REGULAR MEETING BRIDGEWATER PLANNING BOARD DECEMBER 2, 2020

The regular meeting of the Bridgewater Planning Board convened at 6:30 pm.

Members present: Mr. Driscoll, Mr. Ajemian, Ms. Guarino, Mr. Geller and Mr. MacDonald

Staff present: Mr. Romulus, Assistant Planner; Ms. Burke, CED Director and Ms. Dorr, Office Administrator.

Mr. Driscoll read from prepared text on Governor Bakers order of 3/12/2020 and how the meeting will be conducted and how to be able to speak at the meeting. He advised the audience that this meeting is being recorded and will be posted within 48 hours on the Town of Bridgewater website or social web page.

On a motion by Mr. Ajemian, seconded by Mr. Geller it was unanimously voted by roll call vote to go into Executive Session under Gl.c.30A §21 (a) 3 to discuss strategy with respect to litigation as an open meeting may have a detrimental effect on the litigating position of the public body.

The Executive session convened at 6:34 pm and was over at 7:19 p.m.

The regular meeting reconvened at 7:20 pm.

MINUTES APPROVED

On a motion by Ms. Guarino, seconded by Mr. Geller, the minutes of 11/18/20 were unanimously approved, as amended, by roll call vote.

On a motion by Mr. MacDonald, seconded by Mr. Geller, the minutes of 11/4/20 were unanimously approved, as amended by roll call vote.

The members reviewed the proposed schedule of meeting dates for 2021. It was noticed that the meeting for November 3rd was missing; it will be corrected. The Board members had no conflicts.

Ms. Burke advised the Board that the Academy Building is no longer open to the public; by appointment only due to advanced Covid stats.

Ordinance D-FY21-003

Joint Hearing with Town Council Community & Economic Development Committee to Amend the zoning map by changing the boundary of the Industrial E located off Pleasant Street, by rezoning the lots listed to Business B: Map71, Lots 12, 16, 18–23, 44, 47, 66–69, 76–78, and Map 84, Lot 43.

On a motion by Mr. Chase, seconded by Mr. Wood, it was unanimously voted by Mr. Chase and Mr. Wood to open their meeting at 7:34 pm. Mr. Colombotos had not arrived yet.

On a motion by Mr. Ajemian, seconded by Mr. Geller, it was unanimously voted by roll call vote to open their public hearing on Zoning Ordinance D-FY21-003.

Councilman Colombotos joined the meeting.

Mr. Driscoll apologized for some of the confusion surrounding this Ordinance. He commented that it was discussed in pretty good detail at the last hearing and identified some shortcomings with it and suggested some amendments to try to address that; however, in reviewing the Ordinance again and looking at the map, he wondered if the amendment went far enough so he reached out to Mr. Colombotos and asked a few questions and based upon that the Council has sent it back to us. It was asked several times at the last hearing if abutters had been notified, specifically the abutters on old Pleasant Street. The answer was no, as the law doesn't require it. However, in the Ordinance, it mentions see letter sent to abutters dated September 3, 2020. That gives him the impression that abutters were notified. Ms. Burke clarified that was the letter sent to the property owners who are affected by the Zoning Change. He said we talked about changing the boundary of Ind. E to Bus. B and listed the lots which he is personally in favor of. In the explanation, it talks about rezoning those lots that are Ind. E and then it talks about a portion of the Gateway Business District. The fact is that we are also amending some AB as well by removing a 350'off set zoning line off of Pleasant Street-it is advertised one way, explained another way and abutters were not notified. He thinks it is a good idea to change Ind. E to Bus. B, but he thinks we should keep that 350' zoning line off of Pleasant Street. That zoning line is not on the map that we have before us, he said. Mr. Colombotos said he was of the same mind; There is no language in the ordinance removing that demarcation line; it just refers to the map; it is not clearly stated that we are removing it. Mr. Driscoll felt it allowed further encroachment into the AB zone. It is a change that was not properly advertised, he said. He said the lighter blue color on the map is the 350' line and the map is confusing because some of the gray area is also proposed to be business B, but because of the overlay it is not shown as dark. He stated that he felt the residential should be left alone as abutters on Pleasant were not notified and the Ordinance didn't suggest that the 350' residential would be changed; it is different from what the maps shows. He proposed that lot 71-47 stay residential by keeping the zoning line the way it is for now. Mr. MacDonald agreed; he suggested keeping residential residential, and everything that is commercial be changed to Bus. B. Ms. Guarino questioned the strip on lot 84/43 which gives frontage on Old Pleasant St? Mr. Driscoll said it would stay residential AB.

Mr. Colombotos suggested that somewhere in the Ordinance it should have language asserting the maintenance of that 350' setback.

Mr. Ajemian questioned again the notification issue and if someone on Old Pleasant wanted to challenge what we are doing they might have a good case since they were not notified. Mr. Driscoll commented that maybe the Council could just change the verbiage to read notification to property owners, rather than abutters. Mr. Dutton felt there was no issue especially if the council amends the Ordinance by keeping the 350' which is less restrictive.

