

BELLINGHAM PLANNING BOARD
TOWN HALL ANNEX
BELLINGHAM, MASSACHUSETTS

Regular meeting of July 26, 1979

Members present: John P. Murray, Chairman
Sergio Rotatori, Vice-Chairman
Gerald R. Brisson
Norman Langlais

Chairman Murray opened the meeting at 8:00 P.M.

Diane Martin, Pulaski Blvd. stated she was spokesperson for the people who were opposed to the recent rezoning of Pulaski Blvd. There were approximately 27 people in attendance. She stated they felt that they were misinformed by the papers that the article was not going to be acted on at the special town meeting. Dave Tuttle told the Board that a petition was submitted to the Board of Selectmen with over 100 signatures requesting an article be placed on the next town meeting to rezone the land back to residential. Langlais stated if the petition has been presented to the Selectmen then the Planning Board has to hold a public hearing. A discussion was held over who was going to pay for the advertising, the Planning Board or the petitioners. Tuttle questioned where it said that the petitioners had to pay for the hearing. Murray felt it was only fair that the petitioners pay for the hearing as this was the case in the original rezoning. In the past the petitioners have always paid the costs. Langlais stated in the first case it was to the people's own interest and in this case there are about 30 people who are involved.

Brisson stated that he would not act as a member of the Board during this discussion since he was the engineer on the first rezoning.

Gerald Marchand, the first petitioner, asked that the advice of Town Counsel Lee Ambler, be requested. He pointed out that the people here tonight are also petitioners and if he had to pay for the hearing it was only fair that they also have to pay. Consultant Philip Herr stated that there was nothing in the general laws and nothing in the zoning by-law on who bears the cost. In 1972 the Planning Board drew up regulations to govern themselves, but this was never formally adopted. In this 1972 consideration a cost of \$15 was to be paid by the petitioners. Rotatori stated that he felt it was only right that the petitioners should pay the costs.

Langlais made a motion that the Board set a hearing for August 23rd and the Planning Board to pay the costs. There was no second.

On a Langlais-Rotatori motion a public hearing date was set for August 23, 1979 at 8:30 P.M., unanimously voted.

On a Rotatori-Murray motion a motion was made for the petitioners to pay for the public hearing advertising, Langlais voting yes.

Joseph Spas, Chairman of the Board of Selectmen, told the Board and the people that if there were 100 signatures on the petition the Board of Selectmen will place the article on the next special town meeting.

PUBLIC HEARING - REZONING OF PINE GROVE AVENUE.

Secretary read the notice of the hearing as it appeared in the papers.

On a Rotatori-Langlais motion the Board voted unanimously to postpone the hearing until 9:00 P.M.

Discussion was again resumed on the request for rezoning of Pulaski Blvd. Langlais pointed out even if the Board does not receive a check for the hearing costs, the Board has to pay and hold a public hearing within 65 days after receiving it from the Board of Selectmen. It is to the benefit of the petitioners

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to get the hearing set up now so they will be ready for the next special town meeting. Spas stated it most likely would be the 5th of September. Dave Tuttle told the Board he would pay for the costs.

Herr was questioned if a building permit could be issued. Herr stated that the zoning becomes effective as soon as the town meeting votes it. The law says that a permit can be issued before the Attorney General OK's it, but if something is wrong with the article and the Attorney General does not OK it, then it would be the risk of the applicant of the building permit. Once the Attorney General approves an article for rezoning a valid permit could be issued and not subject to withdrawal until the advertising of another article is made. A building permit could still be issued after the advertising of another article but again it would be at risk to the applicant. There would be a very strong question if financing could be obtained in such a situation.

Mrs. Martin stated that she had called the Building Inspector and he told her that the perk tests had expired. No permits would be issued until all requirements could be meet.

On a Rotatori-Langlais motion the public hearing on rezoning of Pine Grove Ave. was postponed until 9:30 P.M.

Roger Belanger, developer of Harmany Hills Estates, told the Board that all the plantings and landscaping on Irene and Lynn Courts have now been completed. Brisson questioned Belanger on who did the landscaping job and stated in his opinion it was not very good. Right now it looks terrible, he could see the balls of the plants coming out of the ground. It looked to him as though they were put in so that they will almost walk out themselves. Belanger gave the board pictures of the areas in question. Langlais stated that in the beginning he suggested a compromise because the builder had no choice. He still should have come back to the Board with a compromise at that time. After looking over the planting, he did not have any problem with the way it was planted, with the exception of the area that was to be raked out. It was questionable in his mind if this was done. Brisson told the Board that Belanger has done the work as the Board suggested he do it. Belanger told the Board he had \$2,000.00 in the form of a bankbook at the Benjamin Franklin Savings Bank made out to himself and signed a withdrawal slip so the Board could collect. On a Brisson-Rotatori motion the Board voted unanimously to accept the \$2,000 bankbook as per the agreement on a letter to R. Belanger from the Planning Board dated June 15, 1979, Book #0053552.

On a Brisson-Rotatori motion the Board voted unanimously to approve the release of \$25,000 bond from the Peerless Insurance Company and signed the release of Lots 1 through 25 inclusive on Irene and Lynn Court. Bankbook and papers to be filed with the Town Treasurer by the Secretary.

