



# City Of Attleboro, Massachusetts

## PLANNING BOARD

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## MINUTES

MAY 15, 2023

**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, May 15, 2023 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: Chairwoman Shannon B  nay, Vice Chairwoman Heather Whitehead, Bill Beardwood, Tiffany Foster, Melinda Kwart, and Jim Lewis

Planning Board Members Absent: Fred Uriot

**The Board heard the application of Peter Lavoie of D&L Design Group, Inc. to extend Buffington Street a distance of 10   feet, as shown on the definitive street extension plan entitled "BUFFINGTON STREET EXTENSION, MAP 19, LOT 365-369, 0 BUFFINGTON STREET IN ATTLEBORO, MASSACHUSETTS" to construct a one-family detached dwelling, drawn and engineered by Michael Dean, R.P.E. of D&L Design Group, Inc., 115 Water Street, Milford, MA 01757, dated March 28, 2023. The subject premises are located on Assessor's plat #19, along lots #365-369 in the Single Residence -A zoning district.**

Speaking in favor of the application was Peter Lavoie of D&L Design Group.

Jim Lewis asked whether Mr. Lavoie had contemplated obtaining a variance to avoid going through the effort of the street extension process.

Mr. Lavoie replied that there are conservation implications and that they could minimize disturbance by their proposed improvements to the street. He stated that the site in question is at the corner of Buffington Street and Owen Street. He noted that the site has access to water, sewer, and gas via Owen Street. He pointed out an intermittent stream, which affects the site and prevents the road from being extended further. He noted that there is a high point in the pavement at the described intersection and there's an existing channel through the vacant lot where stormwater flows. He stated that they are proposing to leave an opening to allow the water to run off into a settling pond on site. He stated that the pond would not infiltrate, but simply allow solid debris to settle out. He stated that the water then flows to a drain that gradually releases the water. He stated that they are providing for a small spillway into a swale before the 25-foot no-disturb zone, in the event the system is overloaded.

Mr. Ayrassian sought to confirm that the proposed grass swale would be on the property in question.

Mr. Lavoie answered yes. He suggested that either an easement could be granted to the City or the homeowner could be obligated to maintain the feature.

Mr. Ayrassian asked whether any upgrades are proposed to the existing portion of Buffington Street.

Mr. Lavoie stated that there is roughly 24 to 26-feet of existing pavement width. He stated that there is a lot of vegetation overgrowth adjacent to the Wendy's restaurant. He stated that they are proposing to clear the vegetation, check the status of the existing berm, and install a top coat.

Mr. Ayrassian asked what method would be employed to ensure the topcoat sticks to the existing pavement.

Mr. Lavoie stated that a milling will be performed over the existing pavement to scruff it up before the top coat is laid.

Mr. Ayrassian asked that a letter be submitting describing the proposed upgrades for the existing roadway. He sought to confirm that a saw-cut connection is proposed for the connection between the new and existing roadway.

Mr. Lavoie answered yes.

Jim Lewis asked whether Buffington Street is accepted.

Mr. Lavoie replied yes, and noted that Public Works had installed concrete blocks across the end of the roadway, as people were trying to cut through to Washington Street. He stated that they are requesting a waiver for the requirements regarding sidewalks and grass. He stated that he is willing to put in the required minimum number of street trees. He noted that Public Works is recommending a guardrail at the end of the roadway to prevent people from driving further.

Jim Lewis stated that he would like confirmation that the roadway has been accepted. He stated that he is not too concerned about the condition of the existing roadway, if the Building Inspector is willing to issue a building permit, as the extension is essentially a driveway.

Mr. Ayrassian countered that if the only access to the lot is traveling south on Buffington Street, the Planning Board will need to determine whether there is safe and adequate access to the site.

Jim Lewis pointed out that evaluating that would require a site visit.

Mr. Lavoie contended that the pavement looks poor, but it is navigable.

Mr. Ayrassian questioned the waivers being requested.

Mr. Lavoie answered sidewalks.

