will be consistent with others in the neighborhood and that he isn't aware of a history of actual flooding there.

Mr. Ayrassian asked whether Mr. Weiner knows when the surrounding homes were built.

Mr. Weiner stated that he did not to know.

Mr. Ayrassian suggested it is likely they were built as early as the 1940s, well before FEMA even existed. He did not think that development now with recently updated regulations ought to be compared to the 1940s.

Mr. Weiner asserted that they meet the criteria for grant of a floodplain special permit, as they provide compensatory storage at each foot of elevation starting with 107.5-feet.

Mr. Ayrassian respectfully recommended the applicant continue the hearing so a meeting can be arranged with staff and the Conservation Agent. He expressed concern with the locations at which compensatory storage is being provided. He asserted that compensatory storage has to be provided at the 100-year floodplain elevation, not at each foot of elevation where fill is occurring. He stated that as an example if the 100-year floodplain elevation is 100', then all compensatory storage is to be created at elevation 100'. He stated that one cannot dig a deeper or bigger hole to compensate for the fill.

Cathy Merkle stated that she does not want potential future homeowners to be forced to access it via boat.

Speaking in favor was attorney Edward Casey who stated that there is statistically a 1% chance in any given year of a damaging flood. He stated that there could be consecutive storm events that also accumulate similar flood waters, but that is an equally unusual event. He stated that the ordinance permits construction in the flood plan if you design to accommodate the 100-year flood. He stated that even if there is a foot of water on Cypress road itself, a vehicle can still pass and he felt this plan meets the standard. He stated that he had submitted a letter and a map from neighbors attesting to there being no flooding in the area.

Mr. Ayrassian stated that he agrees that there's a 1% chance in any given storm that there it will be a 100-year storm event, but nonetheless that is the design threshold that the law requires. He stated that he also agrees that the ordinance permits construction in the flood plan if one designs to accommodate the 100-year flood but that it is not just a mathematical calculation that needs to be satisfied. He stated that the compensatory storage needs to be provided at the 100-year floodplain elevation and that the site plan has to show a practical design that promotes the health and safety of the residents and not just that the math works out.

Kent Richards also noted that not just the site itself must be considered, but also the impacts on neighbors.

Mr. Ayrassian stated that the Board has the jurisdiction to opine whether the design is appropriate for the general welfare of both future inhabitants and the neighbors. He stated that the Board has to put the proposed plan in context to the area and not rely strictly on mathematical calculations.

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

The Board held a business meeting.

The Board heard the appointment to speak of attorney Edward Casey regarding 1400 County Street, Case #5521.

Attorney Casey stated that in September 2021, the Board approved a thirty-eight (38) unit multi-family development consisting of nineteen (19) two-family dwellings for a 55+ community at this location. He explained that there is a title problem on a portion of the property, so breaking ground is taking longer than expected. He requested a one (1) year extension of time to act on the special permit that the Board granted and a six (6) month extension of time that the Board granted.

Cathy Merkle made a motion to grant a six (6) month extension of time to W.B. Construction & Development, Inc. to act on the variance relative to the thirty-eight (38) unit multi-family development consisting of nineteen (19) two-family dwellings primarily for the elderly and handicapped at 1400 County Street, Case #5521. Kent Richards seconded the motion. All voted in favor to grant a six (6) month extension of time to W.B. Construction & Development, Inc. to act on the variance.

Cathy Merkle made a motion to grant a one (1) year extension of time to W.B. Construction & Development, Inc. to act on the special permit relative to the thirty-eight (38) unit multi-family development consisting of nineteen (19) two-family dwellings primarily for the elderly and handicapped at 1400 County Street, Case #5521. Kent Richards seconded the motion. All voted in favor to grant a one (1) year extension of time to W.B. Construction & Development, Inc. to act on the special permit.

The Board discussed Case #5625, the application of Karen Bloch 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 structure, and 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 a covered porch onto an existing single family dwelling, the subject premises being located at 397 Locust Street, more specifically Assessor 's plat #105, lot #70, located in the Single Residence -C zoning district .

Catherine Merkle made a motion to grant a variance pursuant to §17-8.9 VARIANCES of fourteen (14') feet from the minimum front yard setback requirement of thirty (30') feet pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY to accommodate the construction of a covered porch onto an existing one-family dwelling, as shown on the site plan. Sandra Varrieur seconded the motion. A discussion followed. All voted in favor. Catherine Merkle made a motion to grant a special permit, pursuant to §17-9.0 SPECIAL PERMITS under §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS, to alter a pre-existing non-conforming residential structure, a one-family dwelling, to accommodate the construction of the covered porch, as shown on the site plan. Sandra Varrieur seconded the motion. A discussion followed. All voted in favor. Catherine Merkle made a motion to grant a special permit pursuant to §17-6.0 NON-CONFORMING USES, STRUCTURES AND LOTS to alter a pre-existing non-conforming residential structure, a one-family dwelling, to accommodate the construction of the covered porch, as shown on the site plan. Sandra Varrieur seconded the motion. A discussion followed. All voted in favor. The Board attached additions.

