



City Of Attleboro, Massachusetts

PLANNING BOARD

GOVERNMENT CENTER, 77 PARK STREET
ATTLEBORO, MASSACHUSETTS 02703
TEL 508.223.2222 FAX 508.222.3046

MINUTES

JUNE 3, 2019

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 3, 2019 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, Bert Buckley, Scott Jones, Jim Lewis, and Fred Uriot

Planning Board Members Absent: Melinda Kwart and Sean McNamara

The Board discussed the application of Ryan Sheehan for a special permit pursuant to §17-9.0 SPECIAL PERMITS and §17-13.0 WATER RESOURCE PROTECTION DISTRICT to construct a single family dwelling with associated driveway, utilities, septic system, and grading within the Bungay River Water Resource Protection District, said premises being located at 52 Ashden Court, more specifically Assessor's plat #187, lot #3F (Builder 's Lot #5), located in the Single Residence -D zoning district.

Jim Lewis made a motion to **GRANT** a special permit pursuant to §17-9.0 SPECIAL PERMITS for the construction of a single-family detached dwelling with associated driveway, utilities, septic system, and grading within the Bungay River Water Resource Protection District, said premises being located at 52 Ashden Court, more specifically Assessor's plat #187, lot #3F (Builder's Lot #5), located in the Single Residence-D zoning district, as shown on the site plan entitled "SEWAGE DISPOSAL PLAN FOR LOT 5 HSE.NO.52 ASHDEN COURT IN ATTLEBORO, MA", engineered by Ralph I Maloon, R.P.E. of RIM Engineering Co., Inc., P.O. Box 32, Mansfield, MA 02048, dated April 22, 2019. Jason Gittle seconded the motion and a discussion followed. All voted in favor and the Board attached conditions.

Jim Lewis made a motion to **GRANT** a special permit pursuant to §17-13.0 WATER RESOURCE PROTECTION DISTRICT for the construction of a single-family detached dwelling with associated driveway, utilities, septic system, and grading within the Bungay River Water Resource Protection District, said premises being located at 52 Ashden Court, more specifically Assessor's plat #187, lot #3F (Builder's Lot #5), located in the Single Residence-D zoning district, as shown on the site plan entitled "SEWAGE DISPOSAL PLAN FOR LOT 5 HSE.NO.52 ASHDEN COURT IN ATTLEBORO, MA", engineered by Ralph I Maloon, R.P.E. of RIM Engineering Co., Inc., P.O. Box 32, Mansfield, MA 02048, dated April 22, 2019. Jason Gittle seconded the motion and a discussion followed. All voted in favor and the Board attached conditions.

The Board heard the application of Desvergnés Supplemental Needs Trust for a special permit pursuant to §17-9.0 SPECIAL PERMITS and §17-13.0 WATER RESOURCE PROTECTION DISTRICT to construct a single family dwelling with associated driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 45 Pasture Brook Road, more specifically Assessor's plat #132, lot #4A-43 (Builder 's Lot #81), located in the Single Residence -D zoning district.

Speaking in favor of the application was Ken McKenzie of Dunn McKenzie who stated that the house's address should be 40 Pheasant Hill Road rather than 45 Pasture Brook Road due to the way the house will be facing.

Mr. Ayrassian advised Mr. McKenzie that the application and plans would have to be updated to accurately reflect the property address.

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

The Board heard the application of Desvergnés Supplemental Needs Trust for a special permit pursuant to §17-9.0 SPECIAL PERMITS and §17-13.0 WATER RESOURCE PROTECTION DISTRICT to construct a single-family detached dwelling with associated driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 51 Pasture Brook Road, more specifically Assessor's plat #188, lot #4A-42 (Builder's Lot #80), located in the Single Residence-D zoning district.

Speaking in favor of the application was Ken McKenzie of Dunn McKenzie who explained the lot in question is fairly small and is encumbered by wetlands. He stated that they have already had an ANRAD approved by the Conservation Commission, but need to return to them for a Notice of Intent. He stated that they are proposing 15% coverage of the lot and that it is close to 4,000 feet away from the Bungay River. He stated that all of the prohibited uses are listed on the plan and that they will remain on the as-built so that the future owner is aware.

