



City Of Attleboro, Massachusetts

PLANNING BOARD

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MINUTES

APRIL 23, 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, April 23, 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, Elizabeth Kenyon, Melinda Kwart, Jim Lewis, and Jack Rogers

Planning Board Members Absent: Sheryl Guglielmo

The Board heard the new public hearing for the application of Built 2 Last Homes, LLC 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 77 Pasture Brook Road, more specifically Assessor's plat #188, lot #4A-39 (Builder's Lot #77), located in the Single Residence-D zoning district.

Speaking in favor of the application was Ken McKenzie of Dunn McKenzie who explained that a single family home is proposed on the wooded lot. He stated that stormwater runoff flows towards the street, with the exception of the right rear corner that goes to the east. He point out that the property is approximately 4,000 linear feet from the Bungay River. He stated that the proposed house provides 21.2% impervious area. He stated that prohibited uses and storage items like salt are included in a note on the plan.

Chairman Danesi asked Mr. McKenzie whether he is willing to testify that the project will not adversely affect the Bungay River watershed.

Mr. McKenzie stated that it will not. He noted that the wetland behind the site doesn't even flow toward the river, but rather towards the railroad.

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

The Board heard the new public hearing for the application of Jorge J. Ayub 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 47 Semple Village Road, more specifically Assessor's plat #93, lot #59AG, located in the Single Residence -D zoning district.

Speaking in favor of the application was Jorge Ayub who stated his intent to build his future home on the lot. He stated that a wetland delineation had been filed in June of 2016 and that his plan includes the buffers. He stated that the proposed impervious on the site is 10%.

Chairman Danesi stated that the staff report called out the need for prohibited uses and storage to be added to the plan.

Mr. Ayub proceeded to distribute updated plans containing the note. He stated that the street already has gas service, which he will tap into to heat the home.

Chairman Danesi questioned whether the property is on City sewer.

Mr. Ayub replied yes, and stated that it is also on City water.

Chairman Danesi questioned the property's distance to the Bungay River.

Mr. Ayub replied approximately 2,400 feet.

Senior Land Use Planner Stephanie Davies noted that the project does not have a written statement from the engineer testifying that the project will not have an adverse impact on the Bungay River watershed.

Mr. Ayub agreed to obtain the statement.

Speaking in opposition to the proposal was Luke McCullough of 16 Wentworth Lane who stated that he abuts the property in question along his rear property line. He stated that he is opposed to the construction of a house there as he feels it will diminish the value of his home.

Ms. Davies pointed out that the property is on the opposite side of the wetlands dividing their two homes and thus more than 200-feet from the property line. She emphasized that the wetlands cannot be altered.

Jim Lewis stated that the question at hand is not whether or not he should build a house, but rather whether that construction would adversely impact the Bungay River watershed.

Melinda Kwart noted that the property seems to be a fair distance from Mr. McCullough's, so she couldn't imagine that there would be an issue.

Mr. McCullough admitted that he had not reviewed the plan in advance.

Jason Gittle noted that the proposed deck appears to intrude on the lot's side yard setback. He questioned whether the feature is necessary.

Mr. Ayub replied that there had been a potential vernal pool on the site whose buffer he was attempting to respect. He stated that it has since been determined that a vernal pool does not exist on the lot. He stated the intent to rotate the house so that it is facing the street and so that the deck is in the rear.

Ms. Davies noted that she had spoken with the property owner of lot 59H, who had expressed concerns with the proposed length of the driveway and whether it would result in runoff to his property. She asked

whether it would be possible to install a berm or some other feature along the side of the property to ensure runoff towards the neighbor's house isn't an issue.

Mr. Ayub stated that upon discussion with his engineer, it was proposed that a retaining wall may be required on that side anyway, which will contain any runoff on his lot. He stated that proper grading will also be installed to ensure that effect.

There being no one else to speak, the public hearing was closed pending the submission of an updated site plan and engineer's statement.

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 response comments and updated plan set from Mike Zavalia, P.E. of Commonwealth Engineers & Consultants, Inc., dated April 19, 2018, to the Planning Board, regarding the "Viridian Meadows, Phase II" subdivision.

Ms. Davies read the letter from M. Beatrice Nelson, dated April 9, 2018, to the Planning Board, expressing concerns with the proposed "Viridian Meadows, Phase II" subdivision into the record. She proceeded to read the Form P2 - Request for an Extension of Time from Edward Casey of Viridian Development, LLC, requesting an extension of time to June 30, 2018, relative to the "Viridian Meadows, Phase II" subdivision.

Jason Gittle questioned the need for an extension.

Ms. Davies replied that the Conservation Commission is reviewing a potential vernal pool that would seriously impact the subdivision design. She stated that the revised plans were just received on April 19th and need to be sent out to Horsley Witten Group for a second peer review.

