



City Of Attleboro, Massachusetts

PLANNING BOARD

GOVERNMENT CENTER, 77 PARK STREET

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MINUTES

JUNE 5, 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, June 5, 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 Bénay, Bill Beardwood, Peter Fellini, Tiffany Foster, and Melinda Kwart

Planning Board Members Absent: Vice Chairwoman Heather Whitehead, Jim Lewis, and Fred Uriot

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.

There being no one present to speak regarding the application, the hearing was continued.

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.

The Board reviewed the Form P1 request to continue a public hearing to June 26, 2023, submitted by Peter Lavoie of D&L Design Group, received June 5, 2023, relative to the street extension application for "BUFFINGTON STREET EXTENSION".

Senior Land Use Planner Stephanie Davies informed the Board that the stormwater peer review work session had been scheduled for June 13, 2023. She stated that she expected revised plans would be submitted sometime after that.

There being no one else to speak, the 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 was Chris Hinkebein of JLL who explained that Chick-fil-A is still in the testing phase for the use of a dedicated “Mobile Thru” lane. He gave examples of the signage that would be used to demarcate the lanes, should they eventually embrace that business model. He stated that this approach is not part of the current proposal and that the current design is for all three lanes to be mixed-use drive through lanes.

Director of Planning and Development Gary Ayrassian noted that should the use of a dedicated mobile lane be pursued by Chick-fil-A, they would need to return to the Board to modify the site plan. He suggested to the Board that a condition to that effect be included in the decision.

Ms. Davies pointed out that staff and the Board have only reviewed a sketch of the latest plan design, and that a complete submission needs to be provided.

Bill Beardwood asked whether there would be signs directing patrons entering the site from Route 1A to the drive through.

Mr. Hinkebein stated that such signage would be included on the final submission.

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.

Speaking in favor of the application was attorney Jack Jacobi of Coogan Smith, LLP who stated that they are still working on providing additional materials to the Conservation Commission relative to their peer review responses. He stated that there is no sense in moving forward before the Planning and Zoning Boards unless the wetland and stormwater issues can be satisfactorily addressed.

The Board reviewed the email from attorney Jack Jacobi of Coogan Smith, LLP, received June 5, 2023, to Director of Planning and Development Gary Ayrassian, requesting a continuance relative to the Major Site Plan Review application of 42 County Street, LLC for 42 County Street.

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

The Board held a business meeting.

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

Speaking was attorney Edward Casey of Coogan Smith, LLP who stated that he would submit the requested case law materials to the City Solicitor in advance of the June 26th Planning Board meeting.

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

The Board heard the appointment to speak of President Tim Sullivan of Bishop Feehan High School, regarding the Major Site Plan Review decision for 77 Holcott Drive.

Mr. Sullivan insisted that Bishop Feehan has complied with the spirit of the 8-year-old agreement with the Municipal Council and that there have been only a handful of situations where the gate was opened when it should not have been. He stated that he is in support of “no trucking” or other similar signage at the head of Harvard Street, but noted that the school does not have the ability to install signage on public streets. He stated that neither the agreement with the Council nor the Major Site Plan Review decision required signage.

Bill Beardwood disagreed and recalled that signage to direct the trucks where to drop-off materials had been discussed during the public hearings.

Mr. Sullivan stated his recollection that the contractor was going to be relied upon to communicate with subcontractors. He stated that there is nothing in the decision or site plan that indicated the need for signage. He stated that nearly all of the trucks have been where they were supposed to be. He argued that in contrast to what was presented at the last meeting, no one has been parking in the school's fire lane. He stated that they are allowing parking, after a period of disuse, on one side of the driveway between the two buildings, a decision that was independent of the construction project. He stated that the fire lane is on the opposite side of that driveway. He stated that out of the hundreds of trucks that have serviced the site, he knows of two accidental entries to the wrong driveway over the course of eleven months. He stated that once he received word of complaints via email from the Planning Director, he directed his staff that the gate to Harvard Street cannot be used off-hours without his express approval. He offered to give City officials a tour of the campus at any time. He stated that they are only about two months away from completing the project and that he is proud of the way they have maximized safety and minimized disruptions to the neighbors. He stated that they strove to meet the conditions of the decision to the best of their ability.

Mr. Ayrassian stated that a concern was raised regarding the spray painting of parking spaces in the grass.

Mr. Sullivan stated that the worst parking challenges were anticipated in the late spring, when there would be competition from both sophomores and seniors for parking on site along with the construction traffic. He stated that lines were painted on the grass in anticipation of managing that traffic on site, but they were never actually put to use abutting Harvard Street. He noted that several students opted to park on the grass by Holcott Drive and along the wood line, of their own volition. He stated that they are now past that parking pinch point, as the seniors are no longer on campus.

