



City Of Attleboro, Massachusetts

PLANNING BOARD

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MINUTES

FEBRUARY 28, 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, February 28, 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, Tiffany Foster, Jim Lewis, Sean McNamara, Thom Morin, Heather Whitehead, and Fred Uriot

Planning Board Members Absent: None

Chairman Jason Gittle welcomed the newest Board members, Tiffany Foster and Bill Beardwood. He expressed his condolences on the passing of the mother of Director of Planning and Development Gary Ayrassian, Surpik "Sue" Ayrassian. He stated that the Planning Board put forth funds to sponsor the planting of 50 trees in her name.

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.

Sean McNamara recused himself from the hearing and exited the Council Chambers.

Speaking in favor was Bob Catenacci of One Thirty One Pleasant St, LLC who stated that they have submitted response comments and revised plans.

Senior Land Use Planner Stephanie Davies noted that what was submitted was not sufficient and was submitted after the addendum had been posted. She stated that additional copies of the plan need to be submitted before distribution.

Director of Planning and Development Gary Ayrassian pointed out that staff have not even had time to review the plans, so will likely ask Mr. Catenacci to re-present the revisions at the next meeting.

Mr. Catenacci noted that the references to the City Clerk had been updated as requested. He stated that the Nicholas Drive Extension will not be extended into Rehoboth and will service only two house lots in Attleboro and one in Rehoboth.

Jim Lewis asked Mr. Catenacci whether he would be amenable to a restriction in the Board's decision limiting the roadway to the single residential home in Rehoboth.

Mr. Catenacci stated that he would have to confer with the land owner.

Jim Lewis pointed out that even if not in favor, the Board is likely to include such a stipulation in their decision.

Mr. Catenacci asserted that once the cul-de-sac is installed, he is building a single house with an associated barn, but he can't speak to the future plans of the owner.

Mr. Ayrassian pointed out that roadways are designed to carry certain volumes of traffic, but that the Board cannot control what happens on land in a different municipality.

Mr. Catenacci stated that he wasn't against the restriction, just felt it wasn't his place to agree to it.

Jason Gittle advised Mr. Catenacci to discuss the matter with his client.

Mr. Ayrassian asked the future of the remainder of the real estate outside of the house in Rehoboth and the two lots in Attleboro.

Mr. Catenacci stated that there is about 40 acres and the intention is to keep it in association with just the single house in Rehoboth. He noted that 200-feet of frontage is required for a lot to be buildable in Rehoboth.

Mr. Ayrassian noted that the lot is proposed to have frontage and access from Attleboro.

Tiffany Foster questioned the ability of the proposed driveway to cross the adjacent lot.

Mr. Catenacci noted that it will likely require an easement, but they may opt to move the driveway instead.

Mr. Ayrassian questioned the dimensions of the proposed lots in Attleboro.

Mr. Catenacci replied they both have 50-feet of frontage and 100-feet of lot width.

Jim Lewis asserted the need for a conveyance plan that specifies where each lot starts and ends.

Mr. Ayrassian sought to confirm that the house in Rehoboth will be paying real estate taxes to that municipality, but traversing Attleboro roadways to access it.

Mr. Catenacci confirmed.

Mr. Ayrassian asked who will be dispatched should the resident need emergency services. He asked whether the lot will have an Attleboro or a Rehoboth address.

Mr. Catenacci admitted that he didn't think those matters were within his control, but that he would look into it. He stated that revisions were made to Cape Cod berms, right-of-way notations, and granite bounds as requested. He noted that metes and bounds were also added for the drainage easements. He stated that a permanent monument was added to the plan at the corner of Saveena and Nicholas Drives. He stated that a street light has been added to the plan in line with the existing electrical. He stated that cut and fill was shown on the street profile every 100-feet, but noted that the extension is only 182.88-feet long. He stated that Nicholas Drive has separate mailboxes versus a cluster, which he is hoping to continue for this extension so that it matches.

Mr. Ayrassian stated that it is not up to the Board but rather the federal USPS, which has deemed that all new developments have cluster mailboxes.

Mr. Catenacci stated that he felt that didn't make sense, but he will accommodate it. He stated that they didn't include any granite curbing so are hoping to keep it as Cape Cod berm so that it matches the existing roadway. He stated that they are requesting a waiver to not install any sidewalks to also match the existing conditions on the north cul-de-sac of Nicholas Drive. He stated that the sidewalk ends before the

throat of the sidewalk and doesn't go around the cul-de-sac. He stated that if that one was approved, he didn't see how this one could be considered a safety hazard.

Heather Whitehead countered that there was a difference, as she had gone to see the existing cul-de-sac and terminus of Nicholas Drive. She stated that at least some sidewalk would need to be added to reach the throat of the proposed cul-de-sac, since it stops short on account of the existing dead end.

Mr. Catenacci stated that he is amenable to bringing down that small portion of sidewalk to make it equal. He stated that the required trees have been added to the plan.

Mr. Ayrassian questioned what is shown for stormwater management.

Mr. Catenacci replied that a forebay and a pond are shown.

Mr. Ayrassian asked whether it is a detention or a retention pond. He asked whether the system is connected in any way to the prior stormwater system for Nicholas Drive.

Mr. Catenacci answered it is an infiltration basin and a retention basin and completely separate from the existing stormwater system on Nicholas Drive.

Mr. Ayrassian questioned the outflow pipe on the basin.

Mr. Catenacci stated that it leads to an emergency manhole and drain for overflow.

Mr. Ayrassian asserted that the feature is a retention basin then. He asked when a test pit was performed on the soils.

Mr. Catenacci stated he did not have that information with him.

Mr. Ayrassian asked that it be submitted. He stated that he wants to know what time of year the data was collected.

Thom Morin asked if there was a reason that a stormwater function was not being contemplated for the center of the cul-de-sac.

Mr. Catenacci stated that his first design actually had a stormwater basin in that location, but they redesigned it because they were concerned about the proximity to the road and the potential for it to quickly get clogged with road debris and sediment.

