



OK

BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

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

MINUTES OF REGULAR MEETING

OCTOBER 10, 1991

Meeting was called to order at 7:35 p.m. AM, GG and EN were present. EM and JM were absent.

Timothy Bobola spoke with John Emidy, Building Inspector, who told him to come here. He purchased a lot from Robert Onorato. Mr. Onorato had received a special permit from the Board a few years ago. In the special permit, it states that before construction starts, the house which is on the lot would have to be removed. He is going to knock down the building, but wants to keep the garage portion up for storage of his materials from the weather and vandalism.

EN asks if a special permit is transferable.

AM responds that it is not.

T. Bobola believes that the special permit was to separate the lots.

AM indicates that the special permit was for two family structures in the water resource district.

T. Bobola would like to let the Building Inspector know tomorrow morning about the garage.

EN explains that the bigger question has to do with the special permit.

T. Bobola has the demolition permit.

AM asks if the septic has been signed off.

T. Bobola indicates that it has been. He wants to install it by the 31st of this month. He is putting in a two family duplex.

GG thinks that John Emidy should fax P. Herr a copy of the special permit and ask for his opinion regarding the transfer of the special permit.



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

MINUTES OF REGULAR MEETING

OCTOBER 10, 1991

T. Bobola notes that if the septic does not get in now, he will have to wait until the spring. That will clean him out. He will lose \$10,000.

GG explains that it may not be legal. The Board can not just let this slip by.

AM thinks that he may be able to apply under Onorato's name. If Onorato had built the duplex himself it would have been o'kay. He can not sell the land with the special permit.

T. Bobola notes that the special permit said the building had to be removed.

AM reads from the special permit decision which states that the building should have been removed before it was sold.

T. Bobola already has the permit to demolish.

W. Arcand joins the meeting.

AM explains this situation to him and asks for his opinion as a previous Building Inspector. She explains that the Board granted a special permit for 3 lots to Onorato. Since then he has transferred ownership to Mr. Bobola.

W. Arcand believes that if Mr. Bobola abides by the law and the special permit, it should be o'kay.

AM explains that a special permit is not transferble.

T. Bobola states that it will cost him \$10,000 to wait until the spring.

AM asks if he actually purchased the lot. Is he the owner of record?

T. Bobola responds that he is. This would put him under and he would not be able to build his house.

EN believes that he would have an action against Onorato.

T. Bobola called Clerk two weeks ago about this question. Clerk told him that it was o'kay. He talked with the Building



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

MINUTES OF REGULAR MEETING

OCTOBER 10, 1991

Inspector's office and they told him that Clerk to the Planning Board had said there was no problem with the special permit.

Clerk explains that she found an 81-P relative to this lot and the special permit for Water Resource not realizing that it was for the duplexes at the time that she spoke with Mr. Bobola about the special permit. After reading the special permit, Clerk realized that the special permit dealt with the duplexes as well. Clerk phoned Attorney Bruce Lord who represented Mr. Onorato and asked him about the transferability of the special permit. Mr. Lord responded that he had Mr. Bobola on the other line and would handle it. Mr. Bobola did not contact Clerk again so she assumed that the matter had been taken care of. Mr. Bobola did not call to state that he would be attending tonight's meeting. Clerk asks if Mr. Bobola spoke with Attorney Lord.

T. Bobola responds that Bruce Lord is his attorney. Mr. Lord did not say anything to him about the special permit.

AM asks Mr. Arcand what happens now since the land has been purchased.

W. Arcand responds that the other guy should have gotten the building permits.

T. Bobola notes that the Building Inspector was going to give him a permit, but told him to come here first.

GG reads from the special permit decision that the 20 day appeal period ended on February 9, 1990.

AM notes that the special permit has long since expired. It expires 12 months after the 20 day appeal period.

W. Arcand notes that the only one who can direct regarding a special permit is the Planning Board.

AM does not think that the Board would not disapprove this because it was already approved, but it looks like he will have to reapply and the Board will have to hold another public hearing notifying abutters. Maybe he can still get the permit for the septic system in the meantime.

W. Arcand states that no he can not get the septic permit. He



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

MINUTES OF REGULAR MEETING

OCTOBER 10, 1991

asks if the perc has been done.

T. Bobola responds that the perc has been done.

GG will call Bruce Lord and ask him to explain the situation.

AM notes that Mr. Bobola will have a suit against Onorato.

GG explains that two weeks before the time for special permits runs out, developers are in here asking for an extension for one more year. Mr. Onorato let this sit on the back burner and did not request an extension. Right now he would have a suit against Onorato.

T. Bobola will lose his interest on the land and will go under if he can't get started.

EN explains that if Mr. Onorato had asked for the extension it would have been o'kay, but the Board can not back date the extension.

W. Arcand notes that even if the Building Inspector had given him a permit, it would have been null and void under the circumstances.

AM states that he would need another public hearing which the Board could do promptly. She asks if they could just do an amendment to the special permit.

W. Arcand does not believe that they can. They have to follow the Bylaw.

GG states that B. Lord will be here in 5 minutes. He was not aware that the special permit had lapsed. Mr. Lord is representing Mr. Onorato. He will be here to clarify this situation.

T. Bobola can only do the septic up until October 31, 1991. He has to go before the Conservation Commission and then has one more week to get it done or else he has to wait until April or May 1992. It is costing him \$1500 to \$1600 a month right now. He is getting married and wanted to move in around December 1991.

