

BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

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

MINUTES OF REGULAR MEETING

March 27, 1997

Meeting was called to order at 7:05 p.m. All members were present. Associate Member Richard Dill and Board's Consultant, Philip B. Herr, were also present.

CHARLES RIVER CENTER PLAN ENDORSEMENT
DISCUSSION RE: PARKING PLAN REVISIONS

P. Herr explains there are questions relative to small revisions to the plans.

Lou Masiello, Sumner Schein, is asking for the Board's interpretation.

Robert Frasier, W/S Development, introduces Phil Terzis, Hoyt Cinema representative.

Phil Terzis presents a plan of the building with 14 screens, stadium seating, ticketing, snack and self service snack area and a cafe for 57,000 square foot building. They will be exiting both ends of the building and that is part of the reason for seeking the change to the site plan. This is a prototype building which is at other locations in the northeast. He presents the front and rear elevations. The building will have a stucco finish similar to the facade at Crossroads. He points out the tower and signage which will be to the rear of the building with a metal finish and neon letters. The ends of the building will be corrugated metal surface.

EM joins the meeting at 7:10 p.m.

P. Herr asks about the height of the building.

P. Terzis responds it was designed to fit the zoning of 35'.

AM asks if the top exceeds the height limitations.

P. Terzis indicates it meets the zoning which calls for 10' higher than the building. He does not have the exact numbers for

MINUTES OF PLANNING BOARD MEETING

MARCH 27, 1997

the height.

P. Herr notes that one issue is the height. It is the only issue the Board has jurisdiction over.

L. Masiello points out it meets the required height of 45' maximum.

R. Frasier states the architect had a meeting with Stu LeClaire and designed the building according to the town's standards.

P. Terzis uses an architectural ruler and scales the building at 44' with the tower at 10' above that.

WW thought there were 12 cinemas not 14. They increased two.

L. Masiello replies there were always 14. The criteria for parking is on seating rather than the number of screens.

Andy May, resident, notes that when he first came here it was 12 and about 1 ½ months ago it changed to 14 screens.

RL joins the meeting at 7:15 p.m.

P. Herr reads from Section 2610 (a) of the Zoning Bylaw where it states that no building shall exceed except chimneys, towers, spiers, cupulars, antennae or other attachments to the building not used for human habitation and doesn't exceed the height of the building more than 10'.

P. Terzis replies it is not used for human habitation but there is a sprinkler in the bottom.

L. Masiello explains the Sumner Schein site plan has been approved with the theater and retail having a common wall. They propose a contiguous building. They will slide the theater which will be an independent building with clearance with an adjacent retail building. They sent copies of the plan to Sgt. Haughey. The theater shifts so they lose parking spaces but the building stays within the confines of the permissible building line.

AM asks how many spaces they will lose.

L. Masiello explains 22 spaces were put in a different area. They propose to replace the handicap spaces directly in the sidewalk. The remainder of the parking will be lost in another area. They will have the same number of parking but the location has changed. They are asking the Planning Board to make a determination that the change is within the confines of the special permit which was approved. He brought in the vellum if

MINUTES OF PLANNING BOARD MEETING

MARCH 27, 1997

the Planning Board does concur so the set can be signed.

P. Herr advises the first question is whether it satisfies the approval the Board gave under Development Plan Review and if it is within the scope of the special permit. The letter of the approval is clear it was written to deal with this issue. He reads from the Development Plan approval decision which states it can be revised without resubmittal for Development Plan approval provided it doesn't fall outside the permissible building lines. This is a major change. It makes more of a change than contemplated without re-review.

EM can't see going back through the process because they are moving spaces but there shouldn't be handicapped spaces in the front.

L. Masiello indicates that all the handicapped spaces were in the front.

RL believes it would be a disaster for circulation.

EM makes a motion that he doesn't feel it is necessary to readvertise since they are moving the parking spaces within the same site and they are not altering the number of spaces just moving to another area of the site. PC seconds. Unanimous vote of 5.

P. Herr points out the revised plan from a traffic safety point of view is inferior than what we had before.

Deputy Chief Guerin wants a fire lane. He is worried about people backing out into a fire truck. If he had to put the truck close there would be a problem and they would have to deal with the handicapped people and get them away from the premises.

L. Masiello believes that people would leave on foot and would not enter their cars in an emergency.

PC asks if there is any other place to put the handicapped spaces.

L. Masiello responds the only other place is the landscaped area and the landscaped island but they can't do that without adding impervious area.

