



## 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

OCTOBER 8, 1992

Meeting was called to order at 7:50 p.m. Members AM, EN and GG were present. Chairman JM came in a little late. EM was absent.

#### SUBMISSIONS

Mike Yerka, Yerka Engineering, presents a Form A, 81-P for S. Main Street for G. Daigle.

AM asks about the zoning.

M. Yerka responds that it is agricultural/suburban.

AM asks the number of feet.

M. Yerka responds that it is a couple thousand.

AM states that they need 40,000.

M. Yerka states that the whole piece is 42,009 feet. They are allowed to go 30' into the abutting zone. They have 600' to North Street.

Gerry Daigle, the applicant, states that this is for his son.

EN asks if they abutt New England Bonsai.

G. Daigle responds that it does.

GG makes a motion to sign 81-P. EN seconds. Vote of 3 (AM, GG and EN).

Alfred Santosuosso presents an 81-P for Mechanic Street. He owns Countryside Motel and Quality Auto Sales. He received a variance to change from one to two properties.

AM reads variance from the Zoning Board of Appeals.

GG asks why the plan is dated October 8, 1992 and the decision is



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dated November 18, 1991.

B. Lord explains that the applicant just waited.

GG states that it says on the plan that the variance was granted by the Zoning Board of Appeals.

AM thought it was automatic with a variance.

B. Lord states that the variance makes it a legal lot.

AM thought it was already done when they got the variance.

B. Lord explains that this makes it legal. The variance gave him permission to reduce the frontage, not to divide the lot.

AM asks about the zoning.

B. Lord responds that it is business in the front and residential in the back.

EN asks what the business is.

B. Lord responds that it is auto sales and a motel.

AM asks about the setback.

B. Lord responds that there is no setback. It is commercial to commercial. There is no problem with parking because there is plenty.

EN asks if they have to show the parking.

B. Lord responds that no, they do not, not with a division of land. They are fully in compliance because it has been varied.

AM asks about the lot size.

B. Lord responds that it is 20,000 square feet in business-1.

GG makes a motion to sign the 81-P. EN seconds motion. Unanimous vote of 3 (AM, GG and EN).

AM opens the continued public hearing for Pine Meadow Homes and



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asks to extend it for 10 minutes.

GG makes a motion to continue Pine Meadow Homes to 8:10 p.m. this evening. EN seconds motion. Unanimous vote of 3 (AM, GG and EN).

### SHOPPES AT CITY LIGHTS REQUEST FOR SPECIAL PERMIT EXTENSION

Janice Hannert, Fafard, asks for a one year extension due to Mr. Fafard's financial situation. They came out of Chapter 11 in August 1992.

Clerk reads letter from Ms. Hannert, dated September 22, 1992, stating that they would like to request a one year extension for the Special Permit for Shoppes at City Lights. Conditions pertaining to the project have not changed in the past year. The extension is necessary because of their financial situation. The extension is also necessary because of the general state of the real estate industry.

J. Hannert states that the reason for the extension is the same as last year. They just came out of bankruptcy.

GG makes a motion to grant a one year extension for Shoppes at City Lights. EN seconds motion. Unanimous vote of 3 (AM, GG and EN).

### PINE MEADOW HOMES DEFINITIVE SUBDIVISION PUBLIC HEARING

AM opens the public hearing and reads letter from Town Engineer, Makram Megalli, dated October 7, 1992. He offers the following comments: (1) The USGS map for drainage calculations is missing; (2) The details of outfall structure for the detention pond should be included on the plans; (3) Cross section of proposed road is not shown on the plans; (4) The Highway Dept. requires a fence around the detention pond; (5) The 100 year flood line location and elevation should be shown on the plans. The relation of the road to said flood line needs to be shown on the profile as well; (6) The zoning district needs to be shown on the plans; (7) Proposed name of road is not shown; (8) The plans should have a note to indicate what datum was used for elevations (USGS is required); (9) The Planning Board needs to examine the



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applicability of requiring access to adjoining land; and (10) The Planning Board may discuss with the Conservation Commission the need for a detention pond.

