

BELLINGHAM PLANNING BOARD
TOWN HALL ANNEX
BELLINGHAM, MA.

Regular Meeting - March 25, 1982

Members Present -
Carl R. Rosenlund, Chairman
Sergio Rotatori
Joan King
Bertrand Boiteau
John Murray

Mr. Rosenlund called the meeting to order at 7:34 Pm. He explained that the meeting was being taped because the secretary had to leave on personal basis. He then presented the Board with the bills. On a Sergio Rotatori/Joan King motion the Board voted 4-0 to pay the bills of: \$11.09 - reimbursement to secretary for phone, postage, and frame: \$41.16 - Woonsocket Call for public hearing notice: \$42.50 - Milford News for public hearing notice.

Mr. Rosenlund brought to the attention of the Board that they had in front of them the updated copy of the Subdivision Rules and Regulations. The Town Clerk also has copies for sale at \$2.50. The Town Clerk needs a letter from the Board stating that this is a true and valid document. The secretary was directed to draft such a letter.

Mr. Rosenlund also stated that he attended a meeting with McMillen Associates - 495 Associates. He said at the meeting there were no promises made but that he has set up a meeting with McMillen Associates, the Planning Board, and inviting the Conservation Commission, and Mr. Herr on April 22, 1982. Hopefully this will get a dialogue going. If the Board agrees to have it letters confirming the will be sent. He would also like a letter sent to the Milford News and the Middlesex News indicating the Planning Board is seeking a replacement for the secretary's position. Those interested parties should call Mrs. Canelli and set up an appointment for the next meeting. (Members went through the mail. Resignation of secretary included in mail.) Mrs. Canelli's resignation becomes effective May 27, 1982.

Mr. Rosenlund also welcomed Mr. Boiteau to the Board.

According to the procedural rules of the Planning Board, they are to reorganize the first meeting after Town Elections with the whole Board present. Mr. Rosenlund stepped down from the chair to conduct the reorganization. He asked for nominations from the floor. Sergio Rotatori nominated and Joan King seconded Carl Rosenlund as Chairman. There were no other nominations. Mr. Rosenlund

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was elected as Chairman on a 5-0 vote. Mr. Rosenlund went back as Chairman and asked for nominations for Vice Chairman. Joan King nominated and John Murray seconded Sergio Rotatori for Vice Chairman. There were no other nominations. On a 5-0 vote Mr. Rotatori was voted Vice Chairman. Mr. Rosenlund said the Vice Chairman was also the clerk of the Board. Discussing this as a separate position could be taken up later. Mr. Rosenlund then called for reappointment of the secretary. On a John Murray/ Bert Boiteau the Board voted 5-0 to reappoint Mrs. Jeanne Canelli secretary.

Mr. Rosenlund thanked the Board for their consideration and support. He also welcomed Mr. Rotatori's experience as Vice Chairman. He hoped the Board would be very active for the coming year. Mr. Rosenlund said that this evening two Public Hearings were going to be held. He asked if anyone else had anything to come before the Board.

Mr. Larry Cibley, selectmen, said he was the liason for the selectmen to the Building/Zoning inspector and he was trying to compile information on whether that position should return from a part-time to a full-time position. He wanted to know how the Planning Board feels about this. He said that now Mr. Joseph LaPlante was the building inspector and that he was here this evening. Mr. Cibley said that there were lots of rules to be enforced in this position.

Mr. Rosenlund said that this merited discussion. He said he felt that the position of Building Inspector/Zoning agent was crucial. He said the cut back to a part time position was not good. He appreciated that Mr. LaPlante was here this evening. Twenty hours can not do the job. He strongly urged the Board to express their opinion.


Mr. Rotatori said he would to see the job at 40 hours per week. There are too many violations. There is not enough time at 20 hours to do things correctly.

Mr. Murray and Mr. Boiteau agreed.

Mrs. King asked if the reason the hours were cut back was an economic one.

Mr. Cibley said they did not think there was enough work. But there is plenty to do. There may be more violations because it is a part time position. He said he would lilke to schedule a meeting with the Board of Selectmen to discuss this.

Mr. Rosenlund said the Board was polled and unanimously recommends that the Building inspectors job be a full time position. He will direct the secretary to send a letter to that effect.



