

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

APRIL 11, 1996

Meeting commenced at 7:02 p.m. All members including Associate Member Richard V. Dill were present.

GENERAL BUSINESS

Clerk advises the FinCom has requested Planning Board comments relative to the land taking for the High Street well.

EM doesn't have enough information and the Board does not have comments right now. Additional information is needed in order to make a recommendation.

RL moves to accept the minutes of March 13, 1996. PC seconds. Unanimous vote of 5.

Members sign Clerk's pay voucher and invoice to reimburse WW for Framingham State educational expense.

PINECREST DEFINITIVE SUBDIVISION

EM received correspondence from P. Herr, the Planning Board consultant on April 8, 1996 and April 11, 1996 relative to the latest changes. He reads comments dated April 8, 1996 and revised April 11, 1996. Relative to adequacy of submittals: 1. No indication of wetlands is shown. Based on the Conservation Commission's 1"=800' map of wetlands, it is possible that part of the locus is within a wetland. If not, the plan should be so annotated and, if that determination is a close call, the qualified professional whose advice was relied upon should be identified. 2. No indication of existing tree cover, or the location of outstanding individual trees. 3. Neither indication of public sewerage nor of test pit logs. One or the other is needed. 4. The erosion

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control plan gives no indication of the location of stockpiles or spoil areas, temporary drainage systems, or sediment basins. 5. There is no description of brush and stump removal measures. 6. Lot numbers are not shown in circles and street numbers in squares, as required. 7. There is neither indication of the 100' wetland buffer nor a note indicating that no such buffer falls within the premises. 8. Street light locations are not shown. 9. There is no indication of sidewalk location on Harpin Street. If there is none, the Town is to blame, not the applicant. 10. The street cross-section is in error, with dimensions adding to 41 feet, not 40 feet. 11. Stone bounds and water gates are not shown, except in the legend, unless the dots along property lines are to be construed as bounds despite inconsistency with the legend. Relative to substantive compliance: Given the submittal omissions, cannot determine compliance with Section 41, General Guidelines regarding minimizing disturbance of existing vegetation and wildlife habitats. Relative to Section 42, Streets, there is real doubt that compliance with Section 4224, Sight distance is met. Compliance with Section 4257, Balanced grading is not met since excavation greatly exceeds fill. Section 4259, Grading is not yet shown to be met. Relative to Section 43, Storm water management, Section 4322, no altered discharge onto property of others without permission is not yet shown to be met at the detention/retention basin outflow. He had difficulty in understanding the drainage system from the drawings and submitted calculations, additional written explanation might be requested. He has not seen deep hole or percolation tests for the detention basin site so has no assurance as to where the water table is relative to the retention basin floor. The drawings and analysis submitted make it appear that a scheme really is feasible for Storm water management without significant discharge onto property of others but additional information is needed. He suggests the Board may want to hire a consultant engineer to review the proposal. Cannot determine compliance with Section 4342, detention basin depth to water table. Cannot determine compliance with Section 4348 since there is no information relative to detention basin maintenance arrangement. Compliance with Section 44, Utilities relative to Section 4442, street lighting cannot be determined from the data given. Relative to Section 45, other improvements, and Section 4513, no wheelchair ramps are shown and Section 453, street trees are not shown.

EM reads ZBA Notice of public hearing for Roger Gagnon for the Harpin Street lots to construct two single family homes scheduled for April 18, 1996 at 8:25 p.m. They are not jumping the gun by getting on the ZBA agenda.

EM reads letter from Eugene and Carol Reckert, 94 Harpin Street, dated April 10, 1996, stating that they purchased the lot on the side of the proposed development, with the intent of building their dream house. Carol is a life long resident of Bellingham and has lived on Harpin Street for 15 years. They reject having a road off Harpin Street, since it is a high traffic area with cars using the road as a cut off from Pulaski to S. Main St. They are also concerned about possible drainage problems because of the slant of the land. If the drainage problems were resolved, they would not have a problem with a single family home being built since that is what they expected when they purchased the adjoining lot.

