

BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

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MINUTES OF REGULAR MEETING

FEBRUARY 10, 1994

Meeting was called to order at 7:50 p.m. All members except GG and RL were present. Planning Board Associate Member William Wozniak was also present.

DISCUSSION WITH TOM DEVITT RE: PROPERTY NEAR 5TH AVENUE

Tom DeVitt explains that the property is located at the Charles River Grove, near 5th Avenue. The main plan depicts 3 lots.

EM asks when the subdivision was accepted.

John Emidy, Building Inspector responds that it was started in 1906.

T. DeVitt states that it was accepted at the Town Meeting of 1938.

EM observes that this is an approved subdivision in which all of the roads have been accepted by Town Meeting but some of them are not constructed.

EN agrees that some of the houses are not there either.

EM reads letter from the Town Clerk, dated February 3, 1994, regarding Riverbank Avenue and Middle Avenue in Bellingham. She certifies that Riverbank Avenue and Middle Avenue were accepted as public ways by the voters of Bellingham under Article 8 of the Special Town Meeting of April 13, 1938, streets shown on the plan of land entitled "Charles River Grove." The streets were conveyed to the Town of Bellingham by deed from the Bay State Realty Exchange executed on April 11, 1938.

T. DeVitt notes that one house is there now in the First Avenue area, but there is nothing in this area. They are putting together 3 backlots to combine as one lot. There is a cart path there now even though the road is accepted. He proposes to widen the road.

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AM asks if the town maintains the road.

T. DeVitt responds that they do not since it is a gravel road. He points out the edge of the wetland. He has to go to the Conservation Commission to find out what type of material they want in there. They may want it to be gravel instead of pavement.

AM asks about the Highway Department's opinion.

T. DeVitt explains that Mr. Arcand said that he had to come before the Planning Board. The street was accepted as a 40' right of way. He proposes 12' with improvements.

E.K. Khalsa, Land Planning, explains that Bill Halsing did the plan. The lot would qualify as an 81-P plan but they are here because of the variation in the Subdivision Control Law. The question is whether or not the Planning Board agrees to have it built as designed instead of what they are proposing.

T. DeVitt notes that Wilfred Arcand, Highway Department, said that the road was accepted in the early 1900. At the time, all dirt roads which were town accepted paid by how much road was put in. He refers to the note on the plan which states that Approval Under the Subdivision Control Law is required. The engineer put that in because he is requesting to make the road 12' instead of 40' wide.

J. Emidy explains that they can go with the definition which the Planning Board uses to constitute a road. A 12' road for them may be adequate for access.

EM points out that Mr. DeVitt's engineer feels that this is a subdivision. They will have to go through the whole hearing process all over again.

T. DeVitt is here to determine from the Planning Board what they want to see there. This will only service one piece of property.

EM asks about the other house.

T. DeVitt responds that it has frontage.

B. Wozniak notes that the frontage is on First Avenue.

J. Emidy reads the definition of street from the Zoning Bylaw.

EM states that Mr. DeVitt's engineer could have put in that this is not a subdivision.

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T. DeVitt believes that one lot qualifies as an isolated lot.

EM states that they do not have the 50' of frontage since it is illusionary on a paper street.

J. Emidy indicates that it does have frontage on an accepted street.

EM knows that a car can get in there.

EN asks if there is any possibility that it may serve more than one house in the future.

T. DeVitt responds that the cost factor is against it, but it could be done if someone wanted to spend the money.

AM asks if they will get town water.

T. DeVitt responds that the house next to the lot has it.

J. Emidy believes that this will adequately serve one lot.

EM thinks that it would even serve two. The biggest problem is with the note on the plan. He suggests that Mr. DeVitt confer with his engineer and send a copy of the plan to P. Herr for discussion at the next Planning Board meeting of February 24, 1994.

DISCUSSION WITH E.K. KHALSA RE: UNDEVELOPED LAND AT RODGERS ROAD

E.K. Khalsa, Land Planning, explains that this situation is similar to the one just discussed. There is an existing house with two lots. Indian Run Road goes into Rodgers Street. There is a house on lot 133 which serviced the existing driveway. His client is requesting that they extend the driveway to serve two more lots.

