

Bellingham Planning Board  
Town Hall Annex  
Bellingham, Mass.

Regular Meeting - January 13, 1983

Members Present: Carl Rosenlund, Chairman  
Sergio Rotatori, Vice Chairman, Clerk  
Joan King  
Bert Boiteau  
John P. Murray

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

~~Burt Rhodes~~ approached the Board with an approval not required plan. However, he did not have the necessary Form A required and plans to return.

On a Rotatori/King motion the Board voted 5-0 to pay the bills of: Trafalgar Stationery \$18.10 for paper and folders; Philip Herr \$900.00 consultant fee covering period October 1, 1982 to December 31, 1982; secretary's salary \$120.00 for month of December, 1982.

Mr. Rosenlund read the letter from the Finance Committee concerning the budget hearing which is scheduled for Feb. 2, 1983. Also a letter from the Dept. of Mental Health concerning housing for the mentally retarded planned in the area of Blackstone Valley.

A letter from the Board of Selectmen to FEMA regarding adoption of Flood Plain Zoning dated Dec. 9, 1982 was read and also a letter from FEMA to Mr. Spas dated Dec. 22, 1982 concerning flood insurance. Letter and resume from a job applicant, Greg Peterson of Bellingham, Washington to be forwarded to Board of Selectmen.

At 8:00 P.M. Larry Cade approached the Board to discuss John Alden Circle. This parcel of land was submitted by Sanford Kaplan at one time and was denied by the Board. The property has since been sold to Larry Cade. There is some question concerning a litigation and Mr. Rosenlund suggested that perhaps it should be taken up with Town Counsel.

Mr. Cade said he wanted to find out two things; 1. Is it possible to go cluster and 2. If so, how many can we go with.

Members reviewed the map and Mr. Cade pointed out the area.

Mr. Rosenlund pointed out and suggested to Mr. Cade that he consult an engineer as to what can and cannot be done there. The area of land involved is  $8\frac{1}{2}$  acres. The original cluster plan contained 13 lots. There was also a problem of wetlands in the original plan. It was determined that the original cluster plan was denied because there were 13 lots when on a dead end road only 12 lots are allowed.

Mr. Cade also said that he has eliminated the lots in the wet area. For further discussion, Mr. Rosenlund suggested that Mr. Cade contact Mr. Herr our consultant and discuss the plan prior to the next meeting. Mr. Rosenlund also suggest that Mr. Cade talk to the Conservation Commission about the plan before going further. Mr. Cade to attend the next meeting.

At 8:20 P. M. Leonard St. Clemente fo Gerrier & Halnon/Franklin approached the Board on an approval not required plan. The owner of the property is Sabatinelli Realty. He presented the plan to the Board along with the Form A and \$10.00 fee. The land is in the area of Farm Street.

Members reviewed the map plan. Discussion was held concerning the access road to the property. The area being discussed is opposite the Jaco Co., and adjacent to 495. Possible access roads discussed were onto Hartford Ave. near the cemetery, onto 495 or Farm Street. Mr. Rosenlund said he does not think it has been defined as yet where the access road would be located. Mrs. King expressed concern about the possibility of another access road onto Farm Street which is already heavily traveled. Mr. Rosenlund pointed out the area of open space near Varney Bros. that could serve as an access. After further discussions the Board agreed to sign the plan. On a Murray/Rotatori motion the Board voted 5-0 to sign the plan with the stamp "compliance with zoning not established".

At 9:00 P.M. Gerald Brisson approached the Board with an approval not required plan representing Silver Lake Associates. He presented the Board with map plan, Form A and \$10.00 filing fee. Members reviewed the plan. On a Murray/Rotatori motion the Board voted 5-0 to sign the plan.

At 9:15 P.M. Al Florentz of Bibeault & Florentz Engineering approached the Board for an approval not required plan, representing Roger & Denise Camire of Blackstone, Ma. The Board reviewed the plan. On a Murray/Rotatori motion the Board voted 5-0 to sign the plan. Form A and filing fee of \$10.00 in cash was presented to the Board for which a receipt was given.

Regarding the decision to be made on the Edmund LaPointe proposed cluster development, Mr. Rosenlund, addressing the Board, inquired whether the Board was prepared to take action on the decision. A decision must be made within 90 days of the public hearing. It was established that the 90 days would be January 27, 1983 and, on advice given to the secretary by Town Counsel Mr. Lee Ambler, this 90 day period must be from the date of the initial public hearing on October 28, 1982, and not from a continued public hearing. The decision must be filed with the Town Clerk within 90 days.

Mr. Rosenlund pointed out that the Board's next meeting is January 27th and that between now and that date a decision must be rendered and filed with the Town Clerk.

Mr. Rosenlund requested to poll the Board members regarding whether they would render a verbal decision on the request by Mr. LaPointe for a cluster development. Mr. Murray said he was ready on his decision. He inquired whether Mr. Rosenlund had heard from Mr. Barrows.

Mr. Rosenlund said Mr. Barrows had called him tonight and said that the lawyer for LaPointe sent him a letter regarding the law requirements in construction of a set-back.

Mr. Rosenlund said he had a discussion with Mr. Holmes of the Conservation Commission regarding the open land, and he said that the Conservation Commission did not recommend the cluster development; however, if the Board was to grant the cluster development they would be prepared to take receivership of the land. Mr. Rosenlund said that issue was then clarified.

