

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

OCTOBER 26, 1995

Meeting commenced at 7:31 p.m. All members were present but Associate Member Richard Dill was absent. Board's consultant Philip B. Herr was also present.

DISCUSSION RE: MAPLEBROOK SEWER CAPACITY

Bruce Lord, Esquire, representing applicant, came to the last meeting to ask the Board if a combination proposal with 20 condos and 40 single family houses with land deeded back from the condo association would be an acceptable submission to the Board. The reason for this proposal is the lack of sewerage capacity for 150 condos. They will be able to begin construction immediately. There is a question whether or not sewerage is available.

P. Herr notes that is the reason for asking DPW Director Don DiMartino to come tonight. He asks what capacity is available and about vested rights.

D. DiMartino responds that there was a Bylaw passed two May's ago giving residents two years to connect. Wethersfield will be the last area to get sewer. They have to reserve capacity for residents they sent betterments to until January 1, 1998. They have given capacity to Home Depot and Heritage Pines. Centerville got in and then turned it back because the state kicked his filing back the first time. They now have a dry sewer with a 2" force main. He is estimating peak flow and average daily flow for 3 years. His gut feeling is there is no way all the people who have available sewer will connect but he is not about to release any more capacity. He feels that his estimates are fairly accurate. If nothing is done by the town to increase the capacity, after January 1, 1998 they will look at the additional flow and give out capacity. If someone wants to come in and argue with the Board of Selectmen to give them capacity, that is their choice. He has to protect it for the people who paid betterments. The numbers he uses are estimates. He has 3300,000 gallons per day. Stallbrook has 13,100 capacity but averages 2,500 which is substantially less. Title 5 designs are peak flow designs.

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EM asks if that would make gallonage available to someone else.

D. DiMartino responds that many businesses even restaurants appear to require less than Title 5, state sewer design, but the residences are close to 280 gallons per day for a 3 bedroom home. They use the actual physical volume for projections. At the Selectmen's first meeting in November, they will discuss proposing a \$2 million change for the pump station to a gravity sewer. It would feed most of the town to Woonsocket. Maplebrook could be connected through gravity to the Charles River. Everything else will be pumped south to Woonsocket Treatment Plant. It would be 1 to 2 years before that would happen. The Charles River Pollution Control District set aside 153,000 gallons for Bellingham. He will recommend to the Board of Selectmen that they pursue purchasing it but as of this date, they can't allocate more to the Charles River.

EM points out that the state mandated that Maplebrook tie in and the Board placed a condition on the decision that they tie in.

D. DiMartino explains that at the time of the betterment assessment, they looked at the actual properties. That property is the only one which had frontage. If it was still owned by one property owner, it still would have been assessed. The property owner should have come in and paid the sewer assessment.

EM asks how many of the units are tied to sewer.

B. Lord responds that there are 23.

EM notes that the first 100 are on septic in a Water Resource District.

B. Lord indicates that there are stricter requirements under Title 5. All the permits expired in 1993 when Walden turned the property over to his client.

EM believes that the 23 units shouldn't have gotten built without the first 100 being sewerred.

B. Lord states that 20 condos uses 4,000 gallons of sewerage but 25,000 for 130 condos is quite difficult to do. They are looking at being able to start the project with single family homes. The condos are built and the association will be able to take care of itself with a reduction in the numbers. There was a reconfiguration with the first special permit which was for 250. They came in for a second amendment but it didn't change the numbers even though it changed the road system.

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EM asks how many units they are asking for now.

Don Nielson, Guerriere & Halnon, responds the proposal is for 20 condos and 29 houses.

B. Lord explains that it will require an amended plan for a circular road. They will use more land than what is proposed under single family.

P. Herr states that they were asked to bring in a simple drawing to show the Board.

B. Lord would like to know if the Board would seriously consider this radical change if they present it. He asks if anyone has any extreme objections.

EM is concerned that there are 123 homeowners who are not going to have what they thought they were going to get.

B. Lord notes that the final plan is subject to the association's approval.

EM states that it is not in character with the proposal. He thought they were all going to be condos and that they were going to be sewerred.

AM asks at what point the condos could be developed.

D. DiMartino responds that would happen if they could change capacity. He doesn't have anything to give out right now. First dibs goes to anyone who gives a deposit and fills out a sewer extension permit. The fee is \$2600 per unit and 5% of that or \$5,000 is required for deposit but they can't keep that forever.

AM indicates that they could withdraw if it doesn't go.

B. Lord states that they are talking about \$260,000 for 100 condos which wouldn't get capacity until the year 2000. His client is supporting the road and the infrastructure.

D. DiMartino points out that the deposit is maxed out at \$5,000 no matter what is applied for.

Ted Klowan, 2802 Maplebrook is a trustee of the 23 sewerred units. Right now they are taking care of the road. Part of their plan is to be able to get rid of the road with these plans and go before the town to convert to a public road.

EM thinks a lot of people would be against that.

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B. Lord notes that there would be more people to support the road even if it didn't get converted to a public way. There are only 23 units to support that section and they can't survive under the present set up.

