



# City Of Attleboro, Massachusetts

## PLANNING BOARD

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

## MINUTES

OCTOBER 3, 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, October 3, 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: Chairwoman Shannon Bényay, Vice Chairwoman Heather Whitehead, Bill Beardwood, Tiffany Foster, Jim Lewis, Fred Uriot

Planning Board Members Absent: None

The Board heard the application of Bristol Place Investments LP for the proposed five (5) lot commercial definitive subdivision plan entitled "BRISTOL PLACE," located at 1270 Newport Avenue, more specifically Assessor's plat #27, lot #4, located in the Planned Highway Business zoning district, engineered by DiPrete Engineering, Two Stafford Court, Cranston, RI 02920.

Senior Land Use Planner Stephanie Davies reminded the Board that the applicant had been granted a continuance to October 18, 2022.

Director of Planning and Development Gary Ayrassian stated that the Zoning Board approved all relief requested before them for this project.

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

The Board heard the application of Rhino Capital Advisors, 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 a 58,600 square foot manufacturing building and 80 parking spaces with associated grading, utilities, and stormwater management system; the subject premises being located at 1275 Commerce Way, more specifically Assessor's plat #154, lot #12, located in the Industrial Business Park zoning district.

Speaking in favor was attorney Jack Jacobi of Coogan Smith, LLP who stated that the site was originally slated to be the Mars Seafood processing facility, but is now proposed to house a light manufacturing facility. He stated that the Conservation Commission approved a stormwater management permit and an Order of Conditions for the site on September 21, 2022.

Speaking in favor was John O'Leary of Rhino Capital Advisors, LLC who stated that they are proposing a 58,600 square foot manufacturing building with 80 parking spaces and attempted to mirror the previously approved and abandoned Mars Seafood facility footprint, with some minor expansions.

Speaking in favor was Steve Cabral of Crossman Engineering stated that very minor changes were made to the plan. He stated that additional catch basins and a water quality chamber were added to the proposed access drive right before the intersection with Commerce Way as requested by Public Works.

Mr. Ayrassian sought to confirm whether the manhole had been moved out of the right-of-way on to private property as requested by Public Works.

Mr. Cabral answered yes. He stated that a second domestic sewer line had been added to the building at the request of the Wastewater Department. He stated that significantly more native, salt-tolerant trees and shrubs have been added between the wetland and the proposed development. He stated that three trees are also now being proposed along the access driveway.

Mr. Ayrassian noted that the Fire Department had requested some additional groundcover and asked whether that has been addressed and whether they approved the loading cross-section for the driveway.

Mr. O'Leary stated that they added gravel at their request to accommodate the truck turning radius.

Ms. Davies stated that a letter had been submitted by the Fire Department that he his concerns were addressed with the exception of submitting a fire flow test.

Mr. Ayrassian stated that a fire flow test would be required prior to the issuance of the building permit. He asked what the anticipated buildout timeline is for the project.

Mr. O'Leary stated that they anticipated 10 to 13 months' worth of construction. He stated that they likely won't begin work until the spring. He stated that an abutter to the site attended the Conservation Commission meeting and voiced some concerns about the project, as well as submitting letters to the Planning Board. He stated that the party, attorney Neal Glick, had expressed disbelief that the break-down of uses on the site was accurate and marketable.

Jim Lewis stated that such a concern is outside the purview of the Planning Board's site review process.

Mr. Ayrassian agreed that it would be addressed by the Building Inspector at the time of issuing a permit and that if the ratios didn't match, they would have to return for further permitting before the Board.

Mr. O'Leary stated that concerns were also raised regarding traffic.

Mr. Ayrassian contended that it is a by-right use and that it will be operating under the ongoing MEPA permit.

