

BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

**EDWARD T. MOORE, CHAIRMAN
ANNE M. MORSE, VICE CHAIRMAN
ROLAND R. LAPRADE
PAUL CHUPA
WILLIAM M. WOZNIAK**

MINUTES OF REGULAR MEETING

SEPTEMBER 14, 1995

Meeting commenced at 7:10 p.m. All members were present. Associate member Richard Dill was also present.

SUBMISSION

David Calarese submits an 81-P, Form A for Holman Road which is off Potter and Holstrom. He is taking 130 square feet around the corner of the house and around the lot so it won't encroach on his lot.

EM asks what happened to the abutter's pool.

D. Calarese responds that nothing has happened yet.

EM understands that this will give them the correct setback. Mr. Calarese agreed to help the neighbor move their pool.

D. Calarese agrees.

AM asks if it meets the requirements of the setback.

D. Calarese showed the plan to John Emidy who gave a copy to P. Herr.

AM asks if the Board is making two nonconforming lots.

EM responds that they were already nonconforming.

PC moves to accept the 81-P. RL seconds. Vote of 4 (EM, AM, RL and PC). WW who joined the meeting at 7:15 p.m. abstains because he was not present for the discussion.

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PINE GROVE ESTATES II BOND REDUCTION REQUEST

EM reads letter from Dennis Etzkorn, agent for Joseph A. Delapa, Trustee, Orchard East Nominee Realty Trust, dated September 14, 1995, requesting a reduction in the bond to \$40,955.

EM reads Guaranty Price Estimate verified by Donald DiMartino for \$40,955.

PC moves to approve the bond reduction request to \$40,955. AM seconds. Unanimous vote of 5 (EM, AM, RL, PC and WW).

CROSSROADS RETAIL CENTER - HARTFORD AVENUE

Dick Marks, Esquire, explains that the meeting was continued from the last time for Town Counsel to review the decision. He has reviewed the decision and sent a letter to the Board with a copy to him. He spoke with Lee Ambler directly who said that he had no further issues with the decision. He spoke with Clerk today and added the date of the review meeting to the Developmental Plan Review decision.

EM reads letter from Town Counsel Lee Ambler, dated August 29, 1995, wherein he states that he has no further comments nor recommendations to be made to the decisions.

RL moves to sign the Crossroads Special Permit decision. AM seconds. Unanimous vote of 5 (EM, AM, RL, PC and WW).

RL moves to sign the Certificate of Approval for the Developmental Plan Review decision. AM seconds. Unanimous vote of 5.

Robert Frasier, W.S. Development, applicant, refers to prospective tenants including Toys R Us and Bob's Stores. They will have prototypical designs for each tenant.

EM asks when they will come back for the amendment to the access road.

D. Marks responds that will be within one month. The Harkey land is not yet under agreement.

R. Frasier advises that the environmentalitist will be out at the parcel tomorrow to amend the 21E report.

Further discussion follows relative to P. Herr's determination that all "parties in interest" must be notified of the decision. Dick Marks reviews copies of Chapter 40A,

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Sections 9 and 15, which states that parties in interest must be notified of the decision and filing date. Clerk advises that Town Counsel also agreed with P. Herr's determination. D. Marks agrees and will reimburse the town for the expense of mailing to all abutters. Clerk to prepare decision notice to all abutters and advise Attorney Marks of the mailing cost.

NEW ENGLAND COUNTRY CLUB BRIEF DISCUSSION

EM reads letter from Town Counsel to Capitol Engineering, Inc., dated September 14, 1995, relative to the New England Country Club Definitive Plan Approval. He states that he received a fax with the draft signature block for review and approval. He expressed to Mr. Adamo his opposition to the requirement of 3 new members of the Planning Board signing an Approval under Subdivision Control Law, date of Approval May 23, 1991, when, in fact, they were not members of the Board at that time. He is further in opposition in their signing an endorsement of a plan on September 14, 1995 that they are unfamiliar with and have had no action relative to the approval process. He notes that these members were not physically present during the periods of the presentation, and therefore, should not be called upon at this time to approve the plan in this fashion. He is sure there are other methods that can be used to abbreviate the process which can be presented by their legal counsel and submitted.

Members agree that they cannot sign the plan when 3 of the members were not present for the New England Country Club hearings.

GERRIOR BACKLOT SPECIAL PERMIT ENDORSEMENT

Clerk advises that the decision was forwarded to both P. Herr and Attorney Ambler who had no comments. Notice of decision to all "parties in interest" as stated in Chapter 40A refers to all special permit decisions. Therefore, Clerk has to notify all abutters by mail of the decision date and filing date with the Town Clerk.

WW moves to sign the Gerrior Backlot Special Permit. AM seconds. Unanimous vote of 5 (EM, AM, RL, PC and WW).

MAPLE STREET ENGINEERING BRIEF DISCUSSION

EM reads letter from Donald DiMartino, DPW Director, requesting members input relative to the proposed Maple Street Reengineering Study. RL and EM will contact him to find out when the meeting will take place.

