

BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

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MINUTES OF REGULAR MEETING

JANUARY 27, 1994

Meeting was called to order at 7:40 p.m. All members were present. Planning Board Associate Member William Wozniak and Philip B. Herr, the Board's consultant, were also present.

RIVERVIEW PARK, PHASES II AND V
REQUEST FOR CONTINUATION OF PUBLIC HEARINGS
DEFINITIVE SUBDIVISIONS

Janice Hannert, representative from Fafard, explains that Phase V encompasses a parcel which the town is interested in to develop additional water wells. That is the reason why they have not gone forward with additional work. The Planning Board approved an 81-P, Approval Not Required Plan, at the last meeting for Phase II which is proposed as part of the subdivision road. They request extensions of the public hearings for Phases II and V.

EM asks if this freezes zoning for these two subdivisions.

P. Herr responds that it continues to freeze the zoning which they already have. It would be extending the time for which to act on these subdivisions. If they do not extend the timeframe, the Board will have to act on them.

J. Hannert notes that they are requesting a 6 month extension.

AM has no problem with granting the extension request.

AM makes a motion to extend the timeframe to continue the public hearings for Riverview Park, Phases II and V to July 28, 1994 with an extension of the timeframe for a decision to August 11, 1994. 56 seconds motion. Unanimous vote of 5 (EM, EN, RL, AM and SG).

MEADOWWOOD PARCEL
DISCUSSION WITH WALTER BASNIGHT AND BRUCE LORD, ESQ.

Walter Basnight explains that Bruce Lord, Esquire will be

representing him.

B. Lord states that Mr. Basnight is a prospective purchaser of the Meadowwood parcel.

AM abstains from the discussion as an abutter.

B. Lord further states that this constitutes the former Schaeffer property. It was previously before the Board as a condominium development. They are proposing to deal with single family houses which would be clustered. They will deal with the clustering at the bottom portion of the site area next to Center Street. The top part of the parcel is near the shopping plaza which will remain open space. They will have housing on the top portion as well. He points out the proposed entrance to the site and the gas line which runs through the property as well as S. Main Street and Center Street.

GG notes that there was going to be a breakaway entrance when Meadowwood Condominiums came before the Board.

B. Lord explains that he understands that an important aspect of the single family housing is the need for two entrances. They intend to buffer from the deserted shopping mall and will deal with the open space area.

W. Basnight states that they intend to leave a large buffer on the side of the shopping mall.

GG asks if they will still use the entrance on S. Main St.

B. Lord responds that they will eventually.

GG thought there was a problem with the Center Street access because it is missing visibility due to an 8 - 10' wall. The Safety Officer was against using it as an access because there is no site visibility. The 400' site distance factor was not met. The stonewall was built when Center Street was reconstructed.

EM asks how many residences they intend to put in.

W. Basnight responds that they propose 85.

P. Herr thinks that they should look very carefully at the site distance issue.

EM asks how it will effect someone's property since the town or state built the wall.

GG responds that Schaeffer created his own hardship.

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W. Basnight suggests that signalling might work at the location.

GG does not believe that would ever work. He would never be in favor of signalization since Center Street is a connector street.

P. Herr asks what their intention relative to sewer would be.

W. Basnight responds that they intend to tie into the sewer.

B. Lord indicates that it can be tied in through Center Street.

GG would rather see 85 single family units rather than condos on the location.

P. Herr points out that they are proposing a cluster development which the Board has not seen in many years. He asks what it would entail.

W. Basnight explains that the bylaw allows cluster developments to be 20,000 square feet in a suburban zone. The allowed frontage is 125' instead of the usual 150'.

EN believes that the land was all zoned agricultural at one time.

B. Lord notes that it was rezoned to Business 2. The logical use of the property is for them to leave open space. One of the gains of the Meadowwood Condo development was the amount of open space which was left. This will retain some of that open space.

P. Herr asks about the acreage of the parcel.

W. Basnight responds that it is 102.65.

P. Herr states that 85 clustered residences with town sewerage sounds like a good proposal. It could be really good.

B. Lord notes that the lots at the top will have the best views of the area since they look out over the valley.

GG suggests that they go back through the records to find out about the safety issue.

W. Basnight suggests that they could investigate having a one way in only.

GG points out that the neighbors were opposed to that because they said there was no way to police it and it would end up being used as a two way.

P. Herr states that this would be a subdivision, but whether or

not the roads would be town roads is another question.

GG suggests that they may be able to gain access by offering one of the abutters fair market value for their property.

