



## 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

APRIL 30, 1992

Meeting was called to order at 7:40 p.m. AM, EM EN and GG were present. JM came in a little later. Board's consultant, Philip B. Herr, was also present.

#### LOT 3 REZONING PROPOSED ZONING ARTICLE FOR ANNUAL TOWN MEETING

W. Arcand was not aware of the public hearing which was held in March 1992 relative to this proposed zoning article. He did not realize that abutters did not have to be notified. It is the Thayer's property. He just wants to make sure that his property would be buffered from the abutting industrially zoned property.

EM responds that it would be because it is residential use with industrial next to it.

AM notes that is if they come to the Board for processing.

W. Arcand just wanted to know for his information.

#### HERTHAL ESTATES REVISED DEFINITIVE SUBDIVISION REVISED ROAD PROFILE CONTINUED PUBLIC HEARING

AM reopens public hearing. She reads letter from P. Herr, dated April 17, 1992, stating that they reviewed the revised profile of Fourth Avenue proposed as part of the Herthal Estates definitive subdivision plan. The plan revision is an improvement over the approved version in that it will reduce the construction disturbance to the environment and to abutters. It has a single non-compliance with regulations: an insignificant 0.2% excess over the grade standard, at 10.2% rather than the 10% required at Section 4252 of the Subdivision Regulations. That could legitimately be waived under the circumstances. The plan indicates minor regrading outside of the right-of-way on lots 1 through 5 around the cul-de-sac. To avoid possible problems



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should the lots be sold prior to that regrading, a grading easement over portions of those lots should be shown or documented by annotation on the definitive plan. They sense no reason for the plan revision not to be approved.

Bill Halsing, Land Planning, engineer, states that there was a question relative to drainage. There will be no more pavement on the road. It will drain with the same runoff. Pavement would have 100% runoff and grass 35%. The road profile complies with everything. There is 10.2% over which is quite insignificant. The grade at the top of the road changes. It will be 1' higher than the property as shown in the original subdivision.

AM asks P. Herr if there will be any more serious impact to the drainage than indicated.

P. Herr responds that it does not change the drainage. They are fitting the road more accurately. It will change the amount of blasting.

GG states that there will be less impact to the abutting house lots.

B. Halsing was not involved in the original road approval. For the question of grading at the top of the road, they can provide an easement with recorded deeds before the property is sold off.

Henry Dufresne, 21 Third Avenue, asks what happens if someone who buys the property raises the land around their house.

EM states that the road will be paved.

GG notes that anyone can do that. They can change their house lot.

AM does not see why anyone would do that.

H. Dufresne is concerned about the drainage which will run down the hill.

AM explains that is covered by Title 5. The lots will have to perc. The developer would have to submit new septic designs to the Board of Health.



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H. Dufresne asks what his recourse would be if someone puts in a septic tank above him.

AM explains that they would never get an occupancy permit if it is not draining property. They can not sell the house without an occupancy permit.

GG states that the house will be raised up closer to the house lots. Now with the 1' more, it will actually accomodate them better. There will be less pitch from the house lots to the road. The water will run down on the land. It is the public domain versus his neighbor's private domain.

H. Dufresne states that his neighbor has the right to do what he wants on his property, but he has a right to go after him.

EM notes that Mr. Dufresne has a lot on the street.

H. Dufresne owns lot 17.

EM further asserts that Mr. Dufresne is concerned about his lot being too low.

P. Herr notes that the road will be lower than it is now even through it is going to be raised at the top.

H. Dufresne asks what they want to raise the road.

AM responds it is because of the blasting.

B. Halsing states they want the road to cover over the pipes.

EM asks how many lots there are.

B. Halsing responds that there will be 5.

P. Herr asks where the lot is which Mr. Dufresne owns.

B. Halsing responds that it is at the bottom of the hill on the west side. The water will be picked up off the hill and carried to the public drain.

H. Dufresne states that right now his land is dry. If it gets wet, he will be back.



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B. Halsing notes that there should be less runoff to the lot. They will add a catch basin.

W. Arcand, Highway Dept., states that there is just a rough coat there. They never put in the finished coat. The developer did a beautiful job putting the drain in. They never came back for the through base.

B. Halsing states that should be taken care of.

W. Arcand believes that the Board is still holding a bond. They had to patch the road and there was a bond involved.

AM believes that it would have been bonded through the Selectmen's Office.

W. Arcand notes that they have berms and sidewalks on both sides.

AM states that if this is built according to this approved plan there should be no problem especially with the septic under Title 5.

GG has seen lawns run into the street but has never seen sewerage run into the street.

