



# City Of Attleboro, Massachusetts

## PLANNING BOARD

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## MINUTES

NOVEMBER 2, 2020

**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, November 2, 2020 at 6:30 p.m. remotely via Zoom , relative to the following :**

Planning Board Members Present: Chairman Paul Danesi, Vice Chairman Jason Gittle, Secretary Sheryl Guglielmo, Shannon Bénay, Mike Davis, Jim Lewis, Sean McNamara, and Fred Uriot

Planning Board Members Absent: None

The meeting started with a moment of silence in memory of former Planning Board member Bert Buckley and a reflection provided by Vice Chairman Jason Gittle.

**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 was Bob Catenacci of One Thirty One Pleasant St, LLC. He informed the Board that he had met with Planning Department staff last week to go over their comments and he felt like a lot of progress was made. He stated that they also met via Zoom with the stormwater management peer reviewer and they are in the process of revising their plans accordingly.

Senior Land Use Planner Stephanie Davies pointed out that a few issues came up in the stormwater management peer review work session that she needs to compile and solicit feedback from the Board on to determine how to proceed. She noted that historically the Board has preferred to see small underground systems for individual single family homes to handle the clean roof runoff, as a way to disconnect stormwater. She stated that Mr. Catenacci felt that the permeability is so optimal on the site that that such systems would result in a minimal increase in infiltration and may not be worth the cost. She stated that such is a policy question for the Board to think about. She stated that another issue to be addressed is keeping the stormwater from Phases II and III separate with the systems in such close proximity. She stated that Janet had suggested potentially combining the systems, which could allow them to have a more natural look. She explained that the question came up due to the proposed four foot depth of the new basin and whether the Board would prefer to see a fence around the feature for safety purposes. She explained that if the basins were combined, there could be a way to make them shallower. She stated her intent to itemize the policy questions that came up so the Board can discuss further and provide Mr. Catenacci with guidance.

Director of Planning and Development noted Jim Lewis's prior question relative to whether there have been any changes in the shape, topography or hydrology to the basin in located on Phase III land that is handling water from Phase II and that the project engineer had informed him no. He stated Mr. Spink's intent to submit a stamped letter to that effect. He stated that his only concern with the proposal to modify the Phase III basin to also serve Phase II, is that it will trigger the need to amend the previously approved subdivision plan for Phase II.

Ms. Davies agreed. She stated her sense that the situation was analogous to Mr. Ward's modifications to approved phases for the stormwater system to accommodate water from future phases.

Mr. Ayrassian stated that he understood how it could make sense in this case due to the proximity of the systems. He pointed out, however, that the latest policy stance has been to have more basins that are further spread apart. He stated the other question addressed was relative to vacant, unlabeled parcels on the plan, which they will be adding as a single additional lot for the open space to be donated to the City and the other lot in question will be removed entirely from the subdivision. He stated that this open space lot would connect with the Phase I open space. He stated that it has been confirmed that the Phase III open space does not directly abut Poncin Hewitt, but that there is vacant, privately owned land between the two. He stated that there is potential there to negotiate with the property owners to link up to Poncin Hewitt.

Jim Lewis noted that Mr. Catenacci owns some land in Rehoboth and asked whether any of that abuts Poncin Hewitt.

Mr. Catenacci stated his understanding that none of it does, but noted that he wasn't completely sure. He stated that the Assessor's maps through the City of Attleboro did show that they abutted at one time, but the deeds were found not to agree with those.

Mike Davis asked what the next step would be to make the connection between Phase I of the subdivision and Poncin Hewitt.

Ms. Davies stated that the City would have to contact that abutting private landowner.

Mr. Ayrassian stated that he felt such an action would be premature and that the Board needed to approve the subdivision first.

Mike Davis asked the sequence of events to execute the connection.

Mr. Ayrassian stated that a decision would have to be rendered approving the subdivision, including conditions relative to donating and conveying the open space to the City. He stated that he would approach the Mayor about the proposal and then approach the resident to see if they were willing to sell or donate enough property to create the connection to Poncin Hewitt. He stated that if the private property owner is willing to work with the City, they would have the land appraised, and then take the action to purchase the property, should the Mayor find the price to be reasonable.

Mike Davis noted that there may be other donation options that may be more fiscally appealing to the landowner, such as through the Attleboro Land Trust.

Speaking neither for nor against was James Lema of 55 Saveena Drive who stated that he lives in Phase II and has one of the stormwater easements that abuts his property. He stated that with the recent rains, he has been receiving an excessive amount of water on his property and the retention area is dry. He asked who is responsible for overseeing the function of the stormwater system and to ensure it is functioning properly.

Mr. Ayrassian stated that currently, the burden is with the developer, Mr. Catenacci. He explained that when Mr. Catenacci seeks a request for a bond reduction, the Public Works Department is triggered to perform an inspection and render a recommendation to the Planning Board. He stated that if Public Works concludes that the work was not satisfactory, the bond reduction will be denied until such time as Mr. Catenacci addresses the issue(s) from the inspection report.

