



# City Of Attleboro, Massachusetts

## PLANNING BOARD

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## MINUTES

JANUARY 11, 2021

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, January 11, 2021 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 Bénay, Mike Davis, Jim Lewis, Sean McNamara, and Fred Uriot

Planning Board Members Absent: None

The Board heard the application of W.B. Construction & Development, Inc. for the proposed eighteen (18) lot definitive subdivision plan entitled "BRIGHAM HILL ESTATES, PHASE IV," located on a portion of Brigham Hill Road and Lewis Lane, more specifically Assessor's plat #218, lot #6, and Assessor's plat #219, lot #3, located in the Single Residence-D zoning district, engineered by James R. Borrebach, R.P.E. of OHI Engineering, Inc., 44 Wood Avenue, Mansfield, MA 02048.

Jim Lewis recused himself from the matter.

The Board reviewed the email from Bill Blais of OHI Engineering, received January 11, 2021, to Senior Land Use Planner Stephanie Davies, requesting a continuance to January 25, 2021, relative to the proposed "Brigham Hill Estates, Phase IV" subdivision.

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

The Board heard 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.

The Board reviewed the letter via email from Bob Catenacci of One Thirty One Pleasant St, LLC, received January 5, 2021, to the Planning Board, requesting an extension of time to March 5, 2021, relative to the proposed "STONE FIELD ESTATES III" subdivision.

Jason Gittle made a motion to grant an extension of time to March 5, 2021. Sheryl Guglielmo seconded the motion and all voted in favor via roll call.

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

The Board heard the application of Pike Avenue Acquisitions, LLC, Robert Heroux, and Erin Pilling for the proposed forty-nine (49) lot definitive subdivision plan entitled "PIKE ESTATES," located at 419 & 439 Pike Avenue, more specifically Assessor's plat #130, lot #81, and plat #123, lot #23, 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.**

Speaking in favor of the application was Dan Campbell of Level Design Group who explained that a productive meeting was held last week relative to traffic. He stated attorney Casey's desire to attend any upcoming subcommittee meetings to discuss the subdivision entrance.

Mr. Ayrassian noted that committee meetings are meant for the Board's internal discussions relative to a project and are not an extension of the public hearing. He stated that applicants are welcome to attend and listen, but testimony is not taken.

Jim Lewis noted that subdivision committee meetings are a routine process during subdivision development and that he felt a meeting with everyone participating, with a focus on the access to the subdivision would be beneficial. He stated that his take away from the meeting last week is that the Azalea Drive entrance to the subdivision presents as highly problematic and that the Board and applicant need to focus on resolving the issues raised.

Chairman Danesi noted that the meeting ended with some unresolved questions and that further analysis needed to be presented relative to similar intersections in the City.

Mr. Ayrassian agreed, but emphasized that the comparisons need to be fair, as some of the examples brought up at the meeting, like Rocklawn Avenue, haven't seen the development pressure that Pike Avenue has. He asked if the Board could think of any other potential examples.

Jim Lewis suggested Station Road near the Bearcroft swim club, as it is a blind exit, no matter which way you are going. He stated that he's never personally seen an accident there, but it is similarly problematic. He stated that after the meeting, he had to agree with the Chief's sight line concerns as a matter of common sense. He stated that half the year, when the trees are in leaf, that section of Pike Avenue is a blind curve. He stated that he doesn't need a traffic study to verify that there will be problems.

Mr. Ayrassian agreed and reiterated his primary concern with left hand turns into Azalea Avenue that he initially raised at least two months prior.

Mike Davis agreed. He stated his preference to get a list of similar curves that the Board could then visit. He stated his hope that the matter would go into committee to come up with another creative solution to handle the entrance. He stated that he agreed that common sense, along with the data from the police and GPI, predict that there will be traffic issues.

Mr. Ayrassian noted that the Board was awaiting a submission from Chief Heagney on why he won't support a stop sign at the Pike Avenue curve. He stated that he had also requested the applicant's traffic engineer, Mr. Shevalin, to submit responses to the GPI report and the police data.

Chairman Danesi questioned the sight lines issues at the proposed entrance.

