



City Of Attleboro, Massachusetts

PLANNING BOARD

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MINUTES

JUNE 27, 2022

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, June 27, 2022 at 6:30 p.m. in the Council Chambers on the first floor of City Hall, 77 Park Street, Attleboro, MA , relative to the following :

Planning Board Members Present: Chairman Jason Gittle, Vice Chairwoman Shannon Bénay, Bill Beardwood, Sean McNamara, Thom Morin, Fred Uriot, and Heather Whitehead

Planning Board Members Absent: Jim Lewis and Tiffany Foster

The Board heard the application of One Thirty One Pleasant St, LLC to extend Nicholas Drive for a distance of 120 feet, as shown on the street extension plan entitled "NICHOLAS DRIVE EXTENSION," engineered by John C. Spink, R.P.E. of Spink Design, 59 Clay Street, Middleboro, MA 02346, dated December 29, 2021. The subject premises are located on Assessor's plat #170, Lot #1A in the Single Residence-D zoning district.

The Board reviewed the email from Nicholas Catenacci of One Thirty-One Pleasant St, LLC, dated June 24, 2022, to Planning Board Clerk Lauren Stamatis, requesting an extension of time and continuance to July 18, 2022, relative to the "NICHOLAS DRIVE" street extension plan.

Director of Planning and Development Gary Ayrassian pointed out that this application has been pending since May 16, 2022 and the developer has not followed the simple instructions the Board has given him regarding revisions. He noted that the peer review found substantive issues with the stormwater management design, as well.

Senior Land Use Planner Stephanie Davies agreed that the Board has been awaiting a revised conceptual plan since April 20, 2022.

Mr. Ayrassian stated that he recommends either denying the application or instructing the applicant to withdraw without prejudice. He noted that the developer could always return with a repetitive petition.

Speaking neither for nor against was attorney Jack Jacobi of Coogan Smith, LLP who stated that his client, the Rochas, have an interest in this case, as they are looking for the extension to be built to create access to land in Rehoboth for the construction of a house and barn. He stated his understanding that the neighbors had met with Mr. Catenacci and an attorney, went over their concerns and a counter-offer was provided to them in return for withdrawing their opposition. He stated that they are waiting to hear back from the neighbors and requested that the hearing be kept open until July to give that process time.

Jason Gittle stated that the Board will have to continue the hearing much past July, as revised plans have still not been provided. He stated that it's not fair to the abutters to drag things out like this, as it can reduce confidence in the process. He asserted the developer can always reapply.

Mr. Ayrassian noted that when extensions have been granted in the past, there has been measureable progress after each one. He stated that has not been the case here.

Heather Whitehead made a motion to grant an extension of time and continuation of the public hearing to July 18, 2022. Sean McNamara seconded. All voted in opposition.

The Board closed the public hearing.

The Board heard the application of Anthony Properties for a Major Project Site Plan Review pursuant to the provisions of §17-15.0 SITE PLAN REVIEW of the ZONING ORDINANCE, to construct two new retail/restaurant buildings, ±5,100 sf and ±3,000 sf, respectively, retain the existing ±7,300 sf commercial building, build a new ±10,000 sf daycare facility, and construct 135 parking spaces, as well as associated driveways, landscaping, utilities, grading and stormwater management system; the subject premises being located at 754 Newport Avenue, more specifically Assessor's plat #69, lot #26B, located in the General Business and General Residence-A zoning districts.

Speaking in favor was attorney Jack Jacobi of Coogan Smith, LLP who stated that a copy of the archeological study cannot be submitted due to privacy issues with the Commonwealth's regulations, but a summary will be provided and nothing of significance was discovered. He stated that a traffic peer review work session was held last week and they are in the process of submitting responses. He stated they hope to conclude before the Conservation Commission next week. He stated that at the Board's direction, they have found a way to relocate the daycare. He stated that they are also proposing some additions to the transitional area between the residential and the commercial areas. He stated that they are looking for feedback on these design changes so that they can do a complete set of plan revisions.

