



# City Of Attleboro, Massachusetts

**ZONING BOARD OF APPEALS**  
GOVERNMENT CENTER, 77 PARK STREET  
ATTLEBORO, MASSACHUSETTS 02703  
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## MINUTES

MAY 21, 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, May 21, 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 #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.

The Board read the letter from attorney Jack Jacobi of Coogan Smith, LLP, received March 12, 2020, requesting to withdraw without prejudice the special permit and variance application of SOWA, LLC for 1 Highland Avenue/5 Route 1A, Case #5469.

Speaking in favor of the application was attorney Jack Jacobi who stated that his client's attempts to negotiate with three different banks has not been successful and requested that the Board allow him to withdraw SOWA, LLC's application without prejudice.

Cathy Merkle made a motion to allow SOWA, LLC to withdraw without prejudice its application, Case #5469. Kent Richards seconded the motion. All voted in favor to allow SOWA, LLC to withdraw without prejudice its application, Case #5469.

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.

At the continued public hearing of May 21, 2020 beginning at 6:30 p.m. and conducted on the Zoom platform, the Chair read the public hearing notice and called for the continued public hearing relative to Case #5491. She asked for anyone present to speak in favor of the petition. Neither the petitioner nor anyone from the petitioner's team appeared to speak. The Chair then called for those persons wanting to speak against the petition. There was no opposition. The Chair then called for those persons wanting to speak neither for nor against the petition. There were no persons wanting to speak neither for nor against the petition.

The Senior Land Use Planner noted that the applicant had not provided any additional information sought by the Board, had not responded to any emails from the staff since March 2020, and had not been in touch with the staff about the status of the petition.

Director of Planning and Development Gary Ayrassian noted that in addition, the petitioner was not present at the May 21st meeting and recommended that the Board close the public hearing and render a decision based on the material contained in the file.

There being no one else to speak, the Chair closed the public hearing. The Chair then moved on to the next application.

Thereafter, Ms. Lefebvre of TRC Solutions "raised" her hand on the Zoom platform and utilized the chat box to ask to be heard and requested the Board to continue the public hearing. The Chair declined the request given that the Board had already closed the public hearing. Ms. Lefebvre again "raised" her hand on the Zoom platform and utilized the chat box, asking to be heard and wrote that she wanted to request Board to continue the public hearing. Both the Director of Planning and Development and Zoning Board Clerk Lauren Stamatis replied via the chat box that the Board had closed the public hearing earlier in the meeting.

**The Board heard the continued public hearing relative to Case #5497, the application of Marcus J. Vitali for a variance pursuant to §17-8.9 VARIANCES under §17-10.15(G)(3)(A) STANDARDS FOR THE GRANTING OF A SPECIAL PERMIT to allow a building containing a Marijuana Business to be located within 100 feet of a "Residential" zoning district and a special permit pursuant to §17-9.0 SPECIAL PERMITS to modify the minimum bufferyard requirement under §17-4.4.5 REQUIRED SCREENS AND BUFFERYARDS, the subject premises being located at 132 Dickens Street, more specifically Assessor's plat #16, lot #22, #23, and #24, located in the Industrial zoning district.**

Attorney Edward Casey of Coogan Smith, LLP spoke on behalf of the applicant and reminded the Board that the primary concern is that the building located at 132 Dickens Street is within the required distance of separation of the abutting residential dwelling as a marijuana business was slated to be proposed should the variance be granted. He stated that his client has the residential dwelling property under agreement for purchase. He stated that they previously argued that as a pre-existing, non-conforming situation, their variance should be granted, but the Board did not find that argument to be particularly persuasive. He stated that he imagined his client will likely apply for the special permit necessary for the marijuana use and offer the Board a stipulation that the residence would be razed.

Mr. Ayrassian noted that the applicant's request to continue the public hearing to May 31, 2020 was submitted to the Board prior the state's adoption of the Acts of 2020, which at this point renders the need for the request moot as all zoning and planning matters are tolled for the foreseeable future.

Attorney Casey agreed that the continuance request is no longer necessary due to the Governor's action.

