



City Of Attleboro, Massachusetts

PLANNING BOARD

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MINUTES

MARCH 22, 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, March 22, 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, Jim Lewis, Sean McNamara, Thom Morin, and Fred Uriot

Planning Board Members Absent: None

In accordance with the provisions pursuant to MGL Ch. 41, SUBDIVISION CONTROL LAW, as amended, and the Planning Board's RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND, as amended, the Board discussed amending the following sections of the Planning Board's RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND: §6.4 FIRE ALARM SYSTEM, §6.4 CLUSTER MAILBOXES, §2.0 DEFINITIONS, §5.5(G) REQUIREMENTS FOR CONSTRUCTION PLANS AND PROFILES - UTILITY PLAN, §6.2(A), (B), AND (C) STREET WIDTH, §7.3(D) AND (G) ROAD CONSTRUCTION, §7.7(A), (B), (C), AND (E) SIDEWALKS, and §8.6 FEE SCHEDULE.

Senior Land Use Planner Stephanie Davies reviewed the sections proposed for amendment, which included adding the standards for cluster mailboxes for new subdivisions, changing the utility standards to below-ground utilities rather than above-ground, adjusting the standard for berm from bituminous concrete molded berm to Cape Cod style berm, and eliminating the requirement for fire alarm boxes.

Chairman Danesi sought to confirm that waivers could be contemplated for developments that have not yet constructed fire alarm boxes.

Director of Planning and Development Gary Ayrassian stated that the change will not be retroactive, so the feature will be required in all of the subdivisions that were approved including the feature.

Chairman Danesi noted that a waiver had been approved after the fact for one of the phases of Stone Field Estates.

Mr. Ayrassian agreed, but stated that developers are obligated to build the subdivision as approved.

Ms. Davies went on to describe additional amendments including the mandate for sidewalks on both sides of through streets and on only one side of all other streets. She stated that changes are also proposed relative to the advertising procedure for public hearings, putting the entire cost to advertise on the applicant, much like the Conservation Commission does.

Speaking neither for nor against the proposal was Bill Ward of W.B. Construction & Development, Inc. who noted he has run into issues with recent subdivision development relative to National Grid's involvement in the lighting. He stated that they purchased the light poles and fixtures for the first phase of Brigham Hill Estates, but were encouraged to lease for further phases due to liability issues. He stated that section 2

(g) references buying utility supplies, but it may be pertinent to revise that to reflect a lease agreement instead. He stated that he was also concerned about the proposed canopy or shelters being required over the cluster mailboxes, as they are likely to become a maintenance issue once the City takes them over. He pointed out that residents with individual mailboxes by the street don't have canopies.

Chairman Danesi stated that they polled other communities on how they are handling cluster mailboxes and many of them are housing them. He suggested that the City can explore the issue further.

Ms. Davies noted that relative to the utilities, the developer must purchase the materials from National Grid and allow inspections of the trenching and insulating in order for National Grid to maintain them in the future once the street is accepted. She stated that unless this is done, the City becomes responsible for the lights upon acceptance. She stated that the language is in the Ordinance to ensure National Grid is involved at that stage of installation.

Mr. Ward replied that even when purchasing the materials, it isn't from National Grid directly, but rather an approved manufacturer.

Mr. Ayrassian noted that the City's language is based on the instructions from National Grid directly. He promised to confirm with them whether the language should reference buying versus leasing.

Ms. Davies noted that the impetus for the language was a subdivision that didn't follow National Grid's requirements and now the City is responsible for owning and maintaining the associated lights. She stated that the goal of the policy is for National Grid to own the equipment outright.

Mr. Ward agreed that the City does not want to have to own the poles and that the language should be whatever enables that. He just wanted to make clear that he was not familiar with a process requiring developers to buy the materials directly from National Grid and that rather, they just have to meet their standards.

Jim Lewis made a motion to close the public hearing. Jason Gittle seconded the motion and all voted in favor via roll call.

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.

