



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

EDWARD T. MOORE, CHAIRMAN
GLENN E. GERRIOR, VICE CHAIRMAN
EMILE W. NIEDZWIADK
ANNE M. MORSE
JOHN P. MURRAY

MINUTES OF REGULAR MEETING

December 8, 1988

Meeting was called to order at 8:00 p.m. Chairman Moore, Vice Chairman Gerrior and Mr. Niedzwiadek were present. Members Murray and Morse came in at 8:30 p.m.

Submissions:

Silver Heights Development

Marc Engel is before Board relative to a Bond in the amount of \$365,682.75 which was accepted by Board on October 13, 1988. The copy was executed at the time of the meeting but they did not request a release of the covenant. They are here to request the release.

EN makes a motion to sign lot releases. GG seconds motion. Unanimous vote of 3 members.

M. Engel states the definitive plan is 4 lots.

EM states the Board is dealing with 4 lots. He questions if the Town Clerk needs a copy of the release.

M. Engel states it is not necessary.

Bellwood Condominiums

EM reads letter from P. Herr relative to the revised drawings presented for Bellwood Condominiums, Phase II. P. Herr indicates he has checked the final request. The drainage calculations of 12" and 24" represent the correct rates. The outlet inlet was raised a foot. EM explains the plan must be presented to the Board and stamped when changes have been made.

Dave McGreedy, Bellwood Condominiums presents plan to Board. Clerk is instructed to date stamp all pages of the plan.

EM advises Mr. McGreedy to bring the plan to the Building Inspector for his approval and stamp.



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Pine Meadow Homes

EM reads a letter from the Town Clerk, dated December 6, 1988 which states that 20 days have elapsed since the subdivision was approved and no appeal has been filed. EM requests a motion to sign the subdivision plans for Pine Meadow Homes on Pine Street.

GG makes a motion to sign. EN seconds motion. Unanimous vote of 3.

Attorney Bruce Lord for Pine Meadow Homes will have the definitive subdivision plans copied and will send 2 copies back to the Planning Board. One will be forwarded to the Town Assessor and the other will be kept in the Planning Board's file.

Silver Lake Realty

EM reads letter from Attorney Lord dated December 7, 1988 requesting a withdrawal of the special permit application for Silver Lake Realty on Pulaski Blvd.

GG makes motion allowing withdrawal of the special permit application.

JM seconds motion. Unanimous vote of 4.

EM questions if the special permit application is on file with the Town Clerk.

Mr. Lord indicates it is.

EM instructs Clerk to send a copy of Mr. Lord's letter to the Town Clerk indicating that the Board is allowing the withdrawal without prejudice. The original letter should be placed in the file.

Bills

Members review and sign bills submitted from The Woonsocket Call and Crowley Office Supply.

Correspondence

Members review letters to the Building Inspector relative to site plan recommendations. Clerk is instructed to reference all revision dates for site plans in the letters.

Nuisal Estates

EM reads a letter from Attorney Lord requesting a continuance on the



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hearing scheduled for this evening to January 12, 1989 at 8:00 p.m. The continuance is requested since they are submitting the plan to Franklin first and will present it to the Board after it has been to Franklin. EN makes a motion to continue the hearing. GG seconds motion. Unanimous vote of 5.

Co-generation - Northeast Energy Associates

EM opens hearing. Clerk reads Notice of Public Hearing. EM reads December 2, 1988 letter from Ed Wirtanen, Board of Health wherein he indicated that the definitive subdivision was approved at their meeting of November 7, 1988. EM also reads December 6, 1988 letter from Walter Lewinski, 63 Depot Street, Bellingham, MA which was written to the Board of Selectmen. In his letter, Mr. Lewinski expressed his concerns relative to the drinking water if hazardous materials seep into the ground, the safety of residents along Depot Street where he would like to see truck traffic restricted from North Main Street to Riverbrook Road, noise pollution at night disturbing the residents as well as restricting train traffic to run from 6:00 a.m. and 9:00 p.m.

JM questions how late the trains run.

W. Lewinski indicates the freight train runs to 3:00 a.m. The station is working out of Franklin so the trains come through at any time.

EM questions if the Selectmen have responded to Mr. Lewinski's letter yet.

