



# City Of Attleboro, Massachusetts

## PLANNING BOARD

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## MINUTES

MARCH 20, 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 20, 2018 at 6:30 p.m. in the Annex Room, City Hall, 77 Park Street, relative to the following :

Planning Board Members Present: Chairman Paul Danesi, Vice Chairman Jason Gittle, Secretary Bert Buckley, Scott Jones, Sheryl Guglielmo, Elizabeth Kenyon, Jim Lewis, and Jack Rogers

Planning Board Members Absent: Melinda Kwart

The Board heard the new public hearing for the application of Marette & Sons, Inc. 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 driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 6 Colonial Way, more specifically Assessor's plat #187, lot #4A54 (Builder's Lot #92), located in the Single Residence -D zoning district.

Speaking in favor of the application was Ken McKenzie of Dunn McKenzie, who stated that the site in question is approximately 3,000 linear feet from the Bungay River. He stated that the use and storage restrictions have been included on the site plan. He stated that the proposed house results in 25% impervious coverage, although the exact design is subject to change, depending upon the wishes of the future owner.

Chairman Hutchings sought to confirm that Mr. McKenzie is willing to certify that the development will not be detrimental to the Bungay River Water Resource Protection District.

Mr. McKenzie affirmed.

Senior Land Use Planner Stephanie Davies sought to confirm that propane gas is proposed for heating purposes.

Mr. McKenzie answered in the affirmative.

Bert Buckley made a motion to close the hearing. Jason Gittle seconded the motion and all voted in favor.

The Board heard the new public hearing for the application of Marette & Sons, Inc. 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 driveway, utilities, and grading within the Bungay River Water

**Resource Protection District, said premises being located at 7 Colonial Way, more specifically Assessor's plat #187, lot #4A67 (Builder's Lot #105), located in the Single Residence -D zoning district.**

Speaking in favor of the application was Ken McKenzie of Dunn McKenzie, who explained the house design for this property is akin to that for 6 Colonial Way. He stated that 25% lot coverage is proposed and that the house will be heated by propane. He stated that the property is at least 3,000 linear feet away from the Bungay River. He certified that the development will not have a negative impact on the Bungay River and that restrictions for use and storage are included on the site plan.

Bert Buckley made a motion to close the hearing. Jason Gittle seconded the motion and all voted in favor.

**The Board heard the new public hearing for the application of Marette & Sons, Inc. 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 driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 13 Colonial Way, more specifically Assessor's plat #187, lot #4A66 (Builder's Lot #104), located in the Single Residence -D zoning district.**

Speaking in favor of the application was Ken McKenzie of Dunn McKenzie who stated that the proposed house will be heated by propane and is located 3,000 - 3,500 linear feet from the Bungay River. He stated that the development will meet the specifications of the Water Resources Protection District.

Elizabeth Kenyon questioned the size of the lots in question.

Mr. McKenzie replied 16,000 square feet. He noted that the lots are within a subdivision that under the terms of a court case that allowed for smaller than normal lots for the given zoning district.

Bert Buckley made a motion to close the hearing. Jason Gittle seconded the motion and all voted in favor.

**The Board heard the new public hearing for the application of Marette & Sons, Inc. 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 driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 37 Colonial Way, more specifically Assessor's plat #132, lot #4A62 (Builder's Lot #100), located in the Single Residence -D zoning district.**

Speaking in favor of the application was Ken McKenzie of Dunn McKenzie who stated that the proposed house for this lot is smaller, providing only 20% lot coverage. He stated that it is a further 600 linear feet from the River than the others. He attested to the prohibited uses listed on the plan. He stated that the house will be heated by propane.

Bert Buckley made a motion to close the hearing. Jason Gittle seconded the motion and all voted in favor.

**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.**

The Board reviewed the letter from Edward J. Casey of Viridian Development, LLC, dated March 20, 2018, to Chairman Paul Danesi of the Planning Board, requesting a continuance relative to the "VIRIDIAN MEADOWS, PHASE II" subdivision.

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 updated plan set and stormwater calculations from Dan Campbell of Level Design Group, received March 9, 2018 and the Form P1 - Request to continue a public hearing submitted by Dan Campbell on behalf of County Street Realty, received March 20, 2018, requesting a continuance to the Board's first meeting in April, relative to the "SIMPSON AVENUE EXTENSION" street extension plan.

Jason Gittle made a motion to grant a continuance to April 2, 2018. Scott Jones seconded the motion and all voted in favor. There being no one else to speak, the public hearing was continued.

**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.**

The Board reviewed the revised site plans and calculations from Robert Catenacci of One Thirty One Pleasant Street, LLC, dated March 15, 2018, and the letter from Robert W. Catenacci of One Thirty One Pleasant Street, LLC, dated March 19, 2018, to the Planning Board, requesting a continuance relative to the "STONE FIELD ESTATES II" subdivision.

Sheryl Guglielmo arrived at 6:44 p.m.

