

**BELLINGHAM PLANNING BOARD**

**P.O. BOX 43**

**BELLINGHAM, MASSACHUSETTS 02019**

**EDWARD T. MOORE, CHAIRMAN  
ANNE M. MORSE, VICE CHAIRMAN  
EMILE W. NIEDZWIADK  
GLENN E. GERRIOR  
ROLAND R. LAPRADE**

**MINUTES OF REGULAR MEETING**

**FEBRUARY 24, 1994**

Meeting was called to order at 7:45 p.m. All members except RL were present. Planning Board Associate Member William Wozniak and Planning Board consultant, Philip B. Herr, were also present. Members sign invoice for P. Herr's quarterly consultant fee, copies of Rules and Regulations and P.O. Box fee.

**DISCUSSION WITH TOM DEVITT RE: PROPERTY NEAR 5TH AVENUE**  
**CONTINUED FROM PREVIOUS MEETING**

Tom DeVitt sent a copy of his plan to P. Herr. He is proposing to put a house in. There is already a house in there. The road is paved to a point. It is very steep at Middle Avenue. He is proposing to put in a 12' gravel driveway at First Avenue. He intends to go to the Conservation Commission because the property is within 100' of the flood plains. Wilfred Arcand, from the Highway Dept. told him that he would rather see a gravel drive. He thinks that the Conservation Commission will agree.

AM asks if it is a town accepted road.

T. DeVitt responds that it is. He presented a letter from the Town Clerk indicating as such at the last meeting.

EM explains that at the last meeting the plan said "Approval Under Subdivision Control Law Required."

P. Herr indicates that it should have said "not required". It is a town accepted way.

T. DeVitt shows a plan which depicts the whole area. He is combining 3 lots so as not to compromise the whole area. There is a slope so it is not feasible to do anything unless they go into Fourth Avenue. The water lines are in.

AM asks if there is water on the street.

T. DeVitt responds that there is water on the intersection. The

**MINUTES OF PLANNING BOARD REGULAR MEETING**

**FEBRUARY 24, 1994**

water line goes down to the house in there but the Water/Sewer Dept. thinks that it is a small one. He can tie in. He meets the frontage requirements. The access would only be serving one property. There is an old foundation on the property which he intends to take out.

P. Herr notes that the question before the Planning Board is whether the lot has vital access. He thinks that it does with improvements. If it was not a town accepted way the answer would be different.

AM asks what the width of the road will be.

T. Devitt is proposing a 12' driveway for access.

EN points out that Mr. DeVitt would have no say for someone else using the road.

T. DeVitt states that would not bother him since it is a town road.

AM asks what the town's position is relative to plowing.

T. DeVitt responds that they can plow but they do not have any money to put in a road.

P. Herr asks where the stormwater will go. He is concerned about the drainage.

T. DeVitt notes that there are no stormdrains in the whole area.

P. Herr points out that there is a 4' difference between the side of the road. He is concerned about the gravel in the road winding up in the river. It will wash away because of the grading difference.

EM notes that the road is level when one drives down. The 4' difference must be an easement.

P. Herr is suggesting that if it is engineered, they should ensure that the stormwater gets intercepted.

AM asks about the swale.

P. Herr states that a swale would take care of it.

T. DeVitt thought that gravel was better than hot top for that reason.

P. Herr states that if they do not take care of the drainage problem, they will hear from the DPW later on since there is no

drainage.

EM refers to a house on First Avenue whose owner put a catch basin in on his own property and dug a trench across the street.

T. Devitt points out that all the water runs down the hill and right into the river.

P. Herr suggests that they can cut a swale into the side of the road and put in a culvert to go into the river. He does not know if the Conservation Commission will allow that. He thinks that Mr. DeVitt came in to ask the Board's opinion and guidance as to presenting this to the Building Inspector.

T. DeVitt does not intend to record this. He could put a swale in there.

EM notes that would be up to the Conservation Commission and the Highway Dept.

