



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

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

MINUTES OF REGULAR MEETING

SEPTEMBER 24, 1992

Meeting was called to order at 7:38 p.m. with Board members AM, EM and EN present. Chairman JM and Board member GG came in a little later. Board's consultant, Philip B. Herr, was also present.

SUBMISSIONS GENERAL BUSINESS

Paul Bouliane submits an application, plan and abutters list for a definitive subdivision on Overlook Drive. He wants to build a duplex. The Board advised him to apply to the Planning Board and Zoning Board simultaneously and that is what he is doing.

Clerk explains that the public hearing has to be advertised one week and two weeks prior to the hearing. The public hearing can be held on October 22, 1992. The newspapers will bill him directly for the legal ads. He will be informed as to the amount of money required for the abutters certified notices.

Clair Couture presents a plan dividing her lot into three so her two daughters can build homes.

AM asks if it is an existing lot.

C. Couture responds that it is.

AM asks if it is one lot now.

C. Couture responds in the affirmative. It is on Lake Street.

EM asks where it is on Lake Street.

C. Couture responds that it is by the Sportsmen's Club. They are looking to see if they can get a waiver relative to the access. They want to keep it a private drive. They want to use the driveway as a private drive.

EM asks if they intend to increase the road.



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C. Couture responds that they do not.

AM states that they would have to come in with a subdivision. This plan is not showing that they meet the letter of the law.

C. Couture has an existing drive now. They are asking that it be kept a private way. They want to go with the existing drive.

AM states that they would still have to apply for a subdivision of the land.

EM does not know of any private drives in town. They would have to ask Town Counsel about this.

AM asks W. Arcand from the Highway Dept. who is in the back of the room if there are any private drives.

W. Arcand responds that yes, there is more than one.

P. Herr joins the meeting at 7:45 p.m.

AM explains that this plan meets the regulations except there is a small way at the entrance. The owner wants to use the existing drive.

P. Herr asks if the lines exist.

C. Couture responds that no, they are dotted lines.

EM states that this is good for one family but if one house is sold there could be a problem.

P. Herr states that they can not proceed without a hearing. The Board has it in its authority to waive these things but they can not waive the procedure. They could have a backlot subdivision special permit which is a way to do this with three lots instead of two. The Board could even waive the submittal requirements. Boards in other towns do that. He asks what the fuzzy lines are.

C. Couture responds that they are wetlands.

AM notes that they are asking for 39' of frontage for 3 lots. They are asking for a reduction in the subdivision requirements to a gravel drive.



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GG joins the meeting at 7:50 p.m.

AM asks if they would have to go with a complete subdivision and show the cul-de-sac.

P. Herr responds that no, they do have to go through with the procedure. The likelihood of it getting approved is not terribly high. He does not know about the drainage.

C. Couture points out the culverts.

P. Herr states that the Board would have to hear from town officials to find out if the plan is o'kay. The problem is with the private gravel driveway. Ten years down the road people may complain about it if there are three strangers involved.

JM joins the discussion at 7:52 p.m.

AM indicates that they could submit for a public hearing.

P. Herr notes that the expensive issues have to do with drainage. Their engineer could prepare a design to argue that the drainage works.

AM states that they should tell their engineer that they are looking to apply for a public hearing.

P. Herr suggests they go back to Guerriere and Halnon to prepare a preliminary plan showing the topography, how they will handle the drainage and what will be paved and not paved. This will start the process and they will get feedback from the Board who will approve or disapprove the preliminary design. This will tell them whether or not they should forget pursuing this before they put a lot of money into it.

AM notes that they did flag the wetlands.

P. Herr thinks that their engineer can tell them the different costs before doing what they need to do to satisfy the regulations.

Kathy Vitale, one daughter of C. Couture, asks if it would be easier for them to go on if they did the whole thing.



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P. Herr responds that it would be easier but it would cost a lot of money for just three lots.

JM notes that the Board does waive down requirements. This means that the Board may be willing to cut down on some of the requirements.