AM asks who owns the driveway.

E.K. Khalsa responds that it is within a town way. There is no record that it has been accepted by the town.

AM asks who owns the land.

EN responds that it would be someone who owned the subdivision at some point.

AM believes that this is a legal problem. She suggests that they petition the town to accept the road.

T. DeVitt states that there is a 6" water line which goes in now.

EM believes that it can not get accepted until it is built. He asks who is going to build it according to subdivision standards.

E.K. Khalsa explains that they are proposing to do what the other guy did on the lot nearby. It is an existing non-conforming.

EM points out that the owner of that property was denied a variance before the ZBA but went ahead and built anyway.

E.K. Khalsa asks if there is any way they can provide access to the lot along the existing way to tie into the driveway.

AM asks if the owner of record would grant an easement.

T. DeVitt believes that the town owns the right of way even though it is not an accepted right of way. He thinks that the town plows in so far even though it is gravel.

AM notes that the Water Dept. granted access through their easement to Cheryl Pearson for her property on Hartford Avenue. They may do it for this.

EM points out that road is paved and town maintained.

J. Emidy notes that the Rodgers Street lot went before the ZBA for a frontage variance but it was withdrawn without prejudice.

DISCUSSION RE: DUNKIN DONUTS, AMES PLAZA
DEVELOPMENTAL PLAN REVIEW

Carmella and Louis Ferreira own Dunkin Donuts.

AM discloses that her husband offered to move snow for the owners of Dunkin Donuts. He did not do any plowing but she wanted to disclose for the record.

C. Ferreira understands what they were told what to do to comply with the conditions of the Developmental Plan Review. They want to do everything. They were held up because they were waiting for approval from the Board of Health because of the septic system. They received approval in September 1993 and received a building permit in October. They were required to put in an extra bathroom and move walls. They have not done the landscaping yet. She requests that the Board specify the kind of exit signs they want. Mr. Wasserman has agreed to do the signs but wants to know exactly what needs to be done to comply.

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J. Emidy indicates that a barrier guardrail height is also needed. He suggests they use a jersey barrier.

C. Ferreira is asking for a permit to open since they are ready to open.

EM states that since approval was granted in a public forum. They would have to advertise and do it the same way in order to change the conditions of approval.

C. Ferreira wants a temporary occupancy permit.

AM suggests that they use a jersey barrier to block off the area that people are using for entrance/exit near the pizza shop. The problem is that temporary things sometimes remain permanent.

EM notes that a lot of people came in during this Developmental Plan Review. Everyone was satisfied that the Board would take care of their needs. It was approved in May 1992.

C. Ferreira reiterates that they were held up because they did not get the septic approval until October 1993.

EM explains that J. Emidy can not issue an occupancy permit until all the conditions are met.

J. Emidy indicates that the biggest problem is the traffic flow safety problem.

AM states that the entrance/exit signs can be done now and the jersey barriers can be put in. The whole problem is the traffic issue.

J. Emidy suggests they use concrete curbing. The last remaining issue would be the landscaping and the 6" normal curb height. The amount of snow which is blocking the parking spaces would have to be moved. They have to take the snow off everything. The jersey barrier has to be high so people can not jump over.

EM reads conditions for the Developmental Plan Review approval of May 14, 1992 including: (1) A suitable stockade fence of 2' to 3' in height be placed on top of the retaining wall between Dunkin Donuts and the residence behind it; (2) Legal documents relative to the parking on lots owned by separate ownership be reviewed and approved by Town Counsel; (3) Better entrance and exit signs be placed at the proper locations; (4) The abandoned entrance/exit at the corner of the parking lot near Bellingham Pizza be blocked to the sidewalk by some form of obstruction; (5) If the maple tree at the southwest corner of the lot is removed, it must be replaced with a tree of at least 3" caliper; (6) The

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exterior lighting of the building must comply with Section 3200 and directed into the lot and not away from it; and (7) The 4" white stripe in the parking lot be eliminated entering the Dunkin Donuts area and exiting the drive up window.

