



City Of Attleboro, Massachusetts

PLANNING BOARD

GOVERNMENT CENTER, 77 PARK STREET
ATTLEBORO, MASSACHUSETTS 02703
TEL 508.223.2222 FAX 508.222.3046

MINUTES

MARCH 5, 2018

In accordance with the provisions of the Massachusetts General Laws Ch. 40A and Ch. 41, as amended, the Planning Board held public hearings on Monday, March 5, 2018 at 6:30 p.m. in the Council Chambers, City Hall, 77 Park Street, relative to the following :

Planning Board Members Present: Vice Chairman Jason Gittle, Secretary Bert Buckley, Scott Jones, Sheryl Guglielmo, Elizabeth Kenyon, and Melinda Kwart

Planning Board Members Absent: Chairman Paul Danesi, Jim Lewis, and Jack Rogers

The Board heard the continued public hearing for the application of Viridian Development, LLC for the proposed three (3) lot definitive subdivision plan entitled "VIRIDIAN MEADOWS PHASE II," located on Bolkum Lane, more specifically Assessor's plat #213, lots #2A and #3, located in the Single Residence-D zoning district, engineered by Thomas Cunningham, R.P.E. of Commonwealth Engineers & Consultants, Inc., 400 Smith Street, Providence, RI 02908.

Ms. Davies noted that a continuance had been granted at the last meeting to March 20, 2018. There being no one else to speak the public hearing was continued.

The Board heard the continued public hearing for the application of County Street Realty Corp. to extend Simpson Avenue 101.71 feet, as shown on the street extension plan entitled "DEFINITIVE SUBDIVISION PLAN - SIMPSON AVENUE EXTENSION," engineered by Daniel R. Campbell, R.P.E. of Level Design Group, 249 South Street, Unit 1, Plainville, MA 02762, dated July 24, 2017, revised through September 28, 2017. The subject premises are located on Assessor's plat #72, Lots #450, 451, 540, and 541 in the Single Residence-B zoning district.

The Board reviewed the email from Dan Campbell of Level Design Group, received March 5, 2018, to Senior Land Use Planner Stephanie Davies, requesting a continuance for the street extension application for "SIMPSON AVENUE EXTENSION."

Ms. Davies noted the letter from herself, dated February 28, 2018, to John Case III of County Street Realty, relative to the need to submit stormwater management calculations for the "SIMPSON AVENUE EXTENSION" street extension plan. She noted that the staff is still awaiting a submission.

There being no one else to speak, the public hearing was continued to March 20, 2018.

The Board reviewed the email from Chris Desautel of 84 Avalon Drive, received March 2, 2018, to Director of Planning and Development Gary Ayrassian, regarding flooding in the "AVALON ESTATES" subdivision.

Mr. Ayrassian explained that the basins in question were designed to contain a 100-year storm and he could think of no reason that they should be overflowing as shown in the pictures, as they had not had a storm of that magnitude.

Scott Jones noted that the pictures were actually taken before the most recent big storm.

Mr. Ayrassian stated that he forwarded this correspondence to the developer and the DPW Superintendent for further investigation.

Ms. Davies stated that on her recent site visit to the subdivision, a deficiency was identified in terms of the roadway grades, which could be contributing to the problem. She stated that she suspected that the developer was past his deadline for completing the subdivision infrastructure and that further action may be necessary to spur them to completion.

The Board agreed a letter would be appropriate, asking the developer to attend and explain the situation. The Board tabled Mr. Desautel's letter.

The Board reviewed the email and pictures from Jennifer Cooke of 128 Smith Street, received March 5, 2018, to Conservation Agent Nick Wyllie, regarding flooding on her property that abuts the "BRIGHAM HILL ESTATES" subdivision.

Ms. Davies explained that Ms. Cooke has been before the Board several times regarding this issue and that upon last communication, Bill Ward had installed a French drain on her property to try to address the issue. She stated that it may make sense to have Horsley Witten Group perform some inspections on site to help determine the cause of the flooding.

Mr. Ayrassian expressed concern that the water may be the result of water bleeding through the wall of the dike, as no liner was installed. He stated that it is hard to determine, however, as the site has been wet every time they've visited. He suggested the installation of a liner held the potential of resolving the issue and would have to be handled at the owner's expense.

Melinda Kwart argued that she recalled Bill Ward asserting that the issue on Ms. Cooke's property is one of ground water. She requested that Mr. Ward have the chance to address the Board before involving Horsley Witten Group.