W. Lewinski indicates they have not. He questions who will be liable if anyone gets hurt because the plant will not have sidewalks on the side of the road.

EM states whoever hits another person will be liable.

W. Lewinski would like his letter included in the minutes of the meeting.

James Patton, resident, indicates he would like the Board to keep the residents in the area in mind before making a decision. They would like something in writing from Northeast Energy Associates indicating their interest will be protected as well as the fair market value of their property. He does not feel it is much to ask since the applicant is giving the Town \$1 million. He would like the Board to protect their interests as tax payers and give them protection for their property and house.

EM does not know if the Board has the right or the power to force the applicant to give them protection for their properties.



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Douglas Egan, Northeast Energy Associates, will speak on Mr. Roy's behalf relative to this matter. With respect to the 5 residents on Rose Avenue whose property abutts against the property of the plant, Mr. Roy made an offer to get an appraiser and come to an agreement with the residents. The offer is limited to those 5 residents.

EM explains the residents do not want applicants to buy their house. Instead, they want to protect the value of their homes in the future.

D. Egan does not think the applicants can agree to that since there are a number of things which affect property values.

EM would like to get a guarantee if possible but does not know how.

J. Patton indicates he is a tax payer in town. He does not like people coming in and pushing residents around. Residents can not compete with a \$1 million bribe. He would like a guarantee in writing.

EM would be glad to accept a guarantee if the applicant is willing to offer one. The Planning Board can only make sure the applicants comply with the town's rules and regulations.

AM states the Board has limitations.

J. Patton indicates he would like to obtain legal advice prior to the hearing.

EM explains the Board must proceed with the hearing since it was advertised.

J. Patton requests a postponement until he gets legal advice.

EM explains the Board has time to make a decision. The Board is hearing the subdivision now. The rules which the Board must follow are written by the state, i.e. anyone who applies to the Planning Board must advertise their notice and hold a hearing. The Board has so many days to make a decision. If they do not act, it is automatically approved. The Board can only force a developer to do what is in the bylaws. The Board can not get a postponement now.

GG advises Mr. Patton that Town Counsel could answer his questions. GG further explains Mr. Patton does not want to leave his property. He only wants to make sure he will get the fair market value for his property if he decides to sell it in 10 years.

J. Patton indicates that is correct.



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EM states the applicants may be willing to give residents something in writing as a good will gesture. The Planning Board's rules are the same for everyone, no matter what size the project is.

Linda Aaronson, abutter, states they are being forced to make a major decision. She feels the market value of their property will go down because the plant will be behind them and they will loose 5 percent. She does not believe the market value of the 5 abutters homes will go up.

D. Egan questions if the residents want an estimate of the fair market value of their property today and have the applicants hold the offer indefinitely.

L. Aaronson states that is not what they want. They would like to take 6 equivalent homes and compare their values.

AM states this discussion has nothing to do with the hearings tonight.

EM explains the Board would like to hear the presentation first since the applicants payed for the hearing. Residents will have time after the presentation to discuss this.

AM indicates the discussion should be outside of the meeting.

D. Egan indicates he does not believe this issue will be resolved this evening since it is a brand new proposal.

GG states he would not want to own a house near the plant. He would not want to be Mr. Patton and feel he has to leave his house. He feels applicants should guarantee prices for the abutters.

EM explains the Board is dealing with subdivision tonight as well as two special permits which are pending. The Planning Board can not put conditions on the subdivision but they can put conditions on the special permits.

EN states they can write in into the minutes of the meeting if they agree.

EM will speak to Town Counsel to find out if it is legal and possible to do that.

Attorney Robert Mack, Hale and Dorr, will make the presentation. He states this is a question which should be agreed to outside of the decision process of the Board. It should be agreed to between the two parties on terms which are agreeable to both of them.



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EM states the Board would like to know if an agreement is worked out so it can be incorporated into the minutes and decision.

R. Mack states Mr. Roy will weigh the proposal and consider a response. Right now they can stand by Mr. Roy's earlier commitments. They can not respond in his absence tonight.

EM would like to get on with the hearing. It is cheaper for the applicants to guarantee to buy the abutters homes than to buy them.

