

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 25, 1996

Meeting commenced at 7:08 p.m. Board members EM, RL and WW were present. AM, PC and Associate Member Richard Dill were absent.

Members sign invoices for P. Herr's quarterly consultant fee and U.S. Postmaster for stamps. Members review the Nynex plan for a building proposed to be built behind the Dean Cooperative Bank plaza on Pulaski Blvd. to upgrade service in that part of town. Clerk explains that Mary Hanley, a Nynex representative, asked that the Board review the plan to determine if they have to come before the Planning Board. They are currently before the ZBA for a variance for the sideyard requirement. Members determine that this does not trigger Development Plan Review and they do not have to come to the Planning Board.

HIGH STREET REZONING CONTINUED PUBLIC HEARING

Tom DeVitt is here on behalf of owner Andrew Sarno who is in D.C. He discusses information which they were not aware of the last time they were in. There will be something happening on Maple Street and there is the possibility that something will happen on the other side of the bridge. The Core of Engineers owns land on both sides of the bridge so the odds of it being widened are slim. The road is curvy and hilly and is not suitable for commercial traffic. They are requesting to rezone the industrial to agricultural to blend with the frontage. The ballfield is across the street and the town wouldn't want to have industrial near the ballfield. The well will be off Cliff Road or a new road off 126.

RL states that if they come through Circle C by 126, there would be another access through the industrial area. If they don't there will still be two accesses at some point way up north. Cliff Road will access the well and not the industrial area. If there is no alternative access, they will look at constructing the bridge.

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WW doesn't see putting industrial on High Street with all residential on both sides.

EM believes they could build houses out front now and leave the land in the back industrial.

T. DeVitt explains that because the land is wet, they can't do that. If they set a house back, it would hit the industrial in the back. The best use of the land is housing because they wouldn't want industrial across from the ballfield.

EM asks the number of houses.

T. DeVitt responds there would be a maximum of 11 - 12 houses with big lots. They have no plans for any street. The lots will be frontage lots.

EM asks the number of acres.

T. DeVitt responds that are a total of 35 acres.

RL asks Mr. Hill about the right of way is that goes to the back of his property.

Richard Hill, abutting property landowner, replies that it is 60 - 70'.

T. DeVitt notes that according to the town map, the right of way is 70'.

RL asks what is needed for industrial access.

P. Herr responds that 70' will do it.

T. DeVitt points out the yellow portion of the plan in yellow with land in the back for a total of 35.3 acres.

WW believes that the yellow looks like 20 acres.

T. DeVitt believes this creates a buffer for industrial to go in and even for residents on Cliff Rod.

RL asks Mr. Hill if the right of way is on the Core of Engineer's land.

R. Hill replies in the affirmative.

RL asks if there are restrictions on that.

R. Hill responds there are none. They were granting him access to his property if he needs access. He can go in and build a road in there.

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EM thought that Mr. Hill owned the agricultural field across from Varney's pit.

R. Hill owns property in the back.

RL asks where the well is.

Mrs. Hill points out the location of the well. They are coming out 400' from the well.

Mr. Hill states that one option would be to come off the right of way.

Mrs. Hill indicates they could come up through Kersted's and across the land to the well.

EM thinks that would be more beneficial.

Mrs. Hill agrees since all traffic would go to 126.

RL states that would connect the two industrials.

T. DeVitt believes they would get 13.5 lots at best with the frontage but with the wetlands, the best would be 11 to 12 lots.

EM points out that they would be putting 12 abutters in to fight before the industrial even gets started. He asks Mr. and Mrs. Hill what they think about the rezoning since they are abutters. 12 houses could become 36 if they fit a road in and build houses on both sides.

WW states that it won't work because with agricultural they will have two acre lots. They would have to rezone to residential.

Mr. Hill notes that if he is trapped in a situation and can't get out, he may come back to put houses in.

Mrs. Hill discusses the permit which was given to Home Depot. Linda Varney got a copy of it and there was nothing about the road coming in for commercial use.

EM indicates that the Planning Board special permit provided access.

Mrs. Hill asked why it wasn't in the permit.

