

BELLINGHAM PLANNING BOARD
TOWN HALL ANNEX
BELLINGHAM, MA.

Regular Meeting - May 27, 1982

Members Present: Carl Rosenlund, Chairman
Sergio Rotatori, Vice Chairman
Bert Boiteau

The meeting was called to order at 7:41 P.M. by Chairman Rosenlund. On a Sergio Rotatori/Bert Boiteau motion the Board voted 3-0 to pay the bills of: \$6.50 to Milford Business Equipment for 2 typewriter rubbings; \$3.99 reimbursement to Jeanne Canelli for copies of Planning Board keys made.

At 8:00 P.M. the Board reviewed the preliminary plans of a proposed subdivision owned by Marguerite and DeLoia located on Beech St. Seven lots are located in Bellingham and 21 remaining lots in Franklin. The area is zoned suburban. The Board has 60 days to take action on these plans.

Question was raised by Mr. Herr as to whether there would be or would not be joint Town approval. He said what would happen if one Town approved the plan and one did not would be that another plan would have to be filed with the Town that approved. The Board that disapproved would have to give a reasonable alternative for the owners.

Mr. Rosenlund asked if the responsibility for emergency services and utilities should be determined before any approval.

Mr. Herr said yes, and that there could be an issue with sewer and water.


Mr. Rosenlund said it appeared that the owners looked through the zoning control laws. Everything being correct there would be no reason to delay.

Mr. Herr said he would talk to the Franklin Town Engineer as to the water and sewerage that could be provided, and that there would have to be cooperation between Franklin and Bellingham for fire and police.

Mr. Rosenlund said that the members of the Bellingham Planning Board would meet with the Franklin Planning Board as soon as their Chairman arranged it. He directed the secretary to distribute copies of the plan to the appropriate Boards in Town for their review and comments.

The Board was then approached by Joseph Johnson, 28 Standish Rd. with his lawyer, Raymond Webb, 15 Hurd St., Lowell.

Mr. Johnson stated that he had done all the work required by the Planning Board on Debra Lane--the drainage, sidewalks, etc. He presented a letter from Mr. Daigle, Highway Supt. saying the work was completed. He wanted to get the ball rolling to release the bond and the holding of his passbook for this work.



Mr. Rosenlund stated he had not been down to Debra Lane. He asked that the Board members go and review the site and then asked the building inspector, Mr. LaPlante, to do so also in order that all may be satisfied. Mr. Rosenlund confirmed that the Board did receive a letter from the highway superintendent stating all the work as requested by the Board was completed.

Mr. Rosenlund stated that after review of the site, the Board would take action on the passbook at their next regularly scheduled meeting.

Mr. Johnson stated he has progressed now with the property on Debra Lane to the point of sale. A question has arisen in relationship to the proper technical things being done. He brought Mr. Webb only to try to clarify the legal and technical aspects with the Board in relation to conveying the title. It seems some action by the Planning Board will be required and possibly the ZBA. Mr. Johnson felt that Mr. Webb, his attorney, could explain better than he the actions necessary to straighten out the problems.


Mr. Webb began by stating that Mr. Johnson has had over a period of months a horrendous problem. He has been building on Debra Lane attached townhouse multi-family units.

Mr. Herr said he and the Board did not understand that Mr. Johnson was doing this and asked if the permit issued applied to a request for townhouse units.

Mr. Webb stated the building inspector had issued a building permit and occupancy permit. Mr. Johnson said Mr. LaPlante was not the building inspector then. He said he went to the ZBA to get a variance to build 3 family individually owned condo-type townhouses.

Mr. Webb said he would give his interpretation of the Bellingham by-laws and wanted to review the background beginning with May 3, 1981, at which time Mr. Johnson had filed with the ZBA a petition for a variance under Section 4400 in which he asked to build individually owned condominium units. (Complete text of Mr. Webb's presentation can be heard on tape dated 5/27/82)

Mr. Webb noted that the Planning Board has jurisdiction of special permits for multi-family townhouses and, speaking for Mr. Johnson, they would like to apply and file such a request and set up a hearing to issue a special permit. He stated there is one other problem-- a dimensional size problem. The by-laws states a 10 acre parcel for townhouses. Mr. Johnson has 3½ acres. The land is such that there could be no further building from the standpoint of density. Density seems to be the jurisdiction of the ZBA - 40A Section 10 - permit granting authority is the ZBA. We would have to go to the ZBA to get a dimensional variance. We would like to work with the Planning Board and ZBA. Perhaps there could be some type of joint meeting. The granting of the special permit could be proviso to the ZBA dimensional variance.