Mr. Ayrassian looked to confirm Mr. Sullivan's acknowledgement that a stray vehicle or two did access the site via Harvard Street.

Mr. Sullivan answered yes, but explained that it is due to the utilization of GPS driving instructions, over which they have no control. He stated that they do, however, have control over the students parking on campus. He stated that once every couple of weeks, a student may sneak out the gate off-hours, but that it is addressed through punitive measures, like detention or the loss of parking privileges.

Shannon Bénay asked when the project would be completed.

Mr. Sullivan replied that they hope to have it complete by mid-August for back-to-school events.

Speaking was Heather Folan of 16 Harvard Street who stated that does not know who serves as the point of contact to have concerns addressed. She stated that she has had little response and no resolutions when contacting Mr. Sullivan or the Police Department. She stated that she has been emailing complaints since last summer to Director Ayrassian, but that this is the first time the Board has taken up the matter.

Mr. Ayrassian stated that the matter was always promptly forwarded to the Board for review, but that not all correspondence makes the agenda, especially if it is not addressed to the Board. He stated that as he had previously explained to Ms. Folan, there is nothing in the Zoning Ordinance that precludes marking out and parking cars on the grass of a private property. He stated that those actions did not constitute a 'parking lot' as attested by Ms. Folan.

Ms. Folan argued that the action to create this parking flies in the face of Bishop Feehan's assertion that they have sufficient parking on site and did not need to provide satellite parking. She stated that she would like to know whether the spaces created are permanent.

Ms. Davies stated that if the marks were temporary, the action would be interpreted as the school fulfilling their obligation to keep the parking on site while construction is occurring.

Mr. Ayrassian emphasized that nowhere in the Zoning Ordinance is parking on grass prohibited.

Ms. Folan stated that she would be watching to ensure that the on-grass parking ceases when construction concludes. She stated that she still has concerns with the parking occurring in the fire lane. She stated that she had previously reached out to the Building Inspector, who had to consult the Fire Department on the matter, but that she has not received any update.

Mr. Ayrassian encouraged Ms. Folan to follow-up with the Building Inspector, as he is the Zoning Enforcement Officer.

Ms. Folan expressed concern with the Bishop Feehan parking lot being developed to the max, as it will increase traffic on Harvard Street.

Mr. Ayrassian disagreed and stated that there is not a direct nexus between the number of parking spaces on site and the amount of traffic.

Ms. Davies noted that post-construction, Bishop Feehan would have to restripe and repave the parking lot and return it to the configuration shown in the approved site plan.

Mr. Sullivan confirmed that the parking spaces marked out on the grass would be gone after construction concludes.

Speaking was Pam Folan of 16 Harvard Street who attested that there is a student that comes out of the gate on Harvard Street off-hours and speeds down the street daily. She stated that she has also observed a bus with the school's name on it violating the terms of the agreement.

Shannon **Bénay** asked whether Ms. Folan has contacted the police. She suggested that humps or other measures to deter speeding could be contemplated.

Ms. Folan argued that the gate should be manned and students should not be coming out off-hours.

Mr. Ayrassian noted that the Board is hearing Ms. Folan's concerns as a courtesy, but that they were not involved with the agreement between Bishop Feehan and the Municipal Council and do not have control over traffic concerns that are unrelated to a permitted project through the Board. He argued that no system is perfect, even with every effort to control the traffic and what drivers do is, to some degree, out of the school or the City's control. He reiterated that the Planning Board has no jurisdiction in general traffic matters.

The Board heard the appointment to speak of Jenna Shea of DiPrete Engineering relative to completion of the "MILOSH ACRES" subdivision.

The Board reviewed the letter and supporting materials from Project Manager Jenna Shea of DiPrete Engineering, dated May 17, 2023, to the Planning Board, providing an update on the status of the "MILOSH ACRES" subdivision.

Ms. Shea stated that she is appearing on behalf of Dedham Savings Bank who has assumed responsibility for the subdivision now that the developer has walked away. She stated that they have found some discrepancies between what was approved for the 81-W plan and what was constructed. She explained that the plan was approved with 37 street trees that were not installed. She stated that they had since sent out letters to the residents to allow them to opt to have the trees installed. She stated that only four trees have been installed to date and they are requesting a waiver for the remainder. She stated that they met on

site with Public Works and have agreed to mill and repave Laura Drive to address the alligator cracking. She stated that the remainder of the minimal cracking throughout the subdivision would be sealed. She noted that the water gates were not installed to grade, so they are planning to bring them flush with the surface. She stated that they are proposing to flush and clean out the stormwater system. She stated that the approved fire alarm box was never installed and they are requesting a waiver on the feature, as the Board no longer requires their installation. She stated that the approved cascade grates for two of the catch basins were not installed and they are proposing to put them in. She stated that the stormwater basins were not constructed to the approved design volume. She stated that they have been collaborating with the City and determined that expanding the basins would be a challenge and disruptive to the neighborhood. She stated that their auger testing found there is ledge in Basins 1 and 4, which will limit the ability to expand vertically without blasting. She stated that the basins are constrained horizontally by the wetlands and the proximity to existing residential structures and landscaping.