Senior Land Use Planner Stephanie Davies pointed out that many technical waivers are required, but only the large-scale relief necessary was included in her report.

Mr. Ayrassian requested that Mr. Lavoie submit a letter formerly requesting all necessary waivers in writing.

Heather Whitehead asked whether there is existing sidewalk on Buffington Street.

Mr. Lavoie answered no. He stated that he does not want to disturb the existing resident's grass and fencing. He stated that for the Conservation Commission, they are proposing to restore 10-feet of the stream along the roadway, with planting and a post and rail fence, as well as wetland plants being proposed in the settling pond.

Ms. Davies noted that the City's third party peer reviewer has expressed concern with the existing state of Buffington Street.

Speaking in opposition was Irene Kozdrowski of 30 Carleton Street who stated that the stream traverses Washington Street and flows past her house and under the street. She stated that she has had problems for forty years with flooding in her basement. She stated that despite multiple requests, she has had no assistance from Public Works or the Mayor's Office. She stated that she is concerned that additional building in the area will create impervious and limit stormwater infiltration, resulting in worse flooding for her property. She stated that she understands that the proposed system should slow down the stormwater, but that she has no faith that the system will be maintained properly, if in the hands of Public Works. She asked what the house is proposed to look like and pointed out that as the location is behind a commercial strip mall, it is not

a prime piece of realty for building a home, and suggested that it will not be of great benefit to the City. She noted that there are also issues with the trash from the strip mall clogging the drainpipes. She emphasized that the City has not helped address the situation in the past and that she has had to suffer up to 1.5-feet of floodwater in her basement on two separate occasions.

Speaking in opposition was Paul Benjamin of 3 Slocum Street who explained that his home is right near Wendy's and a lot of water comes down Buffington Street behind Yankee Spirits, creating practically a river. He stated that there used to be a guardrail at the end of Buffington a number of years ago, that was then replaced with cinderblocks because of a car that was stuck in the ditch and had to be rescued. He stated that there are often complaints regarding trash in the area, including people dumping mattresses.

Mr. Ayrassian asked how this impacts the proposed development.

Mr. Benjamin stated that he is concerned with impacts on traffic and storm water. He asked about the plan for tree removal on the property.

Mr. Ayrassian stated that the applicant has proposed a stormwater management system that will be reviewed by a third party engineer. He stated that they are required to manage any water they generate. He stated that they are just proposing a single-family house, so he did not anticipate significant changes to the traffic in the area.

Mr. Benjamin stated that his concern was with the potential for the cinder blocks at the end of the road to be removed. He stated that many people drive back there from the stores and get stuck. He stated he has observed parking on the roadway all the way up to the cinder blocks during Yankee Spirits events and that he has even had people drive onto his front lawn.

Mr. Ayrassian stated that obstructions in the right-of-way are not within the purview of the Planning Board. He stated that the matter is up to Public Works or the Police Department. He stated that the Board is merely charged with deciding whether the proposed design meets the City's rules and regulations.

Speaking in opposition was Steffan DiGeorge of 4 McKay Street who stated that he owns the property across the street from this one and his primary concern is with stormwater. He stated that when it rains, very little of the stormwater flows to the stream, instead, it flows from Buffington Street to Slocum Street and ends up on Booth Street. He stated that both his neighbor's and his driveways routinely flood. He noted that the stormwater drains in front of his home are 2-inches above grade and on the wrong side of the road, so are ineffectual. He stated his sense that an additional home will exacerbate those issues.

Mr. Ayrassian asked whether Mr. DiGeorge has spoken to Public Works.

Mr. DiGeorge answered that he had called Public Works at least ten times over the years, but has never gotten any sort of resolution. He stated that he has taken upon himself to try to dig up the drain and maintain it. He stated that he wants to ensure the drainage on this site will not contribute to his existing issues.

Jim Lewis suggested Mr. DiGeorge try to seek assistance from Public Works again, as he has found them to be helpful in recent years.

