

Bellingham Planning Board
Town Hall Annex
Bellingham, Mass.

Regular Meeting - May 26, 1983
Members Present - Carl Rosenlund, Chairman
Sergio Rotatori, Vice Chairman
Joan M. King
John P. Murray

The meeting was called to order by Chairman Rosenlund at 7:40 P.M.

On a Rotatori/King Motion the Board voted 3-0 to pay the bills of: Milford Daily News for Lawrence Cade advertising \$27.00; reimburse Martha Russo for postcards and postage \$9.00; Secretary's salary of \$120.00.

At 7:45 P.M. Al Florentz, Bibeault & Florentz Engineering of Woonsocket, approached the Board with an approval not required plan for division of land off Farm Street for a proposed day care center. Applicant is Richard J. Abretti of Bellingham. Members reviewed the plan and noted that parcel 1 is zoned industrial. On a Rotatori/King motion the Board 3-0 to sign the plan. Member Murray in attendance following this business. Mr. Rosenlund said the articles sponsored by the Board passed at the Town Meeting. He also noted the May 17th letter from Mr. Ambler regarding the proposed article on Townhouses to be discussed with Mr. Herr.

At this time Mr. Rosenlund, noting that the Board room's seating capacity had reached its limit, moved to adjourn the meeting until 8 P.M. when the public hearing will reconvene at the Upper Town Hall. The Board agreed to reconvene at the Upper Town Hall.

PUBLIC HEARING - SPECIAL PERMIT, LAWRENCE CADE, 17 John Alden Circle

8:00 P.M. Chairman Rosenlund opened the public hearing on the application of Lawrence Cade for a special permit for proposed cluster development. Approximately 32 people in attendance. Mr. Rosenlund introduced members of the Board. He pointed out that there are State statutes that have to be followed by the Board in order to act on Mr. Cade's request. Mr. Rosenlund pointed out specifically for the applicant, Mr. Cade, that normally there is a 5 man Board but there is one member who is hospitalized. With a 5 member Board it takes 4 affirmative votes, which gives you one negative vote, in order to grant a request. Tonight, Mr. Rosenlund pointed out, there is a 4 member Board present which means, by law, that it must be a unanimous vote. The applicant has the right to ask that this hearing be continued to a later date at which time there may be 5 members (which Mr. Rosenlund said he could not guarantee). Otherwise, the Board is prepared to proceed with the 4 members. Mr. Rosenlund pointed out that a request for a variance is a little more stringent than a special permit, as far as the law is concerned. With certain procedures under the State Code proof of certain things must be made before a variance can be granted. On this request for Special Permit Mr. Rosenlund pointed out to Mr. Cade that the Board must be satisfied that what he is requesting meets certain requirements as far as the Town is concerned and as far as the Board is concerned.

Addressing Mr. Cade, Mr. Rosenlund asked whether he wishes to continue

with the public hearing. Mr. Cade said, "yes".
Mr. Cade has consented to continue with the public hearing.

Mr. Rosenlund, addressing the hearing, said the Board would hear from the applicant or his representative to present his petition before the Board on his request, and will hear from anyone wishing to speak on behalf of the applicant. After which, anyone who wishes to speak in opposition to the request before the Board will be heard. He requested that all questions and answers be directed through the chair.

The secretary read the legal notice as it appeared in the paper.

Mr. Rosenlund pointed out that the Board's consultant Philip Herr is in attendance.

Mr. Rosenlund suggested that the map be posted for viewing. He then asked Mr. Cade to present his case. Mr. Cade introduced his representative, Ed Shea of Shea Engineering who stated that he was hired by Mr. Cade to prepare a plan for a cluster development off John Alden Circle. The proposal is for 11 residential lots. Pointing to the topography of the map plan he explained the procedure that they plan to follow. The site would be served by Town water. He pointed out the area proposed to be turned over to the Conservation Commission. He said that preliminary soil tests had been done. He pointed out that drainage would be in the area surrounded by the Charles River. He said drainage would be relatively minor. Noting the positioning of the lots, Mr. Shea felt the plan pretty much speaks for itself.

Mr. Rosenlund in explaining the purpose of the public hearing for those who may not know the reasons pointed out that in a request for a cluster development in the agricultural suburban area an individual can present before the Planning Board a plan such as is presented here that is equal to or superior to a conventional plan. He further explained that Mr. Cade did not have to come to this Board, but could subdivide his lot, meeting all the setback requirements and other requirements, under a conventional plan. The cluster plan allows him to put the same number of lots in a reduced area, leaving remaining land open space that can be deeded to the Conservation Commission or it can be held in common ownership by an association within the cluster. These are the two options. Mr. Rosenlund emphasized that this is the difference between a conventional and a cluster plan and that is what the Board is concerned with and that is what is being proposed.

Addressing Mr. Cade, Mr. Rosenlund asked if he had anything further to add, or any points he may wish to highlight. Reviewing the map plan Mr. Cade went over the area of proposed building lots. He said he had decided to put everything running off into John Alden Circle, which he pointed out on the map, and to the adjacent area. He pointed to the area which he feels would be in the best interest of the community and to the Town, and also noting that each of the proposed lots are at least as large as or larger than the adjacent lots in the area.