H. Dufresne notes that the developer dug up Main Avenue for the pipes and drainage and never covered the road.

GG states the repair to Main Avenue could be one condition to approval.

P. Herr asks if the same party is responsible.

H. Dufresne notes that yes it is. All the pipes are in.

GG is willing to make a motion to close the public hearing. EN seconds motion. Unanimous vote of 4 (AM, EM, EN and GG - JM not present).

GG makes a motion to approve the plan revision for Herthal Estates with a condition that if the lots are sold prior to road construction that there be a grading easement over those lots so the road can be finished. In order for the change to take place, before any further work can be completed, Main Avenue must be



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repaired to the Highway Department's approval. Main Avenue is a town thoroughfare which taxpayer's drive on. It must be repaired first. The Herthal's can finish the work afterwards.

EN seconds GG's motion. Vote of 4 (AM, EM, EN and GG - JM not present).

GG states that the Building Inspector, Planning Board and Highway Department should be notified if the work is not completed.

Clerk reminds Board that a fee must be determined for this revised definitive subdivision.

EM suggests they treat it as a Developmental Plan Review plus the advertising costs.

Clerk notes that the applicant paid for the advertising and abutters notices.

GG makes a motion to waive the normal fee which is collected for a definitive subdivision and to charge \$50.00. EN seconds motion. Vote of 4 (AM, EN, EM and GG - JM not present).

### WATER RESOURCE MAP

### WATER RESOURCE TEXT

### PROPOSED ZONING BYLAW AMENDMENTS FOR ANNUAL TOWN MEETING PUBLIC HEARINGS

GG makes a motion to open the public hearing relative to the Water Resource District.

Clerk reads notice of public hearing.

GG makes a motion to move the discussion pertaining to the Water Resource District to 9:15 p.m. tonight. EM seconds motion. Unanimous vote of 4 (AM, EM, EN and GG - JM not present.)

### DUNKIN DONUTS

### DEVELOPMENTAL PLAN REVIEW CONTINUED DISCUSSION

JM joins the meeting at 8:04 p.m. but abstains from the Dunkin Donuts discussion because he is an abutter.



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Bruce Lord, Esquire, for the applicant explains that it was difficult to show the parking spaces on the small plan. The total square footage of the shopping center is 119,000 square feet. The storage will be the same. 477 parking spaces are required based on the Bylaw. With the Dunkin Donuts there will be 120,060 square feet with 485 parking spaces. They did not break down the warehouse or the retail. They considered it all retail. They are proposing 495 parking spaces. There is a net loss of 13 which is well within the limits.

AM asks which spaces have been taken out.

B. Lord states that there are a total of 21 along Pulaski Blvd.

EM asks if there are still extra spaces.

B. Lord indicates that there are. They will put in a grassed area in the front and eliminate 4 spaces. There will not be cars breaking into the traffic pattern. They will pace the handicapped closer to the driveway.

GG notes that there is a problem with one space near the drive through. It is a dangerous design issue.

B. Lord states that they can eliminate the space.

P. Herr states that the Dunkin Donuts lot is joined with the Almacs lot. The problem is the building is on a separate lot from the parking.

Peter Alviti, engineer, for the applicant and Wasserman Associates, which entity owns the entire parcel. Lots 7 and 8 are under the same ownership of Wasserman Development Associates. They will lease from Wasserman to the applicant but it will remain in the same ownership.

B. Lord further explains that there are two entities and one leases from the other. It is controlled by the same people but owned by two different corporations.

EM asks how many lots there are in Bellingham.

B. Lord responds that all of Almacs is in Bellingham but only a small part of Ames.



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EN notes that at one time the Ames entrance was in Bellingham but it has been moved.

B. Lord refers to the question relative to the septic. The plan was approved by the Blackstone Board of Health on June 5, 1991.

EN asks if they will tie into Blackstone.

B. Lord responds that they will.

AM reads portion of the Board of Health, April 9, 1992 letter relative to Dunkin Donuts indicating that it will be necessary for the applicant to comply with the State Environmental Code regarding sewage disposal. The applicant will also have to conform to the state plumbing code as well as 105 CMR 590 Minimum Sanitations Standards for Food Establishments before the Board of Health will approve a building permit for this proposed facility.

P. Herr is at a loss since he has not seen the parking plan until now.

B. Lord notes that P. Herr did receive the original plan. This is a minor revision.

P. Herr has a number of small concerns. He can not tell if they have all been met now. There is the design issue. The drawing is less clear about parking. He states there will be no new egress at Pulaski Blvd. other than what exists now. They are not changing that.

B. Lord states that is correct.

P. Herr is confused about where the lots begin and where they end and who owns the adjacent property. The drawing does not stand by itself. It does work if an attorney is here to explain it. The lot depends on the adjacent lot to work. He asks how they can assure it will work indefinitely since there are two owners.