P. Herr suggests they could shorten the building by 31'. They could leave the cinema as is but shorten one of the other buildings.

L. Masiello believes that losing landscaping or parking would

MINUTES OF PLANNING BOARD MEETING

MARCH 27, 1997

require a new submittal.

P. Herr suggests they could move the theater and shorten the other side.

L. Masiello advises that is where the tractor trailer trucks go in.

WW asks the reason for the islands. The edge of the parking has a 30' access road. They lost 4 spots with each island.

RL agrees the original plan didn't have islands.

L. Masiello could pick up 4 spots there.

WW asks the reason for adding the islands.

L. Masiello replies the reason is to add and keep more boulevard for the trucks.

RL likes the green spots.

WW believes they lost impervious surface when they moved the islands.

R. Frasier would prefer the alternative than shortening the buildings but it has to work.

P. Herr states it can't be redesigned tonight. The Board has no objections to the parking and the Board agrees to separating the cinema building provided the circulation can be arranged so they don't have parking backing out. He asks if his sense that the Board has no problem is correct.

R. Frasier explains the cinema has to be separated by Fire Regulations.

P. Terzis points out it will add a few hundred thousand to the cost if they don't separate.

RL has no problem with the separation but does have a problem with the parking.

L. Masiello can look at the plan to find a better place.

P. Herr suggests it be reworked and sent to me for review.

R. Dill suggests that people may be going out the other way when the movies are let out at different times.

MINUTES OF PLANNING BOARD MEETING

MARCH 27, 1997

R. Frasier explains they put the handicapped spaces up to the building area so they don't have to cross and have more access to the building.

L. Masiello can look at other places around the site to relocate the parking. He asks if they need to come back here with the submittal.

RL asks why the Board should sign the plan if they will be making changes. He wants to see the changes first.

WW suggests they also put a signature block on the pages for the Board's signatures.

Parking discussion continued to April 10, 1997 meeting at 8:50 p.m.

MAPLEBROOK COMMON CONDOMINIUM SPECIAL PERMIT REVISIONS, CLUSTER SPECIAL PERMIT AND DEFINITIVE SUBDIVISION

EM removes himself from the public hearing since he is an abutter.

Richard Dill, Planning Board Alternate Member sits in on EM's behalf.

Clerk reads Notice of Public Hearing.

Bruce Lord, Esquire, attorney for Longview Realty Trust, explains they are here for 3 separate things, 2 special permits and a subdivision. The condominium plan was approved in 1984 for 250 condos from Blackstone Street to Maple Street to be done in 4 phases.

AM asks how many units were actually constructed.

B. Lord replies 123 were. Longview has a wide looping road through the whole project. An 81-P plan divided the area. 4 buildings with 23 condos are separate. All the property was deeded to the condo association. In 1992 Walden had financial problems and his client had an agreement with them to complete the condos. They are requesting 948,000 square feet, which is the area to be taken out of the condo association and transferred to Longview Realty Trust for the subdivision plan. They have a cluster plan with 20 more condo units which would bring the condo association up to 43 units and 20 single family homes; 3 at the front entrance and 17 along the road. They propose to leave a large amount of open space.

AM indicates the whole condo concept was sold to the Board as

MINUTES OF PLANNING BOARD MEETING

MARCH 27, 1997

being better than single family homes. How can they come in now and say that single family is better?

B. Lord replies it is the situation with this particular condo in order to complete it. There is no sewerage available for the amount of units they could put in there.

AM believes the developer lost the capacity.

B. Lord notes the only ones tied to public sewerage are the new ones. The capacity is not available for this development.

PC explains that after the sewer was installed the units were given 6 months to connect but the Board of Health never made them do it.

B. Lord indicates the sewerage was never offered to the unfinished units. There was never any projection or billing and it was never made available. The 23 units condo association owns 2,000 square feet of a long road which needs repairs. The condo association is in deep trouble if Mr. Cushing didn't take care of the problem. It is an economic difference. The difference is the 23 individuals who bought the units are in a difficult situation because there is no sewer so they can't expand. It is an economic condition which exists and is a problem for the town.

WW asks if they will add more condos to the other side of the street.

B. Lord explains the addition of condos is very long term 3 - 4 years away. Birchwood Grove will be 43 units with 86 bedrooms (2 beds each). They will have 11,034 square feet total lot area per bedroom just in the condo area. The original plan called for 250 2 bedroom units with a total build out density of 8,190 square feet per bedroom. Residential single family clustered units with 4 bedroom will be 12,399 per bedroom. The actual density factor is 11,376 square feet. They will gain 3,000 square feet per bedroom.