W. Basnight states that using the breakaway emergency egress sounds reasonable.

EM points out that no one really liked that idea. It was put in at the suggestion of the Fire Dept. If they approached someone who owns the adjoining house lots, they may be able to gain enough room to put in a road. It needs two entrances to work right.

GG states that it makes more sense to have two egresses for the saleability of the houses rather than having to go around and loop back.

W. Basnight points out that the pink highlight denotes the gas line. They are allowed to put a road in over the gas line.

P. Herr notes that Meadowwood had a very good design. This proposal would be the largest subdivision which the town has had thus far, particularly since it is a clustered development. If they do a wonderful job, they will add to the marketability.

W. Basnight indicates that it is their idea to maximize the natural land potential for the lots. They will take advantage of the ups and down of the land.

GG explains that the person who originally designed the condo development fit the property exactly. The safety issue is within the law.

DARLING LOTS
PUBLIC HEARING
DEFINITIVE SUBDIVISION

EM opens the public hearing.

EN makes a motion to continue to 8:25 p.m. AM seconds motion. Unanimous vote of 5 (EM, EN, RL, AM and GG).

FREDAP ESTATES
PUBLIC HEARING
DEFINITIVE SUBDIVISION

Clerk reads notice of public hearing.

AM abstains from the discussion and removes herself from the

room.

Bruce Lord, Esquire, is representing FREDAP. He explains that the plan shown is the plan which was submitted with the original application. Lot 1 was divided with an 81-P at an earlier date. The proposal involves two zoning areas. B-1 is above the green line and suburban is below. The lot to be divided is entirely within the suburban zoning. They went to the ZBA and received a variance for the property.

EM questions the frontage area.

B. Lord responds that they have 97.22', which is 28' short.

AM returns to the meeting room but continues to abstain from the discussion.

B. Lord notes that this is considered a subdivision as a result of the new interpretation of the law which came about through a decision involving a development in Upton. This used to be done as an 81-P. The plan shows the wrong approval statement which needs to be corrected to show subdivision approval. He is not exactly sure what the Planning Board requires for this type of development. They will not have a road system. A lot of what is required for a regular subdivision is not required here. He is presenting the plan which would normally be presented with a 81-P because of the cost factor and since this is actually a technical subdivision. It is up to the Planning Board to decide what they want. He refers to the Subdivision Regulations 3211(c) relative to the existing road topography. They did not include that on these plans since it is not necessary for this type of plan. Also excluded were drainage plans, test and locus plans.

EM asks if there is a house already built on one of the lots.

B. Lord responds, that yes, both lots have houses.

W. Wozniak points out that one of the houses was just constructed.

B. Lord states that there are people living in one of the houses. They need guidance on what is required.

EM thinks that a plan like this should have either a block with the ZBA signature or a notation with the date of the variance on the plan.

B. Lord agrees that there should be a notation relative to the variance which was granted by the ZBA on the plan.

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P. Herr notes that one of the proposed revisions to the Subdivision Regulations which he presented to the Board lists what would be required for a plan like this. A locus plan showing the surrounding boundaries should be included.

B. Lord states that the locus is pretty evident for this property.

EM states that they should put it on the plan since they have to put on the correct block and put in the notation.

B. Lord would like to get approval tonight if possible. The people who are living in the house are under problems with the mortgage. He understands that it is not the Planning Board's problem.

EN asks how they were able to get the mortgage without approval.

B. Lord explains that they thought it was an 81-P. It is not a problem with the person who is buying, but it is the owner's problem.

EM does not have a problem with making the decision now. He asks for questions from the members and audience.

GG makes a motion to close the public hearing. EN seconds motion. Vote of 4 to close (EM, EN, GG and RL). AM abstains.

GG makes a motion to approve the definitive subdivision for FREDAP Estates contingent on the locus plan being added, the approval block being corrected and the variance notation being included on the plan. No security is needed since no improvements are to be added. RL seconds motion. Vote of 4 (EM, EN, GG and RL). AM abstains.

DARLING LOTS

PUBLIC HEARING

DEFINITIVE SUBDIVISION

EM reopens the public hearing at 8:25 p.m.

Clerk reads notice of public hearing.

B. Lord, Esquire, explains that this subdivision is a little more complicated. The plan shows 3 short lots, but they actually have two lots. He distributes the Assessor's map which is outlined in blue and yellow. The owner wants to divide the lots so each of his three daughters can have one. However, when he had it surveyed, he found that that the roadway was not where they thought it was. It was a different layout. Therefore, the

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Assessor's map is incorrect. Originally, this was a 6 lot subdivision but the owner just wanted 3 lots for his 3 daughters. The ZBA agreed that was a better use for the property. The parcel totals approximately 8 acres. They want to divide it into 3 lots. There are already two houses on the lots.

