



City Of Attleboro, Massachusetts

PLANNING BOARD

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MINUTES

SEPTEMBER 9, 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, September 9, 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, Melinda Kwart, Scott Jones, and Jim Lewis

Planning Board Members Absent: Sean McNamara and Fred Uriot

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.

Director of Planning and Development Gary Ayrassian stated that he had met with Attorney Casey and the City Solicitor to discuss the issue of the pavement on Rambler Road not reaching the end of the right-of-way. He explained that only the paved portion has been accepted by the City. He stated that the Solicitor opined that the applicant does not have standing to extend the 13-feet of roadway without additional filing and sign-offs from the owners.

Jim Lewis agreed that a developer doesn't have the right to utilize a private right-of-way.

Mr. Ayrassian stated that the right-of-way is owned by the property owners on either side of the road way to the middle of the street. He suggested that the subdivision application be put on hold while the applicant files for a street extension plan to resolve the issue. He stated that Mr. Casey is of the opinion that either the original subdivision developer from 1959 or one of the abutters on Nash Road could sign as the owner. He explained that the Solicitor disagreed and speculated that either one or both of the direct abutters on the roadway would have to sign as owner. He stated that the Solicitor asked Mr. Casey to submit an argument in writing including case law to justify his proposed approach.

Jim Lewis stated that he felt it was clear that the original developer deeded out all of his rights from the original subdivision and didn't retain any ownership interest.

Sheryl Guglielmo expressed disbelief that a boundary survey had not been conducted prior to the filing of the subdivision plan.

Bert Buckley left the meeting at 6:50 p.m.

Mr. Ayrassian stated that that the Board is now awaiting Mr. Casey to submit documentation to the City Solicitor to determine how to proceed.

Jim Lewis speculated that it is not unusual with a development of this size to purchase an abutting home to gain access.

Ms. Davies noted that if it is determined that both abutters are required, the Board will need to reevaluate the standing of street extension applicants moving forward and ensure that all necessary owners sign.

Jim Lewis stated that the Board needs an opinion from the City Solicitor as to whether this matter can continue before the Planning Board.

Mr. Ayrassian pointed out that the subdivision does have two means of access, with one entrance off of Pike Avenue.

Ms. Davies noted that the subdivision would have to be entirely redesigned or extensive waivers sought to accommodate a dead-end development.

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

The Board heard the application of Sturdy Memorial Foundation, Inc. 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 ±28,400 sq. ft. medical office building and 124 new off-street parking stalls, as well as associated grading and stormwater management system; the subject premises being located on O'Neil Boulevard, more specifically Assessor's plat #42, lots #301, and 302, located in the Industrial zoning district.

The Board reviewed the Form P2 - Request for an extension of time to September 30, 2019, submitted by attorney David Manoogian on behalf of Sturdy Memorial Foundation, Inc., received September 9, 2019, relative to the Major Site Plan Review application for 0 O'Neil Boulevard.

Speaking in favor of the application was attorney David Manoogian who requested an extension of time to September 30, 2019. He also requested that the matter be continued to September 23rd, as they are still awaiting the stormwater management peer review.

Jim Lewis made a motion to grant an extension of time to September 30, 2019. Melinda Kwart 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 SOWA, LLC for an amendment to the approved Major Project Site Plan Review decision dated July 17, 2018 for "Shops on Washington" to reconfigure the proposed bank, restaurant, and retail buildings; and create new curb-cuts providing right-in only access to the site from Newport Avenue and Route 1A, 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 P1 - Request to continue a public hearing to September 23, 2019, submitted by attorney Jack Jacobi on behalf of SOWA, LLC, received September 3, 2019, relative to the Major Site Plan Review for 1 Highland Avenue/5 Route 1A.

Mr. Ayrassian informed the Board that staff had met with Mr. Jacobi and Mr. Taglinetti to review another iteration of traffic circulation on site that creates definition to better lead people to the exit. He stated their intent to redesign the bank circulation to address concerns raised regarding the number of stop signs and traffic conflicts. He stated that abutter Scott Winkler had suggested that the bank be moved closer to the Roberts Formals property, but the applicant has categorically rejected that suggestion.

