



City Of Attleboro, Massachusetts

PLANNING BOARD

GOVERNMENT CENTER, 77 PARK STREET
ATTLEBORO, MASSACHUSETTS 02703
TEL 508.223.2222 FAX 508.222.3046

MINUTES

SEPTEMBER 28, 2020

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, September 28, 2020 at 6:30 p.m. remotely via Zoom , relative to the following :

Planning Board Members Present: Chairman Paul Danesi, Vice Chairman Jason Gittle, Secretary Sheryl Guglielmo, Shannon Benay, Bert Buckley, Mike Davis, Jim Lewis, Sean McNamara, and Fred Uriot

Planning Board Members Absent: None

The application of One Thirty One Pleasant St, LLC for the proposed twenty (20) lot definitive subdivision plan entitled "STONE FIELD ESTATES III," located at 553 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.

Director of Planning and Development Gary Ayrassian informed the Board the developer, Bob Catenacci requested that the public hearing be continued via phone this afternoon.

Speaking neither for nor against was James Lema of 55 Saveena Drive who stated that he wanted to address the Board to make a case for why Mr. Catenacci should not be permitted to proceed with Phase III until he fulfills his obligations to the other prior two phases of the subdivision.

Chairman Danesi noted that the Board is obligated to address each subdivision phase as a stand-alone project. He stated that the Board cannot use deficiencies relative to Phase I or II to deny his application for Phase III. He explained that making the phases contingent on one another makes the approvals conditional, which is not something that the Board does.

Mr. Lema sought to confirm that issues with the prior phases cannot be considered relative to Phase III.

Chairman Danesi stated no, not in terms of approving or denying the application. He stated that it can come to bear in terms of how the developer is managed, but that Mr. Lema's perspective is welcome to be provided to the Board.

Mr. Lema stated that he is concerned that the developer could be permitted to start construction of Phase III when he hasn't completed the work required for Phases I and II. He stated of particular concern is the failure to have Nicholas Drive, Mary Rocha Way, and Saveena Drive accepted by the City for plowing during the winter months. He stated that Nicholas Drive was started six years ago and has yet to be accepted. He stated that Phase II has no sidewalks, is missing driveways, and some houses are just at the foundation phase of construction. He requested that Mr. Catenacci be disallowed from beginning Phase III when he still has outstanding obligations to Phases I and II. He stated that the residents have been waiting for over six years and they deserve to be provided a timeline as to when they can anticipate that their roadway will be accepted by the City.

Mr. Ayrassian stated that Phase I has almost been completed, the only remaining items are flushing of the stormwater management system, addressing a waiver for the approved fire alarm box, and the acceptance of the roadways. He stated that all of the documentation for street acceptance have been submitted and that once the former two issues are resolved, the City can begin processing that. He stated that Phase II is still under construction and that his deadline for completion is October 31, 2020. He stated that Phase III is just beginning its review so he cannot start construction until he receives approval from the Planning Board, so Phase III won't begin any time soon.

Senior Land Use Planner Stephanie Davies stated that it is fairly common for subdivisions within the City that are broken up into multiple phases of development to remain open until all of the phases are completed, especially if they share integrated stormwater systems. She gave as an example Brigham Hills, which is even older than Stone Field Estates and all of its phases are still undergoing construction. She stated that the fact may not put Mr. Lema at ease, but her understanding is that many developers want to install the final coat of pavement in one fell swoop, so that construction vehicles are not traveling over and damaging new roads. She stated that Phase I is very close to being submitted for acceptance by the City.

Chairman Danesi noted that the City also obligates a developer to submit security to cover the construction obligations, should the developer not fulfill their obligations. He stated that in such a situation, the City can take those funds to complete the construction, if needed. He stated that there isn't necessarily a time dependent nature to that action, however.

Jim Lewis asked whether Public Works has signed off on the functionality of the Phase I stormwater basin system and that cleaning is the only outstanding matter.

Mr. Ayrassian replied yes, as the City has already released the funds for the stormwater basins. He stated that the only outstanding matter is the clearing of debris from the basins that could obstruct infiltration to ensure they are working optimally.

Sean McNamara asked whether this winter it is anticipated that the developer will still be in charge of plowing Phase I of the subdivision or if the City will have taken it over by then.

Mr. Ayrassian stated that he can't answer for certain - he stated that it is dependent upon meeting the Public Works punch-list items, resolving the fire alarm box issue, and requesting a final release of funds, followed by accepting the roadways. He advised Mr. Lema to reach out to staff if he has further questions regarding the subdivision process. He stated that out of fairness to Mr. Catenacci, he has appeared before the Board a number of times, provided cogent reasons for the delay, including weather and market conditions, and the Board granted him an extension of time. He stated that a developer doesn't unilaterally decide to extend the timeline for subdivision construction, it requires permission from the City. He stated that in those cases, the Board considers the situation and circumstances judiciously.