Jason Gittle questioned the degree of the revisions.

Ms. Davies replied that the revisions were minimal. She noted that should the vernal pool be verified, it will likely eliminate the possibility of a subdivision at all.

Bert Buckley made a motion to grant an extension of time to June 30, 2018. Jason Gittle second the motion and all voted in favor.

Ms. Davies read the email from Edward Casey of Viridian Development, LLC, received April 19, 2018, to Planning Board Clerk Lauren Stamatis, requesting a continuance to May 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.

Ms. Davies informed the Board that the peer review work session had transpired last Thursday and that minor revisions are anticipated. She stated that she didn't feel a second peer review would be necessary and suggested that a Subdivision Committee meeting could be scheduled.

Chairman Danesi noted that the Fire Department had rescinded their request to install sprinklers and a hydrant, as building code relative to single families and duplexes has changed.

Director of Planning and Development Gary Ayrassian read the letter from Gregory S Pion Jr. of the Attleboro Fire Department, dated April 9, 2018 (received April 12, 2018), to Director of Planning and Development Gary Ayrassian, providing updated comments on the proposed "Simpson Avenue Extension" plan. He stated that he questions how the change would affect the Fire Department's ability to comment on subdivision plans and that he will discuss the matter with the City Solicitor. He noted that even if the Fire Department's recommendations were not enforceable, if the Planning Board included them on the plan, they would have the force of law behind the Planning Board decision. He felt it would be appropriate for the Fire Department to continue to offer recommendations.

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.

Speaking in favor of the application was Bob Catenacci of One Thirty One Pleasant St, LLC who explained that the second peer review report had been submitted by Horsley Witten Group along with staff comments and that they have addressed all items. He stated that a fire flow test has been scheduled with the Water Department.

Mr. Ayrassian sought to confirm that the build-out including the tentative plans for the third phase of the subdivision had been submitted.

Ms. Davies noted that it had been.

Mr. Ayrassian questioned the issue of the sidewalks and the desire to have connections from Richie Road to Saveena Way.

Mr. Catenacci stated that the plans had been updated to reflect that change.

Mr. Ayrassian sought to confirm that sidewalk along the curve radii are shown on both sides of the street.

Mr. Catenacci affirmed that it is.

Mr. Ayrassian questioned whether Mr. Catenacci is open to donating the cost of the sidewalk materials relative to the waived sidewalks to the City's Sidewalk Fund.

Mr. Catenacci stated his openness to the proposal.

Mr. Ayrassian questioned where the connection to the open space will be located.

Mr. Catenacci admitted that it is not currently shown on the build-out and that as there are some wetlands near the Poncin Hewitt fields, it may be premature to situate one. He offered to insert the future commitment to the connector.

Mr. Ayrassian agreed that a commitment in writing to install the future connector would be acceptable.

Jim Lewis questioned whether there is currently a designated right-of-way to Poncin Hewitt field.

Mr. Catenacci replied that there is not.

Jim Lewis questioned how it will be provided in the future if the land for the connection is not earmarked now. He questioned how the City will gain rights to an easement if Mr. Catenacci has already sold the property on which it is proposed.

Mr. Catenacci offered to submit a letter confirming that an easement would be obtained in advance of selling the homes in question.

Jim Lewis questioned whether the Board has the legal authority to require the connector.

Mr. Ayrassian replied that the City can request the feature, but not require it.

Mr. Catenacci stated his willingness to submit whatever confirmation is reasonable, as they are committed to installing the open space connector.

Jim Lewis sought to confirm that the Planning Board would be advocating for the sidewalk funds collected to be earmarked for the development of sidewalks on Oak Hill Avenue.

Mr. Ayrassian replied in the affirmative. He noted that the need to submit the DEP sewer extension permit will be included in the decision's special conditions. He asked whether the sewer easement has been secured.

Mr. Catenacci replied in the affirmative. He agreed to submit the recorded paperwork to the Board.

There being no one else to speak, Bert Buckley made a motion to close the public hearing, pending the receipt of the sewer easement, letter confirming the intent to build the open space connector in the third phase of the subdivision, and the response comments to the second peer review. Jason Gittle seconded the motion and all voted in favor.

The Board scheduled a Subdivision Committee meeting to be held on May 7, 2018 at 6:00 p.m.

The Board heard the continued public hearing for the application of Woodlark Development Corp. for the proposed forty (40) lot definitive subdivision plan entitled "COOPER FARM," located on Pleasant Street, more specifically Assessor's plat #125, lots #2 through 6 (inclusive) and #9, as well as plat

#195, lots #1 and #8, located in the Single Residence-D zoning district, engineered by John K.Marchand , R.P.E. of Farland Corp., 401 County Street, New Bedford, MA 02740.

