



## BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

Edward T. Moore, Chairman  
Glenn E. Gerrior, Vice-Chairman  
Emile W. Niedzwiadek, Clerk  
Anne M. Morse  
John P. Murray

### MINUTES OF REGULAR MEETING 5/12/88

Meeting was called to order at 8:08 p.m. Anne M. Morse was absent.

Members were poled regarding executive session. Mr. Cibley was invited to attend the session. Cibley wrote letters to all of the members and town council and wanted them read into the minutes. But he declined the invitation to remain for the executive session. He requested copies of the executive sessions minutes in which he and his colleague were named and discussion ensued.

EN/JPM motion to enter executive session.  
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8:45 GG/EN motion to re-enter regular session was voted unanimously.

#### 8:45 FORM A

Applicant: Silver Lake Realty Trust, 269 lake St., Bellingham, MA  
Surveyor: G.R. Brisson, P.L.S. 99 Harpin St., Bellingham, MA

Location: Prcel bounded by So.Main and Scott Sts. Presently owned by Waldo (Joe) Cook formerly the Pumpkin Seed location.  
6 lots were proposed in the suburban zone. JPM/GG motion to sign the plan.

#### 81-P Form A

applicant: Onallam Realty Trust, P.O. box 87 1275 Main St., Millis, MA  
Terry Maher representing the firm.  
3 Industrial Lots on Farm St. (reconfigurations of previous 81-P lots) on a now re-zoned agricultural parcel.

Board declined to sign until further information could be determined by town counsel regarding the zoning/rezoning and grandfathering.

#### DEFINITIVE PLAN SUBMISSION: Judy Lane Estates

Thayer Park Realty Trust, P.O. Box 624, Medway, MA 02053  
Robert (Skip) Savoia, Trustee - telephone 533-7837  
Public hearing set for June 23, 1988 at 8:30 p.m.



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### CRESTVIEW COMMONS CONDOMINIUMS FAILED DETENTION FACILITY discussion

Prior to that discussion, the Celtic Co. attorney cited Chapter 40A Section 16 regarding Petition for Consent to reconsider Lakewood Special Permit for townhouse development.

ETM stated that until such time as all the paperwork was complete and in place, don't bother to submit. he stated two public hearings would be required one to consider and if that passed a hearing for the special permit.

Victor Baltera, Esq. from Sullivan and Worcester One P. Office Square, Boston represented the Racicots (zip code 02109)  
617-338-2945.

ETM reviewed the chain of events leading to tonight's discussion beginning with events in March.

Lord Esq: (representing ROL Realty Trust, Joe Menfi Trustee from Pheasant Hill Estates, stated that abutters in his clients subdivision on Lots 14 and 15 had serious problems. This board, Mr. Lord and Racicot met and discussed the matter informally at a planning board meeting he gave verbal assurances that the pumping would cease and the failure be repaired. On 3/10/88 Lord sent this board and Celtic a letter stating that the detention facility had breached. On 3/24/88 a follow-up letter was sent informing all interested parties that the conditions had worsened. During the night, cellar holes at the condo site were indiscriminately pumped out onto abutting properties and into the wetlands. That action caused damage to Lots 13 and 15 in Pheasant Hill. Newly seeded loam was lost and catch basins filled with silt to the point where they have ceased to function. No apologies were offered from Celtic officials to the abutters or Menfi and the pumping didn't stop promptly either.

After 3/24/88, stone and gravel were dumped in the "pond." and haybales were installed. The detention pond was filled to capacity and is constantly running over. On 4/8/88 Lord returned and reported a second breach of the detention facility which allegedly caused damage to Lot #14 at Pheasant Hill. Large gouges were occurring in the property due to excessive erosion.

Mr. Menfi called Mr. Racicot who had promised to repair the damages. To date there has been no attempt on behalf of Racicot/Celtic to repair any damages to abutting properties. The pond was improperly designed or improperly constructed (speculated Lord). He requested a "stop work" order which the Planning Board issued upon the building inspector Maurice Gregoire who should have in turn levied upon Celtic and stuck to it. Thomas Cordell and former assistant building inspector Kenneth Lane refused to accept their certified copies of the stop work request to building department by the planning board.



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### CRESTVIEW COMMONS - detention facility breach discussion

Lord demanded that "all parties come clean with actual ownership and title to the property and ultimately repair all damages."