Jason Gittle made a motion to continue the public hearing to April 2, 2018. Elizabeth Kenyon seconded the motion and all voted in favor. There being no one else to speak, the public hearing was continued.

**The Board held a business meeting.**

**The Board reviewed the tabled 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 stated his understanding that the flooding was the result of organic debris blocking the system. He stated that the engineer sent someone out and cleaned it up. He noted that the Public Works Superintendent had recommended denial of the last request for a release of funds, so the feature will have to be inspected before the City accepts the roadways.

Jim Lewis stated his concern that the Board has been having issues with detention basins over the past three years. He suspected their failures are due to issues with the infiltration basin silting up. He asked whether there is a well-functioning system in the City that the Board can review.

Mr. Ayrassian offered to develop a list for the Board.

Jim Lewis suggested that there ought to be a protocol in the Planning Board Rules and Regulations for when these features are under construction to protect them from silting.

Ms. Davies argued that the issue in this instance has nothing to do with the feature silting up. She stated that the issues are related to groundwater. She noted that the City already implements an Erosion Control plan during construction.

Jim Lewis expressed concern with the trash accumulating in the Avalon Estates detention basins.

Mr. Ayrassian replied that he called the developer, the engineer, and the Public Works Department regarding that issue. He stated that he was unsure of what other means the Board has to force action.

Jim Lewis argued that if an erosion control plan is included in the decision, the Board could issue a cease and desist until things are resolved.

Mr. Ayrassian countered that the erosion control plan is included, so the force of law is there, but that the process involves contacting the developer directly first, then proceeding to involve Public Works and finally, the City Solicitor. He stated that the situation escalates if the developer is not compliant.

Jim Lewis reiterated his desire to be provided with a list of recent subdivisions that contain basins that recharge water into the ground. He insisted that the Board should be able to order enforcement of decisions rendered.

Mr. Ayrassian agreed to produce a list, but noted that the average person is not going to be able to tell the difference between a detention versus a retention basin. He stated that the design is not that different and just has to do with the invert. He stated that systems with a forebay that allows sediment to settle out tends to be easier to maintain than systems that have an underground vortex unit for removing suspended solids. He reiterated that all of the stormwater designs are reviewed by a third party engineer, so the City can be confident in the designs. He stated that if there are issues, it is typically due to incorrect construction or maintenance of the systems.

Speaking on behalf of Anthony Marinella for the "Avalon Estates" subdivision was Suanne Santos of InSite Engineering. She stated that she had received the letter from the Department of Public Works outlining the deficiencies with subdivision construction. She stated that the paving contractor is scheduled to return and pinpoint the issues raised with the cross slopes of the sidewalks. She explained that they are also in the process of reviewing the driveway aprons that do not currently meet ADA requirements and will be adjusting those to meet the necessary slopes, which will require cuts into the residents' driveways. She anticipated potential issues with residents not understanding that a portion of their driveway is within the road right-of-way layout and not owned by them. She stated her understanding that many residents don't want their driveways touched, but it is required to meet ADA standards.

Mr. Ayrassian suggested that an outreach letter be sent to the subdivision residents, notifying them why the work needs to be done and the timeline for completion.

Jim Lewis questioned how the constructed slopes compare to what is required.

Ms. Santos replied that the maximum slope per ADA is 2% with the sidewalk. She stated that the subdivision has slopes upwards of 5% near the stormwater management system. She noted that this change is only 1/8 an inch worth of difference.

Jim Lewis questioned whether we have the ability to waive the requirement.

Mr. Ayrassian replied no, and explained that ADA standards are regulated by the state. He stated that these things are checked regularly and the Mayor is notified if something is amiss. He stated that not meeting the necessary slopes is a liability for the City.

The Board tabled the matter to join a Joint Public Hearing with the Municipal Council in the Council Chambers at 7:10 p.m.

>>INSERT MUNICIPAL COUNCIL MINUTES ONCE APPROVED<<

The Board reconvened the Planning Board meeting in the Annex Room at 7:52 p.m.

Mr. Ayrassian questioned why a 2% slope would be difficult to achieve in the first place.

Ms. Santos stated that she suspects the issue is due to settling after installation, but that there are a lot of different potential causes for the discrepancy.

Mr. Ayrassian suggested that Ms. Santos coordinate with the Public Works Department in advance, so that the corrected slopes can be verified by the City.

Ms. Santos stated that there is also an issue with the fire alarm box on site. She explained that the new Fire Alarm Superintendent wants the feature moved to the opposite side of the street.

Mr. Ayrassian stated that the Superintendent should have been directed to the Planning Board, as approved plans cannot be changed on a whim in the field.

Ms. Davies noted that there was no exact location designated on the plan, just a generalized intersection locale dictated.

Ms. Santos stated that the features are typically installed within 20-feet of the proposed location.

Ms. Davies noted her understanding that the feature is powered by solar energy and that the current placement has the box shaded by a utility pole, thus rendering it non-functional.

