



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

JANUARY 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, January 9, 2020, at 6:30 p.m. in the Municipal Council Chambers , 77 Park Street, relative to the following:

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

Zoning Board Members Absent: None

The Board heard the continued public hearing relative to Case #5491, the application of Pacifico Energy, NA for special permits pursuant to §17-9.0 SPECIAL PERMITS under §17-3.1 USE DESIGNATIONS to construct a ground-mounted solar photovoltaic facility and under §17-10.2 EARTH REMOVAL for an earth removal operation associated with the proposed facility, the subject premises being located at 0 Richardson Avenue and 0 Richardson Avenue Rear, more specifically Assessor's plat #124, lot #10 and #15, located in the Single Residence -D zoning district .

The Board reviewed the email from Laura Lefebvre of TRC Solutions, received January 9, 2020, to Director of Planning and Development Gary Ayrassian, requesting the Board to continue the public hearing to February 2020.

Cathy Merkle made a motion to continue the public hearing to the Board's February 13, 2020 meeting. Kent Richards seconded the motion. All voted in favor to continue the public hearing to February 13, 2020.

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

The Board heard the continued public hearing relative to Case #5484, the application of Aspen Blue Cultures, Inc. for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-10.15 MARIJUANA BUSINESS USES to amend a previously approved Registered Marijuana Business (a Medical Marijuana Treatment Center and a Marijuana Retail Sales Facility) by including additional marijuana-related business uses, specifically marijuana cultivation and manufacturing activities for retail and medical uses and for a variance pursuant to §17-8.9 VARIANCES to reduce the minimum number of required loading spaces pursuant to §17-5.2 OFF-STREET LOADING REQUIREMENTS, the subject premises being located at 40 Forest Street, more specifically Assessor's plat #61, lot #169, #170, #170A, #172, #181, #182D, and #182G, located in the Industrial zoning district .

Speaking in favor of the petition was attorney Edward Casey who explained that due to a lack of a quorum at its last meeting, the Conservation Commission was unable to render a decision on their Stormwater Management application. He stated that between this and the need to address some outstanding site plan revisions, he requested the Board to continue the public hearing.

The Board read the email from attorney Edward Casey, received January 7, 2020, to Senior Land Use Planner Stephanie Davies, requesting the Board to continue the public hearing.

Cathy Merkle made a motion to continue the public hearing. 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 #5462, the application of Mark Rioux for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.4(#3) TABLE OF USE REGULATIONS to accommodate the construction of three (3) two-family dwellings for a total of six (6) units and a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-12.0 FLOOD PLAIN DISTRICT to accommodate work/excavation within the 100-year floodplain; the subject premises being located at 4 Stead Avenue, more specifically Assessor 's plat #29, lot #12, located in the General Residence -B zoning district .

The Board read the email from Daniel Campbell of Level Design Group, dated January 9, 2020, to Zoning Board Clerk Lauren Stamatis requesting the Board to continue the public hearing.

Cathy Merkle made a motion to continue the public hearing. 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 #5469, the application of SOWA, LLC for a variance pursuant to §17-8.9 VARIANCES under §17-5.1 OFF-STREET PARKING REQUIREMENTS to reduce the required dimensions of off-street parking stalls and under §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS from the minimum front yard setback requirement to accommodate the construction of an 11,556 sf retail building; a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-5.9(E) GENERAL PARKING AND LOADING SPACE STANDARDS to reduce the required number of off-street parking stalls; and a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.5(#23) TABLE OF ACCESSORY USE REGULATIONS to construct a drive-through window in association with a bank, the subject premises being located at 1 Highland Avenue and 5 Route 1A, more specifically Assessor's plat #64, lots #1A and 1B, located in the General Business zoning district .

Speaking in favor was attorney Jack Jacobi of Coogan Smith, LLP who provided to the Board a sketch of the site without the previously proposed entrance from Newport Avenue. He reminded the Board that Chase Bank had terminated their lease with his client as a result of the City's unwillingness to approve the proposed curb cut on Newport Avenue. He explained that in December, his client went to a leasing convention in New York and has since found two or three new banks that would be interested in occupying the space. He stated that the banks, however, are unwilling to commit unless they know that the Board is willing to consider the proposed revised plan. He stated that at this time, he is seeking feedback from the Board as to whether they would entertain the revision so that he may give the potential tenants a sense of direction.

The Board agreed that the major issue was the proposed curb cut on Newport Avenue.

Mr. Ayrassian advised the Board to tread cautiously as there was significant opposition to this project and that it would be unwise to even suggest any positive feedback on the curb cut without public input. He stated that at the close of the previous public hearing, he stated that the Board and public were reassured by that developer who categorically stated that no curb cut would be proposed on Newport Avenue. He said now the developer is before the Board wanting to modify the original plan that was filed for Case 5469 with a plan that shows a curb cut on Newport Avenue. He urged the Board not to take a position and leave it up to the developer whether or

not to pursue it. He stated that if the Board shows any support, even to simply entertain, he sensed that the developer would move forward on it by referencing the Board's support, no matter how lukewarm it might be.

Cathy Merkle agreed with Mr. Ayrassian and stated that the Board is open to moving forward with Case #5469 without a proposed curb cut entrance on Newport Avenue. She emphasized that the site plan with an entrance on Newport Avenue will not be approved by the Board.

Attorney Jacobi confirmed that he was not seeking a vote or a letter, but merely feedback, which he has received loud and clear. He requested the Board to continue the public hearing to March 31, 2020.

