



# City Of Attleboro, Massachusetts

## PLANNING BOARD

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## MINUTES

APRIL 24, 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, April 24, 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 B enay, Vice Chairwoman Heather Whitehead, Bill Beardwood, Tiffany Foster, Melinda Kwart, Jim Lewis, and Fred Uriot

Planning Board Members Absent: None

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.

Speaking in favor of the application was Josh White of JDE Engineering who stated that he had submitted response comments to the Board. He noted that Public Works had expressed concern about the length of the roadway, and the potential for them to end up plowing snow into the future homeowner's driveway. He stated that they are proposing the roadway be brought past the edge of the driveway and to create a turnaround easement on the property. He stated that at Public Works request, they are also proposing boulders and a sign indicating "end of road" at the edge of pavement.

Jim Lewis questioned where the snow will be plowed with the boulders in that location.

Mr. White replied that he imagined they would pile it in front of the boulders.

Jim Lewis pointed out that the plan shows the snow removal area to be located after the boulders.

Director of Planning and Development Gary Ayrassian speculated that he didn't think it was possible to have anything blocking the roadway and that he felt the boulders should be removed from the plan.

Mr. White stated that Public Works originally suggested a guardrail and that they compromised by proposing the boulders.

Mr. Ayrassian queried the purpose of the obstruction.

Mr. White speculated that it was simply to demarcate the end of a dead-end roadway.

Mr. Ayrassian maintained his stance that the obstruction be removed. He asked whether the concern with the slope of the sewer main had been addressed.

Mr. White answered yes.

Mr. Ayrassian sought to confirm that an additional 30-feet of roadway is being proposed.

Mr. White answered yes, and stated that they are now proposing a total extension of 170-feet.

Mr. Ayrassian pointed out that Mr. White is requesting waivers for all of the stormwater standards, but is now proposing to add 30 additional feet of impervious area. He pointed out that will result in more sheet runoff into the intersection.

Mr. White stated that there is currently no drainage in the roadway.

Mr. Ayrassian stated that the existing conditions are irrelevant. He stated that more new roadway is being proposed and asked how the runoff from that will be handled.

Mr. White replied that they are proposing two catch basins at the intersection of Buffington Street with Owen Street along with 18-inch level piping between the two basins, which will be 8-feet deep and surrounded by stone.

Mr. Ayrassian asked whether soil tests were done in the catch basin locations.

Mr. White replied no.

Mr. Ayrassian asked how they know the soils will be suited for permeability.

Mr. White answered that they had tested further into the site.

Mr. Ayrassian countered that testing needs to be performed in the proposed catch basin locations.

Jim Lewis expressed concern with the 8-foot drop in grade in the area and how that will increase the velocity of runoff. He asked what will happen when those catch basins fill up during a large storm.

Mr. White replied that the water will overtop the catch basins and flow down the street, as it does now.

Jim Lewis countered that it will not be as it does now, as there will be additional roadway generating more runoff than previously.

Bill Beardwood arrived at 6:39 p.m.

Jim Lewis stated that he didn't feel it was acceptable to make a very minor improvement while adding so much additional impervious area. He stated that mechanisms should be employed to slow down the water, potentially with catch basins further up the slope.

Mr. White noted that cascade grates are proposed.

Mr. Ayrassian stated that once test pit data is submitted, he can do the calculation to find the capacity of the proposed catch basins in the 100-year storm.

Jim Lewis stated that he had concerns with a routine thunderstorm, let alone the 100-year storm. He asked whether Public Works felt the proposed stormwater features were sufficient.

Senior Land Use Planner Stephanie Davies stated that Public Works had requested the pipe between the catch basins, but added that it is not their responsibility to design the system for the applicant or evaluate its efficacy.

Heather Whitehead sought to confirm that a roof infiltration system is proposed for the house.

Mr. White answered yes.

Mr. Ayrassian noted that system is completed separate from that for the roadway.

