

BELLINGHAM PLANNING BOARD
TOWN HALL ANNEX
BELLINGHAM, MA.

Regular Meeting - June 25, 1981

Members present-
Gerald Brisson, Chairman
Sergio Rotatori
Joan King
John Murray

The meeting was called to order by John Murray as neither the chairman nor the vice-chairman were present. Meeting called to order at 7:46 PM.

Mr. Murray called Mr. Raymond J. LaChance forward. Mr. LaChance presented a plan for land on South Main Street. Mr. LaChance wanted to be able to make a 2 family home on the property. He stated there was 800 ft. of frontage.

The Board looked at the plan and determined that Mr. LaChance had 60,000 square feet of property and that he only needed 40,000 square feet of property to do what he was proposing.

Mr. Murray stated he saw nothing wrong with the plan.

On a Joan King/Sergio Rotatori motion the Board voted 3-0 to sign the plan.

Mr. Cournoyer of North Smithfield, Rhode Island then approached the Board. He said he was at the Board regarding the Galipeau property on South Main Street. He was increasing the size of a lot to make into one big lot. Because of the death of the owner of the property, in his will, he wanted the land to stay within the family and to make into one big lot. The lot size was now being increased to 1.9 acres.

On a Sergio Rotatori/Joan King motion the Board voted 3-0 to sign the plan.

Mr. Paul R. Barry of 130 Hartford Avenue then approached the Board. He wanted to create 3 lots from the land that he owned on Hartford Avenue and Hixon Street. He stated the land was zoned suburban.

Mr. Phillip Herr checked the plan and saw no problems.

On a John Murray/Sergio Rotatori motion the Board voted 4-0 to sign the plan. Mr. Barry was reminded to fill out a Form A and send a copy to the Town Clerk and to the Board.

Mr. Arthur Kearnan, 25 North Main Street, then approached the Board with some concerns about the Bellingham Plaza. Mr. Kearnan

said he was an abutter to the Plaza and wanted how long Mr. Clark was going to take to finish the project. He said he thought it was a disaster area. He wanted to know how long a time Mr. Clark had left on his building permit and how long he had to do the finish work.

Mr. Herr said the Board may request that Mr. Clark take action right away to solve the problem or wait until the next meeting so that the whole Board could take a look and see what is happening. Then, he suggested, that the Board write to Mr. Clark and point out that he act appropriately to the section of the by laws - 4730B and comply with it forthwith and check with his plans to do so.

Mr. Brisson said he thought Section 1550 may also be a good thing to use also.

Mr. Herr said yes but said that that permit is 18-20 months old and that Mr. Clark has made use of it.

Mrs. King said that Section 1550 said that it was an either or situation - substantial use thereof or construction has not begun.

Mr. Herr said Mr. Clark had done both and has begun construction.

Mrs. King asked if this has been done on the area Mr. Kearnan talked about? It has been a year. Is it considered substantial use?

Mr. Herr said that was a shaky question. Perhaps Mrs. King's question should be answered when Mr. Clark comes in and requests for a permit.

Mr. Murray said he thought the Board should write a letter to Mr. Clark and ask him to comply with Section 4730B.

Mr. Herr agreed with Mr. Murray and stated the Board should write to Mr. Clark and suggest he comply forthwith in light of no permit outstanding. Even though Mr. Clark may have foundations built with no buildings, you can not do anything about that.

Mrs. King asked Mr. Kearnan if he would be satisfied if Mr. Clark complied with Section 4730.

Mr. Kearnan said he thought if the letter went out it would be fine with him but he thought it may prove to be futile on the Board's part.

Mr. Brisson said a letter from the Board would go out and at least that would help.

Mr. Kearnan said he appreciated all that the Board would do.

Mr. Brisson said that the Planning Board would send a letter

asking Mr. Clark to comply and asking him to appear before the Planning Board at their next meeting, the ~~fourth Thursday~~ in July. Mr. Kearnan would also be sent a copy of the letter and he could contact the secretary as to whether Mr. Clark would be attending.

