

BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

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MINUTES OF REGULAR MEETING

DECEMBER 16, 1993

Meeting was called to order at 7:40 p.m. EM, AM, RL as well as Alternate Member Bill Wozniak were present at the start of the meeting. EN and GG came in a little later. The Board's consultant, Philip B. Herr, was also in attendance.

DISCUSSION RE: 81-P SUBMISSION
FOR JOHN SPEAR, OLD LOG LANE

EM saw the Fire Chief who did not want to say that Old Log Lane is a street. As far as he can see, fire trucks can get up to service there. If a vehicle can get through, then a truck can get through. No one wanted to put anything in writing. Wilfred Arcand, Highway Director, said that it is not a town road or street.

AM states that it is not town accepted.

EM refers to the subdivision book regarding adequate access.

P. Herr notes that it does not say that it has to be a town road. There is an amendment under consideration by the Board to take the standards out. If they can get a fire truck up there, then it is adequate. He does not think that they can enforce what is in the regulations.

EM reads section relative to waivers. It says that it can be waived if the way is sufficient to serve access. He asks where they go from here.

P. Herr thinks it is o'kay for the Board to approve the 81-P. They would have to come back if they want to put more in.

John Andrews, Andrews Engineering, states that they are creating a right of way.

EM states that a notation is not needed on the plan.

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AM makes a motion to approve the B1-P, Form A, for John Spear, Old Log Lane. RL seconds motion. Vote of 3 (EM, AM and RL).

EN and GG join the meeting at 7:47 p.m.

SILVER HEIGHTS
DEFINITIVE SUBDIVISION
PERFORMANCE BOND PRESENTATION

AM abstains from the discussion and discloses that her company is doing some excavating work for Mr. Rosenfeld.

GG also abstains from the discussion.

Abram Rosenfeld, developer of Silver Heights, explains that he is here to post a bond for Silver Avenue.

EM is totally at a loss about this and asks if it is an existing street.

A. Rosenfeld responds that it is a paper street which has already been approved. The Planning Board has already signed off.

EM only remembers two loops.

A. Rosenfeld explains that there was an eight lot amendment to the original subdivision with the comprehensive permit. MHFA said they could have two more homes if they wanted it. They amended the comprehensive permit for eight more lots. Both the ZBA and the Planning Board signed off.

EM asks where the new part is.

A. Rosenfeld states that the roads are already there. They never had a hearing to amend this.

P. Herr notes that the Board of Appeals can approve a subdivision plan.

EM agrees but states that it can not be recorded unless the Planning Board signs it.

A. Rosenfeld indicates that they are almost done. He gave the estimates to Wilfred Arcand who wrote a letter to the Board. He also added the 15% contingency.

EM reads letter from Wilfred Arcand, Highway Director, dated December 14, 1993, stating that it is his opinion that the performance bond in the amount of \$26,283.25 is adequate to complete the work in the Silver Heights IV subdivision. He

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encloses copies of estimates from the Rosenfeld Company, Inc., V.M. Cataldo Paving Co., Inc., Guerriere & Halnon, Inc., and G.E. Gerrior's Landscape Design and Construction Co. EM saw Mr. Arcand today and he said there was no problem with this performance bond. He notes that the estimates for paving are \$16,590, Guerriere & Halnon \$3200 and G.E. Gerrior Landscape & Design at \$3065.

A. Rosenfeld presents a letter to the Board attaching the same correspondence as included with Mr. Arcand's letter.

EM reads letter from Abram Rosenfeld, The Rosenfeld Company, dated December 16, 1993, stating that the total bond including a 15% contingency is for \$26,283.25.

A. Rosenfeld explains that he took money and put it in the Ben Franklin Savings Bank. He presents a copy of the passbook and withdrawal slip with a blank account number.

EM reads another letter from Mr. Rosenfeld, Silver Heights Development Corporation, dated December 16, 1993, requesting releases for lots 1 through 8, Silver Avenue.