Attorney Jacobi stated that some concerns were raised regarding an easement on the site. He stated that the deeds for the Mars Seafood property and New England Sports Village both come out of the same grantor, the Attleboro Redevelopment Authority. He stated that the deed for the property in question from 2009 provides an easement across the remaining land of the ARA for a non-exclusive easement, so the neighbor can also use it. He stated that the Sports Village didn't acquire their property until 2015. He stated that he suspects Attorney Glick will argue that the plan proposes to overburden the easement, but he didn't think that was the jurisdiction of the Planning Board. He stated that the matter would have to be resolved via lawsuit at the Superior Court. He noted that the objection appears to be representation for a mortgage-holder through the bankruptcy filing of the bank, so he was unsure what standing they held to object at all. He stated that the plan that was approved for the Sports Village by the Zoning Board shows parking within the easement, along with retaining walls that would block his client's access, which they would dispute. He stated that they are building a much smaller road and only installing gravel towards the back, but the Sports Village is welcome to pave the whole thing, if they'd like.

Jim Lewis asked whether paving it all would impact stormwater.

Mr. Jacobi stated that they have several swales that are part of the stormwater system to intercept the water off the land from their site located in the easement. He stated that they are proposing to collect,

treat, and discharge that water shed from the Sports Village property into the easement. He stated that the abutter would need to apply for a stormwater management plan, if they were looking to pave the whole area. He stated that New England Sports Village is in bankruptcy, so was unsure at what point in the future they would ever be resuming construction.

Speaking in opposition was attorney Neal Glick representing Shubh Patel, LLC who is a mortgagee holder on the property abutting 1275 Commerce Way and the likely successor to the property pending a reorganization plan before the bank. He submitted a letter to the Board. He stated that the staff report raises many of the issues he expressed in his letters. He stated that the first concern is regarding parking requirements. He stated that it is the applicant's burden to ensure that the parking provided will be suitable for the future use.

Mr. Ayrassian stated that the Board will verify the parking stall number and if it doesn't meet the requirements of the Zoning Ordinance, the Building Commissioner will deny the building permit. He stated that the City will make the determination as to whether the parking is sufficient.

Senior Land Use Planner Stephanie Davies stated that her initial staff report indicated the need for the applicant to provide a break-down of the uses for calculating the parking ratio. She stated that subsequent iterations of the plan had addressed that comment. She stated that if they attempt to pull a building permit and what is proposed at that time differs from what was approved, the permit will be denied.

Jim Lewis stated that for the purpose of Site Plan approval, the Board isn't reviewing whether a project meets zoning criteria and are strictly approving the site plan. He stated that if the parking is found to be insufficient after the approval, it may trigger the need for the applicant to return to the Planning Board for an amendment of the plan.

Attorney Glick stated that the site is tight and there is not much room to provide additional parking.

Mr. Ayrassian argued that the applicant could reduce the size of the building, if that is determined to be necessary. He stated such an approach is a basic Planning principle.

Attorney Glick disagreed that a site plan approval for this site and this project can be based on fiction. He asserted that the parking requirement has been woefully understated to minimize the needs for a building of this size. He stated that if there's not enough parking on this site, users will be going across the street and parking on his client's property.

Mr. Ayrassian asked if Attorney Glick's team had come up with a number for the required parking.

Attorney Glick stated that they employed a nationally recognized real estate broker for projects in a 10-mile radius of a similar nature and size. He stated that 13 sites were reviewed. He stated that the average is 2.19 parking stalls per 1,000 square feet of building area. He stated that this site, if held to a similar standard, would require 128 spaces, 48 more than what is currently proposed.

Heather Whitehead stated that based on the proposed land use breakdown, the applicant has exactly the number of parking spaces needed. She stated that the applicant doesn't have to prove anything else to us at this stage, but rather at the building permit stage.

Jim Lewis stated that Attleboro's parking requirements may vary from those of other municipalities, but that the Board is bound to enforce the City's regulations.

Ms. Davies stated that this happens all the time with retail plazas where they design on speculation and the future lease holder uses end up varying from what was originally proposed and the site has to be reorganized.