Cathy Merkle made a motion to continue the public hearing to March 31, 2020 relative the application of SOWA, LLC for property located at 1 Highland Avenue and 5 Route 1A, Case #5469. Kathy Rautenstrauch seconded the motion. All voted in favor to continue the public hearing relative to March 31, 2020.

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

The Board heard the continued public hearing relative to Case #5474, the application of BCWC, LLC for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-10.15 MARIJUANA BUSINESS USES to establish two marijuana businesses: a Marijuana Retailer and a Medical Marijuana Treatment Center and for a variance pursuant to §17-8.9 VARIANCES under §17-5.9(A) GENERAL PARKING AND LOADING SPACE STANDARDS from the minimum required setback for off-street parking spaces, the subject premises being located at 0 Chartier Street, 31 Chartier Street, 128 Bacon Street, and 0 Westminster Street, more specifically Assessor's plat #3, lot #71, #72, #73, #203, #204, #205, #206, #250, #258, and #259, located in the Industrial zoning district .

The Board heard the Case #5474, the application of BCWC, LLC for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS to extend a pre-existing, non-conforming parking lot use, the subject premises being located at 0 Chartier Street, 31 Chartier Street, 128 Bacon Street, and 0 Westminster Street, more specifically Assessor's plat #3, lot #71, #72, #73, #203, #204, #205, #206, #250, #258, and #259, located in the Industrial zoning district .

Speaking in favor was attorney Edward Casey who informed the Board that they are waiting the traffic study peer review. He stated that a Notice-to-Proceed has not yet been issued. He stated their hope that the peer review will be submitted to the Board in advance of the February meeting.

Speaking in favor of the application was Dan Campbell of Level Design Group who explained that no revision to the site's internal design have been made since the last meeting but that a number of plan elements have been revised to the site's external areas at the request of the Police Chief. He stated that they are proposing to install curbing along Chartier Street and a sidewalk starting at the corner of Chartier Street and Westminster Street continuing around the corner to Westminster Street and Bacon Street. He stated that they are also proposing to install a 5'x10' bus stop pad to provide a safe place for the neighborhood's kids to wait for the school bus along with a 5-foot wide painted crosswalk to facilitate crossing the street. He noted that these modifications will require approval by the Municipal Council.

Mr. Ayrassian asked whether the proposed sidewalk would be constructed of concrete or asphalt.

Mr. Campbell replied asphalt with vertical granite curbing.

Mr. Ayrassian asked if the vertical-faced granite curbing would have a 6-inch reveal.

Mr. Campbell answered yes.

Mr. Ayrassian asked whether handicapped ramps are proposed on either side of the crosswalk.

Mr. Campbell replied yes. He noted through the use of the site plan that there is no matching ramp on the opposite side, as the existing condition is that there is no sidewalk or curbing. He stated at the direction of the Police Chief, they have added a "sally port" to the site plan as well as a perimeter fence with a slide-gate at the entrance to the facility that would be opened in the mornings and closed at night by staff. He stated that at the direction of the Police Chief, he also removed the proposed berm and the solid fencing from the site plan. He also stated that they are proposing to repave a short section of Chartier Street to facilitate the flow of runoff to reach the catch basins so as to cancel out and drainage problems that might result from the installation of the proposed granite curbing.

Mr. Ayrassian asked whether they obtained approval from the Public Works Department to repave Chartier Street.

Mr. Campbell replied yes at which time he was advised to saw cut the portion from the main entrance to the corner and re-crown the road. He noted that all of the work will have to be signed off and inspected by the Public Works Department at the time it is performed. He stated that since the Police Chief wants full visual access of the site, they are replacing the previously proposed white vinyl fencing with chain link fencing and modifying the proposed landscaping along Bacon Street so that it never obstructs any sight lines into the site.

Mr. Ayrassian asked that a specifications table of the landscaping be shown on one of the plan sheets.

Mr. Campbell stated that the revised set of plans already include such a table. He stated that the only plants that have not been specified yet are those that would be planted the rain garden, which will have its own detail. He stated that all of the trees will be deciduous and that branch heights will begin at a minimum of 8-feet from the ground. He added that they also addressed the Police Chief's request for additional lights to shine on the sidewalks that encircle the building. He stated that wall pack lights have been added to the building.

Mr. Ayrassian requested that details of the perimeter fencing and the "sally port" be shown on the plan.

Mr. Campbell replied that he would and noted for the time being that an 8-foot chain link fence would be installed around the perimeter of the site with a slide-gate at the entrance. He stated that standard security procedures would be employed for the opening of the gate.

Mr. Ayrassian asked whether parking spaces had to be moved to accommodate the "sally port".

Mr. Campbell replied no, as it was designed in space that was already designated as the drive-up ramp for the garage. He noted that it does however block access to the sidewalk and noted that the internal sidewalk does not encircle the building completely.

Attorney Casey stated that historically, the site has been used for the parking and storage of vehicles and that it has continued to be used as such to the present day. He stated that he filed for an additional special permit to extend a pre-existing, non-conforming, use to allow for the proposed off-street parking to be located within the 15-foot front yard setback. He submitted an affidavit from the prior owner, David Bourque, testifying to how the site has been utilized by Stateline Scrap, Schnitzer, and a car dealership. He noted that the Senior Planner called out a distinction between storage of vehicles and active parking and that the activity within the 15-foot front yard setback has historically been storage of vehicles, not parking. He stated that he disagrees with her interpretation. He stated that the focus should be on what activity is occurring within the 15-foot setback. He suggested that the request would not create environmental, traffic, or pedestrian safety issues, as it is a continued non-conforming use.