Speaking in opposition was Katharine Curran of 15 Slocum Street who stated that her driveway routinely floods and that she is concerned with this construction disrupting the water table to make that flooding worse. She stated that the flooding is so severe; she is unable to park at the end of her driveway. She expressed concern with the side street beside Wendy's that used to cut through to Buffington being reopened and the impacts on the neighborhood by Wendy's drive through traffic.

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

**The Board heard the application of Kings and Castle Group, Inc. to extend Middle Street a distance of **140± feet**, as shown on the definitive street extension plan entitled "**GRADING, UTILITY & SEDIMENTATION CONTROL PLAN, ROADWAY EXTENSION OF MIDDLE STREET**" to construct a**

**one-family detached dwelling, drawn and engineered by Gregory W. Driscoll, R.P.E. of JDE Civil, 50 Oliver Street, North Easton, MA 02356, dated February 6, 2023. The subject premises are located on Assessor's plat #97, along lots #138 -#142 in the Single Residence -C zoning district.**

Ms. Davies noted that there was no one present to speak in favor and that she had not received a request for a continuance. She reminded the Board that they had requested further stormwater information and test pit data at the last meeting and she assumed it was not yet ready.

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

**The Board heard the application of SOWA, LLC for an amendment to the approved Major Project Site Plan Review decision dated June 20, 2017 for "Chick-Fil-A" to reconfigure the existing restaurant drive through and parking, the subject premises being located at 1 Highland Avenue and 5 Route 1A, more specifically Assessor's plat #64, lots #1A and #1B, located in the General Business zoning district.**

Speaking in favor of the application was attorney Jack Jacobi of Coogan Smith, LLP who stated that they are proposing a new design that will segregate the drive through traffic from patrons looking to park. He stated that currently the drive through queue can accommodate 28 cars and the revised plan can accommodate 48 cars.

Heather Whitehead pointed out that the Board asked the applicant to move the parking to make it wider for people to come through. She expressed concern with the revised plan leading the drive through traffic directly to back-up on to Angeline Street.

Attorney Jacobi countered that the design maximizes the site. He stated that it removes the conflict between the drive through and the parking traffic. He stated that if the building were being newly designed, the corporate office would be considering only a 30 to 35-car queue length for the drive through.

Shannon Bénay asked how many customers are expected in the peak ordering timeframe.

Attorney Jacobi replied that such data is considered corporate copyright. He noted that the third lane would be for pre-orders where the patron has ordered and paid using the app.

Heather Whitehead argued that the entire distance for the drive through can contain 48 cars, but the queue should only be counted from the order window back. She estimated that number to be 30 or so cars. She suggested that the outer lane should not count towards the queue at all, as it is only utilized for mobile orders.

Bill Beardwood questioned how the mobile orders would be segregated from the others.

Attorney Jacobi replied using signage.

Heather Whitehead asked what would happen if the drive through backs-up to Angeline Street. She stated that she expected people to queue out onto the street, much as they do for the Dunkin Donuts on County Street.

Ms. Davies agreed with the concern for the drive through traffic blocking the intersection of the parking lot with Angeline Street.

Mr. Ayrassian pointed out that the possibility of moving the driveway was brought up before the Zoning Board.

Attorney Jacobi stated that the current driveway location lines up with the commercial on the opposite side of the street and prevents car lights from shining on the residents' homes adjacent that. He argued that not having the driveways line up leads to unsafe turns.

Tiffany Foster asserted that the driveway entrance is for the entire shopping plaza and is not just an issue for Chick-fil-A. She suggested it is to the shopping center's advantage to move the driveway to prevent traffic issues.

Mr. Jacobi asked what the Board wants to see. He stated that the current design has the biggest drive through in Attleboro, with twice as much space as the one designed for Taco Bell on Pleasant Street. He stated that redesigning the whole shopping center is not up for discussion. He asserted that they are trying to make things better within the limitations of the site.