P. Herr notes that the plan showed access.

EM explains that since it was shown on the plan it doesn't have to be on the decision.

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RL points out that it hasn't been developed yet.

Mr. and Mrs. Hill advise the Board they are being denied income for the future since they can't get their gravel trucks through.

EM can't force the property owner to allow the gravel trucks to go in.

Mrs. Hill indicates that there are 3 parcel of industrial land. They own the frontage for part of the land.

T. DeVitt states that if they rezone the back to agricultural and build houses 800' deep, the houses in the back will not be interfering with the front parcel.

RL refers to traffic up High Street to Maple Street. He would like to wait until a decision is made and the Master Plan is completed.

T. DeVitt believes that could be two years from now.

EM doesn't feel he can recommend the change without knowing what will happen. They might be better off passing over and waiting until the next Town Meeting.

T. DeVitt suggests they wait until the next meeting to see the outcome of the Board of Selectmen's meeting tonight.

RL is looking for a way to connect the industrial since it gives a whole new circulation to the area.

T. DeVitt refers to the red tape and the reality. Someone would have to control all the land in the area.

RL believes it could work with the town Master Plan with grants and developers.

WW moves to continue to May 9, 1996 at 7:15 p.m. RL seconds. Vote of 3 (EM, RL and WW). AM and PC absent.

REVISED RULES AND REGULATIONS

P. Herr added the chief wording change submitted by D. DiMartino regarding patching cracks.

RL moves to approve the subdivision regulation revisions as revised April 1, 1996 plus two drawings. WW seconds. Vote of 3 (EM, RL and WW).

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P. Herr advises that copies of the revised Rules and Regulations must be certified by the Town Clerk and sent to the Registry of Deeds and Land Court. He will research procedure and send a copy to Clerk on what to do with the Revised Subdivision Rules and Regulations.

CHESTNUT HILL CONDOMINIUM DISCUSSION

Neighbors have been calling EM and the Building Inspector's office because the developer has not completed the work. Apparently, the developer was supposed to present a bond until all the work is completed. He wasn't supposed to be able to obtain building permits until the bond was put up but he did. EM asks how they can determine the amount of the bond.

P. Herr replies that the Building Inspector or the DPW Director can estimate the work to be done.

EM explains that usually the builder gets the estimate and then the DPW either agrees or disagrees. He received a call from the neighbor in the back that they were working Easter night. He wants the stockade fence put in. The Board is looking to protect the neighbors around the development.

P. Herr states that the responsibility for handling the security was with the Building Inspector.

EM indicates that the present Building Inspector said they can't get any more permits until the bond is presented.

P. Herr suggests the Board send a copy of the Guaranty Estimate to the Building Inspector which he should ask the applicant to complete providing the basis for the remainder of the work to be done. The Board can review it once it is filled out.

DISCUSSION RE: PLANNING BOARD RULES FOR MASTER PLAN AND CHARTER

RL explains that the Charter states that the Planning Board will make recommendations to the Town Meeting relative to all matters for land use and development. He went to Lee Ambler who agreed that any development should be reviewed by the Planning Board relative to land use in town. He would like to see the Almacs task force come before the Planning Board and make a presentation for a recommendation. The Planning Board was out of the loop completely.

EM indicates that since the Planning Board is being asked to make a recommendation, they should send a letter to the task force suggesting they have a joint meeting.

WW thinks it should have been brought up when the committee was formed.

RL does not think it is too late.

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WW doesn't think they can hash out what the other committee was doing for one year in one meeting.

EM states that the Board can get up at the Town Meeting and say they have no knowledge or they can ask the committee to come before the Board for a recommendation but they can't demand the committee come here.

Guy Fleurette, Chairman, Board of Selectmen, indicates that it is the Planning Board's choice as to how it is interpreted. It is up to the Planning Board to determine what they feel is within their jurisdiction.

WW thinks they should also call in the South School Committee if they are going to call in this committee.

EM believes that the Board needs to be enlightened if they are going to be asked for an opinion. Maybe they shouldn't have a recommendation now.

WW doesn't think there is enough time now and they will be opening up a can of worms.

G. Fleurette indicates that John Wozniak is the Chairman of the committee. This Board could contact him to ask what he wants to do . Is he looking for a recommendation or not?