Mr. Ayrassian disagreed and stated that whether the stormwater runs to a pond in the center of the island or off to the side, there will be the same amount of sediment. He stated that having the basin off to the side creates more impervious surface, which could actually increase stormwater runoff and sediment. He stated that a concrete design needs to be proposed for the third party engineer to perform their peer review. He stated that revised plans should be submitted with the design preferred by the Board and then those will be sent out for peer review.

Mr. Catenacci agreed, but stated they wouldn't be ready by next week.

Speaking in opposition was Michael Sullivan of 11 Nicholas Drive who stated that his house will directly abut the proposed extension. He stated that homes were sold for thousands of dollars over asking price and it is a beautiful neighborhood where people bring their kids to trick-or-treat at Halloween, due to the nice sidewalks and safe surroundings. He stated that the nature of the neighborhood will change if this extension is approved. He stated that the property in Rehoboth will be an eye sore, much like the property's current state. He stated that he has concerns about drainage issues with the existing subdivision, as his house is next to four retention ponds and they have all been full of water for three weeks when they should have drained within 48 hours. He stated that waterfowl have taken up residency

on the ponds and there is goose poop all over his lawn. He stated that this past September there were concerns about West Nile Virus which is spread by mosquitos that breed in these ponds. He asserted that the City approved Phase I, Phase II, and Phase III, despite complaints from residents that the retention ponds were not functioning properly. He stated that they have obtained 125 signatures of residents opposed to this project and he has been assured the residents would have grounds for a lawsuit against the City and Mr. Catenacci should it be approved. He accused the City of turning a blind eye to Mr. Catenacci's wrong doing. He asserted that it is also a conflict of interest that Attorney Jacobi is representing the Rocha family while also providing free services to the City serving on the Building Commission.

Jason Gittle sought to confirm that Mr. Sullivan is asking the Board to take into account the developer's past performance on this separate project.

Mr. Sullivan answered yes.

Jim Lewis asserted that this is not a case before the Zoning Board where adverse consequences to abutters can be considered. He stated that this hearing is regarding a road being extended and that the Board is governed by state and local regulations. He suggested that residents need to be citing what sections of the Rules and Regulations the subdivision doesn't meet. He stated that the Board does not have the authority to grant residents relief from nuisances like odors, traffic, and the like.

Mr. Ayrassian stated that Mr. Sullivan has not attended any of the past hearings for the prior subdivision phases and suggested that he come in to the office to review the record, the peer reviews, and the thorough evaluation each subdivision must go through before attaining approval. He stated that he takes exception at the assertion that the City overlooked things. He stated that the City of Attleboro doesn't have jurisdiction over mosquito control, and only manages stormwater systems for accepted roadways. He stated that Subdivision Control Law doesn't give Planning Boards the requirement or ability to require mosquito control to be performed. He emphasized that applicants can hire whatever lawyer they want and just because they volunteer on a Board, it isn't necessarily a conflict, as they are allowed to have lives outside of their job.

Heather Whitehead stated that the Board pours over the plans and ask the developers numerous questions. She stated that she understands that what the Sullivan's are facing is a hardship and that his concerns with the proximity of the ponds with his young children, but that she didn't feel the public hearing for the proposed extension was the appropriate venue for those concerns. She stated that the Planning Department staff are the first ones to come out and look when there are resident complaints regarding subdivisions.

Ms. Davies stated that she and Mr. Ayrassian had been out there this afternoon.

Mr. Ayrassian stated that there have been dozens of emails regarding concerns and staff has responded to each and every one. He stated that staff do not filter anything and it is all public record and is included on the Board's agendas. He asserted that staff are meticulous and they care about residents' concerns.

Heather Whitehead noted that the ponds are very full.

Ms. Davies pointed out that presently, there's nowhere for the water to go, as the ground is saturated. She stated that the ground is frozen under two feet of snow. She stated that until things dry out a little, there is inevitably going to be water in the ponds.

Jim Lewis expressed concern that these ponds don't work in the winter time. He stated that the Board is sensitive to the concerns raised, but argued that many of them are relative to the prior phases of the subdivision that were approved many years ago. He directed Mr. Sullivan to call Public Works if there is an issue with the ponds, as it is their responsibility to perform maintenance and repairs on stormwater facilities.

Jason Gittle agreed that if the system is malfunctioning, Public Works needs to be contacted to provide redress.

Speaking in opposition was Sara Rodriguez Beerman of 16 Red Fox Road who stated that they directly abut the property in question. She stated that she wasn't knowledgeable about the bylaws and subdivision control law, but she has two kids and they like to enjoy their backyard. She stated that in the course of the past four years that they have lived there, the amount of water in the area has increased. She explained that her neighbor had even looked at having their yard regraded to try to address the issue. She argued that if it has already been shown that these systems are not working, it's not right to continue to approve new developments with the same designs. She stated that she is on well water so what goes into the ground directly impacts their water quality and her family's health. She stated that she cannot afford the \$30,000 her neighbor was quoted to regrade their property. She stated that she finds the developer's integrity to be poor, at best, and that he is misrepresenting his work to the residents who buy his homes. She stated that in the summer time, the adjacent field has to be cut and that the diesel fumes from the machinery frequently force them inside for hours at a time. She stated that last year, the farmer's machinery broke down in the field and was just abandoned and the field left uncut, leading her to believe he doesn't have the money to get his machinery repaired or to keep his property maintained. She stated that she has grave concerns about thirty cows directly in her backyard, as she anticipates the property owner will fail to maintain the barn as he has the rest of his property. She stated that she understands not all of this is the purview of the Planning Board, but asserted that bad behavior that makes the neighborhood suffer should not be rewarded. She stated her understanding that the City wants development that benefits Attleboro and that allowing the barn to be built is going to reduce the property value for that entire area due to the smell. She implored that the Board consider the bigger impact of this approval and not allow this extension.

Tiffany Foster noted that whether Mr. Rocha's house or barn is located on that property, he is still using the land for farming and Rehoboth is a right to farm community, so he can use it as he sees fit for farming. She speculated that if his home is where his work is, however, there may be less machinery on the roads, as he won't have to travel to maintain the fields. She stated regardless, the Board has no say in how the land is used, whether or not the extension is approved.

