



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

EXECUTIVE SESSION MINUTES

4/28/88

Involving Litigation "Shores at Silver Lake"

L.G. Ambler Esq. gave the presentation. Regarding Fafard vs. Planning Board special permit for townhouses case.

Mr Fafard contacted Lee G. to settle this matter. Atty. Garrity had no objections. Once receiving a proposal, deals with the subdivision that belongs to Mr. Hood also. Atty. Ambler made it perfectly clear that although he has represented Mr. Hood as a personal client in the past, he does not represent Mr. Hood at this time, nor would he represent Mr. Hood in the future regarding this matter.

The "new" proposal was reviewed in capsule form. The revised plans showed two (2) connections to South Main Street. The revised plan shows traffic exiting through Silver Lake Rd to Cross St. and the creation of a residential subdivision of between 30 to 40 single family residences. Lakeview Estates (Mr. Hood's proposal) could support between 15 to 20 single family residences.

The revised plan shows "shaded areas" as 81-P lots.

ETM noted that the 81-P lots must be included in the numbers when calculating for condos.

The Planning Board's major and original objection was the "traffic" going to and from the center of town.

Originally 450 condos were proposed along with 200 from Hood's proposal. Now the units being proposed at the Shores of Silver Lake are 350 and 100 units at Lakeview, in addition to 35 to 40 single family homes. There are approximately 15 house lots around the perimeter of the property in addition to the 35 to 40 single family homes.

Total number of housing units altogether figures out to be 555.

JPM: "He" wanted to be up front about this thing.

Herr: No - that acreage has been considered for condominium development and thereby included in the computations.

650 original units reduced to 450 with what amounts to 75 single family homes.

The 35 acre subdivision is located off South Main St. Single family homes would be facing other single family homes.

Atty: "He" needs to construct and market something quickly and his proposal is offered in two ways. \$700,000 to construct a road from Blackstone St., \$100,000 by way of benefit. Two options available are:

- 1) A road out to Blackstone St.; or
- 2) Two roads off South Main St.



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ESQ: My objections in deposition were the traffic to and from center of town and that the town wanted some selection of architectural forms - multiple.

ETM: Interjected that various price ranges and styling should be varied.

ESQ: stated Fafard was willing to submit multiple forms of architecture. Fafard also had a difficulty with the build-out rates imposed. \$700-800M worth of benefits to town on a forth-with basis he must be provided a more generous build-out rate. There are also two proposals for development rate. (SEE LINKAGE PROPOSAL ATTACHED HERewith WHICH INCLUDES PHASING ALSO).

None of these proposals are set in concrete. The numbers must be reasonably firm. Rather than spend \$25,000 for Silver Lake - it should be spent on the school or fire department was a comment from a board member.

In discussing the linkage proposal by Fafard, he stated in the second year he would provide a 40 ft. right of way but not include sidewalks.

GG stated sidewalks would be a good idea.

Herr: Sees no linkage between Shores at Silver Lake and Lakeview Estates and commitments to the town. On its face, what we are doing here is worse.

Esq: Stated that if you isolate the two issues, you will not get a resolve to the problem. Suggested that the monies be restricted to just Silver Lake such as I am willing to give them 1/4M and get this, this, and this.

Herr: Views the whole proposal as "extortion" or gentile bribery on behalf of the town. Lakeview is a two (2) lot subdivision. The town is asking for contributions?

ETM: You might as well throw away the "build-out" rate; at least Fafard is coming out and saying that "this is mine too." (Meaning Lakeview Estates supposedly Wm.H. Hood) and Shores at Silver Lake doesn't even connect to the "new and wonderful road" out to Blackstone St.

JPM: The map that the school committee had showed the road connecting the two condo projects.

ETM: He is coming up with practically the same numbers. He's maximizing - telling us to relax the build-out rate to accomodate him and the "resolution road" doesn't even connect with the litigated property.

EN: Silver Lake Rd. is not a constructed road.



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ETM: Police station renovations would take place in the 2nd and 3rd year.

Esq. Maximum of the "in kind" benefits to the town would be paid over a 5 year period.

Herr: Procedurely, what exactly are we looking for?

