BELLINGHAM PLANNING BOARD

P.O. BOX 43
BELLINGHAM, MASSACHUSETTS 02019

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ANNE M. MORSE
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MINUTES OF REGULAR MEETING

November 8, 1990

Meeting was called to order at 7:35 p.m. All members were present.

ELM ESTATES
PERFORMANCE BOND DISCUSSION

GG explains that the Building Inspector will not issue a building permit to Roger Gagnon of Elm Estates. There are back taxes relative to the development as well. P. Herr said that it was wrong not to issue the building permits. The Building Inspector said that without the security of the road, he does not have to issue a building permit. P. Herr explained that Blackstone and Franklin are using a per lot escrow to get the work completed. They could take two-thirds of the development. If the town does not give the developer a building permit, he is sure to go under.

B. Lord states that the criteria should be made on an individual basis. Some lots in developments are more buildable than others. No one wants to be left with 3 nonbuildable lots. The Board will have to make some sort of evaluation.

Roger Gagnon, Elm Estates, presents a letter from the FDIC.

GG reads letter from Michael Grinnell, Liquidation Assistant, FDIC, dated November 8, 1990, wherein it is stated that the FDIC has approved providing an escrow account in the amount of $35,000 for the purpose of ensuring the completion of Elm Estates. They are in the process of having the documentation drafted by an attorney and will contact the Board when it is ready for signature.

EM states that there is no bankbook yet. The account has not been established.

GG points out that Mr. Gagnon still will not get a building permit until he has a passbook in hand. P. Herr feels that the way the Building Inspector is approaching this is wrong. The best way would be

BELLINGHAM PLANNING BOARD
P.O. BOX 43
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to put the money in escrow.

R. Gagnon explains that the FDIC is going to give the entire amount of money at once. He is not looking to release any lots. He just wants to keep going.

B. Lord suggests that the Board ask L. Ambler, Town Counsel, if this letter is binding enough.

R. Gagnon states that the FDIC promised him the bankbook by next week.

GG indicates that J. Emidy said that if he received a letter from the Planning Board stating that it was o'kay, then he would issue a building permit. P. Herr said it is up to the Planning Board to decide about the security, but the Board does not send a letter saying to issue or not issue building permits. P. Herr did state that the Board could send a letter regarding setting up some kind of escrow account.

B. Lord points out that if L. Ambler feels that the town is protected, he can tell J. Emidy that. The question is whether or not he feels it is binding.

EM makes a motion to send a letter to the Building Inspector indicating that a letter from the FDIC was presented by Roger Gagnon stating that they are working to put together an escrow account in the amount of $35,000 for completion of Elm Estates. The letter was forwarded to Town Counsel for his review. If Town Counsel o'kays the escrow account, then building permits may be issued. The Building Inspector should check with Town Counsel to find out what his determination was.

R. Gagnon does not feel that the Building Inspector will give a building permit on that basis. He wants a bankbook.

GG states that part of the problem is that the FDIC will not return L. Ambler's phone calls.

B. Lord believes that the only criteria is whether or not Town Counsel feels comfortable that this will in fact take place.

EN seconds EM's motion to send a letter to the Building Inspector. Vote of 4.

<u>VALLEY VIEW ESTATES</u>
<u>PERFORMANCE BOND DISCUSSION</u>

AM presents letters from Frank Morse, Morse Realty Trust and Gerry

BELLINGHAM PLANNING BOARD
P.O. BOX 43
BELLINGHAM, MASSACHUSETTS 02019

Daigle, Highway Superintendent.

GG reads letter from Frank Morse, Morse Realty Trust, dated November 5, 1990, which states that he is experiencing difficulty with regard to finding an asphalt company that is willing to extend credit for the completion of the subdivision road. The town is currently holding two passbook savings accounts for $20,000 and $10,000. Mr. Morse is requesting that the town use these funds to complete the third phase of the subdivision road with respect to a finish coat of asphalt, sidewalk and berm. Upon completion any surplus funds and accrued interest should be returned to Morse Realty Trust, Frank Morse, Trustee. GG reads letter from Gerry Daigle, Highway Superintendent, dated November 8, 1990, wherein he states that he has investigated the work and the costs of the project being done at Fox Run Road in the Valley View subdivision and finds that there are sufficient funds available to complete the work. In fact, there is an excess amount which should be returned to Morse Realty Trust upon completion of the project. It is his recommendation that the project continues to completion. He indicates that with consideration of the rapid price increases of asphalt it would serve in the best interest of the town to expedite this project as soon as possible.

EN questions the number of house lots in Elm Estates.

R. Gagnon responds there are 13.

GG asks AM what they are requesting.