Ms. Rodriguez Beerman asked the Board to look at the bigger picture of approval and asserted that the property will become a detriment to the City if approved.

Mr. Ayrassian stated that he understands her logic - if the extension is not permitted, the house and barn won't be built. He stated that the Board needs to be provided with grounds for which to deny the extension, which are dictated by subdivision control law and the City's local rules and regulations governing the subdivision of land. He stated that staff is charged with reviewing the pros and cons of plans, along with deficiencies in the plan and how to overcome them.

Ms. Rodriguez Beerman stated that she agreed with the statements made by Mr. Sullivan, but stated that the issues may not have arisen during the review process, but were a result of construction errors later and that the residents have had to bear the burden of those issues.

Mr. Ayrassian asked Ms. Rodriguez Beerman if she had been involved with any public meetings in Rehoboth relative to the development of this land.

Ms. Rodriguez Beerman answered yes, that she had attended the hearings in January of 2020. She noted that they only allowed Rehoboth residents to speak and that the officials deemed the land undevelopable.

Ms. Davies clarified that Mr. Catenacci was seeking a variance request for frontage, which was denied. She asserted that doesn't mean the land is undevelopable.

Ms. Rodriguez Beerman asserted that Mr. Catenacci knew going into things that he didn't have the necessary frontage, and questioned why he is now before the City of Attleboro.

Ms. Davies explained that it was not the same relief being sought in Rehoboth. She stated that to her knowledge he was seeking to be exempted from the frontage requirement there, whereas here he is creating the necessary frontage to make the lot buildable. She asserted that this specific configuration of the roadway and property has not been reviewed by the town of Rehoboth.

Mr. Ayrassian noted that the City doesn't very often get developments proposed along the corporate line with different zoning. He stated that he doesn't know how the town of Rehoboth will interpret Mr. Catenacci's attempt to create frontage in Attleboro that will allow him to build in Rehoboth. He stated that ultimately, it will be up to the building inspector in Rehoboth whether he is willing to issue a building permit.

Ms. Rodriquez Beerman stated that at the Rehoboth hearing, concerns were raised as to mail delivery to the home.

Jason Gittle stated that the Board will get answers to the questions the residents are posing before contemplating approval.

Mr. Ayrassian asked whether the water problems are attributed to the construction or the abutting open space containing wetlands.

Ms. Rodriquez Beerman replied that she felt the drainage wasn't sufficient for the development and now she and her neighbors' yards are flooding.

Jason Gittle asked whether she's asserting that subsequent building after her house was built has pushed water on to her land.

Ms. Rodriquez Beerman answered yes. She stated that the water has the potential to displace her pool. She stated that the pool was installed before she moved in and proof had to be provided at that time of separation from the groundwater to ensure it wouldn't be displaced. She stated that they have lost the ability to enjoy their yard and could have additional upcoming expenses regarding the pool and grading to try to combat the water.

Speaking in opposition was Curtis Smith of 15 Nicholas Drive who asserted that the stormwater ponds don't function any time of the year and that he has been observing them over the five years he has been in his home. He stated that the ponds are full of water until the end of the summer and he doesn't think they are sufficient for the amount of water they collect. He stated that further development will add more water and exacerbate the issue.

Mr. Ayrassian noted that the stormwater from the proposed street extension is designed to be completely independent of prior phases of development. He stated that there is the same volume of rain coming down, so he expected that issues are likely the result of poor grading, versus an issue with the design of the system itself. He stated that if systems are designed properly, there is relative mathematical certainty to their functioning. He noted that the Department was made aware of an issue where the approved roof drains in Stone Field Estates, Phase II were never installed and that the developer had to go back and regrade the backyards for several residents. He stated that if not constructed properly, systems may need to be looked at again.

Ms. Davies explained that there are currently four stormwater basins, but that they do not all serve the same function. She stated that the very first one is the forebay, which is not required to drain within 72 hours. She stated that she was out there recently and the ponds are full, but recent conditions included five inches of rain and two feet of snow.

Mr. Ayrassian asserted that the general rule of thumb is for basins to empty within 72 hours, but that it is not a perfect science. He stated that there is variability in the soil, the ground water, and the storm severities that impact their functioning and that no engineer would make guarantees. He stated that they are not designed to function optimally if there are repeated storms in a row. He stated that he is happy to

show him all of the engineering plans. He stated that it is Public Works' responsibility to clean out stormwater systems on a routine basis so that they function properly.

Mr. Curtis asked when Public Works was last out to maintain the ponds at Stone Field Estates.

Mr. Ayrassian replied that he didn't think that they have been, as the roadways were just recently accepted.

Ms. Davies asserted that she was aware that the Conservation Agent and the Public Works Superintendent had been recently on site and deemed that there were no issues with the functionality of the system.

Jason Gittle explained that the Board doesn't have the authority to issue fines or violations. He stated that when a developer proposes a subdivision, they have to submit a plan stamped by a professional engineer. He stated that the City then employs a third party engineer to review those plans. He stated that the Board is not permitted to look at the past performance of a developer and must consider each project on their own merit.

Mr. Curtis argued that the Rehoboth lot will be commercial in nature rather than residential and will have an increased number of vehicles coming in and out. He stated that he wouldn't have bought his house if he had known this was the plan.

Mr. Ayrassian stated that the land use cannot be regulated by the Planning Board. He stated that Rehoboth is a right to farm community and he didn't imagine even a special permit or public meeting would be required for what is proposed. He stated that to oppose the proposed land use, residents will have to approach the town of Rehoboth.

Speaking in opposition was James Conlin of 203 Richie Road who stated that his father lives in this neighborhood and agreed with the concerns of the other neighbors. He stated that many of the issues are the poor execution of the contractor in constructing the homes, as well as issues with the stormwater.

Speaking in opposition was Douglas Murphy of 27 Nicholas Drive who stated that installing a cul-de-sac is one of the most dangerous things you can do, as they increase traffic fatality risks. He noted that there is a car that frequently travels down his street at excessive speeds.

Mr. Ayrassian asked whether Mr. Murphy has contacted the Police Department.

Mr. Murphy answered no.

