



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

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

MINUTES OF REGULAR MEETING

December 20, 1990

Meeting was called to order at 7:45 p.m. GG, EM, EN and AM were present.

Board's consultant, Philip B. Herr was also present.

GENERAL

John Emidy, Building Inspector is here with questions about the water filtration plant. He does not know whether or not it requires a site plan. The Town Engineer reviewed the plans. It is on town owned property. He does not believe they have to go through the process.

EM states that this would be in north Bellingham behind Stallbrook School. They did do a site plan on the library. He does not think there is any problem with not doing one on this. How big is the building?

J. Emidy is not sure. He thinks it is about 75,000 feet.

EM indicates there are no setback problems. The town owns all the land around it. They can leave it up to the discretion of the Town Engineer. He questions if the Town Engineer reviewed this.

J. Emidy responds that he did. He is running the whole project.

EM does not think that Development Plan Review is necessary. He makes a motion to leave it to the discretion of the Building Inspector to be reviewed by the Town Engineer.

EN seconds motion. Vote of 4.

J. Emidy states that he denied a building permit for 34 William Way. The developer wanted to put 10 tanks in. He denied it because he did not have a Development Plan Review for the new building.

EM states that if he is disturbing parking, then he needs a Development



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

MINUTES OF REGULAR MEETING

page 2

December 20, 1990

Plan Review.

J. Emidy indicates that was his interpretation as well.

AM points out that he has to come back to show he can compensate for the parking. It sounds like he can compensate because there is a lot of land.

GG asks what happened with the gas company where the developer paved over the easement.

J. Emidy states that in his inspection he found they had cut the parking lot back. They never continued the 44 spaces. It was not striped so he did not know the number of spaces.

EM states that what the Board did approve did not pass inspection.

J. Emidy states they are supposed to have a wall there but it is not in.

AM asks if there is swale over the asphalt.

J. Emidy responds there is.

EM thinks they should wait until P. Herr arrives to continue this discussion.

EMPIRE CIRCLE BOND REDUCTION

Jeff Germagian, trustee, Hyper Realty Trust, Empire Circle is here to request a bond reduction.

GG states that the Town Treasurer wants the Planning Board to send a voucher to the Town Accountant to release the funds for Birch Tree Lane.

W. Arcand indicates that the road for Birch Tree was done. Empire Circle was also done. The Highway Dept. will not make out a voucher.

GG states that the Planning Board sent a letter to the Town Treasurer indicating that the funds for Birch Tree should be released upon notification from the Highway Dept. that the roads were done. The Planning Board does not send vouchers for bond releases.

J. Germagian states that everything on their road is done. He wants to



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

MINUTES OF REGULAR MEETING

page 3

December 20, 1990

reduce the bond to \$4,000. The as-built is on the way. They still have to grass seed and do a street sign. They will do the seeding in the spring.

GG questions if that includes the street alignments.

J. Germagian indicates it does.

AM questions the cost of the as-built.

J. Germagian responds it is \$2,000 with bounds.

AM believes they are talking about \$5,000 with 15%.

EM makes a motion to reduce the bond for Empire Circle, Country Club Estates II to \$5,000 from \$19,400. EN seconds motion. Vote of 4.

EM would like to note that W. Arcand was in attendance at this meeting and indicated that the Highway Dept. approved the street for Empire Circle. The Planning Board should receive a copy of this letter.

GG instructs Clerk to send a letter to the Town Treasurer to reduce the bond for Empire Circle to \$5,000.

GG explains that Ray Leduc from the Housing Authority called because he wants to set up a design review committee.

AM states they are building near her subdivision.

GG explains they are looking to set up a committee to work with the housing authority and meet 3 times a year. They are looking for a member of the Planning Board to be on it.

EM states that JM may be interested.

AM believes it is a conflicting position for anyone on the Planning Board to be on the committee since they have to come before the Planning Board for approval to build.

W. Arcand tells Gene Corriveau, Town Treasurer, that the Highway accepted the street for Birch Tree Lane.

G. Corriveau indicates they should have the check for the paving company tomorrow afternoon.

EM states they can not retain the 15% because it is not there.



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

MINUTES OF REGULAR MEETING

page 4

December 20, 1990

G. Corriveau states that there is \$1,000 left and the FDIC owes \$1300 for a total of \$2300. A-1 Paving will get paid \$17,000.