P. Herr notes the Bylaw requires 10,000 per bedroom now and did then too. Did they obtain a variance for higher density?

B. Lord replies the submittal contains the basis. In 1990 the plan showed 90 acres. Everything else said 94 acres. There is no plan on record which shows the actual. The condo phasing plans are the only ones on record.

P. Herr identifies questions. First, for whether all parts comply with the Zoning, we need written documentation to walk us through it. This is the 4th time the Board is involved in this.

MINUTES OF PLANNING BOARD MEETING

MARCH 27, 1997

He thought the original proposal was approved at 10,000 square feet per bedroom so there is no change if this is 11,000 per bedroom.

B. Lord states there were 84 acres on the original plan. He refers to the build out density which shows the percentages. Phases 1 through 4 took 21.6 acres. This is 21.7 and the housing is 22.76 with 28 acres open space.

P. Herr indicates phases 1 through 4 are a done deal. The Board should consider the whole Maplebrook development.

B. Lord responds that is why he is giving the numbers for the overall density dealing with dedicated open space. With condos there are fewer children and the fiscal impact to the town is better.

AM has a problem with this since the whole condo concept was sold because of the sewerage and because this would be a private road. There is a benefit to leave it the way it is because it will never become a town accepted road.

Ted Clorin, Trustee and unit owner for the 23 units is also on the FinCom in town and asks if he can speak without a conflict of interest. (B. Lord responds affirmatively.) He has lived there since 1993 and manages the property as a trustee. The fees they pay are the highest in all the Bellingham condo associations which he understands is not the town's problem. The 23 units would be paying higher condo fees if they were not subsidized by this developer. A couple of years ago, Mr. Cushing came to them with a proposal and 3 pages of covenants which were negotiated to protect their interest in order to convert to single family homes.

AM does not believe this is their miracle answer to the road.

B. Lord is making a presentation based on the approve preliminary subdivision.

WW asks about the 4 new units.

B. Lord explains there was nothing done with the original condo proposal because of the sewerage. There will be a limited amount of sewerage available after January 1, 1998 and there is a possibility of getting sewerage for the 20 units but that is not possible for 130 units. They can't be built without sewerage. This is a town situation because the unit owners are town residents. There would be \$100,000 more in taxes from the condo units which is not much. They propose to complete the road and bring it up to standards. This would bring finality to the

MINUTES OF PLANNING BOARD MEETING

MARCH 27, 1997

project when the road is brought up to town standards. They will stop at the cul de sac with a turnaround. Mr. Cushing has no obligation to take care of the road since the condo association owns the road.

Brad Cushing, Longview Realty Trust, didn't make empty promises to the Board. He asks that the Board be fair to him. He bought the project from Walden and the FDIC and is trying to make it work. It is to his benefit to bring the road up to code and finish the project. He owns the development rights and makes the commitment. He spent a lot of money engineering the road and has maintained and plowed the road right along. If it is the Board's decision that they want 130 condos, he is out of there. He has been paying taxes to the town which the condo association can't afford.

AM explains her perspective. She doesn't know that there needs an influx of children. The Board was sold that the condos were a better plan than single family housing.

B. Cushing wants 20 condos and 20 single family houses and is relinquishing his rights to 130 condo units.

AM believes the town would be given the road to maintain and more students for schools.

B. Lord presents the number of children with 250 condos versus new proposal: 250 condos produces 52.5 children. Presently there are 29.4 children with 140 condos and with proposed single family .45 children which equals 10 children. These numbers are based on actual census figures from the Town of Bellingham. They propose 40,000 square foot lots with the cluster for a superior subdivision than most built in the town. More condos pay more taxes. This is not the same proposal which was turned down in 1984. The small condo units numbers work. The main factor is density since the town would be getting a lot of open space and doesn't lose taxes. The town benefits from the state with open space. 40,000 square foot lots have greater assessed value.

PC notes that since he has been on the Planning Board he believes the Board has discouraged condos since they aren't selling. No condo development in town has been finished.

RL points out the road is a good bypass and is used constantly by town vehicles. It should be brought up to town standards and should be a town road. What happens when the condo association can't afford the bills? - that is not a good situation. This is superior than all the condos which were proposed.

B. Lord states Mr. Cushing paid the town \$35,000 in back taxes.

MINUTES OF PLANNING BOARD MEETING

MARCH 27, 1997

He is a good responsible owner.

WW asks what D. DiMartino said about the road.