Attorney Glick stated that their larger issue is that the proposed access is legally and practically impossible. He stated that Attleboro Sports Village owns the land that contains the easement and that the applicant merely has a non-exclusive easement. He stated that they do not have the right to put grass and detention basins in the easement, and can strictly use it for access.

Jim Lewis stated that it is standard in Attleboro for drainage structures to be placed within the right-of-way. He pointed out that the features described are drainage structures.

Attorney Glick argued that they don't have the right to install gravel or green space as presently proposed.

Tiffany Foster argued that the applicant isn't suggesting that the easement will always remain as they propose. She stated that if Attorney Glick's client wants to improve the access in the future when they are looking to build-out further, they can improve upon whatever design the Board approves. She stated that the applicant has the right to use the easement and what they propose is just a starting point which is open to redesign in the future by his client. She stated that neither party can block use of the easement and that what is proposed does not appear to do that.

Attorney Glick argued that the applicant does not have the right to create a new baseline for his client. He stated that they can pave the access, but don't have the right to install other improvements.

Tiffany Foster suggested that Attorney Glick's client would then need to be responsible for controlling the stormwater that is running off the New England Sports Village site into the easement, if they don't want to see the applicant install stormwater features to address the water.

Attorney Glick argued that what is proposed creates a problematic roadway that will limit what his client can do in the future. He stated that he agreed that swales and detention basins are permitted along the shoulder, but that these intrude excessively into the right-of-way.

Tiffany Foster countered that should his client want to improve the roadway, they would also need to deal with the same water issues the applicant has proposed to address. She stated that it's entirely possible that the stormwater features will be relocated or replaced with alternate means of stormwater control. She stated that she considers the potential problem to be something to address down the road and not at the current stage of development.

Attorney Glick argued that this is not a civil matter between independent entities. He stated that the Site Plan Review standards reference the sound promotion of planning for traffic and access, to ensure that the design is reasonably compatible with surrounding uses. He stated that the design impacts on his client's property are very much part of the site plan review process. He noted that the staff report directed the applicant to investigate this matter and the applicant claimed to be working with the abutter, but they have not been doing so.

Jim Lewis asked Attorney Glick what he wanted.

Attorney Glick stated that he wants the applicant held to their word and to work with his client to design access that is amenable to both parties.

Mr. Ayrassian stated that the applicant's attorney indicated the opposite of what Mr. Glick is saying in that they had reached out to no avail. He asked who the Board should believe.

Ms. Davies pointed out that the staff report raises potential issues, but it is entirely up to the Board whether they feel the need to pursue the matter or not.

Attorney Glick reiterated that there have been no discussions with the applicant about changes to the access to better integrate it into the surrounding, existing uses. He stated that their final concern relates to traffic impacts. He stated that the Ordinance requires that traffic impacts be minimized on surrounding roadways. He stated that the applicant's traffic report indicates the level of service at the Tiffany Street and Commerce Way intersection would decrease to an 'E'. He asserted that the applicant is analyzing the traffic and the stormwater in a vacuum. He pointed out that the New England Sports Village wasn't even mentioned as a competing use in the traffic report, especially in regards to the access drive. He stated that he feels these issues tie in directly to the Site Plan Review process.

Mr. Ayrassian stated the Attleboro Business Park was developed by the Redevelopment Authority under a MEPA permit, which allows up to 880,000 square feet of industrial build-out. He stated that the entire length of Commerce Way and the intersection with Tiffany Street and leading out to County Street were redesigned under that MEPA permit to provide access to Interstate 95. He expressed his disbelief that a single light manufacturing use is going to exceed those parameters.

Speaking in rebuttal was Attorney Jacobi who asserted that his client held a Zoom meeting with the opposition and were told there was no potential for collaboration.

Jim Lewis made a motion to close the public hearing. Heather Whitehead seconded the motion. All voted in favor.

Bill Beardwood made a motion to grant an extension of time to November 3, 2022. Tiffany Foster seconded the motion and all voted in favor.