C. Ferreira indicates that the legal documents were approved by Town Counsel and the maple tree has been removed. They agree to the conditions but would like to know exactly what the Board wants for the signs.

J. Emidy agrees to meet with them to discuss the signs. He will use his discretion to ensure that the proper signs are placed at the entrance/exit locations.

EM asks about the abandoned exit being blocked off.

C. Ferreira states that there is a pole there now.

J. Emidy states that is not good enough. They must have something higher.

EM asks about the maple tree being replaced.

C. Ferreira will replace the tree.

EM asks about the exterior lighting. He notes that GG called him and said that he would not budge on the conditions since they had enough time to do the work. The owner could have done the entrances before now.

J. Emidy states that they have to stripe the parking area if it has not been done.

C. Ferreira agrees to do the striping.

J. Emidy will give them a temporary permit when they have the berms, jersey barrier and signs in.

John Plough, 10 Pulaski Blvd., owns the property next door. His aunt and uncle who used to own the house still live in it. He has two issues which he would like to address to the Board. His aunt and uncle are upset about the stockade fence stipulation since it will block their view when they sit in the driveway during the summer. He asks if it can be changed to a chainlink fence.

EM suggests that they wait until the Dunkin Donuts opens before changing anything. The stipulation was put in to protect the neighbors from the oncoming lights. The lights would shine through the chainlink fence.

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J. Plough asks if there is any problem if they want to have the fence changed later.

AM does not think the owners would have to come back in for a site plan review. They could work it out between themselves.

J. Emidy would like to receive a letter from the neighbors saying that they want the change.

EM thinks that they should wait before they change it.

J. Plough explains that the second issue involves their driveway. They used to drive in and go through the parking lot. A hardship has been created because it is blocked off. The only access now is for them to go straight in and back out to Pulaski Blvd.

EN notes that they were previously trespassing on the parking lot.

J. Plough further notes that it is dangerous for them to be backing out to Pulaski Blvd.

AM asks if the retaining wall is cement.

J. Plough responds that it is. He asks if the Board would be willing to waive the requirement for shrubbery because it would obstruct view when backing out. They were actually pleased that the maple tree was cut down because it improved the site plan. Actually, any type of vegetation blocks the site line. He understands that it may be a requirement per the regulations but he asks if it can be waived.

J. Emidy states that it is required per the Public Shade Tree Law. He suggests that they put in two smaller trees in the berm area.

AM asks if they can plan somewhere else.

J. Emidy indicates that a little maple could also be put in to replace the one which was taken out.

J. Plough asks if they can change the stockade fence if they can work it out with the owners.

AM states that the Board agrees, if J. Emidy is happy with the safety issue.

J. Emidy will meet with the owners relative to the entrance signs.

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EM indicates that they have to be illuminated signs. He wants them to tell their engineer to present an as-built when it is done.

J. Emidy suggests that they ask their engineer to contact him so he can explain what is required.

CLIFF ROAD STREET ACCEPTANCE REQUEST
PRESENTED BY WATER DEPT.


Clerk explains that this request was submitted to the Board per letter of the Water Dept. at the last meeting. Also included were letters stipulating that street acceptance is warranted from the Highway Dept. and Water Dept. The Board advised the Water Superintendent to petition the Board of Selectmen to place this matter on the warrant for the Annual Town Meeting. Ms. Richards from the Board of Selectmen's office requests that the Board act on this matter prior to the Board of Selectmen's public hearing relative to this matter.

AM makes a motion to recommend acceptance of Cliff Road as a town owned road based on the recommendations of the Highway Dept. and Water Dept. EN seconds motion. Vote of 3 (EM, AM and EN).

Members sign Clerk's pay voucher.

AM makes a motion to adjourn at 9:00 p.m. EN seconds motion. vote of 3 (EM, AM, and EN).


Edward T. Moore, Chairman


Anne M. Morse, Vice Chairman


Emile W. Niedzwiedz

Glenn E. Gerrior

Roland R. LaPrade