

BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

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

MINUTES OF REGULAR MEETING

OCTOBER 10, 1996

Meeting commenced at 7:07 p.m. All members except EM were present. Associate Member Richard Dill was also absent.

81-P SUBMISSION

Mark Nyberg submits 81-P for Lorraine Purich, property located on Gaby Lane. When they went for refinancing, the survey found out that the land runs through the swimming pool. The neighbor will convey the land. It is residentially zoned, 20,000 minimum.

AM reviews the plan and says there is no problem because there is enough frontage and lot size.

RL doesn't know if it meets the lot shape factor but it probably makes it better. He moves to recommend approval. PC seconds. Vote of 3 (AM, RL and PC). WW not present for vote and EM absent.

LILYPAD AQUATIC CENTER DEVELOPMENT PLAN REVIEW CONTINUED

E.K. Khalsa, Land Planning, has been working with Tom Sexton, Amory Engineers to resolve the design issues relative to the detention. They made changes relative to the rip rap. They worked on access for the cleaning and maintenance. He spoke with T. Sexton tonight. There are two issues remaining. He sent updated plans to P. Herr today for comments.

AM reads from notes faxed by P. Herr - Items #1 Confusion RE: revision dates. Sexton has drawings which are different from the ones he received but they are both dated October 8, 1996.

E.K. replies that will be easily resolved. He will prepare the final revision and send it to both of them for the final review.

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AM asks about Item #2, No landscaping plan in the current version.

E.K. notes there is a difference in the way the grade lines are labeled between the two plans. Tom has the old plan. The updated plan was sent to P. Herr and not to Tom but he will receive the updated plan. P. Herr wants to make sure they are reviewing the same plan.

AM Item #3 lists missing information including: No handicapped access ramps, no berms at the planting areas, no wheel stops to justify 60' return than 63' width; Misdawn planting area NE of existing building; zoning boundary not shown; unprotected 1/1 slope at rear (east) of building, violates subdivision regs Section 4259.

E.K. will update the landscape plan and mail it to P. Herr and Tom. Handicapped will be provided and berm will be provided. He discussed the wheel stops with P. Herr and is confident that can be resolved.

AM asks about the reference to the misdawn planting area.

E.K. explains they lost two spaces. They properly showed the landscaped area. They have to adjust the plan to reflect the larger planting area. The zoning boundary will be added.

AM asks about the unprotected slope.

E.K. has addressed that on the plan and will send it to P. Herr.

AM asks about Item #4 No document as requested showing basis for the number of parking spaces.

E.K. is preparing a report relative to the required number of spaces. It will be forwarded and addressed.

AM reads Item #5 the detail sheet for the grades for the level spreader are wrong versus the plan and the splash pad notes are incomplete.

E.K. states the detail level was contradicted on the plan. It has been corrected and will be forwarded. The splash pads will be added and addressed.

RL asks why they wait until the last minute to send the plans.

E.K. recommended to the applicant that they not come in tonight.

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Ed Tirrell, Tritown CDC, had a phone call with P. Herr who had not received the plans which were sent by Land Planning and that is why the plans were hand delivered today. Land Planning did not find out P. Herr hadn't received the plans until yesterday. He specifically asked P. Herr if they should come in tonight and P. Herr said there was no reason the Board couldn't approve this tonight. They can put the parking spaces in writing with 30 spaces in the back.

AM spoke with P. Herr today and he did not say that to her. Clerk also spoke with P. Herr when he relayed comments but he did not say the Board could act.

AM reads item #6: Maintenance plan deficiencies in about 6 places - see/hear from Sexton.

E.K. explains that T. Sexton wants to see more detail as to how they will address the problems they find in the maintenance. He will forward the revised plan to T. Sexton and P. Herr and asks if the Board would like him to forward copies of the revised plan to the distribution list again.

Joyce Godbout asks what's to stop P. Herr from coming up with another list of issues.

AM believes it is pretty conclusive at this point.

WW notes that the plans are dated two days ago so even if P. Herr had received it he still didn't have much time.

E.K. indicates that P. Herr hadn't seen all the changes until today. They sent the plans out by Tuesday and thought they would get feedback from P. Herr, something in writing and just found out that he hadn't received the plan. They have been working since the last meeting.

