



# City Of Attleboro, Massachusetts

## PLANNING BOARD

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## MINUTES

JUNE 6, 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, June 6, 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, Fred Uriot, and Heather Whitehead

Planning Board Members Absent: None

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.

The Board reviewed the letter from Robert W Catenacci of One Thirty-One Pleasant Street, LLC, dated June 6, 2022, to the Planning Board, requesting to continue the public hearing relative to the "NICHOLAS DRIVE EXTENSION" street extension application.

Speaking neither for nor against was attorney Edward Casey of Coogan Smith, LLP who stated his understanding that the Rocha's are currently meeting with the neighbors to work through their concerns.

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.

Speaking in favor was attorney Edward Casey of Coogan Smith who stated that the peer review report relative to traffic was received today, but they haven't had the chance yet to submit responses.

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

**The Board held a business meeting.**

The Board discussed the application of Ad Meliora, LLC, 10 Converse Place, Winchester, MA 01890, relative to the proposed forty three (43) lot preliminary subdivision plan entitled "RIDGEWOOD ROAD", said premises being located at 80 Ridgewood Road, engineered by Patrick Connolly, R.P.E. of Beals

**Associates, Inc., 2 Park Plaza, Suite 200, Boston, MA 02116, dated April 25, 2022, said premises being Assessor's plat #105, lots #1A, 1B1, 1B2, 1B3, and 1C located in the Single Residence-C zoning district.**

Speaking in favor of the application was attorney Edward Casey who noted that a revised copy of the application had been submitted, reflecting the proper deed references. He requested an extension of time to July 31, 2022. Jim Lewis made a motion to grant an extension of time to July 31, 2022. Sean McNamara seconded the motion and all voted in favor.

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

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

Jim Lewis stated that an Ordinance Committee meeting had been held last week and he has continued concerns about the Municipal Council's definition of a commercial vehicle and the potential impact that will have on residents who drive their vehicle home or just own larger vehicles. He suggested a mechanism should be provided for residents who have commercial vehicles but don't have a home occupation, perhaps as an accessory use or a special permit.

Mr. Ayrassian noted that an accessory use requires the use to be both incidental and customary. He asserted that a tractor trailer or other commercial vehicle is not customary to a residential dwelling. He stated that agricultural uses are permitted in residentially zoned districts and commercial vehicles in association with that use would meet the definition. He noted that the Ordinance already allows a special permit for a home occupation with an associated commercial vehicle.

Jim Lewis disagreed and pointed out that accessory uses allow for the garaging of 3 or more cars off-street. He stated that if the word "parking" was added to that, he would be appeased.

Mr. Ayrassian argued that parking of a commercial vehicle would still not be allowed, even with a special permit for an accessory use, as it is not customary to the principal use. He suggested that Building Commissioner Bill McDonough meet with the Board for his take.

Jim Lewis suggested the City Solicitor's opinion should be obtained on the matter.

Chairman Gittle stated that he is inclined to defer to the opinion of the Board now, a vote held, and the opinion justified to the Council.

Jim Lewis made a motion to recommend to the Municipal Council to adopt the proposed amendments to §17-3.3 PROHIBITED USES, §17-11.0 DEFINITIONS as detailed in the proposal dated April 28, 2022. Heather Whitehead seconded the motion. Chairman Gittle, Shannon Bénay, Heather Whitehead, Tiffany Foster, and Bill Bearwood voted in favor while Jim Lewis, Sean McNamara, Thom Morin, and Fred Uriot voted in opposition. The motion failed 5 to 4.

Mr. Ayrassian pointed out that if Building Inspections issues a cease and desist, the action is appealable to the Zoning Board, so the matter will appear before them as an appeal, rather than a special permit.

Jim Lewis made a motion to rescind the motion to recommend to the Municipal Council to adopt the proposed amendments to §17-3.3 PROHIBITED USES, §17-11.0 DEFINITIONS as detailed in the proposal dated April 28, 2022. Heather Whitehead seconded the motion and all voted in favor.