Chairman Gittle asked whether the issue raised by abutters regarding the location of the proposed dog park had been resolved.

Mr. Jacobi replied that they were informed by the Site Plan Review Committee that the matter was beyond the scope of the Planning Board's review, so they had no means to address things. He stated that they did review the matter and it is a tiny dog park that is well over 100-feet away from the abutter in question. He stated that it is only open certain hours and closed by nightfall. He asserted that the owners are required to be present. He stated that they considered moving it to the rear of the site as suggested, but need it to be ADA-compliant, and that cannot be achieved with the site's grading in the back. He stated that the Zoning Board will likely review the matter further.

Heather Whitehead pointed out that the resident also expressed concern regarding the gathering spots, but those consist of just a couple of picnic tables and are not meant for larger events. She stated that this is even further away from the neighbor in question than the dog park.

Mr. Jacobi added that there are significant trees, fencing, and wetlands between the neighbor in question and the site. He went on to describe the design changed. He stated that they have removed the boulevard portion at the lower 2/3 of the drive closest to the residential area and moved the open space to either side of the drive.

Mr. Ayrassian noted that the single lane entry portion of the boulevard is as wide as the two lane exit portion, and asked if it could conceivably contain two lanes of traffic. He asked how that can be controlled.

Speaking in favor of the application was Renee Codega of VHB who stated that the Fire Department requires a 20-foot wide entrance, and striping will be provided to direct the cars where they need to go. She stated that it's not intended to be two lanes coming it, but they will ensure that motorists are entering in an orderly fashion. She stated that the transition area of the main drive between the commercial and residential has been improved with increased plantings, different colored pavement, and more plants in the center island.

Mr. Ayrassian asked whether the curbing of the island would be slope-faced.

Ms. Codega stated that it could be.

Chairman Gittle questioned the lighting for the transition area.

Ms. Codega pointed out the light poles on either side of the drive.

Mr. Ayrassian stated that staff recommends that the changes are favorable.

The Board agreed that they were in favor of the changes.

Mr. Jacobi stated that the Board had recommended moving the daycare to try to resolve some of the traffic flow concerns. He stated that they have come up with a design that does that, but that shifting the building will push some of the site's parking by a few feet into the front yard setback for Newport Avenue. He stated that if the Zoning Board is willing to grant a variance, they can maintain the same number of parking spaces. He stated that he thinks the variance can be justified by the distance of the pavement from where the property line is located, where landscaping provides a 15-foot buffer. He stated that there are 57 spaces proposed in both scenarios. He stated the driveway to enter by the daycare is now long enough that it can accommodate stacking, if needed, and also no one is likely to attempt to violate the one way nature for a stretch that long. He stated that this will eliminate the need for commercial patrons to drive through the residential area.

Thom Morin stated that he felt this was a much improved design.

Heather Whitehead asked whether crosswalks are proposed.

Ms. Codega replied yes, pedestrian connectivity will be provided.

Mr. Jacobi added that there will be sidewalk all along the frontage of the project on Newport Avenue.

Ms. Davies asked whether there is any concern about the stacking provided for the drive through.

Mr. Jacobi stated that if the use were Aroma Joes, yes, there would be, but it is for the Greek restaurant, they don't anticipate the volume to be as high as for a coffee shop.

Ms. Davies noted that if there is spillover, it looks like it is likely to impact the restaurant's parking rather than the daycare traffic flow.

Ms. Codega confirmed it keeps the traffic flows more segregated for each use.

Mr. Jacobi stated that there was some concern that the back of the restaurant would be facing Newport Avenue, but they will be developing a faux façade to keep the side facing the road aesthetically pleasing.

The staff and Board agreed that the design was much improved.

