



City Of Attleboro, Massachusetts

PLANNING BOARD

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MINUTES

JANUARY 6, 2020

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, January 6, 2020 at 6:30 p.m. in the Council Chambers , City Hall, 77 Park Street, relative to the following :

Planning Board Members Present: Chairman Paul Danesi, Vice Chairman Jason Gittle, Secretary Sheryl Guglielmo, Scott Jones, Melinda Kwart, Sean McNamara, and Fred Uriot

Planning Board Members Absent: Jim Lewis and Bert Buckley

The Board heard the application of John J. & Mary F. Donovan to extend Rambler Road 2-5 feet, as shown on the street extension plan entitled “RAMBLER ROAD EXTENSION,” engineered by Daniel R. Campbell, R.P.E. of Level Design Group, 249 South Street, Unit 1, Plainville, MA 02762, dated March 1, 2018, revised through October 28, 2019. The subject premises are located on Assessor’s plat #123, Lot #8 in the Single Residence-D zoning district.

Speaking in favor of the application was Dan Campbell of Level Design Group who explained that the accepted pavement on Rambler Road ends short of the full roadway layout. He stated that there has been extensive research into the legality of whether an extension is required and how to pursue the application. He noted that the distance is five feet from one side and two feet from the other, as the pavement ends at an angle. He explained that this is a result of a massive street acceptance performed by the Municipal Council where surveying wasn’t performed and the lengths of pavement were just accepted. He stated that the drainage for the extension will be handled by the proposed stormwater management system in the adjacent “PIKE ESTATES” subdivision, if approved. He stated that the water line and sewer will be extended and they are proposing a sidewalk along one side of the road. He stated that they will request a waiver for not having sidewalk on both sides.

Senior Land Use Planner Stephanie Davies requested that a road profile be provided, as the details for the edge of the pavement are not clear.

Mr. Campbell offered to submit a blow-up of that portion of the plan to make clear how it will be widened. He noted that there is a traffic measure proposed in this application, along with a second measure proposed in the “PIKE ESTATES” definitive subdivision application, but that the nature of the features is to benefit the larger subdivision.

Chairman Danesi noted that it needs to be resolved whether the Municipal Council will permit such speed tables, as they are prohibited by the current Ordinance. He asked whether the Rambler Road extension will be constructed before or at the same time as the rest of “PIKE ESTATES”, if approved.

Mr. Campbell replied that the work would be done simultaneously, as the subdivision needs to connect with the existing utilities in Rambler Road. He stated that the extension would not be constructed if the “PIKE ESTATES” subdivision isn’t also constructed.

Speaking in opposition was Susan Sweeney of 74 Del Jo Drive in Seekonk, MA 02771, who stated that she is speaking on behalf of her mother-in-law, Stacia Sweeney, who lives at 41 Rambler Road in Attleboro. She asked how much property would abutting neighbors lose for the street extension.

Mr. Campbell replied that all of the proposed work is within the roadway layout and not on private property. He stated that a five foot sidewalk is proposed beyond the pavement and curbing.

Mrs. Sweeney questioned the number of trees slated for removal.

Mr. Campbell replied for the street extension, none.

Ms. Davies noted that Ms. Sweeney may be concerned with impacts of bringing sidewalk all the way out to Nash Lane as was proposed in association with the "PIKE ESTATES" subdivision.

Mr. Campbell stated that it has not yet been settled whether the applicant would contribute funds for sidewalks to be built or that they would perform the construction work relative to the subdivision sidewalks. He stated that if sidewalk is brought all the way out to Bishop Street, there would be walkways, shrubs, and trees that are impacted.

Chairman Danesi directed conversation back to the street extension plan rather than the subdivision.

