

BELLINGHAM PLANNING BOARD
PLANNING BOARD ROOM-TOWN HALL
BELLINGHAM, MASSACHUSETTS

Regular Meeting of May 25, 1972

Members Present: James E. Hart, Chairman
Sergio Rotatori, Clerk
Wilfred Arcand

Chairman Hart opened the meeting and dispensed with the regular order of business, no objections.

Donald W. Dufresne presented a plan of land for recording purposes located on the northerly side of Woodland Road and the southerly side of Highland Street. Variance for under-sized lot granted 11/21/69. On a Rotatori-Arcand motion the plan of Donald Dufresne was unanimously approved.

Mrs. John Wells of Grove Street requested the Board's advice. Mrs. Wells owns a piece of land on Grove Street with a 360' frontage and would like to give a piece of the land to her daughter with only a 100' frontage. Land would have the necessary footage, but she would like to keep the remaining 260' frontage for herself. Hart stated since she had frontage to meet the 150' requirement on both lots the Board could not sign any plans for her. She would have to go to the Appeals Board for a variance, but it would be unlikely if the Appeals Board would grant a variance since there seems to be no hardship.

A plan of six lots located on the northerly side of Blackstone Street containing 7.50 acres of land was presented for the record. Blackstone Trust in Medfield, Approval Not Required. On an Arcand-Rotatori motion the plan of six lots on Blackstone Street was unanimously approved.

Ralph Cook of the Health Dept. met with the Board to discuss the Rules and Regulations of the Health Department. Hart questioned why Section 9 has to be included at all. When people comply with all other sections of the rules there is no need for Section 9. Cook answered that it has been a problem in the past when both water and a septic system is on a lot that small they are just inviting trouble, and costing the Town money in the long end. Hart stated that there are a lot of streets in Town that do not have water and the people must have wells.

Arcand stated that there is a State Code of Health that would stop people from building.

Hart questioned why they needed a lot size. If all other requirement are met the Health Dept. didn't need to enter into zoning.

Arcand stated even if the people did get a variance from the Appeals Board they still wouldn't be able to build if they can't get a permit from the Board of Health. Cook stated he did not agree with that thinking, because of the variance

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they can obtain from the Board of Health where lots are less than 1/2 acre.

Consultant Phil Herr questioned if there likely would be cases where it would be OK to have both a septic tank and a well on the same lot.

Cook answered yes, and this is a situation where you can get a variance. This would make his department look harder at the small lot to prevent trouble.

Herr questioned Cook if his Rules say they can waive their requirements.

Cook answered yes, but only under certain conditions, and the owner would have to have an engineer.

Herr stated if an owner has a lot smaller than 1/2 acre he would have to hire an engineer, and the Board of Health is leaving it up to the owner's engineer. The Planning Board is concerned that people will read this section of your rules and think that they can't build but in truth all they need to do is shop around for a friendly engineer, and the Board of Health would take his word for it. An alternate would be if you have a lot smaller than 1/2 acre and you want to have both a well and a septic tank on the same lot, certain conditions must be met. You could spell out a guideline for the engineer.

Cook stated it has been suggested that the size of the lot be increased to one acre. We would certainly study the engineers results and make our decision ourselves.

Hart stated he would at least like to see the lot size at 20,000 sq. ft, and questioned if the Board of Health is in the right legally putting the size at 1/2 acre.

Herr stated he knew of two cases where the Board of Health had set minimum lot areas, and one stated that the State Board of Health said they could do it. In one of the towns it was challenged, and the town backed down. In the other case they still have a minimum lot area.

Cook stated he would bring it back to his board about the 20,000 area and he would go along with it.

Hart questioned if perk tests were allowed in June and July.

Cook answered under Section 6 no tests are allowed between June and Sept. 15 and all tests shall include a site analysis by a qualified professional engineer or soil scientist.

Walter Stearns stated he would just wait until Sept. 16th to do his testing, all this would hurt would be the little guy, not the big developer.

Arcand stated the only thing he objected to was Section 9, and questioned Town Counsel Ambler if it was legal. Ambler

answered yes. Some of the dialogue should be changed, but the concept and the principals of 20,000 sq. ft. are the same as

1/2 acre. Arcand said he still objected to Sec. 9 regardless of the area. He didn't want to see any lots frozen. Ambler

answered you can't legally freeze a lot, what you are providing is that certain conditions must be met before a permit would be issued by the Board of Health.

Cook stated he would put in 20,000 if they did keep in Sec. 9, and would discuss Sec. 9 with his Board.