Jim Lewis stated that it sounds like it might be an issue with the grading in his backyard and needing to direct the water into the swale or retention basin. He stated that he was unsure that the City's review would address that, as they'll be reviewing the feature itself and not the grades of the surrounding properties.

Mr. Ayrassian stated that Mr. Lema had informed him via email in earlier conversations that there is a swale in his backyard, and thus, that feature would be inspected as part of the overall stormwater management system.

Jim Lewis asked Mr. Catenacci whether it is possible that the issue Mr. Lema is facing is due to inappropriate grades in his yard.

Mr. Catenacci answered yes. He stated that he originally graded those backyards to direct the run off to the abutting stormwater basin. He stated that since that time, Mr. Lema has had another landscaper performing work on his property and they changed the grades back there, creating a puddle in the back of his yard. He stated his understanding that Mr. Lema had the landscaper return to rectify the problem, but that he had left things with Mr. Lema that once things dry out and he can get his equipment back there, he'll revisit to ensure it drains to the pond. He noted that this was newly seeded in the last few weeks, so heavy rain has the potential to compact the earth altering the on run off. He stated that the situation is a work-in-progress, but the he is awaiting it to dry out to get equipment in.

Mr. Lema stated that Mr. Catenacci had actually stopped the landscapers he hired from altering the grades, so the only work they performed was the laying of compost on top of the swale. He stated that now that they are seeing ponding of water, they want to ensure that the grades are accurate and the runoff is moving in the appropriate direction.

Ms. Davies sought to confirm that compost was installed in the swale.

Mr. Lema stated that he spread it uniformly across his property. He stated his understanding that the swale on the property is so subtle, it can barely be seen.

Mr. Catenacci stated that some of the flow in the yard was impacted by the work of the landscapers. He reiterated their intent to come in and ensure the grading is accurate once things dry out and he can bring equipment in without making things worse. He stated that if they need to reseed, it may have to wait until the spring, but that they will certainly ensure that the run off flows as designed on the site.

Mr. Lema asked when the inspection will actually be completed, so that residents can be assured that the stormwater systems are working properly.

Mr. Ayrassian replied that Public Works can inspect at will, but they will definitely go out when Mr. Catenacci prompts them for a release of funds request. He stated that it is handled between Public Works and the developer; the Planning Board doesn't orchestrate such inspections. He stated that there isn't a set schedule for inspections and sometimes there will be spot checks.

Mr. Catenacci stated that Public Works did inspect things and are aware of the issue and his intent to resolve things.

Mr. Lema asked who owns the property where the retention area is.

Mr. Ayrassian replied that right now, it is owned by Mr. Catenacci.

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

**The Board discussed the letter received via email from Robert W. Catenacci of One Thirty One Pleasant St, LLC, to the Planning Board, providing an update and requesting an extension of time to December 4, 2020, in order to complete infrastructure construction at the "STONE FIELD ESTATES II" subdivision.**

Jason Gittle asked how many extensions have been granted to Phase II.

Ms. Davies stated that there was one prior extension granted on July 13, 2020 setting the deadline at October 31, 2020.

Mike Davis asked why Jason Gittle is asking about the number of extensions granted.

Jason Gittle replied that he would like to have a general conversation with the Board regarding how they grant extensions and the criteria for doing so. He stated that the question isn't specifically aimed at Mr. Catenacci, but the process in general.

Mike Davis sought to confirm that Jason Gittle finds that the Board is being too lenient and granting too many extensions.

Jason Gittle replied yes.

Ms. Davies noted that in this case, he's just seeking an extension to December 4, 2020.

Mr. Ayrassian stated that he feels the issue is not just the length of extensions but also the frequency with which they are granted. He asked Mr. Catenacci whether a 34 day extension will be sufficient. He stated that he didn't feel two extensions is excessive, but expressed skepticism that the work in Mr. Lema's yard will be addressed in advance of December 4<sup>th</sup>. He asked whether Mr. Catenacci felt it was a realistic time extension.

Mr. Catenacci replied yes, he stated that the weather notwithstanding, they are hoping to resolve things before the deadline. He stated that they are planning to do final paving of roads and sidewalks next week. He stated that he feels like they are 98% there.

Sean McNamara asked what work remains.

Mr. Catenacci stated that they have to do the final paving on the streets and sidewalks. He stated that the berms, bounds, trees, utilities, and drainage are all installed. He stated that they also have to address the issue with grading in Mr. Lema's yard, but he felt that was a day's worth of work, if the weather clears.

Shannon Benay asked how many properties are impacted by the puddling issue.

Mr. Catenacci stated that Mr. Lema is the only one who has approached him with any issues. He stated that it's not necessarily uncommon to have to rework these swales if there is inclement weather before the grass stabilizes. He stated that once the grading is rectified, the stormwater system will work as designed.