AM responds they are requesting that the Board send a letter to the Treasurer asking him to release the funds to the Highway Department for completion of the road with a finish coat, sidewalk and berm. They are unable to get credit now or do the work themselves.

EM suggests they work this one like Birch Tree at the last meeting. The developer can obtain credit for the work and the Board will send a letter to the Treasurer to release the money after notification from the Highway Dept. that the work was completed. Wouldn't it be cheaper for the developer to complete the work than the town?

AM indicates that they do not have the manpower to complete the work. Their financial situation is bad. They do want the work to be completed and the money is there to get it done. This is the best solution. This way it will get done before the price goes up any higher and before the winter.

EM makes a motion to send a letter to Town Treasurer asking him to

BELLINGHAM PLANNING BOARD

P.O. BOX 43
BELLINGHAM, MASSACHUSETTS 02019

release the funds for Valley View Estates to the Highway Dept. so the road may be completed. Copies of Mr. Morse's letter, Mr. Daigle's letter and the Planning Board letter should be sent to the Town Treasurer, G. Daigle, Board of Selectmen, Town Counsel.

B. Lord suggests they add that the Board requests the Town Treasurer and Highway Dept. do whatever is necessary to ensure completion of the road.

EM asks if the as-builts, meets and bounds will get done.

AM states that they will do that.

EN seconds EM's motion to send a letter to the Town Treasurer. Vote of 4.

R. Gagnon indicates that he took the FDIC letter which he presented tonight to Town Counsel. L. Ambler said that the Board should vote on the release so he does not have to wait to come back at the next meeting.

GG states that the Board would be willing to send a letter to the Building Inspector indicating that they are willing to take escrow on the property. They could take the total number of house lots and then take 2/3's in escrow.

R. Gagnon states that the FDIC said their attorney would be back on Tuesday. He should get the passbook then. If not, he can have a local attorney draw up the papers.

GG questions when Mr. Gagnon will have the money.

R. Gagnon responds that he should have it next week.

AM feels comfortable with the letter from the FDIC. She feels that they would be liable because of the letter.

GG states that apparently L. Ambler does not feel that way.

B. Lord points out that there is no criteria in the letter indicating that the fund will be established and how.

JM believes that the permits should be issued. Mr. Gagnon is a local builder in town. He wants 2 building permits and has a letter of promise of an escrow account from the FDIC.

BELLINGHAM PLANNING BOARD
P.O. BOX 43
BELLINGHAM, MASSACHUSETTS 02019

GG states that the Board already acted to send a letter to the Building Inspector indicating that if Town Counsel says it is fine, then building permits may be issued.

B. Lord believes that the Board has given the fastest action which could be given.

GG states that using the 2/3s rule, Mr. Gagnon would have to put $4300 in escrow for a building permit for one house lot. Take 2/3s of the amount of the lots which remain. 1/8th of $35,000 = $4375.

R. Gagnon questions why the Board would not be more comfortable with the $35,000 escrow account from the FDIC.

GG responds that they are comfortable with that if it does get done. However, he could get a building permit immediately if he put up the $4375. When the $35,000 becomes available he could get his money back.

R. Gagnon states that he could not convey anything until he got an occupancy permit.

B. Lord believes that the problem is working with the FDIC.

GG states that P. Herr said that Blackstone and Franklin are using the 2/3s escrow approach. It is a workable solution.

EM will bring a copy of the FDIC letter to L. Ambler tomorrow.

B. Lord states that by sending this to L. Ambler, the Board is allowing it to be released in between meetings.

R. Gagnon should have the book by next Tuesday or Thursday.

GG states that the problem will be solved if he will have the bankbook that soon.

JM does not think that the Town Treasurer should get involved in the building permit process. Apparently, he went to the Building Inspector because this developer owes back taxes.

B. Lord states that if the houses are built and the developer does not have the funds to complete the road, the town will have to pay to do the road.

GG points out that the Building Inspector said it was state law which

BELLINGHAM PLANNING BOARD

P.O. BOX 43
BELLINGHAM, MASSACHUSETTS 02019

allows him to hold up the building permits.

SHOPPES AT CITY LIGHTS
SPECIAL PERMIT DECISION SIGNING

EM makes a motion to sign the decision for Shoppes at City Lights. AM seconds motion. Vote of 5 to sign decision.

EM makes a motion to adjourn the meeting at 8:45 p.m. AM seconds. Vote of 5.

Glenn E. Gerrior

Glenn E. Gerrior, Chairman

Edward T. Moore

Edward T. Moore, Vice-Chairman

Emile W. Niedzwiadek

Emile W. Niedzwiadek

Anne M. Morse

Anne M. Morse

John P. Murray

John P. Murray