Mr. Ayrassian argued that the fire alarm box has to be installed where it was approved or the Fire Department needs to provide a justification for moving it.

Ms. Santos stated that the adjustment was made to the current location as the original position of the box was going to be directly in someone's front yard, which was thought to be obtrusive.

Mr. Ayrassian stated that such a change is usurping the Planning Board's authority and was not an appropriate call to have made without seeking the input of the Board.

Chairman Danesi noted that there is an ongoing discussion as to the fact that such fire alarms are essentially obsolete with the prevalence of cellular telephones, anyway. He stated that a waiver should be considered since no one wants the features and they are not truly necessary.

Mr. Ayrassian argued that changing the regulations is a conversation for a different time and that the time for approving a waiver has long since passed. He stated that the Planning Department will solicit the Fire Department for an opinion on the location of the fire box. He stated that the developer needs to resist the Fire Department's recommendation and force the matter back before the Planning Board.

Ms. Santos noted that the residents across the street from the existing site invested a great deal of money in a visually appealing retaining wall and that they do not want the feature moved to their side of the street.

Speaking on behalf of Marinella Construction was Brandon Lynch who stated that they could install the feature where it was originally shown on the plan. He stated that it will be directly in front of a house and that they had moved the feature to the lot line as a courtesy to the resident.

Mr. Ayrassian advised that the resident be notified before the work occurs.

Ms. Davies reiterated that the location on the plan was dictated just by the intersection and not a specific locale. She stated her understanding of the issue being that the box is not functioning where it was installed.

Mr. Lynch replied that the Fire Department dictated that it cannot be installed within 12-feet of a utility pole, so it will have to be moved. He stated that it would be returned to the originally proposed location.

Ms. Santos stated that there is also an issue with a lack of curbing around the catch basin at the end of the roadway median. She stated that the nearest owner to the locale widened their driveway, so if a full curb is installed, they will be driving over it.

Mr. Ayrassian offered to review the issue in the field and report back to the Board.

Ms. Santos said that they are in the process of putting together the street acceptance and as-built plans. She stated that the detention ponds are not functioning as designed. She noted that a portion of the system consists of a constructed stormwater wetland, which is supposed to consistently contain water; a fact the neighbors may not understand and consider to be an issue. She stated that one of the retention ponds needs adjusting, specifically the one adjacent to 84 Avalon Drive. She stated that when working properly, the water should flow continuously into the wetland, but in the last storm, it just built up within the easement. She explained this occurred on account of some leaves and reeds that had clogged a concrete weir that was designed to control the flow between the basin and the wetland system. She stated that the second issue was the result of it being recycling day when the storm hit, resulting in Styrofoam, cardboard,

and other materials getting blown into the basin, which also played a part in clogging up the system. She added that the retention basin was constructed deeper and is holding 6 more inches of water than it was designed to hold. She stated that resolving those issues should get the basin operating correctly.

Mr. Ayrassian questioned the anticipated timeline for the water to infiltration once it reaches the pond when functioning properly.

Ms. Santos answered 72 hours.

Mr. Ayrassian noted that Public Works described the water in the basin as lingering excessively, but did not define that duration in numbers.

Ms. Santos stated that she was unsure, but that the constructed wetland has a water table very close to the surface, so will likely never dry out completely.

Jim Lewis noted that the obstruction detailed in the image provided seems fairly minimal. He asked whether the City is going to have to go out and clean the leaves out of the system every season to prevent this from happening.

Ms. Santos answered yes. She stated that occasionally, an abutting homeowner will keep an eye on it, to prevent their yard or home from flooding. She assumed that otherwise, residents will contact Public Works to have it serviced.

Jim Lewis suggested the Board look a little more closely at the stormwater management system designs and strive to reduce the maintenance associated with them.

Mr. Ayrassian replied that prior system designs used grates that were even more sensitive to clogging. He agreed, however, that future maintenance should be considered when reviewing systems.

Ms. Santos noted that there are no systems that are truly maintenance free.

Ms. Davies questioned the status of the paved waterways and whether the pitch of the street is appropriate to direct water into them. She noted that there were concerns with water pooling at some residents' driveways.

Ms. Santos stated that they are exploring that issue now and have identified one area that has rip rap that is too high, which they will resolve.

Ms. Davies noted that the completion timeline for the subdivision infrastructure expired on November 30, 2017.

Mr. Ayrassian stated that the developer needs to put together a reasonable timeline to resolve all of the remaining work and submit a request for an extension of time. There being no one else to speak, the letter from to Maddi North Street Development regarding the stormwater management system deficiencies was tabled.