Jim Lewis countered that Chick-fil-A has a credibility problem, as the Board has trusted the applicant's assurances for multiple past designs being sufficient, but that the designs have not kept up with demand. He stated that he is OK with the design, if they feel it will correct things, as it is the applicant's problem at the end of the day, but that it seems like there is a very high demand for the restaurant.

Bill Beardwood stated that no other business has a problem like this site does. He stated that he is proud the business is clearly so successful, but that work needs to be done to make it more efficient. He stated that the current plan before the Board is better than the original submission, but he still has concerns with traffic queuing on to Angeline Street.

Mr. Ayrassian argued that just because something is the largest does not mean that it is going to function properly. He stated that he respects corporate rights to copyrighted data, but asserted that without empirical evidence to support the design, it is hard for the Board to be in favor of it.

Attorney Jacobi stated that the empirical evidence is that Chick-fil-A designs drive through lanes that provide space for 30 to 35 cars to queue, so this design exceeds the anticipated usage. He stated that the building already exists, so only so much can be done. He stated that the current design provides for the best possible traffic flow on the site.

Heather Whitehead questioned the number of parking spaces and whether the pull-off after the window is still proposed.

Attorney Jacobi replied that this design reduces the parking spaces on site by 15, but adds space for 20 cars in the drive through queue. He stated that from what he understands post-COVID, the number of people who park and go in the restaurant is minimal.

Ms. Davies asked the number of parking spaces provided.

Attorney Jacobi replied 19.

Heather Whitehead expressed her confusion with providing a completely separate lane for app purchases. She stated that she did not think many people used the apps, as is evidenced by the disuse of Taco Bell's app lane.

Attorney Jacobi stated that his client indicates it makes up 25-30% of orders.

Speaking in favor was consultant Chris Hinkebein of JLL who stated that he provides data for all of the Northeast Chick-fil-A restaurants and that the additional lane can be used flexibly to meet demand. He explained that it could be used for express orders or for regular ordering.

**Shannon Bénay asked whether digital signage that can be updated is proposed to direct patrons.**

Mr. Hinkebein stated that the app would direct users to the appropriate lane for pick-up. He stated that if the first two lanes for regular orders are full, they could begin directing patrons to the third lane.

Attorney Jacobi suggested that signage like that used by banks, indicating which lanes are available for drive through might be helpful.

Mr. Ayrassian advised such signage should be incorporated into the site plan.

Heather Whitehead asked Mr. Hinkebein whether he has observed this site during peak visit hours.

Mr. Hinkebein answered yes, and stated that he has observed the site on more than a dozen occasions and is familiar with the issues it faces. He stated that the 30 to 35-car minimum is based on data from their consulting support center in Atlanta. He stated that his site has been designed with 12 more than what is deemed necessary during peak hour demand. He stated that since COVID, they have been seeing more mobile and curbside demand. He stated that this plan attempts to segregate drive through traffic from those who park for safety and to prevent those parking from being blocked in. He stated that their internal metrics inform that the design will more than meet demand.

Mr. Ayrassian insisted that Mr. Hinkebein must understand the Board's apprehension, as Chick-fil-A has incorrectly assured them that their prior designs would be sufficient. He asked if the third lane is used for regular ordering whether a menu board will need to be added.

Mr. Hinkebein stated that the future for the industry is mobile. He stated that they already have team members standing in the drive through with tablets for taking orders, so a menu board will be unnecessary.

Mr. Jacobi confirmed that the pull-off area is still provided after the pick-up area. He stated that the window for pick-ups is being converted into a door to facilitate the human element either taking orders or delivering food to cars.

Mr. Ayrassian asked from what location the parking spaces are being lost.

Speaking in favor was Joey Fonseca of Bohler Engineering who explained that their original proposal's parking as compared to the current proposal.

Attorney Jacobi added that they swapped adding 20 cars to the drive through with losing 15 parking spaces.

Bill Beardwood asked whether there is sufficient space to have three drive through lanes the entire way through.