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

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.

The Board discussed the application of John J. & Mary F. Donovan to extend Rambler Road 2-5 feet, as shown on the street extension plan entitled "RAMBLER ROAD EXTENSION," engineered by Daniel R. Campbell, R.P.E. of Level Design Group, 249 South Street, Unit 1, Plainville, MA 02762, dated March 1, 2018, revised through October 28, 2019. The subject premises are located on Assessor's plat #123, Lot #8 in the Single Residence-D zoning district.

Mr. Ayrassian stated that he had spoken with attorney Casey this afternoon and that the applicant is in the process of filing all of the materials for the revised Pike Estates design, including the new roadway, "Azalea Way". He stated that staff are just waiting for the filing fee to be submitted before we move forward with processing the application. He stated that staff anticipating scheduling to hear the filing for November 2nd. He recommended that the Board continue the "Pike Estates" application and table the "Rambler Road Extension" matter.

There being no one else to speak, the Board continued the "Pike Estates" definitive subdivision application and tabled the "Rambler Road" street extension.

The application of Attleboro Park Street Realty Trust for a Major Project Site Plan Review pursuant to the provisions of §17-15.0 SITE PLAN REVIEW of the ZONING ORDINANCE, to accommodate the construction of a two-story 11,751 square foot facility to house families, attached two-stall garage, a parking lot consisting of 8 off-street parking stalls, and associated grading, septic, and stormwater management systems; the subject premises being located on Park Street, more specifically Assessor's plat #198, lot #2, located in the Single Residence-D zoning district.

Speaking in favor was attorney Jack Jacobi who stated that this vacant, two acre lot is across the street from the Life Care Center that abuts Lasalette. He stated that they are proposing to construct a two story building that would house a number of families in need. He stated that most of the residents are escaping domestic relationship issues. He stated that this is slated to replace a similarly functioning facility elsewhere in the City. He stated that they have also applied to the Conservation Commission for both a stormwater management permit and a notice of intent.

Jim Lewis noted that this plan requires a fair amount of grading to occur and questioned whether the site is heavily treed and how much of that will need to be removed for construction.

Speaking in favor was Bill Buckley of Bay Colony Group who stated that the lot has not been subdivided yet, but will be soon via the Form A process. He noted that the elevation at Park Street is approximately 162 feet and that the site drops to an elevation of 136 feet at the wetlands located at the rear of the site, for a 26-foot elevation change. He stated that they are proposing to work in the buffer zone of wetlands. He stated that the structure is proposed to be about 11,700 square feet and will include two stories, as well as a basement. He stated that the design and positioning on the site is meant to work within the existing topography and to maintain distance from the wetlands. He stated that the building is proposed to have a walk-out basement to minimize grading within the buffer zone. He stated that the site will be served by City water and that they are proposing to add a hydrant to the site to meet code. He described the on-site septic system and noted that they have filed it with the Board of Health concurrently with their other filings, so any modifications can be reflected in the plans before all of the reviewing authorities. He stated that they will tap into the natural gas line in the street. He explained that there will be a one-way entrance driveway to the south that has been widened to 20-feet per the Fire Department's request. He stated that three parallel parking spaces are provided along the entryway and that a two car garage is proposed. He stated that from there, the driveway widens to 24-feet and provides five additional parking spaces, for a total of ten spaces. He stated that the Building Commissioner deemed nine to be acceptable.

Mr. Jacobi noted that the project does not need to go before the Zoning Board as it is being constructed under the Dover Amendment.

Speaking in favor of the application was architect Doug Annino who stated that their goal was to design a building that fades away into the surrounding environment, doesn't call attention to itself, and blends with the residential uses on the street. He stated that the building is designed with an 'L' shape to break down the mass. He stated that there is a covered entrance located where the two building wings meet that runs about 2/3 the way across the front elevation. He stated that they have tried to break up the design with clapboard, vertical siding, a flat panel reveal system, hardy plank, and an asphalt shingled roof. He stated that the building is 32-feet high at the ridge line. He described an employee entrance located by the garage

and noted that doors will be locked at all times, so visitors will need to be buzzed into the facility. He stated that the building contains fourteen rooms, private baths, and a community space for residents. He stated that one to two employees are anticipated to be on site at a time and that they provide a small employees' area. He stated that the back of the structure has a screened in porch, as well as living and dining areas that look out on to the wetlands and woods. He stated that there is a small child care room where kids can play with toys. He stated that the partial basement is meant for storage and mechanical access, including the sprinkler and electrical rooms. He stated that they are proposing outside-mounted condensers for the air conditioning. He stated their aim to provide a quiet and peaceful space.

