

Bellingham Planning Board
Town Hall Annex
Bellingham, Mass.

Regular Meeting - August 26, 1982
Members Present - Carl Rosenlund, Chairman
Sergio Rotatori, Vice Chairman, Clerk
Bert Boiteau
Joan M. King
John P. Murray

The meeting was called to order by Chairman Rosenlund at 7:35 P.M.

On a Rotatori/Boiteau motion the Board voted to the pay the bill of Mass. Federation of Planning Boards, Inc. membership dues for year 7/1/82 to 6/30/83 for \$50.00. Regarding the post office box, the Board voted on a Rotatori/King motion to renew the box, rental due Sept. 1st, and directed the secretary to make payment and bring in the bill for reimbursement.


Members briefly discussed articles slated for public hearing pending arrival of consultant Phil Herr.

Members also discussed the complaint filed by Joseph Johnson against the Planning Board regarding the special permit issue, and that they have chosen to seek counsel. On a King/Rotatori motion the Board voted to appoint Town Counsel to represent the Board. Mr. Rosenlund stated that he would go before the Board of Selectmen requesting counsel at their next meeting.

8:00 P.M. Board of Selectmen and Attorney Alfred Cenedella III arrive for meeting on Bellingham Plaza and Thomas Clark. Selectmen present were Lawrence Cibley, James McElroy, Wilfred Arcand, William Bissonnette. Mr. Rosenlund read the letter from the Board of Selectment confirming this meeting.

Mr. Cenedella addressed the Board and in reply to Mr. Rosenlund's inquiry regarding the original permit, whether the special permit was actually recorded with the Registry of Deeds, Mr. Cenedella said he has seen a copy, a recorded document.

Mr. Cibley stated that the reason for this meeting is because Mr. Cenedella came to the Board of Selectmen and said the four things he was asked to follow through on, to procecute on, he was having a hard time procecuting on because the Planning Board "goofed" when they issued the permit. Mr. Cenedella said the law was not tight enough at that time, the Planning Board followed their law but the regulations are not tight enough and need now to be tightened up. Mr. Cibley said that, as stated by Mr. Cenedella, the Planning Board had given Clark an open ended permit and so he could have done this at any time. Referring to the four things frustrating the Board which Clark has not done (erecting a fence behind the plaza, a fence along Arthur Kearnan's property which abutts the plaza, correct the sloping in back of the Dairy Queen, and putting a guard rail at the back of the Dairy Queen parking lot. This guard rail has been erected.) Mr. Cenedella advised that the Boards take action in trying reasonably to correct the situation.



Mr. Cenedella suggested that an invitation to the developer, his attorney and advisors to meet with the Board might help alleviate the situation and save a lot of unnecessary money spent in Court. Mr. Bissonnette stated that they had met with that developer (Clark) and he had 60 days to do it. Mr. Cenedella said that he doesn't have anything in writing, nothing that says it will be done on a particular date, no signed document to go into Court to enforce. "That is what has to be done", stated Mr. Cenedella.

Mr. Cenedella further states that they were at the Building Code of Appeals Board on June 10th with respect to the plaza. Mr. Clark was to have made plans available. The former building inspector testified today that he went to the office 15 times and asked for permits. Mr. Clark called him a liar and that testimony was in question, the building inspector had been fired, so the Court's feeling was the Town doesn't believe in him so why should we, and that went by the wayside. Mr. Cenedella pointed out that he was not criticizing anyone's decision but just telling the Board what the perception of the people in Boston is, the people who make the rules enforce the rules. Mr. Cibley referred to the "stop work order" that was issued which Mr. Cenedella is trying to enforce; however, Mr. Cibley said that the Board of Selectmen hired him initially to handle matters concerning the four issues previously mentioned and now in the course of that this "stop work order" comes up on the plaza.

Mr. Cenedella then said that the Board of Selectmen hired him to represent the Town of Bellingham through its building inspector in enforcing the building code with respect to the plaza in the zoning by-law, as well as the Mechanic Street property which developed after the initial discussion. Mr. Cibley confirms this but suggested they not discuss the Mechanic Street subject.

In evaluating the situation Mr. Cenedella expressed interest in handling the matter in the most cost efficient manner possible and to do it in administrative bodies that can meet quickly so as to allow us to tell our case. He further stated that although they may have been in there on a "stop work order" they knew about the plans and everything else, and they requested the plans from Clark. Cenedella said the plans are what we need to insure that we can enforce those four things.

Cenedella continued stating that Clark said "the building inspector did not come 15 times and he never saw the plans". Then the previous building inspector said when he left the plans were in a corner and he always had them. We still don't have a set of plans.

Referring to the question of the special permit issued on the plaza by the Planning Board, Mr. Rosenlund referred to the Planning Board's decision on a special permit dated September 13, 1979 which addresses Section 4700, Major Commercial Complex.