Attorney Jacobi answered no, and explained they are constrained by the state right-of-way.

Tiffany Foster asked whether there was an option for Grub Hub or Door Dash to utilize the mobile express lane.

Mr. Hinkebein answered that they do not currently have the technology to facilitate that approach, but may develop it for the future.

Attorney Jacobi requested an extension of time to June 30, 2023.

Heather Whitehead made a motion to grant an extension of time to June 30, 2023. Jim Lewis seconded the motion and all voted in favor.

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

**The Board heard the application of 42 County Street 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 an eighty (80) unit, nine (9) story mixed use building with approximately 1,720 square feet of commercial space on the first floor and 31 parking stalls, associated grading, utilities, and stormwater management system; the subject premises being located at 42 County Street, more specifically Assessor's plat #31, lot #243, located in the Central Business zoning district.**

The Board reviewed the letter from attorney John F. D. Jacobi, III of Coogan Smith, LLP, dated May 12, 2023, to the Planning Board, requesting a continuance to June 26, 2023.

Speaking in favor was Attorney Jack Jacobi who explained that they are in process of responding to the wetland and stormwater peer reviews. He noted that if a permit through the Army Corps of Engineers is required, it could take upwards of a year and the project would likely not move forward. He requested an extension of time to June 30, 2023.

Heather Whitehead made a motion to grant an extension of time to June 30, 2023. Tiffany Foster seconded the motion and all voted in favor.

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

**The Board held a business meeting.**

**The Board discussed the application of Laurel Knoll Land Trust for the proposed two (2) lot residential definitive subdivision plan entitled “LAUREL KNOLL,” located on MacDonald Lane, more specifically Assessor’s plat #101, lot #9, located in the Single Residence-D zoning district, engineered by OHI Engineering, Inc., 44 Wood Avenue, Mansfield, MA 02048.**

Jim Lewis made a motion to APPROVE the proposed two (2) lot definitive subdivision plan entitled “LAUREL KNOLL” located at 0 MacDonald Lane, more specifically Assessor’s plat #101, lot #9, located in the Single Residence-D zoning district, drawn and engineered by James R. Borrebach, R.P.E. of OHI Engineering, Inc. 44 Wood Avenue, Mansfield, MA 02048, dated September 23, 2022 and revised through March 31, 2023. Heather Whitehead seconded the motion. All voted in favor, except Melinda Kwart, who abstained. The Board attached conditions.

**The Board held a business meeting.**

**The Board discussed the Form A submitted by Maged Realty Trust for 72 & 80 Pleasant Street**

Ms. Davies explained her understanding that there has been a property line dispute in the past between the gas station and Attleboro Ice. She stated that she believed they had come to the agreement to address things via this Form A. She stated that staff recommend approval.

Jim Lewis made a motion to approve the Form A for 72 & 80 Pleasant Street. Tiffany Foster seconded the motion and all voted in favor.

**The Board reviewed the Form A submitted by Thomas Castro for 96 Thacher Street.**

Ms. Davies stated that the plan seeks to rearrange the lots to create a new, not buildable, Parcel 3A.

Jim Lewis made a motion to approve the Form A for 96 Thacher Street. Heather Whitehead seconded the motion and all voted in favor.

**The Board reviewed the Form A submitted by Weber Lyncee for 59 Allen Avenue and Cross Street .**

Attorney Jack Jacobi requested an extension of time to June 30, 2023. Heather Whitehead made a motion to grant an extension of time to June 30, 2023. Jim Lewis seconded the motion and all voted in favor.

The Board tabled the matter pending a legal opinion from the City Solicitor.

**The Board reviewed the Form A submitted by Duvally & Gregory Investments, LLC for Rocklawn Avenue.**

Speaking was Larry Tilton of Tilton Associates who stated that there are three existing lots that need to be enlarged so that they meet the minimum zoning requirement for area of 20,000 square feet and for lot width of 120 feet. He stated that what will remain is a 42-acre site with 50-feet of frontage on Rocklawn Avenue.