Chairman Danesi noted that the previous agreement with the surrounding residents was that there was going to be a building to shield their neighborhood from the development and a broad sidewalk to create a residential feel. He stated that there is a school crosswalk in the precise location of where the new entrance from Newport Avenue is proposed.

Ms. Davies stated that the only change to the deceleration lane was to elongate it a bit.

Mr. Ayrassian stated that he has an appointment tomorrow morning to meet with the applicant and the Chief of Police to discuss his reservation regarding that proposed intersection.

Chairman Danesi stated his opinion that he does not want to see any more curb cuts on Newport Avenue between Angeline Street and the traffic light. He justified his view on all of the input from the neighbors during the prior iteration of this project, as well as the extensive work put into improving Angeline Street specifically to serve as the sole entrance and exit to the site. He stated that the original plan provided a clean traffic flow that allowed safe passage for pedestrians on Newport Avenue.

Mr. Ayrassian noted that the only purpose of the curb cut is for the bank.

Chairman Danesi argued that other patrons are also likely to use the entrance.

Mr. Ayrassian questioned whether the Board felt the entrance on Newport Avenue contributes to bettering the circulation on the site.

Scott Jones stated that he would be interested to hear the Police Chief's input.

Mr. Ayrassian stated his intent to also ask the Chief his opinion of the proposed collapsible bollards.

Chairman Danesi questioned whether the deceleration lane will require the widening of Newport Avenue and whether the additional lane will confuse travelers. He questioned who will plow the feature.

Ms. Davies stated that the new design has the feature on the applicant's property and that she imagined easements would be provided.

Sheryl Guglielmo stated that from this point forward she will be abstaining from Carpionato projects due to the nature of her engineering firm's relationship with the developer.

The Board took a straw poll and all five members (Sheryl Guglielmo abstained) voted in favor of prohibiting an entrance to the site from Newport Avenue.

Mr. Ayrassian noted that the applicant has stated that the Roberts Formal building will not be demolished if the curb cut cannot be installed on Newport Avenue, as the purpose of the demolition is to improve visibility for the bank.

Chairman Danesi found that fact to be irrelevant.

Mr. Ayrassian noted that the Board would have to discuss how a denial of a Major Site Plan review would work, as the use is by-right. He stated that the Board had never had a denial of a Site Plan Review to date.

Ms. Davies noted that the Zoning Board will also need to render a decision.

Chairman Danesi stated that he appreciates all the improvements Carpionato has provided to the City, but that he feels there are issues with the traffic pattern and safety of this plan that puts the neighbors at risk.

Mr. Ayrassian reiterated the staff's role to help applicants navigate within the regulations and wishes of the Board. He stated that is not their place to prohibit a design, but rather help them draft the best possible one to submit to the Board. He stated that the staff are not necessarily in favor of this latest plan rendition.

Chairman Danesi stated that he also has concerns about how the entire development will work as a whole without knowing the future retail uses. He expressed concern with the constantly decreasing parking spaces, as well.

Jim Lewis made a motion to continue the public hearing to September 23, 2019. Scott Jones seconded the motion and all voted in favor, save Sheryl Guglielmo who abstained.

The Board held a business meeting.

The Board discussed 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) .

The Planning Board discussed the merits of the proposed MGL Ch. 41 §81W definitive subdivision plan, reviewed the Department of Planning and Development's staff reports, reviewed the comments from municipal departments, reviewed the stormwater management peer reviews prepared by the Board's stormwater engineering consultant, and reviewed the documents prepared by the petitioner's engineer, Andrews Survey & Engineering. Following its discussion, Scott Jones made a motion to APPROVE (5 Yeas, 0 Nays, 3 Absent, 1 Abstained) the application of W.B. Construction & Development, Inc. filed pursuant to MGL Ch. 41 §81W for the proposed modifications to the stormwater management system associated with the previously approved 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", said premises being located off Smith Street and 29 Brigham Hill Road, more specifically Assessor's plat #218, lot #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 Attleborough, MA 02760, dated May 2, 2014 and revised through July 19, 2019. Sheryl Guglielmo seconded the motion and a discussion followed. All voted in favor, save Jim Lewis, who abstained. The Board attached conditions.