Mrs. Sweeney stated that the neighborhood in question is a hidden gem due to it being tight-knit and quiet. She stated that the present dead-end nature of Nash Lane and Rambler Road creates a safe environment for the residents and their children. She stated that she didn't understand how one neighbor signing off on the street extension application can usurp the rights of the other abutting neighbor, her mother-in-law. She submitted a petition to keep Rambler Road a dead-end street. She stated that the traffic that will accompany further development will lessen residents' ability to quietly enjoy their homes. She noted that the Donovans, who signed off as owners of the application, had originally signed the neighborhood's petition in opposition to the development of "PIKE ESTATES". She stated that for close to 50 years, her father-in-law maintained the end of the roadway up until his death and that that should garner her mother-in-law rights to the area. She asked whether the neighbors will be compensated for the market loss of value that will occur to their homes should the subdivision be developed. She stated that she has discussed the matter with real estate agents who confirmed that house values are higher and they tend to sell more quickly when located on a dead-end street. She requested that the Board deny the extension of Rambler Road and asserted that her mother-in-law has the most to lose due to her proximity to the development.

Jason Gittle questioned the rights Mrs. Sweeney felt were being usurped.

Mrs. Sweeney replied that there's a fee interest in the property and that since the City never accepted that portion of the road, her family has an interest in that area after maintaining it for so many years. She asserted that the neighbors want to see the quality and value of the land and homes that they purchased maintained. She stated that they pay taxes and have rights too.

Speaking in opposition was Melanie Lipof of 24 Rambler Road who asked when the street extension plans were drawn.

Chairman Danesi replied October 28, 2019.

Ms. Lipof asked how things could have suddenly changed. She stated that there was an abutter to Rambler and Nash who was denied access through their neighborhood and asked how this situation is different.

Chairman Danesi stated that the Board can only comment on the application before them and can't speculate as to the history of Rambler Road.

Ms. Davies stated that if a prior case did come before the Planning Board, Ms. Lipof is welcome to come by the Planning Office to review the files.

Ms. Lipof asked whether surveying was done to determine the deficiency requiring the street extension.

Chairman Danesi replied that it was discovered during the definitive subdivision review process.

Ms. Davies stated that the roadway's pavement length was accepted in 1994 but neglected the last 2-5 feet of the right-of-way.

Ms. Lipof asked why the unaccepted section wasn't accepted at that time.

Ms. Davies explained that it was an oversight and at that time, the City accepted hundreds of streets by measuring the length of pavement rather than surveying them. She stated that special legislation from the state was granted to do so.

Ms. Lipof asked why the state would allow that.

Ms. Davies stated that she couldn't answer for the state, but that there was an imperative to accept the roads as the City was already caring for all of them.

Speaking in opposition was Rob Pasquale of 4 Rambler Road who sought to confirm that this application is required for the "PIKE ESTATES" subdivision to move forward.

Chairman Danesi replied that there are other potential approaches, like requesting a waiver for the number of houses on a dead-end street.

Mr. Pasquale stated that he would hate to see anyone in his neighborhood be forced to have a sidewalk installed in their lawn. He stated that he would especially hate to see that happen if the subdivision were not to go in.

Ms. Davies stated that Mr. Campbell has already stated that this project will not move forward if the subdivision is not also approved.

Mr. Pasquale stated that his family moved in only a couple of years ago and that the biggest enticement for them to purchase their home was its location on a dead-end street. He stated that they have two dogs that play in their unfenced yard, something that would be a risk if the road were to go in. He stated that it is a unique, close neighborhood that should be preserved, as there are developments going up everywhere. He asked which side the sidewalks would be located on.

Ms. Davies stated that the sidewalk would be on the left as you travel towards Bishop Street from Nash Lane, but only if the definitive subdivision plan is approved.

Speaking in opposition was Bob Sweeney of 74 Del Jo Drive in Seekonk, MA 02771 on behalf of his mother, Stacia Sweeney of 41 Rambler Road. He asked the Board to confirm whether one abutter signing the street application is sufficient.

Chairman Danesi replied that one abutter was the accepted approach by the City Solicitor.

