

BELLINGHAM PLANNING BOARD
TOWN HALL ANNEX
BELLINGHAM, MASSACHUSETTS

Regular Meeting of April 10, 1980

Members Present: John P. Murray, Chairman
Gerald R. Brisson, Vice Chairman, Clerk
James F. Brennan, Jr.
Carl R. Rosenlund
Sergio P. Rotatori

Chairman Murray opened the meeting at 7:35 p.m. Correspondence was reviewed.

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

Woonsocket Call (subdivision ad, Center St).....	\$26.46
MilfordDaily News " " " ".....	\$32.85
Trafalgar Stationery supplies	\$ 8.75

Henry Borowski presented a plan showing two lots on Old Elm Street. Each lot has 110' frontage with one lot containing 20,000 sq. ft. and the other 23,000 sq. ft. There was a house on each lot, one 35 yrs old and the other 25 yrs old. A variance had been granted by the Zoning Board of Appeals. Board voted to sign the plan subject to Borowski getting two copies of the plan, motion was made by Brisson (2) by Rotatori, unanimous.

A recess was called until the start of the Public Hearing.

PUBLIC HEARING - PINE RIDGE SUBDIVISION

Chairman Murray called the meeting to order at 8:30 p.m. Secretary read the notice as it appeared in the papers. Approximately 17 people in attendance. Mr and Mrs Daniel Pultz, 41 Center Street told the Board that they were abutters and had not been notified by mail of the public hearing. They also stated that the Gelinas' another abuttor had not been notified by mail. Rosenlund told the Pultz's that since they are at the hearing it would be safe to assume that they did get notice of it. Board reviewed the list of abutters as verified by the Board of Assessors. One of the neighbors had talked to the Gelinas and they had not received a written notice. Board took a short recess while the Secretary called the Gelinas' on the phone. Secretary reported that she had talked to Maria Gelinas and that they knew of the public hearing but neither could attend. Murray then asked the owner Mr. Dmytryck if he wanted to have the hearing continued at another meeting since there was some question of all abutters being notified of the hearing. Mr. Dmytryck indicated that he wanted the hearing continued that evening. Brennan pointed out Chapter 11 of 40-A and felt that due notice had been given to all abutters. Public hearing was continued.

Engineer James A. Reger of Millis Engineering Company, Millis, MA explained a plan which divided approximately 14 acres of land off Center Street opposite Edgewood Road, into two housing lots. He pointed out that the land goes back to abut land off Pulaski Blvd. Lots will contain 8.9 acres and 6.8 acres each. Plan is being submitted as a subdivision plan but they are asking a waiver of the rules and regulations on the road requirements. In turn the developer would build no more than one single family dwelling on each lot, and further that the way shown on the plan shall forever remain a private way. Waiver of

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the road would eliminate the cost of blacktop on a 30' wide road. Reger pointed out that the developer if a waiver were given on the road would agree not to build two family homes. The owner could come in with a plan showing three lots for two family homes. The owner has some flexibility on this land. Murray questioned what assurances the Board would have to be sure than only single family homes goes on the two lots if a waiver is approved. Reger pointed out that it will be recorded on the plan. Once the Building Inspector would see that only single family homes were allowed, he would not issue a building permit for a duplex. Reger then read the note that was on the plan that was shown. If for some reason the Building Inspector were to issue a permit for a duplex, the abutters can go to the Zoning Board of Appeals and have the building permit overturned. A second plan which had been shown to the Planning Board two months ago was shown was pointed out where three lots were outlined. The Planning Board indicated to Reger at that time that they would prefer not to see any more two family homes. Rosenlund told Reger that he had not agreed to anything. He was not at that meeting. Second if the Building Inspector were to issue a permit the abutters could go to the Zoning Board and have it overturned. But there are no guarantees that they will overturn his permit. He was not a lawyer. He questioned if that notation would hold up in court. In the opinion of the Board's consultant he did not feel it would hold up in court. Reger told the Board that the term was developed by the town counsel of another town. It was recently used by the Bellingham Town Counsel in Millis on a plan he presented in that town. He felt the term would very definitely stand up in court. With the term on the plan there was no way that any bank would approve a construction loan for a duplex on the two lots. Brennan stated that he was concerned with future development in the back of the lots. Reger pointed out that there was no access. Brennan questioned where the houses would be located and Reger pointed out a location on the plan saying it would be about 400' from Center Street. Basically what they were proposing was that each house have a driveway on the right of way. Each lot would own half the private way. There would be no way that anyone could ever use the private way for access to the rear. Rosenlund questioned what would there be to present the owner of one of the lots to extend the road and split his land at a future date. Reger stated at that point it would also require the approval of both owners of the two lots. Rosenlund stated that they could have a change in ownership and these people could go to a town meeting and try to get the town to accept the road. Then the town would be stuck with improving the road at a cost to the town. Reger felt that the town meeting would not go along with such a proposal once the notation on the plan was pointed out. The land in the back was all wet.