**The Board heard the appointment to speak of Jennifer Cooke of 128 Smith. The Board also reviewed the letter from Senior Land Use Planner Stephanie Davies, dated March 6, 2018, to Bill Ward of W.B. Construction and Development, regarding the flooding issues relative to “Brigham Hill Estates, Phase II” and the letter via email from Jennifer Cooke of 128 Smith Street, received March 12, 2018, to Chairman Paul Danesi, relative to flooding on her property that abuts the “Brigham Hill Estates, Phase II” subdivision.**

Ms. Cooke stated that she and her neighbor have continued to have flooding issues on their properties. She stated that she was hopeful that the French drain Mr. Ward installed on her property would work, but it has not resolved the problem. She stated that she would like an independent engineer to evaluate the ponds and the potential for hydrostatic pressure from them having negative impacts on the high ground water in the area. She requested that the City not accept the roads until a thorough review has been performed. She stated that with another phase of work impending, she is concerned that the problem will get even worse. She stated that it makes no sense to add more water to a system that is already not functioning properly and that it will be disastrous to her property. She stated that she has met with an engineer, John Gannon, who specializes in drainage issues. She explained that he reviewed the history and literature associated with the issues and felt it may be a classic case of mounding, where the water pressure in the basins causes the water table to rise in surrounding areas. She questioned whether anyone can assure her that her property won't suffer significant damage as a result of these ongoing issues. She stated that she has serious concerns about her septic system and the water that she has been flooding her basement, which she never suffered in the past. She requested that the developer's ability to continue building houses be suspended until such time as the neighbors' issues are addressed. She stated that she is concerned about her 34 year old horse, who cannot be ridden due to the conditions on the property, but is too frail to be transported via trailer to ride elsewhere. She stated that she has been unable to ride in her horse paddock for almost three years. She stated that she had to cancel her son's high school graduation party this past July because her yard was such a muddy mess. She stated that she cannot afford for these issues to continue. She stated that she is not an engineer or an expert, but has documented the water flowing through her backyard, down her driveway and under a culvert at Smith Street where it reaches the wetlands and flows to a brook that runs all the way down to the Wilmarth Street culvert, that the City is currently replacing.

Mr. Ayarrassian noted that the constriction of the culvert at Wilmarth Street could be exacerbating the problem.

Ms. Cooke reiterated the need for an independent survey and the halting of construction until the issue is resolved.

Chairman Danesi questioned whether the City's peer reviewer guarantees their work and takes responsibility for signing off on designs that fail.

Sheryl Guglielmo argued that we haven't determined that the design is at fault, it may be the construction or an outside variable that is the issue.

Scott Jones suggested that the elevation between the culvert at Wilmarth Street and Ms. Cooke's property be evaluated to see if the collapse is having an impact.

Ms. Cooke argued that that laymen can speculate, but that to get concrete answers a qualified engineer and hydrologist needs to be employed. She stated that she doesn't think that Bill Ward intended for this situation to occur, but emphasized that this is going into a third season of issues. She emphasized her urgency regarding the situation and that she cannot abide any more speculation that leads to damage to her property.

Speaking was Kevin Deschenes of 120 Smith Street who stated that he has lived at his property for 23 years and never had water in his backyard before. He asserted that he was assured during the public hearings for the development of the Brigham Hills, Phase II subdivision, that there would be no water ponding near his property except in the event of a 100-year storm event. He asked that such an event be categorized.

Mr. Ayrassian replied that it is a storm that anticipates 7.5-inches of rain in a 24-hour period and that the likelihood of such a storm occurring is one out of one hundred.

Mr. Deschenes presented pictures from June of 2015 documenting the water near his property and asserted that no storm of that magnitude had occurred. He stated that Bill Ward has come out and tried to address things every time that he's called and that he appreciates his efforts to correct issues with the construction of the ponds. He questioned who on the City's side is supposed to inspect the ponds to ensure that they are functioning.

Mr. Ayrassian replied the Public Works Department.

Ms. Cooke countered that she had spoken with the former Public Works Superintendent Lance Hill who informed her that it wasn't their responsibility.

Mr. Deschenes asserted that he doesn't believe that Public Works has been out to inspect the stormwater management system at all. He argued that all of the houses are in and the builder is moving on to the next phase of development, so there is something amiss with this process. He stated that he had just paid off his mortgage and that he should not have to worry about water in his yard. He stated that the ponds are full and not draining. He asserted that the flooding has been becoming more intense over time and occurs every time it rains. He felt that with all of the efforts Bill Ward has made, the issue must be an engineering one, as if it was built to spec, these problems wouldn't be occurring.

Ms. Cooke noted that she has a video documenting bubbles and water coming up through the ground on her property.

Mr. Deschenes stated that the water follows the lowest point through the woods and is eroding Ms. Cooke's driveway. He stated that the roots are exposed on the trees in their yard from the soil erosion. He expressed concern that with continued storms, trees will begin being knocked over.

Ms. Cooke stated that since this ordeal began 14 pine trees have died in between her and Mr. Deschenes properties.

Mr. Deschenes asserted that the City has a responsibility to see this issue resolved. He argued that if the work wasn't checked as it should have been, then the City should be responsible for the resolution. He stated that it is unfair to burden the tax payers with mistakes that they had no part in creating.