A. Rosenfeld is asking for the release of the covenant which he is presenting tonight because there was no covenant in place.

EM asks why there was no covenant in place.

A. Rosenfeld explains that when they received approval for the subdivision, there was originally 34 lots. The Planning Board released the covenant for the roads. This amendment was done through an 81-P, Form A, therefore, they have to put a covenant in place first. He asks P. Herr if this is the correct procedure.

P. Herr responds that it is.

EM refers to the covenant which is being presented by Silver Heights Development Corporation, dated December 16, 1993.

A. Rosenfeld will give the original of the covenant and Form G, lot releases, to his attorney for recording at the Registry of Deeds.

EN makes a motion to accept the covenant. RL seconds motion. Vote of 3 (EM, EN and RL). AM and GG abstain.

EN makes a motion to accept the bond in the amount of \$26,283.25, held in the Ben Franklin Savings Bank, Passbook Account No. 02016916-0. RL seconds motion. Vote of 3 (EM, EN and RL). AM

and GG abstain.

EN makes a motion to sign the Certificate of Release for Lots 1 through 8. RL seconds motion. Vote of 3 (EM, EN and RL). AM and GG abstain.

PINE GROVE ESTATES II
PRELIMINARY SUBDIVISION

Robert Truax, GLM Engineering, presents the plan and points out Joseph Circle. There is approximately 550' roadway with a cul-de-sac.

EM reads letter from Denis Fraine, Town Administrator, dated December 2, 1993, stating that he met with Dr. Patterson to discuss complications which could arise from providing transportation to children living on Town border developments. Dr. Patterson assured him that this can be dealt with and does not pose any unique difficulty to his administration. The agreement which he provided to the Board relative to water and sewer issues has been accepted by both the Franklin Town Council as well as the Bellingham Water Sewer Commission.

P. Herr notes that the agreement was furnished to him and not the Board. He thinks it is fine. He looked at the plan and did not see any issues. He asks whether it would be possible to get a pedestrian access to Pilgram Village because if not, the kids will do it.

R. Truax states that it comes across the river.

Dennis Etzkorn, developer, states that he does not own the land and can not put a path in. It is pretty heavily wooded.

P. Herr believes that this was an issue which was raised last time when they indicated that they could do that.

D. Etzkorn states that there is a sewer easement. He was referring to pedestrian access in the back to Beech Street.

R. Truax explains that Franklin has agreed to bring water up to their property.

D. Etzkorn further notes that the water is to be used for fire safety only and not drinking water.

EM asks why Franklin is doing this when Bellingham just gave them sewer for one of their developments.

D. Etzkorn will put a hydrant in wherever the Board wants it.

EM asks why Franklin will not let them tie the houses in.

D. Etzkorn relates that he is happy with the situation since they would not allow him to do it at all six months ago.

EM explains that Bellingham just let a whole subdivision which is in Franklin tie into our sewer. He refers to the basin and states that whoever buys the house and lot buys the basin so the town does not have to take care of it.

D. Etzkorn indicates that the Bellingham school bus goes right by their development.

P. Herr notes that there is a provision in the Bellingham Subdivision Regulations which states that the more stringent of the regulations of the two towns apply. He asks if the developer has thought about that.

D. Etzkorn states that Franklin requires a 56' road length. There is an existing cul-de-sac with a temporary turning easement. They kept 30' to repave when they sold the original lots.

P. Herr does not think that this Board would feel that a wider road is necessarily a better road. Franklin has a history of over building roads.

R. Truax notes that Franklin requires a 56' right of way with 24' pavement.

D. Etzkorn states that they will have sidewalks on one side. He asks if the granite curbing is required. They are not talking about a big subdivision. Granite curbing is very expensive. They will ask to have it waived.

P. Herr states that they are required to have a 40' right of way for the lane centerline radius. Pavement thickness is a nonissue since Franklin requires 3 1/4" and Bellingham 3". Franklin requires a 5' sidewalk on both sides.