Ms. Davies discussed a previous KIA application, where the Board differentiated between a parking lot and an area set-side to store and display vehicles, as the argument was made that parking space dimensional requirements and standards do not apply to vehicles that are being stored or displayed. She stated that the site in question had no striping and parking occurred haphazardly throughout the site. She asserted that stored vehicles were left around for months at a time and were not entering and exiting the site on a daily basis. She stated that she did not feel there was any greater negative impact on the neighbors than with the parking of vehicles that has occurred historically, but the question is whether or not the applicant has standing for the special permit. She stated her opinion that a variance is the appropriate mechanism for the relief being sought.

Mr. Ayrassian stated that the affidavit offers a nice history of the site but that he noticed that Mr. Bourque uses the words parking and storage interchangeably. He stated that he had advised the attorney Casey and the applicant to pursue the pre-existing, non-confirming, special permit process because he was under the impression the site had been used for parking, vehicle storage. He stated that the affidavit seems to indicate that the site was used to store vehicles. He supported Ms. Davies opinion that there is a difference between vehicles that are parked and those that are stored or displayed.

Attorney Casey argued that if there is a non-conforming use taking place in the setback that predates the adoption of zoning, the door is open for another non-conforming use, if not identical, use. He asserted that both parking and storage would be non-conforming uses in the setback.

Cathy Merkle opined that she felt Stateline Scrap was parking vehicles, and that after that, vehicles were likely stored on the property.

Attorney Casey asked the Board to continue the public hearing.

Speaking in opposition was Morgan Fleischman of 135 Westminster Avenue who provided a study to the Board from the University of Colorado at Denver that concluded that crime, including aggravated assault, burglary, and larceny, in neighborhoods with one or more marijuana dispensaries increased anywhere from 26% - 1,400%. She provided another long-term study performed in California that found a correlation between constant traffic and marijuana dispensaries. She stated that following the opening of a marijuana dispensary in Brookline Massachusetts, the City saw increases in littering, public consumption, public urination, and even the re-selling of marijuana to underage individuals. She stated that the study also cited complaints from 46 neighboring business owners concerned about fighting, loitering, and parking issues and that in response, Brookline approved a budget increase dedicated to police patrols and addressing littering. She asked whether Attleboro really wants to have to go to those lengths to accommodate such a business. She stated that years after opening, there are still traffic issues associated with other such dispensaries in Massachusetts. She stated that she is aware that Nova Farms has already been approved for a marijuana dispensary in another industrial area and that she felt it is excessive and greedy to try to establish another one in her neighborhood. She noted that the nearby convenience store has been robbed several times in the past few months. She stated that she spoke with a retired DOT manager who had commented that the traffic engineering consultant for this case likely did not include increased traffic from Rhode Island. She explained that she works at MIT and spends up to four hours a day in traffic, so she understands how something minor can have a major effect on traffic. She requested the Board to deny the application.

Mr. Ayrassian explained to Ms. Fleischman that in Attleboro, marijuana facilities cannot be built by-right, but rather require a special permit, which gives the City the authority to revoke the permit if the applicant does not conduct the business in accordance with the special permit. He stated that if there is a sound correlation between marijuana businesses and crime, the host community should be considering pulling the permits for those businesses. He asked whether the facilities in these studies are of the same size or character as the one proposed in Attleboro.

Ms. Fleischman replied that she did not know.

Mr. Ayrassian stated that it is important to put matters both in context and perspective. He stated that for example, it would be helpful to know how the communities that were studied compare demographically with Attleboro.

Speaking in opposition was Joe Drazek of 121 Westminster Avenue who stated that he would like the Board to deny the application. He noted that the affidavit provided by Mr. Bourque fails to acknowledge that two years prior, that there was a house located at 31 Chartier and that it was just recently purchased and demolished. He reminded the Board that he in fact spoke in favor of a previous special permit application for this site that involved parking cars for a car dealership and that he is not against business. He stated that parked cars are quiet and that what is proposed will be a much more active and disruptive use. He asked what hardship as the applicant presented to the Board to justify the requested variances. He argued that he did not feel that the proposed marijuana business is the best use of the property and that the Ordinance relative to marijuana businesses was written poorly. He questioned why the standards would require buffers be measured from building to building rather than from lot to lot, like they are in Rhode Island.

Mr. Ayrassian stated that the ordinance that regulates marijuana businesses is in fact very well written, that it involved the collaboration of the Municipal Council, the Planning Board, the Zoning Board, the City Solicitor, and the planning staff, and that it went through numerous edits and revisions until a final draft was agreed upon. He also noted that it then was vetted through a public hearing process. He stated that Mr. Drazek is of course entitled to his opinion about the content of the ordinance but advised him not to denigrate a process that months of thinking and researching went into. He stated that he understands Mr. Drazek's opposition for this particular project, but asked that he respect the work of the people who strive to create and adopt laws for the best interest of Attleboro. He stated that if Mr. Drazek does not like how the ordinance is written, he has the ability to file an application to change it.