Jim Lewis suggested that it needs to be proved by survey.

Mr. Campbell replied that he has done that and just needs to add it to the plans.

Jim Lewis asked whether an official layout for the roadway was ever found or if he is utilizing the travel way.

Mr. Campbell replied that he is utilizing the surrounding abutter's property lines to define the layout.

Jim Lewis disagreed with that methodology.

Mr. Campbell stated that the roadway is described using the existing stone walls on the applicant's property and terms like "approximately X-feet wide". He explained that as you round the curve in Pike

Avenue, it is officially described as a formerly existing, separate roadway, as the original Pike Avenue did not contain the curve. He stated that the former roadway is described by way of the neighbor's properties and specification as to the width.

Jim Lewis stated that he would like to hear a legal opinion on the layout description. He stated that if the City will be claiming a sight line easement or proposing to have the neighbor remove the abutting trees, an official plan and legal opinion need to be submitted.

Mr. Casey agreed.

Mr. Campbell replied that he was happy to assemble a plan for Ed to reference in an opinion. He asserted that there are no trees located in the layout and that the existing stones on a neighbor's property are low enough that they can be seen over. He stated that as long as that property owner doesn't add any additional vegetation, there are no sight line impediments.

Jim Lewis disagreed and stated that there appears to be confusion as to the location being discussed, as he feels sight lines will be inhibited when the trees have leaves.

Mr. Campbell countered that the direction Mr. Lewis references is not where motorists will be looking, as they have a clear view up the roadway.

Fred Uriot agreed with Jim Lewis and that you are unable to see approaching vehicles on the corner when the trees have leaves. He referenced the four mature trees in the abutting neighbor's yard adjacent Pike Avenue.

Sean McNamara stated that he didn't recall there being any trees obscuring the views.

Jim Lewis stated that obstructions are in the neighbor's side yard, versus the front yard.

Mr. Campbell insisted that a clear view only needs to be provided at the height of 4-feet, 3-inches, which is the approximate height when seated in a vehicle.

Mr. Ayrassian countered that there is a big difference between there not being trees at all and them not obscuring sight lines. He asserted that the trees are there.

Ms. Davies pointed out that the grade changes in the area also play into the sight distance.

Mr. Campbell agreed that the grade is increasing in one direction and decreasing in the other. He stated, however, that sight lines are calculated using the typical speed on the roadway to determine stopping sight distances.

Chairman Danesi agreed that some reconciliation between the speeds provided by the Police Department and the report from GPI needs to be found.

Jim Lewis noted that the police speedometer was located on the northbound side of the Pike Avenue curve, so was likely picking the speed of motorists after passing the curve.

Mr. Ayrassian suggested that a subdivision committee meeting be scheduled once the Board receives the Chief's additional submission, Pare's follow-up report, and the sight line easement plan and legal opinion relative to the Pike Avenue layout.

Mike Davis requested that his objections also be included and that data from other similar intersections that are functional within the City be considered.

Sheryl Guglielmo asked the reason that the applicant was forced to redesign the access away from Rambler Road.

Chairman Danesi replied that the Board didn't force the applicant to change the design, but rather they opted to do so themselves as a result of the unaccepted nature of a portion of Rambler Road, along with the abutter opposition.

Ms. Davies agreed that the applicant chose to redesign the plan with the logistical issues they were facing with the proposal for Rambler Road. She emphasized that the change was not at the Planning Board's specific direction.

Sheryl Guglielmo asked whether the Police Chief had an issue with the Rambler Road access.

Ms. Davies replied no, that he had supported it.

Mr. Casey noted that comparisons with other intersections may or may not impact the Board's deliberations and that ultimately, they must find that the Azalea Way entrance provides a safe means of access. He stated that he doesn't want to be in the position of attempting to force the Board to accept a layout that they are uncomfortable with. He stated that he would like the Board to consider creative solutions to the concerns raised, including things like limiting the roadway to right turns in and right turns out, including a boulevard, or other ideas.

Mike Davis argued that he wanted the data on similar intersections for comparison purposes. He stated that it's true that the differences with the intersections may make the data less applicable to this site, but he would like the information to consider nonetheless.