P. Herr states that they could do this but the question is whether or not it is worth the money.

EN notes that they are talking about two homes, one is already there.

P. Herr points out that Guerriere and Halnon may make an estimate of costs before they do the preliminary plan.

C. Couture asks what happens to the road is they pave and put in a cul-de-sac.

EN responds that it then becomes a town road and they would have to put up a bond.

John Andrews, Andrews Engineering, submits an 81-P, Form A for FREDAP Realty Trust. The plan was before the Board in July 1992 when it was endorsed. There was a straight line but he had to put in a kick line to meet the Title 5 requirements for the septic system.

GG asks if the frontage is still on Hartford Avenue.

J. Andrews responds that the only change is the kick line.

GG makes a motion to sign the 81-P. AM seconds motion. Unanimous vote of 5.

WHITE HEN PANTRY

DISCUSSION RE: ADDITIONAL CURB STOP

Wayne Cottle is here on behalf of Dean Cooperative Bank who occupies the plaza with White Hen Pantry, their anchor tenant. They acquired ownership of the property last May. They are here to obtain the Planning Board's input. They propose a one way in curb cut on Pulaski Blvd. Wildred Arcand from the Highway Dept. asked them to come to the Planning Board. The bank purchased the



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property from the FDIC in May 1992 in a foreclosure sale.

JM discloses that he is a depositor with the bank.

AM has a checking account there.

W. Cottle states that they have spent money improving the location and intend to remain there. They are asking for the additional curb cut for three reasons: (1) to improve the traffic access and the flow of traffic; (2) to improve the business climate with their tenants and (3) to increase viability. The property has never been more than 40% occupied. Now it is 50% occupied. The original developer proposed a curb cut closer to the intersection.

EN notes that was denied.

W. Cottle states that the Planning Board approved two two way cuts on Wrentham Road and Pulaski Blvd.

EM notes that the Wrentham Road curb cut has conditions.

W. Cottle states that White Hen Pantry, their tenant, has had its business effected by the egress and lack of convenient one way in only. This deters potential customers from them. There are inherent defects in the access which will force their tenant to vacate the property. They are working with White Hen Pantry to try to resolve this problem. He introduces Kevin Feeney and Biagio Fitulio from White Hen Pantry.

JM asks if White Hen Pantry will move out if they do not get the curb cut.

K. Feeney responds that they will. He is the real estate representative for White Hen Pantry. When they signed their lease they were led to believe by the original developer that there would be a second curb cut on Pulaski Blvd. They sell quality and convenience which is being threatened by the lack of an additional curb cut.

EN points out that the developer did not tell them the truth.

K. Feeney explains that the bank renewal option is up but they do have a lease.



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P. Herr states that the proposed new means of ingress would cause the removal of parking and a change in the pattern of circulation. It also changes the lighting which would require a site plan review. This is just an informal discussion right now.

B. Fitulio states that they are here to determine if that is necessary.

K. Feeney indicates that they are here for the third curb cut with a one way in. He gave P. Herr a copy of the plan and met with him prior to this meeting. The key for them is the additional curb cut.

EN would like to see the Wrentham Road curb cut closed down. There is no site distance and this will cause a serious accident.

AM notes that it is her understanding that W. Arcand could have approved the curb cut without anyone coming to the Board.

W. Arcand explains that a curb cut can be approved by the Highway Superintendent or Director. They can give permission for a curb cut but there is a problem with Wrentham Road. W. Feeney came in to see him. He told him that he could give permission but would rather see them come before the Planning Board. There is no problem with the flow of traffic. As a common courtesy he asked them to come to the Planning Board. He can give them a curb cut to put in a driveway right now.

P. Herr states that they can not use it because they would be going through 3 parking spaces. This would change the internal circulation of the Bylaw.

DONOVAN COURT CONTINUED PUBLIC HEARING

Clerk reads letter from applicant, John Donovan, requesting a continuance to October 8, 1992.

EN makes a motion to continue the public hearing to October 8, 1992 at 8:30 p.m. GG seconds motion. Unanimous vote of 4 (JM, GG, EM and EN). AM abstains from vote.