The Board tabled the matter.

#### **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 was Pat Connolly of Beals Associates who stated that they had performed test pits to better design their stormwater management system and had a work session with the peer reviewer. He stated that they are also before the Conservation Commission to delineate the wetlands and that they have performed a site walk with the Conservation Agent. He stated that a smaller wetland depression was identified near the existing driveway off of Ridgewood Road and it has been flagged and will be added to the plan. He stated that the wetland appears to be less than 1,500 square feet, so likely won't be jurisdictional before the Conservation Commission.

Speaking in favor was attorney Jack Jacobi of Coogan Smith, LLP who stated that they are still determining whether that new wetland area impedes the original yield plan submitted with the application.

Jim Lewis sought to confirm that the City has accepted at least 50-feet past the boundary line of the lot containing the existing house.

Mr. Connolly replied that it has been surveyed and 52-feet have been accepted.

Jim Lewis asked that the street acceptance details be submitted.

Pat Connolly noted that the yield plan had been revised to meet some of the missing lot width requirements, while maintaining the originally proposed 44 lots. He stated that they also added test pit locations and general stormwater management areas. He stated that on the development plan, they have shown the no-cut zone for the tree line and added additional vegetation buffer for Ridgewood and Bayberry Hill Road. He stated that the center island was removed from the boulevard at the request of Public Works, but can see the pros and cons of removing or maintaining it, so are open to the Board's opinion. He stated that they straightened out the lot lines of the open space per the request of Charlie Adler to simplify the stone boundary markers.

Attorney Jacobi stated that as the open space is contiguous with existing Attleboro Land Trust land, it would make sense to assign them as the steward of the land upon acceptance of the subdivision.

Mr. Connolly stated that they are maintaining the original tree line via a no-cut requirement on the lower part of the development by Locust Street, as there is an existing natural buffer of approximately 240-feet. Jim Lewis asked how the no-cut buffer will be enforced.

Attorney Jacobi stated that a deed restriction would be recorded. He stated that they would also be willing to consider a split rail fence with markers to make clear physically where the limits are located.

Mr. Ayrassian agreed that a condition of approval to that effect would be included at the definitive plan stage, should the project be approved.

Mr. Connolly went over some shifts made to the locations of various parts of the stormwater management system and adjustments to the sub-catchments.

Mr. Ayrassian asked the reasoning for having the stormwater basin right along Locust Street.

Mr. Connolly stated that it makes sense topographically, as it is a prime downhill location to trap and treat water. He stated that there is a 10-foot buffer to the roadway. He stated that they have added a water line through to Ridgewood Road, per the recommendation of the Water Department to create a looped system.

Mr. Jacobi stated that the neighbors have expressed concerns about the proximity of the house lots closest to Locust Street, but he was unsure of how things could be rearranged to accommodate their request for a further buffer. He stated that denying the waiver for the number of houses on a dead-end street would effectively require the abandonment of the proposed open space residential development plan and returning to a standard subdivision design.

Speaking was Michael McCarthy of 161 Locust Street who disputed the assertion that there are 240-feet of woods buffering his home. He stated that he has maintained his property in a cleared state, so there is next to no wooded buffer. He stated that this proposal will cost him his privacy and that he didn't think it was right to suggest that his own property for which he pays taxes is a buffer for this subdivision. He stated that more deference was given with buffers to the Ridgewood Road neighborhood and it wasn't fair to burden the Locust Street neighborhood like this. He stated that if the developer is not going to provide relief for his neighborhood, the Board should deny the requested waivers at the definitive stage.

Speaking was James Giammarino of 132 Locust Street who stated that he has concerns about the headlights from those entering and existing the boulevard hitting his home. He stated that he had newer water lines put in to his home and his pressure still is not very good. He expressed concern that the addition of 44 more houses will further tax that condition.

Mr. Ayrassian stated that the Water Department is requiring a looped system, which will increase pressure in the area.