The Board discussed Case #5626, application of Tim Beland 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 a farmer’s porch 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, the subject premises being located at 15 Solomon Street, more specifically Assessor’s plat #46, lot #10, located in the General Residence -A zoning district .

Catherine Merkle made a motion to grant a variance pursuant to §17-8.9 VARIANCES of ten (10’) feet from the minimum front yard setback requirement of thirty (30’) feet from the Rondi Lee Terrace right-of-way pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY to accommodate the construction of a farmer’s porch onto an existing one-family dwelling, as shown on the site plan. Kent Richards seconded the motion. A discussion followed. All voted in favor. Catherine Merkle made a motion to grant a special permit, pursuant to §17-9.0 SPECIAL PERMITS under §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS, to alter a pre-existing non-conforming residential structure, a one-family dwelling, to accommodate the construction of the farmer’s porch, as shown on the site plan. Kent Richards seconded the motion. A discussion followed. All voted in favor. Catherine Merkle made a motion to grant a special permit pursuant to §17-6.0 NON-CONFORMING USES, STRUCTURES AND LOTS to alter a pre-existing non-conforming residential structure, a one-family dwelling, to accommodate the construction of the farmer’s porch, as shown on the site plan. Kent Richard seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

The Board discussed 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.

Cathy Merkle made a motion to grant a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.4(#15) TABLE OF USE REGULATIONS - RETAIL, SERVICE, COMMERCIAL to operate a self-storage facility at 34 Forest Street, as shown on the site plan entitled “INDUSTRIAL BUILDING CONVERSION 34 FOREST STREET ATTLEBORO, MA”, prepared by Michael A. Malynowski of Allen & Major Associates, Inc., 100 Commerce Way, Suite 5, Woburn, MA 01801, filed with the City of Attleboro/City Clerk’s Office on May 12, 2022. Sandy Varrieur seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

The Board discussed Case #5590, the application of No Fossil Fuel, LLC for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §170-3.1 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.

Cathy Merkle made a motion to grant a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.1 USE DESIGNATIONS for the construction of a ground-mounted solar photovoltaic facility, the subject premises being located at 179 Peckham Street, more specifically Assessor’s plat #209, lot #3, as shown on the site plan entitled “ATTLEBORO SOLAR LANDFILL PROJECT LOCATED AT 179 PECKHAM STREET, ATTLEBORO, MA” engineered by Richard Robert DeBenedictis, R.P.E., 57 Sanderson Drive, Plymouth, MA 02360, dated May 24, 2021, with revisions through April 5, 2022. Sandy Varrieur seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

The Board discussed 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.

Catherine Merkle made a motion to grant a variance pursuant to §17-8.9 VARIANCES of thirteen (13’) feet from the minimum side yard setback requirement of fifteen (15’) feet pursuant to §17-4.9 TABLE OF DIMENSIONAL AND

DENSITY to accommodate the construction of an addition on to an existing one-family dwelling, as shown on the site plan entitled “PLAN SHOWING PROPOSED ADDITION 113 HACKETT AVENUE, ATTLEBORO, MA”, drawn by Dennis O’Brien, P.L.S. of D. O’Brien Land Surveying, 480 West Central Street, Franklin, MA 02038, dated October 25, 2021. Kent Richards seconded the motion. A discussion followed. All voted in favor. Catherine Merkle made a motion to grant a special permit, pursuant to §17-9.0 SPECIAL PERMITS under §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS, to alter a pre-existing non-conforming residential structure, a one-family dwelling, to accommodate the construction of the addition, as shown on the site plan entitled “PLAN SHOWING PROPOSED ADDITION 113 HACKETT AVENUE, ATTLEBORO, MA”, drawn by Dennis O’Brien, P.L.S. of D. O’Brien Land Surveying, 480 West Central Street, Franklin, MA 02038, dated October 25, 2021. Kent Richards seconded the motion. A discussion followed. All voted in favor. Catherine Merkle made a motion to grant a special permit pursuant to §17-6.0 NON-CONFORMING USES, STRUCTURES AND LOTS to alter a pre-existing non-conforming residential structure, a one-family dwelling, to accommodate the construction of the addition, as shown on the site plan entitled “PLAN SHOWING PROPOSED ADDITION 113 HACKETT AVENUE, ATTLEBORO, MA”, drawn by Dennis O’Brien, P.L.S. of D. O’Brien Land Surveying, 480 West Central Street, Franklin, MA 02038, dated October 25, 2021. Kent Richards seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

The Board discussed 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.

Cathy Merkle made a motion to grant a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS to alter the pre-existing non-conforming former Anawan Glass and Mirror use into a retail consignment shop at 250 South Main Street, as shown as described herein. Kent Richards seconded the motion. A discussion followed. All voted in favor.

Cathy Merkle made a motion to grant a special permit pursuant to §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS to alter the pre-existing non-conforming former Anawan Glass and Mirror use into a retail consignment shop at 250 South Main Street, as shown as described herein. Kent Richards seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

The Board reviewed all remaining correspondence.

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, May 19, 2022 June 9, 2022, and June 16, 2022.

The meeting adjourned at 9:30 p.m.