AM refers to the 12 houses on the cul de sac. What happens if the other condos decided they wanted a gate?

P. Herr indicates that if the residents of this condo have rights of egress to the other road, then the other condos can't gate it.

WW believes if this doesn't become a public road, it will become Form A lots.

B. Lord explains the purpose for filing with the state is to change the name to Birchwood Grove and the right to take the property out of the condo association.

RL asks if it is their intention to deed the open space land to the Conservation Commission.

B. Lord replies the ConCom would like them to do that since the town benefits.

WW asks if this is brought up to town specifications, can the other existing condo development ask to get their section town accepted?

PC notes that part is not up to town standards.

B. Lord further explains the utilities are in the ground with water, electric and sewer in. This puts a finish to the project. RL asks about the possibility of having green space separate the areas.

B. Lord replies it is not because of the wetlands, but every lot has green space around it.

WW asks if the condos which are there are sewerd privately.

B. Lord responds that 4 buildings have town sewer.

RL asks if the sewer can be tied in with the houses when capacity is available.

Don Nielson, engineer, Guerriere & Halnon, notes that would require a pump station because it is a down hill push.

RL would like to see a dry line in case the capacity is available for the houses. He sees the houses have the potential for sewer. PC agrees there would have to be a pressure line.

MINUTES OF PLANNING BOARD MEETING

MARCH 27, 1997

B. Lord could put the lines in but can't guarantee they could be used.

P. Herr asks what they are looking for tonight since there is a sequence to the decisions.

B. Lord would like to deal with the amendment tonight. At the next meeting they will present the site plan and the engineer will present the technical aspects.

AM would like to speak with town Counsel and would like his input. The cul de sac is a private road. They are talking about a hammerhead.

P. Herr refers to the concern that it might get gated by the other association. If it happens, what can they do about it?

B. Lord believes that the situation relative to gating off is the same whether this is approved or disapproved.

PC states almost half the old condos use Blackstone Street to get out so they wouldn't want it gated.

WW states that the road from Blackstone Street is really deadended but it could be waived.

P. Herr understands that AM wants assurance about the second means of egress and suggests they check with Town Counsel.

T. Clorin has been in contact with Sgt. Haughey about people who fly through there. He told him the police can't patrol it because it is a private road. He would have to take down the speeding car's information, make a complaint and appear in court himself. The best situation for them were if it became a town accepted road at town standards.

RL asks if they have the right to use the other road to S. Maple Street.

T. Clorin will have to check.

AM thought a special permit was not transferable.

B. Lord explains this one was already transferred. Nothing says a change in name can't be approved. They did an 81-p from the other condos and divided a section from the frontage on Blackstone Street.

RL moves to continue to April 10, 1997 at 9:10 p.m. Clerk to send letter to Attorney Ambler asking him about the egress issue. WW

MINUTES OF PLANNING BOARD MEETING**MARCH 27, 1997**

seconds. Vote of 5 (AM, WW, RL, PC and R. Dill).

MINUTES ACCEPTANCE

RL moves to accept the February 20, 1997 minutes with a correction to page 2 to change Center Street to Pulaski Blvd. PC seconds. Unanimous vote of 4. (AM, WW, RL and PC).

EM rejoins the meeting.

TOWN ENGINEER SUBSTITUTION PROPOSED TOWN MEETING ARTICLE

EM moves to recommend the Bylaw to change Town Engineer to Town Inspector. WW seconds. Unanimous vote of 5 (AM, WW, RL, EM and PC).

P. Herr points out that it may be inappropriate to ask the Town Inspector to do what the Town Engineer was doing. He will check the Bylaw and get back to the Board.

CHARLES RIVER RESTAURANT WATER RESOURCE DISTRICT SPECIAL PERMIT AND DEVELOPMENT PLAN REVIEW PUBLIC HEARING

Janice Hannert, Fafard Representative, explains this is a 6,000 square foot restaurant located at 495/126 at the site of the present ski and bike shop. They are applying for a special permit in the Water Resource District for more than 30% impervious surface and removing 70% of ground vegetation. The plan was revised since the last meeting. She met with the ConCom on March 12, 1997 and went over the plans. They explained the plans were done in close cooperation with the Charles River Center. She goes back to the ConCom on April 9, 1997 with a Notice of Intent which will require an Order of Conditions since they are within the Water Resource District. She spoke with D. DiMartino who said he had nothing further to add. As requested in the March 21, 1997 Fire Dept. letter, they included a fire hydrant which will be moved back to its original location.

