

BELLINGHAM PLANNING BOARD
UPPER TOWN HALL
BELLINGHAM MASSACHUSETTS

Regular meeting of August 26, 1976

Members Present: James A. McElroy, Chairman
Sergio Rotatori, Vice Chairman, Clerk
John P. Murray

Chairman McElroy opened the meeting at 8:35 P.M. and dispensed with the regular order of business.

Letter of resignation was received from Glen Whitten. Board accepted it with regret.

James and Marcelle Enright presented a plan Approval Not Required on Cross Street. Lot met all the requirements, but question was raised if the abutting lot could meet the frontage. The Enrights returned later in the meeting with a plot plan showing the entire parcel of 310' frontage. Board was satisfied both lots meet all the requirements. On a Rotatori-Murray motion Board voted unanimously to approve the plan.

Engineer John Halnon presented a plan of Lots 138, 139, and 140 on Overlook Drive. Lots 138 and 140 has existing foundations on them, and were 30,000 sq. ft. With the recent zoning change from agricultural to residential another lot, 139, was created. On a Rotatori-Murray motion, Board voted unanimously to approve plan of three lots on Overlook Drive.

David Kumlin and Ronald Champagne of Mohawk Street told the Board they were abutting neighbors and Mr. Kumlin wanted to subdivide his lot to give the Champagne's more side footage. Lots are already non conforming. McElroy questioned if they really wanted to take the step. The additional 10' side footage would not bring them into conformity. Herr stated the Champagne's have no side lines now and the house is right next to the lot line. This would at least give them some side line. Board agreeded with the plan as outlined by the engineer and advised Kumlin to have his engineer draw up a linen for the Board to sign.

Sanford Kaplan and son Marc presented a preliminary plan of a proposed Cluster Subdivision in the rear of Pilgrim Village near John Alden Circle. There is 20 acres in all with 12 lots proposed with remainder of land probably deeded to the Conservation Commission. Kaplan told the Board the land where the houses would be built would have good perk tests. Land is all sand in that area. Land deeded to the Town has some good land on it but is mostly wetlands. Herr suggested touching bases with the Board of Appeals and the Conservation Commission before officially the plan is submitted to the Board of Appeals and the plan gets locked into a time factor. Kaplan told the Board he would like to be able to get the plan approved to be able to build in the spring. Herr pointed out the Town would not know about the sewerage issue until spring. One of the main




reasons for sewerage is to bail out this subdivision. People will have questions if the land that is going back to the Town will compensate for the smaller size lots. There will be questions as to why should the town ask for more problems with the smaller lots. Kaplan told the Board it might cut some ice if he were to run some tests before hand on the land to show its characteristics. Herr pointed out cul-de-sac is also longer than what is allowed, and street drainage is running right into the river. Joint meeting will be set up for September 23rd at 8:30 P.M. with the Zoning Board and Conservation Commission along with Kaplan.

Gerry Brisson asked the Board their opinion of a proposed subdivision off Wrentham Road. Road would serve ten lots. Board reviewed the plan. Mc Elroy told Brisson he could see no reason why he shouldn't go ahead with his plans.

Wayne Dodd of Lisaann Drive told the Board he was seeking a waiver of the two year waiting period to go back to the Zoning Board. A fence has been erected by his neighbor on his land, and Dodd wanted to sell that portion of his land that is on his neighbors side of the fence. Zoning Board had denied his request saying he did not have a hardship case. Since his denial he had another survey made and this time his lot line now goes through his neighbors house. Dodd told the Board his lot is undersized with 12,000 sq. ft. and the piece he is trying to sell to his neighbor represents 2,500 sq. ft. of the 12,000 sq. ft. Dodd told the Board he expected to be transferred in the Spring and he wanted to clear the matter up. McElroy told the Board the change in lot line from the original variance application was reason enough to send him back to the Zoning Board. However, there must be a four member favorable vote. With only three members present this is impossible at this time. Dodd was told to come back at the next meeting on the 9th at 8:00 p.m.

Richard Norment of Walter Morse Road spoke on behalf of himself and his neighbors in the Whispering Pines subdivision. Norment stated there had apparently been some confusion as the result of the action of one individual who had set up a meeting with the Board at the last meeting, and then did not show up. He knew nothing about it but tonight there was a majority of the residents of the subdivision wishing to speak with the Board. Norment stated they were not seeking any action from any town board at this time and was merely trying to get some information as to the running of the town. He would like to clarify what the situation at the subdivision was and then try to find out what course of action they should take to correct it. There was a problem of commercial trucks using a residential street and he asked if they had to have a permit for it. There were numerous landscaping problems along with drainage problems that might constitute a health problem in that puddles form and stay for a while. They have spoken to Dave Arnold about this. There were a number of problems with paint on the exterior of the houses,,along with structural defects in stairways and balconies that could present a personal danger. Norment complained of a communications problem with Roger Belanger Realty Co. After a block party on the 4th of July, the residents got together and made a formal complaint to the realty company and this was followed by a brief flurry of activity. Reaction only seems to come after pressure is applied by either banks