The Board reviewed the Form P1 - Request to continue a public hearing to August 31, 2022, submitted by attorney Jack Jacobi of Coogan Smith, LLP, on behalf of Anthony Properties Realty, Inc., relative to the Major Site Plan Review application for 754 Newport Avenue. Fred Uriot made a motion to grant a continuance to August 31, 2022. Heather Whitehead 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 discussed the application of Ad Meliora, LLC, 10 Converse Place, Winchester, MA 01890, relative to the proposed forty three (43) lot preliminary subdivision plan entitled "RIDGEWOOD ROAD", said premises being located at 80 Ridgewood Road, engineered by Patrick Connolly, R.P.E. of Beals Associates, Inc., 2 Park Plaza, Suite 200, Boston, MA 02116, dated April 25, 2022, said premises

being Assessor's plat #105, lots #1A, 1B1, 1B2, 1B3, and 1C located in the Single Residence-C zoning district.

Speaking was attorney Jack Jacobi of Coogan Smith who stated that they are awaiting their stormwater management peer review report. He requested that the matter be tabled.

There being no one else to speak, the matter was tabled.

The Board discussed the application of the Laurel Knoll Land Trust, 503 Oakhill Avenue, Attleboro, MA, relative to the proposed two (2) lot preliminary subdivision plan entitled "LAUREL KNOLL," said premises being located on MacDonald Lane, drawn and engineered by James R. Borrebach, PE #34332 of OHI Engineering, Inc., 44 Wood Avenue, Mansfield, MA 02048, dated May 18, 2022, said premises being Assessor's plat #101, lot #9, located in the Single Residence -D zoning district.

Speaking in favor was attorney Jack Jacobi of Coogan Smith who stated that this project is a proposed two lot subdivision, but that there is no intention to build two houses. He stated that the plan is for a more extensive 55+ community project, but they are looking to create frontage to access the land. He stated that they are requesting a waiver from the stormwater requirements as the roadway will be such a short stretch and there will be an extensive system for the overall development. He noted that the Planning Board had twice approved past plans for this site back in 1964 and 1967, but neither project came to fruition. He noted that the paved portion of MacDonald Lane has been accepted by the City.

Speaking in favor was Scott Rolfe of OHI Engineering who stated that they have submitted a waiver request with the preliminary subdivision checklist. He stated that they have received comments from several Department Heads, but there is nothing to be addressed at this stage.

The Board scheduled a Subdivision Committee meeting for July 18, 2022 at 5:30 p.m.

There being no one else to speak, the matter was tabled.

The Board reviewed the Form A plan submitted by Kasselvergues, Inc. for 636 Read Street.

Ms. Davies reminded the Board that the plan had been tabled at the last meeting due to concerns over illusory frontage.

Mr. Ayrassian stated that Jim Lewis had emailed the Board and suggested that the applicant either withdraw the application to work through the concerns with staff to redesign the plan or that the Board refuse to endorse it. He agreed with Jim's recommendation.

Chairman Gittle sought to confirm that there have been no changes to the plan since the last meeting.

Mr. Ayrassian stated that he met with Attorney Casey, Mr. DesVergnes, Conservation Agent Nick Wyllie, and engineer Scott Rolfe. He stated that nothing new was presented at the meeting or since then.

Speaking was John DesVergnes who stated that the concern is with a number of lots having sufficient frontage. He asserted that the City does not have a bylaw that requires access via frontage.

Mr. Ayrassian stated that they have approved such plans in the past, but not for this many lots.

Mr. DesVergnes stated that he needs to know how to explain to the land owner why her land is being devalued. He stated that the design was not meant to be evasive, but rather meant to avoid wetlands.

Mr. Ayrassian asserted that the Board is not bound by precedent.

Mr. DesVergnes stated that he didn't understand how this plan varied from the others approved and felt that precedent should carry some weight, as there's been no change to the rules.

Mr. Ayrassian stated that if a Board made a mistake approving something in the past, they are not bound to continue making that mistake.

Ms. Davies stated that lots 29 and 30 only have access via easements on other property and that there is case law about both circumventing subdivision control law and plans that are contingent upon common driveways.

