



City Of Attleboro, Massachusetts

PLANNING BOARD

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MINUTES

MAY 21, 2019

In accordance with the provisions of the Massachusetts General Laws Ch. 40A and Ch. 41, as amended, the Planning Board held public hearings on Tuesday, May 21, 2019 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, Bert Buckley, Scott Jones, Melinda Kwart, Jim Lewis, Sean McNamara, and Fred Uriot

Planning Board Members Absent: Secretary Sheryl Guglielmo

The Board heard the application of Ryan Sheehan 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, septic system, and grading within the Bungay River Water Resource Protection District, said premises being located at 52 Ashden Court, more specifically Assessor's plat #187, lot #3F (Builder's Lot #5), located in the Single Residence -D zoning district.

Speaking in favor of the application was Ryan Sheehan who stated his opinion that the proposal will not be detrimental to the Bungay River Water Resource Protection District. He stated that the site is out of the 100-foot wetland buffer zone.

Chairman Danesi noted that the plan lists the prohibited uses and that there is 25% impervious and 21% lot coverage. He asked the distance from the Bungay River.

Mr. Sheehan replied about 0.5 miles.

Chairman Danesi sought to confirm that the project will not have a negative impact on the Bungay River.

Mr. Sheehan responded in the affirmative.

Chairman Danesi sought to confirm that the house will be heated by propane.

Mr. Sheehan agreed and stated that there will be buried tanks.

Jason Gittle made a motion to close the public hearing. Scott Jones seconded the motion and all voted in favor.

The Board heard the application of Pike Avenue Acquisitions, LLC for the proposed forty-nine (49) lot definitive subdivision plan entitled "PIKE ESTATES," located at 419 Pike Avenue, more specifically

Assessor's plat #130, lot #81, located in the Single Residence-D zoning district, engineered by Daniel R. Campbell, R.P.E. of Level Design Group, 249 South Street, Unit 1, Plainville, MA 02762.

Mr. Ayrassian informed the Board that he received an email from the applicant's representative that he is unable to attend tonight's meeting. He stated that the majority of the easement view for site distance at the intersection of Pike Avenue and Paisley Way has been cleared. He notified the Board that the peer review comments were received last week and that they met with the applicant on the 16th and he is working to address the concerns raised. He stated that an immediate neighbor on Pike Avenue is in opposition to the subdivision and is offering to sell their property to the developer.

The Board agreed to hold a Subdivision Committee meeting on June 3rd at 5:30 p.m.

Jim Lewis stated that the small number of shrubs that have been removed in the sight line easement is insufficient. He noted a bump out in the road that he hadn't seen before that he fears will be problematic. He stated that he couldn't tell there was much of a difference with the vegetation removed.

Scott Jones agreed. He asked whether the Planning Board has any standards for sight line easements.

Mr. Ayrassian stated that there are standards in terms of sight distances for intersections, but that they are a function of speed and distance.

Chairman Danesi stated that many old streets like Pike Avenue do not have clear boundaries or sidewalks. He noted that the problem could be addressed by the City directly to straighten out the bump.

Jim Lewis doubted that there is sufficient right-of-way there to do such an adjustment, as Pike Avenue is an ancient way that just provides for the pavement itself. He stated that when looking the other way from the Paisley Way / Pike Avenue intersection, he feels there is a diminished sight line, as well, with a stone wall, a pole, a sign, and evergreens all obscuring the view.

Chairman Danesi noted the view when you are sitting in a car is typically different from that at which a person stands. He noted that he didn't believe the developer owns the land on that side of the proposed roadway, either.

Sean McNamara stated that drivers treat the road like a racetrack and drive incredible fast.

Mr. Ayrassian offered to provide the Board the sight line standard to review. He stated that if the developer cannot develop sight lines to the Board's standards, there are grounds for denial of the subdivision.

Scott Jones stated that he would hesitate to deny based on this one feature.

Jim Lewis suggested that the Board could force the developer to relocate the road to ensure proper sight lines.

Speaking neither for nor against was Raymond Harrison of 447 Pike Avenue who stated that he didn't feel the intersection of Paisley Way with Pike Avenue is an appropriate entrance to a large subdivision. He agreed with Mr. Lewis that the hook in the road is dangerous and that it would make more sense for the road to intersect where his property is located, at the top of the hill. He stated that presently, there is just open space proposed behind his house. He also stated that there are some discrepancies with their property line that need to be resolved.