Baltera Esq: (Balt Esq) stated that the property owners were Oakwood REalty Trust of which the Racicots were now the trustees citing that according to by-law Special Permits are non-transferrable.

EN cited that Racicots were notified and we have the return receipt to prove it.

ETM explained that Celtic appealed the building inspector's action to the state (using their stationary which had been misinterpreted by town officials as having originated from the state which it had not) and while under appeal Celtic would be allowed to continue working despite the fact that the town demanded them to discover the problem whether in design or construction and rectify same prior to any more work being done at the site.

ED STONE (a registered land surveyor with a background from N.E. in civil engineering but not a licensed professional) was introduced by the attorney as being the professional who would be determining the cause of failure and redesigning the system which would work. Also introduced by the atty. were Scott Steinmetz (unlicensed engineer from the Celtic company), Tim Sullivan (P.R. man) and Dave Lindley (having something to do with the Celtic Co.).

Balt Esq. stated they were upset about the facility but maintained that the damage to abutting properties was not caused by his clients.

ETM stated that the front yards may not be but the back yards definitely were. a direct result of the condo project.

ETM, further stated that Ken & Russ were supposed to be present at the 4/2888 meeting of this board per telephone conversation. He cited that "word of mouth with the Celtic repres is unreliable."

ETM: stated that runoff caused by the condo project blocked the catch basins in PHeasant Hill.

Lord repeated that damage to Lot 15 was a direct result of pumping the cellar holes.

Balt Esq: My understanding is the Millis Engineer (originators of design) have merged.



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### Crestview Commons discussion

He added that the special permit was issued to Oakview Realty Trust.

Balt Esq: He asked for Lord and the board to wait. That his clients were attempting to address the problems. They had a plan prepared for the Conservation Commission (who was after them with a cease and desist as well as the building inspector) which was separate and apart from the technical design problems flagged and outlined by the planning board.

ETM stated he didn't buy the excuse at all. A company as large as Celtic couldn't be this confused about what's right and wrong. Phil's comments to this Board were that this problem would most assuredly occur again if the failure wasn't analyzed by the person who designed it or an independent professional hired by the town. He stated that this was amending a Special Permit.

ED Stone, R.L.S. got up to make a technical presentation. The board immediately investigated his credentials through discussion. ETM cited that only licensed civil engineers determine detention facility design and repair. Stone stated that although he was technically a land surveyor, he was associated with Bill Lieberman, a professional engineer who would review his findings and o.k. the final design. Both of these individuals are from "way out of town." Chairman questioned the address/location of their offices. Stone reported to the board 88 Debs Hill Rd. Yarmouth, MA and Lieberman supposedly resides/conducts business at Timberlain Dr., in West Barnstable, MA.

Stone proceeded. Erosion to Lot #14 was caused from its own site. The summit point in the lot was extremely high, coupled with roof drains and the possibility that not enough loam was replaced on the lot. Also the fact that the fill for the lot could have been too permeable and therefore not stable under severe weather conditions. He visited the site on 5/5/88 he cited that the runoff from that lot was flowing into D.E.Q.E. land within its subdivision and was therefore a violation. He suggested the soil had been properly compacted and the topsoil in adequate by perhaps 2 inches.

GG stated that if all that land was basically sand water coming from roof downspouts could cause erosion.

Front portion of Lot #14 not properly compacted repeated Stone.

And cited the resulting siltation as a violation of wetlands protection act.

RLS also noted a natural swale between the sidelines.



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ETM reminded all and the press that the Planning Board issued two (2) directives to the inspector for complete cease and desists.

**Selectmen Cibley:** Questioned what protection for the town? he would personally see to the reconfirmation of the stop work order and stated that if Celtic continued to work, they were proceeding under their own peril and could face fines of up to \$1,000/day: Which did not phase the Celtic reps in the least.

Steinmetz stated that the letter dated 4/7/88 indicated we did not respond. He stated that Moe Gregoire stated that had to go to the Conservation Commission to answer the problem. That interpretation was entirely erroneous in that the Planning Board's concerns were separate and apart from any complaints the Conservation Commission has with the project (as stated by ETM) Sullivan claimed to have a plan prepared (for the conservation commission) which in fact was not prepared in time for the 4/28/88 meeting nor was it ready for this evenings meeting.

Celtic's answer to the ConsCom concern would only be ready by 5/13/88.