Chairman asked for questions from the floor.

Henri Riquier, 950 Pulaski Blvd, told the Board that there was a lot of water in the back. But that Green Acres was also water and they went ahead and built homes on that location. Dmytryck pointed out that that was before the flood plan act came into effect. They couldn't build on wet lands now.

Daniel Pultz, 41 Center Street questioned if they had any plans on just where they were going to put the houses. Reger stated that the land was perked but he

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hadn't completed the plans yet. They had to wait to see what the Board's decision would be first. Pultz questioned how close to the present houses the new ones would be. Rosenlund stated that they would have to follow the zoning by-laws as far as side lines went.

Pultz pointed out that there was a great slope to the land as it was once a gravel pit. Reger stated that they would have to do some grading on the land to have it graded to the rear. Dmytryck stated that they didn't want to cause anyone any drainage problems.

Roland Chevalier, 61 Center Street, questioned if the abutters did not agree with what was being proposed, what would happen. Murray stated that the Board does not need the consent of the abutters. If all the rules and regulations are followed, the Board has to give their consent. Chevalier questioned if the developer could put in two family homes with the frontage that he has. Murray pointed out that one single family homes could be put on the lot with the present frontage on Center Street. If he wants more than one home he has to put in a road and create frontage.

Claire Chevalier, 61 Center Street, questioned if he could put in a home on farm land. Murray answered yes, that is where the homes are usually built. Mrs. Chevalier questioned if the town would then have to accept any new road that were put in. Murray answered no. Rosenlund stated as it sits on the plan, it will forever stay a private road. But any town meeting at any time can vote to accept it. Rosenlund stated he was concerned with what was being proposed. It would be setting a p for the future. Reger said if he was an abutor and this private way was brought up for acceptance, he would bring out the notation on the plan. Brennan stated that he felt much like Rosenlund on this. How many additional homes could possibly be put on the road at a future date. Reger suggested that the Board could specify that two driveways would be put in on the private way.

Brennan questioned Reger how many homes could be built on the land. Reger told him that they had brought in a preliminary plan showing three duplex homes. It is more expensive for a builder to put in a paved road with water, etc. If that amount of money is spent on putting in the road, the developer would have to put in duplex homes. It would be less expensive for the developer to put in single family homes without a paved road. It would be an advantage to the town not to have three duplex homes built. The builder would go either way. He felt the abutters would rather see single homes rather than duplex. Murray stated if the developer follows the rules and regulations, the Board cannot stop him from building duplex homes.

Arthur Aucoin, 31 Center Street, stated if the developer is willing to donate the back land for wildlife, why not do it before hand. Rotatori questioned if they could deed the land over to the town. The town would need some sort of a right of way.

George Chevalier, 61 Center Street, told the Board he would rather see single homes than duplex. He questioned where the drainage would go, and was told by the engineer that it was pointed towards the swamp.

Two plans were pointed out. First plan showed a road with a cul-de-sac and three lots that could house duplex homes. Second plan was the subdivision that was being considered of two house lots.

Roland Chevalier felt that the position of the homes was very close to his back yard. Rosenlund told him that the builder knows that he has to follow the by-laws as to the side lot line. He could assume that the plan has the proper guideline.