Bill Halsing, Land Planning, notes that he just received the letter. He asked Mr. Megalli to call him with comments but he did not. With reference to item (1) he will get the USGS map. Item (2), the details are on the plans now. Item (3) has been on the plans since 1988. It is on the detail sheet so Mr. Megalli may have missed it. Item (4) is a Highway regulation.

GG refers to reverse safety issues. Kids could get into the detention pond but could not get out.

B. Lord states that the Highway Dept. has been requiring fences. They required it for Rawson Farm.

GG thinks it is just as dangerous having it there as not having it.

B. Lord thinks that it is a very attractive nuisance if they do not have it.

EN is concerned about small children.

GG asks how many children get hurt in detention ponds.

EN notes that even one getting hurt would be a big problem.

B. Lord points out that they are putting one in at Rawson Farm at the Highway Depts. direction. They never established the size. They will apply the same reasoning as with a pool and put in a 4' fence.

GG instructs Clerk to send a letter to the Highway Dept. asking them why they require a 4' fence for a detention rather than retention pond.

B. Halsing refers to item (6), the zoning district has been on page 3 since 1988. It is zoned suburban. From Item (7), the proposed name of the road is not determined yet.

AM suggests they talk with the Fire Chief.



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B. Lord suggests Metcalf Street because the property was owned by the Metcalf family.

B. Halsing refers to Item (8), he will make a note to have the USGS status on the plans. Relative to Item (9), directly to the north all the lots are on Ray Avenue. East is all wetland and there is a crossing problem with the Conservation Commission. Originally they proposed going to the next lot.

Eric Anderberg, Esquire, attorney for applicant, states that there are wetlands on both sides.

B. Halsing states that the detention pond will be in the back of the lot on the westerly side.

AM notes that Cliff Matthews, Chairman for the Conservation Commission, was present in the back of the room but is not here now. The Board had a question relative to whether or not the detention pond is actually necessary.

E. Anderberg had a conversation with Mr. Matthews. The Commission felt that the sedimentation would not work over the long run and it would require more maintenance. The sedimentation would have to be taken care of frequently. That is what is required in the Order of Conditions.

B. Halsing notes that the Order of Conditions was issued a couple of weeks ago.

AM suggests that they address the remaining issues with the Town Engineer. They should also go to see the Fire Chief about a street name. The issues look simple.

B. Halsing could have everything done by the end of the week.

EN asks if there are any abutters here.

B. Halsing presents a copy of the Order of Conditions which refers to the detention pond.

AM states that the decision does not say detention pond.

B. Lord states that it is in the approval on page 5-3A which refers to the plan.



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EN makes a motion to continue the public hearing to October 22, 1992 at 8:30 p.m. AM seconds motion. Vote of 3 (AM, GG and EN).

B. Halsing will discuss Town Engineer's comments with him and make additions/corrections to the plan. He will come back with a completed plan.

AM asks is there is any reason why she should stay since she is not sitting on Donovan Court or Rawson Farm because of conflicts. She leaves the meeting at 8:28 p.m.

### RAWSON FARM PERFORMANCE BOND

B. Lord submits material relative to a Form J with estimates for completion of work. The Highway Dept. has signed off.

GG refers to the \$328,000 noted to complete the work. It says that the contractor has done \$97,000 worth of work.

B. Lord explains that they paid for \$97,000.

GG notes that the letter does not say that.

B. Lord states that there is a new Form J.

Clerk asks if the Board is to disregard the previous submission. Are they just doing one form?

B. Lord responds that they are. They have \$200,000 in construction costs. The rest is contingencies.

EN asks what the N/A stands for.

B. Lord responds that it means not applicable.

EN asks if it is going to be sewerred.

B. Lord responds that no, they will have septic.

EN asks how many homes there are altogether.