EM points out that the drawing shows access through someone else's property.

P. Herr states that yes, they will be parking on the neighbor's lot.



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B. Lord notes that they have a ten year lease.

P. Herr explains that the town has the approving leverage. This only works based on the other development.

P. Alviti states that the Wassermans will be here in ten years. Bernard Wasserman is the owner of both parcels although they are separate entities. The issue is lot 7 where the CVS is.

P. Herr suggests he confine the discussion to Dunkin Donuts.

EM notes that they do not know how the CVS even got built because they did not come before the Board for approval.

B. Lord refers back to their plan which shows the parking on the entire lot as it exists. The lease guarantees parking. The property is in separate (corporate) ownership, but the same people are in control.

AM asks why there is a 10 year lease and not a perpetual lease.

B. Lord states that the person operating the business does not want to be tied to perpetuity.

GG notes that last time they were in Mr. Alviti said that no cars are parking in that area now. He goes by there at least once a day. There is not a lot of parking there but there is some. The parking lot does not work now and throwing something else into it will make it work less. Before this can be approved, they have to make sure the parking lot works first. There should be a stop sign to stop people before they turn out.

W. Arcand states that the in and out entrance is too wide.

EM notes that once cars get in the entrance it is a free for all. There is no direction.

P. Herr asks if this will make the parking lot better or worse.

GG feels that it will make it worse.

EM states that the drive through people are in a hurry. He is not saying that it will not work but it will make the situation worse.





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B. Lord asks what the Board wants. They can not revise the entire parking lot.

GG indicates that since Mr. Wasserman owns both entities, let him redesign the parking lot.

P. Herr can not tell what the property is from the drawing. It shows the building but there are parking lots on top of parking lots. Maybe the scheme works, but the drawing does not say that.

Lou DeAngelis, construction manager for Dunkin Donuts corporate office, notes that the Board's concerns are valid. They are the same concerns they had when they looked at the site. Mr. Wasserman is more than willing to give up a tenant than to spend money. It will not work to hold this over his head.

GG states if that is the case, then maybe Dunkin Donuts does not belong in that location.

L. DeAngelis states that Dunkin Donuts does 50% of their business before the other stores open. They do not exacerbate the situation. A McDonald's would make it worse. Their peak hour is between 7:30 a.m. and 8:30 a.m. The town will be the loser. The franchise owner is a small businesswoman who is leasing from Mr. Wasserman. Dunkin Donuts does not have the lease. There is no leverage with Mr. Wasserman.

EM asks if Dunkin Donuts has given up its soup and sandwich menu.

L. DeAngelis responds that no they have not, but 50% of their business is done between 7:00 a.m. and 10:00 a.m. Lunch is only one hour. Their peak hour is 7:30 a.m. to 8:30 a.m. when they do 20% of their business.

AM notes that JM is abstaining from sitting on the Board for this discussion because he is an abutter.

JM asks if anyone has any objection to his making a comment from the audience.

L. DeAngelis has no objection.

JM states that although the traffic does get crowded, the parking lot does work. His business is right across the street.



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GG notes that people coming from Ames, Almacs and CVS are all going to the entranceway. It is not delineated.

JM states that the parking lot only fills up once a year.

P. Herr notes that JM is saying that the number of parking spaces is adequate.

JM believes the spaces are adequate. He is the closest one to it. The day before Thanksgiving there is a problem there. It is business zoned. Where do they want to put a business, on a farm? That is where the business belongs.

GG is not talking about the parking. He is talking about vehicular distribution within. One can always find a place to park.

P. Alviti states that if the Board is concerned about the internal parking, all of the traffic can be restricted to the far southerly end of the site.

GG does not feel that it works. He has a master's degree in landscape architecture.

P. Alviti asks what GG wants the proposal to be. He has been out there at noon, peak time, there is no danger. He asks for suggestions which he can bring to Mr. Wasserman.

GG states that they should have berms instead of white stripes.

P. Alviti thought they were trying to resolve the problem at the entrance.

GG states they would have no berm at the 15' section because of deliveries.

P. Alviti asks Mr. DeAngelis if there is a problem with having a berm around the entire building.

L. DeAngelis responds that there is no problem.

GG would like to see the road relocated up near CVS.

B. Lord asks what the purpose for that is.



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P. Alviti states that is a restriction of the Wasserman tenant.

GG states that it looks like they are directing the outlet berm 20'.