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EM reads letter from Sgt. James Haughey, Safety Officer, dated April 2, 1996, wherein he states that due to the site distance of the proposed plans for Pinecrest Court, it is his opinion that the plans reflect an unsafe distance for either driveway or entranceway. The plans present a site distance of only 146 feet. The required site distance is a minimum 300 feet.

EM notes that most of the issues are mechanical in nature but there are some major issues.

WW does not think they can do the subdivision because he doesn't see how they can fix the site distance.

RL wants to hire an independent engineer if the Board does decide to continue since he believes the detention pond does increase the runoff.

A. Florentz believes that the site distance can be fixed by flopping the road over.

PC thinks that the detention basin is more important since other people have to live with the results of it.

F. Pond, engineer, explains that the original submission was based on a single family lot rather than a subdivision. The existing condition without the house is .9 cfs. It is .06 cfs with the subdivision with 7% off the original flow. Therefore, discharge from the basin is 7% of what is coming off now.

RL points out that the Bylaw says no altered discharge and they are altering.

AM indicates that they will not be addressing the issue of drainage at all if they go to the ZBA.

F. Pond does not know about that.

WW does not think they should be looking at it as if it is going to become a backlot.

RL wants an independent engineer to look at it.

EM wants to hear that it works from someone else. He asks where the runoff will go if they go to the ZBA.

A. Florentz responds that the biggest runoff is from the road and they won't have the road if they go with a backlot.

AM identifies the major issues, including site distance and drainage.

PC calls for an independent engineering analysis.

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RL is not comfortable with the numbers.

EM explains that the Town Administrator obtains an independent engineer to review the plan and send a report. The applicant pays the fee.

Ron Paullis and his wife Constance are owners of the abutting property, Ocean Realty Trust, advises that the water table has risen. There is some blockage. He is concerned that once the water gets moving and it rises, he will have problems with his septic. He asks that the town and independent engineer take that into consideration. He also advises that the whole area is going to be lit up at night because of the baseball field night games.

EM suggests the engineers check with their client to see if he is agreeable to an independent engineering review which will be set up through Denis Fraine. The Board doesn't want to add problems to the neighborhood and does not know how to address the issue of site distance since some things can't be waived.

AM moves to continue to May 23, 1996 at 7:30 p.m. PC seconds. Unanimous vote of 5.

F. Pond will return with a letter from the applicant requesting an extension of the time for action to May 30, 1996.

CUMBERLAND FARMS DPR DECISION

Clerk reads decision prepared by Board's Consultant, Philip Herr, dated April 11, 1996 addressed to Cumberland Farms, Inc., Building Inspector and Board of Selectmen approving the DPR for Cumberland Farms plan dated as revised March 29, 1996 since it satisfactorily meets the informational and format requirements of the Zoning Bylaw. The requirements of Section 3200 appear to be satisfactorily met. The requirements of Section 3300 Parking and Loading Requirements appear to be satisfactorily met with the understanding that parking spaces number 7 through 13 on the latest plan are not now to be paved. If at any point in the future the Building Inspector determines that some or all of those spaces are necessary to avoid on-street parking from commonly occurring, he shall so notify the owner of the premises, who shall within 60 days submit a plan to the Planning Board for Development Plan Review for the paving of those spaces, satisfactory drainage provisions, and relocation of the dumpster and, if appropriate, loading area. Within 60 days of Planning Board approval of such plan, the necessary construction shall be completed, season permitting. Failure to comply shall be sufficient cause for revocation of the occupancy permit. Given compliance of the proposal with Sections 3200 and 3300, this Board has no choice but to grant development plan approval and to endorse a set of the plans. This facility will require a special permit from the Selectmen under Section 4800 prior to being granted a building permit. If as a result of that or any other permitting process the plans should materially change, this Board must be provided with an opportunity for further review and approval or disapproval under these same provisions. On the basis of that testimony heard from