R. Truax states that is usually waived.

P. Herr states that Franklin requires a 3" bituminous sidewalk and Bellingham requires 2". They require granite curbing and Bellingham requires bituminous.

AM states that the issue is to go with the more stringent regulations.

GG believes that since they are planning a residential

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development which already has granite curbing, they should continue it with this phase into Bellingham.

P. Herr notes that this is sloped granite, rather than vertical which is not that expensive.

D. Etzkorn states that it is at \$4.00/foot.

EM points out that the agreement says they will have sloped granite.

D. Etzkorn asks which layout he is referring to.

P. Herr states that it does not matter since the lots are plenty big.

EM notes that they do not want the pavement to be any different than what is already there.

EN refers to the November 18, 1993 meeting at which this matter was discussed. A path through the woods to Pilgram Village was discussed. If Mr. Etzkorn was referring to the sewer easement, then that affects these minutes.

EM notes that these minutes will correct the misunderstanding.

R. Truax states that the road centerline is 555'.

D. Etzkorn will mail the \$121 preliminary fee to the Board's address next week.

EM reads letter from the Fire Chief, September 1993, addressing concerns relative to the street names and placement of hydrants.

D. Etzkorn states that the name will be Joseph Circle.

GG notes that may pose a problem since there is already a Joseph Rosenfeld Way in town.

D. Etzkorn states that it is Joseph Circle in Franklin.

AM suggests that Mr. Etzkorn ask the Fire Chief if that is a problem.

EM thinks it would be more of a problem to change the name of the road half way through. He notes that a notation stating that the plan is subject to a covenant should be placed on the plan.

RL recommends approval of the Preliminary Subdivision for Pine Grove Estates II. GG seconds motion. Unanimous vote of 5 (EM,

EN, RL, GG and AM).

EM notes that this preliminary decision is not binding on the definitive.

SHORES AT SILVER LAKE
DEFINITIVE SUBDIVISION
PLAN ENDORSEMENT
COVENANT SUBMITTAL

Janice Hannert, Fafard Corporation, presents the mylar of the Shores at Silver Lake Definitive Subdivision plan which contains 50 pages.

EM asks if the Board can avoid signing some of the pages.

P. Herr asks what Town Counsel said.

Clerk notes that Town Counsel was concerned that the Board may not be signing the exact plans which were approved by the Board.

J. Hannert did bring the exact set of paper plans. She assures the Board that this is the same set of plans. They looked at and compared each page. The original plans were never recorded because they were never endorsed since this was in litigation.

P. Herr asks if they intend to record all of the pages of the plan.

J. Hannert responds that they normally record the property plans which includes the first 16 sheets. She has no objection if the Board only wants to sign those 16 pages.

EM states that the Board can sign the mylar and then copies can be made.

AM asks about the status of the court case.

J. Hannert responds that it has been settled.

P. Herr asks who can sign the plan.

RL can not sign.

P. Herr suggests that the Board endorse the construction drawings to avoid confusion at a later date.

GG is an abutter to abutter to this development and therefore, questions whether or not he can sign.

P. Herr asks if GG is within 300'. GG did not live there when this was approved.

GG responds that he is within 300'.

B. Lord states that signing the plan is not as big as making the decision. The decision is the formality.

GG lives within 150' of the property line.

P. Herr states that since this is a definitive subdivision, notice goes to the abutter and not to the abutter to abutter.

AM makes a motion to sign the Shores at Silver Lake Definitive Subdivision plan. GG seconds motion. Vote of 4 (EM, EN, AM and GG). RL was not a member of the Board at that time.

GENERAL

Wilfred Arcand, from the audience, asks how they can service Old Log Lane. They do not service it now.

AM notes that the Board is not making it an accepted road.

P. Herr explains that it is a private way in existence before Subdivision Control Law and it provides adequate access.

W. Arcand asks how they can plow and sand.

EM asks if he plows now.

W. Arcand responds that they do not. It is not an accepted street, so how can the Building Inspector give a building permit.