Mr. Rosenlund said that there was a Public Hearing set for 8:00 PM and that the secretary was not in attendance. Mrs. King was taking minutes and that the meeting was to be recorded. He said if anyone wishes to speak to do so clearly. Mrs. King will also have input as a Board member as well as trying to take notes.

8:00 PM - PUBLIC HEARING - TOWNHOUSE DWELLING CLARIFICATION

Mrs. King read the text of the posted notice for the hearing.

Mr. Rosenlund said the proponents should come forward and present their petition.

Mr. Bill Austin, Chairman of the Zoning Board, came forward. He explained that at the Annual Town Meeting last year a zoning change was made to allow townhouse dwellings in Bellingham. The intent was to allow condominiums. Condominium is a form of ownership not a type of structure. There is a strong question as to whether the zoning allows condos. Because of that, the Zoning Board would like to clarify the zoning amendment passed by adding the word condominium. He said that this would not alter what was passed in regards to the 7,000 square feet, 10 acre minimum parcel. None of that is involved. All the Board wants to do is to clarify that what was said is in fact a condominium and change the definition to nothing else. He then read the article. The people said that the town shall have multi-family dwellings with separate and distinct entrances and ownership. That is a condominium. That did not appear in the first article. It has been questioned as to whether the town has condo zoning.

Mr. Rosenlund said it was questioned by the assessors.

Mr. Austin said it started because of a duplex across from St. Blaise. Each side was sold separately. It was financed and insured as a condo. One of the owners sought an abatement as a veteran. The assessors said we do not have condominiums in Bellingham. They had contacted the Dept of Revenue and were told to contact town counsel. Town counsel said we do not have condo zoning in town. This clarification will not directly relate to that.

Mr. Murray asked if Mr. Austin had a copy of Chapter 183A with him.

Mr. Austin said no.

Mr. Murray asked Mr. Herr if he was familiar with 183A and if there was a conflict. He hoped that it was not opening Pandora's Box.

Mr. Rosenlund said this article was discussed with Mr. Herr, Mr. Austin, his lawyer, and Mr. Ambler and all areas were

clarified.

Mr. Austin said this does not relate to the duplex situation. We have zoning that allows multi-family townhouses to be put on a 10 acre parcel. Town counsel believes we do not have condominium zoning. Someone wants to build 3-8 units on a 10 acre parcel as allowed under this. There is a serious question as to whether you can do this. The Zoning Board wants to clarify what is already done. We want condo zoning that is already in and allow to be called a condominium, to avoid problems in the future.

Mr. Rosenlund said he understood that this had been gone over with Mr. Austin and Mr. Ambler to make sure it was acceptable. They all agreed to the addition of the word. The Board agreed to the intent.

Mr. Austin said if the question was that Mr. Ambler agreed to the wording - he did not agree that this would cure the problem. What has been passed already allows condo because not anywhere do you have 0 lot line zoning. Because of the setback requirements you can not build houses next to houses attached. But there is no question in our minds. This being done regardless of what already is in existence This will clarify it.

Mr. Rosenlund asked if this would satisfy the assessors.

Mr. Austin said he would say so because it says condominium.

Mr. Murray asked the consultant's opinion. Mr. Ambler's opinion is that you can not have it because of setback requirements a house against a house.


Mr. Herr said that should be discussed with Mr. Ambler. He said this proposal of inserting the word condominium makes clear that we talk about townhouse dwelling it includes condos. Each on a separate lot is a different question.

Mr. Murray said the purpose of this article circumvents that.

Mr. Rosenlund said to stick with this issue before confusing it. The transcripts of the minutes of the Planning Board's public hearing on townhouse dwelling that it was just terminology. We knew what we were saying. The Zoning Board is doing nothing but inserting the word condominium. He asked if anyone else wished to speak.

Bruce Lord, chairman of the Finance Committee, said that Chapter 183A of the state law allows condominiums by inserting it in here will that add to our by law we already have.

Mr. Herr said that this does not change the definition. It is not going to allow anything more than what was intended a year ago. Chapter 183A talks about the process for dealing with the condo system.



Mr. Lord said that law defines condominium.

Mr. Herr said that this proposal encompasses Chapter 183A rather than includes as written.