Cathy Merkle made a motion to continue the public hearing to May 31, 2020. Kent Richards seconded the motion. All voted in opposition.

Speaking in opposition was Maria Mendes of 128 Dickens Street who stated that she is one of the tenants of the subject abutting residence. She stated that she has a 12-year old son and asked that the Board take that into consideration when voting on the application.

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

**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 .**

Speaking in favor of the application was Dan Campbell of Level Design Group who stated that he had lengthy discussions with the Conservation Commission, city staff, and the city's consultant engineer regarding the floodplain. He stated that the floodplain elevation has been established at an elevation 3.5-feet lower than his original existing conditions elevation. He stated that he has developed a new table for the compensatory storage. He stated that Horsley Witten called out his counting of the building foundations into the compensatory storage area. He stated that the first floor is above the foundation.

Senior Land Use Planner Stephanie Davies asked that he provide the elevation of the floodplain.

Mr. Campbell replied 92.8-feet.

Ms. Davies sought to confirm that with a 100-year floodplain elevation of 92.8-feet, the proposed driveway and parking areas will be under water during a corresponding rain event.

Mr. Campbell replied yes.

Ms. Davies pointed out that the proposed driveway and parking areas could be under water up to four feet deep. She asked how the Board could deem that acceptable.

Mr. Campbell replied that there is nothing against it in the regulations. He stated that there has been testimony from the neighboring properties that there has never actually been flooding in that area except across the street where it is 7-feet lower in elevation. He stated that the design meets the FEMA and DEP regulations, but that the site in actuality does not flood.

Mr. Ayrassian stated that while the design might satisfy the mathematical requirements of FEMA and DEP, the design does not, however, in his opinion satisfy the Zoning Ordinance. Mr. Ayrassian sought to confirm that given the design, the proposed driveway and parking areas could be under water up to four feet deep.

Mr. Campbell replied yes.

Mr. Ayrassian asked if the yard area between the compensatory storage and the southern two-family dwelling would be under water during a 100-year flood.

Mr. Campbell replied yes.

Mr. Ayrassian asked if the yard area between the two two-family dwellings would be under water during a 100-year flood.

Mr. Campbell replied yes.

Mr. Ayrassian asked if the yard area on the west side of the two two-family dwellings would be under water during a 100-year flood.

Mr. Campbell replied yes.

Mr. Ayrassian pointed out that the proposed driveway, the parking areas, and all four sides of the proposed dwellings would be under water during a 100-year storm.

Mr. Campbell replied yes.

Mr. Ayrassian stated that the objectives of the floodplain section of the Zoning Ordinance include promoting the health, safety, and general welfare of the public in regards to land that is subject to flooding. He asked how this objective could be satisfied given that all four sides of the houses, the driveway, and parking areas would all be under as much as four feet of water during a 100-year storm.

Mr. Campbell countered that the construction itself is not an issue and that flooding in the surrounding area will happen, regardless of where the compensatory storage is located.

Ms. Davies countered that they are not simply requesting to build a single-family house in the prior building's footprint. She stated that this application calls for constructing four new residential units and additional impervious area hence triggering the need for compensatory storage. She asserted that this design proposes to create an unfavorable situation not only for the surrounding neighbors but also the future occupants of the four units. She stated that it is within the Board's purview to reduce loss or harm as a result of construction in the 100-year floodplain. She stated that this is the goal of requiring special permits for construction in areas slated for flooding.

Mr. Campbell countered that the site is not adjacent to a watercourse per the definition she is referencing.

Mr. Ayrassian stated that the site does not necessarily have to be adjacent to a watercourse for the floodplain ordinance to apply. He stated that the site has to be in the floodplain.

Cathy Merkle stated her concern with the potential for up to four feet of flooding on each of four sides of the structures.

Mr. Ayrassian stated that Mr. Campbell puts forth a compelling mathematical argument that may have merit under FEMA and DEP regulations but he added that it does not under the Zoning Ordinance.

Mr. Campbell stated that he could discuss other potential methodologies to address the floodplain such as flood proofing and piping. He agreed that arguments can be made both ways about which approach is preferable and that he would like to continue to work with the peer reviewer to come to a consensus.