Mr. Casey asserted that Picerne is a respected real estate developer and wouldn't claim another intersection as equitable to justify the development. He stated that it might just be a matter of luck that the intersection for comparison doesn't have a history of accidents.

Jim Lewis requested a comparison be prepared for what Paisley Way looked like before the Azalea Way access was added. He stated that he was open to considering a boulevard at the entrance, and would like to see what it would look like.

Mr. Ayrassian offered to develop a superimposition to send out to the Board.

Speaking in favor of the application was Nick Reuter of Picerne who asked Jim Lewis to clarify what other issues he felt warranted discussion at an upcoming Committee meeting.

Chairman Danesi noted that the Board has yet to approve any of the requested waivers for the development.

Jim Lewis stated that he is also interested in hearing in more detail how the stormwater system works, including features like the "daylily detention basin" referenced in the plans. He stated that he also wants to review the proposed easements for the subdivision, but feels the concerns relative to the access need to be handled first and foremost.

Mr. Casey noted that the issues raised by Jim Lewis are typically worked through with the stormwater peer reviewer and staff, so are unlikely to be an existential threat to the proposal as a whole.

Jim Lewis agreed.

Mr. Ayrassian noted that there is a lot of information to be obtained before a Committee meeting is scheduled and that he doubted it will all be in before the Board's next meeting on January 25<sup>th</sup>.

Jim Lewis suggested that all of the materials be submitted by the 25<sup>th</sup> and a Committee meeting be scheduled for shortly thereafter.

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

The Board heard 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 of the application was attorney Jack Jacobi who stated that they have reached a settlement with the dissenting abutter and that attorney Clark is in the process of preparing the document. He explained that Mr. King's driveway and landscaping encroach on the land being purchased by his client, so they have offered to convey that to him and have agreed to move the proposed screened area to what was previously a deck.

Jim Lewis noted that this would require changes to the site plan.

Mr. Jacobi agreed and stated that a Form A will be filed when his client formally purchases the lot.

Mr. Ayrassian asked whether a revised plan would be submitted to the Planning Board before they hold a vote or if an amendment will later be submitted once the Form A and land transfer is finalized.

Mr. Jacobi requested that the Board act on the matter tonight and give them a week to submit the revised plan showing the land to be transferred to Mr. King and denoting the change relative to the screen porch and deck.

Mr. Ayrassian recommended that the Board close the matter, but wait for the plan to be submitted before voting on January 25<sup>th</sup>. He noted that a brief extension of time will be required to draft and file the decision, as the deadline will be January 25<sup>th</sup> upon closing.

Mr. Jacobi requested that the extension form be sent to him.

Mike Davis made a motion to close the public hearing. Jason Gittle seconded the motion and all voted in favor via roll call.

### **The Board held a business meeting.**

**The Board discussed the petition of Atlantic Golf Centers, LTD to rezone 754 Newport Avenue from "Planning Highway Business" and "Single Residence-D" to "General Business" and "General Residence A".**

Jim Lewis stated he felt the Board needs to discuss the matter further. He asked whether the Council needs the Board's recommendation within a certain timeframe.

Mr. Ayrassian replied that the Municipal Council cannot vote on the rezoning within the first 21 days without a recommendation from the Planning Board. He stated that after the 22<sup>nd</sup> day, they can vote without a recommendation.

Jim Lewis stated that a rezoning is meant to benefit the City overall and not just the property owner. He stated he felt this question was satisfied by the proposed 10-fold increase in tax revenue that the project would provide. He stated that the Board is also supposed to determine whether the proposed zoning change fits in with the general zoning plan for the City. He stated that the applicant is seeking to change a portion of Planned Highway Business, which was developed for shopping centers or hotels. He stated that the plan also proposed to rezone a strip of land on Newport Avenue from Single Residence to General Residence. He stated he wasn't sure whether it was a good use of the land's zoning, as it is surrounded by all Single Residence zoning. He stated that due to the size of the parcel, he doesn't feel it constitutes

spot zoning. He stated that he would like to consider more abutter concerns relative to things like traffic. He stated that overall, he was inclined to make a favorable recommendation.