Speaking neither for nor against the application was Ed Casey who stated that he takes exception to Mr. Sullivan's assertion that Mr. Jacobi is currying favor with the City of Attleboro by serving on the municipal building commission. He argued that he does not represent Mr. Catenacci, but merely the Rocha family, which is selling the land. He stated that Mr. Jacobi has never appeared before the Board on Mr. Catenacci's behalf seeking anything. He stated that Mr. Jacobi has an excellent reputation in the community and feels that Mr. Sullivan's disparagement may be due to a lack of understanding.

Jason Gittle emphasized that the Board hears the residents' concerns.

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

Sean McNamara returned to the Council Chambers.

The Board heard the application of Bishop Feehan High School for Major Project Site Plan Review pursuant to the provisions of §17-15.0 SITE PLAN REVIEW of the ZONING ORDINANCE, for the construction of an 8,000 s.f. building addition with associated grading, utilities, and stormwater management

system; the subject premises being located at 70 Holcott Drive, more specifically Assessor's plat #90, lot #243, located in the Single Residence-B zoning district.

Speaking in favor of the application was attorney Edward Casey who stated that his client proposes to construct an 8,360 square foot addition to the south side of the Bishop Feehan High School's auditorium building. He noted that the property encompasses 42 acres of land and has served as a Catholic high school for sixty years. He stated that the proposed two-story addition will be used for innovative learning, like robotics, engineering, and coding. He stated that they also plan to rebuild spaces for the chorus and band. He stated that the addition is proposed in an area of existing lawn and that water, sewer, and drainage relocation will take place in the sidewalks adjacent the parking area. He noted that the Wastewater Department had expressed concern with the sewer line being under the proposed addition, rather than outside the footprint, but pointed out that the line is private, so the risk of damage will be borne by the owner, which they have considered. He stated that sewer manholes have been proposed on either side of the addition for greater access. He stated that to have the pipe relocated would cost an additional \$120,000. He distributed aerial photographs of the site and noted that there had been prior contention from the neighbors over the use of Harvard Street as an access point. He stated that an agreement was negotiated to limit access to a short window in the morning and afternoon to allow students to enter and exit the campus. He stated that the Harvard Street entrance is not used for sporting events and will not be used for construction traffic either. He stated that the current student population is about 1,100. He stated that the addition will not change the number of students or faculty and because of that onsite parking and traffic circulation will remain as they have to date.

Jason Gittle confirmed that no changes to the parking layout or the numbers of staff or students is proposed. He asked whether the addition will be hosting larger events that may require greater parking, like a school play.

Speaking in favor of the application was Kevin Chrobak of Juster Pope Frazier Architects, who stated that they are simply creating a dressing room for the theater and a new choir room, so no new public spaces are proposed.

Mr. Ayrassian asked whether there would even be any temporary reductions in parking.

Mr. Chrobak replied yes, during construction, but not with the final product. He stated their intent to begin work in the summer and build through to the following summer.

Jason Gittle sought to confirm that they plan to intermingle construction traffic and student traffic.

Mr. Chrobak answered no, that they plan to isolate construction traffic. He stated that they will be prohibiting access from Harvard Street and scheduling deliveries around prime student traffic times.

Jim Lewis asked how they will be dealing with the reduction in parking during construction.

Mr. Casey stated that parking is sufficient as it presently exists and that it will return to that usage after the addition is constructed. He stated that they are in the process of developing a plan on whether to employ satellite parking or other options.

Mr. Ayrassian asked how long the school would be without that parking.

Heather Whitehead estimated based on the plan that 23 spaces will be lost during construction.

Mr. Chrobak agreed that spaces will be displaced by supplies and equipment and that they will return to normal capacity in September of 2023.

Heather Whitehead asked how the parking spaces behind the construction zone will even be accessed while work is ongoing. She requested a clearer explanation of the proposed traffic circulation for the site.

Mr. Chrobak stated that the current plan is to maintain access to those spaces and that they propose creating a new loop for drop off and temporarily removing some curbing to provide rear access.

Mr. Casey offered to submit a narrative and plan identifying the construction timeline.

Mr. Chrobak reviewed the elevations for the addition, which mostly consists of glass and brick.

Jason Gittle stated that he found the rendering attractive. He asked about any proposed lighting that has the potential to impact the neighbors.

Mr. Chrobak stated that no exterior lighting is proposed outside of the bollard lights that are required by code.

Thom Morin expressed concerns with how that corner of the campus tends to be dark at night when attending sporting events. He suggested that more lighting be contemplated.

Mr. Chrobak stated that it would be considered.

Jason Gittle questioned whether interior lights have the ability to impact the outside since so much of the building is made of glass.

Ms. Davies suggested that the lights will likely be off at night.

Jason Gittle asked whether it would be lit up for parent's night or other events. He asked whether it would pose any nuisance to the neighbors.

Mr. Chrobak stated that they can develop a photometric plan, but that the addition will rarely need to be lit at night.

Mr. Casey noted that he recognizes the need to show landscaping on the plan and that they will provide it.

Mr. Ayrassian pointed out that the additional square footage is likely to trigger an increased need for parking just based on the Zoning Ordinance.

Mr. Casey stated that a high school requires four spaces per classroom and that there are 68 classrooms. He stated that they will confirm that the parking is sufficient.

Speaking in opposition was Heather Folan of 16 Harvard Street who stated that traffic comes down Harvard Street to access the school and that despite promises to not use that entrance at other times, there has been no enforcement of that standard. She submitted pictures from November 5th showing trucks coming out from the gates when a sewer pipe broke on campus.

Jason Gittle asked who is policing the agreement.

Ms. Folan stated that she was unsure. She explained that the biggest concern neighbors had to start was with school buses. She stated that they have now found repeat student offenders using the entrance off permitted hours. She stated that she understands the need for Bishop Feehan to improve their school and grounds, but stated that she didn't see how they could logistically accommodate the construction traffic when losing student and staff parking. She noted that construction traffic is unlikely to be able to fit under the overpass. She suggested that if they took out the garage by the tennis courts, they could connect to the parking constructed in 2017 with access to the roadway, they could ensure Harvard Street wasn't used. She asked who will enforce the decision if approved.