RL moves to continue the Lilypad Development Plan Review to October 24, 1996 at 8:00 p.m. WW seconds. Vote of 4 (AM, RL, WW and PC). EM absent.

E.K. asks if it is sufficient to do a distribution even though they did not substantially change the site. Should they request feedback?

AM doesn't think they need to request feedback. By doing the distribution, town agencies will comment if they have a problem.

WW notes the only agency who may comment is the DPW.

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Jim Caddick, FinCom Chairman, is here as a citizen in support of this proposal. He could make use of the aquatic services. He is not involved with them now but there are a lot of people in town who could use this.

AM states that is good to know but it is not up to this Board.

RL explains the Board just wants to make sure they comply with the rules.

J. Godbout believes these are unnecessary delays for nothing.

AM explains the Board can't make exceptions for not having plans complete which would set a precedent.

PC notes it is to everyone's benefit to have it done right.

E. Tirrell refers to what P. Herr said when he specifically asked if they should come tonight.

AM indicates that P. Herr doesn't dictate what the Board does.

E.K. presents an extension request for the Lilypad proposal to November 14, 1996.

PC moves to accept the extension to November 14, 1996. RL seconds. Vote of 4 (AM, RL, WW and PC). EM absent.

PC asks Clerk to ask P. Herr if he did tell the applicant that the Board could act tonight and if he did why didn't he say that to us.

AM points out that the choice is not based on P. Herr's input. The Board doesn't want to set a precedent for incomplete plans.

DPW WELL #12 DEFINITIVE SUBDIVISION PUBLIC HEARING

Donald DiMartino, DPW Director, explains that he was told he had to submit this as a definitive subdivision. He called Town Counsel but he was on vacation and had a two minute conversation with Scott who told him they had to come in. Since then Lee has returned and said this is not a subdivision plan and is not a town right of way. They are taking the well site. It does require the plan to be signed by the Planning Board. The Registered Land Surveyor said it is more than an 81-P.

WW asks how it can be an 81-P if there is no frontage.

D. DiMartino explains they are not building the road to

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subdivision standards so they would need to waive everything. The Plan of Land is in place. He is asking the Planning Board to approve the taking plan which was approved last night at the Town Meeting. The question is if the Board is willing to sign the plan in this form so they Land Surveyor can take it to Land Court. The Board has the option to sign it tonight. P. Herr didn't understand why it had to be a subdivision either. It is not a subdivision - they are unbuildable lots. If the Board is willing to accept the plan and signs, the Land Surveyor will take it to Land Court. He will come back at the next meeting if they have to come back for the subdivision if Land Court won't record it. He wants to keep the hearing open. No one else at Land Court felt this should be a subdivision. He asks if the Board will sign the plans approving the Plan of Land Taking which is the last sheet of the definitive plan.

RL understood it was a right of way.

WW asks what is to stop Dick Hill from coming in once the Board signs this.

AM explains they are doing a right of way. There is no frontage because this is not a legal road.

D. DiMartino notes there will be a building but it is not habitable, only a pumping station.

RL moves to sign the Taking Plan of Land, Well #12, right of way. PC seconds. Vote of 4 (AM, RL, WW and PC). EM absent.

RL moves to continue to October 24, 1996 at 7:05 p.m. WW seconds. Vote of 4.

MINUTES ACCEPTANCE

RL moves to accept the September 12, 1996 minutes as written. WW seconds. Vote of 4.

DISCUSSION RE: STORAGE OF PLANS

Clerk explains that old plans which are stored in the cellar of Town Hall are exposed since they are in boxes on the top of filing cabinets. Clerk met with D. DiMartino who has storage shelves for his plans at the DPW and is willing to allow the Planning Board to use half of the shelves to store the plans. The problem is that the plans would be at the DPW with old files remaining in the cellar and recent files and plans in the old Board of Health room. Denis Fraine asked if the Board could wait a year since Town Meeting approved money to hire an architect to

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refurbish the Town Hall Complex. Everyone has problems with file space so they are considering having a storage area for everyone. AM doesn't see why the Board can't use the Board of Health room in the interim to store plans.

HIXON FARMS DECISION ENDORSEMENT

Members review decision drafted by P. Herr.

Clerk reads P. Herr's comments relayed during a phone conversation this afternoon. Hixon Farms engineer faxed T. Sexton the details which he is okay with but he hasn't seen the actual plan. Lee Ambler has reviewed the decision which he is okay with.