EM thought there was only supposed to be one association. He asks how the condo owners will feel about having a different type of neighborhood. Have they polled them?

T. Kloman responds that he can't speak for the other 100 units, but they presented the plan at their bi-annual meeting. The developer promised covenants which will be negotiated with their attorney. A certain amount of land will not be developed. There was unanimous approval in favor of this proposal.

RL asks why there are two condo associations.

B. Lord responds that the amendment allowed the second division through an 81-P.

EM doesn't understand because they amended the original special permit and not another special permit.

D. DiMartino notes that Shores at Silver Lake paid for 50 units. They have 50 single family to connect to the Charles River facility but if the other plan goes through the easement will go to Douglas Drive. There are a lot of possibilities with relocating the Douglas Drive station.

EM states that it wouldn't gain capacity.

D. DiMartino agrees, but it would save them from building a station. The fewer pump stations the better. Their proposal would be adding pump stations somewhere else.

EM states that it would be a private concern with a business building a pump station. They have to make sure that it is built to our standards if the town will be expected to take it over.

D. DiMartino responds that they are required to follow engineering standards. The Mass. DEP has to approve it with a hefty review. The town's DPW is limited with respect to inspection services. There are tremendous regulations with a good inspection process. The town hasn't passed a law to allow the Planning Board to hire an inspector. He hopes to draft an article for the May Town Meeting to be co-sponsored with the Planning Board. The town's DPW doesn't have the manpower to do the inspections. For the Edward Estates proposed subdivision, water pressure won't be effected because the people are at the top of the hill. The stand pipe is up

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high so the level drops and they lose pressure. This proposal won't make it less than any other proposal in town drawing on the system. Well 12 will be on line next year which will make it better.

SHORES AT SILVER LAKE SPECIAL PERMIT

EM reads letter from Janice Hannert, Fafard, dated October 23, 1995, requesting an extension of the hearing for Shores to November 16, 1995 with an extension on the decision until December 16, 1995.

P. Herr cannot come to a meeting on November 16, 1995 and suggests the Board meet on Wednesday, November 15, 1995.

PC moves to continue the Shores at Silver Lake public hearing to November 15, 1995 at 7:30 p.m. W. Wozniak seconds. Unanimous vote of 5 (EM, AM, RL, PC and WW).

PINE MEADOW ROAD INCOMPLETION

EM reads letter from Cynthia Jaquith, Brittany Road, dated October 24, 1995 which she writes on behalf of the residents of Brittany Road. They still do not have sidewalks and the disturbed areas still remain unleveled and there is no fence around the retention pond. It is clear to them that the developer has no intention of finishing their development. They ask for the Board's help to get these issues cleared up before they go through another winter.

Mike Aubin, 3 Brittany Road, wants to start the bidding process to get the work completed.

EM indicates that the Board sent another letter to Mr. DaPrato on September 19, 1995 asking him the timeframe for completion. He did finish the paving but didn't finish the remainder of the work. The Board will have to ask Town Counsel to initiate proceedings to take the bond to complete the work. The Highway Dept. may have to finish it.

P. Herr identifies two separate issues. One is taking the security and the other is whether the town can do the work or a private concern. He thinks it will be easier to get the money than do the work. He suggests the Board send a letter to Town Counsel asking him the procedure to follow.

AM indicates that there are no berms either. Berms and gravel are done first and then sidewalks.

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WW suggests that the Board go ahead and vote so they can start taking the money and the residents won't have to wait to get the work done.

RL moves to ask Town Counsel to start proceedings to take the bond to finish the work. WW seconds. Vote of 4 (EM, RL, PC and WW). AM abstains.

EM directs Clerk to send a separate letter to Mr. DaPrato advising him that the Board voted to direct Town Counsel to take his bond with a copy to Town Counsel.

M. Aubin advises that the asphalt plants close on November 1, 1995.

PC states that the large ones stay open until Christmas.

AM believes that they stay open until the frost comes.

MINUTES ACCEPTANCE

RL moves to accept the minutes of September 26, 1995. WW seconds. Unanimous vote of 5 (EM, AM, RL, PC and WW).

DISCUSSION RE: MASTER PLAN

AM attended the All Board's meeting where there was discussion that the Board should get going with the Master Plan. They want to form another committee to do it but she thinks there are already too many committees.

P. Herr advises that D. Fraine called him some months ago to discuss the Master Plan but the town has not yet put money aside to do it. It could make sense to do it in a separate committee.

EM states they have used a Small Cities Grant in the past because it would be costly to the town.

RL believes that someone has to direct the Master Plan development. It was discussed at the Lincoln Institute seminars which he attended. There are two different types of plans. A strategic plan where the Planning Board puts together a general strategy statement and it goes to different public forums to develop. The policy plan goes to the Board of Selectmen and requires a Town Meeting vote. It is comprehensive with the next step. The administration and Planning Board would work out the final details like economic development.

EM asks if the final has to get accepted from the Town Meeting.

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P. Herr responds in the negative, not in Massachusetts. The Town Meeting doesn't act on it. The Planning Board adopts it and that is it. It is only used as a guideline and is not law. The DPW, Conservation Commission, Selectmen, Planning Board, Housing Partnership should come together to work on it. He thinks the strategic plan is what this town needs. It doesn't have to cost \$100,000.

