



City Of Attleboro, Massachusetts

PLANNING BOARD

GOVERNMENT CENTER, 77 PARK STREET
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MINUTES

JULY 1, 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 Monday, July 1, 2019 at 6:30 p.m. in the Council Chambers, City Hall, 77 Park Street, relative to the following :

Planning Board Members Present: Chairman Paul Danesi, Secretary Sheryl Guglielmo, Bert Buckley, Melinda Kwart, Scott Jones, Jim Lewis, Sean McNamara, and Fred Uriot

Planning Board Members Absent: Vice Chairman Jason Gittle

The Board heard the application of Donald Desvergnès 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 63 Pasture Brook Road, more specifically Assessor's plat #188, lot #4A-40 (Builder's Lot #78), located in the Single Residence -D zoning district.

Due to an error in advertising for the June 3, 2019 meeting, a new hearing for the matter was advertised for this evening.

Speaking in favor of the application was Ken McKenzie of Dunn McKenzie who stated that this lot will have 24.9% coverage and hook-ups to City water and sewer. He stated that propane is proposed for heating fuel. He stated that the prohibited uses are on the plan. He stated that the site is not near wetlands and over 4,000 feet away from the Bungay River. He stated his opinion that this development would not have a negative impact on the water resource protection district.

Ms. Davies noted that the application stated that oil heat is called for with a double-walled tank, along with a fireplace and stove fed by propane.

Speaking in favor of the application was Donald Desvergnès who stated that the house will be serviced entirely by propane. He stated that he was unsure why the references to oil were in the application, as it is a pre-sold house with set specifications. He requested that the application be amended to reflect a 500 gallon buried propane tank for heating the house.

There being no one else to speak, Scott Jones made a motion to close the hearing. Sheryl Guglielmo seconded the motion and all voted in favor.

Bert Buckley made a motion to **GRANT** a special permit pursuant to §17-9.0 SPECIAL PERMITS for the construction of a single-family detached dwelling with associated driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 63 Pasture Brook Road, more specifically Assessor's plat #177, lot #4A-40 (Builder's Lot #78), located in the Single Residence-D

zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN LOT 78, 63 PASTURE BROOK ROAD ATTLEBORO, MASSACHUSETTS 02703", drawn by James W. Nieva, P.L.S. of Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated February 6, 2019. Sheryl Guglielmo seconded the motion and a discussion followed. On roll call all voted in favor save Jim Lewis, who abstained. The Board attached conditions.

Bert Buckley made a motion to **GRANT** a special permit pursuant to §17-13.0 WATER RESOURCE PROTECTION DISTRICT for the construction of a single-family detached dwelling with associated driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 63 Pasture Brook Road, more specifically Assessor's plat #177, lot #4A-40 (Builder's Lot #78), located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN LOT 78, 63 PASTURE BROOK ROAD ATTLEBORO, MASSACHUSETTS 02703", drawn by James W. Nieva, P.L.S. of Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated February 6, 2019. Sheryl Guglielmo seconded the motion and a discussion followed. On roll call all voted in favor save Jim Lewis, who abstained. The Board attached conditions.

The Board heard the application of Desvergues Supplemental Needs Trust 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 40 Pheasant Hill Road (Formerly 45 Pasture Brook Road) , more specifically Assessor 's plat #132, lot #4A-43 (Builder 's Lot #81), located in the Single Residence -D zoning district.

Due to an error in advertising for the June 3, 2019 meeting, a new hearing for the matter was advertised for this evening.

Speaking in favor was Ken McKenzie of Dunn McKenzie who stated that the house's address has been updated on the application and plans to be 40 Pheasant Hill Road rather than 45 Pasture Brook Road due to the way the house will be facing.

There being no one else to speak, Jim Lewis made a motion to close the public hearing. Melinda Kwart seconded the motion and all voted in favor.

Bert Buckley 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 40 Pheasant Hill Road (formerly 45 Pasture Brook Road), more specifically Assessor's plat #132, lot #4A-43 (Builder's Lot #81), located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN LOT 81, 40 PHEASANT HILL ROAD ATTLEBORO, MASSACHUSETTS 02703", drawn by James W. Nieva, P.L.S. of Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated March 27, 2017. Sheryl Guglielmo seconded the motion and a discussion followed. On roll call, all voted in favor and the Board attached conditions.