Speaking was Bill Ward of W.B. Construction and Development who stated that for the next phase of the subdivision their plan was to make modifications to the Phase I pond to accommodate the additional stormwater runoff. He stated that the largest issues are with the Phase II ponds, where both Ms. Cooke and Mr. Deschenes are being overrun with water and he has been unable to get a handle on things. He stated that overflow from the ponds pools in Mr. Deschenes backyard and flows across Ms. Cooke's driveway. He stated that the water typically stands for 4 to 5 days before leeching into the soil.

Chairman Danesi asked how the system's overflow is designed to work.

Mr. Ward replied that the route the water is taking is the normal flow dictated by the elevations and that it was approved that way.

Ms. Davies noted that she believed that the overflow is only meant to be utilized in the event of a 100-year storm.

Mr. Ward stated that he was unsure of that and would defer to his engineers. He stated his belief that part of the problem is the positioning of the basins. He explained that they had initially planned to leave a greater buffer to the neighbors, but had been forced by Conservation to move the ponds about 50-feet further from the wetlands no touch zone, which brought the ponds closer to the abutters. He stated that if the original positioning had been maintained, they could pipe the water over land to the wetlands below, which is something that cannot be done now. He stated that he doesn't understand where the water in Ms. Cooke's house and barn is coming from and that her horse is having to stand in 3-inches of water at times. He stated that back in November, he had installed a cut-off drain at the toe of the slope to try to intercept the water, but that it has not resolved the problem. He stated that the dike for the ponds is 50-feet wide, so he finds it hard to believe that water is seeping through that barrier.

Jason Gittle stated that the issue seems to be contained within the bounds of the Phase II subdivision, so doubted there was an outside variable. He questioned how this could happen when two sets of engineers reviewed and approved the design.

Mr. Ward stated that he was unsure whether the issues are the result of the system design or errors in construction. He stated that from this point forward he will defer to the engineers to find a resolution.

Speaking on behalf of Mr. Ward was Steve O'Connell, the Vice President of Andrews Survey and Engineering who stated that they have retained a hydrogeologist to study the movement of water under the soil.

Ms. Davies questioned in what storm event the overflow that is flooding the neighbors is meant to be engaged.

Speaking was Bill Blais of Andrews Survey and Engineering who stated that he was unsure, but that he knew it is activated with events less than the 100-year storm.

Ms. Davies sought to confirm that the system was designed then to discharge to Mr. Deschenes property.

Mr. Blais answered that their calculations found the pre- and post-flow rates were equal or less in volume than what was previously discharging from the site.

Mr. Ayrassian asked how that could be true if Mr. Deschenes never previously had water in his backyard.

Mr. O'Connell disputed Mr. Deschenes claim that it is always dry back there, but noted that the water may not have been channelized as it now is.

Mr. Deschenes argued that his yard and the abutting woods have never been wet.

Mr. O'Connell stated that before construction the runoff flowed along a stretch hundreds of feet wide and may be causing issues now where it is flowing in a concentrated manner from a pipe. He stated that the overflow's level spreader was meant to diffuse the channel, but they are finding that the water immediately channelizes again after leaving the spreader. He stated that he just dispatched a survey crew to get a more detailed topography of the area to try to determine what is causing this effect.

Mr. Ayrassian stated that whether the water is channelized or diffused, the same volume of water should be traveling towards the resident's home. He stated that regardless of the rate, the question should be how to redirect that flow.

Mr. O'Connell agreed, stating that in an effort to get to the bottom of things, the outlet was blocked in the lower pond, forcing the water to enter the secondary overflow pipe. He stated that they found that rather than flowing directly to the wetlands as designed, the water instead flows from the toe of the dike down towards the neighbors' homes.

Mr. Ayrassian said that it sounds like the problem has been identified.

Mr. O'Connell stated that they have identified some important components that need to be investigated further. He stated that they believe the water impacting Ms. Cooke's yard and barn are a separate, secondary issue. He stated that her problems are more difficult to identify. He stated that he can find no evidence of water leaking through the dike or the basin, as the water level in the pond has not changed since being plugged.

Mr. Ayrassian questioned whether the water in the southern pond could be creating pressure on the ground water that's causing swelling and surfacing of water on Ms. Cooke's property.

Mr. Ward countered that by blocking off the pond, the water level only raised by 1-inch.

Mr. Ayrassian argued that the water already in the pond may be exerting the pressure, not the addition of more water. He asked how much water is inside the pond.

Mr. Ward stated he has observed up to four feet of water.

Mr. O'Connell agreed that there is the potential for hydrostatic impacts on the ground water and that the hydrogeologist that they hired is reviewing the situation. He stated the intent to install piezometers to measure the pressure from the water flowing underground. He stated his intent to meet with the specialist at the beginning of next week.