P. Herr is curious what is proposed.

G. Fleurette responds they are proposing to demolish the building. He was not aware they had to come to the Planning Board. There are two articles. One is to demolish the building and the other is very broad to study the potential use of the building. The Town Common article is first.

EM notes that if the first one passes, the other one won't even get discussed but they can't discuss one without the other. Why wouldn't the Planning Board be involved in planning the center of the town?

RL asks why the Planning Board was not involved at all?

D. Fraine indicates that maybe they need to get into the habit of discussing future development with the Planning Board including the ballfields and Silver Lake.

RL is not trying to do anything other than find out what is the Board's responsibility.

D. Fraine asks if the town should adhere to the standards when creating parking lots.

RL is saying they should make careful studies for the needs of the town.

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WW believes that they are delegating the Planning Board authority to other committees. Starting one month before the Town Meeting is not right.

RL indicates that this requirement is found in the Municipal Planning and Subdivision Regulations so it is state law.

D. Fraine points out that Town Meeting voted to establish a committee or authority to decide what to do.

G. Fleurette refers to the strength of the Town Meeting vote versus the strength of the Charter. Should the committee proceed differently?

EM asks what happens if the Town Meeting asks for a recommendation from the Planning Board.

D. Fraine doesn't see how they can do that for the Town Meeting. They could ask the committee if they want a recommendation and if they do, would they like to come in so the Board can make a recommendation.

P. Herr notes that this is not a new issue for Bellingham. The question is should they include the material in the procedural rules? There are only a handful of Planning Boards that take that seriously and most ignore it. They should walk through reasonable alternatives. They are not asking the Planning Board to review the statute but they are asking them to review the terms of land use to space relationships. It is not clear that the Planning Board will want to take that role. They need to talk about it further and not suddenly assert it.

RL states that since it is mandated by the Charter, the Planning Board should play the role.

Bill Yasick, from the audience, suggests they informally approach the committee rather than send a letter.

G. Fleurette thinks a letter is a good idea. It would make the committee informed.

WW asks how the Planning Board can say to demolish or not.

EM thinks they can since they are talking about land use.

WW thinks that the South School would have to be addressed the same way.

D. Fraine asks if the ballfield lights at Richardson field should have come in?

RL indicates that it should have.

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D. Fraine will submit the engineering analysis of the lighting to P. Herr for review.

EM asks if the person who put up the lights followed the town's regulations.

D. Fraine responds in the affirmative.

EM does not believe the town can be exempt from its own Rules and Regulations. Another incident is the addition to the DPW building which never came in.

G. Fleurette advises that the access to Cliff Road is limited to the well for 40' wide.

EM notes that totally land locks Mr. Hill's property.

RL believes that needed a planning process and the Planning Board is mandated to be involved in the process. From now on, the Planning Board should be involved in all issues.

G. Fleurette would like the guidelines spelled out. When something happens, can the study occur through another Board? They should look at the study process and how it can tie in.

P. Herr believes they are looking at a limited set of questions regarding land use and development.

EM doesn't want the Planning Board to be asked for recommendations and be misinformed.

D. Fraine refers to the Master Plan. He read the information received from P. Herr and contacted Robert Finkle, the Inspector General to find out if the town can enter into the first phase without any type of advertising. The funds will be available May 23, 1996 and will not be split. He hopes to have a decision about whether they need to go to bid for the second phase and asks what the Planning Board suggests.

EM would like to keep it in house. Why go through the bidding process if it is not necessary?

D. Fraine advises that the question is if they can legally contract with P. Herr.

EM would be hard pressed to go with someone else.

RL notes that a lot of people think they should get someone else to have a fresh look but that person would have to go through the whole educational process which would take time. He feels comfortable working with P. Herr.

EM polls the Board to find out what they prefer. Both RL and WW agree to have P. Herr do the work. Unanimous vote of 3 to have P. Herr do the Master Plan.

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D. Fraine believes it is exempt from the Uniform Procurement Law but wants to make sure. He should hear a decision from the Inspector General shortly.

EM advises that it was never the Board's intention to go any other avenue.