AM asks why they need another committee to do that.

P. Herr believes it should be a statement of intentions agreed to by the people who are in charge dealing with schools and/or sewerage which could be part of the plan. They should get them involved in a committee and involve all agencies.

AM believes there are so many committees in town and it seems like nobody connects.

RL thinks it should come out of here too.

EM states that if someone doesn't know the Rules and Regulations, they would put a lot of time into it and find out that it doesn't work.

EDWARD ESTATES DEFINITIVE SUBDIVISION **12 LOTS LITTLETREE/LAUREL LANES**

AM removes herself from the public hearing.

EM asks about the Board's request for a copy of the videotape from the last meeting.

Clerk spoke with Mrs. Horan who said that the meeting was not taped because the record button was not pressed.

EM reads letter from Donald DiMartino, DPW Director, dated October 12, 1995, wherein he states that the addition of twelve houses should have no effect on the water pressure and availability for the residents in this area. The problem of low pressure will not be effected by this subdivision anymore than a subdivision constructed anywhere else in town. The low pressure is due to the elevation of the homes. Water pressure is directly related to the difference in elevation between the point of use in a building and the water level in the town's standpipes. The buildings constructed at a higher elevation do not have as much water pressure as buildings built at lower elevations. The demand 12 new single family homes will place on the water system should not in anyway effect the town's ability to maintain good levels in the standpipes. He continues to pursue additional water sources and to improve the town's ability to deliver water at suitable pressure to all residents. Any mechanical

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breakdowns which occur during peak consumption times will continue to cause period low pressure situations for residents at higher elevations in town. He is more concerned with the looping of the water main in this and all new subdivisions. Dead end pipe are the major source of water quality problems. It is difficult for a public water supplier to maintain water quality in dead end pipes.

EM advises that the Board held a discussion with D. DiMartino earlier about another matter. When asked about Edward Estates, he told the Board the same thing as in his letter. Adding more homes is not any different than adding homes anywhere in town.

RL states that more homes will bring the tank down to a lower level.

EM reads letter from Health Agent, John Emidy, dated October 26, 1995. He states that the Board of Health conducts soils evaluations all year in accordance with the new Title 5 Regulations as outlined by the Department of Environmental Protection. The seasonal high water testing is no longer permitted because of the fluctuation of ground water in the seasonal high water periods giving false indications of water tables. Soil Evaluation must be performed by a licensed Soils Evaluator which requires extensive soil logs and classifications of soils. This process indicates water tables by soil horizons and the relative density of soils as well as soils mottling. If the residents stated that this land is covered with water during any part of the year it will be documented because of the large deposits of iron in the soils. This iron deposit or commonly referred to as rust line will be bright red in color and will be most pronounced in a soils evaluation and will be logged according to estimated seasonal high water table. He has not performed these soil evaluations but the Assistant Health Agent, Ed Kingman who is a Registered Professional Engineer did. If the Board would like a copy of the soil logs he will be happy to forward them. He encloses a sample soil log taken from a different site indicating the deep observation hole process as stated in his letter.

EM reads letter from Thomas Sexton, Amory Engineers, dated October 23, 1995 to Denis Fraine. He advises that he has received a revised Definitive Subdivision Plan and Supplemental Drainage Calculations dated October 18, 1995 including additional test pit data. The revised submittal adequately addresses his comments of September 14, 1995 relative to drainage. He suggests approval of the plan be conditioned upon submittal of structural calculations by a professional engineer demonstrating roadway retaining wall adequacy to the town's satisfaction.

Clerk reads six page letter from Lee Ambler, Town Counsel, dated October 24, 1995 which is summarized here. Relative to the Protective Covenant, he states that the Planning Board and Town of Bellingham is not an enforcement agency for the

