

WEST BRIDGEWATER PLANNING BOARD
8/3/2022

PRESENT: H. Hurley, H. Anderson, G. Stetson and A. Kinahan

ABSENT: J. Noyes

The meeting was called to order at 7:30 p.m.

1. Meadow Wood Estates: Attorney, Richard Lawton, Frank Gallagher, Gallagher Engineering, Dan Petronelli, Donna Petronelli and Ross Messina were present. Anthony Donegan, Jr., Assistant City Solicitor, Mark D'Agostino (Ward 3 Counselor), Susan Nicastro (Ward 4 Counselor), Peter Lynch, Lynda Lynch, Kelly Harlon, Diana Reynoso, Stephen Kelly, Diana Coster and Pat Jacobsen were also present. Ben Smith, was here to record the hearing for the local cable channel.

Public Hearing continued 7:30 p.m.

Mr. Hurley reopened the public hearing, introduced the Board members and outlined the procedure for the hearing.

The Board had received a letter from Attorney, Richard Lawton, regarding the ongoing issues surrounding the proposed thirty-one (31) Lot subdivision that will require access from West Chestnut Street in Brockton. It was noted that the proponents want to gain access via an easement through another parcel and circumventing "The Subdivision Control Law", M.G.L., Ch. 41.

Attorney Lawton introduced the owners and abutters to the proposed site. He stated that a Deed of Easement was also included in the packet that he submitted. He stated that proponents want to use Patricia's Path for access to West Bridgewater. He noted that they got approval from Brockton for the water and sewer, however he didn't think that Brockton would honor it now. He stated that if they won't, proponents are prepared to supply both to the subdivision. He noted that eighty (80%) percent of the houses will get individual septic systems however, if not, there would be a septic plant constructed. Mr. Gallagher stated that the subdivision plan is waiver free. Mr. Hurley noted that while proponents had submitted a check for the engineering review, the Board did not move forward with the review because there were already several issues with this plan and they didn't want to waste their money.

Attorney Lawton had submitted a memoranda of the proposed roadway. Mr. Hurley stated that the Board's position is that an Approved Way under the Subdivision Control Law is required in order to provide access to the West Bridgewater. Proponents have received a Site Plan approval from the Brockton Planning Board and contend that this is an adequate procedure to create a new "Way" to service the subdivision. Mr. Hurley disagreed. He reported that there was also a subdivision plan submitted to the Brockton Planning Board that was approved with conditions that owner, Ben Albanese, (now to be referred to as the person who is not here) did not like it and so he withdrew that subdivision plan. Mr. Lawton stated that there was no subdivision of this land. Mr. Hurley stated that the person who is not here has been dancing around this from the beginning which started back in 2010. Mr. Hurley noted that the Board has not changed their position.

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Mr. Lawton read a portion of the site plan requirements and noted that proponents had been approved and asked if he was right. Mr. Hurley stated that he was not. He noted that the site plan that was approved was for the proposed “utility” construction project only and did not say that they were approving the road. He further noted that the approval stated that the applicant is still responsible to obtain all the necessary licenses, permits, and approvals required for the nature of this project. Mr. Hurley stated that since the subdivision is required for a Way they will also need to get the subdivision approved and an approval for a Way by the Brockton Planning Board. Mr. Hurley stated that on November 4, 2020 the Board asked proponents to find examples to support their arguments but that has not happened. He stated that he had asked around and no one else had ever heard of such a thing and couldn’t believe that someone was trying to do this. Mr. Lawton asked Mr. Gallagher if he knew of any. Mr. Gallagher stated that he did not.

Attorney Lawton stated that he had sent a memo to Town Counsel, David Gay, and he agreed with him. Mr. Hurley stated that Attorney Gay is an advisor and it is the Planning Board that makes the decision and that proponents will have to convince them. Mr. Hurley read portions of the Subdivision Control Laws including the introduction which reads in part, that the Planning Board purpose is to protect the safety, convenience and welfare of the Town of West Bridgewater by laying out and constructing the Roads and Ways that will provide access to a subdivision. He further stated the layout of the Site Plan does not even comply with the Brockton Planning Board regulations. It was noted that the site plan decision limited the roadway to be no more than seven hundred (700’) feet in length: this is shorter than the distance to the West Bridgewater line by three-hundred (300’) feet. Correspondence from Brockton City Solicitor, Megan Brides, stated that regarding access, it appears that the West Bridgewater Planning Board cannot approve this proposal.

