



City Of Attleboro, Massachusetts

PLANNING BOARD

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MINUTES

JUNE 7, 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, June 7, 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

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 explained that the peer review work session had been held that afternoon and most of the concerns have been addressed. He stated his intent to submit revised plans soon. He stated they had discussions on ensuring that the emergency overflow works properly and the potential for piping the water down to elevation 161.

Mr. Ayrassian noted that there was also concern with the interplay between the proposed stormwater basin for Phase III and the existing basin for Phase II that is located in Phase III. He stated that there were concerns with how flat the swale would be between the two basins for the emergency overflow. He explained that with grass growing and the accumulation of debris over time, it was likely to be compromised. He suggested that a shallow French drain from elevation 161.9 all the way down to elevation 161 to discharge the overflow by the wetlands would be preferable. He explained this would consist of a 4 or 5-inch diameter perforated pipe in a trench surrounded by 1.5 to 2-inch stone and filter fabric, 6-inches down into the ground. He stated that the velocity at the outflow is so negligible that no rip rap or other feature is necessary. He stated that it would involve the installation of approximately 100-feet of pipe.

Ms. Davies added that there was also concern about whether the existing Phase II basin was constructed to plan. She stated that staff wanted an as-built to be submitted along with a certification that the feature is functioning and won’t be negatively impacted by the nearby proposed construction. She stated that staff wants to ensure that the basins don’t overflow into one another. She added that the overflow piping that Gary described is just for water outside of what can be contained in the basin in a 100-year storm, so would likely see very infrequent use.

Chairman Danesi suggested it could intercept some of the existing surface water in the area.

Mr. Ayrassian agreed it could spur surface water recharge.

Sean McNamara asked whether the plan could be adjusted to provide steeper grading in the swale without the installation of a pipe. He expressed concern over the high water table in the area that already precipitates flooding. He asked whether this pipe will be able to accommodate that water.

Mr. Ayrassian stated that the pipe would be very shallow, so is unlikely to intercept the water table.

Mr. Catenacci insisted that the current grading will function well as an emergency overflow and that the installation of the piping creates a surefire fail safe. He noted that he had raised the surrounding homes' backyards to between elevation 163 and 165, to make the swale more pronounced. He reiterated that this portion of the system is strictly an emergency overflow, so will not see frequent use.

Sean McNamara reminded the Board of the issues with other phases of this subdivision and routine storms causing water to pool for several weeks at a time.

Jim Lewis noted that the bottom of the basin for Phase II is located at elevation 155. He sought to confirm that the water table is lower than that elevation. He noted if it is close, there is the possibility for it to influence the stormwater system. He asked the permeability of the soil.

Mr. Catenacci asserted that the area contains well-draining gravel.

Jim Lewis stated his opinion that the pipe proposed will work, but that he suggested it be extended out farther, to bring the outflow closer to the wetlands.

Sean McNamara asked who will be responsible for maintaining such a pipe.

Mr. Ayrassian stated that ultimately, once the subdivision is accepted, it will be up to the City.

Sean McNamara expressed concern that through his conversations with Public Works, they are already overtaxed with the maintenance they must provide to existing stormwater systems within the City. He stated that it is irresponsible for the Board to approve a plan for a system for which the necessary maintenance will not be performed.

Ms. Davies noted that maintenance for such systems is fairly minimal, requiring only that they be jetted out every ten to fifteen years.

Mr. Ayrassian noted that Mr. McNamara raises an important policy question and questioned why Public Works isn't attesting to that fact when reviewing each subdivision plan.

Chairman Danesi noted that the issue of maintenance is the City's problem and not that of the applicant. He took a straw poll and all members were in favor of the French drain design.

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.

Mr. Ayrassian noted that the applicant had submitted a variety of documents late in the afternoon, which staff has not had the chance to review.

Speaking in favor of the application was attorney Edward Casey of Coogan Smith who stated his understanding that it will be unrealistic for the Board to vote tonight when they just received revised plans that day. He noted that he is continuing to work on developing the Home Owner's Association and easement language, but suggested those can just be conditioned in the final decision.

Jim Lewis censured the applicant for submitting the materials so late that the Board didn't have time to review them in advance of the meeting. He stated that he didn't feel the Board should be rushed into a decision, as this is a large subdivision for which a great deal of time has already been invested.

Chairman Danesi noted that he did not think the Home Owner's Association could be a condition of approval, given that the City's Rules and Regulations do not recognize them.

Mr. Casey stated that the applicant has volunteered to have a portion of the stormwater system maintenance fall on the subdivision's Home Owner's Association. He stated that in the event the HOA fails to perform the work, the City would take over. He stated that he will request to continue the hearing at this time, in the event the Subdivision Committee finds something they want to change in the revised plans.

Mr. Ayrassian agreed that nothing is lost by continuing the hearing. He asserted that the Board can close and vote on the application in the same evening.