Following Mr. Herr's inquiry it was determined that the applicant did come before the Planning Board with a plan for site plan review prior to being issued a building permit.

Mr. Arcand said that it is a matter of record that the plans have been in the building inspector's office.

Referring to the current situation, Mr. Cenedella said that the building which is a shell presently, and for which a set of plans was filed with the building inspector, the inspector said the plans were not complete enough for him to determine their compliance with the State building code. Cenedella said the inspector was told that was all he was going to get, so he issued a "stop work order" because he could not get a set of plans to make a judgement by. And that "stop work order" was appealed



and it now has been dismissed-- dismissed by reason of six blank building permits signed by an assistant building inspector that don't delineate anything, not how big the buildings should be. When questioned by Mr. Rosenlund regarding the blank building permits, Mr. Cenedella replied they have nothing written on them other than signed and a number affixed at the top.

Mr. Cenedella stated that at the State Code Building Appeals Board he was told; "well, he's got six cards that say build, so why shouldn't he be able to build". Mr. Cenedella further said that Mr. Oakley testified today that he signed them and gave them out blank and said he did that because Mr. Stearns, the prior inspector, told him that he gave him a permit for the whole building and to give him the blank permits for the other ones.

Mr. Cibley asked what can be done to correct this situation currently before us. Discussion was held as to how to proceed. Cenedella said a record will have to be established regarding the Boards attempts to meet with Clark. Certified letters could be sent and if he does not respond then he would have some documentation to prove to the Court that the Board tried to reach him.

Joan King pointed out that many attempts have been made in the past to get Clark to meet with the Planning Board, all to no avail.

Although Thomas Clark was in the audience he declined any comment other than he was just here to listen.

Mr. Rotatori pointed out that since the plaza started we have gone through five building inspectors. Every one that goes in after the other doesn't know what's going on; whether or not he has a permit; or exactly what he is supposed to do or not do. And if the building inspector was getting too strict, then he was told to be laid off. Mr. Rotatori said either we are going to have a building inspector in this town or we don't need a building inspector--just let the developers come in and do what they want.

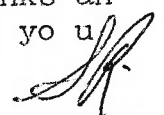
Mr. Arcand interjected that it is not a building problem per se, it's a zoning problem. Mr. Rotatori disagreed.

Further discussion was held concerning steps that could be taken in this matter. Mr. Cibley assured that the "current" Board of Selectmen, together with this "current" Planning Board who decided to engage Mr. Cenedella shows sincere interest in solving this problem.

Mr. Cenedella reiterated that the loose ends must be tightened up. He suggested that all members get together and work out a solution, with Mr. Clark if possible, as the first step. Send a couple of certified letter invitations, the second one should probably include a set of suggestions by this Board in conjunction with other town officials as to what needs to be done to correct the deficiencies in the plaza. List 1, 2, 3 and time completion. If there are money problems, we'll amend it and so forth. If Clark doesn't respond to that then you have the ammunition that I can go into the Superior Court with, Cenedella continued.

Mr. Bissonette addressed the chairman requesting if Mr. Rosenlund would like to put the above in writing at the Selectmens' meeting Monday night. Mr. Rosenlund agreed.

Mr. Cibley ~~inquired~~ inquired whether it would be legal if the Board of Selectmen instruct the new inspector that he is not to issue occupancy or building permits for anymore additions to that plaza, and would it be in the best interest of the Town. Mr. Cenedella said he thinks an order that firm would be held anywhere unconstitutional because you u



just can't pick one guy out and say we won't do business with you, but what can be said is that we won't give anymore building permits until we have a set of plans for that addition to the shell that you built, or that new building you're going to build, and so forth.

It was determined that the Court said it was not that important right now to make Clark stop but would determine that when the Court heard all the evidence, as stated by Cenedella.

Mr. Rosenlund stated that he feels it is evident that the Planning Board as expressed in the past, wants to see this problem resolved.

Mr. Cenedella suggested an amendment to the original decision on this particular permit, stating time limits for completion and setting dates. Discussions can be held attempting to reach an agreement

Joan King inquired of Mr. Cenedella if it would be a good idea for the Planning Board to again request Mr. Clark to meet with the Board and come up with an amendment to that permit that would be agreeable to both parties. Mr. Cenedella said, absolutely. Mrs. King then asked if he doesn't come again, then would you suggest Town Counsel advise us as to creating such an amendment to that permit without him. Mr. Cenedella said that is what he is suggesting, if the offer is made and is met with repeated non-response, then if you take action in his absence it would be a lot stronger case than we have now.

Mr. Rosenlund asked if there were any further discussions.

Mr. Bissonette felt the Boards should hold discussions and it was agreed this would afford better communication among members.

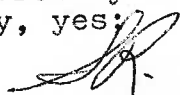
Mr. Rosenlund agreed to attend the next meeting of the Board of Selectmen. The Board of Selectmen and Mr. Cenedella thanked the Board and left at 9:10 P.M.