Mr. DesVergnes requested to withdraw the plan without prejudice. Thom Morin made a motion to allow the Form A plan for 636 Read Street to be withdrawn without prejudice. Heather Whitehead seconded the motion and all voted in favor.

The Board reviewed the Form A plan submitted by Hergaff Trust for 10 and 14 Marjorie Street.

Ms. Davies explained that this matter appeared before the Zoning Board and was granted a number of variances. She stated that both lots have 50-feet of frontage and she recommends approval.

Sean McNamara made a motion to approve the Form A plan for 10 and 14 Marjorie Street. Thom Morin seconded the motion and all voted in favor.

The Board heard the appointment to speak of John Case III regarding "BRADFORD ESTATES," "HILLCREST AVENUE EXTENSION," "HILLCREST AVENUE EXTENSION II," and "RHODES STREET EXTENSION."

Speaking was John Case who stated that he felt like there was some confusion on Public Works part precipitating their recommendation to deny a final release of funds for Rhodes Street Extension. He stated that they stated that the required trees hadn't been planted, but pre-existing trees were shown on the plan and homeowners have since taken some of them down. He explained that it is an old neighborhood and owners had fears for the safety of their homes.

Ms. Davies stated that there is a question as to the turnaround easement, as there is no record of it having been recorded at the Registry of Deeds. She stated that as the home is now privately owned, there is no opportunity to record anything now.

Mr. Ayrassian stated that it should have been done and it wasn't. He asked whether the home's driveway is in the general area of the approved turnaround.

Mr. Case answered yes.

Mr. Ayrassian mused that he didn't think anyone was going to give emergency or City vehicles a hard time if using the driveway to turn around. He stated that the access is there for practical purposes, it's just not encumbered by an easement.

Ms. Davies stated that as-built plans have not been submitted, only street acceptance plans.

Mr. Case stated that he had the as-built plans with him.

Ms. Davies stated that Public Works was unable to find all of the required granite bounds. She stated that Mr. Case provided photographs but noted that there was one at the end of the road that can't be found.

Mr. Case stated that he has an original plan that shows the bound in place.

Mr. Ayrassian stated that they will take his word that it is there.

The Board reviewed the memorandum from Public Works Superintendent Michael Tyler, dated June 22, 2022, to the Planning Board recommending denial of the **FINAL** release of funds request for the “Rhodes Street Extension” street extension. Fred Uriot made a motion to approve a **FINAL** release of funds in the amount of \$10,142.64, pending the submission of as-built plans, relative to the “RHODES STREET EXTENSION” **street extension plan**. **Shannon Bénay seconded the motion and all voted in favor.**

Ms. Davies informed the Board that the street acceptance plans for “HILLCREST AVENUE EXTENSION I” and “HILLCREST AVENUE EXTENSION II” were submitted on the same plan and needed to be separated, but revised plans have not been resubmitted. She noted that as-built plans had not been submitted, either.

Mr. Case stated that the trees for those projects are shown right in the sewer easement, so they cannot be installed there. He stated that there are lots of trees in the development, just not in that specific location. He pointed out where they installed arborvitae to protect an existing neighbor. He stated that all of the houses got a dozen plants or more and put trees where they were necessary, but homeowners make their own modifications once they move in. He stated that there are not many places to install trees along the roadway due to utilities and driveways.

Ms. Davies confirmed that the only outstanding issues were the trees and street acceptance/as-built plans.

Mr. Ayrassian recommended that if all other vegetation has grown in, that the Board consider releasing the funds.

Ms. Davies stated that a letter requesting a final release of funds needs to be submitted, once the street acceptance and as-built plans are submitted for each project.

Mr. Case stated that in terms of “BRADFORD ESTATES,” he has patched the bounds and sealed the cracks in the pavement as requested by Public Works. He stated that his engineer confirmed that all of the granite bounds and iron rods were in the prescribed locations. He stated that one rod is located in a driveway with no curbing, so it may be difficult finding it along the edge of the road.