AM makes a motion to sign the site plan for Riverbank and Middle Avenue for an 81-P, presented by Tom DeVitt. EN seconds motion. Vote of 4 (Em, EN, AM and GG). \$10.00 fee paid.

**DISCUSSION RE: PROPOSED ARTICLES FOR ANNUAL TOWN MEETING**

P. Herr discussed the split lot zoning article with Town Counsel who indicated that he had no objection to it.

EN refers to problems with the shared driveways articles.

Discussion to be continued after the Pearson DPR.

**CHERYL PEARSON**

**DEVELOPMENTAL PLAN REVIEW**

**334 HARTFORD AVENUE, PROPOSED BEAUTY SALON**

AM abstains from the discussion.

EM asks P. Herr if this is to be considered a complete submittal.

P. Herr indicates that it is not, but they will discuss it further.

Ralph Mastroianni, architect, representing Cheryl and Richard Pearson explains that the proposed site plan allows for commercial use for the existing building. They came to the Board a couple of weeks ago to discuss their proposal prior to submitting for DPR. The site is split zoned. The zoning runs down the middle of the site. They relied on the ZBA variance which was granted to the previous owners. The zoning boundary runs down the middle of the

**MINUTES OF PLANNING BOARD REGULAR MEETING**

**FEBRUARY 24, 1994**

site. The Bylaw allows them to go 30' from it. The variance which was granted allowed for commercial use for the premises.

P. Herr asks to see a copy of the variance. He notes that this is a gorgeous building and that the proposed use makes sense. It was approached with designing the sensitive qualities of the building. However, there are a mess of complications.

R. Mastroianni notes that the Building Inspector presented a copy of the variance to him. He felt that the issue of use had been addressed.

P. Herr reviews the variance. There is a question as to whether or not the current owners can use a variance which was granted to the previous owners. He does not know if a variance is transferable.

EM thought that a variance went with the property.

P. Herr reads the section of the variance referring to allowing an office building. There is a question as to whether the variance can be used for other things such as the beauty salon which is proposed. The variance allows no more than 8 separate offices. He does not have any trouble with the proposal, but the neighbors may be angry.

EM notes that there would be a problem if a neighbor said there was a problem.

P. Herr suggests that this be forwarded to Town Counsel for his interpretation. People have an uneasy feeling about transferring a variance from one person to allow an office building to another for a beauty salon.

R. Mastroianni explains that Cheryl's husband purchased the property from the FDIC. He questioned a number of town departments specifically about the commercial use being correct. He was advised that it was acceptable. The issue relative to the Zoning Bylaw surfaced when he got into the site plan. He has sought counsel who advised him that case law allows for a variance which has been applied for and acted on to be put into effect. Commercial use of office and beauty salon are in the same category. This is a less intense use than what was granted by the variance.

EM believes that the spirit of the proposal sounds good. It allows for better original access off Hartford Avenue. The question is whether or not the variance is for a specific use. The variance which is granted to a lot goes with the lot. The variance was granted for 8 single offices. This is considered a change in use. It could be an increase in nonconformity. He personally feels that it is a better use and does not think that anyone will appeal.

**MINUTES OF PLANNING BOARD REGULAR MEETING**

**FEBRUARY 24, 1994**

R. Mastroianni refers to the second issue which deals with access to the site. No one could tell them whether or not they had the right to use a town road so they were advised to go to the Water/Sewer Dept. They were granted permission to use the access route. The property is a real gem. The neighborhood has not been shown to its advantage. There is more than enough space on the site. They intend to provide for adequate parking and to allow for grading around the site to meet the handicap accessibility. The guy across the street from them at Tri County Communications is now parking on the site.

EM believes that they may need another variance in order to proceed since they may run into problems with financing.

P. Herr refers to the access issue. They did what they were supposed to do and obtained a letter allowing them to use the road from the Water/Sewer Dept. However, it is not really a road or a public way. The current commissioners said that they may use it now, but they could change their mind. They were not deeded rights to use the access. They could get access to their own property or go to the Town Meeting to request approval for the access. The reason why it is o'kay is because they are dealing with town owned property. They could just pave their own driveway and use that.

