



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

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JOHN P. MURRAY, VICE CHAIRMAN
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GLENN E. GERRIOR
EDWARD T. MOORE

MINUTES OF REGULAR MEETING

OCTOBER 24, 1991

Meeting was called to order at 7:40 p.m. AM, EM and EN were present. GG and JM came in later.

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

SUBMISSIONS

Leonard San Clemente submits an 81-P for Lucien and Yvette Gagne, Gagne Insurance Agency, Moody St., Bellingham for a parcel on the easterly side of Pulaski Blvd. and southerly side of Moody Street. Mr. San Clemente explains that the purpose of the 81-P is to nail down the boundary line and keep peace with the neighbors. They are not really doing anything.

AM asks what the annotation relative to a 1990 plan refers to.

L. San Clemente explains that plan showed the sewer.

EM asks if this is near Gagne Pharmacy where a building was taken down and there is a trucking company. He states that the Gulf Station is on the other side. He asks if there is one lot or two.

L. San Clemente responds that there is one lot, one owner.

EM thinks it could be two lots.

L. San Clemente states it has been that way since the mid 1940's.

AM asks why they need to do the 81-P.

B. Lord, states it is usually done to establish boundaries in contemplation of a sale.

AM asks if boundaries were never established.

L. San Clements explains that the last plan was in the early 1900's.



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EM makes a motion to sign the plan. EN seconds motion. Vote of 3 (AM, EM and EN).

GG joins the meeting at 7:45 p.m.

Members sign plan. \$10.00 fee is presented to Clerk.

John Yerka, Yerka Engineering, is here with a plan which the Board signed last month. It sits in two counties in Bellingham and Milford. Because of that, they need a second mylar since it has to be filed in two counties. The parcel is owned by John Consigli and is on Mellon Street.

Philip Herr joins the meeting at 7:50 p.m.

J. Yerka explains that this involves a transfer. The owner will sell parcel number 1 and in return get another parcel in order to square off the lots.

GG makes a motion to sign the 81-P. EM seconds motion. Vote of 4 (AM, EM, EN, and GG).

Members sign plan. \$10.00 fee is presented to Clerk.

Paul Robinson, Jr., from Paul Robinson Associates, Millis, presents an 81-P for the Circle C Ranch on North Main Street. There is a concrete block house on number 139 which sits on its own parcel and is a designated lot on B plan 322 in 1936. Mr. Grover wants to subdivide the house into one lot. He wants to combine the remainder with the remaining property which is 30 acres. It has the required frontage at 225 feet. Lot B2 does not have the required frontage.

EM recalls this lot being combined with adjacent land being brought in a year ago but it did not pass.

P. Robinson explains that the owner tried to go for a variance for a corral easement area so his horses could continue to graze.

EN asks what the owner has horses for.

GG responds that it is a campground. The right of way goes to the property line of Fafard's property.



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EM makes a motion to sign the B1-P. GG seconds motion. Vote of 4 (AM, GG, EM and EN).

EM notes that Chapter 40 says no one can approve an undersized lot. He assumes that includes the Zoning Board of Appeals.

P. Herr responds that it does not.

P. Robinson states that lot B1 is in a family trust. He does not think they are going to sell.

SHOPPES AT CITY LIGHTS

DISCUSSION RE: SPECIAL PERMIT EXTENSION REQUEST

Clerk reads October 3, 1991 letter from Janice Hannert, Planning and Land Use Coordinator for Fafard requesting a one year extension of the Special Permit decision for Shoppes at City Lights recorded at the Norfolk Registry of Deeds on January 14, 1991 at Book 8820, Page 46. She states that Mr. Fafard is in the process of reorganizing his companies under Chapter 11. He expects this process to be finalized soon and they will be able to proceed with this project.

JM joins the meeting at 8:05 p.m.

B. Lord explains that Mr. Fafard is getting together with his creditors. This project and Phase 3 of Riverview Park are wholly owned by Fafard. Because they are owned directly, there are liens. Fafard has his hands tied with respect to these properties.

EN thinks that Mr. Fafard has to decide what to give up.

B. Lord further explains that Mr. Fafard has made headway. They should have an agreement with the bank by the end of the year. That is why they are requesting an extension on everything. The reason for the extension request is economic.

EM makes a motion to extend the special permit for one year. GG seconds motion.

JM does not think that the Board should give extensions for economic reasons. It is too broad.