A letter from Herr regarding the rezoning request of Dalpe was

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read. In his correspondence of May 18th Herr concluded the total open space of Lots 1, 2A, and 5A equals about 13.44 acres or 67% of 20.12 acres. Consultant Herr stated the real issue is how do you define vacant land. If Dalpe would remove the house on Lot 1 they could add 1/2 acre and acquire 2B or Lot 3 they could conform to the 70%. They would have to own these lots, and this would have to include Lot 5A which is vacant land. Herr questioned the Board if he did conform in this way, would they go along with it.

Arcand stated he thought they would need another public hearing. Hart disagreed stating the Board is looking at the same plan and the same people would be at the new hearing that was there for the first. Arcand said he thought the plans would be changed.

Herr questioned if it violates the spirit of the law.

Arcand stated he would not be in favor because the area is so developed, and thought it would be unwise.

On an Arcand-Rotatori motion it was unanimously voted to write Dalpe a letter stating "The Board recommends against the adoption of the proposed Wrentham Street rezoning on the grounds that it violates at least the intent, and possibly the letter, of the by-law requiring multi-family districts to be established in essentially vacant areas, and because the proposed development would conflict with an already established single-family residential neighborhood."

On an Arcand-Rotatori motion it was unanimously voted to approve a plan of land on South Main St. Lots 1 & 2 and Lots 2A and 3 to be combined into two lots. Approval Not Required.

On an Arcand-Rotatori motion a plan of two lots #2 and #3 was unanimously approved on South Main Street. Plan is for recording purposed only, Approval Not Required.

Consultant Herr discussed Swimming Pools with the Board and Walter Stearns Building Inspector. Stearns contended that he doesn't have any control over the set backs in pools. A swimming pool is a structure, a building is a structure but a structure doesn't have to be a building. In no way can a pool be considered a building. Intensity of Use Regulations deals with all buildings.

Herr disagreed. Stearns stated Town Counsel said Sec. 2510 refers only to a building. Herr will draw up an amendment to change the word "building" to "structure"

Part 2 of the Medway by-law on pools was considered a good idea and Herr will draw up a draft.

Part 3 concerning lighting was not felt necessary.

Herr presented an amendment to Sec. 1200 which would add a paragraph that the Zoning Agent may require a registered land surveyor's certification stating the foundations are placed where the plot plan indicates them to be. On an Arcand-Rotatori motion, it was unanimously voted to set a public hearing for June 22nd at 8:30 P.M. to consider an amendment on foundation

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location.

Walter Stearns asked the board to consider requiring all multi-family houses to be of Class A construction and fireproof. Herr stated if this were the case all multi-family buildings regardless of number of stories would have to be made out of reinforced concrete or protected steel. State law requires what class of construction has to be followed according to number of stories. Board felt this was not necessary.

Herr told the board new zoning maps will have Flood Plain Zoning outlined in black.

Herr presented the Board with an amendment to the rules by the addition of Section 47, Fee to Streets. If adopted the amendment would make it easier for the Town to acquire fee to streets in subdivisions. On an Arcand-Rotatori motion, it was unanimously voted to hold a public hearing on Fee to Streets on June 22nd at 9:00 P.M.

Herr reported after studying the problem of location of foundations above a certain grade in the road the best place would appear to be in the Building Code. There was no way the Board could place it in the by-laws. Stearns stated it would hurt a lot of people as most of the land in Town is below the road. Arcand said he was just trying to prevent more trouble with homes being flooded. Herr suggested a requirement could be considered so that excess water would be channeled by berms on the road. Matter will be discussed at another meeting.

Herr questioned the Board how it felt on amending Sec. 3700 Multi-family Dwellings which would make a Special Permit expire upon transfer of ownership prior to initiation of substantial construction on the ground, or if no substantial construction takes place within 12 months of Special Permit approval. Rotatori stated he thought it was a good idea.

Walter Stearns asked Consultant Herr if the Planning Board could revoke a building permit on a zoning violation. Herr answered No.

Minutes of the May 11th meeting were unanimously approved, amount of land will be checked on Boucher's plan, on a Rotatori Arcand motion, On an Arcand-Rotatori motion it was unanimously voted to accept Philip B. Herr & Associates outline of Consultant Services for 1972-73 as outlined in a letter dated May 22, 1972.

Meeting adjourned at 12:15 P.M. on a Rotatori-Arcand motion.

ACCEPTED AS READ:

Respectfully submitted:

Sergio Rotatori, Clerk

James Stearns
Philip B. Herr
Sergio Rotatori
Walter P. Arcand