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Restrictive Covenants and therefore the Planning Board action is not bound by them. He notes that the Protective Covenant applies specifically to Lots 1 through 116. The parcel of land which is the roadway is lot 117 and is not part of the Restrictive Covenants. It is his opinion that the Covenant applies only to that portion of the property which was originally described. Relative to Mr. Horan's lot becoming non-conforming because of insufficient frontage, he states that the construction of a roadway through an area wherein the roadway would have been logically shown in the first instance is not the action which makes Mr. Horan's lot non-conforming because of insufficient frontage. It appears that his lot is non-conforming in the first instance because he does not have the required frontage. It is apparent that the Board must act on the approval or disapproval of the plan based upon the Rules and Regulations and Zoning Laws under Subdivision Control. In response to Attorney Bolan's letter of September 26, 1995, he states there is no factual conclusion that this subdivision would make Mr. Horan's lot a corner lot and nonconforming with regard to front yard setbacks. The existing requirements for front yard setbacks are 29 feet and the structures would be more than 20 feet from either the existing front yard or from the new continued front yard created when the Horan lot becomes a corner lot. Relative to the allegation that the the Edward Estates subdivision will make lot 13 a corner lot and also non-conforming with the setback requirements, Attorney Ambler responds that there are no facts to substantiate those conclusions. The setback requirements would be met by way of the location of the structure, and there are no details which would explain the conclusions of non-conformance. In response to request for a survey conducted by a neutral, accredited and licensed surveyor, Attorney Ambler wrote that if there is opposition to a plan being submitted then the opposing parties are required to provide specific reasons for the Board's denial. The survey submitted by the petitioner would have been done by a licenced surveyor. The statement that the Planning Board should not approve a subdivision plan which would create new lots that violate the zoning Byaws and place existing lots in violation is a statement of fact which is unproven and there are no instances whereby new lots are violating Zoning Bylaws. The issue of waiver of compliance with Subdivision Rules and Regulations is to be independently determined by the Board. The Developer must justify waivers and the Board determines what is in the best interest of the public. With regard to the Horan lot becoming a corner lot thereby suffering a severe diminution in the value of his property, Town Counsel states that diminution of contiguous property values are not issues presented to the Board for its evaluation. The Bolan letter calls for an Environmental Impact Study and a comparative environmental analysis to consider adverse affects to the wetlands from the excess drainage and water runoff but Town Counsel responds that the Environmental Impact Studies would be the area to be determined by the Conservation Commission. He states that the Board must comply with Regulation 4322 which states "No piped, channeled, or otherwise altered discharge onto property of others shall be allowed unless documentation is provided demonstrating authorization from the property owners involved" or the plan should be

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modified so that they do not reflect the runoff discussed. Relative to the statements of additional traffic, parking and safety issues, Attorney Ambler responds that the opponents of the proposal have indicated that the plan shows 2 cul-de-sacs which would be contiguous to other parcels not owned by the developer and that the proposed street width is for a lane which is restricted to 12 lots. If that is the case, then there should be some form of restriction or restrictive covenant placed upon the property which will be otherwise enforceable by the property owners whereby no bordering property may extend the roadway onto the plan in question. The Planning Board does not have an obligation to consider the effect of Protective Covenants since they are of a civil nature and self enforcing by the owners of the property. He accepts the fact that Littletree Lane constitutes the frontage area for the Horans and by a view of the plan it appears that it is an existing non-conformity as it relates to our current Zoning Requirements. Copy of this letter is available for review in the Planning Board Edward Estates file.

Safety Officer Sgt. James Haughey joins the meeting and states that he spoke with Mrs. Horan relative to this matter. He has always done the site distance and there is over 300' in both directions for this proposal. He apologizes to the Board for not responding to the correspondence. He came here tonight to respond to the questions.

EM explains that at the previous meeting, residents brought up the issue of truck traffic and speeding in their neighborhood.

Sgt. Haughey concedes that they have received 2 - 3 calls. He suggests that residents call with a registration or description of car including make and model. He only has one cruiser at that end of town. Signs don't do any good. Enforcement is better than putting up signs.

EM took a ride in the neighborhood with PC.

Sgt. Haughey states that most of the complaints are about speeders.

Bob Andrews, 66 Laurel Lane, asks what the speed limit is.

Sgt. Haughey responds that it is not posted. He can ask the DPW since they have to set the limit. They have to go by guidelines. He estimates the speed at 20 - 25 mph.

B. Andrews points out that 7 - 8 years ago, he was told by the Police Dept. that the speed limit was 35 mph by state mandate.

Sgt. Haughey refers to traffic on S. Main Street. He has to check the speed for S. Main St. but hasn't had time yet. He expects they will see the speed limit go down

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once he does do S. Main St. traffic analysis.

B. Andrews asks if it is possible to post a 25 mph for Overlook, Littletree and Laurel Lanes.

Sgt. Haughey responds in the affirmative. They use radar to get the speed limit and other standards. He recommends writing to the Board of Selectmen with a copy to him. He has no problem with posting a 20 - 25 mph.

JoAnn Featherstone, 54 Laurel Lane states that if this development goes in a lot of trucks and construction will be going up and down the hills. One can't see the houses until they are at the bottom of the hill. She is extremely concerned about construction people who are not familiar with the roadway. They will be coming down near the Horan's house. They will have trees coming down. She asks how long the development will take from beginning to end. Brittany Road is still not completed. She is concerned about there being a big ditch at the bottom of the road where kids can fall in. The neighborhood is now very peaceful but it won't be with landfill trucks coming down. There was an accident on 126 one month ago. All the traffic was rerouted to their neighborhood to get around it. Figures on her walls were falling down with the vibrations.

Sgt. Haughey states that if residents have problems with truck traffic, they can pick up the phone and call the officers who will go down and check it out. If they keep receiving complaints they can do radar for speeders. Truck drivers do not want a diminution on their licenses. Trees and drainage issues are up to the Board.

J. Featherstone notes that they are creating a development with a 4 way intersection and no stop signs.

Sgt. Haughey responds that not all streets in the town have stop signs. They can make a request to the Board of Selectmen and he will be happy to put up the signs. The enforcement is the important part - signs are no good. He states that yes, there will be accidents there as a result of cause and effect since they never had a road there before. People with children who reside there will be cautious.