There was a brief discussion about the legality of the ad. Ms. Burke stated that the notice of the Ordinance is legal and appropriate; the notices to the landowners were sent out as a

courtesy and they are not required, under the law, to do that. she also stated that we are not required under State Law to send notices to the abutters. If it was being considered sending notices, just as a courtesy to the abutters, that would be a council determination.

Mr. Dutton said the thought the Planning Board and the CEDC should have a broader discussion about zoning delineations; there needs to be discussion on appropriateness of bisecting a lot with zoning lines, however probably not the right time to have that discussion. It might be appropriate to make an amendment to the council that preserves that 350' setback. Mr. Driscoll suggested that if the CEDC goes along with this amendment that a revised map should be prepared putting that 350' delineation back on and have the council vote on a plan that is not a draft.

Ms. Burke noted that the Planning Board cannot make amendments to Zoning Ordinances; they vote it up or down as it was presented. Mr. Colombotos asked if the Planning Board can made recommendations to the council? Ms. Burke said no. Mr. Driscoll suggested voting it down but indicate that we would support it if the 350' residential setback line was maintained. M, Romulus said that would be ok. Mr. Colombotos asked if there is something in the Mass. General Laws that prevents the Planning Board from making a recommendation to the council? He commented that the Planning Board knows more about zoning than the council does, and he does not understand why the council cannot rely on their expertise on the matter. Ms. Burke said that the Planning Board is strictly advisory body to the council; they can make advise to the council based on what is before them; they cannot draft amendments or additional legislation to them. Mr. Wood suggested that the subcommittee of the council has the ability to recommend to the full council amendments that should happen. He would like to come out of this joint meeting with a recommendation that both bodies support and the CEDC will bring it back to the council for an amendment. Ms. Burke indicated that was perfectly fine.

Mr. Romulus looked to see if there was anyone from the audience wished to speak.

Mr. Frank Sousa spoke about his neighborhood being rezoned years ago by the Board of Selectman and they never received a notice. When they found out later, they were told that under State Law, because it was not an individual looking for the zone change, but the Town, they did not have to be notified. He thought this discussion clarified what was being done.

There were no further comments from the audience.

Mr. Ajemian, for the record, understood that they were following the law regarding no notification; however, as a curtesy, he felt the affected abutters should be notified. Mr. Colombotos agreed. Suggested possibly notifying by email Mr. Chase commented, that in principle, he agreed with comments made, but a more formal notification might have to be made. Mr. Romulus noted that in doing that, the Town may be setting a precedence that they may not want to take.

Mr. Dutton suggested a language to the first sentence of the Ordinance to say change the Ind. E to Business B on the following lots and could carve out the lot that is not impacted. (71-47) Mr. Driscoll suggested changing the map to put the 350' off set line back in.

Ms. Burke advised Mr. Dutton that his verbiage did not address the issue of the lot at the corner of Elm and Pleasant Street that is partially in the Gateway and that district is not addressed and must be as well. Mr. Colombotos questioned if the Gateway was an overlay and Mr. Dutton said no, that is a perception; it is a zoning district. Mr. Dutton suggested that the motion say that the town council

change the Industrial E and Gateway to Business B on the following lots: list the lots with the exception of 71-47.

Mr. Wood made a motion that the CEDC Committee vote to recommend a change to the language of the Ordinance by changing the Industrial E and Gateway to Business B on the lots listed, with exception of lot 71-47. Mr. Chase seconded the motion. He commented that the language of the amendment seemed appropriate and accompanying the 350' lot line on the map would also take care of everything discussed. Roll call vote; unanimous-yes.

Mr. Wood proposed a motion to remove lot 71-47 from the list; seconded by Mr. Chase. Roll call vote-unanimous-yes.

Mr. Wood suggested that the word "abutters" in the notice was probably a scrivener's error and made a motion to recommend changing the word "abutters" to property owners. Seconded by Mr. Chase. Unanimously voted by roll call vote.

Mr. Wood made a motion to recommend the Ordinance with the recommended amendments. Seconded by Mr. Chase. Unanimously voted by roll call vote.

Mr. MacDonald made a motion to not recommend the Ordinance as presented but would support it if the CEDC proposed changes were adopted. It was seconded by Mr. Ajemian. Discussion: Mr. Driscoll clarified with Mr. Wood that one of the proposed changes was to include reestablishing that 350' line or leaving it alone. Mr. Wood commented that if he understood the description correctly, because it is already marked as Ind. E with that line already imposed it would keep that line. Ms. Guarino asked if this takes out that leg on 84-43 that has frontage on Old Pleasant Street? Mr. Driscoll said yes because we are going to maintain the existing 350' line**. It was unanimously voted by roll call vote.**

Mr. Driscoll discussed the possibility of discussing informally zoning issues before they go to Ordinance; it seems to him it would make the process much smoother. Mr. Dutton agreed. He would have to defer to Jason Rawlings on the mechanics, as the law is very specific on what you can and cannot do as far as zoning.

On a motion by Mr. Wood, seconded by Mr. Chase, it was unanimously voted by roll call vote, to adjourn their portion of the joint hearing at 8:41 pm.

On a motion by Ms. Guarino, seconded by Mr. MacDonald, it was unanimously voted by roll call vote to adjourn at 8:42 pm.

MINUTES APPROVED:1/20/21