

Bellingham Planning Board
Upper Town Hall
Bellingham, Massachusetts

Regular Meeting of April 22, 1976

Mbmbbers Present: James A. McElroy, Chairman
Sergio Rotatori, Vice Chairman
James E. Hart,
John P. Murray

Chairman McElroy opened the meeting at 8:00 P.M. and dispensed with the regular order of business.

Robert Cournoyer presented a plan of land of Oliva and Annette Galipeau of 311 So. Main St., area zoned residential. Hart questioned which lots the Board would be signing for. Cournoyer pointed out corner lot was a recorded plan of Robert Remillard and that Lot B was being taken from Lot A. On a Rotatori-Hart motion the Board voted unanimously to sign the plan, Approval Not Required. Lot B containing 22,847 sq. ft. and Lot A with 4.167 acres.

McElroy discussed with the Board and Selectman Wilfred Arcand the case of Mr. Lemire who is seeking an occupancy permit for an apartment in his house. He had already asked for a variance and would now be seeking a waiver of the two year waiting period. McElroy pointed out he does have some hardships, as he is unable to work and the apartment is already built. Hart stated before the Board sent the case back to the Zoning Board it should be made clear the Board is not approving the case. McElroy told Hart the Board could do like it did in the Lercy Manor case where a letter was sent to the Zoning Board stating we were not recommending them to approve the case, but just that the Board was waiving the two year waiting period. The Board cannot take any action on the case until the applicant actually appears before the Board. Arcand told the Board as a Selectmen he had told Lemire he would speak to the individual members regarding the case.

McElroy asked Arcand about the transferring of the permit to operate the Pumpkin Seed stand and if he actually conforms. Arcand stated before any license is approved, the opinion of the Zoning Agent is always asked, and he had approved the transfer.

Arcand asked McElroy about his meaning of the non-conformity regarding repairs. McElroy stated he was speaking only as an individual, and it was his opinion that you cannot tear down a building and build it back up again to exceed 50% of the market cost of the original building, unless you get a variance from the Zoning Board. Arcand stated he was really concerned about what the Zoning Agent could permit under his authority. McElroy told Arcand if the Selectmen did not think that what the Zoning Agent was doing was right, they had the authority to correct him. There could be other opinions on the definition


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Some could say it was 50% of the market value. McElroy asked Arcand if he had approached the Zoning Agent and asked what his opinion was. Arcand was told the Agent felt it was unsafe. Murray told the Board he had received a complaint about the building and he told them to call the Zoning Agent. Arcand said it was his opinion the minute the building was down there is no longer a non conformity because the building was out. In the case of a fire, you could rebuild it if you do it within two years. If it was then put up for sale it could be forever. McElroy told Arcand the Selectmen have the right to tell the Building Inspector that he made a mistake in judgement. Hart disagreed, saying once you appoint an official you can't tell him what to do, if you don't like what he is doing you have the option to fire him. McElroy disagreed stating the Zoning Agent has to answer to his boss the same way the Police and Fire Chief have to.

Robert Cournoyer and Thomas Clark spoke with the Board regarding the preliminary plan of Bellingham Industrial Park. Cournoyer told the Board he had brought the plan up-to-date. Street lay out is 60' Lot 3, 4, and 5 are approved lots and land was taken off Lot 3 to obtain the extra 10'. Flares at the end of the street called for 30', plan ended up with 35'. Minimum radius is shown, since this is a minor street, no building or construction will be put in there to obstruct the view. Robin's Road is now the main street with Rita Lane the short stub. Erosion control was included. Cournoyer told the Board the only other point still remaining was the land taking by the Water Board. A round circle was drawn on the plan to note the land to be taken on a plan drawn up by Schofield Brothers for the Water Department. Lots 8, 9, 10, and 11 will be affected. Cournoyer told the Board they would like to get the plans going. He did not feel his client was trying to take advantage of the town. He is just trying to make sure that he will get the fair market value for his land. Clark would be willing to leave off the land enclosed in the circle off the subdivision plan at this time and if the taking never takes place he can always extend the subdivision to include the lots. They would be willing to work in any way to avoid getting involved in a legal hassel. Lots 9, 10 and 11 would remain as one big lot. He did not feel Lot 8 would be affected too much. Robin's Road would be shortened. Herr felt they would also lose Lot 8. Cournoyer stated usually the land takings in this kind of a situation take in a 400' circle. Where this is valuable industrial land, most likely they would take the minimum possible. Lot 8 could be rearranged to abide by the taking. Herr stated there is the issue with respect to the radius of Robin's Road at Lot 7 and 12, it should be 50'. The issue with respect to the length of Robin's Road ceases to become an issue if they do what they say they are going to do. He is not convinced that they can use Lot 8. What they are saying is that they will not use any of the land within the circle. McElroy questioned on the next plan that there wouldn't be any Lots 9, 10 and 11. Cournoyer agreed, yes, it would be only one lot. They might get a



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client that wants a big 3 acre lot. Hart questioned if they had enough useable land on Lot 3 with the gas easement. Cournoyer stated it was already an approved lot, they had just included it because they were taking 10' from it for the road entrance. On a Hart-Rotatori motion the Board voted unanimously to act favorably on the Preliminary Plan with the stated modifications.