P. Herr notes that if the Planning Board signs the plan, it tells the Building Inspector that the lots have frontage.

W. Arcand notes that when he was the Building Inspector, he could not give a building permit for a road which was not an accepted road. He asks what creates the frontage if it is not an accepted street.

P. Herr responds that it is the Planning Board's finding that it was before Subdivision Control Law and provides adequate access. It has to be judged case by case if emergency vehicles can go down.

W. Arcand states that it was never Old Log Lane before Bill Spear put his house in 200'.

P. Herr states that it has been Old Log Lane for a long time. He asks if the Highway Dept. plows street in subdivision which have roads that were never accepted.

W. Arcand responds that they do. They plowed Pilgrim Village for 14 years before it was accepted.

P. Herr states that it is a lousy situation but this Board did not make it. It is state law.

J. Hannert has a further request that the Board allow them to meet with P. Herr to discuss development of the site to start something on a smaller scale on a portion of the site. They want to develop the plan consistent with the Board's policy.

P. Herr is aware of this and has no problem with holding discussions with the developer.

EM states that at the request of Fafard Company, they have the Board's permission to meet with the Board's consultant to discuss the Shores at Silver Lake development.

CENTERVILLE ESTATES PRELIMINARY SUBDIVISION

EM indicates the location of this property which is the vacant lot across the street from Michael's Deli.

Robert Salvetti, Salvetti Surveying, explains that this is a 7 lot subdivision. It is all gravel and will recharge into the ground. They do need a catch basin and will have leaching galleys.

EM states that the Board does not allow them.

P. Herr notes that they have not been allowed in the past. There is a crazy lot which will not happen because of the lot shape factor. This is actually a 7 lot subdivision. They can take one lot out. The remaining 2 are o'kay as a result.

EM states that the Board does not want a pond either.

P. Herr states that the Board has not allowed leaching catch basins, but they have approved galleys in the past. He doubts that the town would want to maintain them.

EM points out that this plan can not be approved without the Highway Depts. comments.

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P. Herr reviewed the plan and found two things. One is the leaching galleys and the other is the lot shape factor. He does not know why the pavement is closer in one place than another.

R. Salvetti states that it should be symmetrical all around. They are proposing to have a sidewalk on one side.

EM asks if they intend to bring it around.

R. Salvetti states that it will go around the corner of the last house.

Mark Stanacia, developer, talked with the Sewer Commissioner who is forcing him to put in a pump. He will go with a septic system because of the grade.

AM states that it might be a lot cheaper to go with sewer. The new Title 5 standards are outrageous.

P. Herr states that when the law goes into effect, the sewer houses will be enhanced. They need to reduce to two lots where they now have 3 but it will stay the same.

R. Salvetti states that most of the lot is way up the top of the hill. There is a sloping problem.

EM states that the Board can not approve the drawing as is.

P. Herr states that they can approve it subject to the lots being reconfigured. They should also take note in the approval that they are encouraging the applicant to explore sewerage of all the lots. They may want to discuss it with the Water/Sewer Commission as a matter of policy. He does not understand why they do not want pumps.

B. Lord thinks that the Water/Sewer Commissioner does not want a pumping station.

EM states that the Board can approve the plan subject to the applicant changing the lot to meet the requirements. They are not looking to approve the leaching galleys without acceptance from the Highway Dept. Mr. Salvetti will ask Mr. Arcand about that. They also need to look into the sewer and having the sidewalk extended. The Board is approving the Board is concept provided that these conditions are adhered to. They must revise the lots to meet the lot shape factor.

AM makes a motion to approve the preliminary subdivision for Centerville Estates in concept with the conditions stated. GG seconds. Unanimous vote of 5 (EM, EN, GG, AM and RL).

Preliminary fee of \$114.40 paid by Mark Stanascia, Smily Construction Co.

GENERAL

EN makes a motion to accept the minutes of November 18, 1993 provided that page 9 be revised to "on" instead of "around". RL seconds motion. Unanimous vote of 5 (EM, EN, GG, AM and RL).