Mr. Ayrassian questioned the proposed heating system.

Mr. McKenzie replied propane.

Mr. Ayrassian asked whether Mr. McKenzie felt, in his professional opinion, that the development will not have an adverse impact on the Bungay River.

Mr. McKenzie agreed.

There being no one else to speak, Jason Gittle made a motion to close the public hearing. Jim Lewis seconded the motion and all voted in favor.

The Board heard the application of Desvergnés Supplemental Needs Trust for a special permit pursuant to §17-9.0 SPECIAL PERMITS and §17-13.0 WATER RESOURCE PROTECTION DISTRICT to construct a single-family detached dwelling with associated driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 168 Kennedy Drive, more specifically Assessor's plat #188, lot #4A-11 (Builder's Lot #49), located in the Single Residence-D zoning district.

Speaking in favor of the application was Ken McKenzie who stated that the proposed house will be serviced by propane for heating and will be hooked up to City water and sewer. He stated that there are no wetlands in the area and that the site backs up to the power lines. He stated that 16% coverage of the lot is proposed. He stated that the prohibited uses are listed on the plan and will be included on the as-built plans. He stated that the site is about 4,500 feet away from the Bungay River. He stated his opinion that the development will not have an adverse impact on the Bungay River.

There being no one else to speak, Jason Gittle made motion to close the public hearing. Sheryl Guglielmo seconded the motion and all voted in favor.

The Board heard the application of Donald H. Desvergnés for a special permit pursuant to §17-9.0 SPECIAL PERMITS and §17-13.0 WATER RESOURCE PROTECTION DISTRICT to construct a single-family detached dwelling with associated driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 63 Pasture Brook Road, more specifically Assessor's plat #188, lot #4A -40 (Builder's Lot #78), located in the Single Residence -D zoning district.

Speaking in favor of the application was Ken McKenzie of Dunn McKenzie who stated that this lot will have 24.9% coverage and hook-ups to City water and sewer. He stated that propane is proposed for heating fuel. He stated that the prohibited uses are on the plan. He stated that the site is not near wetlands and over 4,000 feet away from the Bungay River. He stated his opinion that this development would not have a negative impact on the water resource protection district.

Ms. Davies noted that the application stated that oil heat is called for with a double-walled tank, along with a fireplace and stove fed by propane.

Speaking in favor of the application was Donald Desvergnés who stated that the house will be serviced entirely by propane. He stated that he was unsure why the references to oil were in the application, as it is a pre-sold house with set specifications. He requested that the application be amended to reflect a 500 gallon buried propane tank for heating the house.

There being no one else to speak, Jason Gittle made a motion to close the hearing. Bert Buckley seconded the motion and all voted in favor.

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.

No one was present speak in favor, in opposition, or neither for nor against.

Jim Lewis stated that traffic control measures were discussed at the Subdivision Committee meeting. He stated that the speed table is described, but not shown on the plans. He stated the Committee's preference that the entire sight line easement, including the trees, be cleared.

Ms. Davies stated that she had made the applicant aware of that request.

Jim Lewis noted that the application was signed by the applicant's agent, Dan Campbell, but a signature is necessary from both the owner and the applicant. He stated the Committee's recommendation that no further testimony be taken until that matter is resolved. He stated that they would like to see the City's layout plan for Rambler Road, to ensure that it reaches the point where the subdivision is seeking to extend the road. He stated that if it does not, a street extension plan may be called for. He stated that if it does, permission will need to be obtained from the City to make improvements, like tapering of the road.

Ms. Davies stated that Rambler Road it is 40-feet wide and that it was accepted 720-feet northerly from Bishop Street.