Letter was received from Town Counsel Ambler regarding Public Ways dated April 13, 1976. The problem was that there were two ways in which a street can become a public way. The Town can accept it formally or the people use it enough that you acquire it as a public way. The question is what do you do with ways that never have been formally accepted. You could probably block off the way if nobody is living there. If the Town would want to discontinue a street, you just put in an article saying that you are going to discontinue it. If a person has land on such a street, he has the right to take you to court for damages. A lot of towns around here have had this problem. It is a very complicated dirty business. It is not very easy. There is another way in which you change the definitions in zoning in a way in which excludes public ways that became public other than by the Town accepting them. McElroy questioned whether you would be letting yourself in for the same court action. Herr replied no, you are not blocking their way to subdivide their land. The Supreme Court has upheld this saying you do not have to sign a plan on such a way. Herr will review and get back to the Board.

Herr gave the Board copies of the Subdivision Plan Checklist redesigned suggesting they might be given to the developers to help them keep clear what the town wants. McElroy said it was just a list of things required in the rules and regulations.

Herr gave the Board a copy of a proposed amendment to the subdivision regulations providing reasonable provisions shall be made for extension of streets and utilities to adjoining properties to a subdivision. Copy will be sent to the Water Dept. telling them the article is under consideration.

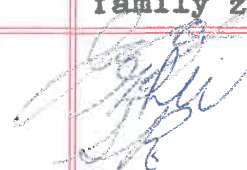
Herr discussed a simple amendment to the Mass. Subdivision Control Law which has been filed. A hearing was held on it on March 22nd and if it passes you will have a lot of changes in the subdivision control law. Herr will keep the Board informed.

Community Facilities Report was brought up by Herr, saying the various people who gave information to put in the report ought to get a copy of the report and asked for their comments. McElroy stated the information is so bias there is little value in the information. Copy has been filed with the Town Clerk. Letter will be sent to the Selectmen asking them if it was their intention to take any action on the report, or if there was any other action they want taken.

A recent article in the papers on sewerage was discussed.

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Sewerage Commission was quoted as saying the Planning Board had no concrete basis to reject the plan. McElroy pointed out they also failed to state that the Board of Health had not endorsed the plan because there was not sufficient cases of septic system problems to warrant sewerage. Herr questioned if the Sewerage Commission was getting together with the various department in town. McElroy stated no. Herr stated the State has got a big pile of federal money and they really want to see it spent. The Office of State Planning has come out saying it is against this proposal but did think some kind of a proposal for Bellingham was justified. The Federal government says they want a 50 year scope. McElroy stated the Commissioners have come up with a completely different proposal now. The new plan would take in North Bellingham also. Hart stated he was against it, it would just cost too much money. McElroy suggested perhaps the Board could change some of the agricultural areas that could be effected by sewerage hookup into industrial districts. We ought to be trying to keep some of these areas from being developed if sewerage comes in. As an individual I do not feel we can bear this financially. Herr told the Board EPA can no longer fund a system which is designed to serve future needs vs present needs. What Congress is telling them is that you might not be able to spend their money on future needs. Murray stated he would like to see the Board try to do something to control the population. What is the reason right now for not going for one acre zoning. Hart replied that the Town does not have any more residential land, it is all mostly agriculturally zoned. The Finance Committee objected to sewerage because of the cost, they might change their minds if it doesn't cost too much money. Herr suggested the lot size might be right but questioned if we have the right kind of districts. The basic shape of zoning is the same as first established in 1961 and the lot size was raised once. McElroy asked if he were contemplating the starting of R-1 and R-2 zoning. Herr stated he would first like to hold three meetings, in the south, center and north sections of town to try to get people to tell us how they want us to do it in their section. McElroy stated the Local Growth Committee was going to be holding a general meeting opened to the public, and if they don't come out for that one, they won't come out for ours. Normand Langlais told the Board he felt the people at the Town Meeting gave a good indication of their feelings when they did not vote to rezone those two parcels of land. Herr told the Board some Towns are regulating on-site sewerage through zoning - if your perk rate is less than X number of feet per inch then you cannot have on-site sewerage. Hart felt it would be in conflict with our own Board of Health. Murray asked Herr about the possibility of a moratorium on apartment building. McElroy told him under the new law he felt you have to have multi-family. Herr felt it would be incorrect to do away with multi-family, some towns allow it only as part of cluster development. McElroy stated he felt the Board should never again give its support to any multi-family zoning proposals. Action should be taken on the new



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law at the next annual town meeting, the deadline for adopting it is June, 1977. The action has not settled down yet in the State, stated Herr, and we have a lot of time yet to discuss the articles needed. Herr will come in with some proposals on intensity at his next meeting with the Board.

Minutes of the March 25, 1976 meeting were unanimously approved on a Rotatori-McElroy motion.

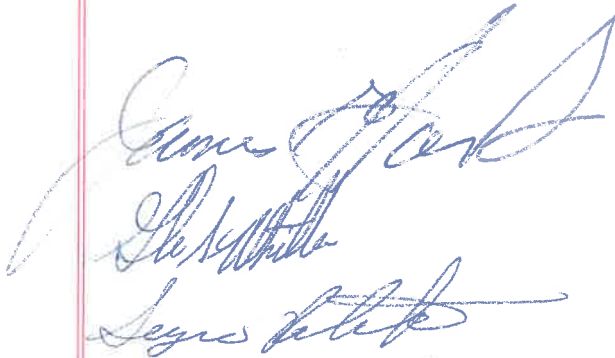
Minutes of the March 11, 1976 meeting were unanimously approved on a Murray Rotatori motion,

Meeting adjourned at 10:45 P.M. on a Hart-Murray motion.

APPROVED AS READ:

Respectfully submitted,

Sergio Rotatori, Clerk

Three handwritten signatures in blue ink are visible on the left side of the page. The top signature is the most prominent and appears to be 'Sergio Rotatori'. Below it are two other signatures, one of which is partially obscured by the first.