Ms. Davies stated that Mr. Lema commented in the chat that the owner of Lot 3 has reached out to Mr. Catenacci regarding flooding and pooling water on their property.

Mr. Catenacci stated that he hadn't discussed flooding on that particular property, but that there were unrelated issues with his yard. He stated that he will reach out to the property owner and ensure everything is in order.

Ms. Davies noted that Emily DeBiers of 84 Mary Rocha Way put a message in the chat that there are literal water tables all over the development.

Mr. Catenacci noted that in preparation for the final paving, all of the structures have been raised, which can result in some puddling of water.

Jim Lewis noted that Mr. Catenacci could be rained or snowed out and he won't be able to do the work. He stated that he shares concerns with Jason Gittle regarding the number of extensions granted to developers and asked whether it would make more sense to give a longer extension to provide time to get things done if the weather doesn't cooperate.

Chairman Danesi stated that doing so would require adding another four months.

Mr. Ayrassian stated that this would at least require him to address the neighbors' properties sooner. He noted that there are also the street acceptance and as-built plan paperwork to be submitted. He stated that there's only one more meeting before December. He stated that the Board should be prepared that Mr. Catenacci may need to return and request a further extension.

Mike Davis stated that he found a "short leash" appropriate and would rather see someone returning more often to prompt the Board to review the case. He stated that frequent check-ins help keep things better on track. He suggested that Mr. Catenacci have Public Works inspect while there is a water problem, so they have a record of the issues and can recommend how to address things.

Sean McNamara stated that he liked that Mr. Catenacci has given himself an aggressive timeline. He stated that he also finds it appropriate that Mr. Lema is present, so that he is aware there is a chance that a further extension may be required if he can't complete things despite making an honest effort.

Chairman Danesi made a motion to grant an extension of time to December 4, 2020 relative to the "STONE FIELD ESTATES II" subdivision. Sean McNamara seconded the motion. All voted in favor via roll call, except Jason Gittle, who voted in opposition.

Mr. Ayrassian sought to confirm that Mr. Catenacci understands that he will be responsible for plowing the snow in the subdivision this winter.

Mr. Catenacci replied in the affirmative.

**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.**

**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.**

Mr. Ayrassian stated that due to a Zoom issue, the revised version of this application was postponed to the November 16<sup>th</sup> meeting.

Ms. Davies noted that a corrected notification with the new link has been sent to all legal abutters.

Speaking in favor was attorney Edward Casey who stated that his client was disappointed, but understands that the issue was not due to the actions of the City.

Mr. Ayrassian stated that the notice to proceed has been given for the third stormwater peer review and for the traffic study.

There being no one else to speak, the public hearing for "PIKE ESTATES" was continued and the Board tabled the "RAMBLER ROAD EXTENSION" plan.

**The application of Attleboro Park Street Realty Trust for a Major Project Site Plan Review pursuant to the provisions of §17-15.0 SITE PLAN REVIEW of the ZONING ORDINANCE, to accommodate the construction of a two-story 11,751 square foot facility to house families, attached two-stall garage, a parking lot consisting of 8 off-street parking stalls, and associated grading, septic, and stormwater management systems; the subject premises being located on Park Street, more specifically Assessor's plat #198, lot #2, located in the Single Residence-D zoning district.**

Mr. Ayrassian stated his understanding that the applicant is still working on plan revisions, but that they have submitted a Form A to create the lot to be taken up after the public hearings.

Speaking in opposition was attorney Peter Clark who stated that he represents Thomas King of 1110 Park Street. He acknowledged the need for a larger shelter for battered women, but that he is speaking in opposition based on the site plan and architectural designs submitted by the applicant. He asked whether the applicant is New Hope or Lasalette Shrine and whether they are applying for this use under the Dover Amendment.

Mr. Ayrassian stated that the Planning Department does not check into who applicants are when processing applications. He stated that he was unsure who is behind or supporting this application outside of the listed applicant, "Attleboro Park Street Realty Trust".

Mr. Clark stated that it is his opinion that if it is New Hope proposing the use, it is not appropriate for a Single Residence-D zoning district. He stated that he would understand if the land owner, Lasalette, were proposing the use, they could claim a religious exemption.

Ms. Davies noted that the Table of Use Regulations includes a use described as "educational purposes that are religious, public, or non-profit", which is allowed by right. She stated that the Dover Amendment is not limited to simply religious organizations.

Mr. Clark replied that he understands that, but is looking to ascertain whether they are filing under that exemption. He stated that he would dispute that a battered women's shelter can be defined as "educational" in nature.

Mr. Ayrassian sought to confirm that he is asserting that the use is a residential development, which doesn't meet the criteria for the Single Residence-D zoning district.