Speaking in favor of the application was Bill Blais of OHI Engineering who explained that they had submitted revised plans to address comments from the staff and Subdivision Committee. He stated that the updated plans included a cluster mail box location, with a drop lane that consists of a 7-foot bump out with an angled access in and out.

Mr. Ayrassian confirmed that they had satisfied all of the stormwater peer reviewer's comments, so staff recommended closing the hearing.

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

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.

Speaking in favor of the application was Bob Catenacci of One Thirty One Pleasant St, LLC who stated that they have completed the first stormwater peer review and provided responses to the City's staff report.

Mr. Ayrassian noted that the revised plans had been forwarded to obtain an estimate for a second peer review. He suggested an extension of time to mid-May be requested.

Mr. Catenacci asked whether the cluster mailboxes should be encumbered by an easement for conveying to the City.

Mr. Ayrassian suggested a 10' by 10' easement would be appropriate.

Mr. Catenacci requested an extension of time to May 31, 2021.

Sean McNamara made a motion to grant an extension of time to May 31, 2021. Thom Morin seconded the motion and all voted in favor via roll call.

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.

The Board reviewed the Form P2 - Request for an Extension of Time to April 30, 2021, filed by attorney Edward Casey of Coogan Smith, LLP on behalf of Pike Avenue Acquisitions, received March 17, 2021, relative to the proposed "Pike Estates" subdivision.

Jason Gittle made a motion to grant an extension of time to April 30, 2021. Thom Morin seconded the motion and all voted in favor via roll call.

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

The Board held a business meeting.

The Board discussed 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 reviewed the Form P2 - Request for an Extension of Time to April 30, 2021, filed by attorney Edward Casey of Coogan Smith, LLP, on behalf of Pike Avenue Acquisitions and Mr. and Mrs. Donovan, received March 17, 2021, relative to the proposed "RAMBLER ROAD" street extension.

Thom Morin made a motion to grant an extension of time to April 30, 2021. Jason Gittle seconded the motion and all voted in favor via roll call. The Board tabled the matter.

The Board reviewed the Form A plan submitted by John DesVergnes for Solaris Homes, LLC for 728, 734, & 750 Pleasant Street.

Mr. Ayrassian explained that there are separate owners involved for Lot 8 versus for Lots 6 and 7. He stated that Mr. DesVergnes has submitted two new Form A's to address this. He stated the applicant's request to withdraw this Form A without prejudice.

Shannon Bénay made a motion to grant the applicant's request to withdraw the application without prejudice. Fred Uriot seconded the motion and all voted in favor via roll call. The motion passed.

The Board reviewed the Form A plan submitted by John DesVergnes for Solaris Homes, LLC for 728 Pleasant Street (Lot 8).

Mr. Ayrassian stated that this is a revised version of the plan that was withdrawn, labeling Lot 8, "not a buildable lot" and showing the remaining frontage after the lot is carved out. He stated that for this plan, the Board is just contemplating the Lot 8 and its associated parcel.

Jim Lewis asked why Lots C and D are shown on the plan when they are owned by someone else. He asserted that one plan shouldn't show the proposed subdivisions of land for two different owners. He asserted that Parcel A and the remaining land should be on one plan and the land from which Lots B, C, and D are subdivided should be on a separate plan. He noted that his critique may be form over substance, however, and withdrew it.

Ms. Davies noted that the difference between the two plans is the Assessor's reference in the corner - this plan references Lot 8.

Mr. Ayrassian stated that staff recommend approval of the plan.

Sean McNamara made a motion to approve the Form A plan for 728 Pleasant Street (Lot 8). Thom Morin seconded the motion and all voted in favor via roll call. The motion passed.

The Board reviewed the Form A plan submitted by John DesVergnes for Solaris Homes, LLC for 728 Pleasant Street (Lots 6 & 7).

Jim Lewis asked what the frontage distance is to the left of Parcel C.

Mr. Ayrassian noted that dimension had not been requested at the last meeting.