P. Herr can not tell which spaces they are eliminating.

P. Alviti points out the spaces to be eliminated.

P. Herr asks if the other spaces will be reversed. The tricky issue is access.

P. Alviti states that the number of parking spaces which exists are adequate.

P. Herr points out that the drawing does not show that.

P. Alviti states that it shows the existing parking spaces which have been labeled and added up. It compares the square footage of the plan. That was the original intent.

P. Herr notes that they are proposing to build something on one lot which depends on the adjacent lot.

P. Alviti explains that the circumstances of ownership are really that the same person own both lots through two different corporations.

P. Herr asks how they can assure that will be the case throughout the life of the building. The other issue is the safety of access.

AM asks if the owner of the building will sign a perpetual lease. Wasserman still owns the building. Wasserman could give his other entity perpetual lease, then the applicant would not need one.

P. Herr notes that they would have to guarantee access as well.

EM states that the big issues are traffic flow and safety.

B. Lord was focusing on this as a Dunkin Donuts issue, but it could be a Wasserman issue.



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EM states that the separate lot stands on its own. They could build a house because they have frontage. The problem is the allowed curb cut. They are benefiting the traffic by not allowing a curb cut.

B. Lord believes it is absolutely beneficial to keep the entrance in one place with in and out signage.

GG states that the spaces at the drive through do not work. The berm will attempt to make a simple parking lot modification. The berm on one side will tell them to stop instead of entering in. The parking lot is bad.

AM agrees.

B. Lord indicates that they can not solve the problem with the interior parking lot. He has always seen people parking efficiently. They stay in the lines.

AM points out that it is the driving out the parking lot that is dangerous.

EM agrees. It is not the parking. It is the coming and going.

B. Lord notes that they have a large number of parking spaces above the requirement.

P. Herr does not see why GG's suggestion would not work.

GG went by the location after the last meeting. There are signs which are 9" x 11". One says entrance on two sides and one says exit on one side which is the Woonsocket side. The signs should be larger and on both sides. His suggestions would help solve the traffic problems there.

P. Herr has concerns regarding lighting.

B. Lord explains that they are proposing a light off the building to cover the area with two lights on either side of the drive through.

L. DeAngelis further states that the building will have front socket lights during the hours of operation.



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B. Lord states that the hours of operation will be from 5:00 a.m. to midnight.

AM states that the existing house is for residential use.

B. Lord asks how the dumpster is accessed. Is it all open?

P. Alviti responds that it is a big paved area.

P. Herr states that the plan should be clear on how they will get at the loading.

P. Alviti explains that the applicant will not bake donuts here. They will be delivered.

Carmela Ferreira, applicant, franchise owner, states that the donuts will be delivered at 4:00 a.m. and 1:00 p.m.

P. Alviti does not think that Mr. Wasserman will object to the suggestions.

P. Herr is concerned about the lights affecting the adjacent house. Will the retention wall keep the lights out?

B. Lord responds that they will. There are two solutions. They will have a 5' fencing on top of 8' fence to keep the glare from the house. They will put the light directed down. The fence should take care of the glare.

EM asks about the light being relocated. They could have it aimed in or they could have a different type of light.

B. Lord states that there will be one on the point.

P. Alviti notes that they are both existing lights. He does not know if they turn on at night.

B. Lord indicates that the lights are existing and are not presently causing a problem. He asks if there is anything which the Board would rather have on the small plan.

P. Herr responds that they need a drawing which deals with the lot area between the building and the entrance to see how one will get at it. The Board should also see some form of document



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regarding the lease agreement.

GG makes a motion to continue the Developmental Plan Review for Dunkin Donuts, Pulaski Blvd. to May 14, 1992 at 9:00 p.m. EN seconds motion. Vote of 4 (AM, GG, EM and EN).

JM rejoins meeting.

### BROOK ESTATES REQUEST FOR FINAL APPROVAL DEVELOPMENTAL PLAN REVIEW

S. Racicot on behalf of the Conservation Commission indicates that they have no problem with the Planning Board granting final approval. However, there is an Order of Conditions in place. If they do not complete the clean up of the culvert, there will be a stop work order put in place.

Clerk reads letter from Carolyn Todd, one of the Trustees for Bellwood Condominiums, dated April 15, 1992, stating that the developer has not complied with the conditions set forth by the Board in the Amended Special Permit decision for Brook Estates. She lists a number of problems which the developer has failed to resolve. No one from DAVNA Corporation has made any attempt to contact them relative to completing the items which the Planning Board directed them to.

H. Rosenfeld, DAVNA, states that he received a copy of the letter. He called Ms. Todd and was supposed to meet with her last Saturday but she said that their Chairman would not be back then.

GG is not signing any approval for DAVNA tonight until these things are corrected. The Bellwood residents are taxpayers too and they are entitled to things too. Everything in her letter is true to the point.