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

The Board reviewed the Form A plan submitted by Steve Hansen of Hansen Associates, Inc. for 438 Lindsey Street.

Mr. Ayrassian stated that the lot provides 50-feet of frontage on Lindsey Street and that the Zoning Board had already granted a 70-foot lot width variance. He recommended approval of the Form A plan.

Jim Lewis made a motion to approve the Form A for 438 Lindsey Street submitted by Steve Hansen of Hansen Associates, Inc. Bert Buckley seconded the motion and all voted in favor.

The Board reviewed the letter from Robert W. Catenacci of One Thirty One Pleasant St, LLC, dated May 20, 2019, to the Planning Board, providing a status update on completion of the "STONE FIELD ESTATES" subdivision.

Scott Jones questioned the current deadline for the project.

Mr. Ayrassian replied May 31st. He stated that if the soil evaluation is favorable, the deadline will be met.

Sean McNamara called out issues with portions of the sidewalk that needed to be completed on Oak Hill Meadow Way.

Fred Uriot countered that he had visited the subdivision that week and that everything appeared to be in order.

Chairman Danesi requested the staff to follow up with Mr. Catenacci.

The Board left the meeting at 7:00 p.m. to join the Municipal Council for a Joint Public Hearing.

JOINT PUBLIC HEARING with the Planning Board relative to an application for a Street Discontinuance on Frank Mossberg Drive more specifically Assessor's Plat #146 Lot 6B requested by Morin's Inc. dated April 18, 2019.

The Planning Board members present were:

Chairman Paul Danesi, Vice Chairman Jason Gittle, Bert Buckley, Scott Jones, Melinda Kwart, Jim Lewis, Sean McNamara, and Fred Uriot.

Speaking in favor was Attorney Jack Jacobi representing his client Russell Morin's Catering of Attleboro. He explained the company's motivation was to expand the business and increase the warehouse.

No one came forward to speak in opposition and no one came forward to speak neither for nor against.

The public hearing was closed.

The Board reconvened and resumed their meeting.

The Board heard the application of W.B. Construction & Development, Inc. for the proposed amended twenty (20) lot definitive subdivision entitled Brigham Hill Estates, Phase II, as shown on the plan entitled "Phase II - 'Brigham Hill Estates' Definitive Residential Subdivision Modifications" filed pursuant to MGL Ch. 41 §81W, said premises being located off Ingall Lane, more specifically Assessor's plat #218, lot #7A, surveyed by Byron J. Andrews, R.L.S. and engineered by Richard M. Mainville, R.P.E. of Andrews Survey & Engineering, Inc., 500 East Washington Street, North Attleboro, MA 02760, dated May 2, 2014 and revised through October 15, 2018. The subject premises are located in the Single Residence -D zoning district due to a lack of quorum (Jim Lewis recused himself) .

Speaking in favor of the application was Bill Ward of W.B. Construction and Development who requested that the hearing for Phase II be closed. He stated that the peer reviewer had gone through all of the engineering and had no outstanding issues. He noted that they had recommended a constructed wetland in the pond behind Jennifer Cooke's house, but that he continues to feel that it is more appropriate to install a clay-lined detention pond to avoid any other negative impacts on the area's high groundwater. He stated that he would like to start construction on Phase II as soon as possible.

Chairman Danesi questioned whether Ms. Cooke has seen the latest plans.

Mr. Ward replied that she had reviewed them at the last Planning Board meeting. He stated that if all goes accordingly, they could start work before the end of June. He estimated that it will take about three weeks' worth of work to destroy the old pond and build the new one. He stated that Ms. Cooke has been very patient in the development of this resolution and his first priority is to resolve the water issues on her property.

Mr. Ayrassian stated that staff agree and recommend that the Board close the hearing for Phase II. He stated that staff are also asking for a notation defining the plantings for the disturbed area to be a New England roadside mix. He stated that in addition to the mix, staff felt it would be beneficial to plant a number of 2-3-inch caliper trees to help absorb water and protect soil from eroding. He noted that there is likely to be sheet run off flowing towards Ms. Cooke's property, as the natural grade pitches in that direction. He questioned what prevents that from happening.

Speaking in favor of the application was Steve O'Connell of Andrews Survey & Engineering who replied nothing. He stated that that same condition existed pre-development. He stated that post-development, the shedding will actually be from a smaller area than previously. He stated that Ms. Cooke's problems with water relate to mounding rather than surface run off. He stated that Ms. Cooke's geotechnical consultant was in favor of this plan.