Mr. Shea said that the road layout would be very similar to the present John Alden Circle.

A question was raised from the floor requesting explanation of the map which was not clearly visible from the back of the room. Mr. Cade went over the map plan again. At this point, Mr. Rosenlund said that the Conservation Commission and the Board of Health representatives were present and following their input anyone who wishes could come forward and review the map.

Another question was raised as to whether this plan was for 11 single family houses or 11 four-family units, and what was meant by "cluster". Was it anything like what is in Ashland.

Mr. Rosenlund pointed out that those are townhouse developments. He further explained the plan of cluster development. And to clarify the confusion as to its meaning, Mr. Rosenlund read section 4300 cluster development, also section 4320 and 4330, and following that section 4350. As a comparison, Mr. Rosenlund mentioned the area off Hartford Ave. known as Whispering Pines, which is a cluster development.

Question was raised and discussion followed concerning the proposed plan submitted some years ago by Kaplan for that area, which was for 14 lots. That plan was not considered buildable. Mr. Herr said that the plan was received for 14 lots as submitted by Kaplan years ago proposing a cluster development and at that time our comment was that we felt that he could not properly develop it on 14 lots, but on 12. Mr. Herr said he feels 11 is a fair number.

At this point, Eileen Allen of 44 Ray Ave. addressed the Board saying that she has a water problem now. She said the water table is at her cellar, and it comes in with the least bit of rain and she has had close to a foot of water this year and last year. She expressed concern about the drainage that would be coming from the proposed houses. She said her lot is pie-shaped and the drainage all comes into the center of the field. She said she is not the only one on the street who has the water problem. She felt the table is up since the time the last perc test was made. She feels it should be taken again.

Mr. Rosenlund explained that the perc test has to be taken. Mr. Cade will have to go to the Board of Health requesting permits for perc tests and it has to be inspected by the Board of Health when the perc test is done. Mr. Rosenlund said he just found out that a perc test is good for two years.

Mr. Cade said he did one about 11 months ago. Mrs. Allen asked what month of the year. Mr. Cade replied in November. An uproar in the crowd followed.

Mr. Rosenlund said that perc tests have to be done on the lots, that Mr. Cade said he did a test about 11 months ago but the Board of Health said they do not have a record of any perc test.

Mrs. Hahn of Ray Ave. said that the last time they took the perc test it was taken at the end of a very dry summer. Mr. Cade said he was not involved with that.

Mr. Rosenlund pointed out that was back when Pilgrim Village was developed and we are talking about a specific issue at this time.

He said the Board of Health told him the period ends normally in May for perc tests. The Board of Health is going to extend that for a period of 3 weeks because of the rain situation and not because of this but for anyone. This point was verified by Emma Cousens.

Mrs. Allen of Ray Ave. expressed concern about drainage. The streams that run underneath the house from the river was her concern and what the moving of earth in the process of building would do to the direction of these streams.

Mr. Rosenlund stated that would be something that the engineer has to plan. He has to satisfy the requirements.

Mr. Sullivan of Ray Ave. asked whether the EPA has been notified of this proposal.

Mr. Rosenlund explained again that this is a hearing in regards to this

plan being equal or superior to a conventional plan. This is not a permit, even if the Board okays it, it does not give him a license to build. A definitive plan has to be presented with all the engineering completed according to spec, and he has to go to the Board of Health for perc tests and the Conservation Commission requirements must be met. He pointed out to Mr. Sullivan that the action of the Board tonight is not a license to do anything. There are many agencies that have to be involved. This hearing is to determine whether this plan is better than a conventional plan.

A resident of Box Pond asked whether Mr. Arcand had any comment. Mr. Arcand had no comment at this time.

The major concern of the residents abutting the proposed development is the drainage.

Mr. Rosenlund pointed out that all the people in that area must be satisfied first in regards to technicalities. When the developer comes in with a definitive plan a public hearing will be scheduled.

Mr. Degen of Puddingstone Ln. inquired of the builder why he thinks septic systems are going to work in this particular cluster when they don't work in most every other lot in the entire Pilgrim Village. Mr. Cade said he had no problem on his lot. Mr. Degen said he has a problem with his and most of his neighbors have problems with theirs.

Mr. Rosenlund mentioned the meeting with the Sewer Commission regarding the Town of Bellingham and it was pointed out that one of the biggest problem areas in the Town is Pilgrim Village. Mr. Rosenlund said it was also pointed out at that particular hearing that by upgrading the systems in that area it was proposed to put in sewerage tying in with the Medway line. Another proposal was upgrading the systems that now exist. He also said that it was noted that about 7 lots out of the whole Pilgrim Village could not be corrected by one means or another. Mr. Rosenlund said he thinks that when the present houses were built the requirements of the local building code were different than what they are today as far as the size of tank, drainage, etc.

He pointed out that what doesn't work there now in a particular place does not say that a different system engineered in this proposed area would not work.