Mr. Drazek reiterated his objection to the anticipated increase in traffic, the loss of property values, and how the residents will have to bear the consequences of this project. He stated that he sees no benefit to the residents. He stated his understanding that there are a number of facilities already approved and suggested the Board wait for a few to open to better gauge the effects of a marijuana business on a neighborhood before approving more. He stated that the Council had the foresight to require this in the "Industrial" zone where typically there are no residences and where there is appropriate infrastructure to support such a use. He stated that Chartier Street and Bacon Street are too narrow and not supported with the appropriate infrastructure. He stated that Stateline Auto has unregistered cars parked all the way up and down Westminster Avenue and there is no enforcement of that, so what hope is there for enforcing conditions with a use like this. He stated that there has been so much traffic at other facilities in Massachusetts that they have had to utilize shuttles to bring people back and forth and that this area cannot handle measures like that. He stated that a number of other applications for marijuana businesses have come before the Board and had little or no opposition. He suggested that the level of outcry about this proposed marijuana businesses should be a clear indication that it is not right for the neighborhood. He stated that he has attended every meeting for this application and has been patient with the process, as this is his only means of redress. He requested that the Board visit his neighborhood and deny the application based on the problems it will create.

Attorney Casey stated that this is a process and everyone has their roles to play. He objected to the notion that just because his client is a profit-motivated business that there is something wrong with that. He stated that his client has entered into a Host Community Agreement, which will provide money directly to the City, which is meant to address any concerns that arise as a result of marijuana sales. He stated that his client has proposed to construct an attractive building that is currently a derelict lot. He stated that there will be no manufacturing or cultivation on the lot, simply commercial transactions with typical sales in the range of \$60.00 to \$70.00. He noted that Fox News did a study in May of 2019 that found that crime actually decreased in proximity to such facilities. He argued that the customers of this business are those who can afford to buy products that have been properly grown and are safe for consumption. He strongly doubted that customers are then reselling the product to minors who would not be able to afford the anticipated mark-up over retail prices. He stated that the

neighbors' concerns are understandable, but it needs to be determined whether they are reasonable within the context of the proposed project.

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

The Board heard Case #5493, the application of Ronald Proulx for variances pursuant to §17-8.9 VARIANCES from the minimum front setback requirement pursuant to §17-4.5 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to accommodate the construction of a single family dwelling; the subject premises being located at 34 Como Drive, more specifically Assessor's plat #15, lot #127, located in the Single Residence-B zoning district.

Speaking in favor of the application was attorney Edward Casey who stated that upon purchase of the property by his client, there had been a discrepancy with location of Como Drive right-of-way and that the pavement was laid 40± feet from where it belonged in the roadway layout. He explained that as a result, the property appeared to have a lot more front yard than it actually and legally did. He stated that in early 2019, the Board had granted a front yard setback variance and a lot area variance for a new house to be constructed in place of the existing dilapidated house that was going to be demolished. He stated that after Mr. Proulx exercised the variances, built the new house, and found a buyer, the Building Inspector noticed an error on the as-built plan and determined that the new house did not satisfy the minimum front yard setback requirement. He stated that a front yard setback variance of 0.2-feet is needed, as measured from Loomis Street.

Ms. Davies pointed out that the relief grant in early 2019 involved a front yard setback variance from Como Drive, not Loomis Street.

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

The Board heard Case #5492, the application of Attleboro Land Trust, Inc. for a variance pursuant to §17-8.9 VARIANCES from the minimum lot width requirement pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to accommodate to create a buildable lot, the subject premises being located at 0 Pike Avenue, more specifically Assessor's plat #226, lot #2A-1, located in the Single Residence-D zoning district.

Speaking in favor of the application was attorney Patrick Sullivan who explained that the Attleboro Land Trust is seeking a lot width variance to create a buildable lot that they have under contract with a buyer. He stated that the land is located in the Single Residence-D zoning district, which requires a minimum lot width of one hundred twenty (120') feet. He stated that proposed Lot #2, for which the variance is sought, has a land area of 3.5 acres and is vastly oversized for the zoning requirements. He stated that proposed Lot #2 satisfies the minimum lot frontage requirement and contains 111.5-feet of lot width, a deficient of only 8.5-feet, so there will be no issues with emergency vehicles accessing the property. He stated that they are of the opinion that they satisfy the "unique shape lot" standard for the granting of the variance, as the lot is significantly narrow towards Pike Avenue and as compared to the rear of the lots where it widens to as much as 330-feet. He stated that the Attleboro Land Trust acquired the property in 2011 and intends to use the funds from the sale towards the conservation of other more appropriate properties. He stated that without the grant of this variance, it will create a financial hardship for his client.

Speaking neither for nor against the petition was Linda Chilson of 175 Pike Avenue who stated that she owns land abutting this property and wanted to learn whether the granting of the variance would in any way preclude her from developing her property.

Mr. Ayrassian replied no.

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

The Board heard Case #5494, the application of Glenn F. Case for variances 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 accommodate the construction of a single-family dwelling on a proposed lot, the subject premises being located at 87 and 95 Lockwood Avenue, more specifically Assessor's plat #72, lot #542, #543, #600 -#615, located in the Single Residence -B zoning district.

Speaking in favor of the application was attorney Edward Casey who stated that the deficiency with the site plan raised by Senior Land Use Planner Stephanie Davies was not a purposeful act meant to deceive the Board. He stated that the base plan that was used was drawn by another engineering company and that they did not notice the oversight with the missing building on 87 Lockwood Avenue when they were revising it for their purposes. He stated that the intent is to create a new lot for his client to build a modest house. He stated that a front yard setback variance is needed from both Lockwood Avenue and Simpson Avenue.