Jim Lewis requested that a note on the plan should demarcate where the layout ends. He stated that there is also debate over the maturity of the forests on site. He stated that staff recommended the applicant apply for a waiver relative to the open space, as it is being provided in two separate parcels, rather than one contiguous piece, as required by regulation. He stated that the Committee also felt it may be beneficial to push Paisley Way down towards the stream, which would create a bigger open space parcel and a more serpentine feature to the road that will slow down traffic.

Mr. Ayrassian agreed that the Ordinance discourages narrow strips of open space and that the one proposed is only 40-feet wide.

Jim Lewis also made some suggestions in terms of rearranging the lot configuration to eliminate an unnecessary jog in the open space. He stated that they will provide commentary in bullet form to be provided to the applicant.

Mr. Ayrassian stated that staff will request an extension for the next meeting.

Jim Lewis stated that they are hoping to start a discussion in relation to the waiver requests to come to some sort of compromise.

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

The Board heard the application of W.B. Construction & Development, Inc. for the proposed amended forty-three (43) lot definitive subdivision entitled Brigham Hill Estates, as shown on the plan entitled "Phase II - 'Brigham Hill Estates' Definitive Residential Subdivision Modifications" filed pursuant to MGL Ch. 41 §81W, said premises being located off Smith Street and 29 Brigham Hill Road, more specifically Assessor's plat #218, lots #7 and 7B, surveyed by Byron J. Andrews, R.L.S. and engineered by Richard M. Mainville, R.P.E. of Andrews Survey & Engineering, Inc., 500 East Washington Street, North Attleboro, MA 02760, dated May 2, 2014 and revised through October 15, 2018. The subject premises are located in the Single Residence-D zoning district due to a lack of quorum (Jim Lewis recused himself) .

Ms. Davies informed the Board that there have not been any updates from the applicant.

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

The Board heard the application of City of Attleboro for a Major Project Site Plan Review pursuant to the provisions of §17-15.0 SITE PLAN REVIEW of the ZONING ORDINANCE, for the construction of a parking lot, consisting of a total of 354 new off-street parking stalls, including associated grading and stormwater management systems; the subject premises being located on Berwick Road, more specifically Assessor 's plat #115, lot #1, located in the Single Residence-D zoning district.

The Board reviewed the Form P1 Request to Continue a Public Hearing to June 17, 2019, submitted by Jack Jacobi on May 29, 2019, relative to the Major Site Plan Review application of the City of Attleboro for Berwick Road.

Jason Gittle made a motion to grant a continuance to June 17, 2019. Bert Buckley 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 petition of Morin's Inc. to discontinue a portion of Frank Mossberg Drive as shown on the site plan entitled "Street Discontinuance Plan of Land in Attleboro, MA. "

Jim Lewis made a motion to recommend that the Municipal Council approve the petition to discontinue a portion of Frank Mossberg Drive specified as "Lot A" (approximately 7,236 square feet and located on the northerly side of Frank Mossberg Drive) as shown on the plan entitled "STREET DISCONTINUANCE PLAN OF LAND IN ATTLEBORO, MA," prepared by John D. Bremser, P.L.S., of Hancock Associates, 183 Centre Street, Danvers, MA 01923, dated April 8, 2019. Bert Buckley seconded the motion and all voted in favor, save Scott Jones, who abstained.

The Board discussed the Form A plan submitted by Nodenem Development, LLC for 0 Mendon Road.

Speaking in favor of the plan was attorney Edward Casey who stated that the plan in question is relative to an unnamed paper street in the vicinity of Sand Castle Estates. He stated that the City of Pawtucket owns one side of the paper street and this application includes a resolution adopted by the Pawtucket Municipal Council in support of this plan.

Jim Lewis questioned the location of the frontage for lot 2-1B.

Mr. Casey replied that there is no frontage as the lot predates subdivision control law, having been created back in 1927.

Mr. Ayrassian stated that the City no longer has any involvement in abandonments and that he felt this Form A plan was a way to try to force the City to authorize one. He argued that as it is a roadway layout, it cannot be divided by the Form A process.