R. Mastroianni indicates that there is a possibility of widening on their own property. It is not desirable, but the possibility is there.

P. Herr notes that there is currently a proposed article before the Board for the next Town Meeting which addresses the issue of a lot being divided by boundary. It specifically addresses that a use allowed in one district may not be allowed in another. This does not meet the lot area requirements or the lot frontage requirements since the majority of the lot is in agricultural zoning. It is a preexisting lot which is free standing. The Bylaw does provide for exemptions for single family and no other use. There is no dimensional grandfathering for business.

R. Mastroianni believes that the use is allowed in the variance.

P. Herr refers to the lot as being undersized with inadequate frontage.

EM believes that everyone knew what the owner wanted to do there.

P. Herr is not sure that the ZBA was aware that the lot was undersized. It is undersized because the majority of the frontage is in an agricultural district. That exact issue is addressed in the proposed article which the Board is about to send to Town Meeting.

**MINUTES OF PLANNING BOARD REGULAR MEETING**

**FEBRUARY 24, 1994**

EM asks if the new Bylaw would make it clear that the lot is undersized.

P. Herr responds in the affirmative. It is not now clear.

EM notes that the Board agrees that this is a good use for the property.

R. Mastroianni explains that 17/18 parking spaces are required by the variance. They could put them on the site but it is not needed for this use.

P. Herr notes that 13 parking spaces are required, but the ZBA said at least 18.

EM states that the Board could waive the parking, but asks if they can do that when the ZBA required more.

R. Mastroianni notes that the parking is based on the square footage of the building. 13 are required for any commercial use. They are only occupying the bottom floor of the building.

GG asks what they intend to do with the rest of the building.

R. Mastroianni responds that they have no immediate plans to occupy the upper level of the building. They will get a commercial tenant at a later date.

GG refers to the fact that Mrs. Pearson will have 6 operators working in her beauty salon with 6 customers. That leaves one parking space for the tenants upstairs. People will end up parking in the school parking lot.

R. Mastroianni reiterates that the parking lot could continue to accomodate more than 18 parking spaces. The requirements go well beyond what the bylaw calls for.

GG has a problem with the Bylaw then. He is concerned about someone pulling in when a school bus is coming out. If they do not have enough parking spaces, there will be a problem with the buses.

P. Herr states that they may include a stipulation that the 13 parking spaces be expanded to 18 at some point when there are more than 4 operators on the premises. He does not know if the signs and lighting complies since they were not included on the plan.

R. Mastroianni explains that the applicant does not know what she wants to put in. He did add a note to the plan stating that the lighting and signs would comply with the guidelines.

**MINUTES OF PLANNING BOARD REGULAR MEETING**

**FEBRUARY 24, 1994**

P. Herr asks if they intend to light the parking area.

R. Mastroianni responds in the affirmative. This is a nice building which is sitting on a nice site. They do not want to pave the whole site but they do agree to increase the parking as the business grows.

GG is concerned that it can not be enforced later on.

EM asks about the engineer's stamp which should be on the plans.

R. Mastroianni indicates that the stamp is on the plans which were submitted but not on the plans which he colored in.

P. Herr notes that the signage and lighting are the real issues.

R. Mastroianni remarks that the applicant is anxious to get a building permit and begin renovating the building.

P. Herr could not tell from the drawing whether the parking would be gravel or pavement. He questions what will happen to the stormwater and if they will have drainage. He does not know what the topography looks like. He thinks that those issues need to be clear before the Board acts on this plan.

R. Mastroianni raised the issue of pavement the last time they were here. They do not intend to pave initially. The Board agreed that the topo would not be required because it is already there.

EM states that the Board wants to see everything which the book shows as a requirement on the plan.

EN makes a motion to continue the review meeting for the Developmental Plan Review for Pearson to March 10, 1994 at 8:00 p.m. GG seconds motion. Vote of 3 (EM, EN and GG).

