

**BELLINGHAM PLANNING BOARD**

**P.O. BOX 43**

**BELLINGHAM, MASSACHUSETTS 02019**

**EDWARD T. MOORE, CHAIRMAN**  
**EMILE W. NIEDZWIADK, VICE CHAIRMAN**  
**ANNE M. MORSE**  
**ROLAND R. LAPRADE**  
**PAUL CHUPA**

**MINUTES OF REGULAR MEETING**

**JANUARY 12, 1995**

Meeting was called to order at 7:43 p.m. All members except AM were present. Associate Member William Wozniak was also absent.

**BALD HILL ESTATES**

**DISCUSSION RE: PERFORMANCE BOND**

Burt Rhodes, B & S Realty Trust, developer for Bald Hill Estates presents an estimate from Bardon Trimount, Inc., for road completion in the amount of \$15,250 for sweep and machine pave approximately 7,625 square yards of roadway with one inch of bituminous concrete top, \$14,300 for roll and hand pave approximately 1,110 square yards of sidewalk with 3 inches of bituminous concrete in 2 courses (2" binder, 1" top) and \$4,400 for monolithically install approximately 4,000 linear feet of 12 inch cape cod curb on top course. He still has two more lots (lots 13 and 15). Lot 14 is not buildable. Clerk was correct at the last meeting. The additional \$7,000 has now been placed in the passbook bringing the total to \$43,778.10. He presents a letter signed by Judith Callahan, Ben Franklin Savings Bank, agreeing with the amount in the passbook.

Clerk checked the Town Treasurer's records which indicate that an additional \$7,000 was deposited on January 6, 1995.

B. Rhodes understands that he has to put up \$7,000 for the two additional lots which will add another \$14,000 to the total.

EM notes that the estimate from Bardon Trimount was done on June 27, 1994 so it may be more when he wants to have the work completed.

B. Rhodes explains that by the time he was ready to do the road, no one was available.

EM points out that at \$1.10 per linear feet, it will cost \$35,000 to finish all the roads including Denault Drive. The road is in but it just needs to be finished.

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EN notes that the \$7,000 bond for lot 2 was already placed in the savings account.

**BEECHWOOD ESTATES**

**DISCUSSION WITH RICHARD MARTINELLI**

**RE: REQUEST FOR LOT RELEASES**

Richard Martinelli requests the release of the last few lots in Beechwood: lots 2, 3 and 4. He does not need a bond. The town has the mortgage to the property owned by Sally Dmytryck in the amount of \$37,500.

EM states that the money is coming but there is no bond at this time.

R. Martinelli notes that a mechanics lien was applied and the property is in the process of being sold. One of the lots is for sale and it is costing him money since he already put the septic in. He presents a letter from the Board of Assessors indicating that the gravel section of the road is superior to some of the roads in town which are paved. He talked to D. Fraine who spoke with Town Counsel on his behalf.

EM talked with Lee Ambler tonight. The town does not have the money yet. According to Lee, the town expended more than \$52,000 in improving that road. He conceded that the number may be actually closer to \$20,000.

R. Martinelli disagrees. The town expended less than \$7,000.

EM notes that there is nothing which says that the money from the sale of the property has to be spent on the back part of the road. The money may be spent to improve the front of the road.

R. Martinelli believes that there was enough money to complete the Beechwood Road. He pays \$3,200 in taxes and should be able to at least get his lots released. He has other options but would like to use the property without losing the front lot or going through the wetlands. He explains the circumstances leading up to the road conditions. Donnie Dmytryck passed on and the banks failed. The Letter of Credit for this property was no longer available. Lee Ambler became involved and worked out a new covenant whereby property was put up as collateral. When the property is sold, the money was supposed to go for road improvements.

EM understands but that agreement was for existing lots, not additional lots were no one was living.

R. Martinelli is selling lot 4 to a police officer in town. He intends to combine lots 2 and 3 to give to his brother. There is

an electrical easement there.

EM indicates that the builder ripped out the drainage so nothing has been inspected or approved on the back part of the road.

R. Martinelli has been paying taxes for the past four years for those lots totalling \$15,000.

EM asks if he wants to make the situation worse for someone else by selling the lot on a road like that.

R. Martinelli asks how he was able to obtain an approved septic system?

EM responds that this Board does not grant those permits.

R. Martinelli spent another \$11,000 on the septic system.

EM explains that the only way to release those lots is if he puts up a bond since there is no surety. He could pave a section of the road 15' wide and post a sign saying that one could pass at their own risk in order to get the lots released. He explains the situation with Bald Hill Estates whereby the developer has to put up \$7,000 per lot in order to obtain a building permit. The Board has to protect the two people who will build houses on the lots which he intends to sell. There is no road there now; it is only dirt.

R. Martinelli points out that the dirt was taken from the Cogeneration Plant. It was given to the town for free.

EM understood that W. Arcand completed the estimate of how much it cost to complete the work. He cannot get the building permits without the lot releases in place and he cannot get the lot release signed without security.