AM believes that there are a lot of zoning violations.

B. Lord reads the variance granted by the ZBA, dated October 18, 1993, which read as follows: Lot B - grant a 137 foot frontage variance - lot size from 18,200 sq. ft. to 150,605 sq. ft. Lot C - grant a 30 foot frontage variance and a 10 foot side lot variance - lot reduced to 40,000 sq. ft. Lot A - grant a 100 foot frontage variance - lot size 165,021 sq. ft. In order to make it come into conformance, the garage will come down and the shed will come down since it is too close.

EN asks if the configuration of the lots will be changed.

B. Lord notes that the dotted line shows the present configuration. There were only two lots before, now there will be three.

EN asks how this will effect the other lots on S. Main St.

B. Lord explains that these lots are much bigger. It is a reasonable use for the property. The landowner is giving the land to his children. The existing shared driveway will still be there.

EM reads letter from Water/Sewer Superintendent Donald DiMartino, dated January 25, 1994, stating that the Water Dept. records indicate that the water service line that now services the house on lot B, runs through the house on lot C. With the house on one lot, this was not a problem, however, if subdivided, the water service line should never be allowed to run through the plumbing of a building on another lot. If the water service line were relocated so that it no longer ran through the plumbing of the house on Lot C, an easement or some other type of agreement would then be required to allow for the access by the owner of lot B for maintenance and repair of damages to the water service line. The water service line for each house should be installed only on the property of that house. This is done so that the Dept. knows who to contact, who is responsible, and how to isolate a leak on a water service line. The Dept. must be able to shut off the service to one house without disrupting service to another. Therefore, his comment on this plan is to allow the subdivision as proposed only if the water service to the house on lot B is disconnected from the house on lot C, as it now exists, and installed along the narrow access located on the northeast corner

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of lot B.

B. Lord agrees that in the long term, the problem should be corrected. However, they do not want to be forced to do it tomorrow.

EM understands the problem which could arise.

B. Lord states that the reality is that this is not the perfect answer or solution to the lots. The driveway does not go perfectly up here. He believes it will all work out since this is a better solution than what is presently there now. This is a family situation, not a developer with a large amount of money.

EM states that the water line being put in at a later date should be put on the decision.

B. Lord states that it could be at the point of conveyance. When the new house is built and the water line is put in, that will correct the problem.

Kathy Dufresne, one of the daughters of the Mr. Darling, states that she will have a well on the 3rd lot which she will own.

EM points out that she has no guarantee with a well. The assessor's map is wrong relative to this parcel.

B. Lord states that they agreed to accept the lines as laid out.

EM asks for questions from the Planning Board. He opens the floor to questions from the audience.

Barbara Flanagan Rice, 460 S. Main Street, has no objection to the subdivision. However, she is concerned that the driveway will change. They want it to remain as it is.

B. Lord explains that they have no intention to change it presently. When it is conveyed, it will run straight along the side of the road.

B. Rice states that is what she is objecting to. They do not want the driveway along the lot line with the amount of traffic which goes up there.

GG explains that it is within the law for them to put the driveway along the lot line.

EM further notes that the Board can not force them not to do it although the Board is not proposing that it change. However, at a later date in time, it would have to change if they sold the

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house.

P. Herr asks if there is a reason why they did not show the easement where the driveway is now.

B. Lord states that they could show it. He did not instruct the engineer to do more because he did not know what the Board would require. There is no problem with showing the easement.

B. Rice states that would make her happy.

P. Herr indicates that the water main could go up the easement.

B. Lord believes that would be the best way to go at some point in time.

EN asks about the two dotted lines.

B. Lord explains that is the present configuration of the lot, which is the present legal description of the property i.e. the way it is deeded. It is not the used configuration.

EM asks if they are proposing to leave it the way it is.

W. Wozniak asks what happens if some day the two lots are conveyed to someone else.

B. Lord responds that clearly the people would have the right to put in the driveway. There is a double easement. The pink outline shows the property to the house and there is one to the house in the back of the property.

EN points out that if another family buys the lot, they could put in the driveway.

EM believes that once it is reconfigured, they could do away with the easement.

B. Lord responds that they could. It is up to the owner to give up the easement. This plan also needs the correct approval block, the locus plan as well as the notation relative to the variance. Both plans also need the Town Clerk block added.

EN makes a motion to close the public hearing. AM seconds. Unanimous vote of 5 (EM, EN, RL, GG and AM).