B. Lord responds that there are 30. Before they were asking to release some of the lots but now they waited to get all the



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numbers together. They worked out an arrangement with Town Counsel to set up security with the Boston Safe Deposit. They will always have security. The bank is party to the agreement.

EN asks if they are putting something up as collateral.

B. Lord responds that yes they are. If the amount dropped they would request that they put up more. The applicant is doing this against an account which he has at the bank.

EN notes that they will have to have proof that it is done.

B. Lord explains that the Clerk takes the signed release and gives it to the Town Treasurer.

EN notes that they will not get the release until the town receives the bond.

B. Lord further explains that the release is given to the Town Treasurer and is given to the applicant when the Treasurer receives the bond. These estimates were looked at by an engineer and the Highway Dept.

EN asks if the homes are modular.

Jim Britton, developer, responds that yes, but they may sell some of the lots.

EN asks how much they are asking for the lots.

J. Britton responds the price is \$44,900.

EN asks how much they will be asking for the houses.

J. Britton responds that the price is \$120,000+. They are getting the modular homes from customized structures in Clairmont, New Hampshire.

GG makes a motion to accept the bond in the amount of \$258,704.66 for the release of all lots with instructions for the release to be held until the security bond is in place. EN seconds motion. Vote of 3 (JM, EN and GG).

Town Treasurer is not to give applicant the release until the



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security agreement is in place.

DONOVAN COURT  
DEFINITIVE SUBDIVISION  
CONTINUED PUBLIC HEARING

JM opens the public hearing at 8:45 p.m.

JM reads letter from the Highway Dept. dated September 15, 1992, stating that the following requirements should be adhered to: (a) The request for a waiver requesting 16' of pavement instead of 20' is denied. The minimum allowed for pavement is 20'; (b) The request for a waiver requesting an 80' diameter of turnaround is denied. Mr. Arcand recommends a 90' diameter as being acceptable for waiver; (c) The regulations require sidewalks on subdivisions. It is obvious to all that this is a single, additional lot subdivision and Mr. Arcand recommends the waiver of the requirement for sidewalks to service the single lot. If the same was not waived and sidewalks are granted, there may be a future requirement or need to plow and maintain the sidewalks on a municipal basis and this can be easily avoided; (d) Regarding the developer's proposal of having two 6' diameter leaching catch basins in the cul-de-sac, if the Board feels there should be drainage, then said drainage should be tied into the nearest main trunk line. In Mr. Arcand's opinion, it would be the best interest of the Town to allow the petitioner a right-of-way to the back lot by granting full waivers on roadway specifications and sidewalks and determining on the plan that the way shown should not be recommended as a way for acceptance as a public way. By doing so you would avoid the necessity of Town's responsibility for maintaining, plowing and sanding the ways and sidewalks which would be on the accepted plan otherwise.

JM states that it sounds like the Highway Dept. is denying the waivers but is willing to give a big waiver for the driveway.

GG notes that they would have to go before the Zoning Board of Appeals for that.

John Donovan, applicant, took Mr. Arcand's comments and changed the plan accordingly. The plan is shown with a 20' road width and 90' cul-de-sac. They dropped the leaching catch basin and tied two manholes in by pipes through an easement on his property.





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EN asks if that is the main trunk line.

J. Donovan responds that it is.

GG points out that this is a working drawing which is not finished.

J. Donovan wants to know if this is acceptable to this point, especially with regard to the drainage. He wants to get an idea that the gist is o'kay.

EN would like to have P. Herr look at the plan.

J. Donovan explains that with respect to the neighbors concerns especially Mr. Collins, by making the road 20' wide, it moves the side over 16' from the stonewall. It gives them a chance to grade down from the wall.

GG notes that it moves it 10' rather than 16'.

J. Donovan was told that it was 16'.

GG looks at the drawing again and determines that it is between 14' and 16'.