RL moves to sign the Hixon Farms Definitive Subdivision decision. PC seconds. Vote of 4 (AM, RL, WW and PC). EM absent.

RL will file the decision with the Town Clerk tomorrow.

GENERAL BUSINESS

Members received a copy of a memo from Denis Fraine relative to a Master Plan Workshop scheduled for Monday, October 28, 1996 at 7:00 p.m. in the Town Hall Annex. RL comments that it is something which the entire Board should attend.

Members review the pending lawsuit complaint against Board members for the Deer Run Cluster Special Permit and Definitive Subdivision. Clerk notes that Mr. Yasick, the plaintiff, requested copies of additional minutes which were not provided since they hadn't yet been endorsed by the Board. Town Counsel advised that the copies shouldn't be sent until we receive payment for the copies requested which were provided. AM instructs Clerk to send a letter to Mr. Yasick asking him if he still wants the copies. AM notes that Town Counsel has a conflict with this so special counsel will be handling this for the town.

SUMMERLAN ESTATES DEFINITIVE SUBDIVISION CONTINUED PUBLIC HEARING

AM abstains from the public hearing. WW takes over as Chairman. Clerk reads Amended Decision issued by the ZBA for Edith Tuttle, 172 Laurelwood Drive, Hopedale for premises located at 8 and 14 Hartford Avenue. The Bellingham ZBA voted 4-1 to grant a 185 foot plus/minus frontage variance to Edith Tuttle for the premises. The variance is granted for Parcel B and the driveway is to be located as shown on the plan dated January 1996, revised April 1996, Bibeault and Florentz Engineering Co., Inc. The ZBA

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hereby amends its decision to include a variance from the "Lot Shape Factor" provisions of the Zoning Bylaw, it being the intent of the Board that Parcel B is a buildable lot. This amendment must be filed at the Registry of Deeds prior to any Building Permits being issued. Members voting in favor: Ed Clair, Robert Andrews, Art Paturzo and John Sikonski. Member against Mort Ben-Maor.

Albert Florentz, engineer, explains that the Zoning Board gave a variance for a 15' right of way but it was really 18' once it was surveyed. They will have one house on lot 2 and one house on lot 1.

WW asks who Edith Tuttle is.

Tom DeVitt, realtor, from the audience, states that she is the current owner of the property.

WW states that the landowner's name should be on the plan. The owner on the plan is listed as Summerlan but he is not the owner. Who is the variance for?

T. DeVitt indicates that it is under a purchase and sale agreement. The variance is for E. Tuttle.

A. Florentz can revise the plan.

T. DeVitt states that she is still the owner until it is done and recorded. This is part of the old Tuttle farm which goes way back to the 1920's.

RL notes there should be something on the plan which says there will only be one lot.

A. Florentz presents the zoning plan and points out the wetlands.

T. DeVitt explains they revised the driveway. The dotted line was the original driveway but there was a problem with neighbor Sara McCallister which has been resolved and she is very happy.

RL reviews the August 22, 1996 minutes relative to limitation on the original plan.

A. Florentz will add "can not be subdivided" right under the area.

T. DeVitt is fine with that since that is their intent anyway.

WW is confused about the variance. Does it go with the land?

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T. DeVitt responds the variance goes with the property.

A. Florentz notes it is part of the land, almost like an easement.

T. Devitt asks if it is possible for the Board to vote tonight subject to the changes being made.

WW indicates that the Board was already asked by someone else to approve plans which were not ready yet. The decision can be drafted and won't be signed until the next meeting as long as the changes are completed by then.

RL doesn't agree with the variance.

A. Florentz will make the two changes. Can't be subdivided doesn't sound right. He will check with P. Herr about the wording and he will correct the owner.

RL moves to approve the Summerlan Estates Definitive Subdivision with the condition that Lot 2 cannot be subdivided. PC seconds. Vote of 3 (WW, RL and PC). AM abstains and EM absent. Decision to include that our decision is predicated by the two variance received from the Zoning Board of Appeals. A. Florentz will use an October 10, 1996 revision date on the revised plan. Summerlan decision to be done at 7:00 p.m. on October 24, 1996.