Jim Lewis stated that he understands that the applicant likes the idea of a Home Owner's Association, particularly for the boulevard and detention areas, but that the Board cannot require one, as they are not recognized in the City's Rules and Regulations for subdivisions. He noted his familiarity with similar HOA situations, where if the entity fails to complete the maintenance activities, the City can perform the work and bill them. He stated he was sure that easements would still be necessary, as the City will still want access to the entire stormwater system. He suggested a separate legal agreement between the City and the applicant regarding the Home Owner's Association and the explicit assignment of responsibilities.

Chairman Danesi questioned whether the easements are granted at the time of Street Acceptance.

Mr. Casey answered no, that the easements need to be granted before any of the lots are conveyed, to ensure access to the stormwater system by the City once private owners are involved.

Jim Lewis suggested Mr. Casey draft some kind of agreement regarding the HOA and suggested that an independent entity, such as a corporation, needs to be created to enter such an agreement on behalf of the subdivision.

Mr. Ayrassian agreed that both the City and the HOA entity would need access via easements, but that a determination would need to be made in terms of when the City steps in. He suggested that the Operations and Maintenance Plan could be referenced and if the City finds the system is not functioning properly, the HOA could be given a set amount of time to remedy the situation, after which the City would step in and charge the necessary fees.

Mr. Casey requested to meet with staff in advance of the Subdivision Committee meeting to go over some last details.

Mr. Ayrassian agreed.

The Board tentatively scheduled a Subdivision Committee meeting for June 15th at 5:30 p.m.

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

The Board held a business meeting.

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 heard the appointment to speak of John Case, III regarding Hillcrest Ave Extensions I & II, Rhodes Street Extension, and Bradford Estates.

Senior Land Use Planner Stephanie Davies noted that no one appeared to be present to speak.

Sean McNamara asked where each subdivision stands in terms of extensions.

Mr. Ayrassian noted that each had received a number over the last ten years. He stated that the Board had previously voted to perform on each bond, but retracted those votes when the developer appealed to them. He stated his frustration that the developer had indicated that he wasn't going to meet the new deadline set as a result of those discussions and didn't notify the Board until the day after the deadline. He stated that he didn't advise taking over the bonds at this point, but rather have staff micromanage him on a weekly basis to ensure that everything was completed.

Sean McNamara disagreed and asserted that the only action that seems to get developers' attention is to perform on their bonds. He advocated for doing so in these instances.

Mr. Ayrassian disagreed and stated that he did not feel it was prudent at this point with the limited work remaining. He felt staff could just stay on top of him to have the work done by the end of June, as the developer promised.

Ms. Davies asked what course of action the City will pursue if the work is not done by the end of June. She stated that she is concerned that she's seen this situation happen too many times in the past.

Mr. Ayrassian stated that he didn't feel it was fair to speculate about the developer's ability to meet his proposed deadline.

Sean McNamara made a motion to perform on the bond for Hillcrest Avenue Extension I. Fred Uriot seconded the motion. All voted in favor save Chairman Danesi, who voted in opposition, and Jim Lewis who abstained. The motion carried.

Sean McNamara made a motion to perform on the bond for Hillcrest Avenue Extension II. Fred Uriot seconded the motion. All voted in favor save Chairman Danesi, who voted in opposition, and Jim Lewis who abstained. The motion carried.

Sean McNamara made a motion to perform on the bond for Rhodes Street Extension. Fred Uriot seconded the motion. All voted in favor save Chairman Danesi, who voted in opposition, and Jim Lewis who abstained. The motion carried.

Sean McNamara made a motion to perform on the bond for Bradford Estates. Fred Uriot seconded the motion. All voted in favor save Chairman Danesi, who voted in opposition, and Jim Lewis who abstained. The motion carried.

The Board read the letter from attorney James M. Cassidy on behalf of Kevin Murphy of KJM Construction, Inc., dated May 12, 2021 (received May 17, 2021), to the Planning Board, regarding the water main loop at the "RIVER'S EDGE" subdivision.

Mr. Ayrassian stated that the Water Department indicated that the water stub on North Main Street is within 200-feet of the subdivision's property line, but that its specific depth and location are unknown. He stated that the Water Department estimated a cost of \$56,000 for the developer to complete the connection. He stated that rather than trying to force the developer's hand when the City doesn't even know the location of the stub, he recommended that the City consider constructing the loop themselves in the future, should it be needed. He recommended that the Board advise the developer to address all of the other outstanding punch list items.

Ms. Davies noted that the only other outstanding items are installation of the bounds and submission of the as-built and street acceptance plans.

Sean McNamara stated that he found it concerning that the Water Department did not know the location of their own water main line in North Main Street.

Mr. Ayrassian agreed. He noted that the developer's engineer did make an effort to dig and find it, but was unsuccessful. He noted that it is located in an area of the City that was developed long ago.