EN questions the procedure for release of the bond for Empire Circle.

G. Corriveau responds that the developer should come to his office. They will go down to the bank together to withdraw the amount. They will leave a balance of \$5,000 and sign another withdrawal slip.

J. Germagian asks if Thursday is o'kay. They can meet at the Baybank Medway.

G. Corriveau encourages the Planning Board to take action to solidify the town's position with respect to the worthless Letters of Credit.

AM states that Bald Hill will be denied at occupancy since they have no bond in place.

GG has a problem with that. Jones and Bixby came in to the meeting on November 29th stating they had \$7,000 in hand to put up for one lot. They never put up the money and were actually given a permit on November 21, 1990 before they even came to the Board. He does not know why they even bothered to come in. The Building Inspector did the same thing with Elm Estates when he gave him a permit without a bond.

AM spoke with Town Counsel about this. He said it would be totally illegal to deny a building permit. They can deny an occupancy.

GG questions why Bixby and Jones even bothered to come in on November 29.

G. Corriveau is concerned because first time buyers can sometimes pass papers without an occupancy permit.

AM does not believe they can pass without an occupancy permit.

G. Corriveau believes that it does happen.

J. Emidy states that he can not deny a building permit.

P. Herr states the lots are released because the developer came in with security before.

EM asks if they can rescind the lot releases.



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

MINUTES OF REGULAR MEETING

page 5

December 20, 1990

P. Herr indicates they can.

EM states that Bald Hill is a problem. The road is already breaking up and washing out.

P. Herr questions the number of lots.

J. Emidy responds there are 10.

P. Herr thinks they should put an advertisement in the paper that they are rescinding and have a public hearing.

AM questions the effect that will have on the lots that are already there.

P. Herr responds there will be no effect on the ones that are there. They will rescind the others. It will become one big lot.

AM questions how they will get the road done.

P. Herr states that this is what Blackstone, Franklin and Milford are doing. None of the subdivisions are actually getting rescinded. Holding a hearing provides an occasion for the FDIC, neighbors and the developer to come in and discuss this. The lots are equity. The Subdivision Control Law was designed to protect the people.

EM questions if they can have one ad.

P. Herr responds they will have to have separate public hearings.

EM is looking to protect the person who is buying the lots.

P. Herr indicates there is no protection for the person who just buys a lot. Both Blackstone and Franklin worked out agreements for developers to pay by lot. The FDIC is screwed up. They have to agree to a new covenant. A covenant with the current owner is better than none.

AM believes that a public hearing will at least bring the people in.

GG feels that Mr. Bixby made a mockery of the Board.

P. Herr states the Board should send a letter to Mr. Bixby asking him where the \$7,000 is. If he does not bring it to the next meeting, the Board will take action to rescind the subdivision.

GG directs Clerk to send a letter to Mr. Bixby.



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

MINUTES OF REGULAR MEETING

page 6

December 20, 1990

P. Herr states that the \$7,000 was for a building permit for one lot. He will have to add more for each lot.

J. Emidy does not know that he can hold up a building permit without a bond in place. He can hold up an occupancy permit.

P. Herr states that since the security is no longer good, the developer now has to provide new security or a covenant. If he comes up with a covenant, the board can agree to release the lots covenanted upon receipt of \$7,000 for each lot. This should be explicit in the letter to Mr. Bixby. They want to end up with a recorded covenant. The Board should ask him to bring a covenant to the next meeting for the Board to review. If not, the Board can advertise to rescind the subdivision as soon as possible.

EM states the letter should state that he must come in to the next meeting with a new covenant and \$7,000 for the permit he already has or the Board will advertise to rescind.

P. Herr questions if the buyer of the lot is putting up the house.

J. Emidy responds that he is.

P. Herr states he will be back then.

EN states that if they do not come up with the \$7,000, the Board will rescind. He makes a motion to send the letter. EM seconds motion. Vote of 4.

P. Herr asks if people are living there already. Who takes care of the road?

GG responds that people are living in Bald Hill Estates and no one is taking care of the road. It is breaking up.

P. Herr states the Board may want to put something about that in the letter. Most towns contract the developers if they want the town to plow the road. There is a problem with the way the catch basin is set. Something has to be done regarding Bald Hill Estates.

EM states that Bald Hill only has a base coat. Water goes right by the catch basins. He questions who plows and takes care of the roads in Bald Hill and Elm Estates.