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the neighbors and technical representatives, the Board has serious reservations about the ability of this proposal to meet certain of the criteria of Section 4800, specifically Section 4820 Relation to Pedestrian Flow and the safety intent implicit in Section 4870 Service Safety. Further, the Board has serious reservations about whether the very real traffic flow and safety reservations which have been observed do not over-balance any positive benefits to the community this proposal might have, thus obliging disapproval under Section 1530 Special Permit criteria. Should the applicant proceed to seek a special permit, the Board is likely to provide testimony before the Selectmen regarding its reservations.

AM moves to approve the decision as written. PC seconds. Unanimous vote of 5. Members sign decision and Clerk stamps approval date on the plans.

ZONING BYLAW AMENDMENT - HIGH STREET REZONING

AM moves to waive the reading of the legal advertisement of the notice of public hearing. RL seconds. Unanimous vote of 5.

EM suggests the applicant provide a large map for the Town Meeting.

Andrew Sarno, land owner and applicant, would like to rezone to take the industrial out and put in all agricultural. At the time of his submittal, he didn't realize that there was a suburban piece.

Tom DeVitt, submits reasons for rezoning and explains that the front of the property is already zoned agricultural. They are asking to rezone so the whole parcel conforms to the same zoning.

A. Sarno believes it would be a benefit to the town to have houses rather than industrial in there. The street hasn't changed in 50 years.

PC notes that agricultural requires 80,000 square foot lots.

T. DeVitt identifies the frontage required as 200'.

EM advises the applicant that Maple Street will be widened and improved at some point.

T. DeVitt and Mr. Sarno were not aware of that.

EM explains where the road go by Somerville Lumber and will curve and comes in to go across High Street and out. It will line up with the curve to 495 and the land will all be opened up to industrial.

RL points out that there has also been discussion with the Master Plan about revisiting improvement of the bridge.

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EM indicates that there was an EOCD study for the whole area to be used for industrial.

RL recommends leaving an industrial access.

T. DeVitt states there is a 70' right of way on the town map but is not sure who owns it.

EM believes it is the Core of Engineers. Putting residences in there would be contradictory. He is not saying that the industrial park is going to happen but some thing will happen.

T. DeVitt indicates that 600' in it is all industrial.

WW asks if one can access industrial through agricultural.

EM responds they can if they make it a street. The problem is the bridge at High Street. The town is looking to negotiate to make it happen.

A. Sarno asks if it is the Core of Engineer's bridge.

PC responds in the affirmative. The town maintains it.

RL does not think it makes sense to put houses in and then create opposition but they can go ahead as long as an access is provided.

EM asks which way the land would be worth more, as industrial or agricultural?

AM thinks it may sound better on the Town Meeting floor if they leave the access.

EM advises that the road will go through Hill's property.

T. DeVitt asks about the projected timeframe.

RL will know if they get the grant within 1 - 2 months.

PC indicates that the applicant can pass over the article at the Town Meeting.

EM explains that right now they are looking for a recommendation from the Planning Board.

RL would not support it without the access.

Toni Picariello, FinCom member from the audience, asks if the Planning Board is trying to talk the applicant out of changing to agricultural.

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WW explains they are trying to make the applicant aware of the industrial possibilities.

EM states that he could come back and change the agricultural to all industrial.

RL believes that the parcel will go through whether the grant goes through or not. He recommends they wait to see what happens with the grant.

A. Sarno asks if the proposed road will be overhead or a ground road.

RL responds it will be on the ground on Hill's property and will either come out Cliff Road or come out to N. Main St. If it goes to N. Main St. it will be a real street. If it goes to Cliff Road it will just be for access. Hill wants to open up his land to industrial. They could leave the front agricultural and build houses.

T. DeVitt explains that because of the wetlands, they can't build in the front and there is industrial in the back.

WW moves to continue to April 25, 1996 at 7:15 p.m. AM seconds. Unanimous vote of 5.