Ms. Davies noted that the agreement of the abutters on either side is required, relinquishing their rights to the right-of-way.

Mr. Ayrassian insisted that matter is outside the Board's purview.

Ms. Davies stated that once the parties relinquish their rights, a lot number can be assigned and the land subdivide via Form-A. She stated her sense that proof of relinquishment needs to be provided to the Board.

Mr. Ayrassian agreed.

Mr. Casey argued that such relinquishment is reflected in that the interested parties all signed the Form A application.

Jim Lewis stated that there needs to be frontage shown on the Form A. He stated that he didn't necessarily have a problem with subdividing the right-of-way.

Mr. Ayrassian disagreed and stated that he did not think a Form A plan can be used to change the designation of land from a right-of-way to private property.

Mr. Casey offered that he could label it "not a buildable lot." He disagreed that frontage needs to be shown. He stated that the only way he can get a plan recorded at the registry is to appear before the Board for Form A approval.

Jim Lewis stated his understanding that once the plan is recorded, the City of Pawtucket and the private abutters will release their interest. He stated that he didn't feel the engineers laid out the plan properly.

The Board agreed to have staff meet with Mr. Casey and the City Solicitor to discuss the matter.

The Board reviewed the memorandum from Public Works Superintendent Michael R. Tyler, dated June 3, 2019 to the Planning Board, providing a recommendation for a PARTIAL release of funds in the amount of \$14,475.21 relative to the "SIMPSON AVENUE EXTENSION" street extension.

Sheryl Guglielmo made a motion to approve a partial release of funds in the amount of \$14,475.21. Jason Gittle seconded the motion and all voted in favor save Jim Lewis who abstained.

The Board reviewed the memorandum from Public Works Superintendent Michael R. Tyler, dated June 3, 2019 (received May 30, 2019) to the Planning Board, providing an updated bond amount of \$371,587.52 relative to the "STONE FIELD ESTATES II" subdivision.

Bert Buckley made a motion to accept the recommended bond update in the amount of \$371,587.52. Sheryl Guglielmo seconded the motion and all voted in favor.

Let the minutes reflect that the Board determined that the developer had met his construction obligations and deadline of May 31st. They determined that street acceptance and as-built plans can be submitted for Oak Hill Meadow Way and Nicholas Drive, but Saveena Drive will have to wait until the gas lines are installed and construction is completed.

The Board discussed the application of Donald H. Desvergues for a special permit pursuant to §17-9.0 SPECIAL PERMITS and §17-13.0 WATER RESOURCE PROTECTION DISTRICT to construct a single-family detached dwelling with associated driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 63 Pasture Brook Road, more specifically Assessor's plat #188, lot #4A-40 (Builder's Lot #78), located in the Single Residence -D zoning district.

Bert Buckley made a motion to **GRANT** a special permit pursuant to §17-9.0 SPECIAL PERMITS for the construction of a single-family detached dwelling with associated driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 63 Pasture Brook Road, more specifically Assessor's plat #177, lot #4A-40 (Builder's Lot #78), located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN LOT 78, 63 PASTURE BROOK ROAD ATTLEBORO, MASSACHUSETTS 02703", drawn by James W. Nieva, P.L.S. of Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated February 6, 2019. Scott Jones seconded the motion and a discussion followed. All voted in favor save Jim Lewis who abstained. The Board attached conditions.

Bert Buckley made a motion to **GRANT** a special permit pursuant to §17-13.0 WATER RESOURCE PROTECTION DISTRICT for the construction of a single-family detached dwelling with associated driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 63 Pasture Brook Road, more specifically Assessor's plat #177, lot #4A-40 (Builder's Lot #78), located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN LOT 78, 63 PASTURE BROOK ROAD ATTLEBORO, MASSACHUSETTS 02703", drawn by James W. Nieva, P.L.S. of Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated February 6, 2019. Scott Jones seconded the motion and a discussion followed. All voted in favor save Jim Lewis who abstained. The Board attached conditions.

