



City Of Attleboro, Massachusetts

PLANNING BOARD

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MINUTES

FEBRUARY 8, 2021

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, February 8, 2021 at 6:30 p.m. remotely via Zoom, relative to the following :

Planning Board Members Present: Chairman Paul Danesi, Vice Chairman Jason Gittle, Shannon Bénay, Mike Davis, Jim Lewis, Sean McNamara, and Fred Uriot

Planning Board Members Absent: None

The Board heard the application of W.B. Construction & Development, Inc. for the proposed eighteen (18) lot definitive subdivision plan entitled "BRIGHAM HILL ESTATES, PHASE IV," located on a portion of Brigham Hill Road and Lewis Lane, more specifically Assessor's plat #218, lot #6, and Assessor's plat #219, lot #3, located in the Single Residence-D zoning district, engineered by James R. Borrebach, R.P.E. of OHI Engineering, Inc., 44 Wood Avenue, Mansfield, MA 02048.

Jim Lewis recused himself from the discussion.

Senior Land Use Planner Stephanie Davies informed the Board that the applicant was seeking a continuance.

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

The Board heard the application of One Thirty One Pleasant St, LLC for the proposed twenty (20) lot definitive subdivision plan entitled "STONE FIELD ESTATES III," located at 553 Oak Hill Avenue, more specifically Assessor's plat #170, lot #1A, located in the Single Residence-D zoning district, engineered by John C. Spink, R.P.E. of Spink Design, 59 Clay Street, Middleborough, MA 02346.

Senior Land Use Planner Stephanie Davies informed the Board that she had received an email late in the day from the applicant requesting to continue the public hearing.

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

The Board heard the application of Pike Avenue Acquisitions, LLC, Robert Heroux, and Erin Pilling for the proposed forty-nine (49) lot definitive subdivision plan entitled "PIKE ESTATES," located at 419 & 439 Pike Avenue, more specifically Assessor's plat #130, lot #81, and plat #123, lot #23, 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.

Senior Land Use Planner Stephanie Davies informed the Board that she had received an email late in the day from the applicant's legal representation, Ed Casey, requesting to continue the public hearing.

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

The Board held a business meeting.

The Board reviewed the Form A plan submitted by Patricia and John Barno for 18 Avalon Drive.

Ms. Davies explained that Lot 1A contains the existing home located at 18 Avalon Drive where the applicants reside. She stated that Lot 1B is a buildable lot with frontage on Avalon Drive. She noted that Lot 1A has legal frontage on Woodstock Road, despite the driveway being located on Avalon Drive. She added that Parcel A in the rear is proposed to be conveyed to their neighbor.

Director of Planning and Development Gary Ayrassian sought to confirm that this is the correct plan, as he recalled directing the applicant to redesign one of the lots when first submitted.

Ms. Davies answered yes, and explained that staff had asked the applicant to change the configuration to ensure the entirety of the driveway for Lot 1A doesn't cross onto Lot 1B. She noted that the driveway has always traversed a portion of the neighbor's property, as shown.

Jim Lewis questioned the legality of the frontage provided for Lot 1A, as historically, the Board hasn't recognized the stub of a dead end road as legal frontage.

Ms. Davies countered that Woodstock Road is not a dead end, as there is a cul-de-sac at the terminus.

Jim Lewis pointed out that a cul-de-sac is not shown on the plan.

Speaking in favor the plan was Roy DeLano of Lighthouse Land Surveying who stated that Woodstock Road was designed by Otis Dyer back in 1968 with a 100-foot straight tangent on the cul-de-sac, which touches the Barno's property as formed by a Form A in 1984. He explained that the actual roadway pavement makes a cul-de-sac shape, however the layout of the street is a square. He noted that a Form A had been approved about 5 years prior splitting the Barno's property using 50-feet of frontage for each lot off of Woodstock Road.

Ms. Davies showed the Board the roadway using the GIS system, which made the cul-de-sac apparent.

Mr. Ayrassian asked Mr. DeLano if he could show the Board the Form A plan from 1984 and whether it shows a turn around.

Mr. DeLano replied that it shows the roadway as shown on this plan. He stated that the circle center portion of the cul-de-sac shown on the GIS isn't necessary, as it's not a dedicated portion of the roadway layout. He noted that this was not necessarily a standard cul-de-sac design.