The Board reviewed the Form A plan submitted by William B. Pitas, Jr. for Bishop Street.

Speaking in favor of the plan was attorney David Manoogian who stated that a lot width variance has already been granted by the Zoning Board for the creation of Lot 1. He stated that Lot 2 meets all of the zoning requirements.

Ms. Davies stated that staff recommends approval of the plan.

Sheryl Guglielmo made a motion to approve the Form A plan submitted by William B. Pitas for Bishop Street. Melinda Kwart seconded the motion and all voted in favor.

The Board reviewed the Form A plan submitted by William & Kathleen Provost for 21 Tiffany Street.

Ms. Davies explained that this plan was previously endorsed by the Planning Board about a year prior, but the land turned out to be registered, so the matter has to go to land court before it can be recorded. She

stated that the time lapsed for the prior plan to be recorded, so they are presenting the exact same plan as previously approved. She noted that a variance has been granted for the lots and the new plan contains all of the notations required by land court. She stated that staff recommend approval of the plan.

Sheryl Guglielmo made a motion to approve the Form A plan submitted by William & Kathleen Provost for 21 Tiffany Street. Scott Jones seconded the motion and all voted in favor.

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

Mr. Ayrassian stated that he and Mr. Casey had spoken with the City Solicitor on this plan. He stated that Mr. Casey is attempting to use 81-P to subdivide the land within the Mendon Road layout and that the issue is complicated by real estate laws. He stated that the final analysis by the Solicitor was that what he is trying to do cannot be accomplished via the Form A process alone. Mr. Casey is still of the opinion that the Board can endorse the plan. He stated that he would forward Mr. Casey's argument to the Board for discussion at the next meeting.

Jim Lewis argued that as the process involves changing lot lines, a Form A is still required. He also stated that the plan references an unnamed way, which means it is not a right-of-way. He stated that he didn't feel the Board should deny the plan.

Mr. Ayrassian argued that this eschews the relinquishment process that must happen.

Jim Lewis replied that the case would involve the derelict fee status and that the land cannot be owned until there is a plan representing it, which is done using the Form A.

The Board tabled the matter, at Mr. Ayrassian's request.

The Board reviewed the Form A plan submitted by John DesVergnes for Tiffany Street, Guild Street, Perez Street, and Totten Road.

Mr. Ayrassian stated that there are inconsistencies with this plan. He stated that there is a book and page reference for the "discontinued" Lafayette Avenue, but that the plan reference lists the right-of-way as "to be discontinued."

Jim Lewis argued that the matter would not be handled via discontinuance as the roadway was never built nor accepted.

The Board reviewed the email from Ken McKenzie of Dunn McKenzie, received September 9, 2019, to Senior Land Use Planner Stephanie Davies, requesting an extension of time to September 23, 2019 for the Form A plan submitted by John DesVergnes for Tiffany Street, Guild Street, Perez Street, and Totten Road.

Melinda Kwart made a motion to grant an extension of time to September 23, 2019. Sheryl Guglielmo seconded the motion and all voted in favor.

The Board tabled the matter.

The Board heard the appointment to speak of attorney Elliot Brais relative to the "CALVIN STREET EXTENSION" Street Extension Plan.

The Board reviewed the Covenant Release Form submitted by attorney Elliot Brais, received September 9, 2019, relative to the "CALVIN STREET EXTENSION" street extension plan.

Mr. Brais informed the Board that the cash security has been posted and requested that the covenant release form be signed. He stated that the sewer and water lines have been completed and that they just need to install the final binder and top coat.

Scott Jones made a motion to approve the covenant release form for "CALVIN STREET EXTENSION." Jim Lewis seconded the motion and all voted in favor.