R. Mack states he is not in a position to bargain tonight. They will report to Mr. Roy and he will respond to the proposal.

Subdivision

R. Mack points out the portion of the development with the co-generation plant which is relevant to the special permit. He explains the key plan shows the overall vicinity. The blue outlines the overall site dealing with the property. The subdivision calls for a new subdivision roadway which is outlined in yellow. It permits the creation of two lots: lot 2 is pink and lot 1 is blue. He indicates they filed a modified plan with respect to the modifications requested by the Planning Board and the Conservation Commission. They are here to request approval of the modified plan which was filed on December 1, 1988. There are two respects to the plan which they are requesting waivers for. Since it is an industrial area there are no lot numbers in. They request a waiver of the requirement. Also, since it is a collector street, a cul-de-sac could be requested at the end of the street. However, because of the configuration of the driveways, they believe there is ample driveway space to turn around in. They request the Board approve the roadway on the plan.

EM requests Mr. Mack clarify they are not building houses. He explains that one big lot is being subdivided into two lots. There is no proposed housing.

R. Mack explains the term subdivision is used because of the division between the industrial lot and end lot where the plant will be located. They may divide the lot at some time.

JM questions if there are sidewalks on the roadway.

R. Mack states it does not call for sidewalks since it is industrial.

EM states they may need one for Rose Avenue. He questions if it is a public way.



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R. Mack indicates it is.

D. Egan states it is a lead path.

EM questions if it reaches the lot line.

D. Egan states it does not reach the lot line and there is no access.

EM questions how they can guarantee it will not be used at a later date.

R. Mack states the best assurance is the residential zone gap and the zoning district boundary.

EM states there is a buffer gap there. He has a question about not having sidewalks.

D. Egan explains that it is in no one's interest to have a sidewalk. They would not want to encourage anyone to walk up the drive since it is industrial.

AM questions the frontage on lot 1.

R. Mack indicates that lot 1 has plenty of frontage. Lot 2 does not have the frontage. Sidewalks represent the difference between an industrial subdivision and a residential subdivision.

EM questions the drainage.

R. Mack states it flows directly off the road.

D. Egan indicates they have a catch basin. Eighty percent of the drainage for the entire lot will be caught in a drainage basin. The drainage goes down the driveway into a catch basin and then directly into the Charles River where it currently goes now.

EM questions if there will be any kind of settlement.

D. Egan states there will be oil and water in the catch basin.

EM questions where the swale will be increasing.

D. Egan states it is the same drainage going down the same swales.

R. Mack states there will be some increase but the patterns flow the same.

EM reads P. Herr's letter, dated December 5, 1988 relative to his



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recommendation of approval of the plan with the following conditions and waivers: waive indication of street numbers; waive requirement that the street be designed to collector street width of layout and paving, waive requirement that the street not be dead-ended, waive requirement for a turnaround; unless contrary evidence is supplied at the hearing, require that a settling basin be provided on the property of the applicant, subject to a drainage easement, with design and details to be approved by the Conservation Commission prior to endorsement of the definitive plan; unless contrary evidence is supplied at the hearing, require that peak flows into the Depot Street swale be reduced to result in water velocities not exceeding 5 feet per second in the design year storm; and the usual requirements for security must be met prior to endorsement of approval.

R. Mack states he will address P. Herr's point relative to increased run-off. The bulk of the run-off is going down a slope, into the Charles. The bulk is captured and directed in a new detention sedimentation pond. The only run-off will be through the out-flow. As for the issue of pollution, they will have oil traps in each catch basin. The oil traps are designed to capture oil in the road. They will be cleaned periodically to prevent the oil from going into the swale. All the run-off plans have been reviewed by the Conservation Commission with respect to the impact on water quality. The Conservation Commission found no adverse impact on the Charles River or the wetlands. They have met all concerns relative to the wetlands.

EM questions if only two catch basins will go into the swale.

R. Mack states there are actually three catch basins.

EM questions what happens if it follows up.

R. Mack states there will be surface flow from the surface of the roadway. Water collected from the surface is taken into the drainage system.

EM points out the high point is 250.

R. Mack explains the arrows on the plan show the surface flow on the roadway.

EM explains they are collecting water and diverting it through the swale. P. Herr does not know if the swale can handle the collective run-off. It is pervious now and goes right into the ground.