Mr. Clark agreed and stated that the district is meant for low- to medium-density development and that he feels a development with 14 units does not meet that criteria. He asked whether the Board has requested a traffic study for the project. He noted that the curve in Park Street where the building is proposed has limited sight distance and could create a traffic hazard. He asserted that left hand turns into the site from downtown will be hazardous.

Mr. Ayrassian stated that the Board has not requested a traffic study. He noted that the site has two driveways and that the southern drive is meant for entry-only and that the northern drive is for exit.

Mr. Clark stated that the plan doesn't designate directional limitations. He stated that the southern entrance is the one most impacted by sight distance and the elevation. He expressed concerns with the parking provided on the site. He stated that ten spaces, if including the two spaces in the garage, are provided when normally, one per sleeping unit, in this case 14, is typically required.

Mr. Ayrassian stated that staff did struggle with that concern, but recommended the applicant seek guidance from the Building Inspector directly on the matter. He stated that Mr. McDonough submitted a letter with his opinion that eight parking spaces is sufficient.

Mr. Clark stated that even though it's not a zoning boundary between two districts, it is a substantial use change from single family residential homes. He expressed concern with the clearing of all trees between the building and the lot line and the proposal for only six small arborvitaes as screening. He suggested that the Board require an opaque screen.

Mr. Ayrassian stated that the matter was addressed at the initial public hearing and he believed the applicant said that there was a dialogue between himself and the abutter to the south and that the proposed arborvitae was the resolution. He stated that the Board requested a tree planting plan to mediate the clearing, which has yet to be submitted.

Mr. Clark reiterated the preference for an opaque screen.

Mr. Ayrassian asked if the Board were to require an opaque screen, would Mr. Clark retract his opposition.

Mr. Clark replied that he would have to discuss the matter with his client. He stated that in the negotiations, it was relayed that the applicant could not afford anything more than the six arborvitae, but that proposal did not satisfy his client. He went on to express concern with the proposed lighting and whether the proposed fixtures would keep the lighting within the boundaries of the site.

Mr. Ayrassian stated his understanding that they are only proposing wal-pacs as they are intentionally looking to minimize lighting disturbance. He stated that a request for information in the form of an illumination or spread plan is reasonable and suggested that Mr. Clark submit his concerns in the form of a letter, so that they can be relayed to the applicant.

Mr. Clark stated that his last concern is the siting of the building on the property and its proximity to his client's property. He explained that his client uses his backyard extensively, including for a fire pit and parties in the warmer weather. He stated that the building has been angled with a large screened porch that directly overlooks his backyard and interferes with his privacy. He suggested that the structure could be shifted to the north and reverse the architectural layout so that the bedrooms and porch are on the opposite side of the property. He emphasized that it's a wide site and recognized that there are wetlands, but felt that the line was fairly uniform. He asserted that there's no reason that he can see that the building can't be shifted. He also recommended that a deed restriction be required that prohibits further development on the site.

Mr. Ayrassian stated that he didn't feel the Board has the authority to preclude further development. He asked how far Mr. Clark's client's house is from the shared property line.

Mr. Clark stated that from building to building is about 45-feet. He stated that it is less than 20-feet from the building to the lot line. He stated his willingness to speak with the applicant directly to discuss things.

Mr. Danesi stated that none of Mr. Clark's concerns were brought up at the first public hearing and that input really needs to be obtained from the applicant. He then noted that Mr. Clark's connection appeared to give out.

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

**The Board heard the application of Tian Ann Jih Der Sheng Daw Yuan Temple for a Major Project Site Plan Review pursuant to the provisions of §17-15.0 SITE PLAN REVIEW of the ZONING ORDINANCE, to accommodate the construction of a temple facility consisting of three buildings, paved access drive with sidewalks, a parking lot consisting of 34 off-street parking stalls, landscaped walking paths, and associated grading and stormwater management systems; the subject premises being located at 61 Thurber Avenue, more specifically Assessor's plat #34, lots #5 & 7, located in the Single Residence-B zoning district.**

Ms. Davies stated that the only outstanding item with the project according to the Conservation Agent Nick Wyllie is for several wetland flags to be reviewed. She stated that the Agent emphasized that even if drastic changes were required, such as moving the flags 15-feet, he didn't anticipate any impacts on the locations of the buildings. She stated that Mr. Wyllie recommends that the Board vote the decision tonight,

as the Conservation Commission won't be meeting again until after the Planning Board's next meeting. She noted that the revised plans were received October 26<sup>th</sup>.

Sean McNamara made a motion to close the public hearing. Sheryl Guglielmo seconded the motion and all voted in favor via roll call.

**The Board held a business meeting.**

**The Board reviewed the Form A application submitted by Attleboro Park Street Realty Trust for 0 Park Street.**

Speaking in favor was Byron Andrews of Andrews Survey and Engineering who stated the plan seeks to create a buildable lot from land owned by Lasalette shrine. He noted that this is relative to the same topic as the Major Site Plan Review application discussed earlier.