Bert Buckley 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 40 Pheasant Hill Road (formerly 45 Pasture Brook Road), more specifically Assessor's plat #132, lot #4A-43 (Builder's Lot #81), located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN LOT 81, 40 PHEASANT HILL ROAD ATTLEBORO, MASSACHUSETTS 02703", drawn by

James W. Nieva, P.L.S. of Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated March 27, 2017. Sheryl Guglielmo seconded the motion and a discussion followed. On roll call, all voted in favor and the Board attached conditions.

The Board heard the application of Desvergnés Supplemental Needs Trust 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 51 Pasture Brook Road, more specifically Assessor's plat #188, lot #4A-42 (Builder's Lot #80), located in the Single Residence -D zoning district.

Due to an error in advertising for the June 3, 2019 meeting, a new hearing for the matter was advertised for this evening.

Speaking in favor of the application was Ken McKenzie of Dunn McKenzie who explained the lot in question is fairly small and is encumbered by wetlands. He stated that they have already had an ANRAD approved by the Conservation Commission, but need to return to them for a Notice of Intent. He stated that they are proposing 15% coverage of the lot and that it is close to 4,000 feet away from the Bungay River. He stated that all of the prohibited uses are listed on the plan and that they will remain on the as-built so that the future owner is aware.

Mr. Ayrassian questioned the proposed heating system.

Mr. McKenzie replied propane.

Mr. Ayrassian asked whether Mr. McKenzie felt, in his professional opinion, that the development will not have an adverse impact on the Bungay River.

Mr. McKenzie agreed.

There being no one else to speak, Jim Lewis made a motion to close the public hearing. Melinda Kwart seconded the motion and all voted in favor.

Bert Buckley made a motion to **GRANT** a special permit pursuant to §17-9.0 SPECIAL PERMITS for the construction of a single-family detached dwelling with associated driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 51 Pasture Brook Road, more specifically Assessor's plat #188, lot #4A-42 (Builder's Lot #80), located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN LOT 80, PASTURE BROOK ROAD ATTLEBORO, MASSACHUSETTS 02703", drawn by James W. Nieva, P.L.S. of Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated March 27, 2017. Sheryl Guglielmo seconded the motion and a discussion followed. On roll call, all voted in favor and the Board attached conditions.

Bert Buckley made a motion to **GRANT** a special permit pursuant to §17-13.0 WATER RESOURCE PROTECTION DISTRICT for the construction of a single-family detached dwelling with associated driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 51 Pasture Brook Road, more specifically Assessor's plat #188, lot #4A-42 (Builder's Lot #80), located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN LOT 80, PASTURE BROOK ROAD ATTLEBORO, MASSACHUSETTS 02703", drawn by James W. Nieva, P.L.S. of Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated March 27, 2017. Sheryl Guglielmo

seconded the motion and a discussion followed. On roll call, all voted in favor and the Board attached conditions.

The Board heard the application of Desvergnés Supplemental Needs Trust 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 168 Kennedy Drive, more specifically Assessor's plat #188, lot #4A-11 (Builder's Lot #49), located in the Single Residence -D zoning district.

Due to an error in advertising for the June 3, 2019 meeting, a new hearing for the matter was advertised for this evening.

Speaking in favor of the application was Ken McKenzie who stated that the proposed house will be serviced by propane for heating and will be hooked up to City water and sewer. He stated that there are no wetlands in the area and that the site backs up to the power lines. He stated that 16% coverage of the lot is proposed. He stated that the prohibited uses are listed on the plan and will be included on the as-built plans. He stated that the site is about 4,500 feet away from the Bungay River. He stated his opinion that the development will not have an adverse impact on the Bungay River.

There being no one else to speak, Sheryl Guglielmo made a motion to close the public hearing. Scott Jones seconded the motion and all voted in favor.

Bert Buckley made a motion to **GRANT** a special permit pursuant to §17-9.0 SPECIAL PERMITS for the construction a single-family detached dwelling with associated driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 168 Kennedy Drive, more specifically Assessor's plat #188, lot #4A-11 (Builder's Lot #49), located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN LOT 49, 168 KENNEDY DRIVE ATTLEBORO, MASSACHUSETTS 02703", drawn by Kenneth G. McKenzie, Jr., P.L.S. of Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated May 5, 2019. Sheryl Guglielmo seconded the motion and a discussion followed. On roll call, all voted in favor and the Board attached conditions.