Scott Jones noted that a French drain at the toe of Ms. Cooke's property was the original solution for the whole problem.

Mr. Ward agreed and stated that it had been installed and that he imagined some surface run off could be contained that way.

Melinda Kwart stated her agreement that installing trees to help absorb the water would be helpful.

Mr. Ayrassian stated that he would request a recommendation on the number and type of trees from the Conservation Agent to present to the Board.

Mr. O'Connell agreed that planting trees can only help the situation and that planting more trees that are smaller will have a greater long term effect as the trees grow.

Chairman Danesi noted that eventually, the City will have to maintain those trees.

Mr. Ayrassian agreed, but that he imagined they would require minimal upkeep.

Bert Buckley made a motion to grant an extension of time to July 30, 2019 for "BRIGHAM HILL ESTATES" and "BRIGHAM HILL ESTATES, PHASE II." Jason Gittle seconded the motion and all voted in favor.

Melinda Kwart expressed concern with the Board moving forward in rendering a decision in Ms. Cooke's absence this evening.

Chairman Danesi countered that the Phase II plan had already been cemented at the last meeting and that both Ms. Cooke and her hydrogeologist were in favor. He stated that he felt it was of greater value and to

her benefit to get the process underway as soon as possible. He stated his assumption that she would have attended this evening if she had any outstanding concerns.

Mr. Ayrassian stated that he supports the Board's decision to close Phase II, but reminded the applicant that an entire set of new plans will need to be put together showing just Phase II.

Bert Buckley suggested submission of such an updated plan be a condition of approval that is met prior to signing the plans.

Bert Buckley made a motion to close the public hearing for "BRIGHAM HILL ESTATES, PHASE II." Sean McNamara seconded the motion and all voted in favor.

The Planning Board discussed the merits of the proposed MGL Ch. 41 §81W definitive subdivision plan, reviewed the Department of Planning and Development's staff reports, reviewed the comments from municipal departments, reviewed the stormwater management peer review prepared by the Board's stormwater engineering consultant, and reviewed the documents prepared by the petitioner's engineer, Andrews Survey & Engineering. Following its discussion, Jason Gittle made a motion to APPROVE the application of W.B. Construction & Development, Inc. filed pursuant to MGL Ch. 41 §81W for the proposed modifications to the stormwater management system associated with the previously approved twenty (20) lot definitive subdivision entitled "BRIGHAM HILL ESTATES, PHASE II", as shown on the plan entitled "PHASE II - 'BRIGHAM HILL ESTATES' DEFINITIVE RESIDENTIAL SUBDIVISION MODIFICATIONS", said premises being located off Ingall Lane, more specifically Assessor's plat #218, lot #7A, surveyed by Byron J. Andrews, R.L.S. and engineered by Richard M. Mainville, R.P.E. of Andrews Survey & Engineering, Inc., 500 East Washington Street, North Attleborough, MA 02760, dated May 2, 2014 and revised through April 22, 2019. Bert Buckley seconded the motion and all voted in favor with the exception of Jim Lewis, who recused himself.

The Board heard the application of City of Attleboro for a Major Project Site Plan Review pursuant to the provisions of §17-15.0 SITE PLAN REVIEW of the ZONING ORDINANCE, for the construction of a parking lot, consisting of a total of 354 new off-street parking stalls, including associated grading and stormwater management systems; the subject premises being located on Berwick Road, more specifically Assessor's plat #115, lot #1, located in the Single Residence-D zoning district.

Mr. Ayrassian noted that the Zoning Board had granted the requested variance. He recommended that the hearing be held open until the Conservation Commission renders their decision. He noted that the peer review report didn't have any major concerns.

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

The Board heard the application of W.B. Construction & Development, Inc. for the proposed amended forty-three (43) lot definitive subdivision entitled Brigham Hill Estates, as shown on the plan entitled "Phase II - 'Brigham Hill Estates' Definitive Residential Subdivision Modifications" filed pursuant to MGL Ch. 41 §81W, said premises being located off Smith Street and 29 Brigham Hill Road, more specifically Assessor's plat #218, lots #7 and 7B, surveyed by Byron J. Andrews, R.L.S. and engineered by Richard M. Mainville, R.P.E. of Andrews Survey & Engineering, Inc., 500 East Washington Street, North Attleboro, MA 02760, dated May 2, 2014 and revised through October 15, 2018. The subject premises are located in the Single Residence-D zoning district due to a lack of quorum (Jim Lewis recused himself) .