Jim Lewis asked how the location of Park Street was determined.

Mr. Andrews replied that they used a public layout plan.

Jim Lewis sought to confirm that the light line represents the pavement.

Mr. Andrews agreed and stated that the pavement drifts a bit on the road's layout.

Mr. Ayrassian asked whether the applicant wants to lock in the lot lines at this time while the site plan is still under review.

Jim Lewis suggested that if the applicant submitted this plan, the Board should vote on it, rather than second guess things.

Jim Lewis made a motion to approve the Form A plan of Attleboro Park Street Realty Trust for 0 Park Street. Sheryl Guglielmo seconded the motion and all voted in favor via roll call.

**The Board reviewed the Form A application submitted by W.B. Construction & Development, Inc. for 7 Pass Farm Road.**

Jim Lewis recused himself from the discussion.

Ms. Davies explained that the house lot on 313A is being carved out from the land containing the drainage basin on 313B. She stated that the plan seeks to separate the drainage basin from the house lot, as the homeowner was concerned that the basin may be a liability issue. She stated that the new house lot will meet the required frontage and lot area requirements.

Mr. Ayrassian questioned the area labeled "Drainage easement B1".

Ms. Davies stated that it is an easement and she surmised it is relative to providing access to the basin for maintenance.

Chairman Danesi noted that even though lot 313B has frontage, it is being listed as non-buildable.

Ms. Davies agreed, as the lot consists of the drainage for the subdivision.

Mr. Ayrassian stated that he felt it was a good idea to carve out the stormwater basin, as it will be easier in terms of conveyance.

Jason Gittle made a motion to approve the Form A plan of W.B. Construction & Development, Inc. for 7 Pass Farm Way. Sheryl Guglielmo seconded the motion and all voted in favor via roll call, save Jim Lewis who had recused himself.



The Board discussed the application of Tian Ann Jih Der Sheng Daw Yuan Temple for a Major Project Site Plan Review pursuant to the provisions of §17-15.0 SITE PLAN REVIEW of the ZONING ORDINANCE, to accommodate the construction of a temple facility consisting of three buildings, paved access drive with sidewalks, a parking lot consisting of 34 off-street parking stalls, landscaped walking paths, and associated grading and stormwater management systems; the subject premises being located at 61 Thurber Avenue, more specifically Assessor's plat #34, lots #5 & 7, located in the Single Residence-B zoning district.

Jim Lewis made a motion to **APPROVE WITH CONDITONS** the Major Project Site Plan Review pursuant to the provisions of §17-15.0 SITE PLAN REVIEW of the ZONING ORDINANCE, to accommodate the construction of a temple facility consisting of three buildings, paved access drive with sidewalks, a parking lot consisting of 34 off-street parking stalls, landscaped walking paths, and associated grading and stormwater management systems; the subject premises being located at 61 Thurber Avenue, more specifically Assessor's plat #34, lots #5 & 7, located in the Single Residence-B zoning district, as shown on the site plan entitled "TIAN ANN TEMPLE" engineered by Steven Kohm, R.P.E., of Prime Engineering, Inc., P.O. Box 1088, 350 Bedford Street, Lakeville, MA 02347, dated January 27, 2020 and revised through September 29, 2020. Sheryl Guglielmo seconded the motion. A discussion followed and all voted in favor via roll call. The Board attached conditions.

**The Board heard the appointment to speak of Daniel Hazen of Guerriere & Halnon, Inc. relative to the "CALVIN STREET EXTENSION" street extension plan.**

**The Board discussed the e-mail, letter, revised plan, and photographs from Daniel Hazen, of Guerriere & Halnon, Inc., received October 28, 2020, to Senior Land Use Planner Stephanie Davies, relative to proposed modifications to the "CALVIN STREET EXTENSION" plan.**

Speaking was Daniel Hazen of Guerriere & Halnon on behalf of Rich Hayes, the developer, and Doug Cash, the home builder. He explained that the street was extended about 50-feet to allow for one house lot about three years ago. He stated that Mr. Hayes sought help with Street Acceptance plans and it was determined that the road was pitched back towards Calvin Street rather than towards the stormwater basin. He stated that Mr. Hayes has saw-cut the pavement out there to lower the grade to pitch towards the basin. He stated that in order to collect all of the stormwater runoff, they'll have to create a substantial speed bump at the end of the road. He stated that they met with Public Works and the Conservation Agent on the site last week and it was determined that the best plan forward may be to modify the design. He stated that it was recommended to move the high point of the road approximately 16-feet to the south, which is what is shown on the provided plan. He stated that 16-feet of the road would pitch towards existing catch basins on Calvin Street and the remainder will flow to the newly constructed basin. He stated that there would be a slight peak flow increase, only a 0.04 cubic feet per second in a 100 year storm event. He stated that Public Works seemed to prefer this new plan, as it won't create a plowing issue. He stated that the roof run-off chambers for the house and the run off from the road meets the ground water recharge requirements. He stated that the total suspended solid removal would be over 80%. He stated that Mr. Hayes is ready to pave next week and they would like to have this project wrapped up before the asphalt plants close for the season.