EM suggests that they think about whether or not they need another variance.

R. Mastroianni states that they could list all the areas of concern and go to the ZBA to ask for relief.

P. Herr feels that the variance which is now on the property is not clear.

EM notes that the previous owner could have put in office suites. They need a variance which says the exact use.

EM calls for a 5 minute recess.

SHORES AT SILVER LAKE

DISCUSSION WITH JANICE HANNERT

Janice Hannert, Fafard, is here to discuss an approach for development of this residential property. Several years back they met with town agencies to discuss Shores and Lakeview. They discussed the overall plan and addressed a number of issues.

AM asks about the number of units proposed.

J. Hannert explains that they are now coming in with a proposal for a portion of the site without looking at the overall plan of the site. They are proposing townhouses for Shores. She points out the area of Center/Cross Streets and Crystal Lake. Lakeview Estates is not a continuation of this. They did withdraw Lakeview without prejudice.

P. Herr notes that this is part of the same puzzle but they are not under the gun.

EN asks if this is a 3 lot parcel.

J. Hannert responds in the affirmative. There are 3 large lots.

EN remarks that it goes through Silver Lake.

J. Hannert points out that the property ends at Silver Lake Rd. She identifies Silver Lake and the existing residence between the property and Lake St. They are small 5,000 square ft. lots. Crystal Lake is entirely within the Shores site. The town did not want them to use the existing Approval Not Required which they received for approximately 17 lots on South St., Center St. Cross St. and Silver Lake Rd. Some of the land is in a purchase agreement. The Shores parcel is owned by Howard Fafard but there is a mortgage to Joseph Rosenfeld. They propose coming in with a special permit for a portion of the site. The site is so big and the town has concerns about committing to more than x number of units. They propose 100 units on the portion.

EM believes that it would require Town Meeting approval.

P. Herr indicates that it does not with the zoning which they have. The plan was submitted before Town Meeting approval was necessary.

J. Hannert believes that they meet the density provisions for the zoning regulations and the area requirements for the units. This is a concept for coming in with a portion of the site. The Planning Board is not committing to future development. The Shores site is 164 acres. This proposal is to develop 30% of the site. They show detached townhouse condo type homes. Lot 2 is 29.103 acres. They



**MINUTES OF PLANNING BOARD REGULAR MEETING**

**FEBRUARY 24, 1994**

have not really defined the area. Any special permit would have to comply with the provisions.

EM is worried that they will end up with 750 units in the end.

J. Hannert states that there is nothing in place for Lakeview. This was originally 448 units.

EM feels that it would be precedent setting and binding if they agreed to this. A Judge would say that they knew it was coming.

AM thinks it is a good idea to deal with portions at a time.

P. Herr states that one objection could be that they would have too much of the same thing.

EM thinks that it would have less impact with gradual development.

P. Herr states that they could learn from the first piece. An example which they could draw from is Brook Estates which is actually an extension of Bellwood. In the same way this would have subsequent parts which would be different.

GG asks how they will change small homes to bigger in the back.

J. Hannert explains that this portion of the site stands alone. The rest will come in S. Main St. There is a different type of lot size and unit. They propose to do exactly the same thing as Brook Estates. It will be like a 3 unit structure but look like 3 separate units.

EN asks if they will have a condo association.

J. Hannert responds that it will.

EM asks about sewerage.

J. Hannert responds that it will have sewerage. There is the Douglas Drive Pump Station on Silver Lake Road for the Shores site and Silver Lake residents to tie in.

GG asks why they do not use the Cross Street access.

J. Hannert remembers that the Planning Board insisted that they not use it.

GG's father lives right in front of Cross Street. He is concerned since he knows the traffic pattern with people going through to Franklin from Cross/Lake Streets. The traffic onto Center St. makes turning to Cross Street dangerous. He is saying that they

**MINUTES OF PLANNING BOARD REGULAR MEETING**

**FEBRUARY 24, 1994**

could use both egresses with Cross St. and Center St.