Mr. Ayrassian replied that if the Planning Board were to grant the approval, they do not have jurisdiction over the construction traffic route. He stated that under site plan review, they are evaluating whether the site plan meets the necessary criteria. He stated that he doesn't know who is meant to enforce the

agreement with Bishop Feehan, but that he can find out. He stated that conceivably, it could be the Police Department.

Heather Folan argued that the Police Department won't provide enforcement, as they've attempted to contact them. She stated that she still has concerns with the current number of parking spaces available without the construction traffic. She stated that a number of students still park on Stobbs Drive and that they have lost parking there with the recent ban on parking on the western side of the roadway.

Mr. Ayrassian noted that street parking is beyond the purview of the Board, and that they must contain their review to the site.

Sean McNamara added that the Board doesn't have the authority to direct Bishop Feehan on how to get their construction equipment in and out. He asked how this was accomplished with construction of the new Attleboro High School.

Mr. Ayrassian stated that the Zoning Board had jurisdiction in that case and they have greater discretion with such matters.

Jason Gittle sought to confirm that Ms. Folan is of the opinion that this construction will exacerbate existing parking issues.

Ms. Folan confirmed and stated that she also had concerns about the lighting.

Speaking in opposition was Lloyd Packer of 120 Holcott Drive who stated that this proposal will add another 23 cars coming in and out of the site. He stated that Stobbs Drive allows student parking and driving in one direction and then parents dropping off in the other.

Jason Gittle sought to confirm that Mr. Packer is concerned about through traffic on Stobbs Drive.

Mr. Packer answered yes, as parents often live park while waiting to pick up their children, making it impossible to get down Stobbs Drive.

Speaking in opposition was Pam Folan of 16 Harvard Street who expressed concern with trucks coming down her street and the current failure to enforce the existing agreement on how the Harvard Street entrance is utilized. She stated that the neighborhood did not agree to the use of the entrance, it was the Municipal Council that made the decision.

Jim Lewis stated that the Planning Board is not in charge of enforcement for decisions rendered by the Municipal Council. He stated that it is up to the neighbors to create political pressure for the Council to resolve existing issues.

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

The Board heard the application of Morin Realty, LLC for Major Project Site Plan Review pursuant to the provisions of §17-15.0 SITE PLAN REVIEW of the ZONING ORDINANCE, for the construction of two single-story additions, 2,980 s.f. and 1,331 s.f., respectively, widening and restructuring of an existing truck loading dock, and reconfiguring an existing parking lot, with associated grading, and redevelopment of the stormwater management system; the subject premises being located at 95 Frank Mossberg Drive, more specifically Assessor's plat #146, lot #6B, located in the Industrial zoning district.

Thom Morin and Jim Lewis recused themselves from the hearing and exited the Council Chambers.

Ms. Davies stated that the applicant has requested an extension of time to March 7, 2022.

Jason Gittle made a motion to grant a continuance to March 7, 2022. Shannon Bénay seconded the motion and all present voted in favor.

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

Thom Morin and Jim Lewis returned to the Council Chambers.

The Board heard the application of JS Fuller TIC LLC & Etal for Major Project Site Plan Review pursuant to the provisions of §17-15.0 SITE PLAN REVIEW of the ZONING ORDINANCE, for the construction of a 20,000 s.f. warehouse with associated grading, electrical connection, and stormwater management system; the subject premises being located at 50 Fuller Avenue, more specifically Assessor's plat #21, lots #272 and 273, and Assessor's plat #24, lots #43A and 44A, located in the Industrial zoning district.

Ms. Davies stated that the project is still awaiting the approval of their stormwater management permit.

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

The Board heard the application of NeighborWorks Housing Solutions for a Major Project Site Plan Review pursuant to the provisions of §17-15.0 SITE PLAN REVIEW of the ZONING ORDINANCE, to construct a 4,680± sf building to accommodate an emergency shelter and supportive housing, 20 off-street parking stalls, and associated landscaping, utilities, grading and stormwater management system; the subject premises being located at 150 Pleasant Street, more specifically Assessor's plat #52, lot #52, located in the General Business zoning district.

Ms. Davies reminded the Board that the hearing had previously be continued to March 7, 2022.

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

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.

Ms. Davies stated that the peer review process is being pursued for the traffic study and design.

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

The Board held a business meeting.

The Board discussed the application of the Bristol Place Investments LP, 800 Boylston Street, Suite 1300, Boston, MA 02199, relative to the proposed five (5) lot preliminary subdivision plan entitled "Bristol Place Subdivision", said premises being located at 1270 Newport Avenue, engineered by Leonard R. Bradley, Jr., R.P.E. of DiPrete Engineering, 990 Washington Street, Suite 101A, Dedham, MA 02026, dated February 3, 2022, said premises being Assessor's plat #27, lot #4, located in the Planned Highway Business zoning district.

Speaking in favor of the application was attorney David Manoogian who stated that the proposal is formerly recognize an existing driveway as a roadway, as they are seeking to legitimize individual lots for the commercial properties under subdivision control law. He stated that due to a lack of frontage, the lots cannot be created via the Form A process.

Speaking in favor was the property owner Brendan McCarthy who explained that creating the lots allows them flexibility when they go to market for leasing or to sell the property.

Speaking in favor was Sheryl Guglielmo of DiPrete Engineering who stated that they are proposing to overlay the right-of-way over the existing driveway for the commercial plaza. She stated that it starts as a boulevard and narrows from there. She stated that five lots are proposed to be created. She stated that they will be requesting variances from the front yard setback of 75-feet for several of the lots due to existing buildings. She stated that all of the existing utilities and stormwater management systems will remain in place with access agreements. She stated that no new infrastructure is proposed, they are simply looking to create lot lines. She stated that they are proposing the installation of 38 shade trees in diamond-shaped planters in the parking lot, which are built as 4' by 4' squares on an angle, to maintain parking spaces. She stated that all of the lots meet the required minimum parking lots per the Zoning Ordinance. She stated that 12 additional trees are proposed on the existing islands. She stated that as they are not proposing new construction, they are requesting a variety of waivers from design standards, which are described in the narrative submitted.