Mr. Ayrassian recommended that the Board table the matter to review the proposal. He stated that he had already had discussions with the Public Works Superintendent about how the road had not been built according to the approved plan and recommended that the situation needs to be rectified. He suggested that a recommendation could be ready for November 16<sup>th</sup>.

Ms. Davies noted that the issue discussed now is a separate issue from the incorrect grading and installation of the pavement. She stated that this proposes to revise the plan and that she had spoken with the Conservation Agent about his concerns with the original design and the hump in the road that would result.

Mr. Hazen showed the Board a picture showing how much the crown of the road would need to be elevated to meet the approved design.

Mr. Ayrassian asked whether the house lot would similarly need to be raised.

Mr. Hazen answered no, as the house is off to the right.

Mr. Ayrassian agreed that design doesn't make any sense. He requested again that the Board table the matter for staff review.

Chairman Danesi sought to confirm that the plan that was approved by the Board was deemed to be defective before the work even began.

Mr. Hazen replied that he wouldn't classify it as defective, but that it wasn't the best design for the project, which was determined during construction. He stated that he had submitted a revised design for approval.

Mr. Ayrassian agreed that he wants to discuss the plan with Public Works Superintendent Mike Tyler.

Chairman Danesi noted that they are up against the coming winter weather in terms of resolving things. He noted that an extension may need to be granted to repave in the spring.

Mr. Hazen noted that the house has essentially been sold, but the bank won't grant financing until the Conservation Commission issues a Certificate of Compliance for the property. He explained that the Commission is reluctant to release the lot separate from the roadway, as there will be no leverage to address things without the road bond and are awaiting a decision from the Planning Board.

Speaking was Sandra Copley Menard of Century 21 who explained she is the realtor for the home buyer. She stated that they were supposed to close in July, but have been unable to do on account of the issues with the road. She stated that the challenge for her client is that he is currently homeless, as the purchase was supposed to go through months ago. She stated that it will be an extreme hardship on them if they have to wait until the spring to move into the house. She stated that they have tried everything to resolve things, including requesting the bank to do a hold back of a cash surety until this is resolved, but the bank isn't willing to agree. She respectfully requested if anything can be decided that allows the project to be completed before the spring, it would be greatly appreciated.

Mr. Ayrassian noted that he has been speaking with Ms. Copley-Menard several times a week for the past several weeks. He stated that reviewing the plan is standard operating procedure and that we are hoping to be able to make the decision on the engineering at our next meeting. He stated that the paving of the road is a separate matter and may not be possible until the spring, depending upon the weather.

Chairman Danesi stated that the road wouldn't be accepted until a final inspection is performed after the repaving of the roadway. He stated that was unlikely to occur before the spring.

Ms. Copley-Menard stated they had a meeting with the Public Works Superintendent Mike Tyler the prior week to discuss the revisions and he had made recommendations to perform the work closer to mid-day when it is warmest, due to the changing temperatures. She stated that hopefully the paving can still be completed.

Chairman Danesi noted that the asphalt plants are likely to shut down within the next few weeks, depending upon the temperatures.

Mr. Hazen stated that you can always get asphalt, it'll just be a matter of how much you need to pay for it. He stated as long as the temperatures are warm enough, the work can be done.

The Board tabled the matter.

**The Board reviewed the letter from Rich Hayes of Hayes Excavating, dated October 27, 2020, to the Planning Board, providing an update and requesting an extension of time to January 30, 2021, relative to the "CALVIN STREET EXTENSION" street extension plan.**

Sean McNamara made a motion to approve an extension of time to January 30, 2021 relative to the "CALVIN STREET EXTENSION" street extension plan. Jim Lewis seconded the motion. All voted in favor via roll call, except Jason Gittle, who voted in opposition.

**The Board heard the appointment to speak of attorney Edward Casey of Viridian Development, LLC relative to the "VIRIDIAN MEADOWS" and "VIRIDIAN MEADOWS, PHASE II" subdivisions.**

**The Board reviewed the letter from Edward J Casey of Coogan Smith, LLP, dated November 2, 2020, to Planning Board Chairman Paul Danesi, providing a construction update relative to both the "VIRIDIAN MEADOWS" and "VIRIDIAN MEADOWS, PHASE II" subdivisions.**

Mr. Casey stated that he's had Commonwealth Engineers go out and inspect the progress at both subdivisions. He stated that everything has been completed in Phase I with the exception of loaming and seeding behind the berm. He stated that they will attempt to do that before the winter, but it is unlikely to take place practically until the spring. He stated that with Phase II, there was an issue with the retaining wall and a portion of the pavement had to be taken up and replaced. He stated that their paver planned to get the replacement work done this week. He stated he has concerns, however, as to whether that is realistic given the weather and potential for the asphalt plants to close. He stated that they have planted four of the nineteen street trees required in Phase II. He requested to delay installing the remaining ones required on the Norton house lots until the houses can be built, as he doesn't want to damage them with the construction equipment. He stated that they hope to complete the homes over the course of the winter. He stated that the guardrail has not been installed as approved, as when modifications were made to the retaining wall, the height of the feature was raised so that it could serve the purpose of a guard rail. He requested that the Board consider waiving the requirement for the guard rail in lieu of the retaining wall's height. He stated that there is also a light missing from the end of the cul-de-sac and that intends to follow-up with Mass Electric on the matter.