RIVERVIEW PARK - PHASE V DEFINITIVE SUBDIVISION

EM reads letter from Richard Hill, dated April 5, 1996, requesting an extension of the hearing to September 13, 1996 or the Planning Board's meeting closest to that date to allow time for additional planning on this parcel and to coordinate with the study done by the Town for the area.

WW moves to continue to September 12, 1996 at 7:30 p.m. with an extension for the timeframe for action to September 26, 1996 . AM seconds. Unanimous vote of 5 to continue and extend.

Clerk to phone Edward Padden, Esquire, Mr. Hill's attorney to advise him that an additional letter is needed for the September 26, 1996 extension date.

MAPLEBROOK COMMON PRELIMINARY SUBDIVISION

EM abstains and removes himself from the meeting room since he is an abutter.

Bruce Lord, Esquire, on behalf of the applicant, explains that Maplebrook Commons was divided by 81-P and the special permit was done in 1990. The rough road has been built but it doesn't have the second paving. There are 23 condos with a permit for another 130 condos which will go across the wetlands and up. One of the problems is that the area was not set aside for sewer. They propose a cluster dividing part of the property and continue with 20 additional condos. It is the same location as on the previous plan but moved it down closer to the road and away from the surrounding areas. All the land is deeded to the condo association who is responsible for

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maintaining the road. The people in the association are in a serious situation. They are looking to expand to make it a viable association. They are also looking for a cluster subdivision for 19 homes. Section 4320 allows them to use a formula to determine the number of lots. With 49.81 total parcel minus 8.8 acres which are wet, they come out with 43.93 acres and 19 lots. They are entitled to 20,000 square foot lots but because of the Water Resource District line, they will develop 40,000 square foot lots. All of the homes will be single family with private septic. The condos will be tied to the town sewerage in 2 - 3 years when the town's capacity will be freed up. It will be a lot easier to find capacity for 20 condos than 130. They are asking for approval of the concept which will require an amendment to the condo special permit. Right now there was a license for the previous owner to develop the rest of the condos. This leaves an extensive wetlands more than the last condo plan which was more destructive to the wetlands. They are looking for guidance if the Board would entertain the cluster as a reasonable use of the property. The Association can't exist the way it sits.

RL asks what makes them think the condos will get sold with so many unbuilt condos in town.

B. Lord refers to the quality of the condos and the good price.

RL asks if that is the case, why aren't they building under the old plan?

B. Lord responds it is the septic. They could take the town to court but they don't want to. The on site sewerage was taken out by the previous owner.

PC clarifies that the state told them they had to connect to town sewerage within 6 months.

B. Lord advises that the 23 units under the 1990 amended special permit are under town sewerage but there isn't enough capacity for the additional units.

Discussion follows relative to additional capacity. Woonsocket or to the Medway plant is still 3 years away. The plant would have to be expanded to give 150,000 more gallons a day.

B. Lord states that when it was decided who would be eligible, this parcel was not included. It is a catch 22 situation. Town sewerage is available so they can't put in another treatment plant but they can't tie in because the capacity is not there. This proposal will eliminate 110 condos as opposed to 19 single family lots.

WW asks if they have to show another plan with regular lots.

B. Lord responds that he used the formula instead which is allowed by the Bylaw.

RL asks if the streets will be town acceptable.

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B. Lord replies they will be brought up to standard. There is a question if the drainage pipe is up to standard.

PC advises that all the water mains are inspected by the town.

RL asks if the road is starting to break up.

B. Lord replies affirmatively. There is only a binder. They are looking at getting enough numbers to support the road. They can upgrade the road and put the second coat on.

Don Nielson, engineer, explains that the plans done by the previous engineer show the pipes. The town looks at the drainage and pipes. They can repressurize to make sure there are no leaks and cut out the pavement.