Mr. Giammarino stated that water runs down Locust Street already and his yard used to flood until, at his expense, he regraded and repaved his driveway. He asked whether the water coming off the new street will make the runoff coming on to Locust worse than existing conditions.

Mr. Ayrassian answered no. He stated that the same amount of water falls and the development is required to manage where the water ends up on their property. He stated that the applicant cannot increase the amount or velocity of water leaving the site. He stated that the design is reviewed by a third party peer engineer to ensure the design is sound.

Mr. Giammarino questioned what recourse there is if the system doesn't work as designed.

Mr. Ayrassian answered that the Public Works Department could be contacted.

Mr. Giammarino expressed skepticism about receiving help from Public Works, as he requested many times for a catch basin to be installed in the road in front of his house to resolve his flooding issues to no avail.

Speaking was Virginia McCarthy of 161 Locust Street who stated that she is disappointed that none of the concerns she raised at the meeting two weeks prior have been addressed by the current plan. She disagreed with the buffer assessment of the applicant and stated that truly only 10-feet is being provided, as that is what is provided on their property. She expressed dismay that additional buffer had been provided to Ridgewood Road and not to Locust Street.

Mr. Ayrassian stated that the developer is not obligated to modify the plan based on the commentary of the public. He stated that at the end of the day, whether to approve the subdivision will be up to the Planning Board. He stated that the public will have the opportunity to review a fully engineered plan at the definitive stage and can express their concerns in a public hearing format at that time.

Mrs. McCarthy stated that she is downhill of the subdivision and she is concerned with where the water from the site will go and whether it will end up underground and impact her water table.

Mr. Ayrassian stated that DEP requires that a minimum of 10% of the water be recharged into the ground. He stated that the remainder will be retained by surface stormwater systems.

Mrs. McCarthy asked whether the developer will have permission to blast ledge, as she knows there is ledge at the back of her property. She expressed concern about potential damage to her home.

Mr. Ayrassian stated that such permission is granted by the Fire Department. He stated that the applicant is required to have an insurance company come out and assess the existing condition of nearby houses to document whether any damage occurs post-blasting.

Speaking was Bill Gill of 197 Dexter Street who asked about the land originally slated for the club house and asked what a buffer on the side opposite the proposed trees, as he owns abutting property.

Jim Lewis stated that there is no buffer. He asked whether Mr. Gill's property is vacant.

Mr. Gill replied that he intends to build a house on the land, but has to wait until 2023 when the moratorium for cutting into the street is lifted.

Speaking was Geoff Gaunt of 211 Locust Street who stated that he is a former Land Trust President. He asked whether there is any consideration of set hours for the public parking lot access, as he is concerned for public safety.

Mr. Ayrassian stated that it is typically open from dawn to dusk and would be under the jurisdiction of the Police Department.

Speaking was Charlie Alder of 20 Fourth Street who stated his understanding that stormwater management systems can't count towards the open space square footage.

Ms. Davies agreed, but pointed out that they could be located within the open space. She stated that explicit calculations won't need to be provided until the definitive plan stage.

Mr. Alder stated that he was concerned about how the no-cut zones were demarcated in the Stoneforest Estates subdivision and stated his desire for the boundaries to be clearer for homeowners in this subdivision.

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

**The Board discussed 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,  $\pm 5,100$  sf and  $\pm 3,000$  sf, respectively, retain the existing  $\pm 7,300$  sf commercial building, build a new  $\pm 10,000$  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.**