Jim Lewis asserted that if a legal description is being drafted for the new lots, that distance will be relevant. He stated that the frontages of all lots involved should be shown on the roadway. He felt that dimension needed to be added to approve the plan.

Speaking was John DesVergnes who stated that he understands the concern, but had initially felt it didn't need to be labeled, as there was clearly sufficient frontage to the other side for the lot. He stated his intent to return to the Board with another Form A plan that further divides these parcels and that the sliver of land between C and B will no longer be there on that plan. He stated that he is attempting to close on this property and asked what he can do to obtain approval.

Jim Lewis suggested that the Board could vote to approve the plan pending the submission of a revised final copy showing the requested dimensions. He noted that these plans have to go on record and if it's not corrected now, it could result in issues down the line.

Jim Lewis made a motion to approve the Form A plan for 728 Pleasant Street (Lots 6 and 7) pending the submission of revised plans showing all of the frontages along Pleasant Street. Fred Uriot seconded the motion and all voted in favor via roll call. The motion passed.

The Board reviewed the Form A plan submitted by John Lepper for 103 and 105 Maple Street.

Ms. Davies explained the property in question contains the Kozy Kitchen restaurant and an old manufacturing building being used as a church. She stated that a skate park had been constructed towards Mulberry Street, and they are seeking to carve that out along with the existing residential dwelling, as there are liability concerns. She noted that the lot meets the City's zoning requirements for Industrial land and that staff recommend approval. She noted that the restaurant and church have obtained various forms of relief from the Zoning Board and that all of the required parking is on the correct lot.

Jason Gittle made a motion to approve the Form A for 103 and 105 Maple Street. Fred Uriot seconded the motion and all voted in favor via roll call. The motion passed.

The Board reviewed the Form A plan submitted by Kevin Lawless for 484 Lindsey Street.

Ms. Davies explained that the plan proposes creating one new lot and that both lots have the required frontage area, and lot width. She stated that one lot will contain the existing house, with a second vacant buildable lot being created.

Jason Gittle made a motion to approve the Form A plan for 484 Lindsey Street. Thom Morin seconded the motion and all voted in favor via roll call. The motion passed.

The Board heard the appointment to speak of Paulette Rioux relative to the "ROLLING HILL ESTATES, PHASE VI" subdivision.

Ms. Rioux stated that she was surprised to learn that the Board had voted to perform on the bond for this subdivision. She noted that she has been in constant contact with the Planning Board and they have been kept abreast of the status of construction over the last several months. She stated that several meetings were held with staff and she was surprised the matter hadn't been brought up at those time. She stated that as of August 31, 2020, the subdivision was substantially completed and the only outstanding requirement was installation of the street lights in tandem with National Grid. She stated that for a time, they were waiting on National Grid to finalize the necessary steps before submitting as-built and street acceptance plans. She stated that the decision of the Board to pull the bond is devastating, as this has never happened before and they have always strived to cooperate with the Board. She respectfully asked that the Board consider rescinding their vote to perform on the bond, as since the vote was held, they have submitted as-built and street acceptance plans.

Jim Lewis sought to confirm that the hold-up with submitting the as-built plans was a result of waiting on National Grid to install the light poles.

Ms. Rioux replied that the poles have been installed and that they were navigating some miscommunications with National Grid, as they had thought the utilities for the subdivision were underground.

Jim Lewis sought to confirm that the as-built plans have been submitted to the City.

Ms. Rioux replied in the affirmative.

Jim Lewis asked if a final release has been requested for the bond.

Ms. Rioux answered yes.

Mr. Ayraasian stated that when the matter was brought to the Board's attention several weeks ago, the applicant was in the process of correcting errors with the initially submitted street acceptance plans. He

stated that at that time, he had informed the Board that the lights had not been activated and the Board had opined that they did not want to grant any further extensions, so opted to perform on the bond. He stated that since that Certificate of Vote was sent to the developer, the lights have been turned on and the street acceptance plans have been submitted.

Jim Lewis asked what is gained by acting on the bond at this point

Ms. Davies replied that at the time the Board acted, the City hadn't received the final street acceptance or as-built plans.