Jim Lewis made a motion to recommend to the Municipal Council to adopt the proposed amendments to §17-3.3 PROHIBITED USES, §17-11.0 DEFINITIONS in the proposal dated April 28, 2022, along with an

additional/related recommended amendment to §17-3.5(7) TABLE OF ACCESSORY USE REGULATIONS by inserting the word “parking”. Heather Whitehead seconded the motion. Jason Gittle, Shannon Bényay, Heather Whitehead, Tiffany Foster, Bill Bearwood, Jim Lewis, and Thom Morin voted in favor. Sean McNamara and Fred Uriot voted in opposition. The motion passed 7 to 2.

**The Board reviewed the Form A plan submitted by Tahoe Investments, Inc. for 47 Oak Hill Avenue .**

Ms. Davies explained that the plan proposes to divide an existing lot into two lots. She stated that staff recommend approval.

Jim Lewis made a motion to approve the Form A plan for 47 Oak Hill Avenue. Shannon Bényay seconded the motion and all voted in favor.

**The Board reviewed the Form A plan submitted by Hassan Hasaba for 64 Highland Avenue .**

Thom Morin recused himself from the discussion.

Speaking was Sean Barry of Level Design Group who stated that they are proposing to subdivide the existing lot and were granted a variance back in November of 2021. He stated that the intent is to raze the existing dwelling and construct a duplex.

Ms. Davies pointed out that a special permit had been granted to alter a pre-existing non-conforming lot.

Speaking was attorney Ed Casey who explained that the owner owns two side-by-side properties, with one containing a strange A-frame house that extends across the lot line. He explained that the appraisal for the property indicated that it was a legal duplex, but the Building Commissioner stated that the recorded use was as a single family dwelling. He stated that a special permit to alter a pre-existing, non-conforming situation, as the duplex was in a Single Residence zoning district was sought and the Zoning Board granted the relief to allow the raising of the structure and replacement with a more traditional two family, meeting the setbacks.

Jim Lewis made a motion to approve the Form A for 64 Highland Avenue. Heather Whitehead seconded the motion and all voted in favor.

**The Board reviewed the Form A plan submitted by Gregory M. Bartek for 444 Pike Avenue.**

Jim Lewis noted that each lot has 50-feet of frontage on Pike Avenue.

Ms. Davies stated that staff recommend approval.

Jim Lewis made a motion to approve the Form A for 444 Pike Avenue. Thom Morin seconded the motion and all voted in favor.

**The Board reviewed the Form A plan submitted by Kasselvergnés , Inc. for 636 Read Street.**

Speaking was attorney Edward Casey who stated that the plan may appear confusing, but its intent is to provide both the minimum 50-feet of frontage, as well as provide the necessary lot width for 32 house lots.

Jim Lewis stated that he felt this plan was making use of illusory frontage, as it is highly encumbered by wetlands. He stated that the frontage is there, but there is not adequate access to the lots. He stated that without permits in hand through Conservation, there is no confirmed access from the street, to the upland of the lots.

Mr. Casey stated that he understood the argument, but countered that it has not been the City of Attleboro's practice to require that access be obtained in the same location as the frontage.

Ms. Davies pointed out that several of the lots in question don't even provide that, as they have easements across other lots for access.

Jim Lewis maintained that lots 7-9, 12-16, and 29 and 30 do not have sufficient access without wetland permitting.

Ms. Davies argued that this presents as an attempt to circumvent the subdivision process. She stated that the access is illusory.

Mr. Ayrassian stated that he didn't think there was any mischievous intention with this plan and that the applicant just weighed the pros and cons of the processes available to him to achieve his goal and found a Form A to make the most sense. He agreed, however, that Conservation approval is needed before the Form A can be approved, due to the illusory frontage.

Ms. Davies asserted that serving multiple lots using a variety of common driveways is tantamount to a roadway. She stated that the plan appears to be dependent upon a vast number of access easements and possible common driveways. She stated that her initial impression was that the plan seemed to be an attempt to avoid putting in a traditional subdivision roadway.