J. Donovan notes that the sidewalk which is drawn in included the width. If that is eliminated it would kick over 5'. That would bring it 20' from the wall. Mr. Fisher and Mrs. LaRusso were concerned about water runoff in the back of their property. He is willing to leave a buffer zone which can not be cut. He will move his house up. He will also build swale across the lawn. The water runoff will be caught in the swale and brought down. That will decrease the water runoff.

GG asks how big the buffer will be.

J. Donovan responds that it will be 20' - 25'. He can increase it. There is a privacy factor.

GG asks how this can be enforced without going to a court of law if and when Mr. Donovan sells the lot. A homeowner has a right to do what he wants with his property.

J. Donovan is willing to have the decision worded correctly and



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shown on the final plan. He will do whatever it takes. The easement stays with the property for the life of the property. This does not degrade the property at all. He can not see a consequence to himself or anyone else.

Paul Colins asks how big the buffer will be.

J. Donovan responds that it will be between 25' - 30'.

GG thinks that they should leave about a 20' buffer in the back. He agrees that they should delete the sidewalk.

JM asks about the Highway Department's recommendation because this will be a right of way.

GG thinks that they should send the drawing off to P. Herr and ask him if it would be better for the town to send it to the ZBA in support of a variance with a driveway rather than a road going in.

J. Donovan did apply to the ZBA more than two years ago.

JM explains that if the applicant is able to meet the requirements for the subdivision laws, the Board has to grant the definitive subdivision. If Mr. Donovan proves that he can build and not flood anyone's land, the Board has no choice but to give him approval. He is not sure that this meets the requirements, but the question is if it is better for the town to end up with 90' circle of pavement and 20' width or a driveway.

EN points out that if it is a driveway the applicant has to take care of it, otherwise the town has to take care of it.

GG thinks it would be better for the neighbors to send this off to P. Herr and ask him if it meets the letter of the law. Ask him if the Board should support a variance to put in a driveway instead of a road.

EN explains that when they put tar on top of the ground it does not absorb water.

P. Collins states that Mr. Donovan had applied to the ZBA for a 50' variance but there was a hardship to the people down the back with the water problem so the variance was denied.



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Mr. Fisher talked with Mr. Donovan this week. This is all hypothetical on paper. If the buffer zone, swale and other remedies do not work out their recourse is through the civil courts. He does want Mr. Donovan to have what he wants but he does not want to be hurt by his rights.

GG lives in Silver Heights. A lot of the lots are similar to this. Some of the homes look like two story homes from the front but are really three stories with a walkout from the back. They should work out the swale away from the property.

Mr. Fisher states that would mean from ground level to the roof the house would be 50' - 60' high. He refers to the privacy factor and leaving the underbrush and older stuff there but that is not his concern. His concern is that his cellar stays dry. He already had a pool rise up on him because of the water problem.

GG thinks it should go to P. Herr. With a catch basin in place in the road, it will catch the water and contain it to the curbing to drain to S. Main St. The curbing will bring the water directly to the catch basin.

J. Donovan points out that his property is naturally lower.

P. Collins asks if he intends to fill it up.

J. Donovan responds that he does but if he gets approval for just a driveway, he can follow the natural contour of the land.

P. Collins thinks that if the applicant puts fill in for the driveway it will go to his property. He notes there is a 50' span gulley with a pitch in there.

J. Donovan states that the soil around the houses is the best leaching soil that one could have.

P. Collins states that he would be closer to the driveway and it would be more bothersome with trucks going in and out.

J. Donovan has one truck and one mazda.

JM asks where the water will go.

J. Donovan points out that it will go down and out.



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GG asks about the kind of house he intends to build.

J. Donovan responds that it will be a ranch with a walkout basement. He intends to completely use the grade. There is no sense in bringing in a lot of fill.

GG states that will be lowering the back area to catch the water and contain it in the swale. They can then bring it wherever they want.

J. Donovan intends to leave the trees there to contain the water from the lawn to the edge of the property. A fast down pour will run over the lawn. The trees will act as a stopper to slow down the quick runoff. At the house before the grass will be the swale. The fast runoff will be dropped before the tree buffer.