Mr. Sweeney asked whether her opinion was public record and whether he could be granted access to the case law the Solicitor used in forming the opinion.

Ms. Davies stated that a written opinion was not submitted, but rather a discussion was held at a Subdivision Committee meeting, which the Board does not keep minutes for. She stated that at the Board's direction, the Solicitor could be contacted to request her justification.

Chairman Danesi agreed.

Mr. Sweeney stated that he had discovered some material that suggest that both abutters would be required to sign the application in the case of a dead-end road. He noted that this would be the basis of his family's appeal, if it comes to that.

Speaking in opposition was Francis Hanifin of 37 Rambler Road who stated that he purchased his home several years ago, having moved from Long Avenue, which is another dead-end street. He stated that he understands progress, but that he is frustrated that no one from the subdivision has reached out to work with the neighbors. He stated that he didn't understand why Rambler Road cannot remain a dead-end street. He stated that he and his neighbors will lose tens of thousands of dollars from the value of our homes on the account of this development. He stated that none of his neighbors are happy about this proposal and that it will negatively impact their daily lives. He stated that the road will become a throughway and that people are likely to utilize it as a way to cut-through to La Salette.

Chairman Danesi stated that he understands Mr. Hanifin's concerns.

Mr. Hanifin stated that he understands that the owners of the subdivision property have the right to make money with their development, but that it shouldn't be permitted at the expense of him and his neighbors.

Speaking in rebuttal was Nick Router of Picerne Group who asserted that they have been doing business in Massachusetts and Rhode Island for the past 90 years. He stated that they understand the importance of being good neighbors and that they did reach out to the neighbors and held a meeting with them at the Sports Complex. He stated that the proposed speed tables were the neighbors' ideas as a result of that meeting. He stated that this subdivision has been under development for a long time and that some of the residents may not have been living there at the inception of the process. He stated that their intention is for traffic to not be an issue. He stated that he wants the record to reflect that they did reach out to the community. He stated that although their business is making housing for people, they are more than willing to listen to the concerns of abutters.

Speaking in opposition was Susan Foster of 1 Rambler Road who stated that it doesn't matter what the developer says since he'll be making money while all the neighbors are losing it.

Chairman Danesi stated that he is not a trained real estate agent, but suggested that there is the possibility that the development could bring up property values in the area. He stated that the Board does a lot to attempt to mitigate any traffic issues.

Ms. Foster stated that she has lived at her property for 35 years and that for the first 25, there were a lot of issues with the high water table. She stated that they've had to install new carpets and that their house has had black mold in their cellar and family room. She stated that many of her neighbors have sump pumps and that she is concerned that this development could negatively impact things.

Chairman Danesi stated that the Board is working with the developer in regards to stormwater management and that the City has third party engineers who review their designs and ensure that the project will not make existing issues worse.

Ms. Foster argued that she didn't feel that they could guarantee that there won't be changes.

Ms. Davies pointed out that the development is all down-gradient of the houses on Rambler Road, so run off is not anticipated to be an issue.

Mr. Foster expressed concern with the digging up of the wetlands.

Ms. Davies disagreed, stating that they are not proposing to dig up the wetlands.

Speaking in opposition was Carol Konvalinka-Connolly of 27 Rambler Road who stated that she has been keeping abreast of this development since other abutters had made her aware of the proposal. She stated that she understands that this hearing is strictly relative to the street extension of Rambler Road, but that

as a neighbor, it is hard to separate it from the overall subdivision proposal. She asked that the Board deny the extension, as that may stop the subdivision development in its tracks.

Speaking in rebuttal was attorney Edward Casey who requested that the hearing be continued to allow the submission of additional information. He stated that the concerns of the neighbors are sincere and legitimate, although it could be argued whether they will ever actually materialize, should the project come to fruition. He stated that he does take exception to the assertion that his client is usurping anyone's legal rights, as they are discussing an improvement within an existing public way. He stated that for neighbors impacted by the sidewalk addition, they may have been caring for a portion of the City's right-of-way as their lawn and that such neighbors will be notified in advance of the construction. He refuted the neighbors' request for the Board to "do what's right" and deny the extension, as the Board members are sworn to apply the Planning Board's Rules and Regulations to all proposals and that to simply deny an application on the whim of the neighbors will not hold up in court.