CORRESPONDENCE

Board received letter from Walter Amory, Amory Engineers relative to Brookside Estates, dated October 7, 1996 wherein he states that the plans revised September 26, 1996 are acceptable, as they relate to drainage. He does note for purposes of clarification, rip rap stone for the detention basin overflow spillway should be specified as conforming with Massachusetts Highway Dept. Specification M2.02.3. He also notes there may be groundwater in the detention basin during wet weather periods.

Clerk reads memo from P. Herr, dated October 3, 1996, relative to First Street status wherein he states: To be eligible for a building permit a lot must have frontage on a "street" as defined in the Bellingham Zoning Bylaw, that frontage measuring at least 20 feet, and usually more. First Street is not a public street or a street certified by the Town Clerk, and it is not shown on a subdivision plan approved by the Planning Board, apparently since it predates that Board. It does appear to be a way which was in existence in 1956 when the Subdivision Control Law became effective in Bellingham. A determination has to be made by the Planning Board regarding whether or not that street meets the

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standards of the definition part (c), whose language comes directly from Section 81-L of Chapter 41 MSL. That determination requires a complex judgement call. The process is up to the Board. Usually an applicant presents a plan of the lot for endorsement by the Board and the plan is acted upon without a public hearing. If the determination is likely to be contentious, then the Board might prefer to give notice of when they are going to be acting on the matter so that interested parties can be present, and perhaps can speak.

RL explains that someone was excavating to put in a foundation and the Building Inspector stopped him so they can check whether or not it is a buildable lot. The question is whether or not First Street is a street.

AM reviews map and points out that Lots 5 and 6 have homes on them which were built years ago.

RL thinks they would be making a pre-existing nonconforming lot bigger.

AM believes the question is if 5 and 6 have frontage then why can't someone build on lot 7.

RL asks about the condition of the street.

PC indicates it is just a private way right now.

AM instructs Clerk to forward P. Herr's memo to L. Ambler requesting his determination and input relative to P. Herr's memo.

SPRING MEADOW DEFINITIVE SUBDIVISION CONTINUED PUBLIC HEARING

Greg Rondeau, applicant, requests a continuance because Amory is not done analyzing the drainage for the subdivision. They haven't had enough time to change the plans. They have to make the changes and then resubmit to Amory for review.

Clerk reads comments from phone conversation with P. Herr this afternoon when he said that this is at least one month away from completion and suggested the Board extend the timeframe.

RL moves to continue to November 14, 1996 or the date of the November meeting (we will have one meeting since our 2nd meeting falls on Thanksgiving - Clerk to check with P. Herr as to his availability). PC seconds. Vote of 4 (AM, RL, WW, PC). EM absent.

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RL requests that Clerk prepare an extension request form which can be filled in by applicants.

Greg Rondo presents extension to December 12, 1996. PC moves to grant the extension to December 12, 1996. WW seconds. Vote of 4.

CORRESPONDENCE CONTINUED

Members review letter from Lee Ambler, October 4, 1996, relative to waiving subdivision regulations wherein he states it is "inconsistent with the intent."

The Franklin Zoning Board of Appeals sent a notice of continuance of their public hearing for the Leo Mayewski comprehensive permit to October 17, 1996. This is the first hearing being held since P. Herr's memo was sent to the ZBA. RL notes they will have to come back here.

Clerk reads letter from the Conservation Commission, dated October 2, 1996, updating the Board relative to the filings for the Charles River Center, Hartford Avenue. The Commission verified the physical location of the wetland through the Request for Determination of Applicability process. Wetland flags accepted are demarcated in the "B" series, flags B-1 through B-29; A series, Flags A-1 through A-37; and C series, flags C-1 through C-9. He is sure the applicant will be submitting plans reflecting relative positions of these flags. The applicant will be required by town Bylaw, to file for a Special permit under the Water Resource District section. Important issues relating to water quality for storm water discharges in the water resource district must still be addressed. Best engineering practices seem to indicate that mitigation can be successfully achieved, however, specifics will be subject to review by the Executive Office of Environmental Affairs through an EIR, the Conservation Commission through a NOI, and the Planning Board and consultants through site plan review and the special permit process. The reduction of impervious material from 85% to 52-53% has received Commission endorsement with two critical provisos. First, that the aforementioned water quality issues are successfully addressed and second, that the area to the east of the property containing ten (more or less) acres be preserved in perpetuity through Conservation Restriction approved by Division of Conservation Services or outright deeding to the Bellingham Conservation Commission. It is vital that the eastern portion of the property remain undeveloped. Failure to protect this area could lead to subsequent proposals in the future by these or other developers which may result in a cumulative impact greater than the 52-53% proposed and quite possibly as high as the 85% as

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originally proposed. Without assurances regarding protection of this area, the Commission will not endorse the applicant's request for a special permit.

