

BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

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MINUTES OF REGULAR MEETING

AUGUST 25, 1994

Meeting was called to order at 7:36 p.m. All members except EN were present. Board's consultant, Philip B. Herr, was also present.

SUBMISSION

Fran Fabbricotti, Mendon Street, submits an 81-P, Form A for two lots on the southerly side of Mendon Street.

EM points out the Bellingham Animal Hospital on the plan. He asks the location of the piece which is being taken off. Right now it is all one lot but the animal hospital will be cut out.

Mr. Fabbricotti indicates that the whole thing has been rezoned business.

EM states that lot 2 is being taken away.

AM makes a motion to sign the 81-P, PC seconds. Vote of 4 (EM, AM, RL and PC). EN absent.

DISCUSSION RE: DEVELOPMENTAL PLAN FOR MINIATURE GOLF COURSE
MECHANIC STREET

AM abstains from this discussion.

Clerk presents revised site plan, revised lighting plan, detail of lighting fixture, driving range musco light plan and mini-golf musco light plan which were mailed to the Board by Michael Aucoin, engineer.

P. Herr went to look at the lights tonight. They do not leave the property and do not shine anywhere.

RL reviews the plans and notes that there is no diagram of the luminaire's.

P. Herr explains that there are two sides with the miniature golf

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and driving range. He was surprised to see the driving range in use. He thought that they were going to start off with the miniature golf only.

EM notes that John Emidy gave the applicants a 30 day occupancy permit with no lights after the last meeting. The lights were to be reviewed at a later date.

Mr. Silva (one of the developers) indicates that the driving range just opened.

PC asks if they made the changes relative to the actual fencing which would be placed at the property.

M. Aucoin, engineer, explains that there were 3 changes which were required relative to the fencing, netting, revised lighting site plan and elimination of the berm lighting.

P. Herr indicates that the previous lighting shown was not the actual lighting which they intended to use, but now it is provided. The revised lighting site plan shows what they intend to do. The numbers at the perimeter of the property show the proposed foot candles which is the level of illumination. The real question is what happens after the fact.

M. Aucoin states that the plan shows the foot candles as proposed.

P. Herr asks about documentation of the lighting device and the two additional drawings for the miniature golf and driving range.

M. Aucoin responds that the musco lighting designs show the way they will position the lights as to which direction and angle they will be. It is not showing the foot candles. The height of the devices is all at 40' as noted on the plan for both the miniature golf and driving range.

P. Herr asks if they are both Type III luminaire.

M. Aucoin indicates that they are and do not exceed 90 degrees in light.

P. Herr does not believe that the last one meets Section 3231, description of Type III fixture types. The back lights of the miniature golf clearly blear out. This is the same issue as McDonald's. There are two issues including the level of illumination and the glare. The Building Inspector looked at the lighting and judged it to meet the Bylaw.

M. Aucoin notes that they are here to make sure they have provided everything which was asked for and there are no issues left.

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P. Herr cannot say that there is no problem. There is no problem at all on the driving range. The miniature golf lights are facing out. The street is unshielded to auto which are out towards Rt. 140.

EM points out that no lights hit his business. He will have to look at the lights but they should have shields.

Mr. Silva states that the lights from Van Lumber can be seen.

P. Herr explains that was built before this Bylaw was in place. When he looked at the lights tonight, they did not look like Type III liminaire's to him. They would easily meet Type II and he believes that the lights are in fact Type II. However, they are allowed to be no more than 30' height and be no more than 1'. They could lower the lights 1' to comply with Type II lighting. He is concerned about the lighting which does not meet the Bylaw being installed. That is why the Board has been pressing for information. The information requirements of the Board have been met.

M. Aucoin indicates that meter readings of the lighting was done and supplied to the Building Inspector. They had Musco lighting do the readings.

EM requests that Clerk obtain a copy of the Musco light readings which went to the Building Inspector. He also suggests that J. Emidy contact P. Herr directly to discuss the lighting situation further.