Ms. Davies stated her understanding that Ms. Cooke has lived on her property for twenty years and that since the installation of the subdivision, the pine trees abutting the site can be pulled out of the ground by hand because they are so rotted from all of the water.

Elizabeth Kenyon expressed a sense of urgency to find a resolution.

Mr. Ayrassian agreed, that the issues have been ongoing for at least a year to date.

Sheryl Guglielmo suggested that test holes be dug to review the status of the ground water.

The Board authorized that a letter be sent to Bill Ward expressing the Board's intentions to pursue outside intervention if the issue cannot be resolved by his engineering staff. The Board tabled Ms. Cooke's letter.

Bert Buckley joined the meeting at 6:40 p.m.

The Board discussed the application of Anthony Autiello, III for a special permit pursuant to §17-9.0 SPECIAL PERMITS and §17-13.0 WATER RESOURCE PROTECTION DISTRICT to construct a single family dwelling and a portion of a shared driveway, as well as grading and utilities within the Bungay River Water Resource Protection District, said premises being located on Claire Drive, more specifically Assessor's plat #188, lots #4A & #4B, located in the Single Residence -D zoning district.

Melinda Kwart made a motion to **GRANT** a special permit pursuant to §17-9.0 SPECIAL PERMITS to construct a single family dwelling on Assessor's Lot #4 as well as a shared driveway with associated grading and utilities on Assessor's Lot #4A and #4B within the Bungay River Water Resource Protection District, said premises being located on Claire Drive, more specifically Assessor's plat #188, lot #4A and #4B, located in the Single Residence-D zoning district, as shown on the site plan entitled "SITE PLANS FOR RESIDENTIAL DEVELOPMENT - MAP 188, LOTS 4A & 4B", drawn and engineered by Steven M. Cabral, R.P.E. of Crossman Engineering, 103 Commonwealth Avenue, North Attleborough, MA 02763, dated November 2017 and revised through January 18, 2018. Bert Buckley seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

Melinda Kwart made a motion to **GRANT** a special permit pursuant to §17-13.0 WATER RESOURCE PROTECTION DISTRICT PERMITS to construct a single family dwelling on Assessor's Lot #4 as well as a shared driveway with associated grading and utilities on Assessor's Lot #4A and #4B within the Bungay River Water Resource Protection District, said premises being located on Claire Drive, more specifically Assessor's plat #188, lot #4A and #4B, located in the Single Residence-D zoning district, as shown on the site plan entitled "SITE PLANS FOR RESIDENTIAL DEVELOPMENT - MAP 188, LOTS 4A & 4B", drawn and engineered by Steven M. Cabral, R.P.E. of Crossman Engineering, 103 Commonwealth Avenue, North Attleborough, MA 02763, dated November 2017 and revised through January 18, 2018. Bert Buckley seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

The Board discussed the application of Mark Gaboury for a special permit pursuant to §17-9.0 SPECIAL PERMITS and §17-13.0 WATER RESOURCE PROTECTION DISTRICT to construct a single family dwelling with associated grading and utilities within the Orr's Pond Water Resource Protection District, said premises being located on South Avenue, more specifically Assessor's plat #80, lot #8, located in the Single Residence -B zoning district.

Bert Buckley made a motion to **GRANT** a special permit pursuant to §17-9.0 SPECIAL PERMITS to construct a single-family dwelling and associated grading, and utilities within the Orr's Pond Water Resource Protection District, said premises being located on South Avenue, more specifically Assessor's plat #80, lot #8, located in the Single Residence-B zoning district, as shown on the site plan entitled "PROPOSED SINGLE FAMILY DWELLING - 0 SOUTH AVENUE, ATTLEBORO, MA, 02703", drawn and engineered by Richard M. Mainville, R.P.E., of Andrews Survey and Engineering, 500 East Washington Street, North Attleborough, MA 02760, dated January 30, 2018, revised through February 23, 2018. Melinda Kwart seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

Bert Buckley made a motion to **GRANT** a special permit pursuant to §17-13.0 WATER RESOURCE PROTECTION DISTRICT to construct a single-family dwelling and associated grading, and utilities within the Orr's Pond Water Resource Protection District, said premises being located on South Avenue, more specifically Assessor's plat #80, lot #8, located in the Single Residence-B zoning district, as shown on the

site plan entitled "PROPOSED SINGLE FAMILY DWELLING - 0 SOUTH AVENUE, ATTLEBORO, MA, 02703", drawn and engineered by Richard M. Mainville, R.P.E., of Andrews Survey and Engineering, 500 East Washington Street, North Attleborough, MA 02760, dated January 30, 2018, revised through February 23, 2018. Melinda Kwart seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

Bert Buckley left the meeting at 6:55 p.m.