Chairman Danesi stated his approval of the aesthetics.

Mr. Jacobi stated the intent for it to function more like a large house than an institutional facility.

Bert Buckley agreed that he felt it was unassuming and blended well.

Shannon Benay asked whether there is an outdoor play yard for children.

Mr. Annino replied that a small yard is proposed in the back, but that the site grading prohibits a large active play area. He stated that security is also a primary concern, so outdoor activities are likely to be limited.

Jack Jacobi asked that the hearing be continued.

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

The Board heard the application of Tian Ann Jih Der Sheng Daw Yuan Temple for a Major Project Site Plan Review pursuant to the provisions of §17-15.0 SITE PLAN REVIEW of the ZONING ORDINANCE, to accommodate the construction of a temple facility consisting of three buildings, paved access drive with sidewalks, a parking lot consisting of 34 off-street parking stalls, landscaped walking paths, and associated grading and stormwater management systems; the subject premises being located at 61 Thurber Avenue, more specifically Assessor's plat #34, lots #5 & 7, located in the Single Residence-B zoning district.

Mr. Ayrassian reminded the Board that the applicant had requested that the public hearing be continued to November 2, 2020.

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

The Board held a business meeting.

The Board discussed the Form A plan submitted by Atlantic-Attleboro Route1, LLC 463 Washington Street, 643 Washington Street, and 0 Summit Street.

Speaking in favor of the application was attorney Jack Jacobi who stated that several months prior the Board had previously approved a slightly different version of this plan. He stated that this plan eliminates the sliver of land leading in from Summit Street. He stated that previously, it was thought that the water line in Summit Street would be utilized, but that they will be coming in from Washington Street instead.

Ms. Davies recommended approval of the plan.

Bert Buckley made a motion to approve the Form A plan for 463 Washington Street, 643 Washington Street, and 0 Summit Street. Sheryl Guglielmo seconded the motion and all voted in favor via roll call.

The Board discussed the letter received via email from attorney Jack Jacobi of Coogan Smith, LLP, received September 21, 2020, to the Planning Board, providing an update on the clean-up of the “Shops on Washington ” plaza.

Attorney Jacobi recognized the Board’s well-founded concern. He stated that he has talked extensively with the Vice President of Carpionato Group, David Chamberlain, and that they have arranged for one contractor to clean the site, and secure the Denny’s building, while a second will be hired to spread out the soil. He stated that since Carpionato Group is now operated as a trust, they had to receive authorization from the Board of Trustees before they could proceed. He stated that approval was granted this past Friday to spread the topsoil and hydroseed it, so they intent to complete that work before the growing season concludes. He estimated that the site should be exceedingly presentable within three weeks. He noted that develop is likely to continue to stall until the economy recovers. He stated that silt socks are being maintained along Angeline Street and Newport Avenue to prevent soil from escaping the site and that they will seek the Conservation Agent’s approval before moving those.

Mr. Ayrassian asked what needs to be secured at the Denny’s building.

Mr. Jacobi stated that the tenant did not complete construction of the roof. He stated that they have plans to secure the roof area to exclude the elements and animals. He stated that Denny’s continues to pay their rent, but haven’t responded to contact attempts over the past year or so.

The Board tabled the email from Director of Planning and Development Gary Ayrassian, dated August 18, 2020, to attorney Jack Jacobi of Coogan Smith, LLP, following-up on the Board’s request regarding clean-up of the “Shops on Washington” plaza.

The Board reviewed the letter received via email from Steven J. Gietz of Lindsey Farms, LLC, received September 21, 2020, to Planning Board Chairman Paul Danesi, requesting a three (3) month extension of time to complete infrastructure construction at the “STONE HAVEN” subdivision.

Ms. Davies explained that there is one final home to be constructed and that the developer involved was delayed due to the COVID crisis and being unaware of the need to file for a WRPD permit. He stated that the owners have obtained their approvals and will be moving forward with construction. She stated that the final coat of asphalt is slated to be installed following that final house construction.

Mike Davis disclosed that the house in question happens to be his daughter’s, but that he doesn’t feel there is any conflict of interest and he is comfortable voting on the matter but would abstain if any member had an issue, to which no one spoke.

Bert Buckley made a motion to grant a three (3) month extension of time for infrastructure construction at the “STONE HAVEN” subdivision. Sheryl Guglielmo seconded the motion and all voted in favor via roll call.

The Board heard the appointment to speak of member Sean McNamara regarding miscellaneous procedures.

Sean McNamara asked the Board what else can be done to spur developers to complete subdivisions in a timely manner.

Mr. Ayrassian replied that staff could hound the developers every six months for updates. He stated that this would provide the Board with a better idea of whether a developer is likely to make their two year construction deadline.