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B. Lord notes there has been no change in the zoning.

P. Herr states that the circumstances particular to that property does not apply generally to the town.

JM does not want to take part in this vote. The Bylaw does not allow extensions for economics.

P. Herr notes that the Bylaw says "good cause" and bankruptcy is good cause.

B. Lord indicates that no one is claiming substantial use.

JM does not want to vote on something which is opposed to the Bylaw. He is not opposed to the extension but does not want to set a dangerous precedent. He agrees with the vote.

Unanimous vote of 5 to approve the request for one year extension for the Shoppes at City Lights Special Permit.

P. Herr received a phone call from Denise Fraine a few days ago relative to a business person who was referred to him by the Planning Board. This person came before the Planning Board relative to a proposed Donut Shop in a trailer at the Shoppes at City Lights location.

GG states that the Board never told the gentlemen to go to Denis Fraine. The Board told him to go back to Fafard since he may not be able to go through with his proposal because of the conditions placed on the special permit.

B. Lord asked Fafard about this. He is not in a position to turn anything down. He told them if they were able to get the permits, they could use the parcel as a temporary use to generate capital. Fafard is not overjoyed about this either way.

P. Herr explains that the premises involves 3 lots and a road. He can not find either lot having sufficient frontage until the road is built.

GG notes that the person who proposed this wanted to put it in smack in the middle of the gate. When the proposal is in, he will be gone.



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P. Herr indicates that this is an approved subdivision for which they would have to be consistent with the special permit. He does not think there is any way they can get permitted. Anyone who gets in there will have to contribute for the traffic bond. It is \$1,50 per square foot of floor area.

GG explains that this involves an 8 x 12 steel building. Someone would pull in, get coffee and a newspaper on the go.

P. Herr states that their plan would have to be consistent with the approved subdivision and the approved special permit. It is a tricky location. They would have to have careful egress. This proposal would have direct access to Hartford Avenue in contradiction to the plans.

EM does not think there is any way they can do it. They would try to say they have a driveway within 200' of the other driveway.

P. Herr states that neither would have frontage. The road is closed until the approved special permit is constructed and the road is secured by being built on deposit. He has no lack of sympathy for Mr. Fafard and hopes it all works out for him.

B. Lord asks what affect the special permit would have if there was only one building on the parcel with one use.

P. Herr states there are only two options. Either the owner develops consistent with the special permit or the special permit will be abandoned.

B. Lord does not believe it would be abandonment if it were a temporary situation.

P. Herr would imagine that a temporary use would not be abandonment. That would be different than someone coming in to put in a coffee shop. A bank could open a temporary branch in a trailer.

B. Lord asks how the special permit would be affected if the coffee shop goes in.

P. Herr does not see how it can get approved. It does not have the frontage.



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B. Lord explains there are severe problems with the back of the land because of dirt bikers.

AM states that the Selectmen can address that.

JM asks about the photo stores which are sometimes in shopping centers.

EM responds they are in parking lots not on a driveway.

GG refers to the Taco Wagon which is a double size shingled roof trailer on wheels. The Selectmen issued a victual license.

RIVERVIEW PARK, PHASES I, II AND V DEFINITIVE SUBDIVISIONS CONTINUED PUBLIC HEARINGS

AM reads letter from Bruce Lord, dated October 24, 1991, for Riverview Park, Phases I, II and V, Definitive Subdivisions, requesting an extension to April 15, 1992 with a continuance to March 26, 1992 at 8:00 p.m.

GG makes a motion to approved the extension and continuance for Riverview Park, Phases I, II and V. JM seconds motion.

EM asks the reason for the extension.

JM notes that a reason is not needed for a subdivision.

Unanimous vote of 5.

LAKEVIEW ESTATES DEFINITIVE SUBDIVISION CONTINUED PUBLIC HEARING

AM reads letter from Bruce Lord, dated October 24, 1991, for Lakeview Estates, requesting an extension to April 15, 1992 with a continuance of the public hearing to March 26, 1992 at 8:30 p.m.

JM states that the make up of the Board could change. They could end up approving 1,000 houses or condos when the current members are no longer on the Board. Whatever is finally approved could be challengeable.



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EM notes that the original applicant has changed and the attorneys have changed. Billy Hood was involved in this in the beginning.