B. Lord has no problem putting in a 4 way stop sign.

Sgt. Haughey states that Laurel Lane will be an intersecting road. He could almost guarantee that they could put a sign there. He suggests they write to the Board of Selectmen.

EM explains that the Planning Board members are not engineers. That is why they

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have engineers look at the drainage. The trees are on private property.

J. Featherstone believes that the Planning Board has the right to stop this development.

EM responds that they do not. The law says that if the applicant meets the Rules and Regulations, then the Board must approve.

J. Featherstone asks how they can grant this when they know the developer hasn't finished other projects.

P. Herr states that is a legitimate consideration of the Board but Town Counsel said otherwise. He rereads L. Ambler's letter relative to the 5th point of strict compliance. In some communities the issue of unfinished developments have been held to be relevant for consideration.

EM refers to the issue of compliance. The public was told the road would be 40' wide.

B. Lord indicates that they asked for a waiver to do 50' with 40' required but they are not asking for the waiver now.

P. Herr has not seen the new drawing. From where he is sitting, it looks like it is in violation of the Subdivision Regulations.

B. Lord states that there is no problem with putting in a 4 way stop sign. They will request that the Selectmen allow them to put it in. It will have the advantage of making this residential subdivision safer. They can drop the trees so they don't go into the street. Most subdivisions take 3 - 4 years to complete. Few are done within the 2 year timeframe with the final coat and sidewalks. This developer has to finish one other subdivision with sidewalks.

EM points out that the Board voted earlier to start proceedings to take the bond to finish that subdivision.

B. Lord refers to the Chestnut Hill development which is moving along. This is not a situation of nonconformance. How much time it takes depends on how quickly they sell the houses. The initial step is the base coat of the road system so the frontages will be available to build on. The drainage is done with the road. The houses are constructed and sold. How they sell determines how quickly they will finish. Construction of the road will take 1 - 2 weeks. Then they will level off the individual house lots. They will be hauling gravel out for the houses. Once the houses are sold, they will go back and finish the road and sidewalks. The final coat is down for Brittany

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Road. The contractor has to go back and finish the sidewalks.

J. Featherstone is concerned about the length of time with two years of upheaval in the neighborhood. Each time a new house is built, there will be people coming in who are not familiar with the road or the neighborhood.

B. Lord responds that they will try to maintain and lessen the impact with a 4 way stop sign.

J. Featherstone asks how they can trust the developer to finish the project when people are still coming to public meetings for another project.

Donald Levine, Pilgrim Village, whose daughter is Mrs. Horan, refers to Chapter 90, Section 17. The speed limit in every residential neighborhood is 30 mph. He is concerned about the wall they want to build. He was a Boston police officer for 30 years. He sees the 10 foot wall as an attractive nuisance for children who walk walls and climb walls. The youngsters will do it. He used to climb walls as a child. The wall should be redesigned so it would be more acceptable so there would not be a 10' drop if someone fell off. If the wall was redesigned and there was a fence around it, it would be more acceptable to his daughter. His daughter spoke with Mr. Gallagher about it.

B. Lord wants to respond because he believes it is a legal question.

EM states that it is an engineering question about how it is done. The Board wants to hear from Mr. Gallagher.

F. Gallagher responds that the only option is to eliminate the wall and obtain a slope easement. Originally at the request of the DPW a guardrail to the top of the retaining wall was added to the design. A chainlink fence may be more appropriate.

J. Featherstone notes that kids can climb a fence.

EM believes that the Planning Board could require a chainlink fence.

P. Herr points out that they would get a significant reduction from the 10' by shortening the vertical curve and asking for a waiver from the 7' departure for the grade.

F. Gallagher states that they would be approaching the waiver for the site distance requirement if they do that. They are trying to maintain as much site distance as possible in the interest of designing a safer roadway.

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P. Herr explains that if they shorten the vertical curve, the road sinks in a hole so people coming over the top won't be able to see.

D. Levine points out that a child can fall off the wall in less than 11 seconds.

PC wants to make it as safe as possible.

Kevin Cloutier, 65 Laurel Lane, was here for the discussion prior to this one. Did the Board vote to take money to finish that development or is the Board forcing him to do it?

PC notes that the sidewalk and fence around are to be completed.

EM indicates that there is more than enough money to do the work and the Board has directed Town Counsel to initiate proceedings to take the bond to finish.

B. Lord refers to the fence and the wall as a legal issue. He would be glad to give a slope if they were given a slope easement. Sloping the backyard is not a problem but they need an agreement to do that.

Mr. Horan believes that it presents a more fundamental legal problem. They are asking for a waiver from the grade because they are filling 9'. At the last meeting, they heard that they will go ahead even if the Planning Board refuses to grant the waiver. Mr. Gallagher said it is not the case that it would effect other aspects of the development. He doesn't think they can do that. He assumes the Regulations were designed if they complied with the best design.

EM would hope to get the best job.

Mr. Horan refers to the waiver. At the last meeting, they said they could do without the waivers but now they said they can't. If they are asking for a slope easement, they can't do it. The people are requesting strict compliance.