Jim Lewis asked what easements allow traveling from Lot 5 to Lot 4 and then to the public way and whether they are in gross.

Mr. Manoogian stated that he hasn't reviewed the title closely, but he didn't think there were any existing access easements. He suggested the situation will be similar to two subdivisions called Westwood Estates and Cedar Hill in North Attleboro that all shared the same roadway network, but before they were accepted ways, the owners got together and created access easements over each other's property to share the access. He stated that when these lots are conveyed out, they will have in place access easements that will run with the land. He stated that this is the most straight-forward approach from the title-standpoint. He stated that individual condominium units would only be marketable for residential and not for commercial sites.

Mr. Ayrassian agreed that this is the best means for accomplishing their goals. He asked what the next steps will be given the Board approves the definitive plan.

Mr. Manoogian stated that if the Board approves this plan, even without the grant of the waivers, which will occur at the definitive phase, he stated that they would go to the Zoning Board first to seek the necessary variances, and then file their definitive plan either concurrently or once the Zoning Board relief is granted.

Mr. Ayrassian sought to confirm that outside of the setbacks discussed, each lots will meet the minimum zoning criteria including the minimum parking space standards based on land use.

Mr. Manoogian answered yes. He noted that there are some existing special permits for the property, as well.

Ms. Guglielmo noted that they have already done a preliminary parking analysis, so the plan include tables showing the required and proposed parking, as well as density requirements for each lot.

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

The Board discussed the petition of the Municipal Council to amend §17-3.39 PROHIBITED USES of the ZONING ORDINANCE relative to commercial vehicles.

Mr. Ayraasian reviewed the existing language and the proposed changes. He stated his understanding that some of the Board members had some hesitation on the application of this ordinance to residents that rely on parking their personal commercial vehicle at their homes and whether the changes would create a hardship. He affirmed that it might, but that as the Director, he is charged with looking at the matter as from the point of view of the greater good and not individual needs. He stated that he is in support of the changes, but defers to the Board on their thoughts.

Jim Lewis made a motion that the Board recommend the Council reject the amendments, as the changes will create hardships for individuals who have to drive a vehicle as part of their job. He stated that it will be too much of a hardship on people and they won't know about it. Sean McNamara seconded the motion.

Mr. Ayraasian stated that there is the potential to grandfather pre-existing, non-conforming situations. He suggested that he could speak with the Council and consider adding another layer of exemptions that appeases the Board.

Shannon Bénay stated that she didn't see what the impetus for this amendment was.

Heather Whitehead asserted it was a single situation involving a back-up alarm on a tow truck that disturbed its neighbors.

Shannon Bénay stated that she has a problem with this as it will prevent those who drive work vehicles from easily commuting back and forth to work.

Fred Uriot stated that for a mom and pop business, like an electrician with a single van, he stated that he didn't think it was reasonable to force that individual to rent a commercial space away from home.

Tiffany Foster pointed out that RV's will also often have back-up alarms, so if the concern here is regarding size and noise disruptions, there should be consistency whether the vehicle is commercial or not.

Mr. Ayraasian requested that he have another week to discuss the Board's concerns with the Council.

Sean McNamara stated that he didn't foresee anything changing and that he would like to vote on the matter tonight.

Heather Whitehead stated that she understands what the Council is proposing, but she stated that the commercial vehicles in residential areas is already illegal and the matter isn't being enforced. She stated she felt that this was just a superficial change to the language and asked how enforcement will change.

Thom Morin asked what happens if the Board votes the matter down.

Jim Lewis stated that it is just a recommendation.

Mr. Ayraasian asserted that the Board's recommendations carry a lot of weight with the Council.

Bill Beardwood asked what they are defining as a commercial vehicle.

Mr. Ayraasian showed him the definition and noted that the Council is proposing to amend the definition in Chapter 10-5.13, which is outside the purview of the Planning Board. He stated that the extension of that definition in the Zoning Ordinance is what the Board is contemplating.

Jim Lewis stated that without the Board's input, the Council has already voted the definition for commercial vehicles and the Board is only voting to recommend or not the prohibited uses. He stated that essentially the Council has already decided the matter by developing the definitions as proposed.

Heather Whitehead stated that commercial vehicle parking in residential zones has always been prohibited, they simply didn't have a clear definition of what a commercial vehicle was previously.

Ms. Davies stated that she didn't think the Council had voted yet on the definitions.

Jim Lewis suggested that the Board hold off on voting. He withdrew his prior motion.

The Board tabled the matter.

The Board discussed the petition of the Municipal Council to amend §17-9.5(A) REQUIRED SITE PLAN and §17-15.0 SITE PLAN REVIEW of the ZONING ORDINANCE.

Jim Lewis made a motion to recommend to the Municipal Council to adopt the proposed amendments to §17-9.0 SPECIAL PERMITS and §17-15.0 SITE PLAN REVIEW of the ZONING ORDINANCE, as presented on February 15, 2022. Shannon Bény seconded the motion and all voted in favor.

The Board reviewed the Form A plan submitted by the City of Attleboro for Mechanic Street, Berwick Road, and Rathbun Willard Drive.

Mr. Ayrassian stated that the parcel of real estate in question is part of the former Highland Country Club. He stated that the City is proposing to subdivide the property to make a sale more attractive.

Ms. Davies questioned the access to the lot.

Mr. Ayrassian pointed out the easement on the plan.

Jim Lewis made a motion to approve the Form A plan for Mechanic Street, Berwick Road, and Rathbun Willard Drive. Sean McNamara seconded the motion and all voted in favor.

The Board discussed the email and photos from Monique Medeiros of 70 Saveena Drive, received February 18, 2022, to Senior Land Use Planner Stephanie Davies, documenting water issues in the vicinity of construction associated with the "STONE FIELD ESTATES III" subdivision and 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.

Sean McNamara recused himself from the matter and exited the Council Chambers.

Mr. Ayrassian informed the Board that Ms. Davies and Conservation Agent Nick Wyllie had inspected the site and the developer was directed to halt construction. He stated that he contacted the City Solicitor to inquire about filing an injunction, but that she advised him to see if the matter could be addressed directly with the developer first. He stated that if the Board agrees it is appropriate, they will move forward with the injunction, should the developer fail to remediate the issues. He stated that Ms. Davies visited the site earlier that day and found the violations to still be active.