The Board reviewed the letter from Rich Hayes received July 15, 2019, to the Planning Board, requesting a one year extension of time relative to the "CALVIN STREET EXTENSION" street extension plan.

Ms. Davies noted that the property has changed ownership and that there were some initial issues with getting all of the necessary documents recorded.

Mr. Brais stated that his client, Douglas Cash, would like to install the binder this year and a final coat next spring.

Melinda Kwart made a motion to grant an extension of time to July 31, 2020 for the infrastructure construction at the "CALVIN STREET EXTENSION" street extension plan. Scott Jones seconded the motion and all voted in favor.

The Board reviewed the Covenant Release Form submitted by Robert Catenacci of One Thirty One Pleasant St, LLC, received September 3, 2019, relative to the "STONE FIELD ESTATES II" subdivision.

Ms. Davies confirmed that the cash security has been posted with the Treasurer's Office.

Jim Lewis made a motion to approve the Covenant Release Request for the "STONE FIELD ESTATES II" subdivision. Melinda Kwart seconded the motion and all voted in favor.

The Board reviewed the letter and signage detail from Landscape Architect David McKinley of Kaestle Boos Associates, received August 27, 2019, to the Planning Board, regarding minor monument signage modifications to the approved Major Site Plan Review decision for 100 Rathbun Willard Drive.

Ms. Davies explained that the sign foundation could not be sunken as deeply as designed due to a conflict with National Grid. She stated that they are resolving the issue by installing a wider base that makes the sign a bit taller, but still complies with the Sign Ordinance.

The Board reviewed the letter and timeline from Mark Rioux of Murette & Sons, Inc., dated June 28, 2019, to the Planning Board, requesting an extension of time to May 31, 2020, relative to the "DEER RUN ESTATES" 81-W subdivision.

Jim Lewis reminded the Board that this subdivision was allowed to proceed as part of a settlement back in 2003. He stated that a requirement of the settlement was that Deer Run had to be approved and bonded for Rolling Hills VI to proceed with construction.

Mr. Ayrassian agreed that the connection from Colt's Way south to Lindsey Street was part of the settlement to provide two means of egress to the Rolling Hills, VI subdivision.

Chairman Danesi expressed concern that the intent of the settlement was to provide multiple means of access into the Rolling Hills, VI subdivision and that as things stand, he is being permitted to build those houses without providing that egress. He stated that the matter is a public safety issue.

Jim Lewis maintained that it will be built eventually.

Mr. Ayrassian noted that the City just holds a Covenant on the Deer Run Estates lots, so the City would have to sell the lots to raise the funds to construct the roadway. He stated that he didn't feel the City had anything to gain by putting Mr. Rioux in default with the subdivision, as the approval cannot be undone.

Jim Lewis replied that the Board could file an 81-U recession, but that he was not in favor of that approach. He noted that it will likely be years before it is constructed.

Mr. Ayrassian suggested that the Board at least keep it on their radar from year to year and keep demanding updates from the developer. He noted that the Board has requested a timeline, which has yet to be submitted.

Jim Lewis stated that Mr. Rioux should be required to submit something before any further extensions are approved.

Ms. Davies noted that she felt pressure would be more aptly placed on encouraging him to finish Rolling Hills VI, which already contains residents. She stated that she felt it was appropriate for the Board to get tougher on the subdivisions for which they are receiving resident complaints.

The Board reviewed all other correspondence and tabled the letter from Steven J. Gietz of Lindsey Farms, LLC, dated July 23, 2019, to the Planning Board, requesting an extension of time to December 31, 2020, relative to infrastructure construction at the "STONE HAVEN" subdivision.

The Board scheduled a Subdivision Committee Meeting for 6:00 p.m. on September 23, 2019.

The Board approved the minutes of June 17, 2019 and July 1, 2019. The Board tabled the pending minutes of July 16, 2019 and August 19, 2019 .

The meeting adjourned at 8:30 p.m.