The Board heard the continued public hearing for the application of One Thirty One Pleasant Street, LLC for the proposed twenty three (23) lot definitive subdivision plan entitled "STONE FIELD ESTATES II," located on Oak Hill Avenue, more specifically Assessor's plat #170, lot #1A, located in the Single Residence-D zoning district, engineered by John C. Spink, R.P.E. of Spink Design, 59 Clay Street, Middleborough, MA 02346.

Speaking in favor of the application was Bob Catenacci of One Thirty One Pleasant Street, LLC who explained that a work session had been held with the peer reviewer and that most of the issues and questions had been addressed. He stated that the largest remaining concern from staff was regarding roof infiltration and whether an additional stormwater basin was necessary. He stated that both ponds proposed are necessary, with pond #1 collecting run off from the cul-de-sac, and pond #2 collecting runoff from the backyards, as well as from the street.

Mr. Ayrassian sought to confirm whether the interior pond (#2) only receives water from the proposed roof drains.

Mr. Catenacci replied no, that it also intercepts some of the run off from the cul-de-sac.

Ms. Davies stated that staff had questioned how much run off is truly anticipated from the yards of the lots and whether it necessitates an additional infiltration basin, where individual roof infiltrators in each yard may be a better solution.

Mr. Catenacci stated that his engineer reviewed the numbers if using roof infiltrators and that it would result in a very minimal change in the recharge numbers. He questioned the benefit of such features if the water is already nearly all going to recharge with the proposed design.

Mr. Ayrassian questioned why a second pond is needing if all of the water is being recharged.

Mr. Catenacci answered that there is some piping from the other side of the cul-de-sac that empties in the second pond, as well as natural slopes directing water from the back yards. He noted that the soils on site are fantastic.

Mr. Ayrassian expressed concern with relying on natural features to convey stormwater to the basin. He explained that such features, unlike a pipe or a swale, will not be encumbered by an easement. He asserted that homeowners could install obstructions or alter the grades, preventing water from reaching the basin.

Sheryl Guglielmo questioned how what Mr. Ayrassian is describing is any different from the water that sheet flows from the front yards to the street for treatment.

Mr. Catenacci asserted that all of the houses would have to organize to install a joint obstruction to prevent the water from travelling to its lowest point and reaching the pond. He expressed his confidence that the water will reach the system.

Ms. Davies explained that due to this uncertainty, staff recommends the use of individual dry wells. She stated that having a second pond overly complicates the system.

Mr. Catenacci argued that installing drywells would not completely eliminate the need for the second pond. He stated that such a change would only change the run off values by 4%.

Speaking in favor of the application was attorney Ron Koback who stated that the installation of dry wells is an additional expense for the developer. He added that homeowners often do not maintain their drywells or disrupt them, reducing or eliminating their usefulness over time.

Speaking in favor of the application was the project engineer John Spink who asserted that the site contains sandy gravel that percolates well. He asserted that the water will all be captured and go to either of the ponds and it won't matter what goes where.

Mr. Ayrassian disagreed and stated that the size of the basin is dictated by how much water it needs to hold. He expressed concerns with water pooling in residents' backyards.

Mr. Spink replied that it is possible, but that such situations occur all over the City.

Mr. Ayrassian reiterated that if the path for the stormwater was encumbered by an easement, access could be controlled to ensure it is not disrupted.

Sheryl Guglielmo noted that the Qualifying Pervious Areas (QPAs) had been removed on this revised plan. She sought to confirm that they are still meeting the stormwater requirements without including the QPAs.

Mr. Spink replied in the affirmative.

Ms. Davies admitted that the suggestion of drywells is a subjective one, but that it is her view that the City has historically preferred to see them.

Sheryl Guglielmo questioned whether staff has concerns about the proposed design not functioning properly.

Ms. Davies explained that Horsley Witten Group had found the proposed design to be over-complicated which affords greater potential for failure. She stated their issue specifically with the three lots to the right of the interior pond, which will need to be graded in a very specific manner to ensure runoff reaches the basin. She explained that there are concerns as to whether the grading will be maintained, as it will occur on private property. She explained that a resident installing landscaping or otherwise altering the grades could affect the functionality of the system.

Sheryl Guglielmo sought to confirm that Horsley Witten Group proposed drywells on just those three lots to resolve the issue.