Following 5 minute recess, meeting resumed at 9:20 P.M.

Mr. Rosenlund read the letter of August 13, 1982 from Town Counsel Ambler referring to the Complaint filed by Joseph A. Johnson, requesting particular information. He requests the Boards reply to the Complaint, items 1 through 24, be made in Executive Session. Also, to verify copy of Sub-division plan submitted, Special Permit application dated June 2, 1982. Mr. Ambler requests a copy of the report prepared by Roland A. Lavallee dated June 10, 1982 and Mr. Herr's letter dated June 30, 1982. Mr. Herr's letter of June 24, 1982 to be sent also. Mr. Ambler also requests copies of the ads and notices relative to the Public Hearings on the amendment to allow construction of Multi-family townhouses in all zoning districts other than industrial. The Board and Mr. Herr reviewed the plans. They also reviewed the original plan under "Steeves Village". Mr. Johnson's current project under discussion is known as "Victoria Hollows". The secretary was requested to send the above requested items to Mr. Ambler. Mr. Rosenlund requested that material be held until after this meeting with the Board of Selectmen.

Mr. Boiteau had to leave the meeting to keep an appointment.

Mr. Rosenlund stated that an Executive Session would be held to discuss the Complaint filed by Mr. Johnson, as requested by Town Counsel after which regular session would resume. Mr. Rosenlund asked the secretary to poll the members: Mr. Rosenlund, yes; Joan King, yes; Mr. Murray, yes; Mr. Rotatori, yes.



The Board voted 4-0 to go into Executive Session.

Meeting adjourned at 9:32 P.M. to go into Executive Session.

Regular Meeting Reconvened at 10:45 P.M.

In the next order of business Mr. Rosenlund acknowledged receipt of Mr. Herr's response to the zoning pending amendments for which a Public Hearing is scheduled on September 23, 1982. Mr. Rosenlund asked that Mr. Herr be in attendance. Also, the secretary was directed to forward copies of the proposed amendments to Mr. Ambler.

The pending articles discussed by the Board and Mr. Herr were Business Buffers, Site Plan Review, Accessory Truck Service, Flood Plain Zoning, Flood Plain Subdivision Regulation, Farm Street Rezoning, Subdivision Access, and Townhouse Clarifications.

Regarding Accessory Truck Service, Farm Street Rezoning and Townhouse Clarifications, further study was recommended on these articles at a previous meeting and had not been scheduled for Public Hearing; however, Mrs. King raised the question as to why Townhouse Clarifications was not scheduled. Mr. Rosenlund noted that it was set aside pending review and suggestions by Mr. Ambler and Mr. Herr. After further discussion it was determined that this article had been addressed and Mr. Herr had prepared the proposal on Townhouse Clarifications. Mr. Rosenlund asked Mr. Herr if he had communicated with Mr. Ambler on this. Mr. Herr had not but would do so. Mr. Herr would also send complete package of Public Hearing notice and articles to Secretary.

Regarding Accessory Truck Service, Mr. Herr said he had gone over this and referring to Mr. McElroy's suggestion that in B1 and B2 district that there ought to be some limit of the number of commercial vehicles that can be parked without special permit. There should be a regulation as to the number of vehicles.

At the present time there is no limit to the number of light or heavy vehicles and Mr. Herr stated that any number of vehicles can be parked so long as it is an accessory.

Mr. Rosenlund suggested inserting a specific number of commercial vehicles into the proposed bylaw. It was suggested a limit of six (6) vehicles be proposed. Referring to Mr. Ambler's letter of August 13, 1982, Mr. Herr said he believes Mr. Ambler is of the same opinion as Mr. McElroy in regards to limiting the number of commercial vehicles.

Information forwarded to the Board by Mr. Herr was sent to Board of Selectmen regarding Flood Plain as requested.

Referring to the Thomas Clark issue, Mr. Rosenlund pointed out that Mr. Cenedella has suggested that the Board come up with an amendment that can be attached to the Special Permit and stating a specific date for completion. Also that an attempt to reach an agreement between the Board and Mr. Clark be made concerning the four issues (the barrier behind the Plaza, the fence abutting Mr. Kearnan's property, the slope, the barrier behind the Dairy Queen).

Mr. Rosenlund pointed out that the pitch from the existing plaza to the new section located by Nancy's Restaurant should be corrected.

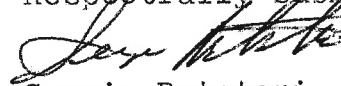
Mr. Herr said he will prepare the letter to Mr. Clark regarding the four issues and send it to Mr. Rosenlund.

There were no further discussions. Mr. Rosenlund welcomed Joan King backfully recovered from her recent hospitalization.

On a Joan King/Sergio Rotatori motion the Board voted 4-0 to adjourn.

Adjournment at 11:38 P.M.

Respectfully submitted

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

Sergio Rotatori, Clerk