B. Lord presents two subdivisions including applications, abutters lists and plans which were created by the court case which was mentioned by P. Herr at the last meeting. Before these could be done as 81-P plans, but now they are subdivisions. The question is what does the Board expect from this type of subdivision. They are two quasi-subdivisions technically because of the court ruling. He is presenting 81-P plans with the verbiage of a subdivision. In most cases, they will ask for a waiver from the subdivision regulations.

P. Herr states that the question is what information will be provided to the Board. The Pearl Street subdivision is perfectly straight forward, but the one on So. Main St. is divided into 3 lots. There may be a question as to whether or not the people accessing each of the lots can do so safely with good visibility. They need to hear from the Safety Officer. The only question is whether the access is adequate. He knows the area. It is a dangerous place with a curve. The plan makes it more dangerous. He suggests having the Safety Officer look at the plan now.

EM asks about the lot line being through the garage for the So. Main St. parcel.

P. Herr states that it is, but that is a ZBA question. All 3 lots do not have sufficient frontage but there is sufficient square footage. Subdivision law says no without the frontage.

EM indicates that they could waive the frontage requirement on the condition that no duplexes be built.

P. Herr states that they could try that.

B. Lord notes that the So. Main St. subdivision is already actually two lots.

RL thinks that it will become 3 nicer lots.

B. Lord points out that the lots are not layed out the way they actually are. He will get a corrected plan and submit it to the Board.

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EN asks if this is similar to what the Martin family wanted to do.

EM responds in the negative. This is on a street, that had none. Arthur Street did not exist.

EN states that this is a driveway.

EM indicates that is correct, but all 3 lots come off a paved road.

EM refers to Dalpe's Golf course where they are removing vegetation. He thought that a Developmental Plan Review was required.

AM states that is not the case when one has a gravel removal permit. He is all set.

P. Herr distributes a proposed article relative to shared driveways. This is similar to articles which they have drawn for other people.

EM notes that it cuts it down to two lots. They could let them have more if it is determined that shared access provides community benefit.

P. Hewrr asks why the golf course did not require DPR.

B. Lord responds that the Golf Course is in a gravel pit. They are recovering the gravel pit as required by law. The golf course will probably require more parking. A site plan review would be required for the parking lot. This has been an old gravel pit since 1972. What they are doing now is specifically allowed as long as they do not change anything there. Before they open, they will have to come to the Board for parking and the building. He has already discussed it with him. He is planning to use the barn to access par 3.

EM asks about new entrances.

B. Lord states that there is enough of a first entrance on the driving range. They will use the entrance to the back.

P. Herr refers to the McDonald's Lighting situation. He had a discussion with Mr. Annabelle who said that the lighting is pending and will correct it as soon as they have figured out a scheme to solve the lighting problem. He, P. Herr and the Building Inspector met at the property. He needs to shield the lighting.

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EM states that in the meantime, the lighting is different than what was approved. He asks if someone who got into an accident could have a case against the town for allowing it to continue.

P. Herr notes that the Building Inspector is ready to shut him down. If they have not heard by early next month, the Building Inspector will file against them.

GG states that the New England Bonsai asphalted the entrance to their place, but they do not have the money to do the rest. They have been doing site work.

P. Herr suggests that the Board read the Shared Driveways proposed articles to be discussed later.


EM refers to the 200' paving for the driveway. He asks what the standard driveway is.

P. Herr states that it has to be paved 10' wide.

GG makes a motion to adjourn at 9:55 p.m. EN seconds motion. Unanimous vote of 5 (EM, EN, GG, RL and AM).



Edward T. Moore, Chairman

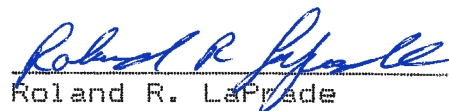


Anne M. Morse, Vice Chairman



Emile W. Niedzwiedz

Glenn E. Gerrior



Roland R. LaPrade