EM notes that they are just asking that the road be repaired.

H. Rosenfeld states that they are asking for other things as well such as painting.

EN asks why they are taking so long to respond to the residents of Bellwood. The letter sounds like they are frustrated. The



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Board can not act on things unless these things are done.

GG instructs Clerk to send a letter to Ms. Todd on behalf of Bellwood Condominium Trustees explaining that Mr. Rosenfeld appeared before the Board requesting final approval. The Board has directed Mr. Rosenfeld to resolve the problems at Bellwood by the meeting of May 14, 1992. The Board asks that someone from the Trustees appear at that meeting at 7:45 p.m. to respond whether or not Mr. Rosenfeld has complied with the problems which the Planning Board addressed.

H. Rosenfeld indicates that one of their complaints has to do with gas pipes rusting.

AM notes that the Board can not make them do things which are relative to Planning Board issues like the road.

GG suggests that Mr. Rosenfeld might want to complete all the work which the residents of Bellwood are asking for. They do not sound like major issues.

Mr. Rosenfeld will take care of the problems and will appear at the next meeting of May 14, 1992 at 7:45 p.m.

WATER RESOURCE MAP

WATER RESOURCE TEXT

PROPOSED BYLAW AMENDMENTS FOR ANNUAL TOWN MEETING

PUBLIC HEARING

P. Herr points out Water Resource Districts I and II on a plan which he prepared. They are taking the wellhead study which was done for the Water/Sewer Commission. This is a very consequential change. He heard that this would make a fundamental change to the Housing Authority. Fred DePrato is in a Water Resource District now. This would take him out of it.

EM states that what was districts I and II are now I and II is expanded.

P. Herr notes that also some areas which were not in I and II are now in district I.

B. Lord does not think that anyone really understands what is going on. People will not be aware of it until they start coming



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in to build.

EM states that the reason they are taking the piece out is because it is next to the pumping station.

B. Lord notes that this is in conformity with the study done by Amory Engineers.

JM indicates that the study which was done 10 years ago was entirely different.

P. Herr explains that that study was not as extensive. This was a thorough analysis. DEP approved it.

AM owns 9 1/2 acres used as a construction site which will end up in a Water Resource District if this is approved. She asks how this will change her life.

B. Lord also points out that Jackie Richard, the Board of Selectmen's Administrative Asst. owns a pre-existing nonconforming lot which will end up in a Water Resource District. She will lose money. There are a lot of people who will be affected by this who do not realize it.

S. Racicot notes that this would make almost all of the southend of town not buildable.

B. Lord suggests they make the district effective at some date in the future.

EM notes that it will make Meadowood unbuildable and also the unfinished shopping center.

P. Herr points out that they would not be unbuildable if they got sewerage in. It does not totally wipe the land out.

S. Racicot asks what the rationale is for doing this.

P. Herr responds that the Water/Sewer Dept. based the study on the recharge area to the town well.

S. Racicot states that there are wells on High Street near Stallbrook. He asks why that section was not included.





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P. Herr responds that those studies will be done and they should come in the fall.

B. Lord states that the funding will be passed over at the annual Town Meeting. It will be funded next fall.

P. Herr included everything they have in the amendment.

S. Racicot asks about industrial sites which are put in before the two new wells.

B. Lord states that they may not be as close to the drainage area.

JM states that this is either the right thing to do for the environment or not.

B. Lord notes that it will cause severe hardship to people. They will be converting the land to worthless.

AM states that her business will be affected tremendously.

JM states that the property owners could still get a special permit. There are other ways to protect the environment. There are certain elements of risk. If the element of risk is slight, do they really need the law?

S. Racicot notes that in the 1990 Town Report, the Water/Sewer Board said if they do not do something now, by 1995 to 2000 there will be a tremendous shortage of water in town.

P. Herr points out that this is not a Planning Board proposal. It really came from the Water/Sewer Commission. Last year the Board revised the Water Resource District Bylaw to comply with DEP regulations. After the Town Meeting, the Water/Sewer Dept. submitted these changes which have now been incorporated. It could not be done at the last Annual Town Meeting. The Water/Sewer Commission and Superintendent should be alerted that there are not a lot of people here supporting this article. He should be prepared to get up at the Town Meeting floor. If the town does not adopt this, DEP will not allow them to take advantage of the wells which they already have. It is really the quarrel of the Water/Sewer Commission. In time, the state DEP will say no more water. The new format has been changed to almost



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exactly what the state's regulations are. A few of the rules are more stringent but not many. The rule which says 440 gallons per acre is a state rule.

Frank Morse states that it will affect people with septic systems.

