



# City Of Attleboro, Massachusetts

## PLANNING BOARD

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## MINUTES

JUNE 21, 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 21, 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 they had revised the plans to include further details relative to the drainage swale, including the french drain and spot elevations around the detention ponds.

Chairman Danesi sought to confirm that they extended the french drain between the ponds out to the wetlands.

Mr. Catenacci replied it runs to elevation 161.

Jim Lewis stated that he assumed there would be an easement associated with the french drain.

Mr. Catenacci answered yes, and stated that it is shown on the easement plan page.

Jim Lewis questioned the detention pond located in Phase III that receives water from Phase II. He asked whether the water going there is from Phase II.

Mr. Catenacci answered yes.

Jim Lewis asked whether every house has the right to drain into that pond, or if it only takes water from the roadways. He asked how that will be reflected on the house deeds.

Mr. Catenacci replied that there is a reference in the deeds that they are subject to the easements shown on the approved plan.

Jim Lewis asked again whether the stormwater running into that pond is from the drainage system for the roadways only or if some of that run off is from the Phase II house lots.

Mr. Catenacci answered both, but that the majority comes from the road. He stated a small area of the back yards in Phase II also flows there.

Jim Lewis sought to confirm that those lots have already been sold.

Mr. Catenacci answered yes.

Sean McNamara sought to confirm that for the proposed pond in Phase III, the high point is elevation 161.95 and then reduces to 161.9 at the drain.

Mr. Catenacci stated that elevation 161.9 marks the beginning of the french drain, but that the water will flow downhill regardless to 161.7, avoiding the forebay at 161.9.

Sean McNamara countered that the design seems to require very specific grading that will be difficult to maintain.

Mr. Ayrassian agreed that it will be nearly impossible to maintain such delicate grades, which is why the french drain is also being required.

Sean McNamara expressed concern about the water flowing to the reach the pipe when the land is so flat.

Paul Danesi stated that the pipe is below ground.

Mr. Catenacci stated that the detail shows the pipe as subsurface by 6-inches and follows down the gradient of the swale.

Sean McNamara asked whether a grade change of 6-inches will be sufficient.

Mr. Ayrassian answered yes, for the limited distance of the pipe.

Jim Lewis asked whether Public Works actually tests such systems to ensure they are in working order.

Mr. Ayrassian stated that he doesn't know what the Public Works inspections entail.

Ms. Davies noted that often, they've waited a season to ensure a system is functioning before releasing associated funds.

Mr. Ayrassian stated that this is an emergency overflow, so is unlikely to see any flow at all with the exception of a huge storm. He suggested that Public Works could be prompted to explain how the feature can be deemed to be built correctly if there is never sufficient run off for the overflow to be needed before the developer seeks his final release of funds.

Jim Lewis asked whether Public Works has reviewed the plan.

Mr. Ayrassian stated that comments have not yet been received. He stated that the question could be posed to them.

Jason Gittle stated that he felt the Board should. He asked what alternative there would be in place of the french drain.

Mr. Ayrassian replied that a swale alone could be employed, but he didn't feel the elevations could be properly maintained. He stated that he had suggested the french drain as a solution.

Jason Gittle asked whether Horsley Witten Group approved of the design.

Senior Land Use Planner Stephanie Davies stated that the project has not yet received a second peer review.

Mr. Ayrassian stated that the peer reviewer was not asked to develop an alternative, as it's not their job to design the project for the applicant, but rather review what is proposed.

Ms. Davies noted that originally, major overhauls had been suggested to the plan, like completely relocating the basin to one of the house lots.

Jason Gittle asked if anything else, other than the current design with the pipe, would require a major overhaul of the plan.

Ms. Davies explained that it was determined that to relocate the basin, all of the stormwater system's water would have to traverse the swale rather than it just serving as an overflow, which was deemed to be a less favorable design. She stated that the water has to traverse the area in question either before or after it reaches the basin.

Shannon Benay questioned the maintenance requirements for the french drain.

Mr. Ayrassian stated that the pipe will have filter fabric to prevent particulates from entering the pipe and it will degrade over time. He stated that after 30 years or so, the particulate could block the pipe.

Jim Lewis questioned the 5-foot temporary planting easement along the roadways.

Mr. Catenacci replied that they have had such easements on each phase. He stated that the trees are put on the homeowner's property rather than City property. He stated that since planting trees is one of last tasks when completing a subdivision, the access rights have to be maintained after the property is sold so that work can be completed.