Mr. Rosenlund said the word encompasses had been discussed.

Mr. Austin said it had been printed with include. That change would have to be done on the town meeting floor. He checked with his attorney and that change is fine.

Mr. Rosenlund said Mr. Austin could change the word, it was his prerogative. He said he did not want to cloud the issue with what is Chapter 183A - all these things were considered. The article is sponsored by the Zoning Board - we hold the public hearing.

On a John Murray/Bert Boiteau motion the Board voted 5-0 to close the hearing. Mr. Rosenlund asked for the recommendation of the Board. On a John Murray/Sergio Rotatori motion the Board voted 5-0 to recommend the article.

Mr. Lord said the Finance Committee will be holding a hearing on the article.

Mr. Rosenlund said a letter would be sent to the Finance Committee with the Board's vote.

Mr. Austin said he had a suggestion, that the Boards have been cooperating and that the Planning Board should make the word change on the town meeting floor.

Mr. Rosenlund said the amendment should come from the Zoning Board to change the word.

Mr. Rosenlund said there was 10 minutes before the next public hearing. Did anyone have anything else to discuss in this time period.

Mr. Joseph LaPlante asked that the entire Board go into executive session.

Mr. Murray asked for the reason to do so.

Mr. LaPlante said it was a legal matter.

Mr. Rosenlund said it could be done after the hearing or it could be scheduled for the next meeting.

Mr. LaPlante said if there was time tonight he would like to do so.

Mr. Rosenlund said if the Board could they would.

8:30 PM _ PUBLIC HEARING - HAZARDOUS AND RADIOACTIVE WASTE

Mrs. King read the article as posted for public hearing.

Mr. Rosenlund said all heard the article as written. He said he had presented the article himself. He said if anyone else wishes to speak to please identify himself. Because of what has been happening in other parts of the state, the felt it was important to adopt zoning regulations concerning hazardous waste. He is not against of for. The town should have something on the books if someone did propose a site. He then read a letter from Mr. Herr concerning the article.. This article would be a matter of record that the town voiced its opinion. The town should not be caught short.

Mr. Herr said he had nothing to add. He said this article takes out junkyards and second hand motor vehicle parts which is allowed by a special permit by the Board of Selectmen and creates a bigger category of waste processing under which junkyards fall. Hazardous/radioactive waste is prohibited in all district private other than junkyards. There has been a lot of articles in this state turned by the Attorney General because of peculiarities in drafting. It does not show up in this article. It would be approved by the Attorney General.

Mr. Rosenlund asked if Mr. Herr had a copy of 21C law.

Mr. Herr said it was very long.

Mr. Rosenlund said it defines waste disposal.

Mr. Herr said yes, the whole process including what is hazardous waste. He suggested that town counsel have a copy of it at the town meeting.

Mr. Lord said he has been involved with a company in this area. 21C is very specific disallowing any local action. The Board of Health must approve the site. He said he saw in this article an attempt to say you could not have a site at all. The process is a letter to the Board of Health, it is reviewed during hearings. It does not leave any openings for the Town.

Mr. Rosenlund asked if Mr. Lord had the Chapter available.

Mr. Lord said it was very involved.

Mr. Rotatori asked why junkyards/second hand parts was included.

Mr. Herr said they were sub categories. It was hard to draw the line as to what is a junk yard and other forms of waste processing.

Mr. Murray said the intent was very good but that we already have junkyards in a separate category and he did not see them in

the same grouping. Maybe there should be a definition of junkyard rather than grouping as hazardous or radioactive waste. It is a confusing article.

Mr. Rotatori said there always has been junkyards as industrially zoned - why was it added in?

Mr. Herr said because junkyards are waste processing.

Mr. Rotatori said then change junkyards.

Mr. Herr said it is a definition of hazardous/radioactive waste processing. Junkyards are waste processing. Another form is hazardous waste processing, municipal other private ways does not include junkyards.

Mr. Rosenlund said anyone else was welcomed to comment.

Mr. Rotatori said he could see it.

Mr. Herr said it was the intent that was important.

Mr. Rotatori said if question did come up he wanted to know want to say.

On a Sergio Rotatori/John Murray motion the Board voted 5-0 to close the hearing.