The Board reviewed the letter from GS Pion, Jr. of the Division of Fire Prevention and Preparedness, dated April 6, 2018, to Director of Planning and Development Gary Ayrassian, relative to the proposed definitive subdivision, "Cooper Farms" proposed by Woodlark Development, Corp.

Speaking in favor of the application was Tim Caponigro of Woodlark Development Corp, who stated that the peer review work session had been held last week and that his engineer is in the process of responding to all of the comments, although nothing major was called out. He stated that they are now asking to reduce the pavement width to 26-feet in lieu of 31-feet. He noted that the cul-de-sac is already proposed at 26-feet of pavement.

Jim Lewis agreed that it made sense to reduce the amount of pavement and impervious. He noted that the Board may want to assemble a committee to talk about reducing the pavement width requirements and other updates to the Planning Board Rules and Regulations. He noted that it will be difficult to speed on the road, as they are designed with nice curves.

Ms. Davies noted that the 45-foot roadway layout would be maintained.

Mr. Caponigro noted that if the pavement width is reduced to 26-feet, they will also be seeking to switch to a design that provides Cape Cod berm, then a 1-foot wide grass strip, followed by a 5-foot sidewalk.

Mr. Ayrassian suggested that Mr. Caponigro submit a cross-section detailing how the proposed change would look and a written justification for the reduction of the pavement width.

Ms. Davies noted that the pavement width reduction was suggested by the peer reviewer during the work session.

Mr. Ayrassian stated that the Board should consider a policy change and amend the regulations to match the requirements for LID developments.

Chairman Danesi suggested that amendments also need to be made to the fire box and molded berm requirements, but that the matter could be discussed at a future committee meeting.

Jim Lewis stated that he didn't understand the need for a 45-foot right-of-way.

Ms. Davies stated that many surrounding communities have much larger right-of-ways. She stated that if made too small, there will be issues with the placement, maintenance, and use of fire hydrants and utility poles.

Mr. Ayrassian suggested that the Fire and Police Departments weigh in on the potential policy changes, as the need for public safety and for the large emergency vehicles to access homes is paramount.

Bert Buckley stated that he was in favor of reducing the pavement width from 31-feet to 26-feet to reduce impervious.

Jason Gittle questioned how often similar waivers are granted to reduce pavement width.

Ms. Davies noted that similar waivers had just recently been granted for the Brigham Hills, Phase III and Stone Field Estates II subdivisions.

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

The Board held a business meeting.

The Board reviewed the Form A plan submitted by Arlene Fortier for the Westerly side of Leawood Lane.

Speaking in favor of the Form A was John Risser of Risser Engineering. He explained that the lot was created back in 2002 and that the proposed subdivision of land will create one new, additional lot. He stated that the existing house would be maintained on one lot and the other sold. He stated that both lots meets all zoning requirements. He noted that the line between the lots is a bit skewed to maintain the owner's access to her rock garden.

Ms. Davies noted that staff recommends approval of the plan.

Jim Lewis made a motion to approve the Form A plan for the westerly side of Leawood Lane. Scott Jones seconded the motion and all voted in favor.

The Board discussed Brigham Hill Estates - Phase II.

The Board reviewed the scope of work from Stephen W. Smith of GeoHydroCycle, Inc., dated April 22, 2018, to Stephen J. O'Connell of Andrews Survey & Engineering, Inc., relative to the geohydrologic conditions beneath and around the stormwater basins in the "Brigham Hill Estates - Phase II" subdivision and the response comments from Richard J. Wozmak, P.E. of EndPoint, LLC, dated April 5, 2018, to Jennifer Cooke of 128 Smith Street, regarding the GHC mounding analysis scope of work for the Brigham Hill Estates stormwater infiltration ponds.

Ms. Davies stated that she and the Conservation Agent had inspected the temporary diversion berm that had been installed. He stated that water was pumped from the basin to test the feature and it appeared to be directing water to the wetlands rather than neighbors' back yards, as hoped. She noted that there was significant rainfall on Patriot's Day and that Mr. Duchenes did not have any flooding. She stated that Mr. Ward is seeking the Board's approval to install a permanent fix, although he still needs to present to the Conservation Commission. She stated that a letter had been received after the addendum was printed and read it into the record. She stated that a revised scope had been received and that they had met Mr. Wozmak on the site along with Bill Ward's hydrogeologist, Stephen Smith. She stated that a general plan was developed for the installation of the monitoring wells. She stated that drilling is slated to occur on May 4th and 7th, and again on May 23rd and 24th.

Scott Jones sought to confirm that the first two wells will be on Ms. Cooke's property.

Ms. Davies answered in the affirmative.

Jason Gittle asked Mr. Wozmak to state whether he is convinced that the proposed scope of work is in the best interest of the neighbors.