P. Herr explains the reason for the two phases is so they can conduct workshops before people go away at the end of June 1996. They needed to figure out the composition of the task force.

RL thinks they should have an omnibus board to bring all the people into the process. He suggests Planning Board, Board of Selectmen, School Committee, Historical Committee, Parks Commission, Conservation Commission and a couple at large (1 or 3 at large). DPW Director and D. Fraine can serve as ex officio.

P. Herr suggests the Board discuss this further later on tonight.

GEORGIA PACIFIC SPECIAL PERMIT REVISIONS TO PLAN

EM advises that the Planning Board closed the public hearing and the decision has been made. The decision required the vote of 4 out of 5 members and there are only 3 members present tonight.

Joel Lindsey, Rizzo & Associates, explains they are here to present additional information to determine if they need a further hearing. They have been actively working with the ZBA, Board of Selectmen, and Fire Dept. on a daily basis.

EM indicates that since they are giving the Board information after the fact and are looking to amend the special permit, it will require a new hearing.

Peter Sherr, Rizzo & Associates, states that this is an informational meeting to see if they need a further hearing.

J. Lindsey explains they will have a 10,000 gallon diesel fuel tank located on the north side of building 2. It will be a double wall, fireglass tank with leak detection for dispensing trucks coming into the facility. The plan shows the location of a 1,000 gallon propane storage tank which was used by Somerville Lumber.

RL asks if they have permits from the Board of Selectmen for the storage.

J. Lindsey is working on that now. They are on the ZBA agenda for next Thursday and will file with the Board of Selectmen within the next few days. The propane is above ground and the diesel is underground.

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EM states that the underground tank may not be a Planning Board issue but up to the Fire Chief and the Board of Selectmen. He asks if there are any site changes?

P. Herr asks if the 10,000 tank will be located inside the WRD?

Thomas Howard, Georgia Pacific, responds that it will be outside the 100' buffer zone of the wetlands and outside of the WRD.

EM believes that the lower left corner of the building is in the WRD.

T. Howard states it is 6% of the building.

B. Yasick asks if it falls under the Conservation Commission.

J. Lindsey has contacted the Conservation Commission. The question is with the present information, can the Board determine if there are any issues, questions and if they have to take further action?

P. Herr explains there are two areas of jurisdiction. One is the WRD. The tank is not located within the WRD and is underground so the special permit is not affected by this. The DPR may be affected. This is not shown on the DPR drawing. The Board could do it administratively without a public hearing. The green on the plan is the departure from what was there before. The propane tank was not shown on the DPR plan which was approved before.

J. Lindsey advises that there are also stock items which are considered flammable but the location where they are to be stored could change. The only constructive changes are the two tanks which are shown on the new plan. They will send two copies of the revised plan to the Board and P. Herr prior to the next meeting so they can vote.

After the Board votes, Clerk to stamp revised plans and send a copy of the revised plan with a letter to the Building Inspector.

ACCESSORY APARTMENTS AND HEIGHT LIMITATIONS **PROPOSED BYLAW AMENDMENTS PUBLIC HEARINGS**

RL moves to waive the reading of the Notice of Public Hearing advertisement. WW seconds.
Vote of 3.

Clerk advises Board that she received a copy of a ZBA Notice of Hearing relative to an in-law apartment for the Faneuff's on Brittany Road. Clerk to send EM a copy of that notice.

P. Herr believes it is bad law to have to obtain a variance for an in-law apartment.

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EM refers to the letter received from Lee Ambler, Esquire, Town Counsel relative to Accessory Apartments, dated April 9, 1996 wherein he advises that he is still in opposition to the proposed Accessory Apartment Article. Section 4131(f) prevents one from creating a separate exterior entrance for the accessory unit, so he asks if it permits a separate exterior entrance to be utilized for the accessory unit and if so, should the same not be so described? Section 4132(a) should be amended so that the principal unit must be owner occupied except for temporary absences, otherwise the owner could move into the accessory unit and put tenants into the major unit which does not achieve the Board's results, in that an elderly or handicapped person could be bringing in a larger family with them which is not necessarily the purpose we are seeking municipally. He would like an explanation as to how Section 4133(a)(i) happens. Relative to Section 4133(a)(ii), he asks how housing at unusually low cost serves significant community purposes. Relative to Section 4133(a)(iii), he states we are going from single families to double families, and we are going from single family property ownership to rental properties, and that would effectively depart from the character of the neighborhood. Section 4133(b) should be amended so that the principal unit is owner occupied. Relative to Section 4133(c), he states once the apartment unit has been created, wouldn't that constitute special circumstances of the structure which would make single family occupancy a hardship. He would like to receive the rationale of the Board relative to the municipal benefits achieved with regard by the insertion of this article.