R. Mack explains they provided the drainage analysis relative to the entire site. They did not see P. Herr's letter and have not had an opportunity to respond to his concerns.



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EM goes over the 6 suggestions in P. Herr's letter of December 5, 1988.

D. Egan points out the drainage basin is along Depot Street between the driveway and Depot Street.

EM states that P. Herr indicates the drainage basin should be on applicant's property so they can maintain it instead of the town being responsible.

D. Egan states it would be nearer to the wetlands if it was moved. The Conservation Commission would be concerned about that.

EM states the Conservation Commission may not feel it is necessary, but P. Herr feels it is.

R. Mack indicates they will go back to the engineers and request they reanalyze the plan relative to P. Herr's points. They thought they had presented sufficient data.

EM questions when they went before the Conservation Commission.

D. Egan states it was 2 to 3 months ago.

EM questions if the plan has been revised since then.

D. Egan indicates they have not really revised that area. The settlement basin can't be much to change.

EM states it does not have to be big, but it does have to be a trap collect settlement.

D. Egan states they will accept the condition for a settlement basin. They will tell their engineers to make it work. He questions how the Board will determine the engineers have complied with their requests, if they make the modifications a condition to approval.

EM explains the engineers will come up with calculations which they will present to the consultant for a judgment. If it is a big decision, they will obtain a second opinion. It is the Board's policy to have second opinions paid for by the applicant. He does not feel the changes will be a big thing, however, since they are only talking about a settlement basin.

EM questions if the changes have been approved by the Conservation Commission.



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R. Mack suggest the Board make the changes a condition to approval. He suggests they give the engineers an opportunity to respond to P. Herr's letter. If it can not be corrected they will redesign it. The engineers had thought the plan would be acceptable.

EM questions if the road being subdivided would require security.

D. Egan indicates that is their intention since they have a guard house.

EM asks for questions from the audience.

W. Lewinski, Depot Street, questions which lot the road will belong to.

EM states in most instances the road becomes the town's. EM questions who will maintain the road.

R. Mack indicates it will be a private road owned by the owner of the overall development. The lots are also in the same ownership. If they are separated, the road will be owned by the owner of lot 1 which is the larger lot.

EM states the road will be privately owned and maintained but will be built to the town's specifications.

R. Mack indicates that is correct.

W. Lewinski questions what access will be on the road if it is owned by the owner of lot 2.

EM states that is a legal matter. If the lots were sold, they would have to obtain an easement.

W. Lewinski would still like the Conservation Commission to review the plans.

EM states the Board's consultant also suggests the Conservation Commission review it. If the Board acts, the decision will be subject to the Commission's review. It would be reviewed as a preliminary plan, not a definitive plan.

D. Egan states they approved a delineation of the wetlands.

R. Mack states the work will affect the wetlands.

EM indicates the Conservation Commission is concerned about detention so they should be made aware.



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J. Patton, Rose Avenue, questions if the retention pond is the same as the pond by the dump.

EM states there is a difference between a retention and detention pond. This pond is a detention pond.

J. Patton questions if it will be the same as the one on Maple Street which overflows.

EM is not sure if that one is detention or retention.

J. Patton questions where the wetlands are.

GG indicates the road and lots stand on their own. The subdivision plan is confusing the way it was drawn with lot 1 boundary running around lot 2.

R. Mack explains lot 1 is everything in blue except the roadway and lot 2. The blue shows the whole property.

EM questions where lot 2 frontage is.

R. Mack points out the frontage for lot 2 is on the private road.

EM indicates that right now it is not a private road. If they petition at a town meeting it could become a private road, but right now the Board must look at the subdivision with a town road.

GG indicates the street must conform to the town's requirements.

EN states they could have conditions if the subdivision is approved.

EM states the condition could be between the owners of lots 1 and 2 over who plows the roadway.

EN states he was talking about the water issue.

EM indicates they will have swale and run-off.

JM makes a motion to close the public hearing regarding the subdivision. AM seconds motion. Unanimous vote to close the hearing.

W. Lewinski questions if the special permits regarding reduced parking will be heard tonight.

EM indicates it will be heard.