Jim Lewis asked when the easement expires.

Mr. Catenacci admitted that he did not know.

Jim Lewis supposed that it terminates upon acceptance by the City. He suggested that such legal language be included in the easements.

Mr. Ayrassian noted that the project needs an extension of time.

Mr. Catenacci requested an extension of time to July 30, 2021.

Jim Lewis made a motion to grant an extension of time to July 30, 2021. Sean McNamara 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 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.**

Speaking in favor of the application was attorney Edward Casey who stated that he hoped the Board was ready to close the hearing and vote the subdivision this evening.

Chairman Danesi stated things are very close, staff and the Board just need to finish drafting the decision and conditions.

Mr. Casey requested a continuance to July 12, 2021 and an extension of time to July 30, 2021.

Jim Lewis made a motion to grant a continuance to July 12, 2021 and an extension of time to July 30, 2021. Thom Morin seconded the motion and all voted in favor.

Mr. Casey submitted copies of the latest draft easements.

Jason Gittle asked whether a Home Owner's Association model was still part of the plan.

Jim Lewis answered yes, as a tool to provide a first line of maintenance of the median and basins. He explained that the City will have an easement to take over if the HOA fails to get the job done.

Chairman Danesi noted that individual deadlines will be set for each of the phases of the subdivision to check in with the Board.

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.**

Speaking in favor was attorney Edward Casey who requested an extension of time to July 30, 2021.

Jim Lewis made a motion to grant an extension of time to July 30, 2021. Jason Gittle seconded the motion and all voted in favor.

The matter was tabled.

**The Board reviewed the Form A plan submitted by East Side Plastering, LLC for the north side of Falmouth Street.**

Speaking in favor of the application was John Risser who explained they are proposing to subdivide the existing lot into two. He stated that one lot will contain the existing concrete block building where the business operates. He stated that the second lot will contain a small metal building. He noted that there is no minimum lot size in the Industrial zone.

Jim Lewis made a motion to approve the Form A for Falmouth Street. Sean McNamara seconded the motion and all voted in favor.

**The Board heard the appointment to speak of Steven Gietz regarding the "STONE HAVEN" subdivision.**

Attorney Edward Casey appeared in his stead and requested to withdraw the appointment to speak in lieu of addressing the issues directly with the staff.

Ms. Davies reminded the Board that Public Works recommended the Board deny a final release of funds to which the developer's engineer submitted a response letter in May, containing about ten items, including reflectors on guard rails, trees, etc. She stated her understanding that Mr. Gietz was seeking a waiver for the fire alarm box and she was unsure whether he was planning to seek relief from the need to pay the City for the feature as has been typically required. She stated the staff's intent to write a letter to Public Works detailing all of the addressed issues, so the developer can be flagged to clean out the stormwater basin and re-submit for a final release of funds.

Mr. Casey agreed that many of the tasks referenced in that letter had been addressed. He stated that there is an outstanding issue with a missing portion of sidewalk that they wanted to explore further with staff.

Jim Lewis stated that the Board already issued a decision for the subdivision requiring that sidewalk. He asked what Mr. Gietz could say that would change the Board's mind.

Mr. Casey replied that he was unsure, but wanted to sit down with Planning staff as soon as possible to discuss things.

Jim Lewis pointed out that the paving of roadway curve radii to provide a place for kids to stand when waiting for the school bus is a standard requirement that the Board has adopted. He suggested that there could be no other argument outside of not wanting to make the financial investment.

Mr. Casey stated that he was aware of a retaining wall that would prevent the sidewalk from meeting ADA standards on one side of the road. He noted that one of the abutters has also already installed an irrigation system. He stated that the question is whether he can offer to compensate the City for not installing those portions of sidewalk. He stated that an argument can be made that one concrete area for the children to wait is sufficient and it is not necessary on both sides of the street. He noted that this is a small subdivision.

Mr. Ayrassian argued that the feature is required for the public's safety.

Jim Lewis stated that the developer must be prepared with an alternative that satisfies staff.

The Board delegated to the staff the discretion to evaluate Mr. Gietz proposal to their satisfaction with the Chairman's approval and report back.