Bert Buckley made a motion to **GRANT** a special permit pursuant to §17-13.0 WATER RESOURCE PROTECTION for the construction a single-family detached dwelling with associated driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 168 Kennedy Drive, more specifically Assessor's plat #188, lot #4A-11 (Builder's Lot #49), located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN LOT 49, 168 KENNEDY DRIVE ATTLEBORO, MASSACHUSETTS 02703", drawn by Kenneth G. McKenzie, Jr., P.L.S. of Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated May 5, 2019. Sheryl Guglielmo seconded the motion and a discussion followed. On roll call, all voted in favor and the Board attached conditions.

The Board discussed the Land Development Policy Review before the Ordinance Committee.

Chairman Danesi stated that the Board should start a program to review Planning Board Rules and Regulations, as well as practices and policies. He stated that there needs to be better management of development in the City. He stated that this does not necessarily mean reducing the number of house lots or denying applications, but rather not allowing developers to clear cut 20 plus acres of upland forest or putting stormwater basins in people's backyards.

Jim Lewis noted that some of the stormwater basins are quite large. He asked whether they could be made smaller and more numerous. He stated that requiring rain gardens, when possible, on each lot makes each homeowner responsible for maintaining their own mini-stormwater system. He stated that he doesn't care for the basins as they are eyesores and cause lots of problems.

Chairman Danesi expressed reservation over whether rain gardens could handle all of the runoff from a subdivision road.

Jim Lewis agreed that it was unlikely, but that it could reduce the load in the larger basins.

Mr. Ayrassian agreed that smaller, more spread out systems would be of benefit, but he did not feel homeowners would be committed to long-term maintenance. He suggested that easements be placed around the features so that the City has access to them. He stated that for consistency and continuity, it is better not to rely upon the homeowners.

Sheryl Guglielmo noted that the Board needs to be careful with enacting such overarching policies, as when you install more numerous, smaller ponds, it may require more clearing elsewhere to convey that water into the ponds.

Ms. Davies stated that the City's third party peer reviewer, Horsley Witten Group, has continually been advocating for smaller, more dispersed basins. She stated that this is from a maintenance perspective, rather than in relation to tree clearing. She stated that if there is a problem with one large basin, it can do a lot more damage than if one small basin has issues.

Jim Lewis noted that it is important to consider the implications of these systems. He quoted the "Edward Senior Estates" subdivision Operations and Maintenance plan as estimating a cost of \$15,000 per year to maintain its stormwater system. He stated his understanding the Public Works has not done routine maintenance on any of the City's basins. He asked whether anyone in the City is budgeting for this work.

Mr. Ayrassian suggested that the 5% inspection fee should be re-evaluated in light of these costs. He noted that the money for that currently just funnels into the general fund and there is no Departmental control over its use. He asked whether a different fee should be added to that of the inspection fee. He stated that with NPDES coming online, the City will need better inspections performed of these systems. It will all depend upon how the Mayor wants to come up with the funds. He stated that other communities have employed a rain tax, but that some kind of fee will be necessary. He suggested that we track down how the funds for the 5% inspection fees have been utilized over the past 10-15 years and see if a portion of that can be syphoned into a maintenance account.

Ms. Davies stated that under Mayor Dumas, a list of all of the basins had begun being assembled. She noted that some of the basins were so overgrown that they couldn't find them. She stated that Public Works has been cleaning them, but prioritizing the emergency situations when neighbors file complaints with flooding, etc.

Mr. Ayrassian stated that it is not complicated, but that machinery and man power are required for the maintenance. He stated that Mayor Dumas started the momentum on addressing this and that it likewise needs to be brought to Mayor Heroux's attention so that a financing mechanism can be determined. He noted that he had informed the Mayor that Public Works needs more staff. He stated that a holistic change will need to occur and it will take several years to update the Rules and Regulations to affect change. He stated that another problem is that there is no one performing inspections during construction to ensure

that systems are functioning properly. He suggested that they could begin employing the inspections Horsley Witten Group makes available in their master contract with the City.

Sheryl Guglielmo stated that she didn't feel basins should be visible from the streets at the fronts of lots.