Mr. Catenacci noted that doing so will not eliminate the need for the interior pond.

Mr. Koback stated that he attended the work session and did not recall Horsley Witten Group citing a preference for drywells on each individual lot. He stated that he understood their concern to be with just the 2-3 lots in question. He noted that the grading concerns could be addressed with an easement. He stated that he respects that the staff do not support the design as presented, but that the Board needs to weight the cost-benefits of the situation. He suggested the engineer could add in easements to protect the proposed swales.

Melinda Kwart questioned whether it is much more expensive for the City to maintain the infiltration basins rather than dry wells.

Mr. Ayrassian answered yes, as dry wells would be maintained by the homeowners, but the infiltration ponds would become the responsibility of the City. He stated that typically, developers propose the drywells themselves and that he had never seen someone try to argue against them due to the cost to the developer.

Sheryl Guglielmo reiterated though that homeowners may disconnect from the drywell or may not maintain them, which could result in flooding issues.

Ms. Davies clarified that the staff hope was that the second basin could be removed in lieu of the drywells, but the engineer is saying that won't happen.

Mr. Catenacci stated his understanding from the work session that Horsley Witten Group found that the system works hydraulically.

Mr. Spink agreed and stated that the current discussions involve micromanagement of the design.

Elizabeth Kenyon questioned whether there is any chance of water pooling in homeowners' yards.

Mr. Spink stated that the soils provide for good infiltration, so he imagined very little stormwater will even make it to the ponds.

Mr. Ayrassian noted that ponding is not mathematically anticipated, but from a practical standpoint, it can occur at any time. He asked whether the outer infiltration basin is proposed on property that is included in this application.

Mr. Catenacci replied yes. He stated the plan to modify this pond in the future to accommodate some of the Phase III stormwater, with the help of an additional basin. He stated that they are proposing a drainage easement for the feature.

Mr. Ayrassian argued that the proposed site of the basin is outside of the current subdivision real estate.

Mr. Catenacci argued that there will be an easement.

Mr. Ayrassian countered that the decision will reference the plat and lots involved with the approval and that the pond needs to be within that jurisdiction for the conditions to apply.

Mr. Koback argued that if there is an easement with a recorded plan, it would be irrelevant.

Mr. Ayrassian asked whether there is a problem with carving out the portion containing the basin and making it part of the subdivision.

Mr. Catenacci stated that he did not see an issue with doing so.

Mr. Ayrassian added that you cannot discharge water onto a property that is not part of the subdivision, as that will violate stormwater regulations. He reminded Mr. Catenacci that Phase I of this subdivision had to be re-advertised for this very same reason. He asked about the status of the Phase III build-out that had been promised to the Board.

Mr. Catenacci presented the plan to the Board.

Mr. Ayrassian questioned the cross-country path to Poncin Hewitt fields that was previously negotiated.

Mr. Koback stated that it would be addressed in either this phase of development or the next.

Mr. Ayrassian questioned the actual anticipated time of conveyance to the City and whether the lower portion of land not shown in the lots would also be considered for conveyance.

Mr. Catenacci replied that it would be considered.

Mr. Ayrassian stated that the proposed plan for the path coming off of a cul-de-sac is convenient for residents of the subdivision, but does not make it accessible to others who live in the area.

Mr. Catenacci suggested that two paths could be created to satisfy both segments of residents.

Mr. Ayrassian questioned whether sidewalks could be installed on the roadway curve radii where children will be waiting for pick-up by the school bus.

Mr. Catenacci stated that he was amendable to such a proposal.

Scott Jones reiterated his concerns from a previous meeting about the nearby school and how this subdivision is proposed between it and a sharp turn on which people drive fast. He noted that the area has lots of pedestrians and asked whether a crosswalk is proposed.

Mr. Catenacci noted that there is sidewalk on the opposite side of the street.

Mr. Ayrassian stated that the developer cannot install a crosswalk. He suggested, however, that as the developer is asking to waive construction on sidewalks on one side of the new roadway, he recommended that Mr. Catenacci submit the construction value for the unconstructed sidewalks to the City for the installation of sidewalks on Oak Hill Avenue.

Mr. Koback argued that part of the reason a waiver has been requested for the sidewalks is to satisfy the City's requirements to reduce impervious area.

Melinda Kwart countered that the Planning Board's primary mission is safety and that although the City's regulations and Ordinances speak to many environmental goals, those cannot be met at the expense of

safety. She stated that the submission of funds to a sidewalk fund will cost the developer less than installing the sidewalks, as they do not need to cover the cost of labor. She asserted that the Board does not approve this waiver just so the developer can save money.