P. Herr believes that the issue is a mechanical one.

Mr. Horan believes that if the Board doesn't grant the waivers there won't be a 10' wall because they are not filling 8.7'. He wants the Board to make them come in with a plan that complies with the Rules and Regulations.

P. Herr explains that they are asking for a waiver from the amount of fill rule. Earlier, they indicated that they don't need to fill that much because they can keep closer to the existing grade but if they do that the site distance will be shorter. They have to

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maintain 125' site distance. His guess is they can meet it.

F. Gallagher agrees they can meet the 125' site distance. They can reduce the amount of fill to 7' limit and reduce the site distance to minimal. They originally designed for a minor road 50' layout with 26' pavement. With 22' pavement and right of way still 40' with widening to 50' once it is beyond the limits of the Horan's property. Now they are submitting for a lane.

EM asks what is required by the Regulations to work. The Board wants them to prepare a plan which shows everything on it which works.

P. Herr refers to the issue of the extension. Streets which get continued provide access to abutting properties unless it is waived. Either they don't oblige it at one end or the other. The streets must be extensible with a minor street with 50' right of way. He doesn't see how they can satisfy all of that.

EM notes that the applicant is saying that they can come in with a plan without the waivers but it is a better plan with the waivers.

P. Herr doesn't think they can make a plan which satisfies the adjacent land and meets the minor street standards.

EM doesn't think they can make it go away.

Mr. Horan suggests they come in and do it without the waivers.

B. Lord states that there are two conflicting Regulations. They could meet it either way. With no waivers, they will have a minor street with 50' wide roadway. Widening the street to 50' and moving the house, would add to the construction cost. They can put in a 50' right of way with 26' pavement but it would make the street accessible which would create another problem where both streets could be extended. They are requesting that the Board waives the requirements that they touch the next properties so it is not accessible. That would allow them to put in a 40' right of way with 22' pavement. Mr. Ambler's letter suggested a covenant so they cannot extend. They are willing to do that. They want a waiver so it will not touch at the end which will be a benefit to the neighborhood. The second waiver deals with Mr. Horan's property. The property dips 23'. They can cut 7' and fill 7'. They will meet the Regulations and will have the correct site distance. They propose the cut and fill would be a better move so the site distance would be a better advantage to benefit the neighborhood. He knows they don't want a subdivision in their backyard. It can be built without waivers but they are for the neighborhood's benefit to make it safer. He wishes they could eliminate the 10' wall.

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P. Herr asks if the wall would be lowered if they filled less.

F. Gallagher responds that it would be 1' less in height if they cut to 7' instead of 8'.

B. Lord explains that they would be gaining greater visibility which is a safety factor in the subdivision and can ensure it is not extended through the subdivision process. If they don't get waivers, they will put in a 50' wide pavement. Waivers benefit the developer but also the neighborhood. They can build without the waivers. The developer has too much money invested and has to go ahead anyway.

F. Gallagher indicates that this design shows over 200' site distance. The requirement for a lane is 125'. Bringing down the wall 1.5' will bring down the site distance.

WW asks what the site distance is for a minor road.

F. Gallagher responds that it is 225'.

Mr. Horan refers to mistatements on a minor street preventing it from being extended. The developer is not proposing to cut more off the hill, they are asking to dump more earth at the base of his property and creating an unsafe wall. If they can do it without requesting waivers, he wants to see it. There will be a problem with the slope behind his house. He agrees that if it fits all the definitions and all the rules, the Planning Board has to approve. The Board has the discretion to grant waivers or not. If they chose to say no, it can not be tipped on appeal.

EM states they would have to see a plan which works without waivers but the applicant could insist that plan be put in. It may be too late afterwards.

Mr. Horan does not think they can judge until they see it. They could built in safeguards. Even with a lane, the two people living on the cul-de-sac could extend.

B. Lord indicates that Mr. Ambler talked about a covenant and they are willing to deal with it. They could put a covenant on the two properties for when the two lots are sold.

Paul Ivis, 10 Littletree Lane, wants to see a plan without the waivers.

F. Gallagher submitted a design which is the best from a safety point of view. Placing the wall doesn't require a waiver.

P. Herr agrees.

F. Gallagher explains that their motivation was to submit the best design they could do

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but the abutters are doing their best to make it difficult.

B. Lord states that their advantage is to make it safer.

D. Levine states that if they think that a 10' wall is safe they are wrong.

RL refers to a 23' cliff sitting there which kids can fall off.

B. Lord indicates that there will be 200' between the peak high and low. He hears what they are saying. The wall is not a condition they would want in their backyard. The wall is expensive and they don't want to have to put one in but there is no way to avoid putting in the wall. He would be glad to work with the sloping if they think that would make it better. They will come in with a plan which meets every requirement of the Rules and Regulations but they can't say it can't be extended if there is a benefit to extending it. They want to make them do what they wanted in the first place by widening to 50' and moving the house. That is exactly what was proposed originally. They can put in the 50' or a waiver of the extension. It's one or the other.

P. Herr notes that it is drawn as a lane throughout. The location of the road hasn't changed because it is still touching.

F. Gallagher states that the cul-de-sac does meet at one point. Originally, they had a 50' tangent to allow for the extension.