Mr. Rosenlund said the hearing was closed. A special town meeting will be held 1/2 hour before the annual town meeting. The warrant for the special town meeting closes tomorrow at noon. There were not many questions and he urged the Board take a position and submit it for the special town meeting.

On a Bert Boiteau/Sergio Rotatori motion the Board voted 5-0 to put the article on the warrant for the special town meeting.

Mr. Rosenlund asked Mrs. King to put a notation on the article for the selectmen's clerk and slip it under her door this evening. Now he would like to go into executive session.

Mr. Robert Chase had a question on the zoning law concerning the requirements for a special permit. The number of parking spaces. What is the intent.

Mr. Rosenlund read it. Requests for special permits come before the selectmen, Zoning Board, or Planning Board. Only the ones so stated come before the Planning Board.

Mr. Chase said okay.

Mr. Rosenlund said parking comes under site plan review and that includes the Planning Board and the building inspector.

Mr. Rosenlund said the Board had a request to go into executive session on legal matters and asked if the consultant should come in also for his expertise - all under Section 23B of the Opening Meeting Law. Section 23B litigation or complaints.

On a roll call vote to go into executive session:

Sergio Rotatori - yes: John Murray - yes: Bert Boiteau - yes: Joan King - yes: Carl Rosenlund - yes. The Board went into executive session.

After the executive session.....

Mr. Joseph asked if the Special Permit for the Bellingham Plaza had not been recorded with the Registry of Deeds would it be null and void.

Mr. Rosenlund said he believed in the files for the Planning Board and so stated in letters from the Board, we have not been able to locate any evidence of a special permit. It was suggested to the building inspector to verify the recording of the special permit and strongly suggest him to take the necessary action in relation to the Plaza. This has been going on for a long time.

Mr. LaPlante asked if the recording of this permit would have been done at the expense of the owner or the Town.

Mr. Rosenlund read from Section 11 and said it was the responsibility of the applicant.

Mr. LaPlante thanked the Board.


Mr. Rosenlund read Section 14 that has to do with site plan review. 20 parking spaces. If any individual puts up a structure and does not state its use for 20 parking spaces or more, should the business expand, what happens to the site plan review. All plans for business should be submitted to the Planning Board for site plan review.

Mr. Herr said there should be an amendment to that. There would be a concern with an addition to 20 or more parking spaces.

Mr. Rosenlund said he would be specific. Mr. Clark's building on Mechanic Street. Mr. Rosenlund asked Mr. Clark how many parking spaces he was going to have and he did not know. The state building code requires the plan to indicate use.

Mr. LaPlante said the building permit should indicate the use.

Mr. Rosenlund said it is not uncommon to put up a building for business not knowing who is going to rent it. It could be a barber shop as opposed to a store but they require different parking.



Mr. Herr said both require 1 space per 200 sq. ft.

Mr. LaPlante said the addition permit is for 50x100 ft. - 32 parking spaces.

Mr. Rosenlund said that requires site plan review but the original building has already gone up.

Mr. Herr said the plans should be here to see the whole thing, where parking spaces are being put.

Mr. LaPlante said the site plan review was questioned.

Mr. Rosenlund said there was no cooperation at first. We did not have the original plans. Now there is an addition.

Mr. LaPlante said the concern was correct. It should have been picked up in the beginning. The building inspector should check.

Mr. Rosenlund said a building inspector should have all plans come before the Planning Board while another building inspector does a good job and does not need the Planning Board to review every plan. Mr. Rosenlund suggested the Board could consider another zone for business area. For certain business ventures 20 parking spaces may be too restrictive. He used the example of the Coackman - it was a sports club and then came for a variance. We never heard anything bad. Across the street is a golf range. Rezone - suggest rezone business, should not be restricted to expanding.

Mr. Herr said then Mr. Rosenlund was talking about a more restrictive district or zone.

Mr. Rotatori said Woonsocket almost rezoned the whole city. There was a lot of planning. It would be difficult in Bellingham.

Mr. Herr said if the Board rezoned South Main St. to a less permissive district.

Mr. Rosenlund said the whole idea to a non-conformity is to zone it out.

Mr. Rotatori said now you have a business 6 or 7 houses and then a business. How could you do it?