**The Board heard the appointment to speak of Robert Catenacci regarding the "STONE FIELD ESTATES II" subdivision.**

Mr. Ayrassian stated that he had received an email regarding the failure to pump the water from the Phase II stormwater basin to allow Public Works to check the system. He stated his understanding that there was an equipment malfunction, which has delayed the cleaning out of the system for three to five additional weeks. He stated that other arrangements should be made for the pumping, whether renting equipment or hiring a different contractor. He argued that if the system wasn't cleaned out, he had no place requesting a final release of funds. He stated his sense that Mr. Catenacci and other developers are submitting for final releases with full knowledge that not all of the work has been completed simply to stop their deadline clocks. He stated that it is being used a delay tactic to buy time, which is frustrating.

Ms. Davies noted that Public Works recommended denial of the second request for a final release of funds, as all work has not been completed.

Jason Gittle asked Mr. Catenacci if he was provided with the reasons for the first denial for a release.

Mr. Catenacci answered yes.

Jason Gittle asked whether all of those matters were resolved.

Mr. Catenacci answered yes. He stated that his understanding after meeting with Public Works was that everything on the list had been addressed. He stated that the strip of asphalt at the end of Oak Hill Avenue had been installed, as well as the Water Department issue with the flags on hydrants resolved. He stated that the only outstanding item is the cleaning of the ponds and that he may have been too casual about things, but he didn't see the urgency in completing that work. He stated that they have to use light equipment to clean the ponds to avoid compacting the soil. He stated that he could probably obtain another piece of equipment sooner, but emphasized that this is the only outstanding work.

Mr. Ayrassian replied that that was not the impression he received from Public Works. He stated that when he spoke with Superintendent Tyler earlier that day, he had indicated that there had been no further progress on the subdivision at all and that he didn't understand why the developer was requesting a bond release.

Ms. Davies noted that another memo will need to be procured, as the one submitted just recommends denial without details on the reasoning.

Jim Lewis suggested the revised memo just needs to reference the prior release denial recommendation if no further work has been completed. He stated that Mr. Catenacci had provided testimony that work was completed on the sidewalks, so Public Works will need to inspect again.

Sean McNamara asked when the equipment to clean the stormwater system broke.

Mr. Catenacci stated likely about four weeks prior.

Sean McNamara insisted that it was known that the ponds needed to be cleaned since January. He asked why the work couldn't have been done sooner.

Mr. Catenacci countered that the request for the clean-out of the system came after the second request. He also stated that there has been a fair amount of rain lately, which complicates matters. He stated his understanding that every other item on the punch list has been addressed.

Mr. Ayrassian asserted that Mr. Catenacci is responsible for the completion of the work and he should definitively know whether it has been done or not and should be able to accurately represent that to the Board and Public Works.

Mr. Catenacci insisted that everything Public Works had requested save for cleaning of the ponds has been completed.

Mr. Ayrassian stated his intent to reach out to Public Works for a revised recommendation. He emphasized that when a final release request is submitted, it represents that the developer is acknowledging that all of the obligations to complete the subdivision have been met, then Public Works inspects to ensure that is the case. He stated that the request sets actions in motion, prompting the need for inspections. He asserted that it is unfair to submit such requests when you know you are not ready.

Mr. Catenacci apologized for wasting the City's time.

Jason Gittle asked whether this work will be completed in the month of July.

Mr. Catenacci stated that was a fair timeline.

Jason Gittle sought to confirm that he understands that the Board is sensitive to this situation.

Mr. Catenacci admitted that he hadn't give matters the due diligence they deserved.

Mr. Ayrassian argued that this is not Mr. Catenacci's first subdivision and he should know better. He suggested that things be resolved by the July 12<sup>th</sup> meeting.

Jason Gittle asked whether Mr. Catenacci will have an alternate plan to complete the work if his machinery cannot be repaired in time.

Mr. Catenacci stated his commitment to obtain an alternate piece of equipment to complete the work. He stated he needs to ensure the machinery doesn't destroy the pond.

Jason Gittle sought to confirm that Mr. Catenacci is committing to having the pond scraped and cleaned out in July.

Mr. Catenacci answered yes. He apologized again, stating that he didn't realize how many people were impacted and that he will strive to be more aware in the future.

**The Board heard the appointment to speak of John Cloud relative to the "COLMAN ESTATES" subdivision.**

Speaking was John Cloud, who apologized and stated that the release request had been submitted in error. He stated that he had been working off a punch list provided to him by Public Works in December, and didn't realize there were additional items outlined in a later punch list. He stated that he received the second list when Public Works came out to inspect.

Mr. Ayrassian sought to clarify that the final release of funds was prematurely requested in error.

Mr. Cloud replied yes.

Jason Gittle asked where things stand now with the punch list.