Deputy chief Guerin is happy to have the hydrant moved back.

P. Herr refers to two issues. The special permit for Water Resource District is in 2 parts. Unless it is approved all details are moot. This is a seriously flawed arrangement.

Clerk reads comments relayed from Cliff Matthews, Chairman, Conservation Commission, today during a telephone conversation when he emphasized that although only a small portion of the project is in the 100 foot buffer zone, all the drainage will go into the detention facility and because of that it is jurisdictional to the ConCom. The whole parcel is in a Water

MINUTES OF PLANNING BOARD MEETING

MARCH 27, 1997

Resource District. This is a separate project from the Charles River Center and is 100% in the WRD. The Planning Board should look at it from that point of view. He suggests the Board look at the WRD map to see the whole property is within the WRD.

J. Hannert agrees the entire lot is in the WRD.

P. Herr indicates the drainage for the entire lot was anticipated in the analysis and treatment for storm water included in the Charles River Center.

R. Frasier agrees the 21,000 square foot parcel was considered 100% impervious under the Charles River driveway movement. They did not calculate the actual existing lot for the Fafard property in their impervious surface percentage but the additional would be about 1%.

EM asks the percentage of impervious coverage on this lot.

J. Hannert replies if it is considered separately it would be high in the 80's. They had a lot more green area but the Board requested they line the driveway up so that cut down on their green space. The easements for widening Hartford Avenue in the future also cut down on their green space. Per discussion with the Conservation Commission, the project was designed with total parking in mind.

WW asks about replacement land.

J. Hannert explains there is an easement to the detention basin area which has a greater amount of green area.

P. Herr notes the green area to the right side got larger. They would be putting their drainage into one of the better drainage systems this town has ever seen.

EM states the Board granted the WRD special permit based on the ConCom's recommendation. This is uphill. They gave up land to move the road. All the way through, they have been the loser.

R. Frasier agrees it must have a separate Order of Conditions.

P. Herr indicates the ConCom is making a recommendation to the Planning Board.

RL believes the proposal would insure ground water protection better than right now since now there is impervious surface.

J. Hannert agrees the first 2" rainfall will carry oil and grease which is a better situation than what is there now.

MINUTES OF PLANNING BOARD MEETING

MARCH 27, 1997

AM thinks the Board could explain their reasons to the ConCom.

RL asks where the drainage on site goes.

J. Hannert replies it now goes into the wetlands in sheet flow.

EM thinks the Board should explain to the ConCom why the impervious surface was reduced - because they kept taking land to widen the opening.

P. Herr believes the ConCom wants assurance that what the applicant is doing doesn't jeopardize the wetlands.

RL moves to suggest P. Herr draft a positive decision for the WRD. EM seconds. Unanimous vote of 5.

P. Herr notes they are removing vegetation from the east side to the left. Relative to the site plan, how does a pedestrian get to the restaurant?

J. Hannert is not showing a sidewalk along the street.

R. Frasier identifies a pedestrian walkway on the other side.

J. Hannert would be happy to include a crosswalk to connect across.

P. Herr refers to the second issue relative to the hard to read drawing - fire trucks won't make it in the kinky entrance. There are a number of ways to cure it. One is to move the nose back down but the issue is they will lose storage space for cars to make a left turn. We would prefer the left turn not occur but if it does it should occur far away. The second is to build a retaining wall on the other side of 495 which leaves the same capacity. It would move a row of parking and the entrance would go in straight and would move the building back. The retaining wall does away with the slope and gets rid of the kink. The third way would be to remove a row of parking and drive in straight and put the building in straight but the applicant would say there was not enough parking and would have a smaller building. This is an invitation to accidents. One of the three ways to correct it should be carefully considered.

R. Frasier suggests moving the island in the back to accommodate the radius. They would have 2 full lanes coming in which could stack up.

P. Herr points out the left turn lane has one car storage which is not a happy solution.

MINUTES OF PLANNING BOARD MEETING

MARCH 27, 1997

J. Hannert will look at it to make an improvement and bring it back to the Board.

P. Herr suggests if they move the left turn closer to Hartford Avenue, they could hear from the Charles River Center traffic Engineer that he thinks it is not a matter of safety concern but it would entail changing the Charles River plan.

RL thinks they have more spaces than what they need.

J. Hannert needs all the parking for the restaurant.

RL suggests if they lose a couple of spaces, they could straighten the point out.