AM has a problem with the town maintaining the road.

B. Lord indicates they could leave it under private ownership if the Board insists. When the houses are built, the road would have to be brought up to town standards.

WW asks what will be at the end of the cul-de-sac.

B. Lord responds it will be retention.

PC states that the hydrants and everything are in there but he doesn't know if it is hooked up to the water.

Brad Cushing, owner and applicant, indicates that all utilities including electric and transformers are in. The drainage is in even though it hasn't been paved and is overgrown.

AM asks if they need a pressure test.

B. Cushing responds that it is already on. He pays a fee to the town for water.

D. Nielson will be glad to check the drainage.

B. Lord advises this proposal would reduce the traffic with 19 houses versus 110 condos. This would also save the condo development since they can't afford the road.

AM asks what happens to the rest of the road if the town becomes responsible for their area of the road. It will become a private way at that point. How will the town turn the plow around in the middle of street?

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D. Nielson can put in a turnaround.

PC would rather see 19 units than 110 condos.

B. Lord believes this is a good answer for the developer, condo association and the town.

RL asks what happens if they do get the sewer.

B. Cushing wants to go forward with this plan and doesn't want to go back to the condos.

WW asks if the sewer pipes are in the ground.

D. Nielson responds that they are to a certain point. They are at the end of the grade and would be sewerred by gravity with on site sewerage.

AM asks if there would be two means of egress.

B. Lord replies affirmatively and points them out with one access on private property. He believes it is legal but the Board could ask Town Counsel.

AM reads letter from Edward Kingman, Health Agent, dated March 21, 1996, wherein he states that he cannot provide an evaluation without first receiving all of the percolation test, soil and site data and a plan showing the location of each on all of the proposed home sites.

RL states they could have less lots because none of the lots have perced yet.

D. Nielson doesn't agree because the sands exist there.

B. Lord explains that they want to make sure the Board sees this as a positive development before spending a lot of money on it.

Roger Roux, 2803 Maplebrook, explains that the plan was presented to the 23 owners of the association by Mr. Cushing. It has a lot of appeal. Mr. Cushing also presented a set of covenants to protect the condo interests. They will belong to an association with 43 units instead of struggling with close budgeting as they are now with 23. Mr. Cushing has assumed the plowing of the road since it is hard for them to do so with only 23 units. 43 units will make their budget better. The road is posted as a private way but is used by the public and town vehicles to get to Blackstone Street. There is a problem with speeders but the police can't do anything because it is a private way. They were told to obtain license plate numbers and phone them in. They are not looking for any special favors. They are looking to get the road completed since it is used as a town way and not a private way. There is a great deal of traffic now. The town trucks cut through from Maple Street and Blackstone Street. He has lived there for 3.5 years and knew

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there would be 153 condos ultimately. 43 condos and 19 houses make a better balance and is aesthetically more appealing with more open area. This is being done with the clear knowledge of the people who live in the condos. He is in favor of it and the neighbors he has spoken with are also in favor of it.

AM is concerned about the town accepting the burden of the road.

B. Lord discusses how the land ended up getting deeded separately.

B. Cushing realizes he has to bring the road up to code. The condo location will be on private property. They will have a main road going through with a road going down to the condos which will be private.

WW points out that once it becomes a town road, there will be frontage on the road.

B. Lord advises that they would have to go through this same process in order to develop that.

B. Cushing has no problem putting in a covenant that there will be no further development.

B. Lord can make that clear in the special permit amendment. 81-P is the normal situation but the property would have to be deeded so they would have to come back. It would be downscaling the property.

R. Roux points out the 4 buildings which they didn't want to be fragmented. They are looking to have their own enclave.

B. Lord indicates that the special permit minimum requirements are 20 acres for a condo development. This has 21 acres.

Bill Yasick, from the audience asks what the lots will sell for and the type of house which will be put in.

B. Cushing responds they will be 1550 - 1600 square foot houses and will sell the lots with the covenant which goes with it and priced in the \$180,000 range. He will have one builder.