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J. Patton request that no decision be made tonight.

EM gives applicants copy of P. Herr's letter of December 5, 1988. The applicants must convince the Board relative to the issues raised by P. Herr in his letter. The Planning Board would like the applicants to go before the Conservation Commission for their opinion whether or not changes are made.

EM states the 2 special permits dealing with reduced parking and imperviousness deal with subdivision approval.

D. Egan indicates the two permits have been discussed fully. The Board put the decision off until the subdivision was presented.

EM questions if members are ready to act on the subdivision.

R. Mack indicates they will accept a decision with P. Herr's conditions.

GG requests a 5 minute recess.

EN makes a motion to approve the subdivision with the 6 conditions and waivers outlined in P. Herr's letter of December 5, 1988. Motion seconded by AM. Unanimous approval of 2 lot subdivisions.

R. Mack suggests the condition be as stated or to the satisfaction of P. Herr and the Conservation Commission.

EN adds a requirement for security on the road to his motion.

R. Mack indicates they may end up coming back before the Board with a finished plan which may be a little different. He questions if it would be alright if the plan was somewhat different but still satisfied the Planning Board, P. Herr and the Conservation Commission. They are accepting the conditions, but would like to be given the opportunity to discuss the points raised with P. Herr.

EM indicates the motion was made, seconded and approved unanimously. He explains that there is a 20 day appeal period for the applicants or anyone against the proposal.

Special Permits for Reduced Parking and 30% Impervious Surface

EM states the subdivision is approved since it meets the Planning Board rules and regulations. He reads a letter from P. Herr, dated December 5, 1988 relative to the special permits. In his letter, P. Herr indicated he feels there is no reason not to approve the special permit



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relative to reduced parking. P. Herr further suggest approval of the special permit relative to a reduction of natural vegetation, but states that a stipulation should be placed on the special permit obliging the applicant to seek an amended permit if the development would increase the area of impervious surface on lot 1 by more than 10% above the amount indicated on the approved site plan. He will draft the decisions relative to the special permits and therefore, requests a copy of the application for the special permit relative to reduced vegetation.

EM states the Board reopens the public hearings relative to the special permits for reduced parking and 30% imperviousness. The special permits meets the Board's regulations according to P. Herr with the conditions as stated in P. Herr's letter relative to a reduction in natural vegetation.

JM moves to close the hearing.

EM requests questions from the floor prior to closing the hearing.

AM seconds motion to close the hearing. Unanimous vote to close.

AM makes a motion to approve the special permit on 30% impervious coverage contingent on P. Herr's comments in his letter relative to the stipulation for reduced vegetation.

GG seconds the motion. Unanimous vote to approve.

EM states P. Herr feels the applicants have met the Planning Board's requirements relative to reduced parking since they added the additional parking spaces which the Board requested.

GG makes a motion to close the hearing on reduced parking. JM seconds motion. Unanimous vote to close the hearing.

JM makes a motion to approve the special permit relative to reduced parking. GG seconds motion. Unanimous vote to approve.

GG states that D. Egan should make Mr. Roy aware of the concerns raised by the 5 residents abutting the applicant's property.

D. Egan states he understands the concerns are legitimate concerns. He will speak with Mr. Roy.

AM would like him to let the Board know what happens.

GG explains the residents do not want to move. They are afraid if they do not sell, they will be stuck with a white elephant.



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D. Egan will see Mr. Roy tomorrow and will discuss the concerns raised with him.

EM requests the applicants let the Board know what happens relative to this issue when they return to have the plan signed after the 20 day appeal period has passed.


EM explains to the audience that the number of parking spaces is usually determined by the building size, but this building does not need that many spaces. The land which would have been used for parking is being left as natural vegetation.

GG states the building is a single use building.

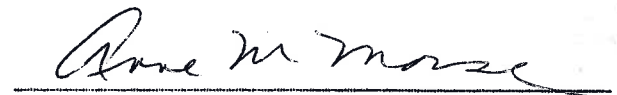
Board members review correspondence.

Meeting adjourned at 11:00 p.m.


Edward T. Moore, Chairman


Glenn E. Gerrior, Vice-Chairman


Emile W. Niedzwiedek


Anne M. Morse


John P. Murray