END OF DISCUSSION

Spindlewood Chapter 774 needed a response from the planning board to the town administrator. ETM and other members cited disgust with Onallam due to abrasiveness of D'Agostine reps and the attitude that this was punishment to the town for town meeting's not accepting the 96 unit condo plan for this property on Farm St. The members cited problems with Onallams compliance with issues such as miniwarehouses, etc. in this area.

Clerk suggested that they research the records and detail the number of approved condo developments, number of units and cite the fact that developers are voluntarily offering affordable and specials. The town has a bylaw to deal with affordable housing w/o having to deal with the state through it's special permit process which has served the town well in the recent past and continues to do so. ETM instructed the clerk to perform the research, prepare the report and then run it by him for review before signature.

Meeting adjourned 11:45.

Edwqrd T. Moore, Chairman

Glenn E. Gerrior, Vice Chairman

Emile W. Niedzwiadek, Clerk

John P. Murray



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### MINUTES OF MEETING 5/12/88

Meeting opened at 8:08 p.m. Four members present. Anne M. Morse, absent.

Members were poled for executive session. On an EN/JPM motion board entered an executive session. Prior to the Board's conducting exec. session business, Mr. Cibley Bellingham Selectman was invited to attend since it pertained to a letter he had sent every board member.

Break for executive session minutes.

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Meeting re-opened at 8:45

Form A presented by G.R. Brisson, R.L.S. 99 Harpin St., Bellingham

Applicant: Silver Lake Realty, 269 Lake St., Bellingham, MA

Location: Parcel bounded by So. Main St. and Scott Street.  
(former Waldo I. (Joe) Cook Sr. property - pumpkin seed.

6 lots zoned suburban. JPM/GG motion to sign; motion carried unanimously.

81-P Onallam Realty Trust, Terry Maher representing in place of Micchelutti.  
Applicant: Onallam, P.O. Box 87, 1275 Main St., Millis MA 02054

3 Industrial Lots on Agricultural Parcel.

Clerk reminded Chairman that this developer had an Industrial subdivision plan on this lot, had Form A'd the frontage lots once in Industrial zone and once in the Agricultural zone. This parcel was no longer industrial, so to alter the previously signed Form A industrial lots would no longer "freeze" that zone and they now had to conform to Agricultural zone.

Maher was requested to return with the proper plans and information - Clerk retained the application and did not endorse his copy.

Submission: Definitive Plans - Thayer Park Realty Trust, P.O. Box 624, Medway, MA 02053

Judy Lane Estates - being filed in accordance with the preliminary plan previously acted upon by this board including the commercial lots.

### 9:40 CELTIC CONSTRUCTION COMPANY AND THE DILEMMA AT CRESTVIEW COMMONS

First their attorney Victor Baltera, Esq, From firm of Sullivan & Worcester, One P.O. Square, Boston, MA 02109 Telephone 617-338-1945., wanted to discuss "Lakewood" a special permit for 49 condominiums off Lake Street. Atty cited petition for consent necessary from applicant to be voted on by Planning Board requiring 4 out of 5 votes. He admitted that the petition was not in final form.



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### LAKEWOOD - townhouse proposal

ETm stated that until all of the paperwork is in place, that is, the request to re-hear the special permit (petition) and then the completed application for special permit for townhouse development of that site is in place, the board did not want to discuss the issue further and would not entertain a vote or official filing w/o completed paperwork.

**CRESTVIEW COMMONS (formerly definitive 2 lot subdivision entitled "Corlan Heights")**  
located off Chestnut St. on the property formerly owned by Jeannette Larivierre.  
Originally presented to this board for all approvals by Kenneth Lane (former assistant building inspector and was at the time of this proposal) and Tom Cordell of Medway, under Tomken Associates for the definitive plan and then under Oakview Realty Trust for the townhouse proposal.

The detention/retention facility at this site failed miserably twice and significant erosion was caused to abutting properties as well as run off into the wetlands.

ETM told the atty. that this had been a problem since early March.

Lord Esq. representing ROL Realty Trust (Joe Menfi) stated that Lots 14 and 15 in Pheasant Hill subdivision sustained the damage. On 3/10/88 Lord sent a letter re the retention pond breaching.

During an informal conversation at one of the Planning Board meetings, Mr. Racicot verbally assured the board and Lord that his equipment would be "in there by the week-end to correct the situation." 3/24/88 Lord issued another letter.  
The condition had worsened. During the night, the condo cellar holes had been pumped out and the runoff flowed over lots 13 and 15 in Pheasant Hill. The problem- those lots were newly seeded and the catch basin completely filled with silt. No apologies were ever offered to the Menfi abutters and they (abutters, Menfi, and Lord) requested that the pumping stop - workers would not comply.