B. Lord explains the proposal is for 32 units now. The problem was the last time the Board met relative to this, Makram Megalli, the Town Engineer, stated that because the gravel had been removed, the topos were changed. He wanted revised topos. In order to send an engineer to do that would require a large amount of money. They do not have the cash flow basis. The bank people will not approve this situation. They are only waiting for the topos.

EM does not agree that this proposal is only hanging on the topos. Originally they had a 3 - 4 lot subdivision with a large lot used for condos. They switched to a standard subdivision with the required number of lots and a circular. He asks if notice will be given to the abutters again.

B. Lord has no problem with that.

EM asks if there have been zone changes which would affect this since it started.

P. Herr responds that there have been.

EM asks why they don't withdraw and start over.

P. Herr explains that they would lose their vested rights in zoning which would allow them to have more than 50 multifamily units without going to Town Meeting. If they do not withdraw, they would have the same zoning for 8 years after it is approved.

EM notes that the town passed a Bylaw so this would not happen.

P. Herr's recollection is close to what B. Lord said. The Board referred the plans to M. Megalli for his review. The Planning Board raised no substantive issues. The real problem is the connection to the high school in the north. That is not being talked about now. This plan is approvable. Mr. Megalli correctly wants to review the topography from the land and the ground. He needs to see where everything really is in order to evaluate the drainage.



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B. Lord states they were going to come in and withdraw tonight, but they believe that Fafard's situation with the bank will come to an end by the end of the year.

EM asks why they do not withdraw now.

B. Lord responds it is because of the options as noted by P. Herr.

EM notes that anyone could go in and do what Abe Rosenfeld did by adding more houses with affordable housing.

P. Herr indicates that it correct, but that is small compared to this.

B. Lord states that the plan shows affordable houses with one probable access.

EM asks how many houses were built by Mr. Rosenfeld.

GG responds it is 34 and 8 more are waiting to be built.

EM states that would mean 30 affordable housing for this project.

B. Lord states that if this was an affordable project, it could be 300.

EM has no problem with 30, but if it were 300 it would be another matter.

B. Lord states that by April 1992, they should know where they are. The last they heard, they expect to be out of the bank by December 1991.

EM makes a motion to approve the extension and continuance for Lakeview Estates to April 15, 1992 and March 26, 1992, respectively. EN seconds motion. Vote of 4 (AM, EN, EM and JM). GG abstains from the vote because he is an abutter to an abutter.

EM makes a motion that the developer send out abutter's notices prior to the meeting. EN seconds motion. Vote of 4 (AM, EN, EM and JM). GG abstains.

JM notes that if the developer plans on asking for another



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extension, the abutter's notices should not be sent out.

MAPLE STREET REZONING DISCUSSION

B. Lord distributes a handout listing the owners of land of the suggested rezoning for Maple Street.

P. Herr thinks the Board should provide notice to the owners regarding a meeting to discuss the proposed rezoning.

EM asks if they would meet informally or at a public hearing.

P. Herr thinks it should be informal. The Board should send the owners a copy of his map from the handout which he submitted last month.

AM and EM note that the letter should request the owners presence to discuss a possible rezoning. It will not be a public hearing and no rezoning will be done. However, the rezoning may be beneficial because it will put lots into one zone rather than two. A copy of P. Herr's map should be included.

BROOK ESTATES BROOK STREET CULVERT DISCUSSION

Clerk notes that the meeting for Development Plan Review for Brook Estates has been scheduled for November 14, 1991.

AM notes that the Board approved the request for extension for the special permit for Brook Estates contingent on the Brook Street culvert being completed. It is her understanding that it has not been started. She asks if the Board is obligated to have a public hearing for the DPR.

P. Herr notes that the Board is.

Clerk reads October 17, 1991 letter from Clifford Matthews, Chairman, Conservation Commission, updating the Board on the status of the Brook Street culvert. DAVNA Corporation filed a Notice of Intent with the commission in late August. After several site inspections, and additional informations requests, the public hearing was closed on September 10 and an Order of



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Conditions was issued. This order allows DAVNA to proceed with the culvert replacement, under certain conditions. During their site inspections, they encountered an area of extensive siltation to the south (upstream) of the existing culvert. One of the conditions imposed on the order was that the culvert replacement could not take place until the upstream area where the siltation was occurring was stabilized, to prevent continued occurrences. The roadway area responsible for the siltation has been regraded, and no new silt appears to be showing up in the resource area. They informed DAVNA at their meeting of October 9 that the regrading that has been performed meets conditions set forth in the order. Therefore, DAVNA is free to begin the culvert replacement, at any time. The other conditions in the order must be maintained. The commission will be meeting with DAVNA in the field to determine what appropriate measures to take to restore the altered resource areas, but this action will have no affect on the culvert replacement.