B. Lord joins the discussion. The question is whether the



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

MINUTES OF REGULAR MEETING

OCTOBER 10, 1991

special permit was acted on. It was issued to divide the lot into 4 separate lots. It is registered land. Two lots have already been built on and the septic has been installed on those lots. This lot has perc tests. The special permit has already been acted upon. The special permit was for all the lots and since the other lots have been built on, the special permit has been used.

GG understands now. The special permit was not for each lot but for the whole thing.

B. Lord states that all of the lots have septic designs and 2 of them have been constructed upon.

AM states that Mr. Bobola is applying in his own name.

B. Lord states that there is nothing wrong with that. Onorato had the septic approvals before the lots were sold. No one ever said that special permits are not transferable. The Board can ask Lee Ambler, Town Counsel. The special permit has been acted on because two lots are already built. The fact that the house has not been built does not mean that it is not built on.

GG asks if the site grading has already been done on the property.

T. Bobola responds that it has been done.

B. Lord states that Land Court decides the lot numbers. This is registered land. Adding the special permit to registered land has a different effect than normal land.

AM reads from Section 4423 which states that a special permit will lapse upon transfer of ownership.

B. Lord states that applies to the section on condominiums. Nonetheless, the special permit has already been acted on already.

GG explains that the special permit dealt with 3 lots.

B. Lord further states that all septic approvals and designs are in.



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

MINUTES OF REGULAR MEETING

OCTOBER 10, 1991

GG states that the Board should have done a special permit for each lot.

AM explains that there is an additional problem with the structure because of the condition in the special permit.

T. Bobola planned on knocking everything down except for the garage. As soon as the house is secure, he will knock down the garage.

AM states that the Board can address a letter to J. Emidy stating that the applicant can leave the garage up, but before occupancy permits are issued, it has to come down.

B. Lord explains that the structure goes across the lot line. He can tear it down enough to be in compliance with the zoning.

AM instructs Clerk to send a letter to the Building Inspector stating that Mr. Bobola came before the Board to clarify the confusion relative to the special permit. The Board determined that since the special permit was for the 3 lots and construction has been done on the other 2 lots, the special permit has been used. The Board expects that the structure will be taken down as per the special permit. However, the garage may be left up for temporary storage, but occupancy permits may not be granted until the structure is completely removed.

EN asks if Mr. Bobola will condoize the duplex later on.

T. Bobola responds that is not his intent. He will be living in one side and renting the other side to a family member.

B. Lord explains that only special permits for condos are not transferable.

EN states that if a special permit is issued and the owner sells the entire thing, the special permit would not be transferable.

B. Lord states that there is nothing in the Bylaw which says that can not be done.

EN does not think it can be transferred if nothing is done to the lot.



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

MINUTES OF REGULAR MEETING

OCTOBER 10, 1991

B. Lord states that the issue needs to be clarified. He thinks that the Board should go through the Bylaw this winter and clarify a number of points.

EN thinks they should insert on the applications if a piece of land has been before a town board on a previous occasion.

AM states that is right on the building application.

W. Arcand agrees. There are many cases where an owner will go to the ZBA and get disapproved and then wait 3 years and come back for approval.

B. Lord believes that should add in the Bylaw that a special permit has to be filed at the Registry of Deeds before it is valid.

EN states there have been situations where a piece of land has been before the ZBA and got rejected or denied. The owner will sit on the land and fill it can, but they can not take a perc on filled land.

B. Lord states that the Board of Health should have a record in that situation.

EN states that it may be under different names.

B. Lord states that they should be filed by residence.

Clerk explains that the Board received correspondence from Janice Hannert for Fafard requesting an extension for Shoppes at City Lights special permit for one year.

GG would like to wait until 4 members are present to vote regarding the extension for Shoppes.

Clerk received correspondence from the Town Clerk indicating that the 20 day appeal period for Riverview Park, Phase IV has passed.

B. Lord will bring the plans into the next meeting.

Clerk explains that Dave McCreedy of DAVNA has contacted her regarding setting a hearing for the DPR for Brook Estates. Clerk tentatively told him a hearing could be scheduled for October 24,



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

MINUTES OF REGULAR MEETING

OCTOBER 10, 1991

1991.

AM would like to receive a letter from the Conservation Commission regarding what is happening with the Brook Street culvert. It has not even been started yet. She wants to ask the Conservation Commission to give an update before the hearing is schedule.

B. Lord suggests the Board send a copy of that letter to DAVNA. They should be able to provide information as to why it has not been completed. They may have failed to submit something.

AM states that the Board wants to hear from the Conservation Commission by October 24, 1991. The hearing for the DPR on Brook Estates can be held on November 14, 1991 at 8:00 p.m.

EN makes a motion to sign the minutes of September 12, 1991. GG seconds motion. Vote of 3.

Members sign pay voucher and invoice.

GG makes a motion to adjourn the meeting at 8:45 p.m. EN seconds motion. Vote of 3 to adjourn.



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

MINUTES OF REGULAR MEETING

OCTOBER 10, 1991

Anne M. Morse

Anne M. Morse, Chairman

John P. Murray

John P. Murray, Vice Chairman

Emile W. Niedzwizdek

Emile W. Niedzwizdek

Glenn E. Gerrior

Glenn E. Gerrior

Edward T. Moore

Edward T. Moore