After 3/24/88, Celtic dumped stone and gravel in the retention pond and installed haybales. Detention pond filled to capacity and was constantly running. 4/8/88 heavy rains came once again and the pond breached for the second time. This caused damage to Lot 14 with gouges in the property due to erosion.

Mr. Menfi was reported to have called Mr. Racicot who promised to repair the damage. Lord cited there seemed to be no attempt by developer to rectify the problems caused, the facility is not a retention pond. It's improperly designed. He requested a stop work order be issued against Celtic for this site - it was in line. A failure such as this one (twice) requires an in depth study of that retention pond and the repairs which must follow.

At a meeting with his client Rol Realty and Tom Cordell and Ken Lane, a fence was to be installed between this project and the residential subdivision of high priced single family homes.

Lord challenged: under the Bellingham zoning bylaws, Special Permits are not transferrable. The Owners of record (Cordell and Lane) refused to accept their copy of the stop work order issued to the town inspector by the planning board.



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### CRESTVIEW COMMONS - detention facility

Lord demanded that "all parties come clean with who actually owns this property before they proceed further."

Atty replied it was his understanding that the Racicot brothers were trustees of "Oakview Realty Trust"

EN: They were notified.

ETM cited that Celtic was back to work and not on the problem.

ED Stone, registered land surveyor (with a civil engineering background from Northeastern)  
Scott Steimetz - Celtic Engineering Division (not registered)  
Tim Sullivan (v.p. and Public Relations man)  
Dave Lindley from Celtic  
cast of characters present in addition to legal counsel.

ATTY: was upset about the retention facility but stated "we believe the problems resulting are not caused by my clients' project."

ETM: the front yard may not be, the the back yards definitely are a direct result of your project.

ETM cited that through telephone conversations, Ken and Russ Racicot were expected to appear before this board on 4/28/88 to discuss the problem and a solution.

Lord: Damage to Lot 15 due to pumping out the cellar holes.

ATTY: my understanding is that Millis Engineering has merged. (They originally designed the plans.) Special permit was issued to Oakview Realty Trust.

ETM: You were expected to come in on 4/28/88 and address the issues. That was a word of mouth appointment.

Atty: WAIT! They're addressing the problem. They had a plan prepared for the Conservation Commission to present to their board the second week of May.

ETM: I don't buy this. It's a plan for the Conservation Commission - not addressing the failure as the planning board requested. I don't buy this. A company this big can't be this confused and not know what they are supposed to do. Phil's advice to this board was that this problem will probably happend again.





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### CRESTVIEW COMMONS \_ DETENTION FAILURE

The "engineer" for the firm, Ed Stone introduced himself. Board questioned his credentials knowing full well than only civil engineers design and repair detention/retention facilities.

Ed Stone, R.L.S. 88 Debs Hill Road, Yarmouth, MA. and Bill Lieberman, P.E. Timberland Drive, West Barnstable, MA. Lieberman will be in charge of reviewing and stamping the final design/repair.

RLS: Erosion on Lot #14 was not caused by Celtic - disagreed with Lord, Esq. We were actually there and actually found it was coming from the roof drains due to the pitch of the lot. On 5/5/88 he conducted a field review and also on Tues or Wed of this week. He found nothing contributing to erosion on Lot 14. That house has a summit point limited to that lot and contributing to the problem of the summit is the roof drain and downspouts. He cited that the roof drainage continued to the DEQE/wetlands near the site. The steep grading and ill-compacted soil on the lot - he guessed at 2" of topsoil as opposed to the 4" required.

GG: All that fill was basically sand. Water does come from the roof drains and contribute to erosion.

RLS: Front portion of lot #14 not properly compacted. On Lot 11 tremendous amount of siltation violation of wetlands protection act. Erosion on lots 13 and 14 also emanated from summit.

Lord: you haven't answered question - what about your problem, why did the water come down from your site.

RLS evaded the issued by calling attention to summit on Lot #14, the gutters and natural drainage swale between lots.

ETM: Are you saying they did not pump those cellar holes?

Stein: An unauthorized person pumped them during the night.

ETM: broke into sarcastic laughter "I LOVE IT". Did they steal your hats and uniforms too?