Mr. Stetson reminded Attorney Lawton that he told him that, as a lay person, he was “not qualified to vote on anything”. Mr. Stetson noted that this did not make him happy. Mr. Lawton apologized and thanked him for bringing it up. There was an awkward silence. Mr. Stetson stated that the Board’s major concern is that the roadway has to be built per the subdivision Rules and Regulations.

Mr. Lawton mentioned that proponents could file an Approval Not Required (ANR). Mr. Hurley stated that this cannot be done as an ANR. He stated that the Board has received several emails (9) on this. He noted that Larry Hassan said that it looked like proponents were attempting to avoid the subdivision control laws. Ms. Toni Goncalves stated that the plan clearly shows a road and is not an ANR. Bob Pellagi stated that there is only one lot, but it is delineated as three (3) separate parcels. He noted that the plan view and profile are attempting to establish a roadway and this objective is outside the boundary of a Form A plan. It was also noted that the Brockton Board voted 3 to 0 to **not** approve the plan. Mr. Hurley stated that all of the correspondence and packets were placed on file and become a part of the permanent record.

Attorney Lawton stated that, before moving on, he might as well just petition the State Supreme Court to have them make a declaratory judgment to determine who is right.

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Mr. Hurley reviewed Section 81M which states that the subdivision control law has been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the cities and towns in which is, or may hereafter be, put in effect by regulating the laying out and construction of ways in a subdivision. Mr. Lawton disagreed and stated that under Section 81L, it says that it can be approved and does not need to be done under the Subdivision Control Laws. It was noted that no one was able to produce this section. Mr. Lawton stated that he would forward a copy of it to Mr. Hurley.

Mr. Hurley stated that by making this a Private Way, and not accepted as a Town Street, the school busses are not allowed, by law, and will not be able to pick up any of the students located within the subdivision. He also noted that the Board agrees that any new residents should not be treated as substandard residents especially if they are the paying top dollar and full taxes for their properties but not getting any of the benefits. Mr. Hurley noted that Brockton has issues with this plan and this Board has no authority in Brockton. Attorney Lawton suggested that they stop here and continue the hearing to another date.

Mr. Petronelli stated that he is disappointed in all the negative viewpoints when in fact once the thirty-one (31) houses are built they will be beautiful and to not approve it is not right. He stated that no one wants this project to happen. He stated that his family has owned the property for sixty (60) years. He further stated that he has tried to avoid developing it under a Chapter 40B project but they may have to do so now. One abutter stated "you want to do a 40B? go ahead and try it, and then see what happens".

Mr. Messina stated that he constructed the road and it has been inspected. Mr. Hurley stated that he is aware what a good contractor Mr. Messina is but that is not the issue. He noted that they are not here to stop it, they just want it constructed per the regulations.

Mrs. Petronelli stated that this has been going on for twelve (12) years and they have been very patient but want to move forward. She stated that the proposed subdivision will enhance the neighborhood by building beautiful homes. She noted that they have lost a lot of time, years and money and if this is lawful it will be safe and will be good for West Bridgewater.

Mr. D'Agostino, Ward 3 Councilor in Brockton, stated that this sounds like a lot of tap dancing going on. He stated that he is concerned with the safety of this development. He asked how the fire, police, ambulances, busses, etc., will work and if they would have to come into Brockton to access this development. He stated that this will have a major impact on the residents of both towns. He also stated that he has received many calls and a lot of residents are concerned with the safety issues. He noted that there was recently a fatal accident at that section of West Chestnut Street. He thanked the Board for allowing him the opportunity to speak for those concerned that couldn't be here.