Clerk reads October 23, 1991 letter from Mr. Matthews, Conservation Commission, to DAVNA Corporation stating that the commission has extended and ammended the Order of Conditions for DEP file #105-96. By unanimous vote at their meeting of October 23, the commission decided to deny the extension request for DEP file #105-87. This filing pertains to the installation of the 5' x 10' box culvert, and associated work, including grading and roadway construction. Because of the serious nature of degradation to protected resource areas (bordering vegetated wetlands, bank, land under water bodies, and land subject to flooding-bordering), and the fact that the original order has been expired for some time, it is the determination of the commission that DAVNA shall file a new Notice of Intent. In addition to updated information included in the original filing, the new filing must include a comprehensive plan detailing how the areas that have been altered due to long time siltation will be restored. Because there is no valid Order of Conditions in effect for the culvert or access roadway, no work may take place on the subdivision covered by the ammended order for file #105-96. Failure to comply with this decision will lead to enforcement action and all risks and penalties associated with this action.

Clerk reads October 22, 1991 letter from Huna Rosenfeld, Marlex Realty Trust (DAVNA), which states that they expect to start the installation of the culvert on Brook Street on October 24, 1991.



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Permission was granted by the Conservation Commission on October 9, 1991.

B. Lord states that the Conservation Commission is saying that the submittal was not complete enough so they have to resubmit.

AM notes that the Planning Board gave the developer an extension for the culvert repair to October 31, 1991. AM suggests the Board address a letter to the Conservation Commission noting that it is of the utmost urgency that the culvert work be completed. The Board should urge them to move quickly.

P. Herr states that the developer has to refile now.

AM notes that they will not be digging because of the frost line.

B. Lord thinks it works to the developers advantage. It can not stop the Board from reviewing the plan. Apparently, the Conservation Commission toured the site and reviewed and found upset siltration nets.

GENERAL DISCUSSION

GG makes a motion that the Board skip the second meeting in December 1991 due to Christmas and reschedule the November 28, 1991 meeting to November 21, 1991 due to the Thanksgiving Holiday. EM seconds motion. Unanimous vote of 5 to reschedule meetings.

P. Herr distributes a handout which he prepared relative to zoning technical revisions which were left over from 1990, most of which have to do with Development Plan Review. The definition of sideyard is screwed up and should be fixed. He refers to number 5 on the last page of the handout. There is a tiny piece of agricultural land in the back of people's property which was left over from when the New England Country Club was rezoned. At some point, they should have a public hearing on that. The revisions were put together a year and a half ago. He added a piece as a result of the man who recently came in relative to his wood chip hauling business on Maple Street in Franklin. The property accesses through Bellingham. Who has to go through DPR is addressed. It includes any new building or principle building. There is some threshold for those who do not have to go through the expensive and slow process.



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EM asks how big 1,000 square feet is.

P. Herr responds that it is a small house.

EM asks if someone who is putting an oversized garage up in their backyard would have to come for DPR.

P. Herr responds that they would not have to come since it is a single family use. Before they excluded everything which was under 3,000 square feet. A proposal to erect a garage on an undersized lot in a residential district would need a variance for an undersized lot and a special permit. He does not think they should allow parking as a principle use.

B. Lord notes that they may not need the reference to 10% of existing footprint if they are changing the requirement to 1,000 square feet.

P. Herr notes that it has been there a long time.

EM indicates that there is a problem with interpretation on some of these requirements. He refers to the gravel removal permit which was given to Phil's Landscaping. Lee Ambler said it was o'kay to give the permit because the ZBA did not put a condition in their decision that the applicant had to come to the Planning Board for DPR.

AM states that they gave the permit without requiring the applicant to come here. The ZBA issued the permit without saying it was approved provided they obtained Planning Board approval as well. She suggests they add words in the proposal to make it clear that the earth removal section comes under DPR.

EM states that it may be that not all gravel removal permits need to come before the Board.

P. Herr will look at the issue. He refers to page 2 of his handout with a revision to the number of copies required. It may be that the Town Engineer should not do the distribution for DPR.