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PINE MEADOW ESTATES DISCUSSION RE: ROAD CONDITION

EM identifies Pine Meadow as located on Brittany Road, off Pine Street. He reads August 14, 1995 letter from resident Cynthia Jaquith which she wrote on behalf of the residents of Brittany Road. She lists the items to be completed including the road, leveling of the disturbed areas, fence around the retention pond, unable to obtain mail delivery until completion of the road, first lot on road is a dumping site and was never cleaned up. Their development has been left in this condition for almost two years. They hope that Mr. DaPrato would not be given any more extensions. All of the residents on Brittany Road are first time homebuyers and have put their life savings into their homes. They ask for any help the Board is able to give to get this matter resolved.

AM generally abstains from this discussion but does advise for the record that she received a call from Mr. DaPrato who stated that he was done with the finish coat on the road. He will go back to lay the berms, sidewalk on one side. She asked him about the lot with the debris and he said that on the advice of legal counsel he was told not to go on the lot. She is just relaying a message and is not condoning what the developer has done.

Jeff Faneuff, Brittany Road resident, agrees that the finish coat is on. It was done on August 31, 1995, the deadline when it was supposed to be completed. Mr. DaPrato was driving some of the trucks himself. Mr. DaPrato said he is not allowed to go on the lot but he witnessed people who were working for him picking up debris from the road and dumping it on the lot. He can't clean up the lot but he is adding to it.

Michael Aubin, another resident, advises that the heating tanks are still there. They are propane tanks located right on the side of 3 Brittany Road.

D. Fraine states that the owner of the parcel received a citation from the Board of Health.

EM reads citation citing Linda Sullivan, Pamela Jean Trust, as the owner of the parcel with the debris on it. It states that there is a violation of Section 410 - the maintenance area has to be free of garbage and rubbish. It was sent to Linda Sullivan on September 12, 1995 with a copy to the Board of Selectmen.

RL reviews the plan and determines that 45D is not a buildable lot.

EM believes that somebody must have notified the Board of Health.

AM asks if the lot is fronting Pine St.

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Jeff Faneuff responds in the affirmative. The opposite side of the street is in the same condition. There was leakage of the sewerage from the existing older house when the developer scraped away the land thereby aggravating the problem.

EM explains that the last resort is for the Board to take the bond. If the town takes the bond, there is a process that they have to go through to put the job out to bid. The Board extends every way possible to get the developer to do the work. They will not release any more money until the work is finished. The developer has another subdivision before the Board which they are not supposed to use as leverage against this one but there is a history there and that is hard to forget. This is a slow process but they are gaining on it. He asks if the residents have been able to receive their mail.

Michael Aubin responds that they did get mail delivery today. The Post Office said they couldn't have their mail delivered because their road wasn't accepted.

EM finds that hard to believe because there are a lot of unaccepted roads in town which receive mail delivery.

? from the audience states that the mail boxes have to be on the opposite side of the street from the sidewalks.

J. Faneuff indicates that the Post Office said that the road had to be paved before they delivered but they could have driven on the road anyway.

Mike Reed asks if there is a waiting period to put in the sidewalks. He doesn't see why the fence is not up and the area is not cleaned up.

AM advises that the berm has to settle and the gravel compact prior to sidewalk installation.

PC is in favor of sending F. DaPrato a letter asking him when he intends on getting the work done.

AM points out that he did tell her it would be a couple of weeks.

M. Aubin believes that the developer has had plenty of time to finish.

M. Reed would like to see a letter sent since they may get the eventual result they want.

EM states that the Board sent a letter to Mr. DaPrato which got him to finish the

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pavement. He is surprised he is not in here tonight requesting a bond reduction because it cost a lot to do the pavement.

Christine Aubin, asks if the bond stipulates that he will clean up the land.

EM responds that the bond is for the road. The Board could not give him the money for the bond and then they would have to go to Court. He thinks that the economy and number of projects which the developer has been involved in have slowed completion down.

C. Aubin states that the left side of the Jaquith property should be cleaned up. The right side is the other lot. She has also witnessed the developer's men dumping on the lot.

J. Faneuff indicates that Jaquith's did hold money back for the completion of the landscaping but they were left holding the bag. The Jaquith's did use the money held back to straighten up their yard but they couldn't do the strip on the side of the road. They could also use a real street sign.

D. Fraine will get a street sign for Brittany Road.

Bill Jewers, 5 Brittany Road, asks what the prerequisite is for plowing once the road is completed and inspected.

EM explains the street acceptance procedure. Either the developer or residents of the street petition the Board of Selectmen for street acceptance as an article for the Town Meeting. The Planning Board holds a meeting to determine whether or not to recommend street acceptance. The Highway Dept. inspects the road at the request of the Planning Board. The Finance Committee also has to make a recommendation to Town Meeting. The town is not legally obliged to plow unaccepted streets but they still do. One of the requirements for street acceptance is for the road to go through a winter.