J. Hannert notes that they are looking to use the existing subdivision plan. They could look at using the access to Cross St.

GG has problems with one main entrance for 100 units.

EM asks about the number of units at Bellwood.

J. Hannert responds that there are 136.

EM notes that development has a single access to which they added Brook Estates.

P. Herr points out that the Planning Board did require that it be double barrelled.

J. Hannert indicates that there is a 100' drop at the site between Center St. The elevation is 336' and going to Silver Lake Road it drops to 225'. This affords them an opportunity to have garages underneath the units of which they will do as many as possible. Not every units will have a garage. They will have different options.

EN asks about the pricing.

J. Hannert states they will be between \$99,900 and \$144,000. \$120's will be the upper limit allowed by Massachusetts Housing and Finance.

EM asks how the town will pay for growth. Other towns need new schools because of the accelerated growth.

J. Hannert notes that condos do not generally have large families.

EM indicates that Maplebrook is full of kids.

GG believes that the market is changing. Condos are attractive to new home buyers.

J. Hannert states that they are offering a range for retirement empty nesters or handicapped. They will not have as many of those units.

GG asks about the size of the units.

J. Hannert responds that they will be 2,000 sq. ft. units. A number of the homes will be two story capes/ranches. They will have a variety of housing styles. She asks what sort of attachment the Board would want to see between units. The townhouse provisions

allow for clusters between units.

EM notes that Brook Estates had a foundation attachment.

J. Hannert points out that the Bylaw does not have a specific requirement. They will have parking behind the houses to keep the cars off the street. This subdivision will have big streets which will belong to the town but the little streets will belong to the condo association.

P. Herr refers to Brook Estates which he explains clustered detached single family dwellings on smaller lots than a cluster allows to develop the density of townhouses. If these people do the same thing, the Board may want to change the Bylaw.

J. Hannert reads the definition of dwelling/townhouse.

EM notes that it does not say attached.

P. Herr states that it says a dwelling which is one building.

EM is concerned that they would automatically be approving other things.

J. Hannert does not think so because the special permit is discretionary.

EM does not think that anyone would want to buy these units.

AM thinks that it is a great idea.

GG refers to the affordable units put in by Abe Rosenfeld. Out of 8 houses, 7 are sold and 4 are built.

EM states that this is frozen under the old zoning.

P. Herr indicates that they would have to go to Town Meeting in order to do townhouses in large numbers. The issues raised include segmenting the site with the Planning Board's reaction, doing something like Brook Estates by building townhouses which look like single family dwellings and the attachment of the units.

J. Hannert agrees that those are the major issues raised tonight.

EN notes that 100 units scares him because of the situation with the schools.

AM likes looking at the proposal one piece at a time.

J. Hannert points out that they are not locked into the figures.

**MINUTES OF PLANNING BOARD REGULAR MEETING**

**FEBRUARY 24, 1994**

The Bylaw requires 7,000 square feet per bedroom. They are not looking at the density as low as the ones which are existing.

EM explains that Silver Heights is a continuation of what was already there.

EN refers to building constraints and asks about the number of units.

EM states that they are willing to do phasing as shown on their plan.

J. Hannert explains that they are not able to develop and get the financing until the units are 50% presold. They will have 7 phases.

P. Herr refers to the issue which GG raised. If they segment as proposed, the issue is that the rest of the site may never develop. They have to make sure that this works all by itself with a second means of egress.

EM would like to see them withdraw and go to Town Meeting.

GG thinks that this would work. The units will sell but he does not want to see the same plan. He wants to see two means of egress if they come in with portions. He is fearful for the schools.

EM notes that they can not stop developments.

P. Herr states that 10% of the units can not have more than 2 bedrooms unless allowed by the Board.

J. Hannert is planning on having more than that.

GG explains that South School is a new district which was redistricted because South School could not accomodate the children in Silver Heights. This development would fall in the South School system as it presently exists.

EM notes that the development can not be limited because of that.

