

Bellingham Planning Board
Upper Town Hall
Bellingham, Massachusetts

Regular meeting of May 26, 1977

Members Present: John Murray, Chairman
Sergio Rotatori, Vice Chairman, Clerk
Gerald R. Brisson
James E. Hart

Chairman Murray opened the meeting at 8:10 P.M.


Greg Burrill spoke with the Board regarding Kingsley Woods subdivision. He gave the Board a letter signed by Highway Superintendent, Gerald Daigle dated May 25, 1977 listing the items that need to be completed on Barrett Lane, total amount was \$23,000.00. A letter from Roger W. Robbins, President of the Home National Bank of Milford confirmed that his bank was holding a savings account #38460 in the amount of \$23,000.00 and is being held for road work to be completed on Barrett Lane. He further stated the monies will not be released until they receive notification from the Planning Board that work has been completed to satisfaction. A withdrawal slip signed by Burrill also was given to the Board. Burrill gave the Board the bank book. He told the Board he was looking for the release of lots #3, 4, 5, 6, 7, 8, 9, 10, 16, 17, 18, and 19. Burrill told the Board he was going to finish Hixon Street in the next two weeks, would get the work approved by Highway Superintendent and then would be coming in at the next meeting to get release from the Board so he could get occupancy permits from the Building Inspector. Since the next meeting would not be for four weeks, the Board agreed they would release Burrill from the covenant if the Highway Superintendent approved the work on Hixon Street.

On a Hart-Brisson motion the Board unanimously voted to accept Bank Book #38460 from the Home National Bank of Milford in the amount of \$23,000.00 Plus a withdrawal slip signed by Burrill in exchange for the release of Lots Nos 3, 4, 5, 6, 7, 8, 9, 10, 16, 17, 18 and 19 on Barrett Lane in Kingsley Woods subdivision.

Building Inspector Henry Borowski told the board he had just issued occupancy permits on Harmony Hills off North Street and wanted to check with the Board to be sure everything was OK. A bond for \$25,000.00 had been posted for the work on the streets so occupancy permits could be issued.

Marilyn Gallant from Philip B. Herr & Associates meet with the Board and members of the Zoning Board James Brennan and Carl Rosenlund. Marilyn went over briefly the New State Zoning Law, Step 1 with the Board. Board will read it over and discuss it at a later date.

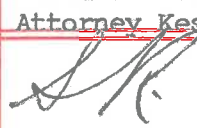
Brennan told the Board the Zoning Board had voted on a 5 to 1 vote that they would accept applications for use variances. It was his personal feeling, and he was alone in this, that his board was not allowed to grant use variances. If you want to follow the law there is no way you can allow use variances. Marilyn stated that is a decision that each town has to decide on for themselves. Basically all the towns they represent have



decided to grant them. The new law is much more restrictive. Rosenlund agreed if you went literally by the statutes of the law you shouldn't grant them. Murray stated if some man had 30 acres of land and he wanted to do something that he is not allowed to do with it, why shouldn't he be granted a variance. Brannan said he did not feel it was the business of the Zoning Board to change uses. If he wanted to do something different with his land other than what it was zoned for, he should come before the Planning Board and ask for a rezoning. He suggested if the Planning Board would like to be a little more lenient they should go into the home occupation more. Hart disagreed and stated each case is individual. There are no two cases alike. A home occupation comes under a special permit. If you have to have a licence for the occupation a variance always goes with the property, a special permit is not always so. Rosenlund stated he felt it is going to be very difficult to list what can and cannot be done on a use variance. He felt there was validity on both sides, for more home occupations and less home occupations. Variances are very difficult to grant. Years ago variances were granted to a fellow who lived in town and asked for something, and no one would challenge it. Now it is different. Marilyn was asked her opinion and she stated that she felt it should be allowed because there might be a case that you could be granted a use variance. Some town are going through their records to see how many use variances they have granted and if they would be granted under the new laws. Brennan stated he could only remember one case where he had voted for a use variance and that was in the case of Hood Enterprises and if they had gone by the law they wouldn't have granted it as it should have been rezoned. If the use is going to be changed, then the zoning should be changed. He felt what they did was spot zoning. There was no hardship on the land, it could have been used for something else. Rotatori said that now brings us back to home occupations. On North Street a beauty shop was granted under home occupations. If a person wants to start a business then we have areas zoned for business. Brennan felt if you have home occupation you give a specific person at a specific place a permit to do a specific thing. Everyone doesn't have the money to set up business when they first start up. This gives them an opportunity to get on their feet and as their business grows they have to move out. He felt they had good control over home occupations.

Brennan asked the Board for a little more license on accessories use, such as sheds, swimming pools, etc. If they had a Zoning Administrator you could give him the authority to make some of these decisions. Under Special Permits the Zoning Board may vary up to 10% of the rear lot line without meeting the state requirements. This would have to be a written law. Marilyn told the members she would have to look into it. In the back of the Special Permit Jurisdiction amendment that was presented by Marilyn there is a page where the members could give their views on where they think uses should be allowed on Special Permits. Board will review memo for further discussion.

A discussion was held on the new 808. Marilyn said that Chelmsford is the only town that they have worked with that put in a complete new by-law to comply. Every new amendment in Bellingham complies with the new law. There are a lot of lawyers fighting over the wording of the new law. There is at the present time a clean-up bill that would eliminate a lot of the confusion, but it hasn't been voted on yet. Brennan agreed there was a lot of confusion saying he had attended a seminar and had asked Attorney Kession^{who} at that time told them he had changed his mind twice that



day as to when the beginning date of the new 808 was to be. Marilyn said they have been advising their town to comply with both the old and new law and to be consistent. There have been no test cases. The only person who can legally make an opinion in each town is the Town Counsel. He should be consulted.

Brennan told of the Supreme Court decision to allow the Zoning Board to grant a variance to have a grocery store in a residential area. This would allow a little type grocery store for a certain number of homes in an area. In light of the energy problem he felt this was a good idea. It would be allowed under a special permit.

Board discussed Special Permit Jurisdiction. Four suggestions for jurisdiction were given. Hart stated he did not feel the Selectmen were the right ones, the system now works out good. The Planning Board writes the laws. Marilyn said a lot of people think you need the check and balance system. Brennan and Rosenlund said they would fill in the special permit uses table in the back of the memo and would like to keep in touch with the Planning Board.

Marilyn showed the Board a copy of the Flood Hazard Map which showed in blue the Federally defined areas as of 4/8/77, the yellow areas that are designated by the town only and the green areas which are defined by both the Federal and town government. Marilyn said a decision would have to be made to petition the federal government to change the yellow to green or to leave it alone. The government wants an emergency program acted on by June 1, 1977 the only thing wrong is that they don't know just what they want us to do. They would draft up a proposal next month that would propose adopting the Federal Flood Hazard areas and also to retain the local flood districts. They feel that the local people should know the local areas that might be effected in a flood. They would be advising the Board to keep both systems until everything is clear. What the town has is flood plains and what the Federal people have are flood hazard areas on a 100 year period.

Bill in the amount of \$900.00 for consultant services 4/1/77 through 6/30/77 for Philip B. Herr & Associates was approved unanimously on a Hart Rotatori vote.

Meeting adjourned at 10:55 P.M. on a Hart-Brisson motion, unanimous.

APPROVED AS READ:

Respectfully submitted,

Sergio Rotatori, Clerk