Mr. Ayrassian noted that Horsley Witten Group's retainer contract covers inspections. He stated that although the City has never exercised that portion of the contract before, he suggested it may be prudent to have them review the reports and inspect the site at Mr. Ward's expense before action is taken.

Chairman Danesi argued that if the answer is obvious, he didn't see why things should be held up longer with more reviews.

Jason Gittle argued that it has already been presented that the issues affecting Ms. Cooke's property are not obvious.

Mr. Ayrassian noted that Horsley Witten Group cannot be hired to perform an independent review, but that they can be utilized to review the calculations and results of the work performed by the hydrogeologist.

Sheryl Guglielmo questioned whether Horsley Witten Group employs a hydrogeologist.

Mr. Ayrassian stated that he is unsure.

Mr. O'Connell stated that they are in the process of developing a solution for the first problem with the overflow and will present their approach to the Board prior to implementation. He stated that his instinct that hydrostatic pressure does not have measureable impacts on Ms. Cooke's property.

Mr. Ayrassian stated that staff and the Board should be provided the proposed scope of work presented by the hydrogeologist.

Ms. Cooke emphasized the sense of urgency with resolving the issues. She expressed concern with the stability of her foundation, septic system, and driveway with the ongoing flooding and erosion. She suggested that the developer be required to submit a bond to protect her home.

Mr. Ayrassian stated that such an arrangement would be between the homeowner and the contractor and is not something covered by state statute.

Mr. O'Connell emphasized that there has been no confirmation or verified admission from his client that they are the cause of Ms. Cooke's issues.

Mr. Ward stated that he felt posting a bond for Ms. Cooke's house to be an unreasonable requirement given the cause of her issues is unknown. He stated that such an approach is bordering on potential litigation.

Chairman Danesi informed Ms. Cooke that she is within her rights to take legal action against the City and the contractor.

Ms. Cooke stated that she understands the City already holds a bond for the subdivision, as it has not yet been accepted. She asked why additional funds could not be added to that bond to protect her home.

Chairman Danesi replied that the bond held by the City is strictly for the construction of the subdivision's infrastructure only and not the construction of homes.

Mr. Ayraasian stated that the City is obligated to give the funds held back to the developer once the work is completed and that it cannot be held for other purposes.

Speaking was Roger Mercier of 201 Smith Street who asked who inspects the stormwater system.

Mr. Ayraasian stated that Public Works inspects the feature, but only once a bond release has been requested by the developer.

Mr. Mercier sought to confirm that if abutters are being negatively impacted, the Board will not release the funds.

Mr. Ayraasian replied in the affirmative. He stated, however, that if residents are not satisfied with the City's solutions, they have the ability to pursue litigation themselves.

Mr. Deschenes asked why the system wasn't inspected when it was built. He asserted that the issue could have been caught and prevented at the time of construction.

Mr. Ayraasian stated Public Works does not have the staff or the resources to have someone present for every construction sequence at a subdivision.

Ms. Davies agreed, and stated that inspectors cannot be out in the field 24-hours per day.

Mr. Ayraasian stated that the City's model is that an inspection is triggered when a release of funds is requested. He stated that if the construction is not built to design, the City denies the release. He stated that the system catches problems eventually, but that the City does not have the staff or resources to necessarily catch everything that could go wrong immediately.

Sheryl Guglielmo added that residents keep assuming that the feature wasn't constructed correctly, which is not necessarily the case. She stated that the topography taken via survey when designing the system may have missed minute details that could affect flows. She stated that problems like this would not be detected by a Public Works inspection and that they aren't necessarily anyone's fault. She stated all that can be done is resolve the issue at hand.

Mr. Mercier stated that if Ms. Cooke's property has hard pan below the loam, flooding could potentially be increased.

Mr. Ayraasian agreed that a perched water table could exacerbate the issue.

Mr. O'Connell replied that the situation is not necessarily that simple. He stated that Ms. Cooke had a documented high water table, with the Board of Health records showing the water table as close as 24-inches to the surface. He stated that the high water table dictated the location of her septic system and the elevation at which her basement was built. He stated that the site is surrounded by wetlands and that Ms. Cooke's paddock is a borderline wetland.

Mr. Mercier argued that she's gone for years without a water issue prior to the installation of the subdivision.

Mr. O'Connell stated that there is evidence that disputes that claim, including the heaving of her fences and the fact that the location of her barn was changed due to the conditions on site.

Mr. Mercier sought to confirm that Mr. O'Connell feels that if the Brigham Hills subdivision had never been developed, Ms. Cooke would still be having water problems on her property.

Mr. O'Connell replied in the affirmative. He stated that the issues are tied to the water table, which varies seasonally, rather than rain events.

Elizabeth Kenyon stated her opinion that the matter needs to be turned over to experts and an independent review performed. She stated that there have been many efforts made over a long stretch of time and still nothing has been resolved.