Ms. Nicastro, Ward 4 Councilor in Brockton, noted that there are thousands of residents that use West Chestnut Street every day to get to and from Route 24, and the tie ups at

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Southworth Street are even worse. She stated that this area of the road is already impacted and it will just get worse. She noted that adding ninety additional cars trying to get out of the potential subdivision and who will enter onto the narrowest part of the street is a major concern. Ms. Nicastro also stated that proponents will not be getting access to water or sewer from the City of Brockton. She stated that this is a risky proposition. She also thanked the Board for allowing her to speak.

Mr. Lynch stated that this will not be a safe site. He noted that this is the worst part of West Chestnut Street. He stated that there was an accident there recently where a woman was killed. He also noted that he can't imagine how they could get kids on or off the bus especially with the unbelievable amount of traffic.

Mr. Kelly stated that he was also concerned about the safety issues. He asked who would protect them; Brockton or West Bridgewater fire, ambulance, police, etc. He also asked if there will be any access from West Bridgewater to this subdivision. He noted that the entire subdivision of residents would be traveling on this private way, which may deteriorate with such use, and adding to the safety concerns.

Ms. Coster stated that she lives near Ash Street Extension and her kids wait there for the bus. She stated that she makes them stand way back from the street because it is so dangerous with the amount of traffic. She noted that she is afraid that if a car loses control or has an accident her kids could be seriously hurt. She noted that this project is a recipe for disaster. Ms. Coster also stated that some days it takes ten to fifteen (10-15) minutes just to get out of her driveway and adding 90+ vehicles to this mix will make things even worse. She also asked if there was any other access from West Bridgewater.

Mr. Jacobson stated that there is an elderly development with twenty-seven (27) houses also in this area. He noted that this is already a serious safety issue for them now and this would just add to the problems. Ms. Petronelli stated that if this is a problem, why doesn't he do something about it. Mr. Jacobson stated that he was doing something by being here. An angry response from the other abutters ensued and the general consensus was they were all doing something by being here and voicing their concerns and issues to the Board. Mr. Hurley had to bring the hearing back to order.

Ms. Lynch stated that the last time she was here it was for Meadow Wood Estates II and asked if this was the same plan being reviewed tonight. Mr. Hurley stated that it was not the same thing. He stated that the Board received a preliminary subdivision plan that would allow the water to be run to the site over the properties owned by Mr. Millett, Mr. Crowley and Mr. Albanese, etc., but could not be accessed over Walnut Street. He stated that proponents have suspended the review because it is not a viable plan.

It was noted that this was an obstacle plan that keeps changing. First it was a 3 lot subdivision, then that was retracted, Brockton said the road was approved for seven hundred (700') feet but it was actually one thousand (1,000') feet away from the West Bridgewater border, first there was water and sewer from Brockton, then neither of them. Abutters agreed that this project will impact their properties, wetlands, traffic, safety, etc. Mr. Hurley stated that the Board is trying to get it resolved and get it done right. He stated

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that it is not their intention to stop it, but the roadway traffic, emergency access, noise, safety, etc. are issues that need to be addressed. Attorney Lawton stated that he understands their concerns especially since he lived there at one time, but that he moved out because it was unsafe for his child and family.

Mr. Lawton requested a continuation to the next meeting on August 17, 2022. He stated that he would send a written request to extend it in the morning. He reiterated that he would forward the wording in Section 81L for Mr. Hurley's review and comment.

The public hearing was adjourned at 8:45 p.m.

After the hearing, Mr. Smith was still filming. Mr. Hurley stated that it was over. Mr. Smith questioned whether the Board had made a motion to adjourn the hearing. Mr. Hurley stated that they didn't. Mr. Smith asked if they usually vote on it but just didn't tonight. Mr. Hurley stated that sometimes they do and sometimes they don't.

A Motion (HA) was made to ratify that it is the Chair's prerogative whether the Board can end a hearing with or without voting. Second (GS). Vote: Unanimous of the four (4) members present.

Mr. Hurley noted that Mr. Lawton had been easier on Mr. Stetson than he had been on him. He stated that Mr. Lawton had sent an email to him that accused him of going behind his back to meet with the Mayor of Brockton and that he was having "secret meetings" and holding up the entire process. Mr. Hurley stated that he had no idea who the Mayor of Brockton even is and it had been many years since he was even at City Hall.

2. Lamp Post Estates:

Mr. Hurley recused himself due to a possible conflict of interest.