Tiffany Foster made a motion to **APPROVE WITH CONDITIONS** the Major Project Site Plan Review pursuant to the provisions of §17-15.0 SITE PLAN REVIEW of the ZONING ORDINANCE to construct two commercial/restaurant buildings, a children's daycare center, a parking lot containing 135 off-street parking stalls, combining with an existing  $7,300\pm$  square foot commercial building, as well as associated driveways, travel lanes, landscaping, lighting, water and sewer infrastructure, stormwater management system, utilities, and related grading and excavation work in association with the construction of a mixed-use development consisting of 323-unit multi-family residential dwelling units, two restaurants, and a children's day care center the subject premises being located at 754 Newport Avenue, more specifically Assessor's plat #69, lot #26B, located in the General Business zoning district and General Residence-A zoning district, as shown on the site plan entitled "Mixed-USE DEVELOPMENT 754 NEWPORT AVENUE ATTLEBORO, MASSACHUSETTS", drawn and engineered by Renee L. Codega, R.P.E. of VHB, One Cedar Avenue, Suite 400, Providence, RI 02903, dated October 19, 2021 and revised through July 26, 2022, the architectural plans entitled "EXTERIOR ELEVATIONS, THE LEARNING EXPERIENCE, 754 NEWPORT AVENUE, ATTLEBORO MA" prepared by Jarmel Kizel Architects and Engineers, Inc., of 42 Okner Parkway, Livingston, NJ 07039, dated September 23, 2022, and "RETAIL BUILDING #1 ELEVATIONS" AND "RETAIL BUILDING #2 ELEVATIONS" drawn by Hensley Lamkin Rachel Inc., dated September 8, 2022. Bill Beardwood seconded the motion. A discussion followed and all voted in favor. The Board attached conditions.

**The Board discussed the petition of the Municipal Council to amend sections of the ZONING ORDINANCE relative to marijuana businesses.**

Jim Lewis stated he didn't see much of a difference between a marijuana shop and a liquor store. He suggested an overlay along Route 1 or to limit the use to Planned Highway Business. He stated that the change didn't seem all that extensive as only five retail shops are permitted.

Mr. Ayrassian disagreed and stated that the Zoning Board will continue approving special permit for retail shops until the first five stores begin operations. He stated that significantly more than five could end up being approved and opening. He stated that three shops are currently operational.

Heather Whitehead stated that she didn't see the need for the radiuses from school zones, as the security with such facilities is so high. She stated that a child could walk into a liquor store, but not one of these facilities.

Ms. Davies stated that the concerns are more so regarding traffic and potential for odors.

The Board agreed to take up the matter at an Ordinance Committee meeting, date and time to be determined.

The Board tabled the matter.

**The Board discussed the petition of the Municipal Council to amend sections of the Zoning Ordinance relative to in-law apartments.**

Heather Whitehead stated that she spoke with Councilor Kathleen DeSimone who hoped the Board would consider use of the term "Accessory Dwelling Unit" versus "In Law Apartment".

Mr. Ayrassian stated that doing so makes it possible for every single family home to become a two family. He stated that the Board's initial take was that criteria for an additional unit included there being a familial relationship.

The Board agreed to take up the matter at an Ordinance Committee meeting, date and time to be determined.

The Board tabled the matter.

**The Board discussed the email from State Representative James Hawkins, dated September 28, 2022, to Director of Planning and Development Gary Ayrassian providing the chaptered parchment for H4355 An Act providing for the laying out and acceptance of certain ways by the City of Attleboro, signed by Governor Baker.**

Mr. Ayrassian stated that he is working with Public Works to develop a list of roads that have yet to be accepted from ones that were missed over the years for one reason or another. He stated that the City will have about six months to accomplish this task. He stated that for every linear foot of roadway accepted, the City receives more Chapter 90 funds to reinvest in roads and the residents become eligible for municipal services like snow plowing and rubbish pick-up.

**The Board reviewed all other correspondence.**

**The Board voted to hold a Joint Public hearing with the Municipal Council on October 18, 2022 at 7:00 p.m. regarding the petition of the Municipal Council to rezone a portion of Highland Park from Single Residence-D to General Business and regarding the petition to amend the ZONING ORDINANCE relative to commercial vehicles.**

**The Board approved the pending minutes of July 18, 2022. The Board tabled the pending minutes of August 22, 2022 , September 12, 2022 , and September 20, 2022 .**

**The meeting adjourned at 9:30 p.m.**