Lord: Was that person employed by You?

Never answered the question.

Lord: If the fact that I am angry irritates you, then so be it. The problems Celtic have caused this town and the neighbors. . .

RLS: Conducted observation holes. Groundwater found at 7,8,9, 10 ft. depths.above the present pond.

ETM in other words, when you dug the detention pond you hit water.



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### CRESTVIEW COMMONS - DETENTION POND FAILURE

RLS stated that the pond is now functioning as it should "in a rudimentary way." It has stabilized and w/o channels and pipes the water is going to the right place.

ETM came back with, but it's letting it out of the site (off the top) and not underground and that is now allowed by law.

RLS I have not physically seen any drainage calculations.

Clerk asked for permission to go to old town hall to retrieve the records with the calcs contained within to provide copy to RLS.

Nancy Power owner of Lot 14. She came to the meeting to see who was going to do the work to her lot, Menfi or Celtic.  
Who repairs the driveway?

GG: Have Menfi take a hard look at the lot and the driveway.

ETM: I agree that the lawn is Mr. Menfi's problem (due to pitch and compaction).  
I believe the washout to the left of the driveway is a Celtic problem. The front lawn is his to repair.

Lord summarized: nobody has provided proof of ownership. Owners of record refused the letter. Retention facility is not working. The calcs (copies) have been submitted. We'll (Menfi) will repair the front lawn on lot 14. Lots 13 and 15 are another matter.

ETM: Do you care to comment on the "buried stumps" at the Celtic Detention pond site? (to the Celtic Reps).  
Answer: No comment.

RLS: we dug 3 testholes yesterday.

ETM: This board wants to know who owns this property, in writing. To date you have no plans to correct the facility prepared, you have not prepared a study as to why it failed and the only plans your firm did prepare were the ones for the Conservation Commission which was a different situation from this board's complaint.

Celtic affirmed that information.

EN moved to re-affirm and issue a stop work order against this project until they find out what is wrong with the retention/detention basin due to the "confusion" - Celtic people must come in and prove what went wrong and way to correct from ever happening again. GG seconded the motion. Motion carried by unanimous vote of 4.

Lord: Can't issue a stop work order (planning board directly) but Lord stated a suspension of the special permit was within the board's jurisdiction.



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### CRESTVIEW COMMONS - DETENTION POND FAILURE

ETM: Restated that this board issued two letters to stop work at this site through the building inspector. They wanted a completed cease and desist. Meanwhile, Celtic appeals the stop work order on state stationery which means they are allowed to work while appeal is being processed.

Cibley: Questioned what protection the town has? It has been reconfirmed there was a stop work order on this property and if you continue to work you do so at your own risk which may involve substantial financial penalties of up to \$1,000 a day.

Celtic didn't seem to mind at all.

Stein: April 7, 1988 letter from Planning Board, members said they did not respond.

Sullivan: your agent, Moe Gregory

ETM corrected that and stated that Moe was the Selectmen's agent.

Sullivan: . . .hand carried the letter to us. We were under the impression we had to go to the Conservation Commission to answer the issues.

ETM: rebutted, with Planning Board issues??

Lord: They only had an answer prepared for the conservation commission and not the planning board. Those plans were to be delivered to the ConsCom on 5/13/88.

### SPINDLEWOOD CHAPTER 774 - comments due from the Planning Board to selectmen.

ETM cited that the parcel had been rezoned to Ag for residential use. At the same town meeting the residents overwhelmingly denied a concept plan for 96 townhouses on that site.

On March 24, 1988, the developers attorney from Davis, Malm and D'Augustine (zoning specialists) appeared before this board and arrogently stated "he did not want to talk about what town meeting wanted"....challenged the validity of town meeting that voted on the concept plan, and when EN remarked that Bellingham was being penalized for that vote by double the number of condominiums, the atty. did not dispute it. In view of the facts that Bellingham has approved many condo projects since 1984, with developers voluntarily offering affordable units and the fact that Bellingham has a superior plan on books now for affordable single family homes at Scott Hill Acres, it was EN/JPM motion not to recommend approval of Spindlewood. The unanimous feeling of the board was that this developer was dictatorial, perhaps even vindictive. Members instructed clerk to prepare the correspondence.



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Meeting adjourned at 12:00 midnight.

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Edward T. Moore, Chairman

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Glenn E. Gerrior, Vice-Chairman

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Emile W. Niedzwiadek

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John P. Murray