Mr. Arthur Kearnan then thanked the Board for its time.

Mr. Gerald Burke of 11 Scott Street then approached the Board with information on an isolated subdivision on Lake Hiawatha. He stated he did ~~not~~ own ~~any of~~ these lots. The lots were on Indian Run Road - lots 133 and 134.

Mr. Brisson asked where does the road stop and can one drive in there. He said it did not really look like a road.

Mr. Herr said that was the question and that was the problem.

Mr. Burke said he would like to build a house on the 2 lots. One house on 2 lots.

Mr. Herr asked what the legal status of Rogers Street was and was it a town street.

Mr. Burke said it was not town approved but the plans he had were signed in 1945.

Mr. Murray said there was no Planning Board then..

Mr. Herr said if a person owns lots 133 and 134 and any land abutts it there is only 40 feet on the skinny side.

Mr. Burke said he had permits for a septic system and would have no problem with water.

Mr. Herr said there was a little over 5,000 square feet.

Mr. Brisson said the land was not close to 10,000 square feet and that it was not over 4,500 square feet.

Mr. Herr said suppose there is more than 5,00 square feet of land the question is what is frontage? Is it on Rogers Street? Is Rogers Street a way, a legal existing way. If the Planning Board determines it has adequate width and grade does that constitute having something built on the lots.

Mr. Henry Borowski said that Mr. Burke was not discussing construction but who will build the road.

Mr. Burke disagreed said he was at the meeting to discuss construction

Mr. Herr said with the 5,000 square foot area and judging

whether there was a pre-existing road whether it was adequate or not. He suggested that it would be turned down the same as Hixon Road.

Mr. Murray said that a new road would have to be made just as in a subdivision.

Mr. Herr said there would be no way the town would approve.

Mr. Burke said he did not want water or a road or sewerage.

Mr. Brisson said it was conceivable that if someone bought one of the houses they would not know what they were getting in to.

Mr. Rotatori said that if someone buys 2 lots there and somebody else buys the next 2 lots then people would want a road.

Mr. Murray said they would have to ask for a Special Town Meeting and if they got enough people there they would get their road.

Mr. Burke said he did not want town water. He said North Street has all wells. At Box Pond the town did not build a road so the school bus could get down there.

Mr. Herr suggested the Board go down and look at the property.

Mr. Brisson said that in order to have a well and septic system you would need to have at least 30.00 square feet.

Mrs. King asked if it was in order to take this matter under advisement and go see the property.

Mr. Herr said the Board would be reversing its position and this would open the town for development if all of a sudden this was approved and anyone who has this amount of land could do this.

Mr. Rotatori said it could not be done. A road would have to be put in.

Mr. Burke said if he owned the whole road there would be no question.

Mr. Herr said if the road goes up to there - on map - what constitutes frontage?

Mr. Burke said the engineers figure that out.

Mr. Brisson said he thought the Board of Health made a mistake in giving Mr. Burke the permit for a septic system.

Mr. Murray noted that the map was looking at was not the same as what the assessors had or the Board of Health had.

Mr. Herr suggested that nothing be decided until the Board got

to see the property.

On a John Murray/Joan King motion the Board voted 4-0 to go see the property.

Mr. Murray said in relation to the Bellingham Plaza that Mr. Clark never came in for a site plan review.

Mr. Herr said that if Mr. Clark has not met the time requirements then he should not be allowed to build.

Mr. Murray said there was a requirement for more than 20 parking spaces.

Mr. Brisson said then that he could continue to get building permits.

Mr. Burke then left.

Mr. Brisson asked Mr. Herr in regards to the fee schedule, that there was nothing on condominiums -- would that fall under special permits?

Mr. Herr asked if the Board wanted to discuss the Zoning Board decision on Debra Lane.

Mr. Brisson said he could not believe the decision. There was no hardship on the land that the Planning Board was made aware of. Jim Brennan stated a case for voting against the decision and 4 members of the Zoning Board voted the opposite way.

Mrs. King said the decision was granted on a variance.