Speaking in favor of the petition was Bill Blais of Andrews Survey and Engineering who stated that they are proposing the lot line in a location that provides the existing house with a 16-foot setback. He stated that the remaining land creates an oddly shaped triangle with two front yards. He stated that they are proposing to build the house 15-feet from the side yard, 20.1-feet from Lockwood Avenue, and 19.1 feet from Simpson Avenue.

Mr. Ayrassian asked whether the house will have a house number off Simpson Avenue or Lockwood Avenue.

Mr. Blais replied off Simpson Avenue and the house will face that way, as well.

Ms. Davies noted that Simpson Avenue has been extended, so there is sufficient legal lot frontage and lot width off both streets.

Mr. Ayrassian asked whether the site is impacted by wetlands or floodplain.

Mr. Blais answered no.

Ms. Davies stated that her concern with the missing building from the site gives the impression of less development in the area than what actually exists. She also inquired about the proposed lot coverage percentage.

Mr. Blais stated it is 18%.

Mr. Ayrassian asked the type of house would be constructed.

Speaking in favor of the petition was Glenn Case who stated that he and his mother own 95 Lockwood Avenue and that he is proposing a small Cape Cod, which will be affordable for his son.

Mr. Ayrassian asked for confirmation that the existing pavement that traverses the proposed house lot that allows access between Lockwood Avenue to Simpson Avenue will be eliminated.

Mr. Blais replied yes.

Mr. Ayrassian asked whether one can travel between Lockwood Avenue to Simpson Avenue without the pavement on the site.

Mr. Blais answered no.

Mr. Case noted that his brother developed the Simpson Avenue street extension and that it includes a hammerhead turn-around.

Mr. Ayrassian stated that he now recalls that and had no further questions.

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

The Board held a business meeting.

With an appointment to speak was attorney Edward Casey relative to proposed floor plan layout revisions associated with BCWC, LLC's marijuana facility located at 34 Extension Street, Municipal Council CASE #0001.

Attorney Casey explained that the Municipal Council had granted his client permits to operate a Registered Marijuana Dispensary at 34 Extension Street three years prior. He stated that in November of 2018, the CCC amended their regulations to separate the uses of cultivation, manufacturing, and retail. He stated that they filed proposed layout changes with the Board, but were informed that a public hearing would be required for the Board to consider the changes. He stated that he felt it had not been clearly explained what the applicant is seeking to change within the interior layout, which he felt did not warrant a public hearing. He noted that he had met with the Senior Land Use Planner Stephanie Davies and been advised to provide an overlay plan clearly depicting what was approved versus what is proposed. He stated that they have not yet completed those materials.

Speaking was Blair Fish of Nova Farms who explained that the building is a former jewelry manufacturer and that there is an existing vault system on site. He stated that they have determined there is a lack of space in their retail area to contain store inventory. He stated that he is optimistic that the facility could be open as early as February.

Mr. Ayrassian pointed out that if the Board requires a public hearing for the changes, the applicant could not open.

Ms. Davies explained that the Building Inspector issued them a temporary Occupancy Permit for the medical marijuana dispensary.

Mr. Fish stated that the Fire and Police Departments have signed off on the site. He stated Nova Farms is requesting the changes because over the course of the three years it has taken to open, their business model has changed to better accommodate design improvements.

Kent Richards sought to confirm that they are proposing to just redistribute the uses already approved to occur within the building.

Mr. Ayrassian suggested that the Board needs to ensure that the Police Chief is on board with any internal security changes that are proposed.

Cathy Merkle questioned whether the square footage of the retail space is slated to change.

Attorney Casey explained that they have determined that for the size of the dispensary that was proposed, they need a larger area in which to keep inventory stocked.

Ms. Davies noted that if the proposed change in use is for storage, it does not count towards the square footage maximum for retail. She stated that she wanted to know if the change exceeds the 5,000 square foot maximum, which she thinks should be respected.

The Board tabled the matter.

The Board reviewed the letter and revised plan sheets from Richard T. Lewis of Center Mount Land Development, LLC, dated December 6, 2019, to the Planning Board regarding modifications to National Grid's approved power substation project located at 0 Robinson Avenue, Case #5475.

Ms. Davies informed the Board that the proposed changes are quite minor and have already been approved by the Conservation Commission.

Kent Richards made a motion to accept the proposed amendments, as represented on the plan entitled "ROBINSON AVENUE SUBSTATION EXPANSION PROJECT," engineered by John Spink, R.P.E. of Center Mount Land Development, LLC, 33 Commercial Street, Raynham, MA 02767, dated May 21, 2019, revised through December 6, 2019. Sandra Varrieur seconded the motion and all voted in favor.

The Board read the email from Jeffrey L. Rosenspan of Warrior's Path Sober House, received December 15, 2019, to the Zoning Board relative to the fencing requirement contained in the Zoning Board's decision for 574 Newport Avenue, Case #5423. The Board read the response email from Senior Land Use Planner Stephanie Davies, dated December 16, 2019, to Jeffrey Rosenspan of Warrior's Path Sober House. The Board read the Attleboro Neighbor Affidavit submitted by Jeffrey Rosenspan of Warrior's Path Sober House, received December 30, 2019, verifying the installation of the fencing contained in the Zoning Board's decision for 574 Newport Avenue, Case #5423 .