Jim Lewis questioned the reason for leaving a 50-foot wide space for the right of way, when a 45-foot width is the maximum that can be required under the City's Rules and Regulations regarding the subdivision of land. He noted that there is discussion amongst the Board to reduce the width of both right-of-ways and pavement.

Mr. Tilton replied that they wanted to leave more than the minimum frontage, to be safe and avoid the need to ask for easements for finishing of the roadway.

Mr. Ayrassian stated his support for the design approach and suggested it could always be narrowed later. He expressed concern that by approving this Form A tonight, it will necessitate the need for waivers for the future subdivision to be proposed in the rear. He pointed out that a curve radius of at least 30-feet is required and that Lot 27A does not meet that criterion.

Mr. Tilton offered to revise the plans.

Jim Lewis made a motion to approve the Form A plan for Rocklawn Avenue, subject to the submission of a revised plan showing the accurate curve radius. Heather Whitehead seconded the motion and all voted in favor.

**The Board reviewed the emails from Heather Folan of 16 Harvard Street, dated April 28, 2023, May 1, 2023, and May 2, 2023 (x2), regarding traffic violations of the Major Site Plan Review decision issued to Bishop Feehan for 77 Holcott Drive, Case #0042, Mr. Ayrassian's response emails, dated April 28, 2023 and May 1, 2023, as well as Bishop Feehan President Tim Sullivan's response email, dated May 1, 2023.**

Mr. Ayrassian explained that there is a question as to whether what is occurring constitutes a violation of the Major Site Plan decision for the addition under construction at Bishop Feehan. He stated that the special conditions included the preclusion of access from Harvard Street by construction vehicles.

Jim Lewis pointed out that Bishop Feehan President Tim Sullivan went to great lengths to inform the Board that they voluntarily entered an agreement with the neighborhood regarding traffic from the gate out to Harvard Street.

Mr. Ayrassian noted that the agreement goes back a number of years and was facilitated by the Municipal Council. He stated that it also dictated that the City would perform a traffic study regarding the matter, but he was unsure as to whether that ever came to fruition.

Jim Lewis asked whether there has been a violation of the decision.

Mr. Ayrassian stated that it is debatable. He stated that in contacting Mr. Sullivan, he confirmed that there were some construction related traffic that had inadvertently used the entrance and other traffic involving stray trucks beyond his control. He stated that Mr. Sullivan confirmed that he met with contractors to ensure they were aware of the trucking routes, but it seems an individual driver or two did not received the message. He stated that technically, it is a violation, but he thought it was reasonable to be forgiving of the occasional mishap.

Heather Whitehead disagreed and stated that Mr. Sullivan had assured the Board that he would actively be controlling the traffic to avoid such issues.



Mr. Ayrassian explained that there is no way for the Board to police such a requirement, as someone cannot be on the site constantly. He noted that the repercussions could be to shut down construction while they work out better policing of the issue. He stated that eventually, however, they would resume building. He stated that the issue would be negligible once construction completes. He stated his sense that from a practical standpoint there is likely to be stray trucks and he was not sure what the Board was expected to do about it.

Jim Lewis stated his understanding that Bishop Feehan was supposed to be staffing the gate to prevent entry from unauthorized vehicles.

Ms. Davies suggested some kind of signage at the intersection of North Avenue and Harvard Street prohibiting truck traffic might be warranted. She added, however, that despite such signage, there are still likely to be some individuals who disobey and drive down Harvard Street and that they will have to back-up, as the gate will be closed.

Jim Lewis stated that he did not see a reason to shut down construction, but felt that Bishop Feehan should be called to account for the matter. He emphasized this is not their first time performing construction at the site and that they should know how to manage their traffic.

Mr. Ayrassian stated that Mr. Sullivan was unable to attend this evening, but is planning to come on June 5<sup>th</sup>.

Jim Lewis stated his recollection that there had been a discontinuance before the Municipal Council for Harvard Street in recent history.