Speaking was Dan Grinnell who stated that he overlooked the memo that was sent out with the last denial. He stated that the missing portion of sidewalk has been resolved. He explained that the remaining work consists of the planting of ten trees, as well as two check dams that need to be installed along the super elevated road. He explained that the spacing between them does not match what was approved on the plan, so two additional check dams need to be installed. He noted that he had contacted their engineer, Bill Buckley, who verbally relayed that he was comfortable with the performance of the system with the current spacing, but that he is backlogged so can't provide that opinion in writing, so they have opted to just install them instead.

Mr. Ayrassian stated that regardless of the functionality, it has to be installed per the approved plan. He stated that we will reach out to Public Works for clarification on the remaining work.

Sean McNamara asked if there are just the two minor items, does the developer anticipate being completed by July 12<sup>th</sup>.

Mr. Grinnell answered yes.

Mr. Cloud noted that they would also have to submit revised as-built and street acceptance plans.

Ms. Davies stated that part of the issue is that the request letters coming from developers are very vague. She stated her understanding that Public Works would like developers to represent in their requests what work has been completed and is due for inspection.

Mr. Ayrassian suggested that moving forward staff can bounce back requests lacking those details for revision.

Sean McNamara agreed that they should be rejected and suggested that an example from a thorough release request be given to them.

Chairman Danesi suggested that it may make more sense for developers to work directly through Public Works to inspect first to determine what remains and only then request either a partial or final release. He suggested that the developer could submit the sign-off from Public Works verifying the completed work at the time the release is requested.

Ms. Davies noted that often there are issues that result in minor modifications that require the Board's approval, which would require their involvement.

Chairman Danesi suggested the release request could address any discrepancies.

Mr. Ayrassian argued that the release requests have always come to the Board and he worries that they may be relinquishing their authority by allowing Public Works to first negotiate those deviations. He stated that the opinion of Public Works would have to be sought, as they answer to the Planning Board, not developers.

Ms. Davies stated that she didn't feel the issue was communication between departments, but rather that the developer has to enumerate all of the work completed, whether submitting the request to the Planning Board or Public Works.

Chairman Danesi insisted he still thinks developers should have the inspection performed before coming to the Board for release.

Mr. Ayrassian stated his intent to think about that proposal.

Jim Lewis suggested that the Board look at the Rules and Regulations, as he imagined this issue is addressed in the statute. He stated that the Chairman's suggestion may simplify things. He asked how to handle when developers don't agree with the Public Works inspection results.

Chairman Danesi suggested that they appear before the Board.

Mr. Ayrassian asserted that Public Works is black and white in their reviews, as they have to ensure that everything is done according to the plan and call out all deviations.

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

Jason Gittle made a motion to approve an extension of time to July 12, 2021 to open the public hearing. Jim Lewis seconded the motion and all voted in favor.

**The Board reviewed the Form P2 - Request for an extension of time to open the public hearing to July 12, 2021, submitted by attorney John F. D. Jacobi, III of Coogan Smith, LLP on behalf of Route 9 Realty, LLC, received June 14, 2021, relative to the Major Site Plan Review application for 211 Pleasant Street .**

Sean McNamara made a motion to approve an extension of time to July 12, 2021 to open the public hearing. Jason Gittle seconded the motion and all voted in favor.

**The Board reviewed the memorandum from Public Works Superintendent Michael R. Tyler, dated June 8, 2021, to the Planning Board, recommending a PARTIAL release in the amount of \$387,903.29, relative to work completed at the "COOPER FARM" subdivision.**

Shannon Benay made a motion to approve a PARTIAL release of funds in the amount of \$387,903.29. Jason Gittle seconded the motion and all voted in favor.

**The Board reviewed the memorandum from Public Works Superintendent Michael R. Tyler, dated June 10, 2021, to the Planning Board, recommending a PARTIAL release in the amount of \$21,475.48, relative to the "EDWARD SR. ESTATES" subdivision.**

Jason Gittle made a motion to grant a PARTIAL release of funds in the amount of \$21,475.48. Sean McNamara seconded the motion and all voted in favor.

**The Board voted to hold a Joint Public Hearing with the Municipal Council on August 17, 2021.**

**The Board reviewed all other correspondence.**

**The Board received an update from the New Business Study Group.**

Jim Lewis explained that the members had agreed to take pictures of buildings for which the aesthetics were favorable, along with those that are unfavorable, relative to amending the Site Plan Review standards.

The meeting adjourned at 8:28 p.m.