

Bellingham Planning Board
Town Hall Annex
Bellingham, Mass.

Regular Meeting - January 27, 1983
Members Present - Carl Rosenlund, Chairman
Sergio Rotatori, Vice Chairman, Clerk
Joan King
Bertrand Boiteau
John P. Murray

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


At 7:40 P.M. the Board reviewed the approval not required plan of Burton Rhodes. Mr. Rhodes is adding adjoining Lot B to Lot A which he owns with his brother. After further discussion members agreed to sign the plan. On a Rotatori/Murray motion the Board voted 4-0 to sign the plan. Member Boiteau not yet in attendance.

Mr. Rosenlund reminded the Board of the upcoming Budget hearing before the Finance on Feb 2nd. All members now in attendance. Mr. Rosenlund also said he had some discussion with Lee Ambler regarding notices of public hearing with reference to special permit. The law requires that you publish notice of hearing in a paper of general circulation in the Town. Mr. Rosenlund referred to the Board's recent published notice of hearings in the Milford News and Woonsocket Call and that it was quite expensive. He said he questioned the necessity of advertising in two newspapers, whether it be this Board advertising because of something we are going to publish or whether the applicant. He noted that the Zoning Board publishes in one newspaper regarding all their public hearings. Mr. Rosenlund said that Mr. Ambler would get back to the Board on this. Mr. Ambler said by law it was probably all right to go in one paper, he just questions the advisability of one paper as opposed to two.

Members reviewed the mail. Mr. Rosenlund the notice of public hearing scheduled for Feb. 3rd by the Zoning Board concerning a request for a variance by Paul Bouliane to operate a business in an agricultural zone on Pulaski Blvd. On a Rotatori/Boiteau motion the Board voted 5-0 to pay the secretary's salary of \$120.00 for January.

Mr. Rosenlund referred to the General Laws guidebook to the Board, a copy of which he has. Inquiry was made as to whether the Board would like copies of this guidebook updated. Mr. Rosenlund said he would like an updated copy for the Board, and felt the secretary and members should have an updated copy. At the suggestion of Phil Herr it was decided that one copy could be ordered from MFPB and copies be made from that, in order to cut expenses. On a Murray/King motion the Board voted 5-0 to authorize the secretary to order from MFPB a current copy of the Guidebook for Permit and Special Permit Granting Authorities. Upon receipt of the Guidebook the secretary to make five additional copies and purchase a suitable binder.

Mr. Rosenlund reminded the Board that a hearing would have to be set up on the three zoning by-law amendments which will be included on the Annual Town Meeting warrant. Also an article on zoning by-law amendment - political signs.



Larry Cade approached the Board to further discuss the plan of land off John Alden Circle. Mr. Rosenlund told Mr. Cade that he has the plans which were in litigation held by Town Counsel that was submitted by Mr. Kaplan previously for proposed cluster development. The Board reviewed those plans along with Mr. Brennan of the Zoning Board who had color coded the plans at that time for the hearing which shows the various areas including water levels. Mr. Brennan explained the coding. Mr. Cade said he met with Mr. Herr and they went over the map. Information in the Kaplan/Pilgrim Village III file was reviewed with regard to reasons why the original request for cluster development was denied.

Mr. Murray asked Mr. Rosenlund if he had any information from Lee Ambler on this. Mr. Rosenlund said nothing is before the Board other than to get the information on this to Mr. Cade. He explained that Mr. Cade has called to come before the Board seeking information and some direction because of the fact that he knows that it had been turned down before. Mr. Rosenlund said he suggested to Mr. Cade at the last meeting that he come before the Board at this meeting when Mr. Herr would be present. Mr. Rosenlund also said that he feels it is the responsibility of the Board to give Mr. Cade the information so that he does not come back with something that has already been turned down. Mr. Cade said he would like a copy of the documents. Mr. Rosenlund requested the secretary to make the copies for Mr. Cade of the litigation.

Mr. Murray inquired as to whether Mr. Kaplan could have any recourse here. Mr. Rosenlund further explained that he had asked Town Counsel that because of the fact that this was in litigation and Mr. Cade has purchased it, has anything changed, can we act one way or another on this, and Mr. Ambler's answer was yes, that if it has been moved it's been dissolved the Board can now approach this as a new proposal.

Mr. Cade said that in any case Mr. Kaplan had submitted the 12 lots and he was only submitting 11.

Mr. Holmes of the Conservation Commission said that they were in favor of protecting the land along the river.


Peter Bruin of 28 Ray Ave., abutter, approached the Board stating his concern about what would happen to the property that was purchased by Maurice Rivet of R.I., which was purchased on a public auction. The land is land locked. Discussion was held concerning the possibilities of how this could be solved between Mr. Cade and Mr. Rivet and Mr. Rosenlund pointed out that should Mr. Cade come to the Board with a plan for either a cluster or conventional plan and Mr. Rivet is going to be involved with it, that plan is going to show that parcel of land being open in some way or it's going to be continually land locked.

Mr. Bruin had expressed concern that he was not made aware of the public auction and that someone outside the area had purchased the land. His concern now is what use might be made of this now open land.

Mr. Rosenlund told Mr. Bruin that he would have input at a public hearing.

Mr. Herr had pointed out that he feels the reduction of one lot is in Mr. Cade's favor. Mr. Herr said there is a disparity concerning the elevation, the land runs somewhat lower than that shown on Cade's drawing in that it differs from the Town's map. Discussion followed on the matter of elevation and the ways in which the best plan could be proposed to best serve the Town's interests.