Mr. Ayrassian stated that that is not the role of the City's stormwater consultant.

Cathy Merkle pointed out that a significantly large number of residents will be impacted by the proposed development.

Speaking in opposition was Jessica Zandan who spoke on behalf of her parents who live next door to this site at 36 Phillips Street. She stated that their garden would be directly adjacent to the proposed compensatory storage area. She stated that her parents' concern is that flood water would damage their property. She stated that even though her father had submitted a letter of opposition back when the original proposal consisted of three two-family dwellings, he is still very opposed to this application.

Speaking in opposition was Leo Johnson of 45 Phillips Street who stated that he has lived directly across the street from Ms. Zandan's parents for nearly 40 years. He stated his concern that this is the last remaining wetland in the area and that wildlife will have nowhere to go once it is developed. He argued that the area does flood and that there is an underground stream that traverses Phillips Street to Stead Avenue that feeds the wetland and eventually dumps out to Read Street. He asserted that there is a constant flow of water there and potential for serious flooding in the area. He stated concern about impacts on the neighborhood. He stated that the majority of the area's residents are opposed and would like to see the application denied. He asserted that out-of-town contractors are not concerned with the damage their projects have on locals.

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

**The Board heard the continued public hearing relative to Case #5474 the application of Nova Farms, LLC (f/k/a BCWC, LLC) for special permits pursuant to §17-9.0 SPECIAL PERMITS under §17-10.15 MARIJUANA BUSINESS USES to establish two marijuana businesses on the premises in a single building, a Marijuana Retailer and a Medical Marijuana Treatment Center, a special permit pursuant to §17-6.0 NON-CONFORMING USES, STRUCTURES, AND LOTS to alter a pre-existing non-conforming parking lot, and a variance pursuant to §17-8.9 VARIANCES under §17-5.9(A) GENERAL PARKING AND LOADING SPACE STANDARDS from the minimum front yard setback requirement for off-street parking stalls, 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 of the petitioner was attorney Edward Casey of Coogan Smith who reminded the Board that the application is for a 5,000 square foot marijuana dispensary. He stated that analyses show that it will not have a significant impact on traffic or pedestrian safety. He noted that this conclusion was reached following two independent third-party traffic peer reviews performed at the direction of the Zoning Board. He suggested that sufficient evidence has been provided to the Board to render a decision.

Speaking in favor of the application was Francisco Lovera of McMahon Associates who reviewed the traffic counts and peak weekday and weekends statistics contained in their traffic study associated with intersections within the study area. He noted that the car crash data that he researched revealed that such incidents in the area of the proposed facility are well below the state average. He stated that they there are no imminent plans for any development in the area and that they used a conservative growth projection of 1.5%. He stated that the closest development in the general area of the premises is a residential development located approximately one-half mile away in Pawtucket. He noted that what this means that future increase in traffic is unlikely to impact the area. He stated that using data from the ITE Handbook, McMahon Associates anticipates that during the weekday peak hour, approximately 110 trips would be generated resulting from cars going to and leaving the site and that during the Saturday peak hour, approximately 182 trips would be generated resulting from cars going to and leaving the site. He noted that the post-construction analysis shows that the only intersection that would be significantly impacted by the traffic would be the Bacon Street at Route intersection for left-hand movements onto Bacon Street. He stated that the Level of Service would be reduced from a Level E to a Level F. He stated that he believes it is a timing matter.

Cathy Merkle noted that the state highway is under MADOT's jurisdiction and asked whether the applicant may petition MADOT to modify the signal's timing.

Mr. Lovera replied that although he does not think that the applicant has the standing to make such a request, he would be willing to submit his traffic report and information to MADOT. He noted that increases in the delay at surrounding intersections is anticipated to increase by only six seconds. He stated that it currently takes an average of fifty seconds to take a left from Turner Street to Route 1 and that is an existing Level of Service F situation.

Cathy Merkle sought to confirm that they anticipate the bulk of traffic to the site to utilize Westminster Avenue and take advantage of the traffic signal. Mr. Lovera replied yes.