ESQ: Options are these: reject out of hand, room for a counter proposal. I don't think you'll recommend that they cross wetlands.

ETM: This proposal isn't what "we want to hear."

Herr: The multifamily pulled homes and traffic away from South Main Street. The single family homes should be eliminated altogether from the plan and South Main St. in lieu of the "goodies" which were offered to the Town.

ETM: What if he gave up the 81-P's and added to the condos?

Amended 8/4/88: AM asked JPM "who empowered you?"

JPM: I was empowered by other town officials. He named Larry Cibley and Tony Mazzola - both members of the Board of Selectmen. He stated the purpose was to "see what could be done." \$100,000 (in fields), \$300,000 (labor for fire and police facilities) and \$800,000 worth of road to Blackstone St.

The original figures to the School Committee were \$500,000. Fire and Police figured in at 100,000 and 300,000. Dick Boucher, Chief of Police, was aware of the behind the scenes negotiations and he was with Tony Mazzola and JPM when the police station figures were decided upon. The Conservation Commission contribution was thrown in at the last minute due to publicity over a newspaper article.

ETM stated it was about time the town buy Silver Lake. He stated "aren't we selling the town this way?" 650 units aren't in court, 450 are. My problem was Fafard pressured to come up with \$800,000 in favor of 400.

ESQ: Original proposal was 1.3 Million for \$450 units. That is why he came to me with a combined proposal.

Herr: Confirmed that 350 units would be sufficient at Shores of Silver Lake. As it stands, there are only 45 fewer units at Shores of Silver Lake. If this goes to trial, the town is much better off with 450 condos than either of these counter proposals.

JPM suggested for clarification - 350 units on this piece of land "with no money."

ETM: Town would have to have control over the architectural styles.

Herr: This is no bargain with the inclusion of the single family homes.



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ETM: The road benefits "Lakeview Estates." Monetary benefits are to the athletic fields when departure from ethical grounds it is very troublesome for me, that is running other funds outside of town meeting like the Fire and police.

Herr: I'm not comfortable with the town "trading".

ESQ: suggested the Planning Board counter with 350 townhouse units, a road in from Blackstone St. that connects through to Shores at Silver Lake with the Planning Board maintaining control over various architectural designs and pricing features.

Herr: Would like to spend some time on the issue and advise the attorney after he runs the numbers.

ESQ: This is executive situation - you (the board, clerk and consultant) cannot discuss this plan.

ETM: Unless the proposed road becomes a through street to Shores at Silver Lake, . . .

Anne Morse asked town counsel through the chair if it was legal for two selectmen (referring to Cibley and Mazzola) to "empower" a member of the Planning Board to negotiate the the case (Fafard vs. Town of Bellingham Planning Board) is still in court?

ESQ: Replied that he would not be placed in a position to comment on the two selectmen for which he works are doing anything "illegal".

JPM: "I, as John Q. Citizen". . .

ETM: Questioned was it proper to have these negotiations while we were being sued?

Morse to Murray, what was the answer to that question. Was it in Attorney Ambler's office or not?

JPM responded with "it's none of your business asshole!"

Attorney Ambler suggested that Mrs. Morse put her inquiries in writing to his office.

Herr: Do you have a sense of how good the case is against the denial of this plan?

ESQ: Everyone did a sensational job - rather specific with regard to traffic impacts in the center of town. It is general knowledge that some firm has done a very detailed traffic study around town. Esq.'s suggestion was that the town had better include a traffic study in the bargain or Fafard would get his 450 units - homespun philosophies don't hold up in court.



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ETM: In no way do these proposals change the traffic flow from the original plans.

Esq. Fafard suggested "one-way" street construction to force traffic flow.

Herr: Don't want to go to the mat with us on this one because they want to do business in other areas in town.

ETM: We're willing to negotiate.

REgarding Empire Circle:

The subdivision doesn't die after 7 years - only if the zoning changes.

Herr: Could they say we want an informational hearing? Yes but not the regular public hearing involved with application of definitive plan.

On a GG/AM motion the Board unanimously returned to regular session.

Edward T. Moore, Chairman

ETM:bal