Bruce Lord, Esquire, from the audience notes that the requirement is 35%. The town would be accepting a reduction of the standards without any real return back.

RL notes the town would be getting 10 acres of Conservation land.

Clerk called B. Lord to advise him that the Chestnut Hill insurance binder has expired. B. Lord indicated that he is waiting for a response from Lee Ambler before forwarding another binder.

Discussion relative to Development Plan Review fees. The fee is \$50 for the first 10 parking spaces and \$3 per space above that. Dairy Queen intends to replace the building they have and re-stripe the parking lot. Should the Board charge them for the parking spaces even though they already have parking there? Dean Cooperative Bank Site Plan which is coming up at the next meeting paid for parking which they already have and sent a check for \$262 when they are actually reducing the parking by 6 spaces. Board decides to return check to Dean Bank and charge them the flat \$50. B. Lord believes the Board should get more and charge a \$250 flat fee. Board to hold general discussion at the next meeting for DPR and SPR fees.

Board received letter from Engineer David Oberlander, BDO Engineering, which is one of the firms recommended by D. DiMartino identifying hourly rates and fees associating with independent reviews. Clerk to forward to D. Fraine.

Discussion re: Master Plan Agreement. Town Counsel, has advised in his letter of September 30, 1996, that he received a highlighted version and has no objection to same. P. Herr's office forwarded a highlighted version to the Board on September 27, 1996. Members agree to sign to Master Plan Agreement since everyone is now satisfied. Clerk to send a copy to Denis Fraine.

DAIRY QUEEN DEVELOPMENT PLAN REVIEW MEETING

Clerk reads notice of review meeting.

Chuck Samiotes, engineer, is with the Dimacopoulos family who runs the Dairy Queen. They would like to develop the site as a more modern structure. They haven't been able to find out if they need to come to the Planning Board.

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AM believes they do since they are demolishing the existing structure.

RL notes they are not changing the use but they are altering the parking.

C. Samiotes explains they have an existing structure which is 2 story. The footprint of the building is 1865 square feet. With the second floor it will be 2821. They have 38 parking spaces, 1 handicapped. The proposed building will be in the same general vicinity with parking around. There will be a drive through with one way circulation into the site. The proposed building will be 2815, one floor.

WW asks if the second floor is for living accommodations.

T. Dimacopoulos responds it is not specifically used for that. It is used for business too.

RL believes the key is they are totally demolishing and starting fresh. Once they knock the building down, it is not longer in existence. They are building a whole new building.

AM believes they are seriously altering because the base will be larger.

C. Samiotes explains the applicant asked the Building Inspector for clarification but he couldn't give him clarification.

WW believes it is triggered by #1, under Section 1420 under new structure.

C. Samiotes indicates it is not #3, substantial alteration to the parking since they are bringing the parking into compliance with one parking space for every 2 seats. They are providing 25 spaces for 50 seats. The original proposal was for 56 seats.

AM believes it would be less confusing if they were using the same foundation.

RL thinks they should look at this as a fresh lot once they tear down the building.

AM instructs Clerk to send a letter to Lee Ambler and ask him to advise the Board relative to the question of whether or not this requires a DPR.

C. Samiotes thought they were coming here informally to discuss the gist of the plan.

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Clerk reads comments from P. Herr provided verbally this afternoon. The plan is not complete. He faxed the checklist to Samiotes on Monday but hasn't heard from them since. He assumes they will correct everything. He thinks what the owner is trying to do is right.

C. Samiotes will be happy to complete plans. They are trying to show the Board what they are doing. He suggests a continuance of the hearing and next time they will deal with the issues of lighting and landscaping.

T. Dimacopoulos is trying to see what the Common is doing and would like to conform. The signage will conform to the new Town Common sign.

WW asks why they want to build a new building and cut down on the parking.

T. Dimocopoulos explains the efficiency of the drive through system. Now they have a limited setback. He asks about grandfathering of 5'.