P. Herr agrees it would make it better. He refers the question relative to setbacks to Town Counsel. The purpose of setbacks is not served. The Planning Board can't waive setbacks. We should receive a letter from Town Counsel about the setback interpretation. He will send Clerk a letter with a plan to get to Town Counsel for his review. If he assumes it is okay to measure from the easement rather than the edge of the right of way and the pedestrian issue is resolved and the wiggle in the entrance is resolved with an easement for sewerage across the Charles River property. Crossroads site has grown another sign with the PetCo temporary sign.

R. Frasier agrees it will come down.

J. Hannert indicates the existing sign on their site is to remain. It is a separate issue.

P. Herr describes the sign as illegal and it should have been removed some time ago. The Board could sign off on everything but the sign.

EM asks why the sign is not a pre-existing nonconformity.

P. Herr responds it doesn't relate to the activity on the premises. The Bylaw is explicit it should come down within 6 months. They can cure it - the minute the restaurant comes in, they can hang a restaurant sign.

RL asks about the Charles River Center sharing a sign.

R. Frasier agrees it makes sense to put everyone on one sign. There is no pylon sign on their site.

P. Herr agrees it would be a wonderful solution to share the sign.

MINUTES OF PLANNING BOARD MEETING**MARCH 27, 1997**

R. Frasier notes that whatever sign is there would need a variance because it would be over 100 square feet.

EM moves to continue the Charles River Restaurant DPR and WRD special permit to April 24, 1997 at 8:00 p.m. WW seconds. Unanimous vote of 5.

EM moves to grant an extension to May 20, 1997. PC seconds. vote of 4 (WW, RL, EM and PC). AM not present for vote.

OLD COLONIAL PLACE DEVELOPMENT PLAN REVIEW CONTINUED

Clerk reads February 28, 1997 letter from Town Counsel wherein he states that as a result of an applicant seeking Development Plan Approval presenting a plan with a new building addition, change of use or requiring a parking increase of 10 or more spaces, then the Planning Board must consider the factors recited in Section 1420 which include factors of Section 3500. With a new plan being submitted, the Board is obliged to consider all factors of said section, and the plan as submitted must meet those requirements. According to Section 3510, the Board may authorize alternatives to all of the specifications described as plantings, planting areas, additional screening, existing vegetation exceptions and maintenance, and by doing so they do it by taking into consideration existing vegetation, topography soils "and other site conditions". The ability of the Board to act in this capacity, is subject to your providing that equivalent screening, shading and articulation are achieved. So to the extent that an applicant is making a new application for alterations to his existing nonconforming plan, the Board has the authority to make said plan now conform. As to the need to conform, he suggests the Board review Sections 3531, 3532 and 3533, and in addition, to insure that there is compliance with the front yard requirement as to the proposed building addition, with regard to the installation of the concrete wall which would appear to be within the 20 foot setback requirement. He asks that the Board accept this opinion with regard to inquiry concerning other developments which do not come into play unless there are applications pending before the Board on new buildings, additions or changes of use which require parking increase of 10 or more spaces. Relative to screening via private agreement, the Board cannot take that issue as serious at this time in that it is unenforceable by us and is not a matter of public record to the extent that we have any idea as to the extent of same or what the obligations with regard to maintenance may be. In the future if the Board is going to approve a plan which contains a private agreement, it should incorporate the private agreement within the confines of the approval and make the same a matter of public record so that subsequent owners of both properties would be aware of their rights and obligations.

MINUTES OF PLANNING BOARD MEETING**MARCH 27, 1997**

Clerk reads March 5, 1997 letter from DPW Director Donald DiMartino with the following suggestions: 1. he changes suggested by Mr. Broidy are fairly significant so they should submit a revised plan of the exit with the location of all signs and islands before the Board's approval. 2. He suggested to Mr. Broidy that a directional island might be more effective than a no left turn sign. 3. The DPW has no short term plans to construct sidewalks on this section of Rt. 140 but we are moving to extend the sidewalk system throughout the town. There is the potential that within 3 to 5 years sidewalk construction in this area would be undertaken. The proponent should not install shrubs within the road right of way. Any shrubs installed should be installed on the private property of the proponent. 4. The DPW has no issue with the plaza's sign at this time. 5. He understands that Safety Officer Sgt. Haughey has suggested that vehicles parking on Mechanic St., in front of this development, will be ticketed for illegal parking. He would prefer to see some type of curbing installed along this area to act as a more permanent deterrent to parking. If the Board chooses not to require the curbing, the proponent should install 2 "No Parking" signs at a minimum.