Mr. Ayrassian sought to confirm that despite not being built to the approved design, the basins would have the capacity to accommodate the 100-year storm.

Mr. Shea answered yes, based on their modeling. She stated that all of the basins fall within substantial conformance with the exception of 2A and 2B. She stated that those basins can mitigate the 25-year storm plus an additional 3,000 cubic feet of volume. She stated that with the infrequency of a 100-year storm event, they do not anticipate negative impacts to the area. She stated that those basins will just utilize their emergency overflows during larger storm events. She noted that the associated weirs were built with curbs and rip rap to prevent erosion, so should perform adequately for that purpose. She stated that they are seeking a waiver to allow the basins to remain as they were constructed.

Mr. Ayrassian explained that historically, the Board has still considered trees and alarm boxes as having worth, so require the developer to provide that value to the City, even if waivers are granted. He stated that a check for the valuation of the alarm box would need to be submitted and the uninstalled trees donated to the Parks Department for planting elsewhere.

Ms. Shea stated that she could not speak on behalf of her client, but she speculated that they would be in agreement with paying the value of the alarm box. She stated that in regards to the trees, she suggested that as Dedham Savings Bank was not the original developer and they have done their due diligence in attempting to install the trees at this late date when residents have been established since 2006, she felt it might be appropriate for the requirement to be reduced or waived.

Mr. Ayrassian suggested the matter could be discussed directly between Dedham Savings Bank and staff. He also suggested that staff write a letter to the Board, explaining the engineering support for the granting of the waiver relative to the stormwater basins.

The Board agreed.

Peter Fellini sought to confirm that all of the basins were built to contain the 100-year storm with the exception of two.

Ms. Shea answered yes.

Peter Fellini asked whether the remaining ponds could accept the overflow from the two that are insufficient.

Mr. Ayrassian answered no, as the basins are not all connected.

Ms. Shea confirmed that it would simply result in an increased flow from the emergency overflow weirs to the wetlands.

Melinda Kwart recalled there being issues with the stormwater for this subdivision when first being constructed.

Mr. Ayrassian agreed that there were issues when the original developer was still involved, but that things were addressed. He asked the time line for completion of the work at the subdivision.

Ms. Shea stated she believed the work would occur this summer or in the spring of next year, depending upon what the Board decides and the contractor's schedule.

Mr. Ayrassian suggested general acceptance of the proposed remediation and that the matter be discussed further at the next meeting, once the issue of the trees has been resolved and the staff letter regarding the basins has been drafted.

The Board tabled the matter.

The Board reviewed the Municipal Council Vote #2 taken May 16, 2023, relative to the proposed loan order in the amount of three million five hundred (\$3,500,000.00) dollars for the design, permitting, bidding, construction and construction oversight costs associated with the temporary PFAS treatment facility located at the Wading River Plant.

Melinda Kwart made a motion to recommend to the Municipal Council that the Loan Order, in the amount of THREE MILLION FIVE HUNDRED THOUSAND (\$3,500,000.00) DOLLARS, for the design, permitting, bidding, construction and construction oversight costs associated with the temporary PFAS treatment facility located at the Wading River Treatment Plant is consistent with Section VI.(J) Municipal Facilities, Goal 16, Policy 2, of the City's COMPREHENSIVE PLAN. Tiffany Foster seconded the motion and all voted in favor.

The Board reviewed the email from Nicholas Catenacci, dated May 22, 2023, to Director of Planning and Development Gary Ayrassian, providing an update on the cleaning and maintenance of the "STONE FIELD ESTATES III" subdivision and the pictures taken on May 22, 2023, by Senior Land Use Planner Stephanie Davies, documenting the status of the "STONE FIELD ESTATES III" subdivision.

Ms. Davies stated that work was performed to clean-up the site, but there continue to be outstanding issues.

Mr. Ayrassian informed the Board that staff had met with the City Solicitor after receiving Mr. Catenacci's response and that the next action will likely be to file an injunction.

Ms. Davies noted that the first step in doing so would be to perform a site visit with Public Works and the Conservation Commission to identify the matters to be corrected, and meet with Mr. Catenacci on site with the Solicitor to review the list and set a deadline for remediation.

Mr. Ayrassian explained that the law requires that the demands from the City be explicit and that the developer be given ample opportunity to address things.

The Board tabled the matter.

The Board reviewed all other correspondence.

The Board reviewed the pending minutes.

The Board tabled the pending minutes of May 15, 2023.

The meeting adjourned at 8:15 p.m.