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

The Board heard the application of Pike Avenue Acquisitions, LLC for the proposed forty-nine (49) lot definitive subdivision plan entitled "PIKE ESTATES," located at 419 Pike Avenue, more specifically Assessor's plat #130, lot #81, located in the Single Residence-D zoning district, engineered by Daniel R. Campbell, R.P.E. of Level Design Group, 249 South Street, Unit 1, Plainville, MA 02762.

Speaking in favor of the application was Dan Campbell of Level Design Group who stated that they have applied for the Rambler road street extension. He stated that their stormwater management plan has been fully approved by the third party review engineer. He stated that no changes have been made to the layout or plan in association with the stormwater system, just some minor notations. He stated that the only impending change is altering the access to the open space at the end of the Rambler Road cul-de-sac, which has yet to be finalized. He stated that they are also still discussing the traffic calming measures and speed tables.

Chairman Danesi questioned the waivers being sought.

Mr. Campbell replied waivers are being sought for the roadway width and to allow sidewalks on only one side of the street. He noted that the stormwater was designed to accommodate a full roadway build-out, so it will be sufficient whether the waivers are granted or not. He noted that the open space is also non-contiguous and that they have expanded the curb radii as recommended by the Board to improve the turning radius. He reminded the Board that the vegetation was cleared at the intersection with Pike Avenue to ensure sufficient view.

Mr. Casey requested that the Board provide feedback on whether they found the sight distance from Pike Avenue to be sufficient.

Chairman Danesi stated that he was satisfied, but that Jim Lewis, who is absent this evening, had ongoing concerns. He asked whether cluster mailboxes are proposed.

Mr. Campbell stated that the post office has stated that they will not allow individual mailboxes for the houses, but will not provide the requirement in writing.

Ms. Davies stated that it should be reflected on the plans, as a pull-out of some sort will be required.

Mr. Campbell stated that he had previously shown staff a plan where pull-offs were proposed coming off of Pike Avenue and another one potentially near Rambler Road.

Ms. Davies asked that the plan be submitted and questioned whether some sort of easement is proposed.

Mr. Campbell replied that the mailboxes don't require a significant amount of area and are proposed entirely within the right-of-way.

Speaking in favor was attorney Edward Casey who requested that the hearing be continued. He noted that there was a staff comment about the limited information provided relative to the houses to be constructed.

Ms. Davies stated that some subdivisions show a building envelope on each of the lots, some include grading and more detail. She stated that those details are not provided here. She explained that it sometimes comes up in the stormwater peer review, as the grading can affect the system, but didn't in this case.

Chairman Danesi stated that he didn't feel the need for the fine details to be submitted as he felt the lot sizes are sufficient.

Ms. Davies explained that typically, staff looks at the grading between the lots to indicate the direction the stormwater is flowing.

Mr. Campbell replied that all of the front yards will drain to the street and swales are provided between lots, which satisfied the third party reviewer.

Ms. Davies agreed that the comment is satisfied.

Mr. Casey asked Mr. Campbell to describe whether grade changes will affect other developed areas.

Mr. Campbell replied that it will have no impact. He stated that most of the house lots are adjacent to open space and that the nearest grading to abutters is one house lot that will be within 35 to 40-feet.

Scott Jones noted the corner lot and sought to confirm that the property slopes away from the abutting lot into the development.

Mr. Campbell replied in the affirmative and that the proposed grading is to create a flat pad and grade upwards towards the neighboring lot. He stated that the erosion control line will be bordered with orange construction fencing.

Mr. Casey requested Mr. Campbell point out the stone walls that will be relocated.

Mr. Campbell provided a highlighted plan.