GG thinks that they should stay with the 10% rule.

P. Herr states that it is unlikely that the Board would grant a waiver for the 10%. They are not quarrelling with segmenting the site. They can connect the units with a foundation.

EM asks how they could get impact fees for off site improvements. He asks how Ashland got a new school.

GG asks about the distance for the units.

J. Hannert responds that it will be about 20'.

GG asks if the Planning Board can waive that.

P. Herr responds in the negative. They will have to go to Town Meeting for a new Bylaw.

GG asks if they could use a reinforcement rod instead of concrete wall so they could apply the money to something else. He wants to see the road connection continue down. They should look at the site line distances.

EM notes that a special permit requires a vote of 4 out of 5.

J. Hannert states that this plan shows the site layout and units which were discussed with P. Herr whose comments were very helpful.

GG would be willing to go with more than 10% of the units with 3 bedrooms if it would be worth it for them to pay for an addition to the school. It may be in their best interest. At least it would eliminate part of the problem. He is suggesting this as an alternative to allow more than the 10%.

EM asks what they have in mind for phasing.

J. Hannert explains that they are looking for approval of the special permit within one year. They have the ability to do as many as possible.

P. Herr states that there is a long piece of sewer which they have to put in for the first phase. They do not have the market to do more than 50/year.

AM asks about septic.

P. Herr states that it can not be done with the new Title 5 requirements.

EM asks how they know that the pump is ready for another 400 units.

J. Hannert responds that the Douglas Pump Station was designed to take all of this site with the original proposal for 400 units.

**DISCUSSION RE: PROPOSED ARTICLES**  
**SHARED DRIVEWAYS**

P. Herr distributes the revised article for Shares Driveways. There were wording changes. Town Counsel previously had trouble

**MINUTES OF PLANNING BOARD REGULAR MEETING****FEBRUARY 24, 1994**

with interpretations. There are no legal or technical problems at all. A policy question was raised with paragraph c, last sentence. Town Counsel felt that they would be dictating to people and infringing on their right to orient their house and driveway any way they want.

EM notes that they are usually shown on driveway plans.

P. Herr notes that they are, but it is not under their jurisdiction. He can take out where it says gain access approval by the Building Inspector followed by consultation by the Planning Board. They can allow the Building Inspector to determine if it is adequate.

GG notes that the problem is that the driveway is usually already in when the Building Inspector inspects it.

EM requests that short summaries be included in the proposed articles.

P. Herr can expand on the summaries. He refers to why cluster developments are limited in a suburban and agricultural district and not business. Two meetings ago, Bruce Lord discussed a cluster noting that cluster density is not controlled by lot size. He will put something together relative to clusters. D. Fraine is concerned that the town will not be able to control growth. Franklin lost control because the Town Council put together restrictions and a moratorium on development. They got sued and lost in court and that is why they have the problems which they have now. They do not have anything for this Town Meeting, but D. Fraine was talking about a proposal for the Fall Town Meeting.

**STREET MAP**

P. Herr presents the revised street map to Clerk. He will send 10 copies of Clerk for distribution to the various town departments.

**ECONOMIC DEVELOPMENT TASK FORCE**

EM feels that the company is getting \$1,000 to tell the task force that the thing which was proposed 5 years ago works.

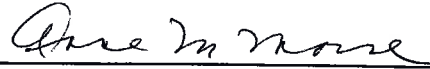
P. Herr states that they raised the issue of zone 2 having a new well.

EM did not see anything new. He feels that the town is paying them all the money to review Fafard's plan.

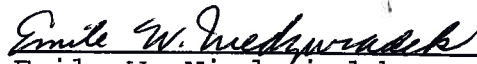
AM makes a motion to adjourn at 10:25 p.m. EN seconds motion. Vote of 4 (EM, EN, GG and AM).



Edward T. Moore, Chairman



Anne M. Morse, Vice Chairman



Emile W. Niedzwiedek

Glenn E. Gerrior

Roland R. LaPrade