Kent Richards stated that he has visited the site several times and that on multiple occasions in the mid-afternoon, cars would stack up all the way back across the Bacon Street overpass to Schnitzer's. He stated that traffic is definitely an issue for the neighborhood.

Mr. Lovera noted again that they do not have the authority to approach MADOT about signal timing and that they do not know whether if the signals are optimized. He stated that their average weekday parking demand peak will be 36 for parking spaces and that on Saturdays, it will be for 58 parking spaces. He noted that there should be sufficient parking capacity at the marijuana facility, as they are providing 82 parking stalls. He stated that they will promote the use of public transport and carpooling for both employees and clients. He stated that they found the sight distance lines to be sufficient. He stated that they have proposed a site plan that allays the concerns that GPI raised in its traffic peer review. He asserted that delivery trucks would be able to navigate the site without encroaching onto any of the parking spaces.

Speaking in favor was Dan Campbell of Level Design who explained that GPI had pointed out that there is no handicapped ramp on the opposite side of the street where the applicant proposes a crosswalk. He noted that they are proposing one and that a tactile warning strip is proposed to make the feature on Westminster Street ADA compliant. He called attention to the proposed crosswalk on Bacon Street with the flashing beacon, which will connect to the proposed sidewalk on Westminster Street to Chartier Street with a handicapped ramp. He noted that they have added the stop line and sign near the entrance suggested by GPI as it would promote the access point into the site. He stated that a crosswalk is also proposed within the parking lot to safely facilitate pedestrians walking through the parking lot to a sidewalk in front of facility's entrance door on Westminster Avenue. He went on to compare with the aid of an illustration this proposed facility with one operating in Fall River adjacent to Route 24, which also has a highway merging into a dead-end residential street. He noted that the Fall River facility utilizes a police presence on weekends. He stated that the Fall River Police direct patrons to and from the facility through an adjacent neighboring gas station to ensure good traffic flow. He asserted that the proposed Attleboro site is not nearly as difficult as the one in Fall River.

Attorney Casey stated that his office used to reside at 8 North Main Street and that at 5:00 p.m. every weekday, it was customary to hear frustrated drivers blowing their horns stuck in a downtown intersection just below his office window. He noted his recollection that Mayor Dumas had attempted to adjust the timing of the traffic light to address the issue. He agreed that traffic has the potential to back-up significantly adjacent to their site, but that that is an existing condition that is the responsibility of MADOT to address. He asserted that their traffic engineer concluded that the proposed facility will not create undue traffic congestion. He insisted that the traffic impact on the nearby residents is likely to be negligible as they are on a dead-end street that patrons would learn to avoid it in time. He acknowledged that there are a number of letters in opposition to the proposed project and asked that the Board temper their opinion with the proximity of those residents to the actual site. He argued that the majority of those in opposition are more than one-half mile away from the site and one of the opponents is from out of state.

Cathy Merkle asked whether the applicant intends to petition the Municipal Council regarding the proposed sign at Westminster Street. Attorney Casey responded yes.

Mr. Campbell stated that they will also be approaching the Municipal Council relative to "Dead End" and "Do Not Enter" signs that they propose.

Speaking in opposition was attorney Ben Dowling on behalf of Joe Drazek. He stated that he would like to request the Board broaden the scope of the traffic peer review. He explained that on March 21, 2020, the state of Rhode Island instituted truck tolling on Route 95. He stated that an environmental assessment made in advance of that action identified that a potential truck diversion route involved going north on Roosevelt Avenue

in Pawtucket, RI, left onto Washington Street, and right onto the on-ramp at the Bacon Street/Washington Street intersection. He stated that the traffic counts gathered by McMahon Associates for its traffic study were performed before the truck tolling was enacted and thereby rendering the traffic information outdated from day one. He also stated that marijuana dispensaries are a relatively new use listed in the ITE manual and that all of the data is currently based on merely four dispensaries in the states of Colorado and Oregon. He asserted that development patterns in Attleboro are prone to be very different from those of western states. He suggested it may be more appropriate to monitor counts at other local facilities already in operation, like the one mentioned earlier in Fall River.

Mr. Ayrassian stated that he is referring back to one of attorney Dowling's comments which was that he would the Board to broaden the scope of the traffic peer review.