Mr. Brisson said the variance was to build triplexes instead of duplexes. Hardship can only be called for in regards to the land not to the wallet.

Mr. Austin then stepped into the meeting.

Mr. Brisson said the Board was discussing the Zoning Board decision about the triplexes on Debra Lane.

Mr. Austin said he had only read the copy before it was filed with the Town Clerk. There were two other members next door to the Board interviewing for a secretary and he said he would try to get them.

Mr. Brisson asked what the basis was for granting the variance. Financial hardship can only be due to the condition of the property. Mr. Johnson was aware of that when he bought the property. Mr. Brisson said he did not know the basis for granting it.

Mr. Austin said there were 3 applications for financial

Mr. Austin said there were 3 pre-requisites for financial hardship due to the shape and topography of the land.

Mr. Brisson said he knew them.

Mr. Austin said the whole Zoning Board was not here to defend their position. He said he would check with the members next door.

Mr. John Drew of the Zoning Board came to the Board and said he could not say anything and that perhaps the Planning Board could ask the Zoning Board to meet with them at their next meeting. He then left.

Mr. Rotatori said the Board should do something.

Mr. Brisson said he thought the decision was not good and that someone would pay for it eventually.

Mr. Rotatori asked what the Board could do.

Mr. Herr said anyone in standing could bring appeal in 20 to 21 days from the date of the decision. Any town board could do this. But his experience with court cases has shown that this accomplishes nothing. Town Counsel represents the Board attacked. Then the other board has to find funds to hire its own counsel. You would have to go through the selectmen and possibly have a Special Town Meeting to appropriate the funds. He did not suggest this route.

Mrs. King asked if the Zoning Board could change its decision.

Mr. Brisson said a letter should be sent to the Zoning Board asking them to come to the next Planning Board meeting.

Mrs. King if all the lots combined equal 10 acres. The answer was no. She said the decision was based on the zoning by law about condominiums. The word condo comes up all the time. If Mr. Johnson did not buy the land - where is the financial hardship.

Mr. Brisson said the Zoning Board granted a variance. The land is only large enough for duplexes. There is no such thing as a triplex. 10,000 square feet for single family home, 20,000 square feet for a 2 family, then has to be 30,000 square feet for 3 in a residential area.

Mrs. King said there is more than 1 principal building. There are 3 units in one building. Mr. Brennan's letter makes this point.

Mr. Brisson asked if the Planning Board were to appeal could the Zoning Board revise their decision.

Mr. Herr said offhand he did not know. He said a decision

could be amended up to the time of filing.

Mrs. King asked if the Planning Board were to appeal would it be necessary to have legal counsel.

Mr. Herr said yes.

Mr. Brisson said he did not want to get into legal action but he did not want this happen again.

Mr. Herr said that whomever wrote the decision understood the law. All the points were touched on. It was not an incompetent decision and it made a case for hardship.

Mrs. King said that the man applying for the decision did not even own the property at the time.

Mr. Herr said the lawyers forget about the man and look at the land. If it needs to have a lot done to it and is different to develop because of that situation and whether it is financially unfeasible to develop. The question from single to triple deragates from the law. The town says you can build multi-family units but the requirements are the same as a single family. Where the decision is the weakest is here.

Mr. Brisson said the Zoning Board approved the subdivision and then wants waivers.

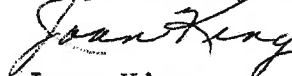
Mr. Herr asked if the Board could return to the special permit of Mr. Clark's. Things to keep in mind for the Board are - how many stores? - requirements for landscaping? egresses? signs? The language of the special permit needs to be specific. The issuance of such should be rare. More things need to go on one. Perhaps a list of things such as the time of the Public Hearing, listing of determinations made, background, findings. The decision should be made at the next regular meeting. And someone else should write the permit up. Perhaps a policy should be written on this.

Mrs. King suggested a special permit for townhouses.

The members then went through the mail.

On a John Murray/Sergio Rotatori motion the Board voted 4-0 to adjourn. The meeting adjourned at 9:50 PM.

Respectfully submitted,


Joan King