AM believes that it will put them out of business.

F. Morse responds that is not true if they do not impact the water table. He asks P. Herr if a golf course is allowable.

P. Herr responds that yes it is but with a few restrictions.

EM states that Mechanic Street is on the map in the direction of the Water Resource District.

F. Morse indicates that it goes up to North Street.

AM thinks that it will affect them without the availability of sewerage.

B. Lord points out that Meadowood will have to have sewerage to develop also.

P. Herr explains that New England Country Club is zoned one way as an allowable use which is all predicated on sewerage. They will have one acre per dwelling unit.

B. Lord states that is in bankruptcy proceedings and the Federal Bankruptcy Court overrules covenants.

P. Herr explains that by adopting this change, it will change the lot size except that it is subject to the pre-existing life of the subdivision. He suggests that someone bring the Water Resource plan to the Town Meeting. Don DiMartino should explain it to the Town Meeting.

JM asks if they should adopt it or not.

P. Herr thinks they should hear from DiMartino. He is troubled by the existing boundary at Mechanic Street. If they leave it the way it is Mr. DePrato is restricted in a way which is not defensible. He is troubled by Paine Street. Some of the



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property is over restricted. He does think that the hydrogeology is not unreasonable. Being in a water resource district means that if people put stuff in the ground it will wind up in the water supply. Since the public hearing for this bylaw amendment is more than 21 days before the Town Meeting, they do not have to make a recommendation.

JM thinks that the Board could act not to recommend it.

EM states that they could defer to the Water/Sewer Dept. at the Town Meeting.

P. Herr notes that this is a whopping change.

EM is not ready to vote. GG and AM agree.

JM does not feel there is enough information.

P. Herr suggests they move on to discuss the text revision. The first change is a simple cross reference to comply with the Water Resource District law. The second is a cross reference regarding the earth removal.

AM asks how this will affect people who have earth removal permits. She asks if this will change the amount they can take.

P. Herr does not think so.

AM asks if this affects Dalpe.

B. Lord does not think so because he has an approved plan and is grandfathered.

AM asks if that is true even with a permit.

P. Herr responds that it is.

B. Lord explains that it would be a renewal in that case, not a new permit. The permit which Dalpe has is near a water well.

S. Racicot indicates that the Conservation Commission asked him to be here to answer the Board's questions relative to Brook Estates, Mr. Rosenfeld's development, but he is also here for this proposed article. He asks who discovered the high water



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mark. There is a change in words relative to the spring water table as opposed to the traditional water mark.

P. Herr states that if the proposed water table is so high, they can not do earth removal. The problem is that the proponent is not here to explain this.

S. Racicot thanks the Board on behalf of the Conservation Commission for going from 4' to 10' for the water table.

P. Herr notes that there was concern that the 4' was inadequate particularly for earth removal. The material goes through very quickly. The Conservation Commission said that the state's regulations were too minimal. Franklin considered going to 15' because 10' was too little. Now they canned the whole thing.

EM asks if they will need the Water Resource District when they are sewerage the town.

P. Herr responds in the affirmative. There are earth removal issues. It has nothing to do with sewerage. This came up one year ago.

EM suggests that the Board ask the Water/Sewer Commission members and Mr. DiMartino if they want to come in at the next meeting.

P. Herr would like to get his map back. If this change is adopted, he will need it back to make a real map.

B. Lord notes that at some point in the future, they will have to adopt it. He suggests they pass over it at the Annual Town Meeting at this time.

P. Herr is concerned about the relationship between the Water/Sewer Commission and the rest of town government.

AM suggests the Board invite all Water/Sewer Commission members or a representative of their Board and the Superintendent to come to the May 14, 1992 meeting at 8:45 p.m. to explain this Bylaw amendment.

GG makes a motion to continue the Water Resource Map and Water Resource Text public hearing to May 14, 1992 at 8:45 p.m. EN seconds motion. Vote of 4 (AM, GG, EM and EN). JM not present



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at time of vote.

### LAKEVIEW ESTATES DEFINITIVE SUBDIVISION CONTINUED PUBLIC HEARING

B. Lord states that the argument relative to the Water Resource District is a reason for them to ask for a continuance.

J. Hannert, Fafard, further indicates that the bank dragged on longer than they anticipated.

EM thinks that this has gone on for too long.

JM states that 6 years is long enough.

Clerk distributed copies of P. Herr comments relative to this development with the agenda which was mailed for this meeting. Clerk gives B. Lord a copy of the comments.