M. Aucoin feels confident that they can tilt the shields down.

RL asks if they put the screening in.

M. Aucoin responds that they put in 5' hemlocks at 200'. They put a stockade at the other end with mesh on the chainlink.

EM notes that a truck driver who lives closest to it has not complained about the lights shining at his house.

Clerk to send a letter to the Building Inspector noting that the revised site plan has been provided and it shows the lighting is in as proposed. Building Inspector is requested to send a copy of the meter light readings to the Board for filing and P. Herr for his review. Building Inspector also to contact P. Herr directly to respond to questions and discuss this matter further.

NEW ENGLAND BONSAI DEVELOPMENT PLAN DISCUSSION

AM discloses that when this business opened her husband bid on the

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site work.

Wayne Schoech, owner, explains that development of the site work has taken longer than they thought it would. J. Emidy took them to Housing Court about 3 issues which were not completed on the site plan including the fence which has since been built, the driveway which has not been completed with pavement and is now dirt and the screening along the property line which is not in place. The Judge asked him to return and address the Board relative to these issues. He explains that they will have asphalt up to a certain point on the driveway and the rest will be gravel. Right now it was graded on time. J. Emidy was concerned about the dust around the barn. He thought that they would be paving the whole thing. It was their original intent to use that driveway but it is not being used now. The Judge ordered him to resolve the property line issue and put the screening in by September 1, 1994. He cannot get anywhere with the neighbor and thinks that if he puts the screening in 10' on his own property, it would be tantamount to giving the neighbor the property.

P. Herr thinks that he should do what the drawing says.

W. Schoech notes that if he puts the screening in as shown on the plan, he would be digging up the neighbor's yard. He proposed a land trade to the neighbor but he wanted his own survey done but then never did it. He would give him land on the side and take a comparable piece in the back. He does not want to dig up and put bushes in on the neighbor's yard. He would like to have the Planning Board say that he has until the spring to resolve these issues. He can show the Board letters which he has written to the neighbor.

AM thinks that Mr. Schoech is asking the Board to change the site plan and say that he does not have to put the trees in.

W. Schoech is afraid that if he puts the screening in, he would effectively be losing the use of the land. The third issue had to do with the fence being built as shown on the site plan. It had not been built before but now it has been done.

AM indicates that the Planning Board cannot settle the legal disputes over the land.

EM asks why he does not put the screening in at the existing fence.

W. Schoech explains that is about 15' in on his property. The trees in the neighbors yard are on his land. The land a few feet from the neighbors house is his land. He had it surveyed two times.

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AM hopes that he is not expecting the Board to change its requirements.

W. Schoech is here to apply for reconsideration of the site plan.

AM notes that if he had come in without the screening the Board would not have approved the site plan. He should go with the surveyor's recommendation if he had it surveyed two times.

W. Schoech does not want to have to take the neighbor to court and go through a legal battle.

P. Herr points out that the Planning Board would be content if he put the trees closer to his buildings. He would not be giving up his claim to ownership of the land. He would satisfy the Planning Board and the Judge by planting the trees further in his own land. He could take some bright orange stakes and drive them in on his exact property line to lay claim to his property. He does not have to hire an attorney. If the neighbor wants to remove the stakes, he will have to go to Court.

W. Schoech bought 8 acres and would like to have 8 acres.

P. Herr does not think that he would be giving away his land just because he moves the screening in.

B. Lord states that since it is his land, he has a right to use it.

W. Schoech is also asking for an extension for the paving and clarification. It seems to say that the paving will end but the other piece is clearly intended to be paved. The Judge asked him to come here for clarification.

AM indicates that if he is not using that driveway for access and cannot pave now, he should throw some seed down to get rid of the dust. He could also put bluestone and then finish the driveway and paving next spring. She asks if all the parking spaces are there. Seeding and putting in the bluestone will keep the dust from being carried out into the street from the unpaved parking area.