Clerk reads Deputy Fire Chief letter wherein he requests that screening not be placed behind the buildings to allow access for emergency vehicles.

Clerk reads February 28, 1997 letter from Mass Highway District Highway Director Margaret O'Meara to Donald Nielson, Guerriere & Halnon. The district has reviewed the site plan for the proposed modification of existing curb cut, Mechanic Street, Route 140. A defined driveway opening from the gutter line of the State Highway is required. The edge treatment of the driveway opening shall be either granite curb or bituminous concrete berm "type - A" modified depending on the edge treatment of the State Highway. The maximum width of the driveway opening at the gutter line shall be 84' and the radii shall be 30'. The driveway shall be the only area within the State Highway Layout to be paved. The areas from the existing curb of the State Highway to the State Highway Location Line shall be established as grass plots. In regards to the existing curb along the front of the property, a resurfacing Project has been advertised for this section of Route 140. This Project should re-establish the reveal of the granite curb. The district reserves the right to make further comments upon receiving the Permit Application regarding this location.

Ed Broidy, applicant, explains the intent of the plan is to shade away the people who live on David Road and hide the back. He points out the fire hydrant and landscaping in the back. There is a fence in the back around the transformer and landscaping outside. There will be a fence to cover the back of the building

MINUTES OF PLANNING BOARD MEETING

MARCH 27, 1997

6' stockade. He proposes to widen the driveway and put in the necessary signs for in and out. In the front the state requires 84'. He will have a right turn only out and will provide a lane. He agrees to make a right turn island. He will provide 11' to the back of the new building. He left a 4' walk. Lights will be lowered on the building. In the back there is a high wooded area where he does not intend to put up a fence. If the fence is missing he will donate to the neighbor. He is willing to give him money to have 6 sections installed at 8' each for 48' total. The reason he won't go further is there are 2 paths back there where children come through the woods and take a short cut to the bus. If he puts up a fence, kids will knock it down. He will put up a fence where it is needed. He has complied with everything the Board wants.

EM refers to Town Counsels opinion relative to an easement.

Bruce Lord, Esquire, abutter, is asking that the plan conform with the previous plan. He wants the applicant to put a fence all the way along. He asked the applicant to maintain it. He would be glad to deal with an easement but wants it maintained. If the applicant is not willing to do that, he wants the original plan enforced. His site needs to be screened. He is willing to work with the applicant. He asked him to maintain the fence and would be glad to give an easement. There is no cost to the easement.

E. Broidy refers to Attorney Ambler's letter which says the Board has the right to waive. He has no problem with paying for the fence but doesn't want to put his contractor on it. He is willing to have the fence installed.

RL would not waive it.

E. Broidy has agreed to do everything the Board asked. He can't trust B. Lord.

EM asks him about maintaining the property. Will he put in writing he is willing to maintain the fence?

E. Broidy is concerned B. Lord will do something for spite. He will allow \$200 per year to maintain the fence whether Mr. Lord needs it or not. He will put down that B. Lord has to maintain it.

EM notes that B. Lord doesn't want the money but wants the fence maintained. He could take the money and go on vacation and not maintain the fence with it.

WW refers to Fire Dept. request about allowing space to the back

MINUTES OF PLANNING BOARD MEETING

MARCH 27, 1997

of the building. In his opinion it would be faster to get in through the front door but he understands the Fire Dept. position.

Deputy Chief Guerin states that with not knowing emergency procedures one can't understand why he is requesting access to the back of the building. He didn't put in amount of feet required.

PC asks what happens if Mr. Broidy sells the property.

E. Broidy will put a covenant in the deed for the \$200 maintenance but he doesn't want to have to maintain the fence.

EM points out there is no reason to offer \$200 per year. It is too much.

E. Broidy will not maintain any of the fence in the back. The fence in the back is not doing anyone any good.

RL notes that doesn't insure screening. He could sell the property and still not have screening. He could waive it but doesn't want to. If he can't come to terms with his neighbor, he will have to put the screening on his own property.

WW states when Mr. Broidy bought the property, he bought the problems with it. The Board has the power to require he comply.

B. Lord discovered the property lines were too close in 1989. In 1990 he came to the Planning Board to get a plan signed to cut off part of the parcel to correct the situation but shortly after the owner went bankrupt. In 1994, Mr. Broidy bought the property. He doesn't disagree with the Fire Dept. but the paved area is his property. It is a liability situation for him because he can't remortgage. He wants Mr. Broidy to agree to accept liability for the paved area and maintain the screening. He is not asking him for money. He will give full permission for an easement to maintain it so he doesn't have a liability problem. He is asking for insurance for liability. He doesn't think he is being unreasonable.