Mr. Ayrassian explained that Mr. Rosenspan wants the Zoning Board to sign off on the fencing as installed, but noted that there were additional conditions outside of just creating the perimeter. He stated that an outstanding obligation is to create two parking spaces on the single family home property and install an opening in the fence for access.

Ms. Davies agreed that the Board had wanted the owner of the single family home to be parking on their own lot to ensure sufficient parking for the sober house use.

Mr. Ayrassian stated that he felt it was unimportant whether the actual parking spaces were created or if the resident opts to just park on the grass, but that the access to the spaces needs to be provided.

Ms. Davies informed the Board that the porte-cochere for the historic sober house building has been removed. She stated her intent to notify the Massachusetts Historical Commission. She stated that her letter informs him of the deficiencies and the need to address them.

Cathy Merkle stated that she was pleased to see progress with the case, but encouraged staff to keep working with the applicant.

The Board reviewed the letter from Director of Operations Samantha Lennon of Green Street Power Partners, dated December 31, 2019, requesting a six month extension of time to exercise the special permit that the Board granted for 1395 Commerce Way, Case #5434.

Cathy Merkle made a motion to grant Green Street Power Partners a six month extension of time to June 30, 2020 to exercise their special permit. Kent Richards seconded the motion. All voted in favor to grant Green Street Power Partners a six month extension of time to June 30, 2020.

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 discussed Case #5488, the application of 54 Union Street, LLC for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.4(#8) TABLE OF USE REGULATIONS - RESIDENTIAL for the construction of

a Downtown Residential Cluster development consisting of forty-three (43) residential dwelling units, a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-5.9(F) GENERAL PARKING AND LOADING SPACE STANDARDS to reduce the requisite number of off-street parking stalls, and a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-5.7 MUNICIPAL PARKING LOTS to allow the substitution of space within municipal parking lots in lieu of the parking requirements on the site provided such lots are located within one thousand (1,000') feet of the building which is intended to be served and/or under §17-5.6(A) LOCATION OF PARKING AND LOADING SPACES to allow the substitution of space to be established no further than three hundred (300') feet from the nearest boundary line of the lot on which the principal use is proposed and maintained, the subject premises being located at 54 Union Street and 12 Dunham Street, more specifically Assessor's plat #28, lot #384, #384A, and #384B, located in the Central Business zoning district.

Cathy Merkle made a motion to grant a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.4(#8) TABLE OF USE REGULATIONS - RESIDENTIAL for the construction of a Downtown Residential Cluster development consisting of forty-three (43) residential dwelling units at 54 Union Street and 12 Dunham Street, more specifically on Assessor's Plat #28, lot #384, #384A, and #384B, as shown on the site plan entitled "LEE PROPERTIES ATTLEBORO - 54 UNION STREET - THE JEWEL", prepared by Michael El-Ashkar, P.L.S. of Ashkar Engineering with an office at 70 Washington Street, Suite 306, Haverhill, MA 01832, dated August 19, 2019 and architectural plans prepared by Matthew Juros of Fishbrook Design Studio with an office at 52 Wingate Street, Haverhill, MA 01832, dated October 14, 2019. Kathy Rautenstrauch seconded the motion and a discussion followed. All voted in favor and the Board attached conditions.

Catherine Merkle made a motion to grant a special permit pursuant to §17-9.0 SPECIAL PERMITS and §17-5.9(F) GENERAL PARKING AND LOADING SPACE STANDARDS to reduce the minimum number of required off-street parking stalls pursuant to §17-5.10 TABLE OF OFF-STREET PARKING REGULATIONS from forty-three (43) stalls to three (3) stalls in association with a Downtown Residential Cluster development consisting of forty-three (43) residential dwelling units at 54 Union Street and 12 Dunham Street, more specifically on Assessor's Plat #28, lot #384, #384A, and #384B, as shown on the site plan entitled "LEE PROPERTIES ATTLEBORO - 54 UNION STREET - THE JEWEL", prepared by Michael El-Ashkar, P.L.S. of Ashkar Engineering with an office at 70 Washington Street, Suite 306, Haverhill, MA 01832, dated August 19, 2019 and architectural plans prepared by Matthew Juros of Fishbrook Design Studio with an office at 52 Wingate Street, Haverhill, MA 01832, dated October 14, 2019. Kathy Rautenstrauch seconded the motion. A discussion followed. All voted in favor. The Board attached conditions. Catherine Merkle made a motion to grant a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-5.7 MUNICIPAL PARKING LOTS to allow the substitution of space within municipal parking lots in lieu of the parking requirements on the site provided such lots are located within one thousand (1,000') feet of the building which is intended to be served in association with a Downtown Residential Cluster development consisting of forty-three (43) residential dwelling units at 54 Union Street and 12 Dunham Street, more specifically on Assessor's Plat #28, lot #384, #384A, and #384B, as shown on the site plan entitled "LEE PROPERTIES ATTLEBORO - 54 UNION STREET - THE JEWEL", prepared by Michael El-Ashkar, P.L.S. of Ashkar Engineering with an office at 70 Washington Street, Suite 306, Haverhill, MA 01832, dated August 19, 2019 and architectural plans prepared by Matthew Juros of Fishbrook Design Studio with an office at 52 Wingate Street, Haverhill, MA 01832, dated October 14, 2019. 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 §17-5.6(A) LOCATION OF PARKING AND LOADING SPACES to allow the substitution of space to be established no further than three hundred (300') feet from the nearest boundary line of the lot on which the principal use is proposed and maintained in association with a Downtown Residential Cluster development consisting of forty-three (43) residential dwelling units at 54 Union Street and 12 Dunham Street, more specifically on Assessor's Plat #28, lot #384, #384A, and #384B, as shown on the site plan entitled "LEE PROPERTIES ATTLEBORO - 54 UNION STREET - THE JEWEL", prepared by Michael El-Ashkar, P.L.S. of Ashkar Engineering with an office at 70 Washington Street, Suite 306, Haverhill, MA 01832, dated August 19, 2019 and architectural plans prepared by Matthew Juros of Fishbrook Design Studio with an office at 52 Wingate