P. Herr checks the timeframe and determines that it is o'kay.



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Patrick Collins, 108 N. Main St., abutter, asks why AM is abstaining.

AM explains that the applicant worked for her company before and therefore there is a conflict of interest involved.

P. Collins asks why this developer is being granted a continuance.

GG explains that it is only fair to this developer since the Board has given extensions to other developers for three years. This is done as a common courtesy.

JM notes that the Board does it as a courtesy the first time. They do not want to drag it down.

EM states that apparently the applicant's engineer is working on the plan.

P. Herr indicates that generally it is good news when a developer asks for an extension. It means that they are making changes and they are making it better.

WHITE HEN PANTRY

CONTINUED DISCUSSION RE: CURB CUT

W. Feeney presents a plan showing the existing roadway with the two way entrance on Wrentham Road and two way entrance on Pulaski Blvd. There is a backup which makes it inconvenient for someone to shop at the center because of the traffic problems.

EM asks where they propose the curb cut.

B. Fitulio responds that they could recreate the sidewalk.

W. Feeney believes that this would take the pressure off Wrentham Road. He met with P. Herr who suggested an angled cut. There is a deceleration lane which slows folks down.

EN states that it is really a holding lane. It was supposed to be bigger.

JM notes that the Bylaw requires that the parking spaces be 20' from the road. That makes it tight inside the plaza.



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Sgt. Jim Haughey, Safety Officer, reviewed the situation and suggests to the Board that they have a right hand turn in only. The traffic inside is tight. He believes that this would be an excellent addition to the plaza because there are a lot of near collisions. There are speed bumps in the back. This curb cut would benefit the store and the town.

EN notes that the Bylaw says they can not have more than 250'.

P. Herr states that this meets that.

B. Fitulio states that it is 180'.

GG was not in favor of this plaza in the beginning but this curb cut makes sense. This could become a credit to the town. He would like to see a store in there. He does not know how they have survived this long. It is a pain in the neck to get in there.

EN indicates that the Board has to go by the Zoning Bylaw.

AM asks why they do not stay with two in and out.

K. Feeney explains that if they are blocked, then all congestion is blocked off. They met at the bank at 4:30 p.m. tonight and they could not get out. Having two points out would enable them to relieve the traffic. They invested \$225,000 into this four years ago. Their own customers have told them that they are inconvenient to get to because they have to put up with the traffic. They can not proceed until the traffic goes forward. They are so well signed and lit. They will have only one stream of traffic going through at one time. One way in curb cut will reduce the pressure. It would make it very convenient for people to get to the shopping center. Only Dean and White Hen Pantry have been there for 4 years. They are hampered by the lack of a third ingress.

GG is looking at it to benefit the town with a full retail center. He believes that this system would work great.

JM asks about the safety aspect.

Sgt. Haughey states that the only problem is with Wrentham Road. The intersection works but backs up.



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GG points out that there is a vacant lot next door which Dean could buy.

W. Cottle notes that has been discussed.

GG states that if Dean bought the lot and put another small building up they would have another egress.

W. Cottle notes that it is not a wide lot.

K. Feeney points out that if they block off the Wrentham Road egress, their Rhode Island customers will shop in Rhode Island instead of coming in to their store.

GG asks if they are talking about blocking it as an exit.

K. Feeney presents pictures depicting the current situation. He points out where they propose the curb cut and where the traffic moves slowly.

GG notes that they could buy the lot next door for parking.

B. Fitulio states that they would have do not enter signs to deter people from using the one way to get out.

JM thinks that the buffer area looks nice but maybe it should be 10' instead of 20'.

B. Fitulio thinks that a 5' change would make all the difference.

EM notes that the Bylaw was there before the plaza. They design buildings to meet the Bylaw not the other way around.

GG points out that they are over the amount required in parking. They have 79 and 59 is the required amount.

K. Feeney states that the parking is over by 25%.

P. Herr indicates that this involves a substantial alteration in the parking of 10 or more spaces. They are not creating less than is required.