Mr. Ayrassian suggested that Mr. Ward's engineers prepare a plan and scope of work for the hydrogeologist and have them present it to the Board. He stated that if the solution for the issue is simple, Mr. Ward could be allowed to proceed with instituting the fix. He stated that if the matter is more complex, the Board can opt to have Horsley Witten Group review the matter.

Mr. Ward stated his support for an independent review by a hydrogeologist.

Ms. Davies suggested that in the interest of saving time, it may be advisable to have Horsley Witten Group do their testing simultaneously with that of the hydrogeologist.

Mr. Ayrassian argued that performing original work is not covered by the City's contract.

Ms. Davies argued that inspections are covered by the contract and that is what she feels should be pursued.

Chairman Danesi noted that the plan may have to be approved by the Conservation Commission, as well.

Mr. O'Connell stated that they anticipate receiving the scope of work from the hydrogeologist by the end of the week. He stated that they will coordinate with the Conservation Commission when developing a plan.

Mr. Ayrassian asked that the Board be kept abreast of developments.

Chairman Danesi called to the forefront Ms. Cooke's desire for her life to return to the standard that existed prior to subdivision construction.

Mr. O'Connell argued that the only basis for the cause of Ms. Cooke's problems is her own word.

Mr. Mercier argued that the developer needs to operate with good faith and honesty within the community. He stated that as no one but her lives there, it is not fair for the developer or his engineers to tell everyone the historical state of her property.

Mr. O'Connell stated his hope that the investigations will resolve any remaining questions.

Ms. Cooke protested that she feels like she is being told that she has always had a water problem like this, which is not the case.

Chairman Danesi stated that the Board does not have the ability to stop Mr. Ward from building.

Mr. Ayrassian agreed that the Planning Board does not legally have the jurisdiction to bar the issuance of building permits.

Ms. Cooke questioned whether the DEP could help.

Mr. Ayrassian stated that the City's Conservation Commission is reviewing the issue and the DEP will only be pulled into things if that is deemed necessary.

Ms. Cooke stated that she feels like the Board is telling her that their hands are tied.

Mr. Ayrassian stated that the DEP also does not have the ability to stop building permits from being issued. He explained that Mr. Ward's housing construction and completion of the stormwater management system are independent processes that are not mutually exclusive.

Ms. Cooke argued that the digging of foundations will have effects on ground water.

Mr. Ayrassian countered that there is no evidence to support that claim. He stated that there is no clear nexus between the foundations and the problem.

Ms. Cooke stated her sense that nothing is being done.

Mr. Ayrassian explained that just because the problem hasn't been fixed doesn't mean that efforts have not been made to do so. He stated that a process is required.

Chairman Danesi speculated whether bringing in fill could help the problem.

Ms. Cooke was doubtful, as her barn and foundation were already installed at specific elevations, but that she is open to any potential solutions.

Mr. Ward stated that he doesn't want to guess anymore and invest in insufficient solutions. He stated that he is now relying on his engineers to remove all speculation and develop a wholesale resolution.

**The Board reviewed the email from Craig Romaniecki of 335 Slater Street to Director of Planning and Development Gary Ayrassian, received March 15, 2018, regarding concerns with flooding in association with the "Brigham Hill Estates, Phase III " subdivision.**

Mr. Romaniecki stated that water has been flooding essentially ten feet from his home and he is at risk of losing his furnace and hot water heater, which would make his home uninhabitable.

Mr. Ward admitted that the issue was due to a mistake on his part. He stated that the flooding is the result of his failure to open the catch basins and install hay bales around them. He explained that the water just

ran straight down to the bottom of the hill since it couldn't access the basins. He stated that there is nowhere for the water to go, so it is ponding up near Mr. Romaniacki's home.

Mr. Ayrassian asked whether the water is now being diverted.

Mr. Ward answered yes, that the water is now being directed to the drains. He stated that the only way to get rid of the remaining water is to pump it into the City's sewer system.

Mr. Romaniacki expressed concern that melting snow is going to exacerbate this issue.

Mr. Ayrassian stated that the water cannot be pumped into the City's system, as it could have detrimental effects downstream. He stated that Mr. Ward should discuss the issue with the Public Works Superintendent to see if he has any ideas on how to resolve things.

Mr. Ward stated that the water had previously been going down Slater, into Mr. Romaniacki's driveway and seeping back into the wetlands. He stated that they have since built a wall, creating a dam and the water has no way to get out of Mr. Romaniacki's yard.

Mr. Ayrassian questioned why this was not anticipated during the design process.

Mr. Ward stated that they could tear out Mr. Romaniacki's driveway and rebuilt it to force the water away. He stated that the problem is an elevation on Slater Street. He stated his desire to install an emergency flow device, so if the capacity of the pond is exceeded, water could be released on to the street.

Mr. Ayrassian countered that the subdivision should function within its own boundaries and the stormwater be managed by its own system.

Ms. Davies asked whether the water has been spilling out to Slater Street. She insisted that such is an inappropriate design model.