Jim Lewis suggested that some kind of rain garden encumbered by an easement could be proposed in the front yard to catch overflow runoff. He stated that he had doubts about the ability of the catch basins alone to accommodate the water that is likely to be generated. He stated that shunting some of that flow to the house's front yard may alleviate the pressure on the catch basins.

Mr. Ayrassian stated that the applicant proposed a complete waiver from all stormwater management, but there is an incremental increase from none, to a limited stormwater management system. He stated that the Board has concerns about the need for a more robust design. He suggested that the applicant return with a more thorough stormwater design that takes into account soil conditions and the capacity of the proposed features. He stated that not providing any management is unacceptable. He stated that the Board cannot waive all their stormwater standards without an acceptable design from the applicant.

Jim Lewis asked whether it has been confirmed with the Building Inspector that the lot is grandfathered. He asked whether it is even buildable.

Mr. White replied that they have not received confirmation.

Jim Lewis stated that the applicant has only submitted a copy of the deed. He pointed out that two owners are listed, but only one applicant on the petition, so he stated an explanation is due as to what happened to the second entity. He stated that by reviewing the title cards for the property, they should be able to prove that there was no other land contiguous or held in common ownership with this lot. He stated that research needs to be done on what the lot size requirement was for that zoning district back in 1972, when the deed came into existence.

Mr. Ayrassian stated that the minimum requirement was 16,000 square feet at that time. He stated that he had documentation on zoning requirements dating back to 1942.

Jim Lewis suggested the applicant reach out to the City Planner.

Ms. Davies noted that the lot is only 15,000 square feet, so is undersized by current standards. She pointed out that the Board had requested that some of the existing trees be maintained, but that none appear to have been preserved on the revised plan.

Mr. White replied that they did not survey locate every single tree, but did a field walk and estimated how many would need to be removed.

Ms. Davies stated that it would be nice to have some trees preserved along the front of the lot and that it seems a waste to clear the entire property.

Mr. White noted that it is tricky, as significant grading is required to build the house. He noted that they are requesting a waiver from the need to install trees.

Jim Lewis stated that he would not be in favor of granting such a waiver.

Heather Whitehead agreed.

Fred Uriot suggested that the subdivision regulation minimum of two trees be installed.

Ms. Davies suggested that some of the existing mature trees be preserved.

Jim Lewis asked whether they are planning to clear the trees past the end of pavement, to the end of the property line.

Mr. White replied no.

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

**The Board heard the application of Laurel Knoll Land Trust for the proposed two (2) lot residential definitive subdivision plan entitled “LAUREL KNOLL,” located on MacDonald Lane, more specifically Assessor’s plat #101, lot #9, located in the Single Residence-D zoning district, engineered by OHI Engineering, Inc., 44 Wood Avenue, Mansfield, MA 02048.**

Speaking in favor of the application was Bill Blais of OHI Engineering who reviewed that a work session was not required for the stormwater peer review and that all comments had been addressed. He reminded the Board that this application is for a two lot subdivision and that they are requesting three waivers. He stated that several were regarding the roadway cross section, as the sewer and water lines they are tying into from the existing portion of MacDonald Lane do not meet the standard. He explained that the third is regarding grading from the back of the right-of-way curb to the property line, as they do not hold an easement on the abutting property to the south to allow for the grading standard. He stated that to the north, they hold a 10-foot easement on the abutting property to allow for proper grading of the slope.

Mr. Ayraasian asked whether this will create a swale to the south of the curb.

Mr. Blais answered no, as there is a high point on the site adjacent, sloping down and away from MacDonald Lane to the abutting property. He stated that water naturally runs down there now to the neighbor’s back yard into a swale which leads to a 30-inch pipe under Clifton Street.

Mr. Ayraasian sought to confirm that the curbing will keep runoff from the roadway from flowing on to that property.