EM notes that they did a lot of expensive things like putting up new buildings but did not do the things which were required in the Bylaw.

W. Schoech reiterates that he is not using that access.

RL thinks that he should be because of the number of parking spaces.

EM points out that the town had to take him to court in order to

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get him to come here. How can he expect the Board to grant him leeway?

W. Schoech explains that the Judge sent him to resolve what is being paved and what should not be. The Judge did order him to do the screening. The Judge is amenable to waiting until next spring to do the paving but he wants the Board to clarify what needs to be paved.

AM states that the shaded area on the plan should be made clearer. The Board will allow bluestone until the spring to resolve the dust problem.

EM asks how they get dust from a driveway which they are not using.

W. Schoech responds that the UPS truck uses that driveway to get to the barn. People use it to get to the barn also. The Judge suggested that they use bluestone and ordered him to meet with the Planning Board.

P. Herr notes that AM suggested he use bluestone on that driveway too. He suggests that Mr. Schoech speak with the Building Inspector to ask if bluestone will take care of the problem.

AM will call the Building Inspector tomorrow to discuss this matter and will call W. Schoech afterwards.

CLAIRE'S COVE DEFINITIVE SUBDIVISION

Clerk reads notice of public hearing.

EM explains public hearing procedure. The applicant will make a presentation and present the plan. After the Board asks questions, the audience will have the opportunity to ask questions. They are to raise hands and identify themselves with their address for the record. He asks all members of the audience to come up to look at the plan. He asks if P. Herr foresees problems in the future with new lots being created.

P. Herr states that there is a notation on the plan that there will be no additional lots.

AM does not think that the notation is clear enough to show that there can never be any more lots but there couldn't be because there is not enough frontage.

P. Herr asks what the zoning district is.

Richard Dill, applicant, responds that it is agricultural.

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P. Herr states that it does satisfy the lot shape factor.

R. Dill explains that they are concerned about the flow into the wetlands. In the worst case, they will put in a pond but it is up to the Planning Board.

EM states that they will have to contact the Conservation Commission to discuss the runoff into the wetlands.

P. Herr asks how they will get water.

R. Dill will have a well.

PC states that they are allowed to have a well.

R. Dill notes that the existing house has town water with another house hooked in.

Roland Arcand, abutter, believes that he would have to bring in a separate line from the street.

PC states that the applicant would have to put in his own service with a 3/4" line. The Water Department does not even allow two homes to be on one line now.

RL makes a motion to close the hearing. AM seconds.

EM reads letter from the Safety Officer, dated June 15, 1994 stating that he sees no problem with the site distances for this property.

P. Herr notes that there are a lot of things which a Definitive Subdivision is supposed to have which this plan does not show but this is for only one lot so the Board has waived many of the actual plan requirements.

Vote of 4 to close the hearing. (EM, AM, RL and PC). EN absent.

RL makes a motion to approve the plan. PC seconds. Vote of 4 (EM, AM, RL and PC). EN absent.

Decision to document a waiver of the standard construction requirements for road (the road will actually be a paper street as noted on the plan), and a waiver of the drawing requirement.

P. Herr asks if the Planning Board will require any kind of security to ensure that a street sign is placed at the entrance to Claire's Way. There should be a street sign.

Carol Dill, applicant, indicates that their address will be 369

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Lake Street for mailing purposes.

P. Herr further notes that the submittal requirements call for clarification of the street number.

R. Dill explains that they are technically on Lake Street and were given a 369 Lake Street mailing address.

AM suggests they put their mailbox on Lake Street since they already have that address.

P. Herr states that the applicants will have to either put up the sign or provide some form of security so the town can put up the sign. Before the Board will endorse the plan, the applicant will have to prove that the sign is up or provide security.

Richard and Carol Dill will put the sign up and bring in a picture of it.

