

BELLINGHAM PLANNING BOARD
TOWN HALL ANNEX
BELLINGHAM, MASSACHUSETTS

Regular meeting of March 22, 1979

Members Present: John Murray, Chairman

Sergio Rotatori, Vice Chairman


Gerald Brisson

Normand Langlais

Carl Rosenlund

Chairman Murray called the meeting to order at 8:05 P.M.

Attorney Leo Gosselin presented an Approval Not Required plan on behalf of Angelo and Clara Padula, 11 Elm Street. Parcel is located on the westerly side of South Main Street and northerly side of Elm Street. Gosselin pointed out that a house is standing on Lot A and the restaurant (Old Log Cabin) on Lot B. Lot A contains 18,500 sq. ft. with 74.88 ft frontage and Lot B with 16,775 sq. ft. and 239.20 ft. frontage. Gosselin pointed out the two buildings were built prior to 1956 and had assessors books to back up the fact and that subdivision control laws did not go into effect until in 1956 in Bellingham. Section 81L of Chap. 41 provides that the division of a tract of land on which two or more buildings were standing when the subdivision control law went into effect in the town in which the land lies into separate lots on each of which one of such buildings remains standing shall not constitute a subdivision. He also pointed out that 81P of Chap. 41 provides that the endorsement on a plan of "approval under the subdivision control law not required" shall not be withheld unless such plan shows a subdivision. Brisson questioned Gosselin on the distance of the buildings from the side lot lines. No figures were shown on the plan. Gosselin told the Board he was under the impression that Walter Sampson the surveyor was going to be present tonight. He could not answer the question. Rosenlund pointed out the building looked as though it were right on the side lot line. Gosselin told the Board there was no way that the two lots could be separated and comply with the zoning by-laws. The subdivision laws were not in effect at the time that the buildings were built. He again pointed out 81L where the lots did not constitute a subdivision under the definition. Consultant Phil Herr examined the plan and stated that there were two separate issues with the plan. 1) Does the Planning Board have to endorse the plan and 2) if they are separated does it constitute a violation of the zoning laws. He felt it did not show a subdivision, therefore, the Board has to sign the plan, but what it does do is make a violation of the zoning by-laws. The Building Inspector should be so notified. The violation does not have to do with the buildings, it has to do with the land. Gosselin agreed you could not make any additions or do any construction on the lots. He felt the Planning Board has to sign the plans. If it gets recorded or the two lots go under separate ownership, those people are in trouble. He pointed out that the Town of Milford put in a section saying you could divide the lots and separate the buildings without being in trouble. Rosenlund suggested that the information presented before the Board be taken by the Board for consideration. We are simply taking information and we render a decision at the next meeting. Herr pointed out Sec. 322 of the subdivision rules that state any existing structures should be shown with the side lines. This plan does not meet the submittal requirements as far as the Board is concerned. Letter will be sent to the Town Clerk pointing this out as a Form A has already been filed by the applicant.



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PUBLIC HEARING - FOUNDATION LOCATIONS

Chairman Murray opened the public hearing on the amendment to the zoning by-laws at 8:30 P.M. Secretary read the notice as it appeared in the papers. Eight people in attendance.


Murray asked if anyone wished to speak either in favor or against the article. No one spoke up.

On a Langlais-Rotatori motion hearing was closed at 8:35 P.M.

On a Langlais-Rotatori motion, article was taken under advisement.

Pat McGovern, 24 Irene Court and Tom Marino, 14 Lynn Court spoke with the Board regarding Harmony Hills Estates off North Street. McGovern told the Board the developer had gotten in touch with him regarding the grading in front of his home. He did not want to lose any of his trees. He questioned the Board if he would be held liable if he did not let the developer (Roger Belanger) on his land. He did not want to be held liable at a later date if he refused. Langlais told them the Board had sent the developer a list of things that had to be corrected before the Board would release their bond. One of the things was the grading in a couple of places had to be corrected so they conformed to the regulations. Herr stated the grading was terrible at that one point and something should be done about it. There is no way the Board should accept the road in that condition. Rosenlund suggested they write to the developer and tell him you are not going to let him on your land and ask him what else he proposes to do. Brisson stated there had to be some sort of a set back, if not the Town will be spending money on it in the near future if we accept the road with the grading like it is. Langlais and Herr stated the Board could waive the grading and come to a compromise. Langlais suggested that McGovern might be happy with a nice field stone wall. McGovern thanked the Board saying he wanted to be sure he would not be held liable in the future if he did not grant permission to allow the developer to go on his property.

Discussion was held again on approval not required plans. Rosenlund suggested the Board accept all plans for consideration only. The fourteen days could start at a later date. Herr told the Board they are stuck with the fourteen days starting when the plan is submitted. Rosenlund questioned if the Board had to sign the plan on Elm Street because it does not constitute a subdivision. Herr stated yes. Right now the date of submittal is in question, it should be the date it is presented to the Planning Board. The above plan was not really considered submitted because it did not meet the regulations as some information was missing. A form A was filed so a letter goes to the Town Clerk informing him the plan was not accepted as it was incomplete. Herr thought the Form A should be changed so the date would be the date submitted to the Planning Board and not the Town Clerk. Rosenlund stated if the plan does not constitute a subdivision the Board has to sign it. Herr stated yes, but the Board could make an amendment to the zoning which would specifically say that the fact that the Planning Board has endorsed the plan that it is not a subdivision, it does not mean that the plan meets the requirements of the Zoning By-laws. If the Board determines the plan does not meet the requirements of the laws, you can point out it is a violation of the zoning by-laws on the plan. A note to the effect "compliance with the zoning by-law not determined" could be put on the plan. This would wave a red flag to the Building Inspector. The plan on Elm Street is not a subdivision, but it is a violation of the zoning by-laws. There is only one reason why you can withhold your signatures and that is if it is a subdivision. The Board does not have the right not to sign the plan. The Building Inspector should ignore the Planning Board's signature and act accordingly. The Board could stick it in the zoning by-laws that such plans will be marked as above and the Building Inspector and the Town Counsel so notified.