Chairman Danesi noted his desire to have an engineer certify that the retaining wall can be used in place of the guard rail.

Mr. Ayrassian sought to confirm the completion deadlines for each phase of the project.

Mr. Casey replied November 30, 2019 for Phase I and July 18, 2020 for Phase II.

Ms. Davies noted that Phase I had already been granted two extensions of time previously.

Mr. Casey stated that ideally he would like an extension to June 15<sup>th</sup> for both subdivisions so that he can prepare as-built plans that incorporate both Phase I and Phase II. He stated that will allow him to complete the top coat, install the monuments, and install the remaining trees.

Mike Davis made a motion to grant an extension of time of time to June 15, 2021 for both the "VIRIDIAN MEADOWS" and "VIRIDIAN MEADOWS, PHASE II" subdivisions. Sean McNamara seconded the motion and all voted in favor via roll call, except for Jason Gittle, who voted in opposition.

**The Board discussed the letter from attorney Edward J. Casey of Casey Law Offices, P.C. on behalf of the Walsh Perry Partnership, dated June 3, 2019, to Planning Board Chairman Paul Danesi, regarding the status of completing the "HARDT ESTATES" subdivision.**

Mr. Ayrassian stated that he had run into Mr. Walsh, who had assured him that all the outstanding items on the punch list will be completed.

Mr. Casey stated that Mr. Perry had told him the same and that they were due to begin addressing the driveways today. He stated that he hopes to report a resolution on everything in several weeks' time.

Mr. Ayrassian stated his intent to go out and inspect with Superintendent Tyler once the work is completed.

There being no one else to speak, the matter was tabled.

**The Board heard the appointment to speak of Dan Grinnell of Attleboro Realty Development, LLC relative to the "COLMAN ESTATES" subdivision.**

**The Board reviewed the letter from Dan Grinnell of Attleboro Realty Development, LLC, dated November 2, 2020, to the Planning Board, requesting a three (3) month extension of time relative to the "COLMAN ESTATES" subdivision.**

Mr. Grinnell informed the Board that they had completed construction on the subdivision in the early spring of this year. He stated that there were some issues with the paving that have since been rectified. He stated that they submitted final as-built plans to Public Works last Monday and they are waiting for their feedback before submitting street acceptance plans. He stated their request for a three month extension of time.

Mike Davis made a motion to grant an extension of time to March 1, 2021 relative to the "COLMAN ESTATES" subdivision. Jim Lewis seconded the motion. All voted in favor via roll call.

**The Board reviewed the memorandum from Public Works Superintendent Michael Tyler, received October 26, 2020, to the Planning Board, recommending a FINAL release of funds in the amount of \$13,711.49 plus interest, relative to the "STONE FIELD ESTATES" subdivision.**

Mr. Ayrassian noted that he and Sean McNamara had been corresponding via email, discussing whether the developer has flushed out the stormwater system yet. He explained that Public Works handles such inspections. He stated that if Public Works has submitted a letter recommending a final release of funds, it can be inferred that all work associated with the subdivision construction has been completed, including the system flushing.

Sean McNamara stated that the Board had addressed this need with the Developer back in October and he just drove by the subdivision the other day and the system was full of water, prompting him to wonder whether it was functioning properly.

Mr. Ayrassian stated that if it's full of water, it is because it rained. He stated that the forebay for the system had accumulated a lot of material that needed to be cleared out. He stated that if Public Works is recommending a final release, then all of the outstanding matters have been addressed. He stated that due to the history with the developer, the staff could reach out Public Works to confirm that the clean-out was completed.

Chairman Danesi noted that with the passing of Public Works Assistant Superintendent Ron Dubuc, the matter could have been overlooked.

Sean McNamara agreed that he would feel more comfortable confirming with Public Works.

Chairman Danesi reminded the Board that previously, Public Works has wanted to wait through a season to ensure systems are functioning appropriately, so he thought it made sense to double check.

The Board tabled the matter to follow-up with Public Works.