EM explains the decision procedure and the 20 day appeal period.

P. Herr suggests that the applicants check with the Fire Chief relative to the sign name.

EM states that the Chief already looked at the plan and would have called him if there was a problem.

CHESTNUT HILL CONDOMINIUM (FORMERLY CRESTVIEW COMMONS)
SPECIAL PERMIT

AM abstains from the public hearing because she has worked for the owner of the property.

EM explains that a special permit requires the vote of 4 out of 5 members and since there are only 4 members present with one of them abstaining, there are only 3 members which is not enough. He does not want to hear the public hearing two times.

B. Lord would like to make a presentation because there are a lot of people in the audience with questions which he would like to hear.

P. Herr notes that apparently some abutters were not notified of the public hearing.

B. Lord will take care of that. Apparently, the Assessor's office missed a couple of people when they did the list.

P. Herr thinks that the Board should open the public hearing and continue it because there are not enough members.

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B. Lord will obtain another abutters list and resend notices for the continuance to everybody.

EM opens the public hearing.

Robert Costanzo, abutter, asks what happened tonight.

EM explains that a special permit requires a vote of 4 out of 5 members. The Board has one member absent tonight and one member abstaining which leaves only 3 members. The Board could proceed with the hearing if there were 4 members but not 3.

AM has a conflict of interest and did not realize that they would not have a quorum.

Clerk reads notice of public hearing.

RL makes a motion to continue the public hearing to September 8, 1994 at 8:00 p.m. PC seconds. Vote of 3 (EM, RL and PC). AM abstains.

B. Lord will send certified notices to the people who were not notified and notice through the regular mail to others.

Nancy Powers asks about the cease and desist order.

EM explains that is why they are here. The order stays until it is taken off. The developer has to come back for approval.

GENERAL DISCUSSION

P. Herr received a final draft of the sewer pumping station bylaw. The proposed bylaw requires developers to put up at least \$100,000. If it is adopted, the Board would have to change the subdivision law to reflect that change.

Clerk reads letter from P. Herr, dated August 4, 1994 enclosing the usual contractual letter for his services for FY95.

RL makes a motion to reappoint P. Herr as the Planning Board Consultant. AM seconds motion. Vote of 4 (EM, AM, RL and PC). EN absent.

Clerk to forward contract signed by Mr. Herr and Chairman Moore to the Chief Financial Officer.

LOT RELEASE BROOKSIDE ESTATES
LOT 32, 7 EDGEHILL LANE

EM went to look at the property today and does not see a problem

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with releasing the lot.

AM makes a motion to approve the lot release. PC seconds. Vote of 4 (EM, AM, RL and PC). EN absent.

REQUEST FOR COPIES OF MINUTES

Clerk reads letter from Lynne M. Castiglioni, Hunneman & Company, dated August 19, 1994, requesting copies of minutes for the last 3 meetings.

RL will review the minutes for the next meeting when the Board can approve and endorse them.

Clerk to send a letter to Ms. Castiglioni indicating that the minutes will be forwarded after the next meeting.

EM believes that New England Country Club will be auctioned off tomorrow.

P. Herr also received phone calls relative to that property. He was asked the likelihood of it being rezoned again.

COLEEN DOWD

CONTINUED DEVELOPMENTAL PLAN REVIEW

EM explains that this continued discussion was on the agenda for the last meeting but no one showed up.

Steve Donatelli, Shea Engineering, explains that they forgot about the meeting. He presents a plan showing the lighting at the front and back of the building with 9' at the back elevation.

P. Herr questions the lot area and frontage.

S. Donatelli indicates that the lot area is shown on the plan as per the zoning requirement.

EM states that there is insufficient frontage and the Board can not approve with insufficient frontage until they get a variance from the ZBA. He understands that the ZBA denied their variance but they are appealing that decision.