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Rosenlund questioned if the duplex plan was followed, would they have to follow all the rules and regulation. If the road was a right of way are there any requirements that they would have to meet. Brisson stated if they approved the private way, the Board would have to waive all the stipulations that have anything to do with roads. He requested that Reger put in all the elevations on the plan. He felt the abutters were concerned with the drainage. Reger assured the Board that all the drainage was going to go back to the rear. Aucoin pointed out that the bank slopes sharply now, and questioned where the drainage would go. Reger told the Board there was a river in back now and the drainage would empty there.

Chevalier stated they intend on going in the back with a tractor to change the slope, what would prevent them from changing the wetland and putting in more homes.

Dmytryck told the Board he had 12 acres of wet lands in back. He felt that this was quite a large water storage area to hold any of the drainage coming from two lots.

Aucoin questioned the Board what the abutters should do at this point. Do they have any rights. Murray stated if the developer wanted to put in for duplex houses, if he meets all the requirements there is nothing further to be said. If single family homes are accepted by the Board, we will have to waive certain requirements on our subdivision requirements.

Aucoin felt if they were to accept the single family homes, was there any way that he could come back and try to put in more homes in the rear. Murray stated that the notation on the plan would prevent that from happening. Rosenlund felt that he was not convinced that he or anyone else at a later date couldn't come back in and get an extension of the private way to put in more home. He was not personally convinced that this would hold up in court. In duplex homes he would have to be governed by the Planning Board's rules and regulations on subdivisions. The question before the Board is do they waive the requirements and give the developer a private way. Murray felt the question was do they want single homes or two family dwellings. He personally felt it would be very difficult for anyone to come back in with another plan at a future date.

Aucoin suggested that the developer give the town the land in the back, the Board then waive the private way and put in a right of way thru the private way for access. Rotatori did not think that the right of way would be a good idea. The owners of the two homes in front would not want a lot of people going thru their yards.

Brennan stated that the developer has alternatives with what he could do with his land. (1) he could put in one single family home (2) he could put in a duplex and (3) he could get a special permit for a four unit dwelling or he could put in three duplex homes with the rules and regulations followed. Or he could go for the two single family homes with a waiver of the rules and regulations. If the Board denies his request for a private way, the builder would have to go with the subdivision control laws. This would be creating an added burden with more costs to him. He would rather think that under the case under discussion he would consider waiving the subdivision control laws. He felt the proposal for two single family homes was the best. If the abutters were concerned with the swamp land, there is a possibility that they could make it a wildlife sanctuary. Murray also pointed out that one duplex would bring in less tax money than from two single family homes.

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It is stipulated on the plan that will be filed with the Registry that only one family homes will be built on the two lots. Brennan questioned the owner if he was firm that he was going to build something on that land. Dmytryck stated yes, it was a matter of economics. Brisson suggested that an additional note on the plan be stated that none of the two lots will ever be divided for any reason whatever. Reger did not think that the attorney would like to see something like that on the plan. Rosenlund stated that he would be satisfied once the Board decided on the wording to be put on the plan. He would like to see it reviewed by Town Counsel to see if it would hold up in court. There were no more questions from the floor. On a Rotatori-Rosenlund motion the public hearing was closed at 10:05 p.m. Discussion was held with the engineer and builder. Rosenlund again questioned if all the rules and regulations were being waived on the road. Brisson felt he was scared to waive all the street requirements. Reger told the Board they would like to put in two dirt driveways for the two homes on the private way. Brisson did not think that would look all that good. Dmytryck told the Board he would use stonedust on the driveways and this looks good. Reger suggested that his lawyer and Bellingham Town Counsel talk together on the wording. That way the two lawyers could iron out any difficulties. Brisson told Reger to put the proposed house location on the plan, show the grading and have his lawyer talk to Bellingham Town Counsel to see if the wording that neither of the two lots are to be subdivided ever can be put on the plan.

On a Rosenlund-Brisson motion, it was unanimously voted to send in a dinner reservation for Brisson @\$7.00 to the Mass. Federation of Planning Board meeting .

Respectfully submitted,



Gerald R. Brisson,
Clerk