Ms. Davies suggested that the basins should be installed away from abutting property lines to protect neighbors and house lots within the subdivision.

Chairman Danesi questioned the Board about changing design criteria to implement greater tree preservation.

Scott Jones pointed out that the Board has instructed Dan Campbell to follow the contours for the "PIKE ESTATES" subdivision.

Ms. Davies noted that when developers perform their test pits, they tend to use large machinery that necessitates the removal of trees. She asked whether the Board could coordinate with the Health Department to require smaller equipment to minimize the need to clear in those instances.

Jim Lewis agreed that in other communities, percolation testing is not required on every single house lot.

Mr. Ayrassian stated that the Health Department adopted the testing policy about ten years ago and that the former Agent, Jim Mooney, had insisted he had the authority to adopt policies at will.

Ms. Davies stated her understanding that people would subdivide lots and then be told that those lots were not buildable when they didn't pass percolation testing, resulting in landowner frustration.

Mr. Ayrassian stated that even if that policy were to be dropped, the developer would still have to bring that machinery in eventually to do testing at a later date.

Chairman Danesi noted that in some cases drills can be used rather than digging pits.

Jim Lewis noted that the heavy machinery is also required to dig septic systems, as well as install driveways and foundations.

Chairman Danesi stated that other communities have found solutions to these problems and suggested that their policies be reviewed for applicability to Attleboro.

Sheryl Guglielmo also pointed out that it was important to ensure that those policies were working successfully in other communities.

Jim Lewis questioned whether the roads and right-of-ways should be as wide as is standard.

Mr. Ayrassian noted that reducing pavement sizes produces less runoff, which necessitates smaller basins. He suggested that it can also have a traffic calming effect.

Sheryl Guglielmo stated that she was in favor of reducing pavement widths.

Mr. Ayrassian suggested surveying other community Subdivision Regulations to find the average pavement width required. He stated that some changes will have to be on a case by case basis, dictated by the intensity of the development. He suggested that input be procured from the Fire Department, as well.

Chairman Danesi called attention to Mayor Heroux's question of how the Board can allow new, larger streets to be installed off of smaller, country roads. He stated that the Board typically requires traffic studies to ensure the change will not be substantially detrimental.

Mr. Ayrassian added that the Board doesn't have the authority to look at existing conditions and cannot opine that a large subdivision is too much for a particular, existing road. He stated that a better question for the Board and the City would be at what point should the City review these older streets and improve them. He stated that subdivision development is by right and that the Board cannot deny a subdivision if it meets all of the regulations and standards.

Chairman Danesi suggested that a master plan be created relative to street improvements.

Mr. Ayrassian stated that such a plan will still be hindered by the lack of manpower in Public Works. He stated that due to low staffing, all actions tend to be reactive, rather than proactive. He noted that many of the people complaining about the removal of trees are relatively new subdivision residents and that it's easy for them to want to put the brakes on development after they have moved in. He noted that improvements for older roads could include resurfacing, restriping, as well as improving stormwater systems, signage, sight lines, and street lighting.

Fred Uriot noted that developers can make money off of clear-cutting by selling the wood for firewood.

Chairman Danesi stated that he was unsure how many of the issues raised by the Mayor could be controlled by Planning Board policy. He conjectured that a first step could be identifying the streets in Attleboro in need of revitalization.

Scott Jones suggested policy could be implemented to encourage builders to revitalize older housing stock, rather than always constructing new single family homes.

Sheryl Guglielmo pointed out that if the developer doesn't own the land, they would have to acquire the property which would cause them to lose money.

Fred Uriot stated his understanding that builders have no interest in trying to flip older houses, as the footprints are too small for the current consumer.

Scott Jones reiterated that builders could be incentivized to renovate multi-family units.

Mr. Ayrassian stated that there are HOME consortium and block granting funding available to developers through the Community Development Department, but in exchange, they have to make a certain percentage of the units affordable, which greatly reduces their market for the unit for upwards of 15 years.

Ms. Davies noted that there have been communities with allowances in their Ordinances for rebuilding small, starter homes on undersized lots and suggested that an affordability restriction could be required. She stated her sense that the Zoning Board is very interested in seeing modest homes constructed that are more affordable.

Mr. Ayrassian requested that Chairman Danesi reach out to Mayor Heroux regarding next steps.

The meeting adjourned at 7:53 p.m.