Jim Lewis noted that the vote was 4-3, so not unanimous. He made a motion to rescind the vote to perform on the bond for the "ROLLING HILL ESTATES, PHASE VI" subdivision. Fred Uriot seconded the motion. All voted in favor save Sean McNamara, who voted in opposition, and Thom Morin, who abstained. The motion passed.

Ms. Rioux requested that they be permitted to omit construction of the fire alarm box shown on the approved plans and instead, donate the cost of the feature to the City. She stated that when they contacted the supplier, the company opined that the City's Fire Department is in opposition to the installation of fire alarm boxes.

Mr. Ayrassian requested that a formal waiver be submitted.

Chairman Danesi sought to confirm the fire alarm box is not shown on the as-built plans that have been submitted.

Ms. Rioux agreed. She stated that Public Works had previously inspected the subdivision and found everything to be in compliance. She noted that there will be a recommendation for two stop signs to be installed, but those are not shown on the approved subdivision plan.

Mr. Ayrassian stated that such features are handled by the Municipal Council and outside the purview of the Planning Board.

The Board reviewed the letter from Mark Rioux of Marette & Sons, Inc., dated March 16, 2021 (received March 19, 2021), to the Planning Board, requesting a one year extension of time to complete construction of the infrastructure at the "DEER RUN ESTATES" subdivision.

Mr. Ayrassian asked whether the road has been constructed.

Ms. Rioux replied that the binder has been installed.

Mr. Ayrassian asked what prevents the developer from completing the project by this fall.

Ms. Rioux replied that Deer Run is a 28-lot subdivision and that the Public Works Department has not encouraged the applicant to complete the roadway as there will be housing construction ongoing for the next five years, which could impair the integrity of a completed roadway.

Ms. Davies asked whether there are residents presently living in the subdivision.

Ms. Rioux replied that she has only closed on one house, as of last week.

Mr. Ayrassian asserted that the time line for infrastructure completion is the purview of the Planning Board, not the Public Works Department. He stated that the subdivision infrastructure needs to be completed independent of the housing construction. He stated that the Board cannot keep granting extensions just to

suit a developer's business model. He stated that if there is nothing preventing completion outside of housing construction by October of this year, he would recommend granting an extension through October 31st for the work to be completed.

Jim Lewis asked when the binder coat was installed.

Ms. Rioux replied November of 2020.

Jim Lewis noted that the Board typically doesn't like to see a binder coat unfinished for more than two years. He asked the Board if the binder was just installed last fall, whether it is a benefit to the City to push to have the work done by this fall.

Mr. Ayrassian stated that it is up to the Board and within their ability to consider changing the 24-month deadline for subdivision construction.

Sean McNamara asked the number of extensions granted for the subdivision.

Planning Board Clerk Lauren Stamatis replied three extensions.

Ms. Davies noted that this subdivision has a fairly complicated history.

Jim Lewis agreed that there was litigation involved and that the ultimate agreement reached was that the Deer Run subdivision needed to be bonded in order to sell any of the lots in the Rolling Hill Estates, Phase VI subdivision. He stated that this forced the developer to start construction before they likely would have planned. He stated that he didn't see the necessity in forcing the developer to complete the subdivision by the fall.

Sean McNamara asked when the subdivision was approved.

Mr. Ayrassian replied in October of 2016 and that construction began in 2019.

Jim Lewis stated that the Board is typically spurred to action when there are residents on the street complaining about the unfinished work, which is not the case with Deer Run. He stated that he felt a one year extension of time seemed reasonable. He noted that the Board agrees that the 24-month deadline is an arbitrary number and doesn't take into account the number of house lots being developed.

Jim Lewis made a motion to grant a one year extension of time for the "Deer Run Estates" subdivision. Thom Morin seconded the motion and all voted in favor via roll call. The motion passed.