B. Fitulio states that they would be losing 6 spaces with this.



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JM asks why they do not have a left turn only.

Sgt. Haughey responds it is because of the light there.

W. Arcand states that if they cut in 5', then Developmental Plan Review would be required. He just wanted the Planning Board to be aware of this curb cut.

GG points out that there is a sharp radius turn.

P. Herr states that it still does not make it. They did talk about cutting the radius. They have 32' now. If they open it up it would be 35'. He asks about the bank's drive through traffic.

W. Cottle responds that it is steady egress with steady traffic.

JM asks why it is curbed rather than straight.

P. Herr states that there is concern regarding traffic coming in bumping into traffic which is going out.

GG states that they could put up a yield sign. He is willing to vote to recommend it right now provided they have a sign entrance only.

B. Fitulio points out that they intend to have a do not enter sign and enter only painted in on the pavement.

EN states that they can not give 5 more feet.

GG states that he is willing to approve the entrance only proposed by Dean Cooperative Bank since that is the owner.

K. Feeney is a former city planner and his associate Biagio is an engineer. They have reviewed the situation extensively.

GG makes a motion to approve the curb cut with the modification that the inside radius heading south be extended to allow vehicular traffic toward Dean with Do Not Enter signs.

P. Herr asks if that would entail the relocation of anything.

W. Cottle responds that they may have to move one post but not the sign.



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P. Herr asks about the drainage.

B. Fitulio responds that the existing catch basin will remain.

P. Herr states that this would not come under site plan review.

EN thinks that they should have the dimensions of the road going in.

B. Fitulio notes that they do have the dimensions.

GG's motion includes that there be a 40' setback on the parking from the curb edge.

AM seconds motion to allow the driveway with the radius.

EN and EM abstain from the vote because they feel there is not enough information.

Vote of 3 to allow the curb cut with radius (JM, GG and AM).

W. Cottle notes that if the bank wants to go back 5' they will come back and request that. They will work with the Highway Dept.

W. Feeney states that it has been a pleasure dealing with Mr. Herr, Sgt. Haughey and W. Arcand.

EM has questions relative to where the water runoff will go? Will it be graded properly to go to a catch basin? Will it be engineered properly?

GG would rather see a full retail center rather than a vacant one.

W. Cottle notes that the owner of record is Dean Acquisitions, a subsidiary of Dean Cooperative Bank.

BROOK ESTATES

DISCUSSION RELATIVE TO LIGHTING SPECIFICATIONS DEVELOPMENTAL PLAN REVIEW

Huna Rosenfeld explains that back in May 1992 when the Board gave final approval, they were told to come back with lighting



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specifications. They will have the same lights which they now have at Bellwood 22' high.

GG notes that the people on Brook Street are very happy with the way the culvert came out. Mr. Rosenfeld did a nice job.

AM asks if P. Herr has any problems with the lighting specifications.

P. Herr responds in the negative.

JM states that the Building Inspector called him relative to building permits. There is a build out schedule. He asks how many Mr. Rosenfeld will be building.

H. Rosenfeld responds that they will be starting with B. They do not intend to go over the allotted amount.

AM makes a motion to grant final approval for Brook Estates Developmental Plan Review based on the submittal of the lighting specifications as required by the Planning Board.

EM seconds motion. Unanimous vote of 5.

JM instructs Clerk to send a letter with the plans to the Building Inspector.

PINE MEADOW HOMES

DISCUSSION RELATIVE TO DEFINITIVE SUBDIVISION

P. Herr went over the plans because he will not be present at the next meeting when this public hearing is continued to. The only changes are the detention and easement around it. The drawings were changed two times. This is not reflected on the cover. It is a serious mistake. He does not think it was their intention to defraud.

EM notes that on a couple of pages, the engineer did put revised with a date but he thought the proper procedure was to have an engineer date and stamp the revisions.