Mike Davis asked whether it would be possible to align the proposal with the City's Comprehensive Plan. He stated that he would like to better understand how this plan is in accord or discordance with the original plan for the area and the general tenants of the strategic zoning goals for the City.

Mr. Ayrassian noted that there are three tests to evaluate the merits of rezoning which he presents to the Councilors in a report, which he can also share with the Planning Board. He stated that the first is whether the rezoning is aligned with the Comprehensive Plan, which he can provide evidence for on the 25<sup>th</sup>. He stated that the second is whether the proposal constitutes spot zoning, or isolating a single small lot with preferential treatment or a diametrically opposed use, which he found not to be the case due to the size of the parcel and that the changes are from one commercial use to another along with one residential use to another. He stated that the third is whether or not the outcome of the rezoning is in keeping with the general character of the neighborhood. He stated that the Table of Use Regulations needs to be reviewed to compare the uses allowed currently versus in the proposed zoning to determine if they are appropriate for that location. He emphasized that this isn't contract zoning, so if the applicant fails to attain their financing or the project falls apart, they could opt to do something else that the new zoning allows. He stated that the Board needs to be sure they are comfortable with all of the possible alternative uses. He stated that he felt the debate in this case would hinge on criteria #3. He stated that an additional variable is whether the project can be supported by the City without a traffic light through MA DOT, which he felt is critical.

Chairman Danesi noted that they could potentially turn it into a commercial parking lot and shuttle people down to the train station.

Mr. Ayrassian agreed and suggested that it is possible there will be interim uses while the project progresses.

Mike Davis questioned whether it would be possible to overlay the existing map, zoning, and land uses versus what is proposed.

Mr. Ayrassian stated he could do a map for the land uses, but wasn't sure he could pull it together in two weeks.

The Board tabled the matter.

**The Board discussed the Form A application of Attleboro Realty Development, LLC for 323 Tiffany Street.**

Ms. Davies stated that the proposal is to create six lots in the Single Residence-B zoning district. She stated that all of the proposed lots have frontage (Lots 1-3 on Tiffany Street and Lots 3B, 3C, 3D on County Street). She stated that the plan meets the letter of the law with some creative lot lines to satisfy the lot width requirements. She noted that the plan proposes to raze all of the existing structures.

Mike Davis recalled approving an alternate Form A for this same lot back in November.

Mr. Ayrassian stated that it was possible, as lots can be divided and re-divided an infinite number of times.

Speaking in favor of the plan was Dan Grinnell of Attleboro Realty Development who stated that the recent alternate Form A was to create 3 lots, with the plan of further subdividing the third lot in the future. He explained that the further subdivision was dependent upon data collected by a wetland specialist in reference to an intermittent stream located across the street.

Mr. Ayrassian questioned why Lot 3D wraps around Lots 1 and 2.

Mr. Grinnell explained that the land in question was left open for further discussions with the abutters due to a number of encroachments. He stated that Lots 1 and 2 will be constructed first, and the remainder will be upon for further discussion.

Mike Davis made a motion to approve the Form A for 323 Tiffany Street. Sean McNamara seconded the motion and all voted in favor.

**The Board tabled 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.**

**The Board discussed the letter from Public Works Superintendent Michael Tyler, dated January 7, 2021, to the Planning Board, recommending a partial release of funds in the amount of \$230,511.64, relative to the work completed at the “STONE FIELD ESTATES II” subdivision.**

Sean McNamara expressed concern that a part of the release was relative to the stormwater management system.

Ms. Davies explained that it is relative to piping within the roadways, not the detention basins.

Sean McNamara maintained his concern that Public Works would be recommending release when they haven’t been able to inspect the entire system.

Ms. Davies countered that associated catch basins, piping, and manholes within the roadway are all hard assets that can be inspected. She emphasized that 100% of the security funds relative to the detention basins are being maintained.

Sean McNamara retracted his objection.

Mike Davis made a motion to grant a partial release of funds in the amount of \$230,511.64. Shannon Benay seconded the motion and all voted in favor via roll call.