Street, Haverhill, MA 01832, dated October 14, 2019. Sandra Varrieur seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

The Board heard Case #5487, application of Atlantic-Attleboro Route 1, LLC for special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.4(#15A) TABLE OF USE REGULATIONS - RETAIL, SERVICE, COMMERCIAL to construct an automobile service station, a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-10.2 EARTH REMOVAL, a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.5(#19) TABLE OF ACCESSORY USE REGULATIONS to store underground fuel tanks, a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.5(#21B) TABLE OF ACCESSORY USE REGULATIONS to allow an off-street loading space in a zoning district different from the zoning district upon which the principal use is to be establish, and a variance under §17-8.9 VARIANCES to vary the minimum bufferyard requirements under §17-4.4.5 DESCRIPTION OF SCREENS, the subject premises being located at 463 Washington Street, more specifically Assessor's plat #12, lot #59, #73, and #76, located in the General Business zoning district and Single Residence-B zoning district.

Catherine Merkle made a motion to grant a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.4(#15A) TABLE OF USE REGULATIONS - RETAIL, SERVICE, COMMERCIAL for the construction and operation of a gasoline station, the subject premises being located at 463 Washington Street, more specifically Assessor's plat #12, lot #59, #73, and #76, as shown on the site plan entitled "SITE DEVELOPMENT PLANS FOR PROPOSED BJ'S GAS," prepared by John A. Kucich, R.P.E. of Bohler Engineering, 352 Turnpike Road, Southborough, MA 01772, dated October 7, 2019 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 and §17-10.2 EARTH REMOVAL to accommodate site grading in association with the construction of a gasoline station, the subject premises being located at 463 Washington Street, more specifically Assessor's plat #12, lot #59, #73, and #76, as shown on the site plan entitled "SITE DEVELOPMENT PLANS FOR PROPOSED BJ'S GAS," prepared by John A. Kucich, R.P.E. of Bohler Engineering, 352 Turnpike Road, Southborough, MA 01772, dated October 7, 2019. 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 §17-3.5(#19) TABLE OF ACCESSORY USE REGULATIONS for the installation of one 24,000 gallon underground fuel storage tank and two 20,000 gallon underground fuel storage tank in association with the construction of a gasoline station, the subject premises being located at 463 Washington Street, more specifically Assessor's plat #12, lot #59, #73, and #76, as shown on the site plan entitled "SITE DEVELOPMENT PLANS FOR PROPOSED BJ'S GAS," prepared by John A. Kucich, R.P.E. of Bohler Engineering, 352 Turnpike Road, Southborough, MA 01772, dated October 7, 2019. 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 and §17-4.4.5 REQUIRED SCREENS AND BUFFERYARDS to eliminate the requisite twenty-five (25') foot wide bufferyard, the subject premises being located at 463 Washington Street, more specifically Assessor's plat #12, lot #59, #73, and #76, as shown on the site plan entitled "SITE DEVELOPMENT PLANS FOR PROPOSED BJ'S GAS," prepared by John A. Kucich, R.P.E. of Bohler Engineering, 352 Turnpike Road, Southborough, MA 01772, dated October 7, 2019. 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 §17-3.5(#21B) TABLE OF ACCESSORY USE REGULATIONS to establish off-street loading spaces in a zoning district different from the zoning district on which the principal use is located, the subject premises being located at 463 Washington Street, more specifically Assessor's plat #12, lot #59, #73, and #76, as shown on the site plan entitled "SITE DEVELOPMENT PLANS FOR PROPOSED BJ'S GAS," prepared by John A. Kucich, R.P.E. of Bohler Engineering, 352 Turnpike Road, Southborough, MA 01772, dated October 7, 2019. Sandra Varrieur seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

The Board discussed Case #5493, the application of Ronald Proulx for a variance pursuant to §17-8.9 VARIANCES from the minimum front yard setback requirement pursuant to §17-4.5 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to accommodate an existing single-family dwelling, the subject premises being located at 34 Como Drive, more specifically Assessor's plat #15, lot #127, located in the Single Residence-B zoning district.

Catherine Merkle made a motion to grant a variance pursuant to §17-8.9 VARIANCES of one (1') foot from the minimum front yard setback requirement of thirty (30') feet from Loomis Street right-of-way pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY to accommodate an existing single-family detached dwelling, as shown on the site plan, entitled "VARIANCE PLAN, 34 COMO DRIVE" drawn by Brian J. Murphy, P.L.S. of Farland Corp., 401 County Street, New Bedford, MA 02740, dated December 4, 2019. Kathy Rautenstrauch seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

The Board discussed Case #5485, application of Greenskies Renewable Energy for a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.1 USE DESIGNATIONS to construct a canopy-mounted solar photovoltaic facility over existing off-street parking stalls, a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-12.0 FLOODPLAIN DISTRICT to conduct work/excavation within the 100-year floodplain, and for a variance pursuant to §17-8.9 VARIANCES from the minimum front yard setback requirement pursuant to §17-4.5 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to accommodate a canopy-mounted solar photovoltaic facility, the subject premises being located at 219 South Main Street, more specifically Assessor's plat #35, lot #137, located in the Planned Highway Business zoning district.