Mr. Casey argued that if the Zoning Ordinance specifically stated that access needed to be gained by way of a lot's frontage, he would have never submitted this plan to the Board, but it doesn't require that.

Jim Lewis suggested that the applicant request an extension of time to the end of July to give them time to sit down with Planning and Conservation staff to work out the concerns.

Speaking was applicant John DesVergnes who stated that he dedicated a lot of time to designing this plan to avoid impacting wetland buffer zones. He stated that there is no intent to have common driveways. He stated that a lot can have multiple driveways, given that the entrances are at least 30-feet apart.

Ms. Davies reiterated that the frontage appears to be illusory as there is no other access to the lots.

Mr. DesVergnes stated that this case is similar to a Form A that was approved for 525 Tiffany Street, where his frontage was entirely wetlands and his driveway and utility access came up in the center of two other lots and easements were granted for access.

Mr. Ayrassian stated that such an approval is problematic and the Board is not bound by precedent if they voted in error on a prior case.

Ms. Davies reiterated that an extension of time is needed to massage the plan to meet the frontage requirements.

Mr. Casey requested an extension of time to June 28, 2022. Jim Lewis made a motion to grant an extension of time to June 28, 2022. Heather Whitehead seconded the motion and all voted in favor.

The Board tabled the Form A plan.

**The Board heard the appointment to speak of attorney Edward Casey and Raymond Bourque regarding "VIRIDIAN MEADOWS PHASE II"**

Mr. Casey stated that he is again appearing before the Board in an attempt to request the approval of the alternate material of crushed stone for the access way to the detention base in Viridian Meadows Phase II, rather than the pavers or geoturf shown on the approved. He stated that despite the Board's prior denial to this request, his business partner wanted to come and request directly. He pointed out that Phase I of the project has gravel access roads, which was deemed acceptable by the Board and Public Works at the time of approval.

Speaking was Raymond Bourque who stated that he checked several other developments and they have either dirt or stone access ways, but none of the expensive specialty rock cited in the plans.

Jim Lewis asked for the difference in cost.

Mr. Bourque explained that the crushed stone is around \$1,000 while the blocks will be upwards of \$18 thousand.

Mr. Ayrassian countered that the Board would not have approved access to a detention basin that was just dirt, as that would erode.

Jim Lewis asked Public Works' opinion on the matter.

Mr. Ayrassian stated that they opined that the blocks are more durable.

Ms. Davies noted that this project is in an environmentally sensitive area and questioned whether Conservation may have been involved with the decision for the surface type.

Jim Lewis made a motion to allow the developer to install crushed stone in lieu of the pavers shown on the approved plans. Heather Whitehouse seconded the motion. Heather Whitehead and Jim Lewis voted in favor. Chairman Gittle, Shannon **Bénay**, Tiffany Foster, Bill Beardwood, Thom Morin, Sean McNamara, and Fred Uriot voted in opposition. The motion failed 2 to 7.

**The Board reviewed all other correspondence.**

**The Board approved the pending minutes of February 7, 2022 and February 15, 2022. The Board tabled the pending minutes of January 24, 2022, February 28, 2022, March 7, 2022, March 21, 2022, April 4, 2022, April 25, 2022, and May 16, 2022.**

**The Board held elections.**

Jason Gittle made a motion to elect Shannon **Bénay** as Chairwoman. Heather Whitehead seconded the motion and all voted in favor.

Jason Gittle made a motion to elect Heather Whitehead as Vice Chairwoman. Thom Morin seconded the motion and all voted in favor.

Jason Gittle made a motion to elect Thom Morin as Secretary. Heather Whitehead seconded the motion and all voted in favor.

Jason Gittle made a motion for Lauren Stamatis to serve as Planning Board Clerk. Heather Whitehead seconded the motion and all voted in favor.

Jim Lewis made a motion to allow the Vice Chairman to sign in place of the Chairman on decisions and Form A plans. Thom Morin seconded the motion and all voted in favor.

Meeting adjourned at 8:39 p.m.