Mr. Wozmak replied in the affirmative and stated that a lot of useful data will be collected, which he hopes to compare with what has occurred on the site historically. He stated that importance of collecting the data during the spring season when water elevations are at their highest.

Jim Lewis questioned the typical fix for the issue at hand where the water table is so high in the area.

Mr. Wozmak replied that a shallow water table, 24-inches below the ground's surface, was confirmed based on historical information collected from test pits dug in 1994. He stated that Ms. Cooke had to raise her leeching field for her septic on account of that fact, as well as install a sump and a pump that discharge water that approaches the basement slab. He noted that a potential solution may be to install an interceptor trench along the edge of Ms. Cooke's property, fill it with crushed stone, and pipe the discharge down gradient. He noted that the shallow trench Mr. Ward had installed resolved surface run off issues, but that something more significant is required to address the pressure from the ponds. He stated that he doesn't feel that lowering the ponds, as proposed, will completely resolve the problem.

Scott Jones asked whether Mr. Wozmak feels that the testing will verify whether the ponds are the cause for Ms. Cooke's problem.

Mr. Wozmak stated that there is always some degree of uncertainty, but that he suspects it is the problem.

Jim Lewis expressed concern with the Board having approved a plan that has resulted in serious negative impacts to the neighbors and their property. He stated his sense that infiltration basins have a history of causing issues.

Ms. Davies noted that the full report will be provided in July.

Jason Gittle questioned when the data will become actionable.

Ms. Davies replied that a report will be provided relative to the data, then a discussion will be had as to the best way to resolve the issues. She stated that she had thought Mr. Ward was planning to attend tonight's meeting to present their proposed preliminary interim action, which she summarized as using only half of the basin. She emphasized the need to know the ramifications of such a change.

Mr. Ayrassian noted that he doesn't think what is being proposed currently requires Planning Board review.

Ms. Davies stated that Mr. Ward will be asked to attend the meeting on May 7th.

The Board discussed the application of Built 2 Last Homes, LLC 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 77 Pasture Brook Road, more specifically Assessor's plat #188, lot #4A -39 (Builder's Lot #77), located in the Single Residence -D zoning district.

Jason Gittle made a motion to **GRANT** a special permit pursuant to §17-9.0 SPECIAL PERMITS for the construction of a single-family dwelling with associated driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 77 Pasture Brook Road, more specifically Assessor's plat #188, lot #4A39 (Builder's Lot #77) located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN, LOT 77, 77 PASTURE BROOK ROAD, ATTLEBORO, MA 02703", drawn by James W. Nieva, P.L.S. of Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated March 20, 2018. Melinda Kwart seconded the motion. A discussion followed. All voted in favor with the exception of Jim Lewis, who abstained. The Board attached conditions.

Jason Gittle made a motion to **GRANT** a special permit pursuant to §17-13.0 WATER RESOURCE PROTECTION DISTRICT for the construction of a single-family dwelling with associated driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 77 Pasture Brook Road, more specifically Assessor's plat #188, lot #4A39 (Builder's Lot #77) located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN, LOT 77, 77 PASTURE BROOK ROAD, ATTLEBORO, MA 02703", drawn by James W. Nieva, P.L.S. of Dunn McKenzie, Inc.,

206 Dedham Street, Norfolk, MA 02056, dated March 20, 2018. Melinda Kwart seconded the motion. A discussion followed. All voted in favor with the exception of Jim Lewis, who abstained. The Board attached conditions.

The Board tabled the application of Jorge J. Ayub 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 47 Semple Village Road, more specifically Assessor's plat #93, lot #59AG, located in the Single Residence-D zoning district pending the submission of required materials.

The Board reviewed the letter and pictures from Planning Board Clerk Lauren Stamatis, dated March 6, 2018, to Anthony Marinella of Maddi North Street Development, regarding stormwater management system deficiencies and the failure to complete by deadline construction of the "AVALON ESTATES" subdivision.

Ms. Davies stated that she was under the impression that the project's engineer, Suanne Santos, had agreed to submit a timeline for completion of the subdivision. She stated that she will follow-up on the matter.

Scott Jones noted that he had driven by the site today and that it does look to be in better shape.

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.

Ms. Davies noted that the matter had been forwarded along to the City Solicitor and that she will follow-up on things.

The Board discussed stormwater basins.

Mr. Ayrassian distributed a list of subdivisions with functioning retention and infiltration basins, as per Jim Lewis' request. He stated that he doesn't recall any being problematic.

Jim Lewis stated his desire to visit the sites and see how they work.

Ms. Davies noted that Avalon Estates has a specifically designed system that is unlike any other.

The Board reviewed all remaining correspondence.

The Board signed the 81-Q Election Letters and SRPEDD Appointment Form.

The Board tabled the pending minutes from March 5, 2018, March 20, 2018, and April 2, 2018.

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