W. Arcand states that the Highway Dept. always takes care of it. They



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

MINUTES OF REGULAR MEETING

page 7

December 20, 1990

have to open it up for emergency.

EN states they do have a bylaw which says they do not have to plow unaccepted streets.

W. Arcand states they do not do sidewalks in a subdivision. They do a complete plow job at Bald Hill.

P. Herr asks if they plow Maplebrook.

W. Arcand responds they do not do condos.

GG states the Board has the same problem with Elm Estates. They came in with a promise from the FDIC but nothing ever happened.

EM believes he should get the same letter as Mr. Bixby.

J. Emidy states the town will have to go for a Certificate of Municipal lien if the bond is not put in place. G. Corriveau can put a lien on the property. It would come right out of the closing. He can put a lien for \$3,500 for lot 11, Elm Estates.

AM states that Town Counsel said they can not legally hold up building permits.

J. Emidy states that will have no further municipal services provided because of lack of a bond. Lee Ambler told him to put that down word for word on the permit.

W. Arcand states that if there is a number on the building card, the Water Dept. will hook up water.

J. Emidy states they can not sell the house without taking care of the Certificate of Municipal lien or without an occupancy permit. The town charges them for the cost of putting on the lien. They have to pay before it can be released.

WILLIAM WAY - EVERGREEN CONSTRUCTION DISCUSSION

EM questions the oil tanks. He thought that oil storage was not allowed.

J. Emidy states they want to have storage in 10 tanks. They removed parking spaces. His interpretation is that this requires site plan approval because they are disturbing parking. He says it is a



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

MINUTES OF REGULAR MEETING

page 8

December 20, 1990

contractor's yard. He has cargo boat storage and a transportation terminal without Development Plan Review.

P. Herr states the tank is the real issue. They can replace 19 parking spaces, but if they make that change, it will have to be reviewed under the old site plan. No notice in the paper will be required. They just have to bring the drawing in and amend it.

EM states the developer did not put in the rest of the parking.

P. Herr indicates that is a different issue. If they take the building and change it to bulk storage which would be a change in use, it would have to go to the Building Inspector. If they change the physical site plan, it is a real quick revision. A copy should be sent to Town Engineer, P. Herr and the Planning Board to review.

EM asks if bulk storage is an allowable use.

J. Emidy responds that it is. The developer applied for a permit. He denied it because it requires site plan approval.

EN thinks it will ^{NOT} still stay as a contractor's yard.

P. Herr states that from what he read in the newspaper, it sounded like it, but he would have to look at the plan. He does not know if it requires a special permit.

EM states that hazardous materials are not allowed. He asks if oil is hazardous.

W. Arcand states that gas is hazardous.

P. Herr states that it is not hazardous to the DEP, but is to the Fire Chief. He does not think that oil is hazardous either.

W. Arcand states that the developer applied to the Board of Selectmen for 10 10,000 tanks to hold gas/oil/petroleum. They will not vote to give him a license if this is not acceptable under the zoning. As a Selectmen, he wants to know if it is acceptable for the developer to do what he is doing.

P. Herr states they have to look at the category of bulk storage which was in the zoning when the subdivision plan was approved. It is a permitted use in an industrial district. He does not see anything which says it is not permitted.



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

MINUTES OF REGULAR MEETING

page 9

December 20, 1990

AM thought that saying it could only be a contractor's yard protected the town against this.

J. Emidy does not think that is so.

EN asks if they are talking about used oil.

J. Emidy responds they are. He does not know if ^{it} is refining.

W. Arcand states there is a problem with the way the land is shaped. It flows to Mendon or Rt. 140.

P. Herr states that anything which flows will be caught in a berm.

EM states the berms are not there. The paving is not there. He is concerned about the way it is graded. He does not want anything to run downhill or to Mendon. He does not know that it was built the way it was designed.

W. Arcand states there is only an as-built for one building. They are using a building which they have no permit for.

AM states that the developer did not transfer ownership.

J. Emidy states that the construction loans do not care about the occupancy permit.

W. Arcand does not understand why the developer keeps continuing without fixing what he has already done.

GG read something about a case involving the same type of issue. The applicant had 4 separate buildings. The Building Inspector failed to act within the 30 day time period. The local Building Inspector received the application and denied it. The Board voted in favor of the Building Inspector's action.

EM questions where this was.