AM notes that once they change the structure of the pre-existing nonconformity, the grandfathering goes away.

RL views the architectural drawings and comments that it is in conflict with the character of the Town Common and the shopping center in the rear which will both be designed with a more colonial design. It doesn't fit with the character of the Town Common with colonial facades and village type fronts.

AM discusses the flat roof.

C. Samiotes indicates it will be a better traffic pattern with one way in and out with the drive through availability of cuing and room for cars to pass. He points out the dumpster pad and abutting property which is also owned by the Dimacopoulos family. There will be a concrete path with a sidewalk around and a fence in the back for storage and other things. Right now it is 96-97% impervious. They will have a lot of grass with grass in the front and maybe benches so people can sit and enjoy their ice cream. They are dealing with Dairy Queen corporate headquarters. Ted has issues and problems with corporate headquarters. This is a throw back to the 50's and is better than what is there now. The entire site plan will be better. This is the first store with that design in the northeast.

WW asks if there are any other designs which meet the town's Bylaws.

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T. Dimacopoulos responds that he is an individual with limited funds. This is the newest plan DQ offers. All other plans have been put aside right now.

Clerk reads comments from D. DiMartino, dated October 10, 1996, wherein he states that the proposed plan closes in the present, somewhat unrestricted, driveway aprons and entrances. It also appears the proposed work has no adverse affect on the site drainage or traffic flow.

RL asks about the kind of drainage existing now.

T. Dimacopoulos responds there is a catch basin in the back connected through the Plaza drainage system.

C. Samiotes intends to put in drywells to reduce the runoff. They are locating and constructing a new septic system. For curbing, there will be a trough with solid plate. Drainage structure doesn't have to be 4' under grade. They are proposing the runoff to flow overly with an overflow design to the street. Guerriere & Halnon did the survey. There is no indication where the drainage goes that way. The overflow will go to a perforated PVC pipe, which allows it to go underground and gives further storage. He will get the plan to P. Herr by Thursday of next week.

AM advises that we need a complete submittal.

WW notes that the Board shouldn't even be discussing this tonight because it was incomplete.

AM instructs Clerk to check with P. Herr about the fee but thinks it should be required for all parking.

PC moves to continue to October 24, 1996 at 8:30 p.m. RL seconds. Vote of 4 (AM, RL, WW and PC). EM absent.

T. Dimacopoulos advises that the building will not be as bright as it seems in the picture.

GENERAL DISCUSSION

Clerk researched Crossroads files and minutes relative to WW's question of a vinyl coated fence. Vinyl coated was only mentioned for the Home Depot Garden Center. WW views the fence details from the Crossroads plan.

Clerk researched RL's question relative to the New England Country Club Paine Street access. In September 1990, NECC

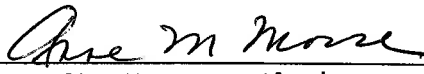
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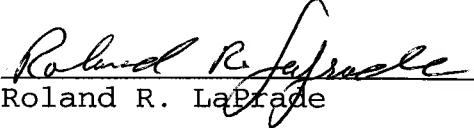
returned to the Board for a recommendation for relief from the covenant which said they couldn't use Paine Street after 1989. Their intent was to create a lower Paine Street access after construction was started and close off the existing access. They no longer intended to build the bridge because of the prohibitive costs. After the November Town Meeting approved the covenant relief, the developer returned to the Board for the revision to the subdivision to use Paine Street and create an entrance at lower Paine Street. Approval was given but because of the financial difficulties of the developer, the amendment was never signed and recorded, so the approval is not valid.

WW instructs Clerk to send a letter to A. DaPrato, developer of Chestnut Hill requesting an updated insurance binder. Condos are built and people are living next door. What happens if the detention doesn't work? Clerk to phone Lee Ambler first and ask him how to handle this situation.

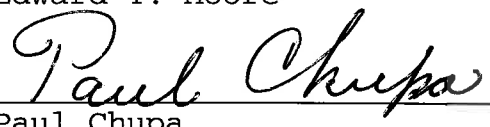
PC moves to adjourn at 9:40 p.m. WW seconds. Vote of 4 (AM, WW, RL, PC). EM absent.


Anne M. Morse, Chairman


William M. Wozniak, V. Chair


Roland R. LaPrade

Edward T. Moore


Paul Chupa