GG states that a 3' trench with a 4" PVC will keep the yard and basement dry so the water will disperse.

JM asks what happened to Mr. Fisher's pool.

Mr. Fisher responds that the bottom lifted a few years back. He had had the pool pumped out for a storm.

JM notes that would not have happened if the pool had been full.

J. Donovan states that the water will just drop and leach straight down into the ground.

GG states that the Board could forward a letter to the ZBA stating that the working drawing meets the law built as is. The Planning Board is not granting a decision since they would rather see the ZBA allow a variance to put a driveway in. This is an odd lot which has the square footage. The Board does not want to vote in favor of this without sending it to the ZBA first.

EN thinks it would be better if it would disturb less.

GG states that the applicant could build his house in another spot.

Mr. Fisher points out that if Mr. Donovan intends to have an attached garage, that would mean he would want another driveway. He asks who would be responsible for the catch basin.



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J. Donovan responds that he is responsible for building and laying the pipe.

Mr. Fisher asks who is responsible if N. Main St. backs up.

J. Donovan intends to design it so it does not do that. They will go by the depth of the pipes.

Mr. Fisher notes that the catch basin on N. Main St. was put in 12 - 15 years ago.

J. Donovan states that if they put in a road they will have to come up. The Highway Dept. does not approve of the leaching catch basin so they went to the catch basin manhole to come out to the street.

EN asks where the water will go on N. Main St.

J. Donovan responds that it will go down N. Main Street to where the road crests, then it will go the other way toward the brook down by the new pumping station.

GG wants to ask P. Herr to proceed ahead.

EN makes a motion to continue this public hearing to October 22, 1992.

JM reads letter from the Board of Health, dated September 11, 1992, stating that the Board requires the existing septic system for 114 N. Main St. be located and identified on this plan and that the applicant disposal of property in conformance with 310 CMR 19:00 Solid Waste Management Facility Regulations, all debris resulting from the clearing of land at this site. He does not understand what that means.

Mr. Fisher explains that it means they want to see the existing septic system at the existing house to make sure it does not interfere.

GG would like to forward a copy of the Highway Dept. and Board of Health letters to P. Herr along with a copy of the working drawing which was presented tonight.

J. Donovan notes that they did locate the septic. It is on the



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working drawing.

P. Collins indicates that the septic tank runs by the fence. The town sewerage was stubbed off at 114 N. Main Street.

EN asks if they are sewerred.

? states that it is there but not connected.

P. Collins asks if Mr. Donovan would have to do a new plan if he went to the ZBA.

GG states that it would be better for the neighbors to do a new plan. It would be better to grant a variance from the ZBA for the proposal to put in a driveway.

P. Collins asks if Mr. Donovan will do another plan showing a driveway.

GG states that he will have to. They have shown where the driveway could be and the applicant can not vary from that point.

J. Donovan has no problem with that.

GG points out that the person who owns the property has a right to develop it. It is cheaper to go before the ZBA to put in a driveway rather than a road. P. Herr will tell the Board if this meets the law.

EN notes that P. Herr may say this is a lousy plan and it does not meet the requirements.

P. Collins states that the less movement there is the better it will be for everybody.

GG states that the roadway will be moved over 20' span away from the road.

GG seconds EN's previous motion to continue to October 22, 1992 at 8:15 p.m. Vote of 3 (JM, EN and GG).

Clerk reads letter relative to the All Board's meeting for October 20, 1992 at 7:30 p.m. Members ask Clerk to call and remind them of the meeting.



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EN makes a motion to adjourn at 9:35 p.m. GG seconds motion.  
Vote of 3 to adjourn (JM, EN and GG).

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John P. Murray, Chairman

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*Anne M. Morse*  
Anne M. Morse, Vice Chairman

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*Emile W. Niedzwiedz*  
Emile W. Niedzwiedz

\_\_\_\_\_  
*Glenn E. Gerrior*  
Glenn E. Gerrior

\_\_\_\_\_  
Edward T. Moore