J. Emidy responds it was before the Building Code Commission involving another town.

EM states that in this developer's case, the Building Code Commission found in his favor.

W. Arcand states this developer is under Superior Court order and is still not doing what he is supposed to.



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

MINUTES OF REGULAR MEETING

page 10

December 20, 1990

J. Emidy will go for contempt of court.

P. Herr states that it looks as if the use is permitted. There is no hazardous category for the land subdivided. Park 140 began in 1986.

W. Arcand indicates that everything is on the site plan. It should be all done before.

RIVERVIEW PARK - PHASE 4

Bruce Lord is here to go over a couple of details regarding the waivers. They are presenting the final plans with changes.

P. Herr received the revised plans today.

Janice Hannert states that the wording of the Certificate of Approval will cover the written declarations. They included a comment for lots 75 and 76 temporary construction easement for the grading proposed. She notes 3 manholes regarding the gates as requested by P. Herr. They placed the gates on the detail sheet which was sent to P. Herr. The plans were reviewed by M. Megalli.

P. Herr asks if today's plans were review by the Town Engineer.

J. Hannert responds that the previous ones were.

EM asks why the collector street was changed to 30' from 36' width.

B. Lord responds that is what the Planning Board requested.

EM asks if they will have a sidewalk.

B. Lord responds that is not required. They will put in a jog path.

P. Herr points out that the grading along the roads is reasonably flat. They will grade and seed. An occasional walker may walk around there.

J. Hannert states they will have a pedestrian way along Maple St. which will be graded for walking/jogging.

EM did not know they were giving up the paved sidewalk.

B. Lord believes that people will be doing the walking for recreation rather than from site to site.



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

MINUTES OF REGULAR MEETING

page 11

December 20, 1990

EM states that recreational walkers will not walk on dirt trails when they are dressed up for office work.

P. Herr asks where EM thinks the sidewalk should go.

EM responds that it should go from their road within the bounds of their development. It is the right thing to do. They should do it right.

P. Herr states that would mean a sidewalk on one side of Century Drive.

EM states they could put it inside the loop on the shortest span.

AM states that Granite Park has sidewalks.

J. McLoughlin states they have some.

B. Lord states that anyone who goes out to walk at lunch time will walk on the path not the roadway.

GG states that someone will have to maintain the pathway.

B. Lord states they can stipulate in the covenant to have sidewalks on one side.

EM thought the jogging trails were extra.

B. Lord would like to leave it up to the developer to choose which side has the better topography for the sidewalk.

P. Herr has a draft Certificate of Approval.

EN states that public hearings will be held when they widen Maple Street.

B. Lord confirms that scenic road public hearings will be required.

GG states they should incorporate in the decision that sidewalks will be on one side.

B. Lord refers to 3a. regarding the fee if Maple Street is widened.

P. Herr thinks that 3c. covers that. They should have Town Counsel look at this.

B. Lord refers to Phase 3, wherein the same language regarding Maple



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

MINUTES OF REGULAR MEETING

page 12

December 20, 1990

Street applies. The language is for Phase 4 but also applies to Phase 3.

P. Herr states there is nothing in addition to the provisions for access to Phase 3. They may look at Phase 3 to provide improvements to the north.

B. Lord thinks they should look at it at the time that the discussion is held.

P. Herr will add language regarding a sidewalk on one side of Century Drive.

J. McLoughlin refers to the outlet - having a detention pond as opposed to a retention pond.

EM asks if it goes to the Charles River from there.

J. McLoughlin responds that it will.

B. Lord states they will have to put some water back.

P. Herr indicates they will have to have a dyke 10' down with 1 to 2 feet of water. They will have an easement. If the town accepts the streets, they will maintain it.

EM states that the town will have to accept the streets if it is to become the new Maple Street. They will have to have access to it.

P. Herr refers to the easement. He presumes that the Town Engineer looked at the right design.

EM states that even if the town accepts the road, they will not accept the retention ponds. It will be up to the individual lots to take care of them.

P. Herr points out that having someone else maintain them may be a problem. They used to have dykes with swale which flowed into the Charles River, but it disburbed the boaters in Cambridge. Parts 3 a, b, and c in the draft decision are without precedent. They are a condition to approval to make off site improvements. Town Counsel will have to check it.

B. Lord asks the Board to approve subject to Town Counsel approval.

EM states that normally the town could not get away with this but it is



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

MINUTES OF REGULAR MEETING

page 13

December 20, 1990

o'kay since the developer has agreed.