All members being prepared to vote, Mr. Rosenlund entertained a motion that the Board render its decision. He pointed out that individual decisions are required either for or against. It was decided a poll would be taken of the voting members.

Addressing the Board, Mr. Rosenlund entertained a motion either for or against the request for a special permit for cluster development off Maple Street by Mr. LaPointe.

Mr. Murray motioned to vote in favor of a special permit to allow Mr. LaPointe a cluster zone, with the stipulation that the developer set up an association ownership arrangement for the land or that the Town accept this land if the special permit were granted. The reasons for being in favor of this special permit is outlined by Mr. Murray as follows: "In regards to Mr. Burr's right of way, there appears to be no difference comparing cluster plan to conventional plan. As far as the right of way goes it seemed like Mr. Burr and Mr. LaPointe are pretty much in agreement as what had to be done. On the issue of taxes, we are only talking of \$107.00 per year less with the cluster plan in return for 200 ft. less roadway for the Town to maintain so that's more or less a balance on that point. Here's the main reason why I'm in favor of the cluster zone is that the proximity of the town dump and lagoon system to Mr. LaPointe's land favors the cluster plan because it places the proposed houses further away from the Town's most obnoxious land, smells and noise. I would further like to state that because Mr. LaPointe's land was taken by the Town for the landfill, which is some of his valuable frontage land, I believe that it would be in good conscience to grant the special permit for cluster zone. Cluster zone being superior for the above reasons, but mainly to the latter, being that it would place the proposed houses further away from the Town dump. I would further like to state that Mr. Burr would have to be satisfied regarding the right of way.

Motion was made by Mr. Murray and seconded by Mr. Boiteau to grant the request for cluster development. On a roll call vote the members voted as follows: John Murray, affirmative. Sergio Rotatori, affirmative. Bert Boiteau, affirmative. Joan King, negative. Carl Rosenlund, negative.

The request for special permit under Chap. 40, which requires 4 out of 5 affirmative vote. The motion before the Board was a request for special permit to grant cluster development. Motion was made and seconded. There were three affirmative votes on the request for cluster development and two negative votes against the request for cluster development.

Therefore, the request by Mr. LaPointe for a special permit for cluster development is denied.

Mr. Rosenlund pointed out that there is a 20 day appeal period in which time any aggrieved parties may appeal the decision of the Board once it is filed with the Town Clerk. If there is no appeal within the 20 day period after the filing with the Town Clerk then the decision stands.

Mr. Rosenlund and Mrs. King will write their individual decisions to be filed with the Town Clerk.

Mr. Rosenlund pointed out that the request before the Board was for a special permit for cluster development which was denied and it does not mean that he cannot construct under a conventional plan and come before the Board with a conventional plan.

At 9:40 P.M. Phil Chapuk approached the Board regarding his parcel of land located on Maple Street which is zoned industrial. Mr. Chapuk was referred to the Board by the Zoning Board of Appeals. Members reviewed the map and Mr. Chapuk pointed out the area under discussion. The land involved is 6½ acres, the back acre being in the Franklin line. Mr. Chapuk purchased the land from Kozak's mother and purchased the existing house and wants to build another house on the lot. Zoning does not permit building a house in an industrial area, unless, in fact, it has to do with a business.

Mr. Rosenlund said he talked with Mr. Brennan and that the ZBA felt it was more of a change in zone and rather than using the ZBA to vary the existing law referred it to the Planning Board for the possibility of the Planning Board considering rezoning that area to residential as opposed to industrial, or whatever the Board sees fit.

Mr. Murray said that since Mr. Chapuk only wants to build one house he ought to be able to get a variance.

Mr. Duby of the ZBA was in attendance and said that as far as the law was concerned the zba felt that they had no position to take on the matter and said that where it simply states except for single family dwelling personnel required on the premises for safe operation for permitted use. There is no relief given in that footnote. The thing I would actually like to see, Mr. Duby continued, rather than rezoning as I don't like rezoning one little bit and something else next to it and perhaps it ought to remain industrial. I also realize the intent of this ruling and I certainly would not want to see a house built in the middle of a large industrial park. We know the reason for the thing existing but on these small remote parcels that are zoned industrial I would feel a little addition to that footnote, rather than a change in zoning, would give that possible relief.

Mr. Rosenlund said that this was his first case where someone wanted to build a house in an industrial area. He referred to the article pending in regard to a house lot in the back. He said he does not feel it should be the responsibility of the Planning Board when a situation comes up before the Zoning Board that we should change that zoning bylaw to compensate for it. Mr. Duby referred to similar situations.

Discussions were held concerning the pros and cons of industrial vs. residential zoning in that area. Concerning landowners in that area who are in residential and those in industrial, Mr. Murray felt that there would be those who would want to remain residential and those who would want to remain industrial. He suggested having consultant Phil Herr look over the area and possibly rezone a portion of it.

Mr. Rosenlund said the law says you can build a business there and then you can build a house. Mr. Chapuk asked for any suggestions.

Mr. Duby suggested further thought be given this and discuss it further at the next meeting when Mr. Herr is present. Mr. Rosenlund said that he would go along with a zone change but that the Board would not sponsor it due to the cost and budget cutbacks. Mr. Duby said he could go back to the ZBA meeting and discuss the Chapuk situation further. Mr. Chapuk thanked the Board and left at 10:30 P.M.

On a Boiteau/King motion the Board voted 5-0 to adjourn. Adjournment at 10:45 P.M.

Respectfully submitted,

Sergio Rotatori, Clerk