B. Lord asks that the Board give the applicant 30 days since it is extended to May 29, 1992.

J. Hannert explains that it is not their intention not to work with the Board.

P. Herr asks how it will be different in one month.

B. Lord responds that the bankruptcy will be in a peak position.

JM asks what the bankruptcy has to do with it. The Board will have no problem with them starting over again. No one shows up for the hearings any more.

GG states that during a meeting with M. Megalli, it was brought out that the plans do not even go with the topography.

JM suggests they start over again. He is not against the project but is against the principle of what they are doing here.

EM indicates that this is a whole new deal, not what it was originally.

P. Herr refers to the proposed issue of access. The town will not



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spend money for better access. The only way it can be developed is if the owner spends the money.

B. Lord would like 30 days to come in with something.

AM asks if they really think they will be able to come in with a plan in 30 days.

J. Hannert would like to have the opportunity.

B. Lord notes that if they do come in with a plan, they are willing to notify the abutters.

JM indicates that for a \$2500 fee, they have more than used up the Board and consultant's time. They should do away with it and let them come back with something new.

J. Hannert points out that they will probably end up withdrawing the plan in one month, but they would like the chance to go over the Water Resource District issue.

EN makes a motion to continue Lakeview Estates to May 28, 1992 at 8:00 p.m. EM seconds motion. Vote of 4 (AM, EN, EM and JM). GG abstains because he is an abutter.

P. Herr asks what will keep the Board from voting to rescind. What do they want a drawing of?

EM responds that they have to have the topo.

P. Herr refers to collector roads or minor roads. If they come in with new topography, they will have to have information necessary to proceed with the rest of this. They do not want the developer to runoff and act on the basis of notes which were given several years ago. It takes energy to make the changes he addressed in his comments unless the Board says that is what they want.

EM refers to the problem of no access.

P. Herr states that there is access for 28 to 30 lots. Then they will be considered minor streets. If they put in collector streets it can carry a lot of stuff. It will connect north and south.



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EM asks why the streets which Silver Heights put in are better.

P. Herr states that these streets would be inadequate for what was originally proposed. They changed the plan 3 years ago to a simple easy plan but there was the question of the topography.

B. Lord states that the holdup was also with the bankruptcy issue.

EN does not think they will be able to come in with anything substantial.

B. Lord notes that they will withdraw if they do not have anything.

### NEW ENGLAND COUNTRY CLUB

#### ISSUES RE: WRENTHAM ROAD FOUNDATION CLEAN UP

Clerk explains that there has been no contact with the attorney for the trustee or anyone from Forge Hill since they last appeared before the Board in February 1992. Someone from Kemper Management who is taking care of New England Country Club called and asked to be sent a copy of the Amendment No. 1 to the covenant.

JM believes that it is a \$1,000 job.

GG suggests the Board send a letter indicating that a response is required by May 14, 1992.

EN states that there may be a problem because they have to dig up the tank.

JM suggests they set up a date for the public hearing and then see if the land is cleaned up. He makes a motion to set a date for the public hearing to rescind the revised definitive subdivision.

EM asks which step they should take to rescind or rezone.

JM thinks they should rescind.

EM seconds JM's motion.



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P. Herr explains that rescinding a subdivision is just like approving one. The Board has to advertise, send notices and notify abutters.

JM makes a motion to hold the public hearing to rescind the revised Definitive Subdivision for New England Country Club to June 25, 1992 at 8:00 p.m. EM seconds motion. Vote of 4 (AM, EM, EN and JM). GG abstains from vote. The public hearing to rescind is being held due to no response from the developer.

B. Lord notes that if they rescind the subdivision the zoning will be for 20,000 square feet.

P. Herr notes that the covenant which was executed was not conditional on the subdivision plan. It was conditional on a land swap.

EM notes that it will go back to agricultural zoning. The golf course was not popular. The covenant was never signed by Marquette. He refers to the relocation of the entrance.

AM does not think that is a good enough reason to rescind.

EM states that the letter to the trustee should say that the Board picked a date and time to hold the public hearing to rescind unless we hear from them by June 1, 1992.

### ZONING BYLAW AMENDMENTS

#### JUNKYARD

#### DEVELOPMENT PLAN REVIEW

#### LOT CLARIFICATION

#### CONTINUED PUBLIC HEARING

EM reads portion of the Board of Health's April 9, 1992 letter relative to proposed changes in the Zoning Bylaw and Zoning Map. In amending subsection 4113 under home occupations to ensure that those occupations listed in section 4112 as well as those listed in 4113 will conform to other state or local requirements (i.e. beauty parlor or barber shop will meet the requirements of 310 CMR 15.00 (The State Environmental Code, Title 5 dealing with adequate sewage disposal facilities for this type of home operation.) Perhaps a note reminding all special permit applicants of the need to conform to all other state and local regulations beyond those as noted in the Zoning Bylaws.