Jim Lewis stated that he supposed he was comfortable with the design as it's for an existing house lot and not creating new access.

Mr. Ayrassian questioned the length of Woodstock Road.

Mr. DeLano answered approximately 900-feet from Slater Street.

Mr. Ayrassian confirmed that the length of Woodstock Road had been accepted by the City.

Jim Lewis made a motion to approve the Form A plan for 18 Avalon Drive. Mike Davis seconded the motion and all voted in favor via roll call.

The Board reviewed the Form A plan submitted by Viridian Development, LLC for 91 Augsburg Drive.

Ms. Davies stated that the applicant is proposing the creation of two house lots and noted that they had obtained approval from the Zoning Board for variances relative to the lot width for each lot. She stated that Lot 5YY is slated to be donated to the City.

Mr. Ayrassian explained that the original Viridian Meadows had been a 60 or 70 lot subdivision that was reduced to 10 lots by the Natural Heritage Foundation when rare species were discovered on the property. He stated that the original open space for the subdivision was required to be conveyed to either a non-profit or the City for protection. He explained that portion of land had already been conveyed, so this donation is in addition to that.

Ms. Davies stated that both lots have frontage on Augsburg Drive and exceed the minimum lot area requirements for the zoning district. She stated that staff recommend approval of the plan.

Jim Lewis noted that such pork chop lots are a subject of discussion in the Planning Board's new study group and that he is in favor of adjusting the Zoning Ordinance to allow such uses by-right.

Jim Lewis made a motion to approve the Form A for 91 Augsburg Drive. Mike Davis seconded the motion and all voted in favor via roll call.

The Board tabled 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.

The Board discussed the notice from Planning Board Clerk Lauren Stamatis, dated October 14, 2020, to Mark Rioux of Murette & Sons, Inc., regarding the lapsed construction deadline for the "ROLLING HILLS, PHASE VI" 81-W subdivision.

Ms. Davies explained that National Grid had changed their procedures and required a form signed by the City in order to install the subdivision's lighting. She stated that the form had been completed and given to the developer, but she was unsure whether the lighting had been installed yet. She noted that staff are still awaiting the submission of the as-built and street acceptance plans.

Mr. Ayrassian reminded the Board that the subdivision is technically in default and the developer has been just mopping up the remaining punch list items. He noted his opinion that it wasn't worthwhile performing on the security, as the developer has been making an effort to address things.

Chairman Danesi agreed and stated that they are dependent upon National Grid to get things finished up. He suggested that the Board address things if there are no changes by the next meeting.

Sean McNamara stated that he was not comfortable with that approach, as the developer has been in default since October and he felt that significant progress should have been made by now.

Chairman Danesi noted that the processing of pulling the bond alone is likely to take upwards of 60-days.

Mike Davis noted that he was unsure of the history of this subdivision and asked whether the developer has a track record of non-compliance.

Mr. Ayrassian admitted that the Board has been very lenient in working with the developer over a long period of time. He noted that this was certainly not the first extension to the infrastructure completion deadline.

Jason Gittle asked if the developer was requesting an extension.

Mr. Ayrassian answered no, but that he has been following up with the developer regularly. He stated that if a developer informs him that they are working on things, he can't in good conscience argue given the disruptions due to COVID. He noted that he has probably followed-up with the developer at least four times and that he had advised the Board not to grant an extension in an attempt to keep the pressure on.

Jason Gittle asked whether there has been progress since October.

Mr. Ayrassian answered yes, but strictly due to work on the City's end by coordinating with National Grid and public Works. He stated that the situation with the lights is moving towards resolution, but there has been no update on the as-built and street acceptance plans.

Jim Lewis sought to confirm that it would be fair to say that the developer cannot complete the as-built and street acceptance plans until National Grid has placed the lighting on poles.

Mr. Ayrassian agreed it would be fair.

Jim Lewis noted that with the current state of snow on the ground, the developer is unable to perform surveying for the plans now. He added that if the Board votes to perform, the City likewise won't be able to perform the work any sooner. He suggested a compromise with a final deadline for action to be taken against the bond and no further extensions of time.