Mr. Stetson assumed the Chair.

Building Commissioner, Michael White, sent a memo asking if the Board had any issues with the above project before issuing an occupancy permit for the first home in the subdivision. He noted that proponents had a power problem, and they wanted to run a temporary line overhead for now and would switch to underground utilities down the road. Mr. White reported that National Grid appears to have a backlog and won't be able to install the underground electricity for three to four (3-4) months.

Mr. Stetson stated that proponents wanted to make sure that there would be no delay in getting in on time (rate lock and getting ready for school openings). Mr. Stetson stated that he had no issues with it. He stated that if the subdivision wanted all the poles to be hooked up it would be up to the developer to do so. He noted that National Grid had since come out, approved the design, and connected all of the houses to the overhead lines. Mr. Stetson noted that it only took two (2) days for them to show up, well before the estimated time line.

Mr. Hurley returned to the meeting and assumed the Chair.

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3. Surety Releases:

There was a brief discussion regarding the surety releases for the roadways that were accepted at Town Meeting: Luke Drive and Sunset Avenue Extension. An email from Treasurer/Collector, Scott Golder, reported that Luke Estates has \$11,493.82 remaining and Sunset Avenue Extension has \$96,188.68 (this account was previous held for Woodrow Lane and transferred to Sunset Avenue Ext.) Woodrow Lane has \$523.33 to cover the recording fees. It was noted that recording fees were taken out of B.C. Way, Bresciani Lane, and Meadow Spring Drive and these accounts were closed out.

4. Street Acceptance update:

Mr. Hurley reported that he had received an update from Town Counsel, David Gay, that he was enclosing the original recorded deed, acceptance of the Roadway and Drainage Easement for Luke Drive, the Original Deed Acceptance of Sunset Avenue Extension and an Update on Elm Terrace.

Attorney Gay wrote that he is holding the original documents for Elm Terrace and is waiting for a statement signed by the representatives of CLM Development. He noted that he asked for this document in January but so far neither he nor Mr. Hurley have been successful in obtaining it. The Elm Street Terrace money in the amount of \$11,851.48 was transferred to the main account but the check was never released. He noted that once he gets the document he will record it on the Land Court side of the Registry for Plymouth County. He also stated that he will record the acceptance votes for Copper Beech Circle, Oakwood Lane and Sycamore Lane at the same time.

5. W.B. Mason:

The Board was advised that after eight (8) additional phone calls and with still no response, there was no corrected invoice that was received. It was noted that that the amount could not be encumbered until they know how much it will be. It was noted that the time limit to encumber the funds has since passed. If they should get a bill, the Board will address it at that time. They agreed to no longer chase the bill.

6. Binding of Minutes Book:

The Board was advised that the Allegra Print representative came in to see what the other Minutes books look like. The Board is still waiting for an estimate of the cost. Once the estimate is received the Board will decide if it is cost effective.

7. Subdivision updates:

1. Ames Drive:

There are no further updates at this time.

2. Meadow Wood Estates II:

There are no further updates at this time. This preliminary plan was suspended because proponents stated that it doesn't appear to work for them.

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8. MAIL:

Bridgewater Community Dev. public hearing 8/3/2022, re: special permit, 210 Broad St.
E. Bridgewater ZBA public hearing 8/3/2022, re: special permit, 258 Laurel Street.
E. Bridgewater ZBA decision, re: special permit, 350 West Street, granted.
Easton ZBA public hearing 8/23/2022, re: special permit, 25 Robert Drive.
Easton ZBA public hearing 8/23/2022, re: variance, 507 Foundry Street.
Building Commissioner memo, re: Narragansett Drive, Cocheesets Estates.

9. A Motion (GS) was made to pay the Board members their yearly travel stipend of \$400 dollars each for a total of \$2,000. Second (HA). Vote: Unanimous of the four (4) members present.
10. A Motion (HA) was made to sign the secretary payroll. Second (AK).
Vote: Unanimous of the four (4) members present.
11. The minutes of 7/29/2022 were accepted and filed.
12. The meeting was adjourned at 9:05 p.m.

Respectfully submitted,

Donna M. Cotter,
Secretary