Speaking was developer Bob Catenacci of One Thirty One Pleasant St, LLC who explained that he failed to be in compliance with the erosion control plans, but noted that the roads have already been constructed and paved. He stated that the previously installed silt fencing was removed after that work was completed at the outer perimeter to allow housing construction to commence.

Jason Gittle asked whether what is on site is consistent with the approved subdivision plan.

Mr. Catenacci answered yes.

Ms. Davies disagreed.

Mr. Catenacci asserted that they are following the approved erosion and sediment control (ESC) plan. He pointed out that it is a very flat piece of land, so there will be water and flooding, regardless of the controls in place. He stated that there is no run off or sediment traveling to other lots. He stated that the ponds are designed to hold 100-year storms, unlike many others.

Mr. Ayarrassian disagreed and stated that all basins must contain 100-year storms with 6 to 12-feet of freeboard.

Mr. Catenacci stated that he hasn't been in touch with Nick Wyllie yet to inspect the work, as there have been a lot of issues with inclement weather. He stated that the original plan to only have one stockpile for material was short-sighted, and they needed more space so spread materials to further piles.

Jason Gittle sought to confirm that the stockpiles are outside of the approved location.

Mr. Catenacci answered yes. He stated his sense that the location of the stockpile on the plan was a general guideline, not a strict requirement.

Jason Gittle countered that it was his engineer's proposal to have all the materials in one pile that was later approved by the Board.

Mr. Catenacci agreed that it was a short-sighted design. He noted that some of the materials are leftovers from Phase 2, which they hadn't taken into consideration with the original design.

Ms. Davies expressed concern with the very large mountain of dirt positioned directly next to where the new infiltration basin is slated to go, which could cause issues with compacting the soils. She stated that existing conditions have created potential for erosion directly next to an infiltration basin.

Mr. Catenacci stated that he will work with Mr. Wyllie regarding the silt fencing. He stated that the pile from Phase 2 can be moved further from the pond. He stated that the new basin hasn't even been excavated yet. He stated that he felt the site looks orderly.

Jason Gittle stated that he didn't agree with Mr. Catenacci's assessment. He stated that there is a concern from past customers with so much standing water near their properties that has not been addressed. He asserted that with all of the publicity and scrutiny the stormwater for Mr. Catenacci's subdivisions have faced, he didn't see how that was not considered a concern.

Mr. Catenacci stated that the water is technically where it is supposed to be and is contained. He stated that the alternative is pumping it off property where it will likely cause erosion elsewhere that becomes a violation. He stated that the area is very flat and there is nowhere to put the water.

Ms. Davies asserted that the area where the stockpiling is occurring is where the temporary sediment basin should be located and that he is not utilizing that at all. She asserted that the water should be surrounded by erosion control measures.

Mr. Catenacci stated that it is simply a 2-foot deep pond.

Ms. Davies disagreed regarding the size of the basin and asserted that Mr. Catenacci pumped the water from his paved roads into the land abutting the existing houses along Saveena Drive.

Mr. Catenacci agreed that when the roads were installed, water collected due to snow melt and rain, which prevented them from driving through. He stated that they used a small pump to remove the water and that it was only about a depth of 5 or 6-inches.

Mr. Ayrassian asked Mr. Catenacci how he will resolve the matter.

Mr. Catenacci stated that he won't pump water out of the streets again. He stated that in terms of the temporary basin, he felt the only solution was to let the water infiltrate as the ground thaws.

Heather Whitehead noted that she had driven by and the situation did look improved today and expressed understanding that Mr. Catenacci needs to traverse the roadways.

Ms. Davies countered that Mr. Catenacci cannot pump the unwanted water into other people's yards.

Heather Whitehead questioned the solution and asked whether the residents are facing any issues with flooding in their homes.

Ms. Davies stated her understanding that Ms. Medeiros has a sump pump installed and that it runs constantly. She stated that the pump is just putting water right back into the yard and that the pressure from that water is raising the ground water.

Mr. Catenacci admitted that they should have pumped the water towards the other pond. He suggested a swale could be put in, but that it would be likely to ultimately result in erosion. He stated his opinion that the water is well controlled where it is and should remain. He argued that he felt the water approached resident property lines, but doesn't traverse their property.

Mr. Ayrassian asked the Board if Mr. Wyllie is satisfied with the erosion and sediment controls, if they are comfortable with what Mr. Catenacci is presenting.

Fred Uriot stated that he has been out to see the site several times and that he is comfortable with the water staying put where it is.

Jason Gittle affirmed that he has also visited the site a number of times and that the water appears to ebb and flow. He suggested that everyone wants to see Mr. Catenacci succeed in building good houses, but noted that Phases 1 and 2 of the subdivision were not the most straight-forward or successful processes from a public perspective.

Heather Whitehead noted that it is a confluence of weather factors that have resulted in the situation and that she imagined it can't be avoided.

Jason Gittle asserted that Mr. Catenacci has been privy to all of the complaints lodged against his subdivisions and asked why he feels such concerns are continuing to come up.

Mr. Catenacci asserted that a recused member of the Board has cultivated discontent in the community. He stated that he is sensitive to his customers' fair and legitimate concerns.

Jason Gittle asked whether Mr. Catenacci felt the water encroaching on the backs of the houses on Saveena Drive was a legitimate concern.

Mr. Catenacci stated that he would rather the water not be there, but that there is nowhere else to put it. He stated that once the ground thaws, he can construct and grade those yards.

Mr. Ayraasian asked what could be done now.

Mr. Catenacci stated that he suspected nothing while the ground is still frozen.

Ms. Davies asked what will happen with the anticipated rains in the spring.

Jason Gittle asked whether the design underestimated the amount of water that would need to be contained.

Mr. Catenacci agreed that there was more water than they had planned for. He stated that it's not more than can be handled when the site is completed and graded. He suggested that the issue of water in people's basements is not necessarily associated with the water being held along their property lines. He suggested that there could be higher ground water than what was anticipated.