Ms. Davies stated that there was a movement to abandon Harvard Street, but the Council never held a vote on the matter. She stated her understanding that they felt the gate was limited to student use, so voting to abandon was unnecessary and instead, put in a gate to restrict the flow and set strict operating hours.

Speaking was Heather Folan of 16 Harvard Street who stated that she started getting in touch with the Planning Department in August of 2022 when she noticed Bishop Feehan spraying lines in the grass all around the perimeter of the site to accommodate additional parking, which was a direct refutation of their statements during the public hearing that there was adequate parking on site for the additional construction traffic. She stated that her biggest concern is with the parking they have created in the fire lane. She stated that she had reached out to the Building Inspector regarding the issue and that her understanding was that the Fire Department was supposed to be investigating the matter. She stated that parking there has created a bottleneck and it will not be possible for emergency vehicles to get into the site during student pick-up and drop-off. She recommended the Board perform a site visit and see the issues for themselves.

Jim Lewis questioned about the offending trucks and pointed out that the gate on Harvard Street is only open at certain times.

Heather Whitehead agreed that the gate is only meant to be open during school hours.

Ms. Davies asked whether the access from Harvard Street for trucks has anything to do with the height of the overhead walkway to be passed when entering from the opposite direction.

Heather Whitehead argued that Bishop Feehan should have reached out to the City to coordinate traffic. She stated her desire to hear from Tim Sullivan on the matter.

Jim Lewis stated his intent to visit the site.

Bill Beardwood asked whether there is a no trucking sign on Harvard Street.

Ms. Folan answered no, and explained that there is a dead end sign, but not a no trucking sign. She emphasized a sign about trucking was supposed to be part of the agreement between Bishop Feehan and the City. She expressed frustration that when looking up Bishop Feehan online, multiple points of entry to the site are provided and that Bishop Feehan needs to be explicit with all deliveries to the site as to where they should be entering.

Jim Lewis asked what remediation Ms. Folan is seeking.

Ms. Folan replied that she would like to see the parking in the fire lane eliminated, signage prohibiting trucking on Harvard Street, and the gate to be manned during pick-up and drop-off when it is in use. She stated that she is not asking for construction to be halted.

The Board tabled the matter pending the appearance of Bishop Feehan President Tim Sullivan on June 5, 2023.

**The Board reviewed the email from Bob Catenacci of One Thirty-One Pleasant St, LLC, dated February 10, 2023, to Senior Land Use Planner Stephanie Davies, providing an update on the construction status of the emergency overflow swale at the "STONE FIELD ESTATES III" subdivision.**

Mr. Ayrassian explained that the demand letter from the City Solicitor to Mr. Catenacci gave a deadline of May 12<sup>th</sup> to address the disorder at the subdivision. He stated that Ms. Davies had visited the site and sent pictures to the Board, documenting the failure to clean-up neither the sand and silt in the roads nor the overflowing dumpster.

Speaking was Bob Catenacci of One Thirty-One Pleasant St, LLC, who stated that it has been more difficult than he expected to have a second builder working in the subdivision with subcontractors. He stated that he has scraped down the roadway two or three times a week.

Mr. Ayrassian asked him to define "scraped down". He stated that the site is in horrendous shape.

Mr. Catenacci stated that they use a loader with a bucket to scrape up the mud and sand, but that with the ongoing construction, it returns in as little as two or three days. He stated that he had tried to get a street sweeper to the site, but was advised it was not possible with the City's current water ban in effect.

**Shannon Bénay pointed out that the ban is only from 9 a.m. to 5 p.m.**

Ms. Davies advised Mr. Catenacci to get a sweeper out in the early morning to clean the street. She pointed out that Mr. Catenacci had promised last time that he appeared that he would get a sweeper out to the site. She stated that she has never seen a subdivision road so covered in sand and sediment and that she was unsure whether a street sweeper would even be adequate. She suggested that silt socks could be put before the lots under construction to limit sediment run off.

