

BELLINGHAM PLANNING BOARD  
BELLINGHAM, MASS.

PUBLIC HEARING: January 12, 1966.

Members present were: Francis J. Prior  
J. Eugene Corriveau  
Robert M. Chase

PUBLIC HEARING on the plan of Morton Schafer, owner of the subdivision known as "Schafer Heights" Section #1 located on the easterly side of So. Main Street, Bellingham, Mass. was opened by the chairman at 8:10 P.M.

The notice as it appeared in the newspapers was read by the clerk. Proper notification had been sent to abutters.

Chairman Francis J. Prior said the Public Hearing would be conducted under General Laws Chapter 41- Section 81-W. He said the plan does not conform to Zoning and there seems to be a misunderstanding between the people involved. The records show a conditional approval, conditions of which were not carried out; therefore, we feel that Sect. 81-W. of the Subdivision Control Laws applies in this case.

J. Eugene Corriveau:- This plan was recorded under Sect. 81-P. The Planning Board's failure to act in 14 day period. The Planning Board has recourse to amend, modify or rescind the plan under Sect. 81-W. "State reasons why you oppose action, under Sect. 81-W., of the three alternatives."

Robert M. Chase:- On December 29, 1964, the plan was submitted as Planning Board Approval Not Required. The board failed to act. On January 14, 1965 the plan was submitted under Sect. 81-L as Sub. Control Not required; Sect 81-P., 14 days had elapsed and Sect. 7A-1 of Zoning By-Laws which have two exceptions. On December 2, 1956, a conditional approval had been granted. Under the law, the plan must be registered in the Registry of Deeds within seven months of approval. As of 1960, this plan was invalid because certain things were not carried out. If the owner can show that the plan is still valid in 1965, the board will consider this; if it cannot show this validity in 1965 as it was in 1956, rescission by the board is necessary.

J. Eugene Corriveau:- By a court decree, the plan was approved by default. From December 29, 1964 to January 14, 1965 the 14 days had elapsed before the next scheduled meeting but the matter had not been dropped. On Jan. 28, 1965 and Feb. 11, 1965, Mr. Schafer and his attorney appeared at the meetings and the plan was discussed. Therefore, plan approved, not

*J.E.C.*  
*R.M. Chase*

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through lack of action by the board but that the 14 days had elapsed. The board was not aware of the presentation of this "Form B". "Form A" is dated December 10, 1964 but was not presented until December 29, 1964 and the 14 days had elapsed before the meeting. "I do not remember this form as presented as such".

Francis J. Prior:- "The plan as stands does not conform to Zoning in the area. Statute of limitations had run out."

The chairman then asked if anyone present was in favor of the petition to amend, modify or rescind the plan of Morton Schafer.

Mrs. Richard Walsh, an abuttor, said she feels that larger house lots would be of benefit to the home owner.

Atty. Eugene Tougas:- "Today we had a court trial. Tonight here we are again on a matter that makes this a cut and dried affair. You sit there as judge and jury. I object on those grounds. Ninety per-cent are opinions of only the board. The simple answer is that you have no authority to act under the authority you state. The only power under 81-W is explicit. To modify, amend or rescind the approval of a plan or require to change the status of a plan and nowhere in 81-W has the board the power to rescind a determination by Planning Board under subdivision control law, approval not required. In January we appeared under Section 81-P for an endorsement and after a refusal we could then take town clerk to court. We do not intend to go behind the certificate of Town Clerk. I do not think I should take any more of anyone's time but let me point out two particular things which are definitely not so. (1) That the plan must be recorded in seven months is definitely not so. No requirement that the plan ever has to be recorded. (2) Whether or not one can use the lots shown on plan depends on whether or not you change the Zoning. Selectmen are not even present though they petitioned you to act. I make one suggestion, that you save the town and Mr. Schafer legal costs etc. Mr. Schafer is entitled to a permit or he will go to the Board of Appeals."

Robert Chase:- "May I take exception to the 'cut and dried affair'. I have put much time into this. Modify or rescind, I still haven't made up my mind; there is still very much to it."

Eugene Corriveau:- "Our arguments are not as conclusive as he states. What happened today happened through Zoning Agent, not the Planning Board."

Atty. Tougas:- "No plan, no case today. Do you agree with me, sir?"

Eugene Corriveau:- "I guess you could interpret it that way."

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Atty. Tougas:- "Spirit of fair play. If you're right, we're wrong. If we're right, you're wrong." "We rely on the certificate of Town Clerk because there is a determination that the plan does comply with zoning in all respects."

Francis J. Prior:- " When plan was submitted on December 29, 1964 as subdivision control not required, these streets were not in existance at the time."

Atty. Tougas:- Yes they were on the plan as Eugene Corriveau testified today.

Robert Chase made a motion to take the matter under advisement, seconded by Eugene Corriveau. Vote unanimous. Public Hearing declared closed by the chairman at 8:30 P.M.

Respectfully submitted,  
*Joan M. Giard*  
Joan M. Giard, Clerk

APPROVED AS READ:

*Francis J. Prior*  
*E. Eugene Corriveau*  
*Robert M. Chase*