The Board read the letter received via email from John Cloud of Attleboro Realty Development, LLC, dated March 8, 2021, to the Planning Board, requesting an extension of time to June 24, 2021, relative to infrastructure construction at the "COLMAN ESTATES" subdivision.

Ms. Davies explained that the developer has submitted street acceptance and as-built plans, but that Public Works found some deficiencies that needed to be addressed. She stated that developer has requested an extension of time by a few more months to correct those issues.

Mr. Ayrassian noted that historically, the Board stops the clock upon submission of the street acceptance and as-built plans, so no extension would be needed while they resolve those few outstanding items.

Chairman Danesi agreed.

Mr. Ayrassian stated that staff will get in touch with the developer and inform him to proceed without the need for an extension of time.

The Board discussed the letter from Jude Gauvin of Andrews Survey & Engineering, Inc., dated March 19, 2021, to the Planning Board providing an update on the status of the “MILOSH ACRES” subdivision construction and the certificate of vote from Planning board Clerk Lauren Stamatis, dated March 19, 2021, to City Clerk Stephen Withers, regarding the Board’s action to perform on the subdivision security held by the City for the ‘MILOSH ACRES” subdivision.

Mr. Ayrassian stated that it would be infinitely easier for Andrews Surveying to complete the work, but suggested that the Board allow the certificate of vote to stand to ensure things get submitted in a timely manner.

Jim Lewis asked aside from the issues with the stormwater management system, whether all other construction was complete.

Ms. Davies answered yes.

Sean McNamara stated his suspicion that the work won’t be done within 60 days and that the vote should stand to motivate them.

Ms. Davies asked whether the Board is concerned that Andrews Survey may stop work since they’ve received the letter about performing on the bond.

Mr. Ayrassian suggested that staff get in touch with the bank and Andrews Engineering to discuss the situation, but allow the vote to stand.

The Board reviewed the memorandum from Public Works Superintendent Michael Tyler, dated March 8, 2021, to the Planning Board, recommending a denial of the FINAL release of funds relative to the “STONE HAVEN” subdivision.

Jim Lewis made a motion to approve the final release of funds relative to the “STONE HAVEN” subdivision. Fred Uriot seconded the motion and all voted in opposition via roll call. The motion failed.

The Board received a progress report from the Planning Board Study Group.

Shannon Bénay stated that all of the current proposals have been ranked and they are in the process of putting together executive summaries for several to be distributed soon. She stated that the full Board can then consider, refine, and act on them.

Jason Gittle noted that the summaries will not make specific action recommendations, but rather inform on the topic and cultivate conversation amongst the Board.

Chairman Danesi questioned whether the Tree Ordinance proposal is being drafted, as the Mayor is pushing hard for tree preservation.

Jim Lewis noted that he’s going to be drafting it, but that it will potentially involve three different actions: revising the Subdivision Rules and Regulations, creating a City Ordinance, and developing a program within the City to actively plant trees. He stated that outside of prohibiting removal, other efforts need to be made to replenish those damaged by storms, etc.

The Board tabled the letters and plan from Bob Catenacci of One Thirty One Pleasant St, LLC, received March 8, 2021, to Director of Planning and Development Gary Ayrassian relative to the drainage repair plans for the “STONE FIELD ESTATES II” subdivision, and providing a breakdown for the

remaining subdivision bond for “STONE FIELD ESTATES II”, as well as the letter from Planning Board Clerk Lauren Stamatis, dated March 11, 2021, to Public Works Superintendent Michael Tyler, soliciting a recommendation relative to the FINAL release of funds request for the “ROLLING HILL ESTATES, PHASE VI” subdivision.

The Board also tabled the certificates of vote from Planning Board Clerk Lauren Stamatis, dated March 5, 2021, to City Clerk Stephen Withers, regarding the votes to perform on the subdivision security for “DALE COURT EXTENSION”, “MILOSH ACRES”, “BURGESS ESTATES”, and “HIGHLAND ESTATES”.

The Board reviewed all other correspondence.

The Board tabled the pending minutes of March 8, 2021.

The meeting adjourned at 8:51 p.m.