E. Broidy does think so. The Board does have the right to waive it. He is doing everything necessary.

EM asks why the Board should sign a plan or approve a plan they know is not right.

EM, RL, WW and PC will not waive. AM disagrees. 4-1 vote not to waive.

MINUTES OF PLANNING BOARD MEETING

MARCH 27, 1997

EM explains the new building creating 10 or more parking spaces triggers it.

WW states the project was never completed when it was taken over by the bank.

AM notes that if the applicant doesn't touch it and leaves the building as it is, B. Lord can't make him do anything because it is over the statute of limitations of 7 years.

E. Broidy will eliminate the building. It is 2 separate parcels and 2 separate pieces. The Board will have to treat them separately.

EM and WW don't know if that will work. EM notes Mr. Broidy could have had approval 1 month ago. All he had to say was he would screen his property from the abutting residences. He would expect a fence if he lived there. Mr. Broidy is willing to give everyone a fence except B. Lord.

WW moves to continue since the Board hasn't gone anywhere with this plan.

RL moves to disapprove the plan as shown. WW seconds.

E. Broidy asks for 2 alternatives as a courtesy.

RL withdraws his motion. The 2 options are: 1. legal agreement with B. Lord about the property lines and how it will be taken care of which document will be recorded or 2. Mr. Broidy will put the screening on his own property.

E. Broidy agrees to put a 6' fence down his own property.

EM asks how he can screen since his property is lower.

PC suggests Mr. Broidy have his attorney talk with Mr. Lord to come up with a simple agreement.

E. Broidy doesn't think it is right to bend to a disgruntled neighbor.

AM suggests he show a reasonable attempt through his attorney. B. Lord said on record it is a free agreement for the maintenance agreement with him.

E. Broidy agrees to maintain the fence but not where it is open 40'.

AM advises he needs an easement from B. Lord.

MINUTES OF PLANNING BOARD MEETING

MARCH 27, 1997

WW asks about the setback issue.

E. Broidy removed the high curb and changed the grade.

Deputy Chief Guerin asks about the 15' to the rear of the building.

E. Broidy agrees to move over 1' more but can't do more because he doesn't want to be short on parking.

AM states the Board needs a legal agreement and P. Herr should look over the revised plan prior to the Board's vote.

P. Herr agrees to review the plan and get back to the Board.

E. Broidy asks for approval subject to the presentation of an enforceable easement.

Lucia Caccavelli, from the audience, asks when Mr. Broidy will start construction.

EM moves to continue Old Colonial Place to April 10, 1997 at 9:30 p.m. RL seconds. Unanimous vote of 5.

WW moves to grant an extension to April 24, 1997. PC seconds. Unanimous vote of 5.

E. Broidy asks when he can start his building.

P. Herr replies he can start when he brings construction drawings for the Building Inspector.

E. Broidy will apply for the curb cut to 140.

SPRING MEADOW DEFINITIVE SUBDIVISION DECISION ENDORSEMENT

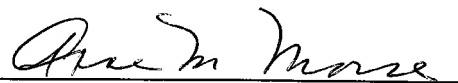
Greg Rondeau, applicant, reviews decision. Maintenance agreement is discussed. EM moves to sign the decision. WW seconds. Unanimous vote of 5. RL will file the decision with the Town Clerk tomorrow.

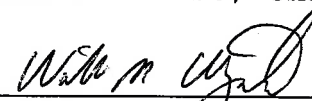
Members sign invoice for legal advertising for Town Inspector Substitution Article and U.S. Postmaster for stamps.

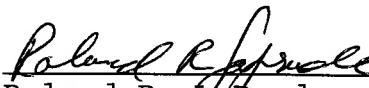
Meeting adjourned at 11:30 p.m.

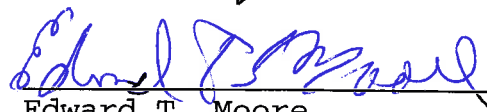
MINUTES OF PLANNING BOARD MEETING

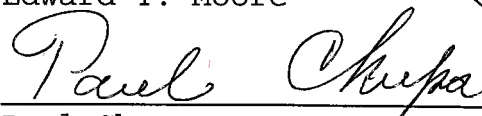
MARCH 27, 1997


Anne M. Morse, Chairman


William M. Wozniak, V.Chairman


Roland P. LaPrade


Edward T. Moore


Paul Chupa