P. Herr agrees that is the correct procedure.



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STALLBROOK
REVISED PLANS

P. Herr reviewed the plans which they sent with revisions. They relocated store E and flopped it with the parking lot. They added another store F and a parking lot. The special permit decision says that they can not have more than so many square feet total and they do not. They have not changed the egress location. Almacs has been reshaped and moved closer to the road. The number of parking spaces has been reduced. Stores A, B, C and D are smaller than before.

AM asks if the supermarket is bigger.

P. Herr notes that the total square footage is less than it was originally. The parking spaces are less but there is more than enough to meet the requirements. These revisions are consistent with the intent of the special permit which was granted.

AM points out that the developer built a wall at the cemetery and it looks like hell.

P. Herr states that this is not an attractive development. There is nothing they can do about the wall.

GG does not think they had to build the wall as nice as they did.

AM asks why they went half way and then dropped it.

GG responds that is because it has nothing to do with them.

P. Herr states there are two sets of drawings with the special permit because the architect finally caught up with the engineer.

EM asks if this requires Developmental Plan Review.

P. Herr states that what the developer asked is consistent with the special permit. Whether or not they require DPR is a different question. The Board could ask them to come in for DPR because of the additional building. They should ask the Building Inspector because he may have already given them permits.

Clerk reads letter from Makram Megalli, Town Engineer, dated September 14, 1992 stating that he reviewed the revised Plan C.6



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and original Plan C.5 and found that (a) Total proposed building areas as revised are less than 260,013 square feet; (b) The revised proposed areas are 12,488 square feet less than the original proposed building areas; and (c) The revised proposed parking spaces are 56 spaces less than the original proposal.

Clerk also reads letter from National Development of New England, Theodore Tye, Partner, dated September 14, 1992 stating that additional changes have been made to the parking area as noted on the enclosed Drawing C-5 with a revision date of September 4, 1992. The plan shows the addition of cart corrals in the parking area and a revision in the parking island configurations. The total area of green space in the parking lot has remained unchanged. The number of parking spaces has slightly decreased, however, there are 205 more spaces than is required by zoning on Lot 2. They will be undertaking a major financing of this property on or about October 1, 1992 and request the Board execution of the letter which they sent by September 30, 1992.

EM makes a motion for JM to sign the letter which states "You have presented to us a certain site plan for the development of Stallbrook Center so-called in Bellingham, Massachusetts. The plan was prepared by Sumner Schein, Architects and Engineers and is referenced on the attached Exhibit. The Planning Board hereby confirms that said plan is in compliance with the Major Commercial Complex Special Permit Decvision dated Setpember 26, 1991 issued to Stallbrook Center Limited Partnership and Varney Bros. Sand and Gravel, Inc." EM notes that the revisions are still in line with the special permit.

AM seconds EM's motion.

JM notes that they are changing buildings and parking lots.

EM points out that P. Herr said that the letter says they are still in compliance with the special permit, but they do have to come back for Developmental Plan Review.

P. Herr states that it is consistent with the approved special permit but is not consistent with DPR.

EN asks if they know they have to come back in.

P. Herr does not know. They may know it.



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Unanimous vote of 5 for JM to sign the letter and forward it to the developer.

EM makes a motion that because the developer changed the parking and added buildings, they are required to come in for a DPR for the property. EN seconds motion. Unanimous vote of 5 to notify the developer that they need to come back to the Planning Board.

P. Herr has a copy of the latest revision. He will check to see if there is enough information to do a DPR.

EN makes a motion to accept the minutes of August 27, 1992 with a revision on page 16 relative to the name of Rose Borkowski as well as the minutes of May 28, 1991 and July 23, 1992. AM seconds motion. Unanimous vote of 5 to accept the above-mentioned minutes.

P. Herr raised an issue with Denis Fraine relative to a workshop to meet with the local businesses to discuss what people in other towns are doing regarding the enormous changes in retailing. They will have to do it soon or not at all. Bellingham is less effected.

EM thinks that they could have a forum at one of the Bellingham Business Association meetings.