Mr. Rosenlund asked if anyone read where Milford was looking to cut the position of the full time planner. He thought it did not make sense. He then asked about the article on subdivision access and how does it specifically relate to Farm St. and what did it have to do with dwelling units.

Mrs. King asked about the subdivision access. 495 Associates bought 173 acres. What if they do not choose to subdivide?

subdivide and have one big industry. What would this proposal do? The Town would have no protection.

Mr. Herr said the town zoned the 200 acres as industrial. There is no way out but Farm St. The Town wanted industry anything else but houses.

Mrs. King said she was not opposed to industry there. But there should be another access.

Mr. Herr said there should be less traffic with staggered work shifts.

Mrs. King said she lived on Farm St. but this was not a personal concern. She is not home for most of the day.

Mr. Rosenlund said this access proposal would not mean a thing if it is one big industry. He asked if it could be adopted under the Subdivision Rules and Regulations.

Mr. Herr said yes but it would require a public hearing.

Mr. Rosenlund asked if this is any proposal change to the zoning by laws.

Mr. Rotatori said it was zoned industrial the rest is residential. A road had to conform to both areas.

Mr. Herr said provide legal access to both areas. Change the zoning map by 200 ft. northwest.

Mrs. King said they might sue.

Mr. Herr said it means in order to use the land they would have to construct a road.


Mr. Rosenlund said 200 ft. of Mr. Brennan's property is industrial zoned.

Mr. Herr said it was agreed the last time that there is a possibility of extending the boundary residential 200=400 ft. Change to 400 ft. rather than the lot line. It would tip them off.

Mrs. King said the fact remains that in 1 or more pieces the Town won't have much to say. If there is any zoning change these people will notice.

Mr. Herr said these kinds of things should not be discussed at that meeting.

Mr. Rosenlund said we would be asking them questions to see what their intent was. We need to be careful about what we say. He said at the last meeting a Mr. Lawrence Cade came before the Board to discuss the property previously owned by Mr. Kaplan. Mr. Kaplan wanted cluster zoning rather than conventional. The



The Board went with the conventional plan and Mr. Kaplan sued the Board. Mr. Cade is buying the 20 acres and on that property wants to raise and sell some vegetables and have some animals. His concern was with the 20 acres because he was building a house on it and did not want the rest of it to be considered his backyard as far as taxes were concerned. Mr. Boiteau suggested that he go to the assessors.

Mr. Herr said he could have come in with an approval not required. It would still be open land.

Mrs. King said he did want it rezoned agricultural to raise animals and to get a break on farm equipment from the federal government.

Mr. Herr said perhaps the assessors were satisfied. Mr. Cade could have his property valued under Chapter 61A were the land could be taxed as agricultural. If it is rezoned back then back taxes would be due.

Mr. Herr said he had 2 things. On hazardous waste - Chapter 40A - hazardous waste shall be permitted in industrial use. A footnote should be added - except cases mandated Section 9 Chapter 40A General Laws.

Mr. Rosenlund said without that note the attorney general will say you can not do that. The zoning by law must provide that.

Mr. Herr said do not be surprised if the attorney general says no. He asked if anything has been heard about the government survey.

Mr. Rosenlund said no.

Mr. Herr said two people questioned the procedure in holding the public hearings without the articles going before the selectmen first.

Mr. Rosenlund said one was referred to the selectmen one was not.

Mr. Herr said the procedure is that anyone can initiate a zoning item but it must be submitted to the selectmen first.

Mrs. King asked if this was the case for all hearings.

Mr. Herr said just zoning amendments - and the selectmen should send it back within 14 days. If someone did not like the proposal they could fight it.

Mrs. King said it should be submitted to the selectment for review and approval.

Mr. Rosenlund asked if there was a law on spot zoning.

Mr. Herr said none on the books. There has to be some physical

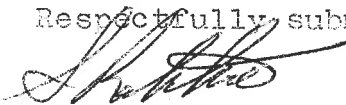
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reason in the land that justifies where you draw the line.
Case lots say you can not.

On a Sergio Rotatori/Bert Boiteau motion the Board voted 4-0 to
adjourn at 10:45 PM.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'S. Rotatori', written in a cursive style.

Sergio Rotatori, Clerk