S. Donatelli explains that Fred Lapin who is the engineer was unable to be here tonight. He asks if the Board could approve contingent on them obtaining the variance.

AM would rather wait until they get the variance.

S. Donatelli refers to the issue of erosion. They will install a

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siltation barrier along the entire side. The sign location is shown on the architect's plan. The sign will be on the building. P. Herr points out that the Board would be approving with the understanding that there will be no freestanding sign. The plan shows regrading on the Wheeler property.

EM notes that is now Centerville Estates, a new subdivision which just got approved.

P. Herr states that the usual way to show the regrading is through an easement. There is supposed to be a letter saying that the applicant and neighbor are in agreement.

EM indicates this must be continued again until the variance question is resolved. The lighting is no longer an issue and the only sign will be on the building.

AM asks if the Board has to act in a certain time.

EM notes that the complete submittal requirements have not yet been met so the time has not started running yet.

P. Herr points out that his office does not like the parking arrangement. He asks how a car can get in there unless it is born there.

S. Donatelli responds that the requirements are for 12 parking spaces and 15 are shown.

P. Herr notes that the loss of trees is also a concern.

S. Donatelli explains that the applicant did not want to leave the trees there but they did put up a fence. They wanted to use the parking area as shown. There is a stockade fence which is existing right now.

EM states that they will be doing a massive cut. He asks what will keep the house on the hill when they cut away.

P. Herr responds that the cut is not that much.

S. Donatelli points out that it is only 1 - 2'. The remaining issues have to do with site distance, sign issue and grading.

P. Herr states that the plan is still incomplete

AM would rather wait until they see the outcome of the variance from the ZBA before voting. AM votes to continue this discussion to an indefinite period of time for further contact with Mr. Fred Lapin, Shea Engineering. PC seconds. Vote of 4 (EM, AM, RL and

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PC). EN absent.

EM suggests that they could buy 25' from the subdivision next door.

CHESTNUT HILL CONDOMINIUM

P. HERR COMMENTS

P. Herr states that the key issue relative to Crestview Commons (a.k.a. Chestnut Hill Condominium) is drainage. They will have a detention flow to the wetland rather than a retention basin.

EM wants to hear someone else say that it works. He thinks that the applicant should pay for an engineer hired by the town to review the drainage question.

P. Herr wants to see documentation that they have the right to allow the discharge. The Board should hear from the Conservation Commission relative to this matter right away.

EM states that the outlet plan is saying that it is going downstream where Tony's Restaurant is. The developer owns the land there.

P. Herr would like to see another engineer review the plan on behalf of the town. The applicant is required to pay for an independent review.

P. Herr refers to the site plan. The cul-de-sac has gone away.

EM notes that the cul-de-sac was never built.

RL asks if it was a deadend without a cul-de-sac.

P. Herr responds in the affirmative. It is not unusual to have that with a multifamily development.

BEECHWOOD ESTATES DISCUSSION

EM explains that part of the road is finished. The people around the bend are on the unfinished part. They complained to the Selectmen and improvements were made. G. Martinelli bought 4 lots and now wants to sell one lot. The proposed buyer would sign a waiver saying that he doesn't care about the road. He asks if a lot release was done for lot 4 which is the lot in question.

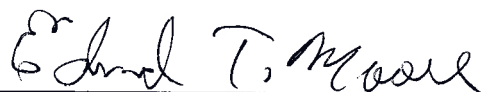
P. Herr states that the Board has no legal authority over this matter.

Clerk reviews file and notes that no lot release was signed for that lot.

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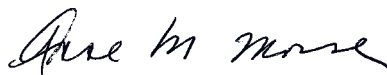
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RL makes a motion to adjourn at 10:25 p.m. AM seconds. Vote of 4 (EM, AM, RL and PC). EN absent.



Edward T. Moore, Chairman

Emile W. Niedzwiadek, V. Chair



Anne M. Morse



Roland P. LaPrade



Paul Chupa