R. Martinelli does not have the money to put up for security. When he received approval for the septic system, he thought that all 3 lots had been released. He does not want to lose the sale of lot 4.

RL states that it is a bad situation now. He asks why Mr. Martinelli wants to make it worse.

EM explains that once the Spindlewood sale takes place, the road work will go out to bid. The lot release can be endorsed once the road is paved. Until then the only way to release it is with a bond.

R. Martinelli thought that the letter from the Board of Assessors

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relative to the road conditions would take care of the situation. When Dmytryck was alive they knew that the road would be finished. He would like to get some money back by selling lot 4. This all stems from what the town took for a Letter of Credit. He is asking for the opportunity to do what everyone else in town does.

EM notes that the town went in and improved the road.

RL points out that Mr. Martinelli continued buying lots after he knew that the road would not be completed. Six houses (3 duplexes) are on the part that is busting up.

R. Martinelli indicates that the estimate for the town to hire someone to put in the finish coat was \$37,500. He spoke with W. Arcand who stated that the town spent \$7,000 on the road.

EM states that he did have to pay town employees for 4 days to complete the work.

R. Martinelli believes that the drainage is still intact.

EM does not know if it is proper. It needs to be connected to the drainage.

R. Martinelli does not experience flooding problems. The drainage lines up.

EM suggests that Mr. Martinelli's attorney speak with Lee Ambler. The Board can reconsider the request at the next meeting if both attorneys work out the details. He talked with Lee Ambler tonight. He knows that there is no road and no money yet. When the town does get the money, they may spend the money on another part of the road.

RL asks why the Board should exacerbate the situation by releasing two more lots.

R. Martinelli is going to fight to have the lots released because he spent a lot of money. He asks if the Board would release lot 4 if he threw a base coat down for the next 40'.

EM responds that they could if the Highway Dept. said that would be enough.

R. Martinelli indicates that lot 7 was released after him and that is what is on that road.

EM explains that the existing lots were released because there was a bond in place and the base coat was there. The Letter of Credit was the bond.

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R. Martinelli stands to make \$8,000 off the sale of the lot. He is not going to put up \$15,000 to do the road. There are never going to be any berms or drainage on that road.

EM states that there may be some way of putting something on a covenant or a deed so he can get the lots released.

R. Martinelli could put it in as a private gravel road for the duration.

EN does not know if the bank will go for it. He thinks they would be making the problem bigger.

R. Martinelli explains that he put in his foundation in 1989. In 1990 when D. Dmytryck passed on, he was already in a purchase and sale agreement for the other lots. He had money on the line to lose if he did not buy the lots and put the septic in. He requests time on the agenda in two weeks. He will have his attorney speak with L. Ambler first.

EM notes that the road for Bald Hill Estates is already in and paved but will cost \$36,000 to finish.

R. Martinelli believes that there was an estimate for his road from Mike Cook in the amount of \$37,500. That was to finish 1/2 from the driveway circle and do the back 1/2 with no berms.

EM indicates that the street will never be accepted without drainage.

EN states that the original approval called for berms as well as lighting and there is nothing there.

R. Martinelli refers to a local attorney who told him to pay the money to purchase the lots. They had \$30,000 between him and his cousin on which they were paying 7% interest.

EM refers to the Planning Board Subdivision Rules and Regulations for the Town of Bellingham which says that they cannot release the lots unless there is money for a bond or a street in place. It is the Board's job to protect the citizens.

R. Martinelli is only making \$8,000 on the lot so he cannot put up \$50,000 to complete the road. He could put in a barn and have some cattle since the property is still zoned agricultural. He does have other options.

**CHESTNUT HILL DISCUSSION**

EM received a letter from John Emidy dated January 5, 1995

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responding to the Board's letter. He also received a call from the Fire Chief asking about the status. EM explained that the Board sent a letter stating that no further work be completed. There are 5 propane tanks going in for heaters and they are going ahead and roofing the other building. J. Emidy's letter says that he is allowing some work to be completed.

RL indicates that the building on the left has already been roofed.

EM explains that they are putting hookups in and called the Fire Chief to come in and do inspections to put sprinklers in. Apartments and multifamily units are supposed to have sprinklers.

**GENERAL**

Members sign Clerk's pay voucher and invoice for stamps.

Clerk refers to Lincoln Institute seminar to take place on January 21, 1995. RL and EM will work out who will attend.

RL moves to allow Clerk to purchase a new tape recorder if necessary. EN seconds. Vote of 4.

Clerk to order Planner's Handbook from the Massachusetts Federation of Planning Boards and Chapter 40 for 5 members and one alternate member.

Meeting adjourned at 9:00 p.m.

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Edward T. Moore, Chairman

  
Emile W. Niedzwiedek, V. Chair

  
Anne M. Morse

  
Roland R. LaPrade

  
Paul Chupa