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P. Herr thinks that the change refers to 4112 and not 4113. That is another change which they are suggesting and can be considered at another time since it was not advertised for. The Board can thank them for the suggestion but it is outside the scope of the article and can not be done for this Town Meeting. It can be considered for a future Town Meeting. The Board also passed over recommending 3 zoning articles, i.e. Developmental Plan Review, Junkyards and Lot Clarification because the Board of Health asked them to hold up on acting on them. He asks if the Board recommends them or not.

EM states that they are all in agreement and makes a motion to close the public hearing for Developmental Plan Review. GG seconds motion. Vote of 4 (JM, GG, EM and EN). AM abstains because she was absent for the discussion.

EM makes a motion to recommend the proposed article for Developmental Plan Review. GG seconds motion. Vote of 4 (JM, GG, EM and EN). AM abstains because she was absent for the discussion.

P. Herr refers to the lot clarification article. If people in one half of a duplex and people in the other half have 3 dogs each for a total of 6 dogs, it will be considered a dog kennel.

GG makes a motion to close the public hearing for the lot clarification proposed article. EN seconds motion. Vote of 4 (JM, GG, EN and EM). AM abstains because she was absent for the discussion.

JM makes a motion to recommend the lot clarification proposed article. GG seconds motion. Vote of 4 (JM, GG, EN and EM). AM abstains because she was absent for the discussion.

P. Herr refers to the junkyard definition proposed article. He explains that this narrows the definition of junkyard to principle use instead of part of a yard.

GG makes a motion to close the junkyard public hearing. JM seconds motion. Vote of 4 (JM, GG, EN and EM). AM abstains because she was absent for the discussion.

GG makes a motion to recommend the proposed junkyard article. EM seconds motion. Vote of 4 (GG, EM, EN and JM). AM abstains



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because she was absent for the discussion.

Board members instruct Clerk to give all the articles to Town counsel to prepare the motions.

Clerk explains that the attorneys for the petitioners for lot 3 rezoning, partial lot 3 rezoning and lot 6 rezoning would like a copy of the motion prepared by P. Herr relative to the lot 3 rezoning.

EM suggests and members concur that Clerk send the motion to L. Ambler for his review first prior to sending it along to the petitioners' attorneys.

### SUBMISSIONS

B. Lord submitted an 81-P at the last meeting relative to Silver Lake. One lot is to be divided into 2. It is not buildable.

P. Herr notes that they do not have lot numbers. He asks if the green line is the entire piece which is being altered. Mr. Walley's house lot has no frontage. After a review of the plan, P. Herr determines that this is not a subdivision and therefore the Board can sign the 81-P.

Members sign plan.

B. Lord presents \$10.00, application and plans.

B. Lord presents another 81-P for FREDAP Realty Trust. He explains that the green is being claimed by adverse possession. It is an existing division of land recognized on the Assessor's Maps.

EM questions if they would be making it a subdivision.

P. Herr points out Joe Rosenfeld's land. He asks if he agrees about the line.

B. Lord responds that it goes back to 1965. It was never settled as far as the title goes because it was filled in land.

P. Herr asks about the shoreline 1965 or 1990.



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B. Lord responds that Land Court requested that they draw the plan as it presently exists. He notes that Silver Lake is not owned by the Town of Bellingham.

P. Herr asks who owns it.

B. Lord responds that it is private. That is part of the problem. The trolley company used to own the whole thing.

P. Herr reviews the Form A. 3 of the lots have multiple buildings on them which were there before Subdivision Control Law came into effect. The Planning Board can endorse the plan.

Members sign plan.

B. Lord presents \$10.00 fee and application.

### PINE MEADOW HOMES DEFINITIVE SUBDIVISION PLAN ENDORSEMENT

B. Lord presents the plan for Pine Meadow Homes which was approved by the Planning Board in 1988. He swears that the plan is unchanged since December 8, 1988. The plan is more than 6 months old. It was never filed at the Registry of Deeds. He asks the Board to sign certifying that the plan has not changed or been modified. The owner sold the subdivision. Title was never transferred by Sullivan. They are selling with the permission of the FDIC.

Members endorse plan.

JM makes a motion to close the meeting at 11:45 p.m. GG seconds motion. Unanimous vote of 5 to close the meeting (AM, GG, EM, EN and JM).



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*Anne M. Morse*

Anne M. Morse, Chairman

*John P. Murray*

John P. Murray, Vice Chairman

*Emile W. Niedzwiedz*

Emile W. Niedzwiedz

*Glenn E. Gerrior*

Glenn E. Gerrior

*Edward T. Moore*

Edward T. Moore