Mr. Ayrassian emphasized that no clean-up efforts had been pursued since the last time Mr. Catenacci appeared.

Mr. Catenacci stated that he only owns four of the houses in this phase and that Sanjeev Siwach owns the rest.

Mr. Ayrassian countered that Mr. Catenacci is still responsible for maintaining the streets.

Ms. Davies agreed that it is Mr. Catenacci's responsibility to set standards for Mr. Siwach and to keep the street clean.

Mr. Catenacci offered to contact a street sweeping company to see if they can procure services outside of the water ban hours.

Mr. Ayrassian pointed out that Mr. Catenacci is already past the deadline for remediating the situation.

Mr. Catenacci countered that he has done work to address things.

Mr. Ayrassian asked about the overflowing dumpster.

Mr. Catenacci professed that he was unsure whether the dumpster was his.

Mr. Ayrassian took issue with the fact it took Mr. Catenacci a week to even respond to the Solicitor's letter. He asserted that the Board should not have to police him this much to fulfill his obligations under the subdivision approval.

Mr. Catenacci stated that there is only so much that he can do.

Mr. Ayrassian requested the Planning Board's permission to solicit an opinion from the City Solicitor on pursuing further action against Mr. Catenacci. He noted that the Health Agent had visited the site and had not found the conditions to be an imminent health threat.

Mr. Catenacci stated that the area is very flat and windy.

Heather Whitehead argued that Mr. Catenacci is never on site. She stated that she drives by and is receives calls from residents daily. She asserted that the dumpster is never completely emptied and is always either half-full or overflowing.

Mr. Catenacci stated that he felt it was unreasonable for the City to pursue legal action over a dusty road.

Ms. Davies stated that the sediment does not stay on Windsor Drive or York Drive, and is being tracked all over Phase 2 of the subdivision. She stated that at her visit she documented cement washout on one of the lots, which was also unacceptable.

Mr. Catenacci stated that his response has been constrained by the water ban.

Ms. Davies advised Mr. Catenacci to remove the sediment manually, using brooms.

Mr. Catenacci replied that he has staff shovel the sediment twice a week.

Mr. Ayrassian insisted that the City has not ever had this problem with any other subdivision.

Mr. Catenacci contended that the road did not look that bad. He stated he felt he deserved the opportunity to respond to the Board's concerns.

Ms. Davies countered that the Board and staff have been asking Mr. Catenacci to address the issue for months, to the point of elevating things to the attention of the City Solicitor.

Mr. Catenacci asked what rule he was violating.

Mr. Ayrassian stated Condition #44 of the Certificate of Vote issued for the subdivision approval.

Ms. Davies explained that the road needs to be kept in a clean and orderly condition.

Mr. Catenacci responded that he found the City Solicitor's letter very vague.

Heather Whitehead made a motion to authorize the staff to pursue further legal action against Mr. Catenacci with the City Solicitor. Tiffany Foster seconded the motion and all voted in favor.

Jim Lewis sought to confirm that the Building Inspector could not do anything about the dirt being tracked off of the site.

Mr. Ayrassian stated that the City does not regulate individual lots for stormwater and that he did not think the Building Inspector has the authority to do anything.

Ms. Davies pointed out that when water has pooled to the point of blocking the street, the matter becomes a safety hazard, as emergency vehicles are unable to pass.

Mr. Ayrassian stated that the only avenue available to the Board is to put pressure on Mr. Catenacci under the Subdivision Control Law.

Tiffany Foster asked whether the Conservation Commission has any jurisdiction regarding the dirt and sediment contaminating the surrounding wetlands.

Ms. Davies stated that permitting was only required for individual lots and not the roadway.

The Board tabled the matter pending an update from the City Solicitor on next steps.

**The Board reviewed all other correspondence.**

**The Board reviewed the pending minutes.**

Jim Lewis made a motion to approve the pending minutes of April 24, 2023. Tiffany Foster seconded the motion and all voted in favor.

**The meeting adjourned at 9:21 p.m.**