Mrs. Cousens of the Board of Health said that she believes it would be helpful to the people present to know what is involved in a perc test. She said that originally when Pilgrim Village was done there were probably 3 or 4 perc tests done for the entire development and that is part of the reason the individual lots have a problem. The systems were put in at random as they fit the design. Now our Town by laws are more stringent. Tests will be done on each lot. A 10 ft. deep hole is dug and it is noted at what point water is reached. Mrs. Cousens explained the procedures followed.

Mr. Arcand of the Conservation Commission had no comments. The ConCom has not as yet been there to look over the land. Mr. Rosenlund said he had requested a letter from them with their comments and recommendations. Also from the Board of Health.

Mrs. King said that it was apparent everyone or most of the people in attendance would like to see no building whatsoever; however pointed out that it is neither up to the Planning Board or the people in attendance. She said that we might shorten this meeting considerably by making it very

clear that none of us have anything whatsoever to say in the matter, only whether the man wants to build according to a conventional plan or to a cluster plan. At this particular moment that is the only issue involved. We can't tell him he can't build under a conventional plan. The issue right now is which is the better off the two. There are many problems but they are not what comes into play at this meeting tonight. The issue now is to have a hearing on whether this particular type of plan is equal to or better than a conventional plan. It is not an issue at the moment of whether he builds or not.

Mr. Murray further pointed out that this is the first step of many steps that Mr. Cade will have to take in order to build any houses there. He further stated that all the steps and tests that have to be done are quite expensive so this is the first logical step to take in this long process.

Mr. Matroni of Ray Ave. inquired if the Board is accepting that this cluster plan is an acceptable way or is the Board in any way saying that a conventional is accepted or that it is even possible. He asked how it could be said that this is better than a conventional plan when no one has proved that a conventional plan is even acceptable. He felt it was kind of ridiculous. He further inquired, if the Board votes that the cluster plan is an approved plan of doing it are they saying at that point that the conventional plan was already accepted.

Mr. Rosenlund said that if it meets all the requirements. However, Mr. Cade has opted for cluster.

Mr. Rosenlund said that he was not prepared to vote at present pending further information. He would like to hear from the Conservation Comm. and the Board of Health.

Mrs. Glynn of Ray Ave. inquired if any of the interested parties could go along when the perc tests are done. Mrs. Cousens said that would be up to the developer. Mr. Cade said he would have no objections to it.

A recess was held allowing those who wished to view the plan as presented.

Mr. Rosenlund said he felt the plan has been gone over at length and he pointed out that he felt the Board would act in the best interest of the Town. He also pointed out that he would not refuse somebody something because somebody else does not like it. If they complied with the law, after the hearing is closed and the Board renders its decision, we have 90 days from the time of filing in which to render our decision.

Mr. Rosenlund said he is asking the Board of Health and Conservation Commission to come back with their recommendations by our next scheduled meeting on June 9th and hopefully the Board will make a decision that night, as to whether they are in favor or opposed.

Mr. Rosenlund pointed out that if the Board decides to vote in favor of the cluster development, again under special permit, the Board can also impose stipulations within that cluster. Any stipulations would be recommended by consultant Herr.

Mr. Rosenlund further stated that once the Board grants or rejects the decision and it is filed with the Town Clerk, there is a 20 day appeal period. He pointed out that if, for instance, the Board granted Mr. Cade's request for cluster and you, the people, individually or collectively, feel that the Board exceeded its authority in granting a request for cluster development that is not in the interest of the Town and is not equal or superior to conventional and you feel you have a case, you can appeal the

Board's decision to the courts. There is a 20 day appeal period in which you can appeal the Board's decision to the courts.

In reverse, if the Board denies Mr. Cade's request he has the same right to appeal that decision to the courts.

Mr. Rosenlund further explained that after that 20 day appeal period is over then it becomes law.

Following further discussions, Mr. Rosenlund asked if anyone had anything further to add. Mr. Cade said that the perc season has been extended 3 weeks and he would like to have a decision by the next meeting so that they could catch the end of the perc season.

Mr. Rosenlund said he is hoping the Board will be able to make a decision by the next meeting, but could not make a decision until the Board is ready and has the requested information.

With no further comments, Mr. Rosenlund entertained the motion that the hearing be closed. On a Rotatori/Murray motion the Board voted 4-0 to close the public hearing.

Mr. Rosenlund stated to the people in attendance that are abutters that by law they will be notified by the Board as to the decision of the Board. He directed those who are present but are not abutters to leave their name with the secretary if they wish to be notified.

Meeting adjourned and members returned to the Annex.

A brief discussion was held regarding the articles which were passed at the Town Meeting. Mr. Rosenlund noted that the article on political signs also passed. Members also had a discussion regarding the leash law which was passed.

Mr. Rosenlund noted that Mr. Roy was at the public hearing. Mr. Rotatori said he was in no big rush and would be back at the next meeting.

On a Rotatori/Murray motion the Board voted 4-0 to adjourn.

Adjournment at 10:40 P.M.

Respectfully submitted,



Sergio P. Rotatori, Clerk