EN makes a motion to approve the definitive subdivision for Darling Lots contingent on the Town Clerk block being added, the correct approval block being added.

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P. Herr asks about the water main issue.

B. Lord agrees that presently there is an inadequate situation. He asks that they be able to complete it at the point of conveyance.

P. Herr states that the Board could ask for security in lieu of putting in the water system. They could also ask for a covenant and not release the back lot until the water line is put in.

B. Lord points out that Mr. Darling just advised him that the driveway is solid ledge and that is the reason why the line goes through the house. He believes that the Water Depts' role stops at the street.

AM disagrees. She explains that the Water Dept. pays for the pipe, but the landowner is responsible for paying for the backhoe. There is a \$500 connection fee. She asks why they don't run it up the existing easement.

B. Lord responds that D. DiMartino's objections was to the easement.

AM notes that the easement is a better situation than going through the basement of the house.

EM points out that P. Herr suggested they put a covenant in place stating that the water line be put in before conveyance of the other lot. He suggests that the covenant be put in and as a result lot B would not be able to be conveyed until the separate water lines are put through for lots A and C.

P. Herr states that it should read that water service to lot B be provided without going through any other structure before conveyance, but it can go through the easement.

EM thinks that they should hold lot A.

P. Herr indicates that it has nothing to do with any other than other than lot B.

B. Lord explains that lot B can not be separated from lot C without the separate water line being installed for lot B.

EM thinks that a note relative to that restriction should be on the plan.

GG states that they should include that it be done when it is conveyed.

Mr. and Mrs. Darling point out that they intend to convey the property when they die.

K. Dufresne will build her house right away on lot A.

GG states that there will be one lot on lot A and one lot for lots B and C, just like it is now.

EN's motion to include the notation relative to the water line being installed prior to conveyance of lot B be included on the plan. RL seconds motion. Unanimous vote of 5 (EM, EN, GG, RL and AM).

GENERAL DISCUSSION

B. Lord presents a plan for a subdivision which was approved in 1968 for a residential area, Porter Drive, off S. Main Street, for Howie Wilson. He presents the plan which was originally approved.

EM notes that the location still does not have sewer.

B. Lord states that they can get sewer or septic. The lots are adequate within the present zoning. One area is a problem. This configuration of square does not have the centerline radius which falls within the present Subdivision Regulations. They will probably redesign the drainage. This will come in as a subdivision plan. He asks if they can use this configuration.

P. Herr asks why it will come in as a subdivision.

B. Lord responds because they will upgrade the drainage.

EM refers to Country Club Estates II, which Lee Ambler advised had to come in for another public hearing because so many years had passed.

P. Herr asks if there is security for this plan.

B. Lord does not think so. He understands that it does not meet the Subdivision Regulations, but he asks for the Planning Board's feeling.

EM asks if the plan was ever recorded.

B. Lord believes that it was.

EM states that it will require a retention pond.

GG believes that it probably has to all be reengineered.

B. Lord suggests that new signatures be on the plan to make it legally viable. They will come in with an amended plan.

P. Herr states that if they come back for current signatures, they will have to come up with security. These are lousy lots. It is a lousy plan, but that is the owner's business.

B. Lord indicates that they will put some drainage on the plan. Each corner has a site distance easement. That will have to build it that way. The owner owns the right of way in, which he thinks is 50'.

DISCUSSION RE: STREET MAP REVISIONS

Members review the street map revisions and determine that only subdivision roads which have been built should be included. Therefore, Taunton and Box Pond will be taken out.

P. Herr explains that the yellow highlight means that it has been changed, either added or deleted from the last revision. These changes were made to Wilfred Arcand, Highway Director's specifications.

AM points out that Fox Run Rd. is Pheasant Run at the Registry. However, the street sign says Fox Run Rd.

Members agree to leave it as Fox Run.

W. Wozniak states that 5th Avenue is not connected. The plan should be changed to reflect that.

P. Herr agrees that they will only put what is built on the plan. If one can drive down and it is physically there, they will put it on the plan. They will remove Railroad Street and Shellendy Circle since they are not there. They will follow the Assessor's Map.

GG points out that Silver Avenue is all built and continues.

P. Herr states that they added roads for the Pine Meadow Subdivision including Brittany Road.

GG indicates that there are two Lizotte Drive's in town.