Mr. Ayrassian explained that the City's contract with the traffic peer review engineer, GPI, contains a specific scope-of-work with a specific fee and that the City does not have the latitude to aimlessly expand the scope to include study elements requested by attorney Dowling. He suggested that attorney Dowling hire his own traffic engineering consultant to collect and perform the additional analyses he desires.

Cathy Merkle agreed with Mr. Ayrassian and noted that the Zoning Board is comfortable with the scope-of-work under the contract.

Ms. Davies suggested that any traffic counts performed at this time would likely be skewed by the current health crisis and that it will likely be a long time before traffic is "normal" in the neighborhood.

Attorney Dowling argued that the question of the truck traffic is directly impactful on the project and the neighbors. He asked that the Board to consider these unaddressed issues.

Mr. Ayrassian reiterated that the additional work requested by attorney Dowling is beyond the Board's contractual scope-of-work with GPI, which has been satisfactorily fulfilled, and that it would be up to attorney Dowling to solicit the services of an engineering consultant to perform the additional traffic analyses and information gathering that he is requesting.

Speaking in opposition was Emilia Malisz of 15 Allen Street, who stated her support for the expansion of the traffic study. She stated that she lives directly across from the site in question, much less than half a mile away. She stated that she has concerns with traffic issues at the intersection of Roddy Avenue and Mann Street. She noted that the Schnitzer facility, which spans both sides of the Bacon Street Bridge, had recently installed a scale for commercial trucks. She stated that three to four tractor trailers park all up and down Chartier Street waiting to access the scale. She stated that this typically occurs first thing in the morning or later in the afternoon, outside of the assessment period of the traffic study. She argued that people will be coming from Cumberland to this site. She expressed concern about the lack of a sidewalk along Chartier Street and for the safety of pedestrians. She stated that the parking situation relative to the existing convenience store and bar are horrendous, with parking stall lines drawn into Chartier Street.

Cathy Merkle noted that in fairness, the applicant does not have control over those businesses.

Ms. Malisz added that there is another set of lights as one enters Pawtucket that will compound the traffic issues, especially for people attempting left hand turns.

Cathy Merkle stated that such issues are outside of the applicant's jurisdiction and would need to be addressed by the state.

Speaking in opposition was Joe Drazek of 121 Westminster Avenue who explained that there's nothing else that can be done to the Route 1 and Bacon Street traffic signal because he worked with both Mayor Dumas and

Mayor Heroux, along with State Representative Jim Hawkins, to have the timing of that signal optimized back in December. He stated that the improvements the applicant is claiming could be implemented by MADOT have already occurred before the study was even undertaken and so there is no room for an upgrade. He argued that this situation negatively impacts his life, neighborhood, and family. He stated that he and his neighbors have invested in Attleboro and that their concerns should carry more weight than those of an outside contractor. He asserted that the project fails to meet the Board's special permit standards due to the traffic it will create. He pointed out that Chief Heagney had submitted traffic recorder data for the area, verifying the numbers of cars frequenting the neighborhood and that more than 40% of that traffic was routinely speeding. He pointed out that recreational marijuana use is illegal in Rhode Island, so he expects a significant uptick in traffic from out-of-state patrons. He stated that the manager of the nearby Walgreens wrote a letter of opposition, as he is concerned that patrons of the marijuana facility will park at the pharmacy lot out of convenience and walk to the site. He offered to submit the letter to the Board. He argued that this case should have never gotten this far and he as a resident should not have to hire a lawyer to be heard by the Board.

Speaking in opposition was Crystel Hoyt of 26 Turner Street who stated that she had submitted an email earlier in the day expressing her opposition to this application as well as expressing her opposition to the application for property on Dickens Street. She agreed with the concerns previously presented by the residents and confirmed that the traffic in the area is a big problem. She stated that she has lived in her home for 20 years and has children. She stated that a marijuana business is not appropriate in such proximity to residences and should be instead developed in an industrial park.