PUBLIC HEARING - REZONING OF PINE GROVE AVENUE

Eight interested persons sat in on the public hearing to rezone from suburban and agricultural districts into residential district Pine Grove Avenue. The petitioner, Bertrand Remillard, Pine Grove Avenue, stated that Pine Grove Avenue is improperly zoned, that it is a residential street and have never been used for either agricultural or suburban activity. There was not one single lot on the street that can conform to suburban zoning which the area was rezoned to in 1977. He pointed out not many of the lots can even meet the requirements for residential zoning. In 1950 he purchased a lot and built his home on it and in 1960 he purchased the adjoining lot for his children so they would be able to build a home on it. Due to the fact that it is now zoned suburban they cannot meet the zoning requirements. He cannot use the lot for the purpose that he

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purchased it for. If the Board recommends that it be rezoned to residential and it is passed at the town meeting, then the second lot would conform.

Brisson questioned Herr if the situation could come under the grandfather clause and was told that it did not come under that protection.

Brisson told Remillard that if it is rezoned he would still have to come back before the Board and subdivide the lots. If you it does not conform he would have to go before the Zoning Board for a variance. He would not like to see the Board rezone land for one reason and then in the end still have the lot go for a variance. Remillard told the Board it was not just for himself that the area should be rezoned. All of the lots on the street are small and therefore it is difficult for them to meet the side and back line requirements, etc. The area is a residential zone not a suburban or agricultural zone. Murray agreed saying when this was first put before him, he felt it was something that the Board had forgot to rezone when the whole town was look at by the Board.

Remillard told the Board he had attended an informative meeting conducted by the Communities Development Dept. He brought up his situation and was told by the speaker that once his area is rezoned he should be able to get a building permit. He has two separate deeds and a signed plan showing two lots. the whole thing hindges on the zoning by-law definition of a lot. The speaker felt that his situation complies with the definition.

Langlais stated there is one house that is buildable on the street, but some people may have uses that they couldn't conform with with the present zoning. Herr showed the area to be rezoned on the assessors' map along with an overlay outlining the specific area to be rezoned.

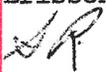
Murray asked is anyone wished to speak either for or against the rezoning. No answer.

On a Brisson-Rotatori motion the Board voted unanimously to close the public hearing.

On a Brisson-Rotatori motion the Board voted unanimously to recommend the rezoning and to request the Board of Selectmen to place the article on the next Special Town Meeting.

Gerald Brisson stepped down as a member of the Board. Gerald Marchand and Fernand Dalpe spoke with the Board to discuss a site plan review of their land just recently rezoned on Pulaski Blvd. Herr informed them that there was a procedure that had to be followed. They have to apply to the Building Inspector for a Building Permit, the Building Inspector has X number of days in which to submit a site plan for the Planning Board's review. It has to be initiated by the Building Inspector. The Building Inspector has to act within 30 days of a Building Permit application. If the developers were trying to get their permit before the land is rezoned, then the date of the advertisement has to be after the issuance of the permit. If the permit issuance is before the public hearing advertisement then the permit is valid regardless of the outcome of the request for rezoning. If the building permit is issued after the advertisement then the permit is subject to town meeting action, and it would be at risk to the applicant. Herr stated the Inspector cannot issue a permit until he gets the other pre-requisites from the Board of Health, Planning Board, etc. He turns down the permit if he cannot receive the necessary Board of Health OK. If building were to be started and the town meeting passes the rezoning article, you would then be in trouble. The rezoning cannot be brought up within two years once the town meeting votes against it. Only with approval of the Planning Board can it be brought up before the two years are up.

Brisson came back on the Board as a member.



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The Site Plan Review on Thomas Clark's shopping center was discussed. Clark is going to be seeking a special permit for a Major Commercial Complex. Herr pointed out that under a site plan review, the Board can only recommend to the Building Inspector. Once acting as the governing board for a Special Permit, the Board has a lot more authority. Rotatori questioned if Phase I had been conformed to all the regulations and what could be done about the coming phases. Herr stated if he were the Building Inspector, he wouldn't issue him any more permits until Phase I had been satisfactory complied with. If he were the Planning Board he would take this all under advisement. Herr suggested the Board promptly adopt regulations for special permits. Board agreed and Herr will draw up applications and regulations. Herr stated special permits are filed with the Planning Board and a copy sent to the Town Clerk by the applicant. With a rezoning request, the article goes first to the Board of Selectmen who within fifteen days have to send it to the Planning Board who in turn have 65 days in which to hold a public hearing. If no decision is made by the Planning Board within 21 days of the hearing, it can then be put on a town meeting.

On a Rotatori-Brisson motion the following bills were unanimously approved for payment:

MA Federation of Planning Boards, 7/1/79 thru 1980	- \$50.00
Postmaster General, P.O. Rent 8/1/79 thru 7/31/80	- \$16.00
Milford Daily News (Pine Grove Ave rezoning)	- \$26.40
Woonsocket Call " " " "	- \$28.00

Meeting was adjourned at 11:20 P.M. on a Rotatori Langlais motion, unanimously.

Respectfully submitted:



Sergio Rotatori, Clerk