Sean McNamara stated that his concern was not with subdivisions within their initial construction period, but rather those that have been dragging out construction for many years and are taking their time wrapping things up.

Mr. Ayrassian reminded the Board that he had previously recommended that the Board seize the bond for the first phase of Stone Field Estates. He stated that the developer had brought his lawyer with him and

convinced the Board to grant him an extension of time. He stated that at the end of the day, the developers need the Board's approval to extend construction or the Board can vote to have the City pull the bond.

Ms. Davies suggested that in the case of Stone Field Estates, it would be a simple one on which to pull the bond, since the only remaining work is cleaning out the stormwater basin and installing the fire alarm box. She stated that although performing on the bond requires a lot of paperwork, sometimes the threat alone is not enough to provoke action from the developer.

Sean McNamara stated that he raised the issue more generally in terms of all subdivision development.

Mr. Ayrassian stated that the Board can certainly discuss how from a policy standpoint, they can encourage forward motion on subdivision development.

Chairman Danesi noted that we have at least eight subdivisions going back ten or more years that are still unresolved. He stated that the legal correspondence under the miscellaneous heading on the agenda documents staff's attempt to address those projects.

Mr. Ayrassian agreed that the outstanding subdivisions are not lingering without the Board's knowledge, as they have to grant an extension of time for construction to be ongoing. He explained that in many instances, the outstanding matters do not impact daily life for the residents, so they don't complain and those subdivisions don't get prioritized for action. He stated that in some of the older cases, the developers have disbanded entirely and then it gets infinitely more complicated to perform on the bond. He stated that with all of the issues staff keep tabs on, those often get pushed to the back burner in lieu of concerns raised by residents. He encouraged the Board to keep developers on a shorter leash - checking in with them at the 18 month point into construction to see where things stand. He recommended that if the Board is unsatisfied with a developer's progress that they perform on the bond rather than grant an extension.

Chairman Danesi pointed out that the new bond release procedures will result in the City holding back larger amounts of security for the new subdivisions leading up to a final release, which gives the City more to work with if they need to perform.

Jason Gittle stated that he has been present for a number of votes to grant extensions of time and that he understands the logic behind those votes, but he feels it's worth revisiting the criteria the Board wants to set for when they are comfortable granting more than one extension. He sought to confirm that the Board cannot hold a developer responsible for failure to perform in the past for future developments.

Mr. Ayrassian agreed that isn't possible as each project stands on its own merits.

Jason Gittle questioned the soundness of approving things for a developer who doesn't follow-through with the work.

Mr. Ayrassian countered that he didn't think such an argument would be persuasive before a judge. He stated that at the end of the day, the Planning Board is the gatekeeper that allows developers leniency with repeated delays by granting extensions. He stated that he would never recommend that the Board mete out punitive action on future subdivisions for past failures.

Chairman Danesi also cautioned the Board that developers often have more resources to pursue litigation and that if things go to court, it could be tied up there for years and the work will never be completed.

Mr. Ayrassian stated that in the few rare cases where the City has seized funds, they have successfully been able to complete the work. He stated that he'd prefer things not have to come to that and suggested that developers be kept on a short leash and forced to appear to provide updates to the Board. He stated that if the trajectory doesn't seem feasible for the subdivision to be completed in a timely manner, the Board can request a modified plan to move things forward.

Chairman Danesi suggested that updated bond calculations could be used as a tool to provide motivation for infrastructure completion.

Sean McNamara questioned the protocol of waiver funds being diverted to the sidewalk fund and whether alternative funds could be developed.

Chairman Danesi stated that a waiver should stand on its own merits. He stated that the instance with Stone Field Estates with the fire alarm box was an isolated situation as the request was made after the subdivision had already been approved. He stated that normally when a waiver is discussed, it happens during the review process. He stated that it would be unethical to support specific neighborhoods by "selling waivers" and that the Board invested a lot of time and energy into developing the sidewalk account as a City-wide fund, so that the process is fair and benefits the City as a whole.

Ms. Davies noted that this is definitely a situation where the Board could propose pulling the bond, as the work hasn't been completed and the subdivision could just be constructed as approved.

Sean McNamara stated that he's already discussed things with the neighbors and that they are all in favor of eliminating the fire alarm box, but that the developer just needs to talk to them.

The Board tabled the email from Robert W. Catenacci of Stone Field Realty, received June 10, 2020, to Planning Board Clerk Lauren Stamatis, requesting to donate to the City \$8,500.00 in lieu of installing the fire alarm box in the "STONE FIELD ESTATES" subdivision.

The Board reviewed all other correspondence.

The Board approved the pending minutes of September 14, 2020.

The meeting adjourned at 8:21 p.m.