GENERAL BUSINESS

Clerk reads letter from D. DiMartino, Water/Sewer Superintendent, dated January 26, 1994, relative to the use of the filtration plant access road by Ms. Cheryl Pearson, 334 Hartford Ave. He states that at the regular meeting of January 25, 1994, the Board

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of Water and Sewer Commissioners, voted to allow Ms. Pearson the right to use the Filtration Plant access road for access to her proposed parking area. They advised her that the town could not guarantee how promptly the access road would be plowed during a snow storm. She may wish to obtain a recorded easement or right of way on the access road to insure the permanence of the access.

EM refers to Town Counsel's comments relative to the the driveway article drafted by P. Herr. Attorney Ambler disagreed with each of the points.

Clerk reads letter from Town Counsel, dated January 18, 1994, relative to the proposed zoning bylaw revisions for the driveway article. He recommends some consideration to paragraph (a) first sentence to read: "No single shared driveway shall be considered unless the same provides adequate access for required parking spaces. In the second sentence, a reference to a special permit granted by the ZBA may be desirable. Section (b) to read: "Shared driveways must meet the following standards". He asks that someone explain "with tree and shrub branches cleared to 12 feet width". For Section (C), he is aware of the safety factor being introduced by this paragraph, but unsure of the wisdom of having all lots which front on more traveled ways being forced to face away from same. A copy of his letter was forwarded to P. Herr.

P. Herr did not understand some of Mr. Ambler's comments and did not agree with others.

EM suggests that P. Herr discuss the matter directly with Town Counsel.

EM points out that the Board has received interrogatories to answer relative to a suit pending against the town for Country Club Estates II. Clerk will respond to the interrogatories and Request for Production of Documents.

Clerk reads letters from D. DiMartino, dated January 19, 1994 regarding Cliff Road. He explains that the Board of Water & Sewer Commissions is now investigating the access route and easements needed to install the water main from the new proposed well #12 to the distribution system. From their study, the shortest and driest route seems to be to connect to the existing water main in Cliff Road. In order to do this they would either need to get an easement for the pipe to be installed in a private way or accept the road as a town street. Lee Ambler advised him that the latter would be the easiest solution. Therefore, he encloses a letter from W. Arcand, dated January 17, 1994, indicating that the roadway and drainage in the area was built to town standards as well as a letter from him, dated January 19,

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1994, stating that the water works were installed to the standards required.

EM instructs Clerk to send a letter to Mr. DiMartino indicating that the process for street acceptance starts with the Board of Selectmen. They should be contacted to put an article on the warrant.

Clerk advises members of a notice of public hearing received from Rep. Barbara Gray's office, the Joint Committee on Local Affairs, to be held on Thursday, February 3, 1994 at 7:30 p.m., Forbes Municipal Bldg., 34 West Main St., Westborough, MA.

P. Herr explains that it is a proposal to create a new system of planning in Massachusetts to include any regional planning agencies. Any development exceeding a certain size would be subject to the MAPC which is the regional group to oversee developments. The bill would give Bellingham the opportunity to voice objections relative to developments in adjacent communities.

RL is interested in attending the public hearing and requests that Clerk provide him with copies of the documents forwarded.

B. Lord is part of the committee which is working to revise the bylaws for the government area. The zoning bylaws are appended by Appendix A. He recommends that the Town Bylaws be placed in Division I and the Zoning Bylaws be in Division II to simplify things. Otherwise, they will have different numbering.

Clerk is instructed to find out when the warrant closes and advise P. Herr so the proposed Bylaw revisions can be prepared for the Annual Town Meeting.

RL updates the Board on the status of the Economic Development Committee. He explains that RL Cullen & Associates is the engineering firm from Worcester which was chosen to review the situation for industrial development. They are waiting for them to come before the Board to review all the problems the site has to offer and some solutions. They may be coming in next week.

P. Herr notes that they are evaluating the land between 495 and N. Main Street to find out if it is good for the town to put all their eggs in one basket or branch out.

EN states that if they do not pursue that area, they will get something else.

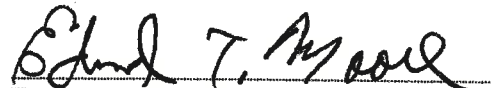
RL indicates that the proposal may be scaled down.


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AM asked J. Emidy for an update on the Stallbrook McDonald's Lighting situation. J. Emidy has cited McDonald's for noncompliance of the lighting.

AM makes a motion to adjourn at 10:25 p.m. EN seconds motion. Unanimous vote of 5 to adjourn (EM, EN, RL, GG and AM).


Edward T. Moore, Chairman


Anne M. Morse, Vice Chairman

Emile W. Niedzwiadek

Glenn E. Gerrior


Roland R. LaPrade