Mr. Blais answered yes. He stated that they placed the catch basin as far down the throat of the new roadway so they could capture as much as possible to divert to the infiltration basin.

Jim Lewis asked the situation with water service.

Mr. Blais stated that a 6-inch main will feed to an 8-inch that reaches the end of the roadway where it splits out into two 4-inch pipes. He stated that the homes will be serviced by well water and the main is strictly for fire protection, as the houses will have sprinklers. He stated that they cannot obtain sufficient water pressure for their water service to come from the main.

Jim Lewis asked whether staff was satisfied with such a design.

Mr. Ayraasian answered yes.

Ms. Davies noted that the Zoning Board had already approved an earth removal special permit for the project.

Bill Beardwood asked about tree clearing on the property.

Mr. Blais pointed out the site plan shows the limit of clearing, which will be 30-feet around the perimeter of the houses, so they will be maintaining many trees.

Mr. Ayraasian recommended closing the hearing.

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

**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.**

The Board reviewed the Form P2 - request for an extension of time to May 31, 2023, submitted by attorney Jack Jacobi of Coogan Smith, LLP on behalf of SOWA, LLC relative to the Major Site Plan Review application for 1 Highland Avenue and 5 Route 1A.

Tiffany Foster made a motion to grant an extension of time to May 31, 2023. Jim Lewis seconded the motion and all voted in favor.

The Board reviewed the Form P1 - Request for a continuance to May 1, 2023, submitted by attorney Jack Jacobi of Coogan Smith, LLP on behalf of SOWA, LLC relative to the Major Site Plan Review application for 1 Highland Avenue and 5 Route 1A.

Jim Lewis made a motion to grant a continuance to May 15, 2023. Fred Uriot seconded the motion and all voted in favor. 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.**

The Board reviewed the Form P1 - request for a continuance to May 1, 2023, submitted by attorney Jack Jacobi of Coogan Smith, LLP on behalf of 42 County Street, LLC relative to the Major Site Plan Review application for 42 County Street.

Jim Lewis made a motion to grant a continuance to May 15, 2023. Heather Whitehead seconded the motion and all voted in favor. There being no one else to speak, the public hearing was continued.

**The Board held a business meeting.**

**The Board discussed the Form A submitted by Abigail DesVergnes for Richardson Avenue .**

Speaking was Ken McKenzie of Dunn McKenzie who stated that the owner is looking to cut a portion off of the lot for his daughter. He stated that the lot meets adequate frontage, lot width, and lot area requirements.

Mr. Ayrassian sought to confirm that the rear parcel is not buildable.

Mr. McKenzie confirmed.

Ms. Davies recommended approval of the plan.

Jim Lewis made a motion to approve the Form A for Richardson Avenue. Heather Whitehead seconded the motion and all voted in favor.

**The Board reviewed the Form A submitted by Solaris Homes, LLC for 728 Pleasant Street.**

Speaking was Ken McKenzie of Dunn McKenzie who stated that the lot originally had 154-feet of lot width and only 120-feet is required for the underlying zoning district, so the lot lines were adjusted to meet the minimum of 120 feet. He stated that the parcel will be combined with the remaining land.

Jim Lewis made a motion to approve the Form A for 728 Pleasant Street. Fred Uriot seconded the motion and all voted in favor.

**The Board reviewed the Form A submitted by Mariana Santos for 101 Coleman Avenue.**

Ms. Davies stated that a revised version of the plan had been submitted that day.

Speaking was attorney Edward Casey who stated that the engineer revised the plan to show conformance with the minimum frontage for each lot. He noted that the plans include an exclusive easement area for one of the properties, to ensure that after the houses are built, there is no controversy over who has use of which areas. He stated that the easement will provide a legal basis to protect the homeowners from disputes.

Jim Lewis made a motion to approve the Form A plan for 101 Coleman Avenue. Heather Whitehead seconded the motion and all voted in favor.