Mr. Ward discussed how the ponds were engineered 14 years ago, so are ineffective when held up to modern standards. He stated their intent to work within the layout of the ponds to increase capacity. He noted that the water for Phase II travels through the abutting wetland to an area that butts up to the water released from the Phase I ponds to a culvert at Smith Street. He stated that biggest problem is the pipe on Smith Street, as the existing headwall has an 18-inch pipe that crosses an abutter's property. He stated

that presently, they can find no record of an easement to maintain the pipe. He stated their goal of increasing the size of the pipe to 36-inches in order to reduce ponding within the wetlands alongside the Phase I ponds. He stated that he has obtained an easement from a different neighboring property so he can circumvent the one on the existing neighbor's property.

Mr. Ayrassian noted that a recommendation was issued by the peer reviewer to pipe the water down to Smith Street, rather than letting it flow naturally, but it looks like the applicant is proposing an alternative approach.

Mr. Ward stated that the increase in pipe size must occur whether they are piping the surface water or not. He stated that the suggested pipe will not be beneficial as there is still the choke point at Smith Street. He stated that he is concerned with the rate of flow should piping be utilized and that they need the water flowing across land to slow down the rate. He stated that according to their calculations, the proposed piping would only reduce the effects of a 100 year storm by about 3-inches.

Mr. Ayrassian sought to confirm that the applicant is looking to maintain the invert and just increase the size of the pipe at Smith Street.

Mr. O'Connell replied in the affirmative.

Mr. Ward added that they are looking at removing the headwall and installing reinforced concrete pipe. He stated that enlarging the pipe and allowing surface water to flow over land will give a better result.

Mr. Ayrassian sought to confirm that this is attained through sheet run off from South to West just flowing to the pipe.

Mr. O'Connell replied in the affirmative.

Mr. Ayrassian noted that this proposal involves modifying a stormwater structure that is not part of the subdivision. He stated that they are relying on the developer to do the work proposed outside of their jurisdiction. He stated that the property owners involved would need to sign off on the application and there are some logistics to be addressed.

Mr. Ward reminded the Board that when the ponds were initially developed, there was no Stormwater Management Ordinance or NPDES regulations. He stated that by increasing the size of the headwall, he can lower the ponding water by 8-inches. He stated that if he instead installed all of the piping, he would also be required to repave the entire road since it was done so recently by the City.

Mr. Ayrassian sought to confirm that they will not be lowering the elevation of the flood plain.

Mr. O'Connell replied that they will be reducing the flood plain's maximum impact. He stated that by modifying the headwall, the system will be within the road's layout for future City maintenance, unlike now, where the pipe is on private property.

Mr. Ayrassian sought to confirm that the new headwall design has been submitted.

Mr. O'Connell replied not yet.

Mr. Ayrassian stated his discomfort with moving forward with this plan without the explicit consent of Public Works and the confirmed easement paperwork from the private property owner.

Chairman Danesi stated his comfort with the design and entrusting the applicant to complete the necessary paperwork.

Mr. Ward stated that he felt August would be a good time to perform this work.

Mr. Ayrassian questioned what will be required from the Conservation Commission for this plan.

Mr. O'Connell replied that a Notice of Intent will be required for the work on the other side of Smith Street.

Chairman Danesi questioned whether this solution will change the depth of the wetland.

Mr. Ward replied that they will not be changing the invert height, so no. He stated that the wetlands become a temporary holding area during the 100-year storm.

Sean McNamara sought to confirm that on a day-to-day basis, this plan will not result in changes in the volume of water in the wetland across the street.

Mr. O'Connell stated that there have naturally been some increases in the past 2-3 years, but that that phenomenon is occurring everywhere.

Mr. Ayrassian noted that you can increase the volume of water leaving the site, but the post-construction rate of run off has to be equal to or less than the existing conditions.

Mr. O'Connell explained that there is a 29 acre wetland system across the street and that a 100-year storm would increase the height of the water by only 1/10th of an inch throughout that area. He stated Horsley Witten Group agreed the design will function. He stated that they will submit materials for an additional peer review.

Speaking was Hugh McMurtery of 88 Smith Street who stated that he presently has water shedding across his property, which contains a vernal pool holding about 4-feet of standing water most of the year. He stated that he is concerned flooding on his land will increase as a result of this plan.

Mr. Ayrassian stated that the problems Mr. McMurtery described are already ongoing.

Mr. McMurtery stated that he is concerned it will get worse.