Jim Lewis made a motion to eliminate the requirement to install a water main loop in the approved "RIVER'S EDGE" definitive subdivision. Fred Uriot seconded the motion and all voted in favor.

The Board discussed the email from Steven J. Gietz of Gietz Management, Inc., received June 3, 2021, to Planning Board Clerk Lauren Stamatis, requesting the planning Board waive the fire alarm box for the "STONE HAVEN" subdivision and the letter from Scott Rolfe and James Borrebach of OHI Engineering, Inc., received April 30, 2021 via e-mail, to Mr. Steven Gietz, providing a status update relative to the punch list items remaining in the construction of the "STONE HAVEN" subdivision.

Mr. Ayrassian stated that Public Works was in favor of the installation of reflectors on the guardrail along the cul-de-sac.

Ms. Davies noted that there was a modification of the plans back in 2018 that redeveloped Lot 2, removing the stormwater basin and directing the water to the existing infiltration basin via catch basins in the street. She stated that there is adequate capacity to accommodate the change and staff feels that item has also been addressed.

The Board tabled the letters pending resolution of the remaining punch list items.

The Board read the email from Assistant Vice President Anthony C. Brown of Dedham Savings Bank, dated June 7, 2021, to Director of Planning and Development Gary Ayrassian, relative to completion of the "MILOSH ACRES" subdivision.

Ms. Davies noted that despite the Board's vote to perform on the bond, the bank is still working with their contracted surveyor to move forward with creating an itemized list of the outstanding items.

Mr. Ayrassian noted that the City will continue performing on the bond, but the hope is that the bank will resolve the outstanding issues before the process concludes.

The Board reviewed the Form P2 - Request for an Extension of Time to July 12, 2021, submitted by John F. D. Jacobi, III of Coogan Smith, LLP, received June 3, 2021, on behalf of Forty-One/9, LLC relative to opening the public hearing regarding the Major Site Plan Review application for 41 Summer Street.

Jim Lewis made a motion to grant an extension of time to July 12, 2021 relative to opening the public hearing. Thom Morin seconded the motion and all voted in favor.

The Board heard the appointment to speak of John Case, III.

Mr. Case apologize for failing to appear in a timely manner. He stated that for Hillcrest Extension, they have cleared out the drainage system, sealed the road, as well as put up some fencing and that the only remaining task is installation of the bounds. He stated that Level Design is already out surveying the property to conclude that work. He stated that Bradford Estates needs a final top coat and there are several sections of binder that needs to be replaced or repaired. He stated that he anticipated the pavers out on Friday and that the bounds could be installed the following week. He stated that once that is addressed and the final elevations are determined for the asphalt, the street acceptance plans can be developed.

Mr. Ayrassian informed Mr. Case that the Board had already voted to perform on the bonds for his projects that had surpassed their deadlines earlier in the evening. He stated that he had advised against such action, but ultimately, the Board voted 5-1 to perform.

Mr. Case noted that it seems like a lot of work for subdivisions that are practically complete.

Mr. Ayrassian countered that Mr. Case could have approached the Board sooner when he realized he wasn't going to meet his deadline. He asserted that work like contracting pavers is scheduled in advance, so Mr. Case should have known the timelines weren't working.

Mr. Case explained that the original paving contractor he had lined up for the project fell through, so he had to procure an alternate, which took time. He stated that it also took time to coordinate with Public Works to determine which portions of the binder needed to be repaired and replaced.

Mr. Ayrassian countered that Mr. Case had proposed the date of May 31st to complete the subdivisions.

Mr. Case stated that he will get the job done, but if the Board is determined to pull the bond, that is their prerogative.

Ms. Davies noted that nothing prohibits Mr. Case from continuing to perform the work, as it will take time for the City to mobilize to pull the bonds.

Jason Gittle suggested that Mr. Case continue as planned, as it is very likely the process to perform on the bonds will take longer than his proposed new 30-day deadline for completion. He stated that nothing is stopping him from completing the work, but that the City has to protect itself to ensure these projects don't take years longer than they already have. He stated that the action taken was not unwarranted given the histories of the projects.

Mr. Case stated that he understood the Board's decision. He stated that he is doing the best he can to get these subdivisions completed and hopes to save the Board the aggravation of performing on the bonds by getting them done soon.

The Board tabled the letters from Planning Board Clerk Lauren Stamatis, dated April 26, 2021, May 21, 2021, and June 4, 2021, respectively, to Public Works Superintendent Mike Tyler, requesting a recommendation regarding a FINAL release of funds relative to the "STONE FIELD ESTATES II" subdivision and a PARTIAL release of funds relative to the "COOPER FARM" subdivision and a PARTIAL release of funds relative to the "EDWARD SR. ESTATES" subdivision .

The Board reviewed all other correspondence.

The Board approved the pending minutes of May 24, 2021 .

The meeting adjourned at 8:25 p.m.