Sean McNamara countered that such verbal threats have accomplished nothing in the past and that he feels a vote needs to occur to act on the bond to force the developer to get their paperwork submitted.

Mike Davis agreed with Sean McNamara.

Jason Gittle stated that he could get on board with Jim's compromise and suggested giving the developer until April 1st and pulling the bond immediately if things aren't complete by then.

Shannon Benay agreed such a compromise made sense.

Jason Gittle added that it would be folly to act on the bond at this point, as the City can't do any of the work either. He suggested that every effort be made to let the developer finish the work.

Ms. Davies noted that it's been over a month since she provided the developer with the signed form for National Grid. She suggested that she could correspond with National Grid directly to ensure the lights have been installed.

Mr. Ayrassian noted that was the applicant's job, not staff's.

Ms. Davies noted that whether the developer is waiting on something from National Grid versus just dragging their feet could be relevant to a vote to pull the bond.

Fred Uriot stated his sense that staff seems to be putting in a lot more work than the developer.

Chairman Danesi made a motion to perform on the bond for the "ROLLING HILLS, PHASE VI" subdivision. Sean McNamara seconded the motion. Jason Gittle, Sean McNamara, Mike Davis, and Fred Uriot voted in favor. Chairman Danesi, Jim Lewis, and Shannon Benay voted against. The motion passed.

The Board discussed the letter from Brian Cave of Cave Corp., received December 4, 2020, to the Planning Board, requesting an extension of time to April 30, 2021 to complete the subdivision infrastructure at the "DALE COURT EXTENSION" subdivision.

Mr. Ayrassian informed the Board that the last correspondence he had received from Mr. Cave indicated that the material price he had received was too expensive, so he was seeking alternate options. He reminded the Board that Mr. Cave had requested an extension until April 30th, but the Board had tabled the request, hoping the lack of an extension being granted would prompt him to action. He stated that through a number of telephone calls with Mr. Cave, he hasn't made significant progress.

Ms. Davies noted that clearly the curbing cannot be installed right now on account of the snow. She stated her recollection that two or three shorter extensions of 6 months to a year have been granted over the course of construction.

Jim Lewis stated his sense that the price for materials being too high is irrelevant and not the Board's concern.

Sean McNamara agreed. He stated that when Mr. Cave originally appeared before the Board last fall, the Board had simply asked whether he had procured the granite for the curbing. He stated that it is unacceptable to take four months to finally receive an answer.

Mr. Ayrassian agreed that the developer has already been given some latitude. He noted that should the Board chose to vote to perform on the subdivision, they can always rescind the vote at a later time if the developer completes things on his own.

Mike Davis made a motion to approve the extension of time to April 30, 2021. Shannon Benay seconded the motion and all voted in opposition via roll call. The motion failed.

Mike Davis made a motion to perform on the subdivision security. Sean McNamara seconded the motion and all voted in favor. The motion passed.

The Board reviewed the letter from Planning Board Clerk Lauren Stamatis, dated December 22, 2020, to Public Works Superintendent Michael Tyler, soliciting a recommendation relative to the PARTIAL release of funds request for the "EDWARD SR. ESTATES" subdivision, pending submission of the recommendation and the letter via email from Raymond Loughlin of SR Land Improvement, LLC, received February 3, 2021, to the Planning Board, withdrawing his request for a PARTIAL release of funds for the "EDWARD SR. ESTATES" subdivision.

Ms. Davies explained that the developer had neglected to recall that a previous partial release had been already been approved during the summer.

The Board scheduled a Subdivision Committee meeting for Tuesday, February 16th at 5:45 p.m.

The Board reviewed all other correspondence.

The Board approved the pending minutes of December 15, 2020 and January 25, 2021.

The Board received a report on the Planning Board Study Group.

Mike Davis stated that they had discussed how to rank and prioritize proposals and that he had previously distributed minutes to the Board. He emphasized that the group is open to comments from the entirety of the Board.

Jason Gittle asked whether ranking and prioritizing is done as new proposals are received or if there is a set number of times per year.

Mike Davis replied that he recommends an ongoing list be kept, but that prioritizing occur on a quarterly basis.

The meeting adjourned at 7:48 p.m.