Speaking in opposition was Morgan Fleishman of 135 Westminster Street who noted that the bus stop that was previously referenced is actually on Lonsdale Avenue, not Westminster Street. She stated that the proposed crosswalk is a nice gesture, but is not located at the bus stop. She suggested that the Fall River dispensary is the closest comparison we have and that to her knowledge, there have been complaints about speeding, traffic, and property damage after the Fall River dispensary opened. She stated that she and her neighbors want to preserve the small, quiet neighborhood where they bought their homes. She noted that Nova Farms has been telling their customers and the newspaper that once their facility on Extension Street opens, they are going to move all of the sales operations to the Chartier Street location, which has the potential to increase traffic to the site.

Speaking in opposition was Walter Rarus who pointed out that he had always spoken neither for nor against to this point, but feels he has been forced to change his position and now opposes the proposed marijuana facility given that he was made aware that Nova Farms Attleboro retail operations are slated to move from Extension Street to Chartier Street. He distributed pictures to the Board from 2013 through the present showing accidents that occurred on his property at the intersection of Bacon Street and Westminster Street. He stated that he understands the traffic studies are performed using generic data but he noted that the consultants need to spend more than four hours in a neighborhood to grasp existing traffic conditions and issues. He stated that he and his neighbors live with the adverse traffic conditions every day and that it has impacted their lives.

Mr. Ayrassian noted that the applicant did not claim there have not been accidents in the area.

Mr. Rarus replied that that is correct and stated that he wanted to emphasize that there have been more than the traffic report indicates.

Speaking in opposition was Kimberly Drazek of 121 Westminster Avenue who stated that Attleboro is important to her and her neighbors, which is why they have attended every one of the Zoning Board meetings. She stated that it is difficult to understand their traffic concerns and issues without living through it. She stated that she feels the applicant's traffic engineer presented the information in a rosy light, to make it appear that conditions are better than they truly are. She noted that she is even more opposed to the project with it being the only marijuana retail facility operated by Nova Farms in the City. She insisted that the project will increase traffic in

the area which will be a greater burden on the neighbors. She noted that Chief Heagney's reports noted four times more accidents at the Bacon Street intersection in the last year.

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

**The Board held a business meeting.**

**The Board discussed 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.**

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 a ground-mounted solar photovoltaic facility, the subject premises being located on Richardson Avenue and Richardson Avenue Rear, more specifically Assessor's plat #124, lot #10 and #15, as shown on the site plan entitled "ATTLEBORO RENEWABLE ENERGY - 103 RICHARDSON AVENUE, ATTLEBORO, MA 02703" engineered by Stephen M. Loss, R.P.E., of TRC Companies, Inc., 650 Suffolk Street, Lowell, MA 01854, dated November 4, 2019. Sandra Varrieur seconded the motion. A discussion followed. All voted in opposition. Catherine Merkle made a motion to grant a special permit pursuant to §17-9.0 SPECIAL PERMITS and §17-10.2 EARTH REMOVAL for an earth removal operation in association with the construction of a ground-mounted solar photovoltaic facility, the subject premises being located on Richardson Avenue and Richardson Avenue Rear, more specifically Assessor's plat #124, lot #10 and #15, as shown on the site plan entitled "ATTLEBORO RENEWABLE ENERGY - 103 RICHARDSON AVENUE, ATTLEBORO, MA 02703" engineered by Stephen M. Loss, R.P.E., of TRC Companies, Inc., 650 Suffolk Street, Lowell, MA 01854, dated November 4, 2019. Sandra Varrieur seconded the motion. A discussion followed. All voted in opposition.

**The Board discussed Case #5497, the application of Marcus J. Vitali for a variance pursuant to §17-8.9 VARIANCES under §17-10.15(G)(3)(A) STANDARDS FOR THE GRANTING OF A SPECIAL PERMIT to allow a building containing a Marijuana Business to be located within 100 feet of a "Residential" zoning district and a special permit pursuant to §17-9.0 SPECIAL PERMITS to modify the minimum bufferyard requirement under §17-4.4.5 REQUIRED SCREENS AND BUFFERYARDS, the subject premises being located at 132 Dickens Street, more specifically Assessor's plat #16, lot #22, #23, and #24, located in the Industrial zoning district.**