EM states that Mak Megalli has been at the water filtration plant all summer. When it is over he may have the time since he is full time and accessible. They should leave it the way it is with going to the Town Engineer first for his o'kay. He is the one



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designated to distribute, but the developers usually do it.

B. Lord points out that there is one other problem. What happens if there is no Town Engineer. Perhaps they should put in an alternative.

GG states that if Mak Megalli leaves there will be no more Town Engineer. The Board of Selectmen would not reappoint someone else.

P. Herr can put in "or other official designated by the Planning Board."

Clerk suggests that the Board notify the various town officials who may have feedback relative to a Developmental Plan Review plan of the public hearing date so they are given ample opportunity to comment before the meeting.

AM agrees.

P. Herr will put "or other designated official" consistently through the section. He states that the reference to step 4 on his handout has really no precedent but was raised because of the Franklin wood chip business accessing through Bellingham on Maple Street. He has no recollection of any development crossing with Mendon, Blackstone or Woonsocket.

EM thinks it will happen in Mendon because of the Thayer property.

EN believes that part of the New England Country Club will be in Woonsocket.

P. Herr states that part of the property is in Woonsocket but the development is in Bellingham.

EM states that the Building Inspector is union and may not want to take care of the distribution for DPR. The applicant could do it.

P. Herr states they have to determine if they receive the sufficient number of copies.

EM indicates that the Board could do it. It could be a



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cooperative thing.

EN states that the applicant could come in with a checked off list showing that the plans were distributed to the proper town departments.

P. Herr notes that when he was last here the Board discussed portable signs. He does not have the amendment yet since it is not wholly done. There is a piece in the Planning Advisory Service which is the best piece he has ever seen relative to the portable signs. He distributes a handout with this information. It has provisions for zoning yard requirements and site triangle at intersections. There can be nothing which obstructs vision between 3' - 8' in the site. The sign can not be located in the triangle. The triangle will occur at the intersection of streets and driveways and streets. There are now many portable signs in that zone.

EM cites that a good example is Clark's plaza. All the signs obstruct vision.

GG states that the portable signs are appearing everywhere.

P. Herr refers to a second provision which states that they can not have a portable sign within 10' of the side line of the property line.

EM thinks that would eliminate portable signs altogether.

P. Herr notes that the rationale is visibility and obstruction of vision.

EM believes that the portable signs are too low to the ground and can not be seen under.

P. Herr does not think they would want to push all signs back. The best signs are low. It is confusing and distracting if it is not consistent with the appearance of the community. They can have permanent signs which are boards which can be seen through like Mr. Clark's.

AM is upset over delaying the Brook Street culvert.

S. Racicot from the Conservation Commission joins the discussion.



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He states that they are trying to get it approved. The Commission wants the culvert fixed and cleaned up.

AM refers to the cease and desist relative to Brook Street.

S. Racicot states that is not for the culvert at Brook Street. The cease and desist is for the subdivision further up. They have different file numbers. The box culvert goes up in the subdivision in the back. The applicant has to file a Notice of Intent to include the new roadway and drainage. Some of the work is out of the buffer zone. There can be no new drainage until the Order of Conditions is done.

AM thinks that the Conservation Commission should clarify which culvert they are referring to.

P. Herr attended the Mass Federation of Planning Board meetings on Saturday in Marlboro. He was one of the speakers. He distributes a piece from the meeting which was written by Attorney Joel Bard regarding what to do when a developer and/or bank defaults. This is the only piece he has seen in Massachusetts relative to this. He suggests that a copy be distributed to Town Counsel and Town Treasurer.

EM recalls that a gentleman from the FDIC came here relative to the Stony Ridge special permit a few months ago. The Board told him that the special permit was never granted because the special permit decision was contingent on the developer submitting the engineering to P. Herr for his review. That was never done so the special permit was never granted. He asks about the transferability of special permits.

P. Herr states that the section relative to multifamily dwellings states that the special permit will expire upon transfer of ownership. That does not apply to all special permits. If buying the entity, a developer could transfer ownership and the special permit to a buyer.

EN makes a motion to adjourn the meeting at 9:30 p.m. GG seconds motion. Unanimous vote of 5.



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John F. Murray

John F. Murray, Vice Chairman

Emile W. Niedzwiedz

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Glenn E. Gerrior

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Edward T. Moore

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