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Board discussed the plan signed two meetings ago on Mendon Street (GW's Lounge) Murray told Herr the Board felt there was another building that was not shown on the plan and this building might not have the required set back. Marilyn Gallant pointed out Sec. 322 which states that all buildings on the land and that of all the remaining land must be shown on the plan. Brisson questioned what the Board could do about such a situation, outside of viewing every plan before it is signed. Then it is running into the 14 day period. Visiting each site is almost impossible. Herr told the Board they have to be able to accept a surveyors seal.

Rosenlund went back to the Elm Street plan saying there isn't anything the Planning Board can do but to sign the plan if the set backs are shown. Herr stated the Board could point out is is creating a violation of the Zoning By-laws. Borowski stated as long as the buildings are there and there is no further building activity there isn't much sense in him doing anything about it. If they want a building permit, that is another thing.

Borowski spoke with the Board regarding Bellingham Shopping Plaza on No. Main St. Clark's land is now before the Attorney General for the rezoning change. Does he have to come before the Board for another site review. Brisson stated if he plans on 20 or more parking spaces he has to come before us again. Herr stated anything more than the 70' X 200' building presently approved has to come up for another site review.

Article on Foundation Location was reviewed. Murray felt it might be very expensive for people to comply with this bylaw as it is written. He felt there was some questions if it pertained to swimming pools, garden sheds, etc. It could cost up to an additional \$500. Langlais disagreed, if it did not have a foundation it would not be included in the requirements. Murray would also be making a wrong assumption to say everyone has to pay \$500. Brisson stated the Building Inspector has no idea if the new additions meet the requirements. Borowski explained to the Board what happens when a building permit is requested from him. They are told to put down on a plan, all the buildings, etc on the lot and what they want the permit for. He takes their word for the figures. If there is any doubt in his mind he questions it. Brisson pointed out if a new home doesn't meet the zoning by-laws, the bank won't give a mortgage. The developer and the home owner are hurt. Rosenlund stated he agreed with the article for new construction. Murry stated he was not saying it was a bad article, but just felt it was not clear enough. Borowski felt if someone wanted to put on an addition to the present house, does he really need the additional certification. Rosenlund asked Herr if the amendment is interpreted to include everything. Herr felt the answer was yes and Langlais agreed. Herr pointed out the article does not require a surveyor to submit a drawing. Brisson said in cases where it is very evident that there is plenty of footage on the lot he would go to the Assessors and the land court then he could certify that it meets the set backs. This would probably cost \$50. Rosenlund felt there was a possibility that the article could be defeated at the town meeting because it applies to new additions. Could the Board change it to read for new construction and then work on the rest. Brisson and Langlais felt the only thing that could be added on would be for any new principal building or dwelling. Both felt the article should be presented as is. There is much more additions going up than new construction. That is a problem area also. On a Langlais-Brisson motion, the Board voted unanimously to recommend the article as written.



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The following bills were unanimously approved for payment on a Rotatori-Langlais motion:

Milford Daily News - \$19.80 advertising Foundation Location

Woonsocket Call --\$19.50 " " "

Massachusetts Advocate - \$12.00 1 yr subscription

Bellingham Industrial Park was discussed. Letter was received from Edward J. Giovannella of Weld-Braze, Inc. who has property in the park. He wished to go on record with a drainage problem at the park and also to express his concern regarding the completion of the road. A check in the amount of \$8,000.00 was deposited with the Town Treasurer to cover improvements. It was also pointed out that all work was to have been completed within twenty-four months of Sept. 9, 1976. Letter will be sent to developer Thomas S. Clark requesting that the remaining work be completed.

Plan of Richard and Sheila Alden, Box Pond was shown. Lot 14A with 15,293 sq. ft and Lot 16A with 15,534 sq. ft. did not meet the zoning requirements but the land had been granted a variance on September 11, 1978 by the Zoning Board. On a Langlais-Rotatori motion with Murray voting in favor and Rosenlund and Brisson (who was the surveyor of the plan) abstaining the plan was approved.

Meeting was held to reorganize the Board.

On a Rotatori-Langlais motion, it was unanimously voted to elect John P. Murray as Chairman.

On a Langlais-Rosenlund motion, it was unanimously voted to elect Sergio Rotatori as Vice-Chairman, Clerk.

On a Rotatori-Langlais motion, it was unanimously voted to elect Jean Brewer Secretary.

Meeting was adjourned at 11:35 P.M. on a Langlais-Brisson motion, unanimously.

Respectfully submitted,



Sergio Rotatori,
Clerk