WW asks who owns the lot with the retention pond on it.

J. Fanneuff responds that it is used as a rental property and they do not know the owner.

B. Jewers asks who's responsibility it is to clean.

RL states that there is probably an easement.

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EM will send a letter to the developer telling him that the time has expired for the work to be completed. The Board realizes that the finish coat is on but would like a schedule of when the other work will be finished. The Board will not release the bond or reduce the bond until the work is completed. The Board would like to be advised of the completion timeframe including the fence around the retention pond and clean up of the lots.

C. Aubin is a witness who saw him dumping on the area.

WW asked how the Post Office knew to deliver the mail today.

C. Aubin responds that Wendy Faneuff has been calling daily.

EM asks if the residents are happy with the condition of their homes.

C. Aubin and her husband are perfectionist and really had to be on the developer to get things done but others haven't been so lucky.

J. Faneuff advises that he was disappointed with the landscaping because the developer bailed out on him. Mr. DaPrato also didn't abide by the warranty to come back and fix the cracks in the wall after settling. He was supposed to come back and patch but never did.

HERTHEL ESTATES PERFORMANCE BOND AND LOT RELEASE REQUESTS

Laurence and Pauline Herthel, present the performance bond request (Form E-1), covenant, letter from Town Treasurer Grace DeVitt, dated September 12, 1995 relative to the \$15,525 bond held in Ben Franklin Savings Account No. 02-017884-0 as well as the Form G, Request for Lot Releases.

EM reads Form E, Performance Bond and Form F Covenant as well as D. DiMartino's speed letter, dated, September 6, 1995 suggesting a minimum bond of \$13,500 and stating that he did not have plans in his office regarding where the sidewalks were supposed to be so did not add that to his estimate.

L. Herthel advises that the sidewalks are already in.

EM reads Form G, Lot releases and identifies the lots as 1, 2, 3, 4, and 5.

AM moves to sign the Form G. RL seconds. Vote of 4 (EM, AM, RL and PC). WW abstains because he did not sit on the original subdivision and his father is an abutter.

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Clerk notarizes the Lot Release Certificate and advises that Town Counsel and Town Treasurer have not signed the Form E, Performance Bond, approving it as to form.

EM does not want to hold the developer up since Town Counsel is away. It can be signed after the fact.

GENERAL BUSINESS

EM reads letter from P. Herr relative to his contract with the Board which runs from July 1995 through June 1996.

AM moves to reappoint P. Herr for another year. PC seconds. Unanimous vote of 5.

EM signs the contract by a vote of the Board.

PC moves to approve the July 27, 1995 minutes. AM seconds. Vote of 4 (EM, AM, PC, and WW). RL abstains because he was absent.

Clerk reads letter from a B. J. Foss, dated August 28, 1995 relative to his property at Lot #13, 14 Bellstone Drive. He states that he was informed by the Highway Dept. to contact the Board concerning problems found on his property following the completion of the sidewalk construction and road paving of Bellstone Drive. During the sidewalk construction phase, probably during excavation, approximately 18" of an asphalt water barrier was broken off and not repaired or replaced on the entrance to his driveway. This barrier has proven necessary to stop water from cascading down his driveway from the street.

EM instructs Clerk to send a letter to Roger Gagnon, developer of Elm Estates asking him to take care of this problem as soon as possible. The Board is still holding \$6,100 bond for the completion of the work. Unfortunately, Mr. Gagnon did have a \$35,000 bond which was reduced at the last meeting on August 27, 1995, one day prior to this letter being sent. Clerk to send a copy of the Gagnon letter to B.J. Foss.

Clerk reads letter from the Executive Office of Communities & Development, dated August 24, 1995, relative to Caryville Crossing. It states that they suggest that the appropriate municipal officials carefully review the final construction plans and specifications such as recorded definitive subdivision plan or Approval Not Required plan and Site Plans.

EM states that it was his understanding that it did not come up this Board's jurisdiction. He requests that Clerk send a copy of that letter to P. Herr and L. Ambler asking for their opinions. The question is do we need to answer this letter. It says

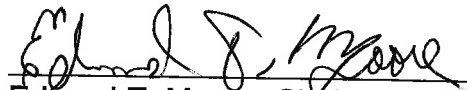
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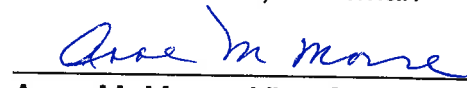
that they have to comply with the Rules and Regulations but the Board was told that it was out of their hands.

Members signs Clerk's pay voucher.


AM moves to adjourn at 9:20 p.m. PC seconds. Unanimous vote of 5.




Edward T. Moore, Chairman



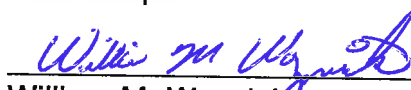
Anne M. Morse, Vice Chairman



Roland R. LaPrade



Paul Chupa



William M. Wozniak