Catherine 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 seven (7) canopy-mounted solar photovoltaic structures over existing off-street parking stalls at the existing Shopping Plaza, the subject premises being located at 219 South Main Street, more specifically Assessor's plat #35, lot #137, as shown on the site plan entitled "ATTLEBORO CROSSING", engineered by Bradley J. Parsons, R.P.E., of All-Points Technology Corporation, 3 Saddlebrook Drive, Killingworth, CT 06419, dated September 17, 2019, with revisions through November 8, 2019. 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 to accommodate work/excavation within the 100-year floodplain associated with the construction of seven (7) canopy-mounted solar photovoltaic structures over existing off-street parking stalls at the existing Shopping Plaza, the subject premises being located at 219 South Main Street, more specifically Assessor's plat #35, lot #137, as shown on the site plan entitled "ATTLEBORO CROSSING", engineered by Bradley J. Parsons, R.P.E., of All-Points Technology Corporation, 3 Saddlebrook Drive, Killingworth, CT 06419, dated September 17, 2019, with revisions through November 8, 2019. 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 §17-12.0 FLOODPLAIN DISTRICT to accommodate work/excavation within the 100-year floodplain associated with the construction of seven (7) canopy-mounted solar photovoltaic structures over existing off-street parking stalls at the existing Shopping Plaza, the subject premises being located at 219 South Main Street, more specifically Assessor's plat #35, lot #137, as shown on the site plan entitled "ATTLEBORO CROSSING", engineered by Bradley J. Parsons, R.P.E., of All-Points Technology Corporation, 3 Saddlebrook Drive, Killingworth, CT 06419, dated September 17, 2019, with revisions through November 8, 2019. Sandra Varrieur seconded the motion. A discussion followed. All voted in favor. Catherine Merkle made a motion to grant a variance pursuant to §17-8.9 VARIANCES of twenty-four (24') feet from the minimum front yard setback requirement of seventy-five (75') feet from the Olive Street right-of-way, pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to accommodate the construction of a canopy-mounted solar photovoltaic facility over existing parking stall, the subject premises being located at 219 South Main Street, more specifically Assessor's plat #35, lot #137, as shown on the site plan entitled "ATTLEBORO CROSSING", engineered by Bradley J. Parsons, R.P.E., of All-Points Technology Corporation, 3 Saddlebrook Drive, Killingworth, CT 06419, dated September 17, 2019, with revisions through November 8, 2019. Sandra Varrieur seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

The Board discussed Case #5492, the application of Attleboro Land Trust, Inc. for a variance pursuant to §17-8.9 VARIANCES from the minimum lot width requirement pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to accommodate to create a buildable lot, the subject premises being located at 0

Pike Avenue, more specifically Assessor's plat #226, lot #2A-1, located in the Single Residence-D zoning district.

Catherine Merkle made a motion to grant a variance pursuant to §17-8.9 VARIANCES of nine (9') feet from the minimum lot width requirement of one hundred twenty (120') feet pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS to accommodate the creation of a buildable lot (proposed Lot #2), as shown on the site plan entitled "DIVISION OF LAND OF 0 PIKE AVENUE," prepared by Andrews Survey & Engineering, Inc., P.O. Box 312, 104 Mendon Street, Uxbridge, MA 01569, dated June 16, 2017 and revised through November 4, 2019. Kent Richards seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

The Board discussed Case #5494, the application of Glenn F. Case for variances 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 accommodate the construction of a single-family dwelling on a proposed lot, the subject premises being located at 87 and 95 Lockwood Avenue, more specifically Assessor's plat #72, lot #542, #543, #600 -#615, located in the Single Residence -B zoning district.

Catherine Merkle made a motion to grant a variance pursuant to §17-8.9 VARIANCES of nine and nine tenths (9.9') feet from the minimum front yard setback requirement of thirty (30') feet from the Lockwood Avenue right-of-way, pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS for the construction of a single-family dwelling on a proposed lot, as shown on the site plan entitled "PLAN OF LAND OF 95 LOCKWOOD AVENUE," prepared by Byron J. Andrews, R.L.S. of Andrews Survey & Engineering, Inc., P.O. Box 312, 104 Mendon Street, Uxbridge, MA 01569, dated August 13, 2019 and revised through January 8, 2020. Kent Richards seconded the motion. A discussion followed. All voted in favor. Catherine Merkle made a motion to grant a variance pursuant to §17-8.9 VARIANCES of ten and four tenths (10.4') feet from the minimum front yard setback requirement of thirty (30') feet from the Simpson Avenue right-of-way, pursuant to §17-4.9 TABLE OF DIMENSIONAL AND DENSITY REGULATIONS for the construction of a single-family dwelling on a proposed lot, as shown on the site plan entitled "PLAN OF LAND OF 95 LOCKWOOD AVENUE," prepared by Byron J. Andrews, R.L.S. of Andrews Survey & Engineering, Inc., P.O. Box 312, 104 Mendon Street, Uxbridge, MA 01569, dated August 13, 2019 and revised through January 8, 2020. Kent Richards seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

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 minutes of November 12, 2019 and December 12, 2019.

The meeting adjourned at 9:50 p.m.