Mr. Ayrassian reiterated that before the subdivision was constructed, the natural flow already brought surface runoff across Mr. McMurtery's property. He stated that this plan maintains that natural flow.

Mr. McMurtery expressed concern with increased volume.

Mr. Ward replied that the volume is the volume and will not be changing. He stated that the impervious surfaces strictly impact the rate of run off and that their obligation is to slow that down and not release it any faster than it flowed prior to construction. He stated that that is the purpose of stormwater management, to capture the surface water in a pond and allow it to disperse at the appropriate rate.

Speaking neither for nor against was attorney Louis Caccavaro, Jr. on behalf of Joann and Scott May of 93 Smith Street. He stated that the existing outflow pipes in question flow on his clients' property. He agreed that there is no title evidence as to easements. He agreed that the currently proposed plan would resolve that issue. He stated that his clients are in favor of abandonment of the two pipes on their property. He stated that they do have concerns, however, with the amount of water going through the new pipe and whether it will cause the wetlands to rise and negatively impact their septic system.

Mr. Ayrassian stated that based on the calculations, there is no direct correlation that this development will cause the wetland to expand or recede. He stated that the wetland line changes naturally, as it is a living ecosystem.

Mr. Caccavaro replied that they are not concerned with gradual encroachment over time, but rather vast increases during 100-year storm events. He stated his interest in reviewing the third party peer review. He stated that if those comments support the plan, his clients will be satisfied and cooperative relative any

necessary documentation for the abandonment of the pipes on their property. He noted that Mr. Ward had suggested excavating the portions of the pipe that protrude, with the Conservation Commission's consent.

Mr. Ayrassian noted that the consent of Public Works would also be necessary.

Mr. Caccavaro countered that no one knows who owns the pipes, which is why they are proposed to be abandoned.

Mr. Ayrassian stated that when new lines are put in, they do not necessarily rip out the old ones and instead may opt to just cap them.

Mr. Ward agreed that they intend to core a hole in the opposite side of the catch basin and blocking off the existing pipe leading to the May's property.

Mr. Caccavaro noted that it needs to be ensured that the water is properly exiting the wetlands down near Wilmarth Street. He stated his suspicion that beavers may have created a choke point in the flow.

Mr. Ward stated that engineering could be submitted by Monday so the peer review process could proceed.

Chairman Danesi agreed that the Board is generally in favor of the plan.

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

Bert Buckley left at 8:29 p.m.

The Board reviewed the memorandum from Public Works Superintendent Michael R. Tyler, dated May 6, 2019, to the Planning Board, providing a recommendation for a FINAL release of funds in the amount of \$142,186.79 plus any associated interest, relative to the "AVALON ESTATES" subdivision.

Jason Gittle made a motion to deny the FINAL release of bond in the amount of \$142,186.79 for the "AVALON ESTATES" subdivision, as the amount did not reflect the most recent release to date. Scott Jones seconded the motion and all voted in favor.

The Board reviewed the revised memorandum from Public Works Superintendent Michael Tyler, dated May 21, 2019 (received May 14, 2019) to the Planning Board, providing a recommendation for a FINAL release of funds in the amount of \$58,546.09 plus any associated interest, relative to the "AVALON ESTATES" subdivision.

Scott Jones made a motion to approve a final release of funds in the amount of \$58,546.09 plus interest for the "AVALON ESTATES" subdivision. Jason Gittle seconded the motion and all voted in favor.

The Board signed the covenant release request from Edward Casey of Viridian Development, LLC, received May 21, 2019, relative to the "VIRIDIAN MEADOWS, PHASE II" subdivision.

The Board tabled the letters from Planning Board Clerk Lauren Stamatis, dated May 15, 2019, to Public Works Superintendent Michael Tyler, soliciting a recommendation relative to the request for a PARTIAL release of funds for the "SIMPSON AVENUE EXTENSION" street extension plan and dated May 21, 2019, soliciting a recommendation relative to the request for an updated bond amount for the "STONE FIELD ESTATES II" subdivision.

SRPEDD Delegate Scott Jones informed the Board that there is a workshop on open access networks and broadband on June 11th from 1-4 p.m. in Taunton. He stated that at the last meeting, several attendees from the Governor's Office also went over the timeline for South Coast Rail and the money that's been invested.

The Board reviewed all remaining correspondence.

The Board tabled the pending minutes of April 22, 2019 and May 6, 2019.

The meeting adjourned at 8:55 p.m.