holding back money or when we receive publicity in the papers about our problems. The residents told the Board they would prefer not to have to resort to legal action to have their homes fixed. Norment asked the Board what the bond being held by the Planning Board covers. McElroy stated it only covered the streets, sidewalks and drainage. These have not been released yet. Norment asked if the Board had any control over commercial trucks using the street. McElroy told the residents the streets have not been released as of this date and they still belong to the developer. He has a right to use them to complete the subdivision. Board was told the trucks were being used to haul loam out of back lots near the lake. McElroy asked Building Inspector Borowski if he was removing the loam from the Conservation Commissions land. Borowski stated no, the loam was excess and he was doing it legal. He reaffirmed that yes, there was commercial traffic but the subdivision was not yet completed so heavy trucks are permissible. Another resident asked if the Planning Board inspected the houses before a permit is issued. McElroy answered no, that would be under the Selectmen. Planning Board does not issue building permits nor occupancy permits. Norment asked if the subdivision off North Street has been issued building permits yet. Borowski replied that subdivision had nothing to do with Whispering Pines. One has nothing to do with the other. Norment replied he felt it did, as he did not think future residents of Bellingham had to go through what they are going through. He suggested perhaps building permits should not be given on North Street. Philip Herr told the residents that the builder's past performance cannot stop his future building in a town. Borowski told the Board the foreman would call him on a Monday saying the new owner had moved in Saturday and he needed an occupancy permit. Rotatori asked them if their homes were in that condition when they moved in. Norment answered yes but before the signing of papers most of the residents had given the developer a list of items to be fixed. The developer seems to be dragging his feet, and they asked for any suggestions on how they could proceed from here. McElroy stated if the problems are in a safety or structural problem, that would be up to the Building Inspector who is under the authority of the Selectmen. Health problems are for the Health Inspector who is under the authority of the Board of Health. Rotatori told the residents the only control that the Planning Board has is over the sidewalks, drainage and streets. One of the residents asked if any action could be taken over verbal statements from the developer in that he had told the residents they had a right of way going down to the pond that they could use for recreational purposes. McElroy stated there was no right of way shown on the plans other than for drainage easements. Norment told the Board they were scheduled to appear before the Selectmen to present their problems to them. McElroy suggested that was the Board to go to as they had the authority over building inspection.

The Board and Inspector Borowski talked about an amendment to the rules that would restrict uses in front yards. Borowski told the Board he would like a law that no structure would be built any closer to the street than the house itself. Consultant Philip Herr asked if this were a frequent problem in Town. McElroy replied to his knowledge there has been only one problem. Herr stated to write a law around one problem was in his opinion wrong. Murray replied if it were to happen again you could be held



responsible. McElroy stated writing up a law now would not correct the current situation, and he asked Borowski to write the Board a letter stating just what he wanted in the way of an amendment. Borowski stated all he wanted to see was something that said no structure would be built any closer to the road than the house, so that nothing like this could ever happen again. Herr stated he felt this case was an extraordinary one and he felt there must be many cases where say a garage was built slightly in front of the house and it looks attractive. You are placing more restrictions on the use of a man's land. McElroy again asked Borowski for it in writing.

Board reviewed with Herr a list of streets that might provide legal frontage but might not be physically constructed on the ground. McElroy stated the Board has no idea of how much it would cost to prepare a list of all streets, and he questioned the advantage of doing it. Daniels Street was discussed and will be crossed off the list as it does exist. Herr suggested the Board send the list of streets to Attorney Ambler, Town Clerk and Highway Superintendent and ask for their comments. Herr will prepare drafts and send them to the secretary.

Fences around swimming pools were discussed. McElroy stated he felt the laws should come under either the Town By-laws or under the Board of Health laws. If it were to come under either the town by-laws or under the protection of persons then you could give the people a certain period of time in which to comply and then set a fine. Under the zoning laws it would not effect the pools already in existence. Herr told the Board most towns have it under their zoning laws because it is easier. In a recent decision of the Supreme Court in a case involving Wrentham, the Board of Health wanted to put something through under their laws and the Court turned them down saying it smells, tastes and looks like zoning so it is zoning. You cannot use the home rule powers to circumstand the intent of the law.

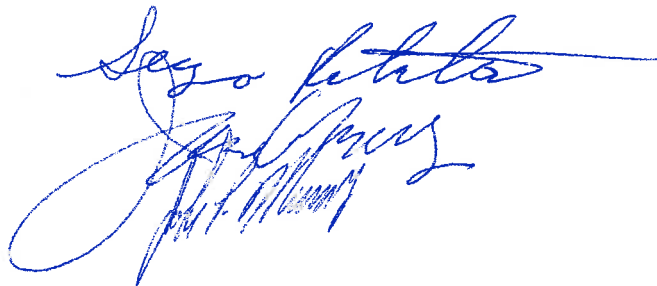
Minutes of the July 24th meeting were unanimously approved as read on a Rotatori-Murray motion.

Meeting adjourned at 11:30 P.M. on a Rotatori-Murray motion.

APPROVED AS READ:

Respectfully submitted

Sergio Rotatori, Clerk

The block contains two handwritten signatures in blue ink. The top signature is 'Sergio Rotatori' written in a cursive, flowing style. Below it is another signature, which appears to be 'John Murray', also in cursive. The signatures are written over a large, faint, circular stamp or watermark.