P. Herr thinks the mechanics are appropriate.

EM makes a motion to send the decision to Town Counsel for his review and call his attention to items 3 a, b, and c. The Board wants to know if it meets his approval as to the legality. Any questions regarding intent should be referred to P. Herr. EN seconds motion. Vote of 4. Town Counsel should be asked to respond by January 10, 1991.

GG reads letter from Town Counsel, dated December 10, 1990 relative to the Auto Auction Facility. In his opinion in accordance with Section 2400 Use Regulation Schedule of the Bellingham Zoning Bylaw, the use proposed is permitted as per an auto sales rental service in the B-1, B-2 and Industrial Zone. However, other provisions of the By-law may be applicable depending on the presentation and specifics of the proposals including Section 1420 Development Plan Approval, Section 3200 Environmental Controls, Section 3220 Noise, Section 3280 Storm Water Management, Parking and Loading Requirements, Section 3400 Major Proposals if it is found to be a major proposal. If that is the case a concept plan approval by Town Meeting prior to being acted upon for Special Permit Approval.

P. Herr asks if they intend to show the sidewalk on the plan.

J. McLoughlin responds that they will. The road will go in Maple Street at an angle. There will be a right angle easement. The engineering will be done later on. They will provide the easement on the opposite side. They can do it either way.

GG is in favor of the road going straight through.

EM, EN and AM are in favor of that too.

EN makes a motion to approve the minutes of November 29, 1990. EM seconds motion. Vote of 4.

ELM ESTATES - PERFORMANCE BOND DISCUSSION

GG instructs Clerk to send a letter to the developer indicating that the Planning Board is aware that 2 building permits are in possession without a bond in place. The developer's presence should be requested at the next meeting to present a check for the two lots in the amount of \$7,400 and a covenant for the remaining lots. He will risk rescinding his subdivision if he does not comply.



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

MINUTES OF REGULAR MEETING

page 15

December 20, 1990

P. Herr explains that he kept everything in which the town now has and added the state regulations. There is no question about relaxing it. He will redo the Zoning Technical Revisions.

GG reads Annual Report of the Planning Board.

EM makes a motion to adjourn at 10:35 p.m. EN seconds motion. Vote of 4.

Glenn E. Gerrior, Chairman

Edward T. Moore, Vice-Chairman

Emile W. Niedzwadek

Anne M. Morse

John P. Murray



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

MINUTES OF REGULAR MEETING

page 13

December 20, 1990

o'kay since the developer has agreed.

P. Herr thinks the mechanics are appropriate.

EM makes a motion to send the decision to Town Counsel for his review and call his attention to items 3 a, b, and c. The Board wants to know if it meets his approval as to the legality. Any questions regarding intent should be referred to P. Herr. EN seconds motion. Vote of 4. Town Counsel should be asked to respond by January 10, 1991.

GG reads letter from Town Counsel, dated December 10, 1990 relative to the Auto Auction Facility. In his opinion in accordance with Section 2400 Use Regulation Schedule of the Bellingham Zoning Bylaw, the use proposed is permitted as per an auto sales rental service in the B-1, B-2 and Industrial Zone. However, other provisions of the By-law may be applicable depending on the presentation and specifics of the proposals including Section 1420 Development Plan Approval, Section 3200 Environmental Controls, Section 3220 Noise, Section 3280 Storm Water Management, Parking and Loading Requirements, Section 3400 Major Proposals if it is found to be a major proposal. If that is the case a concept plan approval by Town Meeting prior to being acted upon for Special Permit Approval.

P. Herr asks if they intend to show the sidewalk on the plan.

J. McLoughlin responds that they will. The road will go in Maple Street at an angle. There will be a right angle easement. The engineering will be done later on. They will provide the easement on the opposite side. They can do it either way.

GG is in favor of the road going straight through.

EM, EN and AM are in favor of that too.

EN makes a motion to approve the minutes of November 29, 1990. EM seconds motion. Vote of 4.

ELM ESTATES - PERFORMANCE BOND DISCUSSION

GG instructs Clerk to send a letter to the developer indicating that the Planning Board is aware that 2 building permits are in possession without a bond in place. The developer's presence should be requested at the next meeting to present a check for the two lots in the amount of \$7,400 and a covenant for the remaining lots. He will risk rescinding his subdivision if he does not comply.