Mr. Rosenlund stated he would allow Mr. Johnson to file for a special permit but the merits pro or con are not to be discussed. He said he was in 100% agreement with what Mr. Johnson has done. As far as he was concerned the variance for 3 family units through the ZBA was fine. The multi-family district is allowed from Town Meeting. Nothing came before the Planning Board. The request was through the ZBA. The ZBA decision was not based and granted on townhouse development. It was granted to vary the zoning by-laws that restricts 2 family to allow 3 family. There is no relationship between the two. Mr. Rosenlund felt what Mr. Johnson did was within the law.

Mr. Johnson expressed his desire to satisfy the legal technicalities, one of which is whether or not a special permit from the Planning Board is necessary because the variance was granted after Town Meeting.

Mr. Webb stated the first thing the conveying attorney is going to look for is the special permit from the Planning Board. Until the Planning Board acts there is no legal multi-family zoning.

Mr. Rosenlund stated that he could only guarantee a hearing.

Mr. Webb stated they came tonight to place the application and tell the Board why. The possibility of a joint meeting between the Board and the ZBA was brought up by Mr. Johnson. Denied by Mr. Rosenlund.

Mr. Herr said if Mr. Johnson was requesting a joint hearing, he would suggest not to. It would set up a whole set of procedural questions.

Mr. Rosenlund said to file with the ZBA for the hearing the 1st Thursday in June. There is no reason the Planning Board can't accept the application and start procedures for a public hearing for the 2nd Thursday. It would allow for Mr. Johnson to withdraw without prejudice.


Mr. Johnson asked to be placed on the agenda for the last Thursday in June. He stated he had the abutters list.

Mr. Herr said if Mr. Johnson was seeking a special permit that he meet the special permit requirements. Substantial drawings need to be made and reviewed. You can't waive the requirements. And, he must have time to review the plans as well as the departments listed. He said he would need one week to review.

Mr. Rosenlund said he would get together with the ZBA Chairman. Mr. Johnson should get all information to the Planning Board soon. Mr. Webb will draft the notice for the newspaper--one for the ZBA; one for the special permit for the Planning Board. Fee for Planning Board: \$8/parking space. \$192.00, not including advertising costs.

Mr. Webb/Mr. Johnson thanked the Board and left at 9:25 P.M.

Mr. Rosenlund stated there had been a question about 2 oversized lots owned by the same person and with two separate deeds. Should it be recorded as one before issuing permit?



Mr. Herr said the owner would be well advised to combine them. It is not the building inspector's prerogative to grant or not grant a permit because of this.

Mr. LaPlante, building inspector, asked about transportation terminals.

Mr. Herr said as far as Section 2400 there may be a difficulty. A transportation terminal is such where that's the principal use rather than accessory use.

Mr. LaPlante asked how much an area that would be.

Mr. Herr said an accessory use would be occupying less area than the main use...it would be subordinate. He agreed there should be a clearer definition of accory use and to change a bit the definition of transportation terminal.

Mr. L aPlante asked if servicing was allowed in a B1 zone.

Mr. Rotatori said he felt anything over ½ ton should not be allowed in a B1 or B2 zone.

Mr. Rosenlund reminded Board members that there was still some things from Mr. Herr that the Board still needed to study soon.

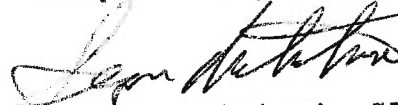
Mr. Herr said he would contact Mr. McElroy about what he meant concerning transportation terminals.

Mr. Rosenlund thanked Mrs. Jeanne Canelli for her work for the Planning Board for the last 15 months as secretary and welcomed Martha Russo as the new secretary. He asked Ms. Russo to check into new typewriters and report back to the Board with prices for the next meeting.

On a Bert Boiteau/Sergio Rotatori motion the Board voted 3-0 to adjourn.

Adjournment at 10:21 P.M.

Respectfully submitted,



Sergio Rotatori, Clerk