Jason Gittle countered that it seems like a great many things were "not anticipated" with his subdivisions.

Mr. Ayraasian argued that such a suggestion is unacceptable. He stated that ground water level can be measured in a variety of ways, including mottling and oxidation levels. He suggested that Mr. Catenacci should have known the ground water levels before construction commenced. He suggested frac tanks could be employed to store the water.

Tiffany Foster suggested the sides retaining the water could be made higher so the water won't spread so far.

Mr. Catenacci stated that they discussed such an approach and that he would like to look into the options of finishing the grades in the area and the potential for using frac tanks.

Jason Gittle asserted that if there were less flooding, there wouldn't be continued neighborhood complaints.

Shannon Bénay asserted that Mr. Catenacci should be showing more empathy for what the homeowners have to suffer due to his construction practices.

Ms. Davies asserted that there are many subdivisions being constructed in the City and there are not ongoing issues with every phase like there is for Mr. Catenacci's subdivisions.

Jason Gittle requested that Mr. Catenacci provide them with a report next week on his resolution for the concerns.

Bill Beardwood suggested that progress pictures of what has been completed be submitted to the Board.

Speaking was Monique Medeiros of 70 Saveena Drive who stated that she just wants to ensure that her property is protected from the surrounding water. She asserted that it is practically a lake back there and

that she feels it is unacceptable for her sump pump to be running 24-hours per day. She stated that they have just bought their home and were hoping to enjoy their back yard, but it is currently impossible. She stated that she hopes the Board can work with the developer to find a solution, as she is concerned with her pump burning out due to overuse and the implications of further water in the spring.

Jason Gittle asked when the sump pump was installed.

Ms. Medeiros replied before her purchase of the home.

Jason Gittle sought to confirm that it was in use before the water problem in the rear of the property emerged.

Ms. Medeiros stated that there was 2-feet of standing water in the basement before closing on the home, so the pump was installed to resolve that.

Jason Gittle questioned whether the water table in the area is just really high, so the pump would be running constantly anyway.

Ms. Medeiros stated no, that it wasn't like this before the water was being stored as it is.

The Board tabled the matter.

The Board reviewed the email from Director of Planning and Development Gary Ayrassian, dated February 9, 2022, to Nic Reuter of Pike Avenue Acquisitions, Inc, regarding cease and desist of site work relative to the "PIKE ESTATES" subdivision and the letter from Daniel Campbell, P.E., of Level Design Group, LLC, dated January 21, 2022, and revised February 18, 2022, to the Planning Board, providing a phasing plan relative to the "PIKE ESTATES" subdivision.

Mr. Ayrassian informed the Board that he received a complaint from a nearby resident that clearing was occurring in association with the project and upon visiting the site, machinery was taking down a 30-foot swath of trees. He stated that he instructed the workers to cease clearing, which they did. He stated that as the developer didn't have a signed plan, they didn't have authorization to begin work. He stated that since that time, he has received via email a proposed narrative to accompany the phasing schedule, and later a composite plan. He stated that beginning clearing in advance of those submissions was a violation of the Planning Board decision.

Speaking was Nick Reuter of Pike Avenue Acquisitions who admitted it was their first time working in Attleboro and that it was his understanding that once the phasing plan was submitted, they were cleared to begin work. He stated that the matter was a misunderstanding on his end and that he should have communicated with the City better.

Mr. Ayrassian countered that submission of the phasing plan and awaiting signed subdivision plans are black and white conditions of approval.

Mr. Reuter accepted responsibility for the mistake.

Jason Gittle questioned why such a wide swath was being cleared.

Speaking was attorney Edward Casey of Coogan Smith, LLP who stated that the approved subdivision plan recognizes that the utilities for the subdivision are going through Rambler Road.

Speaking was Dan Campbell of Level Design group who stated that the utility easement is 40-feet wide, which includes sewer, water, electric, and potentially gas. He stated that the clearing will need to be 35+ feet to fit everything.

Jason Gittle sought to confirm that it is typical for the installation of utility easements to be that large.

Mr. Campbell noted that each needs to be 10-feet apart with 5-8-feet of construction on either side, so a minimum of 32-feet.

Jim Lewis stated that the decision was dated July 12, 2021 and recorded on August 12, 2021. He stated that work was commenced without submitting the required phasing plan, which is a clear violation of the decision. He stated that the failure to adhere to a Certificate of Vote issued by the Board is ground for revocation and he found the matter to be troubling.

Mr. Casey disagreed, stating that he had submitted a phasing letter and plan as a draft. He stated that the Planning Board and staff then provided feedback and requested additional engineering specifics. He stated that Mr. Reuter develops land all over Rhode Island and Massachusetts and he wouldn't have engaged in such a violation with conscious intent. He stated that the mistake was the result of a misunderstanding between team members. He affirmed that it's taken two years just to reach this point and Mr. Reuter wouldn't purposefully do something to jeopardize the development.

Jason Gittle stated that he didn't think the Board was necessarily questioning Mr. Reuter's honor, but that an explanation was necessary and the mistake needed to be acknowledged.

Jim Lewis noted that Condition #39 of the decision requires that the limits of infrastructure be properly demarcated with orange construction fencing. He asked whether that action had been undertaken.

Mr. Ayrassian answered no.

Ms. Davies agreed that no erosion and sediment control measures were in place.

Jim Lewis argued that developers should be going out with a survey and marking off the limits of construction work before beginning.

Mr. Campbell stated that the limit of disturbance for construction is nowhere near where the trees are being removed. He stated that he had discussed with Conservation Agent Nick Wyllie installing those measures once the trees were removed.

Mr. Ayrassian disagreed.

Mr. Campbell stated that they will ensure the fencing is up.

Mr. Ayrassian stated that a preconstruction meeting with Public Works should be occurring once all of the Planning Board requirements are met.

Jason Gittle suggested that no improvements be made on the site until the Board approves the provided phasing plan.

The Board tabled the matter.

The Board reviewed all other correspondence.

The Board tabled the pending minutes of December 16, 2021, January 3, 2022, January 24, 2022, and February 7, 2022 .

The meeting adjourned at 11:11 p.m.