Catherine Merkle made a motion to grant a variance pursuant to §17-8.9 VARIANCES of twenty-four and one-half (24.6') feet from the minimum required distance of one hundred (100') feet between a building proposed to contain a marijuana cultivation business and a "Residential" zoning district, specifically in this case the "General Residence-A" zoning district which is located immediately to the north of the subject premises being 132 Dickens Street, pursuant to the provisions of §17-10.15(G)(3)(A) STANDARDS FOR THE GRANTING OF A SPECIAL PERMIT - LOCATION, as shown on the site plan entitled "SITE IMPROVEMENT PLAN", prepared by Ayoub Engineering, 414 Benefit Street, Pawtucket, RI 02861, dated November 13, 2019, revised through February 19, 2020. Sandra Varrieur seconded the motion. A discussion followed. All voted in opposition. Catherine Merkle made a motion to grant a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-4.4.5 REQUIRED SCREENS AND BUFFERYARDS to eliminate the requisite twenty-five (25') foot bufferyard on the subject premises located in the "Industrial" zoning district and the adjoining "General Residence-A" zoning district and to eliminate the requisite Type "A" - Opaque Screen on the subject premises located in the "Industrial" zoning district to accommodate the establishment of a marijuana cultivation business at 132 Dickens Street located in the "Industrial" zoning district, as shown on the site plan entitled "SITE IMPROVEMENT PLAN", prepared by Ayoub Engineering, 414 Benefit Street, Pawtucket, RI 02861, dated November 13, 2019, revised through February 19, 2020. Sandra Varrieur seconded the motion. A discussion followed. All voted in opposition. Catherine Merkle made a motion to grant a variance pursuant to §17-8.9 VARIANCES of thirty-nine and one-half (39.6') feet from

the minimum required distance of one hundred (100') feet between a building proposed to contain a marijuana cultivation business and a principal residential land use, the latter being a dwelling located at 128 Dickens Street that directly abuts the subject premises being 132 Dickens Street, pursuant to the provisions of §17-10.15(G)(3)(B)(1) STANDARDS FOR THE GRANTING OF A SPECIAL PERMIT, as shown on the site plan entitled "SITE IMPROVEMENT PLAN", prepared by Ayoub Engineering, 414 Benefit Street, Pawtucket, RI 02861, dated November 13, 2019, revised through February 19, 2020. Sandra Varrieur seconded the motion. A discussion followed. All voted in opposition.

**The Board discussed Case #5462, the application of Mark Rioux for special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.4(#9) TABLE OF USE REGULATIONS - RESIDENTIAL to construct a Residential Cluster Development consisting 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 FLOODPLAIN 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.**

Cathy Merkle made a motion to grant a special permit pursuant to §17-9.0 SPECIAL PERMITS under §17-3.4(#3) TABLE OF USE REGULATIONS - RESIDENTIAL to approve the revised site plan for the construction of two (2) two-family dwellings (for a total of four residential (4) units), as shown on the site plan entitled "STEAD TOWNHOUSES", engineered by Daniel R. Campbell, R.P.E. of Level Design Group with an office at 249 South Street, Unit 1, Plainville, MA 02762, dated May 23, 2019, revised May 14, 2020. Kathy Rautenstrauch seconded the motion. A discussion followed. All voted in opposition. Catherine Merkle made a motion to grant a special permit pursuant to §17-12.0 FLOOD PLAIN DISTRICT to conduct work/excavation in the 100-year floodplain district in association with the construction of two (2) two-family dwellings (for a total of four (4) units), as shown on the site plan entitled "STEAD TOWNHOUSES", engineered by Daniel R. Campbell, R.P.E. of Level Design Group with an office at 249 South Street, Unit 1, Plainville, MA 02762, dated May 23, 2019, revised May 14, 2020. Sandra Varrieur seconded the motion. A discussion followed. All voted in opposition.

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 containing proposed minor alterations to the New England Sports Complex site access.

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

The Board reviewed all remaining correspondence.

The Board tabled the minutes of November 12, 2019, December 12, 2019, January 9, 2020, and February 20, 2020.

The meeting adjourned at 9:51 p.m.