**The Board reviewed the Form A submitted by Weber Lyncee for 59 Allen Avenue and Cross Street pending a legal opinion from the City Solicitor .**

Speaking was attorney Ed Casey who stated that the proposed plan seeks to disband a portion of paper street, as the owners on either side had come to terms to split the land. He explained that the Planning Board had expressed concerns regarding the rights of the property owners further down the paper street. He attested that their rights are unaffected, as they will still have the right to pass back and forth over that paper street. He reminded the Board that they had continued concerns over the owner potentially building into that right-of-way and prohibiting passage. He requested that the Board continue the matter for another month, as he is working with the City Solicitor to review case law on the matter.

Mr. Ayrassian argued that the applicant is trying to put the burden on the Planning Board to achieve an end they cannot with the Form A mechanism. He insisted that the paper Cross Street is not a lot, so there is nothing there to subdivide.

Mr. Casey disagreed. He argued since the City of Attleboro accepted Allen Avenue and Adamsdale Avenue, there is a limit to the public way at their intersections with Cross Street. He admitted that there is no parcel identification in the Assessor's records, but he didn't see why the limits of the public ways on either side couldn't be used to create the lots.

Jim Lewis stated that a paper street is an easement only and a private matter that the City has no interest in, other than including on their maps. He stated that the goal seems to be to try to align the City's maps with the true ownership of the properties. He noted that dividing the paper street unevenly is unusual, but that he has split such paper streets evenly between abutting property owners using this mechanism in the past in other municipalities. He stated that he didn't find the rights of the abutters further down the roadway to be salient, as they don't need it for roadway access since Allens Avenue and Adamsdale Avenue are constructed roadways. He stated that there are no statutes to address this matter, merely case law and that it will depend upon the necessity of the access.

Mr. Ayrassian stated that Solicitor Mello had informed him of his contact with Attorney Casey and that he was awaiting a submission from him to finalize his thoughts on the matter, which he would report back to the Board.

Attorney Casey requested an extension of time to May 31, 2023.

Jim Lewis made a motion to grant an extension of time to May 31, 2023. Tiffany Foster seconded the motion and all voted in favor. The Board tabled the plan.

**The Board reviewed the email from Bob Catenacci of One Thirty-One Pleasant St, LLC, dated February 10, 2023, to Senior Land Use Planner Stephanie Davies, providing an update on the construction status of the emergency overflow swale at the "STONE FIELD ESTATES III" subdivision.**

Mr. Ayrassian stated that Solicitor Mello will be sending a letter to the developer and builder at fault regarding the state of the subdivision roadways and lots.

Ms. Davies stated that she had received a late email from a resident on Windsor Drive who sent pictures documenting the road being flooded with rain yesterday. She speculated that the developer hasn't lowered the catch basins or that they must be clogged with debris.

Heather Whitehead stated that the subdivision is still full of trash since the last meeting.

The Board tabled the email from Mr. Catenacci.

**The Board reviewed all other correspondence.**

**The Board reviewed the pending minutes.**

Heather Whitehead made a motion to approve the pending minutes of April 3, 2023. Jim Lewis seconded the motion and all voted in favor.

**The Board held elections.**

Jim Lewis made a motion elect Shannon **Bénay** to serve as Chairwoman. Fred Uriot seconded the motion and all voted in favor.

Jim Lewis made a motion to elect Heather Whitehead to serve as Vice Chairwoman. Fred Uriot seconded the motion and all voted in favor.

Jim Lewis made a motion to elect Tiffany Foster to serve as Secretary. Fred Uriot seconded the motion and all voted in favor.

Jim Lewis made a motion to appoint Lauren Stamatis to serve as Planning Board clerk. Fred Uriot seconded the motion and all voted in favor.

Heather Whitehead made a motion to appoint Fred Uriot as SRPEDD delegate. Bill Beardwood seconded the motion and all voted in favor.

**The meeting adjourned at 8:00 p.m.**