P. Herr points out that the small business owners can not price compete. They have to learn how to reorient. Maybe they can offer more service. He will raise the issue with D. Fraine again.

EM states that the Bylaw requires 20' grass strip in parking areas.

P. Herr does not know off hand.

GG thinks that the 40' at the Pavillion is excessive.

P. Herr notes that they can not just move it though.

AM refers to Form J that there is no area for an as-built.

P. Herr states that maybe that was not changed since the Board decided to require as-builts. They will change it the next time



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around. It has to be complete within two years.

EM refers to Form D-2 where it states that it has to be completed within 24 months of completion.

P. Herr states that is from the time the subdivision bond is exchanged for the covenant. There are two different things. One is the 24 months to give a release. The other is the D-1 where it says within two years regardless.

EM asks what happens if someone else buys the subdivision.

P. Herr states that the covenant approval is conditional on it being completed within 24 months. If not, there is no subdivision plan any more.

EN asks if that means it has to be started in that timeframe.

P. Herr responds that no, it has to be done with during that time. There is concern over grandfathering with 7 years for zoning. The negative side is that it pushes people to develop as fast as they can. He refers to property which Fafard acquired from Rosenfeld. Litigation is still pending.

AM states that they should not have put a condition in to give more time.

Larry Cibley asks about a problem which they have when someone rents land and puts in a trailer, a business on wheels which stays for years. The property is zoned business but they can not tax the owner because he is renting to a business on wheels. He is referring to the Taco Wagon. The same guy rents property out to a travel agency which allows individuals going on a bus trip to park their cars on his property. This is a piece of commercial property which is being used for businesses but is taxed as vacant land. He asks if there is a Planning Board Bylaw which prohibits this type of thing.

JM does not feel that it is a Planning Board issue.

L. Cibley states that if there was a sign in the parking lot which said Royal Travelers or if the Taco Wagon was a permanent building, then the owner could be taxed. He is paying taxes for a vacant piece of land. The owner of the Taco Wagon only pays



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taxes on the personal property on what is in the trailer. The question is can they get a Planning Board Bylaw which would not allow mobile vans used on a permanent basis.

P. Herr states that they can but the Royal Travelers is different.

L. Cibley states that they pay taxes on a vacant piece of property because it is not developed. He refers to someone who wanted to sell donuts from a trailer but was not allowed because it would cause traffic problems. Would it be fair to allow someone like that to come in and sell donuts right across the street from Honey Dew Donuts who is paying taxes, and they would not have to pay taxes.

P. Herr states that sometimes manufacturing plans use trucks to store stuff instead of building an addition and paying more taxes.

GG indicates that would be an accessory to primary use. This is primary.

L. Cibley's point is that this is vacant land which the owner is renting and deriving income from.

JM thinks they should charge a fat permit fee.

L. Cibley indicates that because this is only food, the owner has to come in and get a permit. Swimming pools would not need to come in.

P. Herr states that many states get a share of the sales tax.

L. Cibley points out that the owner can operate cheaper because he will not have to pay taxes.

P. Herr refers to the Paul Bouliane plan which Clerk gave to him. It is an incomplete submittal. The drawing is not a definitive subdivision plan.

EN instructs Clerk to tell Mr. Bouliane that it is an incomplete submittal.

P. Herr explains that some towns have a small project procedure



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which requires less drawings and roads. He does not know if it is a wise thing to do.

EM does not know. He is worried that it would backfire.

EN refers to farm land, zoned agricultural.

P. Herr states that under Chapter 61A, one would come in and declare to the Assessor's so they are taxed based on the current use rather than the market value. They agree not to build and if they do they will pay back taxes.

EN states that a lot of people are making a killing.

Members sign pay voucher and invoice.

EN makes a motion to adjourn at 10:20 p.m. AM seconds motion. Unanimous vote of 5.

John P. Murray, Chairman

Anne M. Morse

Anne M. Morse, Vice Chairman

Emile W. Niedzwiedek

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Glenn E. Gerrior

Glenn E. Gerrior

Edward T. Moore

Edward T. Moore