**The Board reviewed the letter from Public Works Superintendent Michael Tyler, recommending a PARTIAL release of funds in the amount of \$87,919.92, relative to the “COLMAN ESTATES” subdivision.**

Shannon Benay made a motion to grant a partial release of funds in the amount of \$87,919.92. Sean McNamara seconded the motion and all voted in favor via roll call.

**The Board reviewed the letter from Public Works Superintendent Michael Tyler, dated January 12, 2021, to the Planning Board, recommending a FINAL release of funds in the amount of \$2,012.04, relative to the work completed at the “SIMPSON AVENUE EXTENSION” Street Extension.**

Mike Davis made a motion to grant a final release of funds in the amount of \$2,012.04. Sean McNamara seconded the motion and all voted in favor via roll call, save Jim Lewis, who abstained.

**The Board discussed the new business proposed by member Mike Davis.**

Chairman Danesi stated his willingness to entertain proposals, but that the entire Board’s opinion should drive the focus. He noted that the Board and staff have limited time and energy, so need to focus on the current projects before them that have yet to be resolved.

Mike Davis stated that he didn't join the Board for the City to remain static and that he would like to be involved with improving things. He stated that he was happy to approach the Mayor independently about pursuing the projects, but suggested a Committee could be assembled for those who are interested in discussing such proposals.

Jim Lewis noted that limiting development generally based on the impact it will have on the school system has been denied in land court multiple times and is a violation of the Commonwealth's constitution, since everyone is entitled to a public education. He offered to send those decisions out to the rest of the Board for review.

Mr. Ayrassian suggested referring the matters to the Ordinance Committee.

Chairman Danesi stated his preference to assemble a list of projects outside of everyday business that the Board can prioritize and pick away at during discretionary time.

Mike Davis stated that he encourages other ideas and would like to get a concrete list going that can be taken one item at a time.

Chairman Danesi pointed out that some of the items on Mike Davis' list are not possible under state law.

Mike Davis asserted that he was a former Municipal Councilor who participated in changing laws, so he isn't intimidated by that process. He suggested that Representative Jim Hawkins could be consulted for guidance on how to pursue changes to the law.

Chairman Danesi pointed out that there is already a lot of additional conversation that needs to be had relative to issues like Pike Estates on the agenda. He stated his stance is one of practicality and that he feels the Board should focus on completing their regular tasks and then work on discretionary items as time permits.

Sean McNamara agreed that the Board doesn't want to overwhelm their current task load, but that he didn't think it was outside of the Board's scope to discuss some new ideas and consider some changes.

Jim Lewis suggested that a few members could work together behind the scenes to tackle discretionary business. He noted that the Ordinance Committee needs a new chairperson to shepherd things. He suggested some study groups could be assembled that report back to the Board as a whole.

Mr. Ayrassian suggested groups of no more than three Board members to ensure a quorum isn't meeting.

Mike Davis stated his willingness to serve as chairman for a new Committee devoted to discretionary projects.

Mr. Ayrassian advised the Board to get all ideas for changes to the staff by the 21<sup>st</sup> for distribution to the Board for review.

**The Board tabled the following: the letter from Brian Cave of Cave Corp., received December 4, 2020, to the Planning Board, requesting an extension of time to April 30, 2021 to complete the subdivision infrastructure at the "DALE COURT EXTENSION" subdivision, the notice from Planning Board Clerk Lauren Stamatis, dated October 14, 2020, to Mark Rioux of Murette & Sons, Inc., regarding the lapsed construction deadline for the "ROLLING HILLS, PHASE VI" 81-w subdivision, and the email from Planning Board member Mike Davis, received January 8, 2021, to the Planning Board, providing comments following the meeting to discuss the traffic analysis for the proposed "PIKE ESTATES" subdivision.**

The Board also tabled the letter from Planning Board Clerk Lauren Stamatis, dated December 22, 2020, to Public Works Superintendent Michael Tyler, soliciting a recommendation relative to the PARTIAL release of funds request for the "EDWARD SR. ESTATES" subdivision, pending submission of the recommendation.

The Board reviewed all other correspondence.

The Board approved the pending minutes of November 17, 2020, December 7, 2020, and December 21, 2020.

The meeting adjourned at 8:43 p.m.