Ms. Davies sought to confirm that it has been installed and will appear on the as-built.

Mr. Case confirmed. He stated that on the right-hand side of the Colton Street radius, they didn’t install the sidewalk, as it goes to the middle of the cul-de-sac and stops without leading anywhere.

Ms. Davies noted that there are also issues with discharge from the stormwater system and the decorative wall that was installed within the right-of-way.

Mr. Case stated that it encroaches by about 1-foot.

Mr. Ayrassian suggested that the encroachment is minimal and not an issue.

Ms. Davies questioned the locations for the access covers for the cultec system and that someone will need to be on site to show Public Works at the time of inspection. She stated that a fee has to be submitted in lieu of installing the fire alarm box. She stated that street acceptance plans have been submitted, but as-built plans are still needed. She suggested that Mr. Case sit down with staff and Public Works to discuss the deficiencies with this subdivision, as it is a bit more complicated than the others.

The Board discussed the application of One Thirty One Pleasant St, LLC to extend Nicholas Drive for a distance of 120 feet, as shown on the street extension plan entitled “NICHOLAS DRIVE EXTENSION,” engineered by John C. Spink, R.P.E. of Spink Design, 59 Clay Street, Middleboro, MA 02346, dated December 29, 2021. The subject premises are located on Assessor’s plat #170, Lot #1A in the Single Residence-D zoning district.

Heather Whitehead made a motion to approve the application of One Thirty One Pleasant St, LLC for the proposed two (2) lot street definitive subdivision plan entitled “NICHOLAS DRIVE EXTENSION”, drawn and engineered by John C. Spink, R.P.E. of Spink Design, located at 59 Clay Street, Middleboro, MA 02346, dated May 12, 2022, said proposal being for lot #1A on Assessor’s plat #170, located in the Single Residence-D zoning district. Thom Morin seconded the motion and a discussion followed. All voted in opposition. The motion failed.

The Board discussed the blockade of Colt ’s Way Extension.

Mr. Ayrassian informed the Board that the developer has blocked off the roadway using boulders, sawhorses, and concrete blocks both where it meets the Rolling Hills VI subdivision and Lindsey Street due to supposed excessive speeding through the construction area. He explained that the Fire Chief had concerns about emergency access and negotiated the installation of a chain with a knox box instead. Mr. Ayrassian stated that due to that connection to Lindsey Street being a condition of a legal settlement, he did not think the developer had the authority to close off the roadway. He stated that he met with the City Solicitor last week and she will be drafting a legal opinion. He asserted that the developer should have come to the Board. He suggested that the roadway be opened and temporary speed bumps be put in or a police detail required.

The Board reviewed the Form P2 - Request for an extension of time to July 31, 2022 to open the public hearing, submitted by attorney Jack Jacobi of Coogan Smith, LLP, relative to the Major Site Plan Review application of Rhino Capital Advisors, LLC for 1275 Commerce Way.

Thom Morin made a motion to grant an extension of time to open the public hearing to July 31, 2022, relative to the Major Site Plan Review application of Rhino Capital Advisors, LLC for 1275 Commerce Way. Fred Uriot seconded the motion and all voted in favor.

The Board discussed the email from Senior Land Use Planner Stephanie Davies, dated February 10, 2022, to Bob Catenacci of One Thirty-One Pleasant St, LLC, regarding a Notice of Violation relative to the “STONE FIELD ESTATES III” subdivision.

Ms. Davies updated the Board that Conservation Agent Nick Wyllie had visited the site and found the erosion sediment control to have been improperly staked and other Conservation violations.

The Board reviewed all other correspondence.

The Board approved the pending minutes of January 24, 2022. The Board tabled the pending minutes of February 28, 2022, March 7, 2022, March 21, 2022, April 4, 2022, April 25, 2022, May 16, 2022, and June 6, 2022 .

Meeting adjourned at 9:15 p.m.