P. Herr asks if this is what is proposed finally. Won't it be moved back further?

B. Lord responds that it would be covenanted.

P. Herr states that they would be relying on the covenant.

EM notes that at the last meeting, they were told to make it narrower and shorter.

P. Herr explains that it is a technical difference rather than real world difference. He suggests the Board ask them to submit a drawing which shows the vertical and horizontal alignment for a minor street meeting the minor street standards including 50' layout, 7' fill at the bottom and 225' site distance. It should be a clear drawing to answer the questions as to whether it is developable without the waivers. Then maybe they can talk about the waivers based on the public interest. He is surprised and shocked that the cul-de-sacs were not moved back.

F. Gallagher eliminated the 50' right of way.

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P. Herr is surprised he did not shorten the road. Less road gives larger, better lots and more visible clarity.

RL asks if the reason was because of a frontage problem.

B. Lord responds that there was less engineering to do it.

F. Gallagher indicates that the cul-de-sac could be pulled back. They eliminated the access by eliminating the 50' right of way. The cul-de-sac could be pulled bck.

P. Herr thinks that every square foot less of pavement is better.

F. Gallagher thinks that it could be done with 26' frontage.

P. Herr hasn't reviewed this set of drawings for clarity of direction.

EM wants to see a real plan which meets all the requirements. Tonight a 10' wall was discussed, but the previous minutes refer to 8'.

P. Herr explains that it is 8' of pavement to the bottom of the wall.

F. Gallagher indicates that the top of the wall is at 287 elevation. It is 10' from the top of the wall to the bottom.

WW advises that the wall is 2' above the pavement.

P. Herr states that if the developer proceeds with the waivers it would be better for the public interest but the Board is asking them to illustrate their ability to satisfy the Regulations without the waivers.

B. Lord believes the only variation is the road width. They will be drawing a line straight down and add a notation that the house will be moved.

P. Herr states that they have to include the site distance and the amount of fill.

EM suggests they put it on paper so Amory and P. Herr can look at it and see whether or not it fits.

WW believes that P. Herr told Mr. Gallagher what he needs on the plan.

EM wants them to show the 50' on the plan if that is what is required. He also wants input from them as to whether or not they think they need the waivers. He wants

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them to show it with the waivers and without the waivers being done.

Jim Willetts wants them to submit the changed plan with the cul-de-sacs pulled away from the border.

EM explains that there are two different things. One is to show it at the end and the second would be a waiver to pull it back. The plan that is recorded has to be the one which gets approved.

J. Featherstone questions how long the wall will be and whether it will be on both sides of the street. She knows it will be 10' high.

F. Gallagher responds it will only be on the left side of the street and will be about 125' long.

WW asks if it drops the 10' the whole way.

J. Featherstone asks how it is sloped.

F. Gallagher responds it is level across the length. As the property slopes down, it increases. The drop increases.

J. Featherstone asks where the wall is.

F. Gallagher explains that it starts half way along the sideline. It is 1' high at the beginning.

B. Lord notes that the DPW requested that they put a guardrail on the top of the wall but the Planning Board suggested a fence.

D. Levine asks if it can be curved at the top so kids can't climb it.

Mr. Horan submits a copy of a letter which he sent to Attorney Ambler, dated October 26, 1995. He refers to Regulation No. 4322 relative to drainage easement runoff discharge from the wall during rain or with plowed snow. It requires a drainage easement because the snow will be plowed to the property. The height at the back of the land is 277'. This allows 280' in the basin. He talked with an engineer who said that the result of the outflow increases 12" over time and will cause a back up. There are flags on the border of the back of the property. There is now a curb at Laurel Lane because there is no street. It channels the water down where a lot of sand and gravel accumulate. The water comes down Laurel Lane onto his property.

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EM indicates that the runoff has nothing to do with the applicant. Legally, they can't tell someone they can't develop their property because of runoff from somewhere else.

Mr. Horan points out that the Regulations talk about altered/channeled discharge. He is concerned about snow and rain. This plan channels it down to the back of his land.

F. Gallagher notes that it will increase the wetland runoff. Amory has not expressed concern and the Conservation Commission has not expressed concern. There wouldn't be any rise in the elevation unless there is a restriction in place downstream. Relative to breaking the curbing, during the Conservation Commission hearings, Mr. Horan talked about extending the bituminous concrete vertical berm end at the end of the retaining wall.

EM asks about the distance in relation to the lot line.

F. Gallagher responds that it will be a 6" vertical curve which will be matched in. It goes another 50' and goes to the catch basin. It will discharge opposite Mr. Horan's property.

B. Lord indicates that they are still in review with the Conservation Commission.

Mr. Horan asked Chairman of the Conservation Commission Cliff Matthews if the snow should be a concern with the plowed snow when it melts and if it would require a drainage easement. He said that it would cause a flow problem in the backyard but he wouldn't comment on the septic.

F. Gallagher states the edge of the road to the edge of the layout is 9'.

P. Herr asks which way it is pitched to the road or the property.

F. Gallagher responds that it is pitched away.

P. Herr points out that the snow would have to go more than 9' from the curb.

EM states that it should go back to the catch basin when it melts.