B. Yasick asks why the town shouldn't accept the road since it is used by the town.

AM explains that is a requirement of the special permit.

R. Roux was told by emergency services that they can't block off the access.

B. Cushing believes they weren't dealt with fairly by the Water/Sewer Dept. They should have

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been allowed to tie in.

RL moves to approve the Preliminary plan as presented. PC seconds. Vote of 4 (AM, RL, PC and WW). EM abstains and is not present.

AM asks if they are approving the road.

B. Lord believes they are approving the configuration.

AM suggests they add a condition that the second means of egress be addressed at the definitive and cluster special permit stage provided that the perc tests pass. RL adds the condition to his motion. Vote of 4.

B. Cushing will bring the road up to code.

BROOKSIDE ESTATES DRAINAGE ISSUES

F. Pond was hired to put the individual sewer system in. The Conservation Commission says they want retention areas. The calculations were done in 1980 and 1981. To offset the increase in drainage, a supplemental plan was proposed which changes the line and changes the 30" pipe. They were taking the water back to allow for the increase but the Conservation Commission said no. They had to go back to the proposed detention basin. They only did the sewer but didn't touch the drainage. They will end up widening and lengthening to get to 8 cfs.

EM asks if the road will connect.

F. Pond responds negatively. If they put in the detention basin to comply with the Conservation Commission what will the Planning Board need?

EM thinks they would have to file an amendment to the definitive subdivision amending the approved plan with notice and a public hearing. He suggests they check with P. Herr. They may not be able to amend someone else's subdivision. There is a procedure.

F. Pond has never done an amendment to someone else's plan.

DISCUSSION RE: JUMPSTARTING THE MASTER PLAN

RL explains that P. Herr's memo documents two ways in which they could go. They could start right away with a two phase process, but P. Herr wants Town Counsel's approval to see if it is agreeable.

Clerk to send a copy of P. Herr's Jumpstarting memo to Town Counsel and D. Fraine.

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CRESTVIEW COMMONS

EM received a phone call from an abutter. The special permit required that a fence be put in when the work was done.

B. Lord advises that Acting Building Inspector Earl Vater brought that to the developer's attention. The fence will be there.

EM asks if the additional building is occupied. People were in there Easter night.

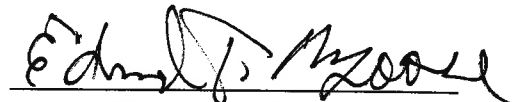
B. Lord indicates that nothing has been sold.

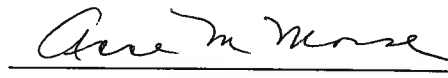
ACCESSORY APARTMENT PROPOSED BYLAW

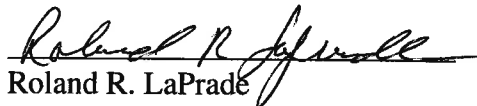
Clerk reads letter from Lee Ambler, Esquire, Town Counsel relative to Accessory Apartment Article, dated April 9, 1996 listing a number of questions he has regarding this article.

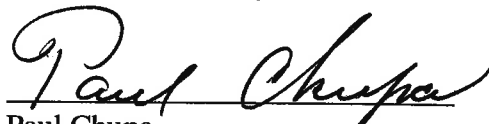
EM thinks the Board should hold off on discussing this proposed article until the next meeting when the hearing will be held.

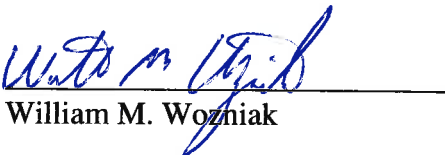
RL moves to adjourn at 10:04 p.m. AM seconds. Unanimous vote of 5.


Edward T. Moore, Chairman


Anne M. Morse, Vice Chairman


Roland R. LaPrade


Paul Chupa


William M. Wozniak