Mr. Koback stated his hesitancy to engage in such a “quid pro quo” agreement. He stated that the developer is already offering the installation of a path for access to Poncin Hewitt field, which he is doing out of his own good will.

Mr. Ayrassian argued that the discussion about the path to Poncin Hewitt field was agreed upon in the initial public hearing as a means to mitigate the effects of subdivision traffic, as well as the site’s close proximity to a school. He argued that it makes sense to install sidewalks on Oak Hill Avenue at the developer’s cost as the subdivision will vastly increase traffic in the area.

Mr. Koback argued that he feels the sidewalk waiver stands on its own merits. He suggested that a contribution to sidewalk construction could be considered separate and distinct from the subdivision review process.

Ms. Davies argued that Mr. Koback’s so-called “quid pro quo” situation has been a policy of the Planning Board since 2006.

Mr. Koback replied that he was dubious as to the legality of the policy. He stated that they would consider contributing in some way, as it will benefit the residents of the subdivision.

Mr. Ayrassian argued that even if the developer were to say no, it doesn’t mean that the Board would necessarily deny the waiver. He stated that all but one developer since the policy’s inception have agreed to the process. He stated that in the instance where the developer refused, the Board still granted the waiver.

Melinda Kwart argued that the City’s regulation is to have sidewalks on both sides of the road. She stated that the Board will grant sidewalk reduction waivers only in instances where it is determined that sufficient safety and security is provided for residents and that there is a reasonable justification for the waiver outside of saving money. She stated that reducing sidewalks to reduce impervious area is a priority of the Conservation Commission, not necessarily of the Planning Board and suggested that there are alternate ways to reduce impervious that have less drastic impacts on pedestrian safety.

Mr. Ayrassian requested that the curve radii be staked out in the field so that Board members can discuss where sidewalks on Oak Hill Avenue would be beneficial.

Mr. Catenacci agreed to stake out the features.

Mr. Ayrassian questioned the outcome of a meeting held between the developer and the Wastewater Superintendent.

Mr. Catenacci replied that they are proposing a sewer force main down the center of the right-of-way. He stated that the main on Mary Rocha Way is proposed to run off to a sewer easement and a manhole that will be placed in the City right-of-way of Oak Hill Avenue. He explained that from there, it will be gravity fed to an existing manhole. He stated that they are anticipating Phase III of the subdivision to also utilize two

inch force mains for the sewer. He explained that the individual homes own their own pumps that connect to the system. He stated that the sewer plan has been included with the overall revisions.

Mr. Ayrassian sought to confirm that there is land access to the sewer features for maintenance.

Mr. Catenacci replied yes, that they are confined by an easement.

Mr. Ayrassian questioned whether the main is under constant pressure or only when the pump is engaged.

Mr. Spink replied only when the pump is working.

Mr. Catenacci stated that the Superintendent deemed the capacity of the system to be sufficient, since the pipe is designed to handle 3,400 homes and they are only proposing a total of about 150. He stated that he will just need to apply for a sewer extension permit from the Wastewater Department.

Mr. Ayrassian noted that the need for that permit will be included in the subdivision approval. He stated that he will get a direct confirmation from the Wastewater Superintendent that everything is in order with the system.

Ms. Davies noted that the staff have not yet received the revised plans.

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

The Board held a business meeting.

The Board reviewed the memorandum from Public Works Superintendent Michael Tyler, dated March 5, 2018, to the Planning Board, recommending a PARTIAL release of funds in the amount of \$147,100.00 for the "DEER RUN ESTATES" subdivision.

Ms. Davies noted that inspection reports had been provided by Public Works and that the water system and stormwater basin had been installed.

Melinda Kwart made a motion to grant a **PARTIAL** release of funds in the amount of \$147,100.00 for the "DEER RUN ESTATES" subdivision. Sheryl Guglielmo seconded the motion and all voted in favor.

The Board tabled the letter from Senior Vice President Geoffrey A. Homoliski of Middlesex Savings Bank, dated January 24, 2018, to Senior Land Use Planner Stephanie Davies, regarding the lender's agreement for the "CAMERON WOODS" subdivision.

The Board reviewed all remaining correspondence.

The Board voted to hold a Joint Public Hearing on March 20, 2018 to hear proposed changes to the Medical Marijuana Dispensaries Ordinance.

The Board tabled the pending minutes from February 26, 2018

The meeting was adjourned at 8:21 p.m.