Mr. Horan believes that it will go onto lot 1, adjacent to his property. He asks if studies have been done as to what it will do to the level in the wetlands.

F. Gallagher responds that test pits were done in each detention. He will provide a copy of the drainage analysis and supplemental drainage calculations.

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B. Lord states that he is willing to provide copies of everything to Mr. Horan provided that he has the same courtesy with respect to his letter sent to Town Counsel.

Mr. Horan thought that Town Counsel should know that there was a second plan. That's why he called L. Ambler who was not aware that there was another plan in 1968. The Planning Board did not forward the second plan.

EM would like to check with the Conservation Commission relative to their response.

RL would like to see the cul-de-sac pulled back.

P. Herr indicates that there are a number of small mechanical issues which he will convey to applicant's engineer.

WW moves to continue the Edward Estates Definitive Subdivision to November 15, 1995 at 8:00 p.m. RL seconds. Vote of 4 (EM, RL, PC and WW). AM not present since she abstained from these proceedings.

F. Gallagher provides a copy of the Supplemental Drainage Report for the Board's records.

P. Herr requests that he be sent a copy of Mr. Horan's letter, L. Ambler's response letter, Mr. Horan's attorney's letter and the Protective Covenant.

B. Lord requests that he be sent a copy of Mr. Horan's letter to Town Counsel.

FURTHER DISCUSSION RE: MASTER PLAN

P. Herr suggests that between now and one month from now, he will request clarity from D. Fraine relative to the Master Plan. D. Fraine, someone from the Selectmen and Planning Board, and DPW should get together and talk about what they are really after. After they get those ideas, they can proceed one month from now. He thinks that D. Fraine has something in mind.

EM states that they must work cooperatively with the town and property owners. Whatever goes has to be allowable in town.

RL indicates that it includes little Master Plans with little pockets of ideas.

EM thinks that so much could be done with the Almacs building without destroying it completely.

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P. Herr states that they could take the Master Plan to Town Meeting if they wanted to but few towns have. The target is 40 - 50 pages long.

RL has a vision of a more conceptual plan.

P. Herr states that it will include a connection to sewerage, zoning and water supply. There is a huge transportation problem.

B. Lord points out that it is not internally generated traffic but external coming from all areas.

P. Herr will set the meeting up.

RL received a call from Howard Fafard who met with a group. There is a top corporation in the U.S. which wants to buy up the whole Hill subdivision for a 400,000 square foot warehousing operation utilizing the rail to run 24 hours a day.

B. Lord doesn't think they can do it because of the wetlands.

RL agrees that the wetlands are an issue.

PC thinks that Somerville Lumber controls the wetlands.

RL notes that they wouldn't say where they were from but it would be good if someone was going in there.

EM agrees because warehousing doesn't tax the town but there would be a problem with a change in use. Somerville is 450,000 square feet.

RL indicates that Fafard wants to develop the site for them.

81-P SUBMISSION

B. Lord submits an 81-P for BS Realty Trust for property located on Gemmur Lane and shown as Lot 13, Bald Hill Estates. Parcel B which is not a building lot will be joined to lots 13 and 12.

PC moves to endorse the 81-P. RL seconds. Vote of 4 (EM, RL, PC and WW). AM absent.

B. Lord submits another 81-P for Janice and Paul Martin for First Avenue. The parcel is deeded with the existing house.

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PC moves to sign the 81-P. RL seconds. Vote of 4. (EM, RL, PC and WW). AM absent.

GERRIOR BACKLOT SPECIAL PERMIT

B. Lord presents the Gerrior Backlot Special Permit plan for endorsement since the 20 day appeal period has elapsed.

WW moves to sign. PC seconds. Vote of 4 (EM, RL, PC and WW). AM absent.

HILLTOP DEVELOPMENTAL PLAN REVIEW

B. Lord explains that the gas tanks were shown perpendicular to Pulaski Blvd. but the electric line is 20' above so they have to put the tanks parallel to the road. There is no difference in the setbacks.

WW asks what happens to the fill. He was hesitant to sign the plan without them showing the 8 waiting, standing vehicles. He would like to see a plan showing that.

B. Lord will forward a plan to the Board.

CROSSROADS SHOPPING CENTER

P. Herr explains that there was a misunderstanding with the balance with the cut and fill. They removed top soil of 19,000 cubic yards. They are stockpiling it on site instead of hauling it off right now. He called their attorney who agreed that the town was right and they will correct the problem.

Meeting adjourned at 11:21 p.m.

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Edward T. Moore, Chairman

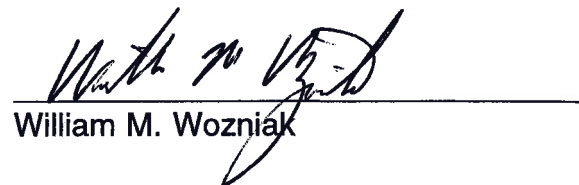
Anne M. Morse, Vice Chairman



Roland R. LaPrade



Paul Chupa



William M. Wozniak