**The Board reviewed the email correspondence between Senior Land Use Planner Stephanie Davies and City Treasurer Laura Gignac, dated October 8, 2020, relative to final releases for the "SHARPE PLAT" and "HITCHCOCK ESTATES" subdivisions.**

Ms. Davies stated that in both of these cases, The City has accepted the streets. She stated that staff have been trying for years to track down the developers to have them request final releases of funds, but neither of them have responded. She stated that if the Board were willing to vote on a final release of funds without a letter from the developers prompting that action, then the City Treasurer can try to mail out the checks to the developers. She stated that if no one claims the funds, they will be returned and there is a process for them to be reclaimed by the City. She stated that the City Treasurer agreed that this was an option for handling the situation.

Chairman Danesi sought to confirm that both security funds are cash being held by the City versus a bond.

Ms. Davies agreed that both are cash accounts.

Mike Davis asked why we have to go through this process.

Mr. Ayrassian stated that it has to do with statutory requirements of the Auditor and Collector.

Mr. Davis stated that unless there is a law requiring the contact be made by certified mail, he thinks it is a waste of time and resources.

Chairman Danesi asked how much money we are talking about for each subdivision.

Ms. Davies stated that in terms of Sharpe Plat it is \$2,467.17 plus interest. She stated that in the case of Hitchcock Lane the amount is \$9,844.89 plus interest. She stated that these are amounts left over relative to the street acceptance plans.

Sean McNamara asked whether the developers did all of the work required of them and this final release just fell through the cracks.

Ms. Davies stated that all of the work was completed and streets were accepted many years ago.

Sean McNamara stated that he was just looking to confirm that all of the work was satisfactorily completed to ensure the City wasn't rewarding developers that didn't fulfill their obligations.

Mr. Ayrassian stated that the developers just failed to request the funds be released after completing the work. He stated that statutorily, the City cannot just take the money. He stated that the Auditor will not just accept the money and clear a bank account without the back-up paperwork to confirm the necessary steps were taken to do so. He respectfully stated that the staff had reviewed all other options that satisfy the other departments involved and this appears to be the simplest solution. He stated that just as the Planning Board and staff are obligated to follow the laws laid out in Chapter 40A and 41, other departments have similar statutes to abide.

Mike Davis stated that if other departments indicate this process must follow certain statutes regarding contact by mail, he won't question staff.

Mr. Ayrassian stated that the statute obligates staff to make multiple, concerted efforts to contact the developers. He stated that the suggestion to ask the Planning Board to vote to release the funds without the request from the developer was an idea we developed as a work-around to resolve the outstanding accounts. He stated that if the money isn't cashed within several years, the City can reclaim it.

Sheryl Guglielmo made a motion to release funds in the amount of \$2,467.17 plus interest relative to the "SHARPE PLAT" subdivision. Sean McNamara seconded the motion and all voted in favor via roll call.

Sheryl Guglielmo made a motion to release funds in the amount of \$9,844.89 plus interest relative to the "HITCHCOCK LANE" subdivision. Sean McNamara seconded the motion and all voted in favor via roll call.

The Board tabled the letter via email submitted by Water Department Superintendent Kourtney J. Wunschel, dated October 8, 2020, the email from Wastewater Superintendent Thomas Hayes, received October 28, 2020, and the letter from Police Chief Kyle Heagney, received, October 28, 2020, providing comment on the revised "PIKE ESTATES" subdivision plans.

The Board tabled the notices from Planning Board Clerk Lauren Stamatis, dated October 14, 2020, to John Case, III of County Street Realty Corp., regarding the lapsed construction deadline for the "Simpson Avenue Extension" street extension, to Mark Rioux of Murette & Sons, Inc., regarding the lapsed construction deadline for the "ROLLING HILLS, PHASE VI" 81-W subdivision, and to Brian Cave of Cave Corp, regarding the lapsed construction deadline for the "DALE COURT EXTENSION" subdivision, as well as the letter from Bill Ward of W.B. Construction & Development, Inc., dated October 24, 2020, providing an update on the "BRIGHAM HILLS", "BRIGHAM HILLS, PHASE II", and "BRIGHAM HILLS, PHASE III" subdivisions.

**The Board reviewed all other correspondence.**

Jim Lewis stated his desire to set up a Subdivision Committee meeting to discuss changes to the Rules and Regulations. He asked whether the Board would prefer the meeting be held via Zoom or in person.

Mike Davis stated that he would rather hold the meeting via Zoom.

Jim Lewis stated that he felt Zoom is fine.

Ms. Davies noted that the issue would be finding a location where everyone could meet in-person while following COVID protocols.

Mr. Ayrassian stated that staff will follow-up after working with Jim Lewis on logistic details.

**The Board approved the pending minutes of September 28, 2020 and October 5, 2020.**

**The Board held a vote to hold a remote Joint Public Hearing with the Municipal Council on November 17, 2020, relative to the City 's petition to discontinue Crown Street.**

Jason Gittle made a motion to approve holding a Joint Public Hearing on November 17, 2020. Mike Davis seconded the motion. All voted in favor via roll call.

The meeting adjourned at 9:20 p.m.