Mr. O'Connell affirmed that the water currently flows that way. He stated that if the water had gone into the basins as had been planned, it wouldn't be this large of an issue.

Chairman Danesi expressed concern that pumping the water into the street could result in flooding for other homes in the area.

Mr. Ward stated the system should be working now.

The Board tabled the email from Mr. Romaniacki regarding the flooding at his property, 335 Slater Street.

**The Board discussed the application of Marette & Sons, Inc. 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 driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 6 Colonial Way, more specifically Assessor's plat #187, lot #4A54 (Builder's Lot #92), located in the Single Residence -D 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 driveway, grading, and utilities within the Bungay River Water Resource Protection District, said premises being located at 6 Colonial Way, more specifically Assessor's plat #187, lot #4A54 (Builder's Lot #92) located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN LOT 92, 6 COLONIAL WAY, ATTLEBORO, MASSACHUSETTS 02703", drawn by Ken McKenzie. P.L.S. of Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated February 13, 2018. Elizabeth Kenyon 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 driveway, grading, and utilities within the Bungay River Water Resource Protection District, said premises being located at 6 Colonial Way, more specifically Assessor's plat #187, lot #4A54 (Builder's Lot #92) located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN LOT 92, 6 COLONIAL WAY, ATTLEBORO, MASSACHUSETTS 02703", drawn by Ken McKenzie. P.L.S. of Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated February 13, 2018. Elizabeth Kenyon seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

**The Board discussed the application of Marette & Sons, Inc. 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 driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 7 Colonial Way, more specifically Assessor's plat #187, lot #4A67 (Builder's Lot #105), located in the Single Residence -D 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 driveway, grading, and utilities within the Bungay River Water Resource Protection District, said premises being located at 7 Colonial Way, more specifically Assessor's plat #187, lot #4A67 (Builder's Lot #105) located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN, LOT 105, 7 COLONIAL WAY ATTLEBORO, MASSACHUSETTS 02703", drawn by Ken McKenzie, P.L.S. of Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated February 12, 2018. Jim Lewis 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 driveway, grading, and utilities within the Bungay River Water Resource Protection District, said premises being located at 7 Colonial Way, more specifically Assessor's plat #187, lot #4A67 (Builder's Lot #105) located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN, LOT 105, 7 COLONIAL WAY ATTLEBORO, MASSACHUSETTS 02703", drawn by Ken McKenzie, P.L.S. of Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated February 12, 2018. Jim Lewis seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

**The Board discussed The application of Marette & Sons, Inc. 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 driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 13 Colonial Way, more specifically Assessor's plat #187, lot #4A66 (Builder's Lot #104), located in the Single Residence -D 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 driveway, grading, and utilities within the Bungay River Water

Resource Protection District, said premises being located at 13 Colonial Way, more specifically Assessor's plat #187, lot #4A66 (Builder's Lot #104) located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN LOT 104, 13 COLONIAL WAY ATTLEBORO, MASSACHUSETTS 02703", drawn by Ken McKenzie, P.L.S. of Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated February 12, 2018. Scott Jones 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 PERMITS to construct a single-family dwelling, and associated driveway, grading, and utilities within the Bungay River Water Resource Protection District, said premises being located at 13 Colonial Way, more specifically Assessor's plat #187, lot #4A66 (Builder's Lot #104) located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN LOT 104, 13 COLONIAL WAY ATTLEBORO, MASSACHUSETTS 02703", drawn by Ken McKenzie, P.L.S. of Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated February 12, 2018. Scott Jones seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

**The Board discussed the application of Marette & Sons, Inc. 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 driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 37 Colonial Way, more specifically Assessor's plat #132, lot #4A62 (Builder's Lot #100), located in the Single Residence -D 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 driveway, grading, and utilities within the Bungay River Water Resource Protection District, said premises being located at 37 Colonial Way, more specifically Assessor's plat #132, lot #4A62 (Builder's Lot #100) located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN LOT 100, 37 COLONIAL WAY ATTLEBORO, MASSACHUSETTS 02703", drawn by Ken McKenzie, P.L.S. of Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated September 7, 2017. Elizabeth Kenyon 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 PERMITS to construct a single-family dwelling, and associated driveway, grading, and utilities within the Bungay River Water Resource Protection District, said premises being located at 37 Colonial Way, more specifically Assessor's plat #132, lot #4A62 (Builder's Lot #100) located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN LOT 100, 37 COLONIAL WAY ATTLEBORO, MASSACHUSETTS 02703", drawn by Ken McKenzie, P.L.S. of Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated September 7, 2017. Elizabeth Kenyon seconded the motion. A discussion followed. All voted in favor. The Board attached conditions.

**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 an Ordinance Committee meeting on April 2, 2018 at 6 p.m.

The Board tabled the pending minutes from February 26, 2018 and March 5, 2018

The meeting was adjourned at 10:10 p.m.