Mr. Casey requested an update regarding the concerns of the Wastewater Department.

Mr. Campbell replied that they met with Superintendent Hayes and he verbally expressed his comfortable with the plans.

Speaking neither for nor against was Mr. Peter Foster of 1 Rambler Road who asked why the subdivision needs to have an entrance in off of Rambler.

Chairman Danesi replied that more houses than are permitted are proposed on a dead-end from Pike Avenue. He stated that if the entrance from Rambler isn't approved, a waiver will be required.

Ms. Davies noted that more than half the subdivision is composed of open space (29.69 acres) versus the total lot size (40.76 acres), with a total of 49 houses proposed.

Speaking in opposition was Mr. Sweeney who questioned the grading of the house lots.

Mr. Campbell replied that grading nearest abutters is all out towards Pike Avenue. He stated that the only grading near Rambler Road will be to allow for stormwater to be collected from the roadway.

Speaking in opposition was Ms. Sweeney who stated that her mother-in-law's property is lined by one of the stone walls and whether it will be disturbed.

Mr. Campbell stated that the stone wall will remain between the properties and that a small wall will be added to the easement area for the open space access.

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 July 17, 2018 for “Shops on Washington” to reconfigure the proposed bank, restaurant, and retail buildings; and create new curb-cuts providing right-in only access to the site from Newport Avenue and Route 1A, 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 Attorney Jack Jacobi who explained that his client had recently attended a convention and several banks were interested in taking over the lease abandoned by Chase Bank. He stated that they have put together a sketch that eliminates the entrance from Newport Avenue and are requesting the Board’s feedback, as the interested parties will not sign a letter of intent until they have some sort of assurances that the project has the potential to move forward. He stated that he understands that they will have to submit updated elevations for the bank once confirmed and are requesting to continue the meeting to February. He stated that they are before the Zoning Board on Thursday and with their feedback, he is hoping to have an updated plan to present at the February 10th meeting. He requested a continuance.

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

The Board held a business meeting.

The Board heard the Form A application submitted by North Development, LLC for the easterly side of Lathrop Road.

Ms. Davies stated that both lots exceed the required 50-feet of frontage and meet the required square footage for area. She stated that staff recommend approval.

Jason Gittle made a motion to approve the Form A plan for the easterly side of Lathrop Road. Sheryl Guglielmo seconded the motion and all voted in favor.

The Board reviewed the letter form John Cloud of Attleboro Realty Development, LLC, dated January 6, 2020, to the Planning Department, requesting an extension of time to May 11, 2020 relative to completion of the “COLMAN ESTATES” subdivision infrastructure.

Melinda Kwart made a motion to grant an extension of time to May 11, 2020. Sheryl Guglielmo seconded the motion and all voted in favor.

The Board reviewed the memorandum from Public Works Superintendent Michael R. Tyler, dated January 6, 2020, to the Planning Board, recommending a PARTIAL release of funds in the amount of \$92,626.66 relative to the infrastructure construction at the “COLMAN ESTATES” subdivision.

Melinda Kwart made a motion to grant a PARTIAL release of funds in the amount of \$92,626.66 relative to the “COLMAN ESTATES” subdivision. Sheryl Guglielmo seconded the motion and all voted in favor.

The Board reviewed the memorandum from Public Works Superintendent Michael R. Tyler, dated January 6, 2020, to the Planning Board, recommending a PARTIAL release of funds in the amount of \$209,128.45 relative to the infrastructure construction at the “DEER RUN ESTATES” subdivision.

Sheryl Guglielmo made a motion to grant a PARTIAL release of funds in the amount of \$209,128.45 relative to the "DEER RUN ESTATES" subdivision. Melinda Kwart seconded the motion and all voted in favor.

The Board reviewed all other correspondence.

The Board approved the pending minutes of November 18, 2019, December 2, 2019, and December 16, 2019.

The meeting adjourned at 8:18 p.m.