Mr. Rosenlund suggested that Mr. Cade study the differences between a cluster and conventional plan, and that a cluster plan must be superior to a conventional plan. Mr. Cade said he expects to be back with a plan.



Mr. Rosenlund opened the discussion on the three articles the Board is sponsoring which will be included on the Town Meeting warrant, and for which a public hearing date is to be set.

1. Accessory Truck Services.

Mr. Rosenlund pointed out that this has been gone over with Town Counsel Ambler. Also, that this article was proposed originally by Selectman McElroy. The last revision dated Jan. 19, 1983 proved to be satisfactory. Mr. Rosenlund said he sees no problem with this and the article should be reviewed for public hearing.

2. Back Lot Division.

Mr. Rosenlund referred to the several landowners desiring to build a house on back lots. This is a bylaw proposing to allow someone with a back lot to build with minimum required frontage. Members reviewed this proposed amendment.

3. Old Lots and Yard Requirements.

Mr. Rosenlund referred to homeowners on a legally created lot not meeting current requirements; as an example he referred to a house in Wethersfield with 10,000 sq. ft. whose owner wants to put in a swimming pool and it is not fair that he be required to stay 10 ft. back. There should be exceptions, and they keep inundating the Zoning Board with requests for variances. This proposed amendment addresses that issue.

There is one other article being proposed by petition to the Board of Selectmen.

The article was submitted by Mr. Lord.

It reads: Article 23. Zoning By-law Amendment - Political Signs.

Mr. Rosenlund read this article to the Board. It proposes to amend the Zoning Bylaws by adding Section 3126, which refers to specific restrictions and regulations pertaining to political signs. It proposes to amend the Zoning Bylaws by adding to Article V. Definitions to include political signs.

Following reading of this article, Mr. Herr recommended that the Board forward a copy of the article to Town Counsel and request his view regarding the constitutionality of it, if appropriate following discussion with the State Attorney General's office, and in particular in relation to the Metromedia vs. San Diego case.

Mr. Herr said the issue is freedom of speech and in Metromedia vs. San Diego the Supreme Court said "you can't treat one class of signs differently than another class of signs".

Mr. Boiteau pointed out that the Towns have regulations on signs but they allow political signs on front lawns. In discussing the placement and locations of signs (political) Mr. Herr and Mr. Boiteau agreed that these signs are usually all over front lawns, but in Bellingham they happen to be hung on hayracks, etc. as pointed out by Mr. Herr because people have interpreted the law as it is now written to prohibit them. Mr. Herr pointed out that he feels this to be a very ticklish topic, both politically and legally, and does not see any reason why the Planning Board ought to get hung on it.

Mr. Murray said any change like that has to come before the Board. Mr. Herr agreed with that but his concern is because of the timing and



the Board is probably going to have to make a recommendation on it. Mr. Herr said when the Board makes a recommendation, the Board should be equipped with the best information it can get. Referring to the law on political signs, Mr. Herr said that there is no place in there that allows it, placing on lawns, and therefore by not saying it we prohibited and it is so interpreted. He said that he believes that in the past the Attorney General has been quick to reject bylaws which specifically treat political signs differently from others. Mr. Herr feels that Mr. Lord's proposal is placing limitations on the political signs by saying that if you have a political sign you have to take them down 7 days after it becomes invalid, but it does not refer to other types of signs, such as a church bazaar, which would have no limitations as to when they should be removed. He is making special rules that apply only to political signs. Mr. Herr feels that the Board ought to get a legal opinion on this. Mr. Rosenlund asked the secretary to forward copies of these articles to Town Counsel, and to address the article on political signs as Mr. Herr had stated for the night of the hearing.

Mr. Rosenlund entertained a motion that the Board set up a public hearing hearing for the 4 proposed zoning amendments coming before the Town Meeting; 1. Accessory Truck Services 2. Back Lot Division 3. Old Lots and Yard Requirements 4. Political Signs (by petition)

On a John Murray/Bert Boiteau motion the Board voted 5-0 to hold a public hearing on the above articles to be held on February 24, 1983 commencing at 8:00 P. M.

With reference to newspaper notices, legal advertising, Mrs. King raised the question of paid legal notices vs. press releases in the newspaper of general circulation. She questioned whether it had to be a "paid" legal notice. Following discussion on this, Mr. Rosenlund requested that the secretary send a letter to Town Counsel asking him to address the issue of requirements of notice to two newspapers and also address the issue of the responsibility of a paid advertisement vs. a press release notice of a public hearing. Also with reference to Chap. 40A when dealing with a cluster development special permits.

Mr. Murray brought up a question he has on the variances the Zoning Board gives. Addressing Mr. Brennan and Mr. Herr, Mr. Murray referred to Page 2 of the Zoning bylaws and said he does not see how a person could meet off of these conditions. He asked if there might be an earlier way to get a variance. Mr. Herr said the legal way is to create a category of special permit, and that special permit is granted only under whatever circumstances you want to describe. He mentioned that some Towns have done it while others chose not to.

Addressing this issue, Mr. Brennan said that the ZBA really can't, by the letter of the law, give what is being asked for. He mentioned the Board's proposed bylaw on the small lots and urged the Board to seriously consider it and strongly recommend it, or even make it more lenient if possible. (copies of the proposed amendments to be sent to ZBA). Also a copy of the article on political signs to be sent to Mr. Herr.

On a Murray/Rotatori motion the Board voted 5-0 to adjourn. Adjournment at 9:35 P.M.

Respectfully submitted,


Sergio Rotatori, Clerk