P. Herr spoke with Tom Berkholder and thought he would be here tonight. He got the impression that the Housing Partnership would get together to support this. Lee Ambler's letter raised questions about lowering the costs of housing and municipal benefits. He put together a brief piece of rationale. Each point raised by L. Ambler referred to policy questions. It is his opinion, not law or mechanics. If the Board wants to make amendments to the proposed Bylaw, they could do it one year from now. Right now this town needs an illegal variance to have an in law apartment. He is hoping the housing partnership will speak up. This is an option for families with age or handicap hardships. It supports a single family. It increases rental and low cost housing. There will be a better match between the housing supply and housing demand. It removes the restriction on the freedom of the property owner's property. Lee Ambler's disagreement is about policy. He suggests that maybe this Board should be represented on the Housing Partnership since EN is not longer on the Board.

RL moves to recommend Accessory Apartment to the May 1996 Town Meeting. WW seconds. Unanimous vote of 3 (AM and PC absent).

HEIGHT LIMITATIONS

B. Yasick asks what the limits are.

P. Herr explains they are 10' or 20% of the building or a special permit.

RL moves to recommend Height Limitations to Town Meeting. WW seconds. Unanimous vote

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of 3 (AM and PC absent).

MINUTES ACCEPTANCE

RL moves to approve the March 28, 1996 minutes. WW seconds. Vote of 3 (EM, RL and WW). AM and PC absent.

MASTER PLAN DISCUSSION CONTINUED

P. Herr discusses the start up schedule for the two phase approach with a workshop in either the first or second week in June. The Housing Partnership is not on the list discussed earlier and they should be.

RL thinks the committee should be no larger than 9.

P. Herr identifies how the committee will be comprised including two from the Planning Board, two from the Board of Selectmen, one from Historical, one Conservation Commission, one Parks Commission, two School Committee, one Housing Partnership and one ZBA. Building Inspector and DPW can be ex officio and the FinCom can be the liaison. He suggests the task force meet on May 16, 1996 at 7:30 p.m. to discuss further.

EM states that the Board will decide on May 9, 1996 which other Planning Board member will attend in addition to RL.

P. Herr will prepare a memo and send to Clerk to forward to other Boards who will be members of the task force.

GENERAL BUSINESS

P. Herr received a call from Mr. Kelly, General Counsel for Cumberland Farms who basically said if they didn't get their permit, they would go to Court.

Brief discussion relative to Maplebrook Commons preliminary cluster. P. Herr never received a copy of the plan. The drawing must make it clear they can see the land area conditions involved in the special permit. A public road can go into a private road with a turnaround. Members advise P. Herr the preliminary was approved at the last meeting with 19 clustered houses and 20 additional condos as opposed to 150 condos total.

Brief discussion with B. Yasick relative to the house lot behind him.

Clerk to Call A. Florentz to find out if Roger Gagnon is willing to pay for an independent engineering analysis to review the drainage for the two lot subdivision called Pinecrest off

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Harpin Street. If he is agreeable, a letter should be sent to D. Fraine to make arrangements. Clerk to get copies of three proposed Zoning Bylaw amendment files to EM for April 30, 1996 FinCom meeting.

B. Yasick asks how he can get copies of the Deer Run plans.

P. Herr responds that normally the engineer will provide copies and will charge for them.


RL moves to adjourn at 10:10 p.m. WW seconds. Vote of 3 (EM, RL and WW).


Edward T. Moore, Chairman

Anne M. Morse, Vice Chairman


Roland R. LaPrade


Paul Chupa


William M. Wozniak