The Board discussed the application of Desvergnés Supplemental Needs Trust for a special permit pursuant to §17-9.0 SPECIAL PERMITS and §17-13.0 WATER RESOURCE PROTECTION DISTRICT to construct a single-family detached dwelling with associated driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 51 Pasture Brook Road, more specifically Assessor's plat #188, lot #4A-42 (Builder's Lot #80), located in the Single Residence-D zoning district.

Bert Buckley made a motion to **GRANT** a special permit pursuant to §17-9.0 SPECIAL PERMITS for the construction of a single-family detached dwelling with associated driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 51 Pasture Brook Road, more specifically Assessor's plat #188, lot #4A-42 (Builder's Lot #80), located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN LOT 80, PASTURE BROOK ROAD ATTLEBORO, MASSACHUSETTS 02703", drawn by James W. Nieva, P.L.S. of Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated March 27, 2017. Jim Lewis seconded the motion and a discussion followed. All voted in favor and the Board attached conditions.

Bert Buckley made a motion to **GRANT** a special permit pursuant to §17-13.0 WATER RESOURCE PROTECTION DISTRICT for the construction of a single-family detached dwelling with associated driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 51 Pasture Brook Road, more specifically Assessor's plat #188, lot #4A-42 (Builder's Lot #80), located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN LOT 80, PASTURE BROOK ROAD ATTLEBORO, MASSACHUSETTS 02703", drawn by James W. Nieva, P.L.S. of Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated March 27, 2017. Jim Lewis seconded the motion and a discussion followed. All voted in favor and the Board attached conditions.

The Board discussed the application of Desvergnés Supplemental Needs Trust for a special permit pursuant to §17-9.0 SPECIAL PERMITS and §17-13.0 WATER RESOURCE PROTECTION DISTRICT to construct a single-family detached dwelling with associated driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 168 Kennedy Drive, more specifically Assessor's plat #188, lot #4A-11 (Builder's Lot #49), located in the Single Residence-D zoning district.

Bert Buckley made a motion to **GRANT** a special permit pursuant to §17-9.0 SPECIAL PERMITS for the construction a single-family detached dwelling with associated driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 168 Kennedy Drive, more specifically Assessor's plat #188, lot #4A-11 (Builder's Lot #49), located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN LOT 49, 168 KENNEDY DRIVE ATTLEBORO, MASSACHUSETTS 02703", drawn by Kenneth G. McKenzie, Jr., P.L.S. of Dunn McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated May 5, 2019. Scott Jones seconded the motion and a discussion followed. All voted in favor and the Board attached conditions.

Bert Buckley made a motion to **GRANT** a special permit pursuant to §17-13.0 WATER RESOURCE PROTECTION for the construction a single-family detached dwelling with associated driveway, utilities, and grading within the Bungay River Water Resource Protection District, said premises being located at 168 Kennedy Drive, more specifically Assessor's plat #188, lot #4A-11 (Builder's Lot #49), located in the Single Residence-D zoning district, as shown on the site plan entitled "BUILDING PERMIT PLAN LOT 49, 168 KENNEDY DRIVE ATTLEBORO, MASSACHUSETTS 02703", drawn by Kenneth G. McKenzie, Jr., P.L.S. of Dunn

McKenzie, Inc., 206 Dedham Street, Norfolk, MA 02056, dated May 5, 2019. Scott Jones seconded the motion and a discussion followed. All voted in favor and the Board attached conditions.

The Board tabled the letters from Planning Board Clerk Lauren Stamatis, dated June 3, 2019, to Public Works Superintendent Michael Tyler, soliciting a recommendation relative to the request for a PARTIAL release of funds for the "STONE FIELD ESTATES" subdivision and soliciting a recommendation regarding an updated bond amount for the "COOPER FARM" subdivision.

The Board reviewed all remaining correspondence.

The Board tabled the pending minutes of April 22, 2019, May 6, 2019, and May 21, 2019.

The meeting adjourned at 7:45 p.m.