

**BELLINGHAM PLANNING BOARD**

**P.O. BOX 43**

**BELLINGHAM, MASSACHUSETTS 02019**

**WILLIAM M. WOZNIAK, CHAIRMAN**

**ROLAND R. LAPRADE, VICE CHAIRMAN**

**PAUL CHUPA**

**ANNE M. MORSE**

**EDWARD T. MOORE**

**MINUTES OF REGULAR MEETING**

**MAY 8, 1997**

Meeting commenced at 7:04 p.m. All members were present. Associate Member Richard Dill was also present.

**DISCUSSION WITH TIMOTHY JONES, DEER RUN ESTATES DEVELOPER**

Tim Jones presents letters to show that there was no violation of his special permit.

Sgt. Haughey, Safety Officer understands that some residents of Pine Grove were upset with the developer because the traffic is being directed through the development. He is here to explain that because the developer is working in the center of the road, there is a 10 - 15 minutes/ wait for people to get through the street. The officers are giving the drivers the choice to take a left and go through the project. People are going through at their own choosing instead of waiting. The officers are trying to alleviate the traffic. The Chief wrote a letter stating that the police are allowing vehicles to pass through for safety reasons.

T. Jones presents a copy of page 3 of the Definitive Subdivision which states that during construction on Pine Grove, construction traffic shall access the site via Pulaski Blvd. except as required for work on Pine Grove Ave. He also presents a copy of the August 22, 1996 minutes where it says that EM understood that there will be a temporary opening for construction vehicles to Pine Grove. The Police Chief wrote to the Selectmen explaining the unregistered vehicles are construction vehicles. He is not in violation and is here to present the facts to back him up. The newspaper said the contractor was in violation and he is not. He just wants to get the job done. They are putting the water line in Pine Grove now. Yasick responded to the DPW in writing that he doesn't want a sewer stub and won't be able to open up the street for 5 years.

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PC believes he could in an emergency.

T. Jones notes that Yasick verbally threatened his contractor to stay off Yasick's property.

Sgt. Haughey indicates they can't force Yasick to connect.

AM sees no problems with this Board and believes it is nitpicking. The developer has done everything he was supposed to do.

Sgt. Haughey reaffirms the Police Dept. is redirecting the traffic for safety reasons instead of making vehicles wait. El Gee Products is doing the same thing.

Clerk to send a letter to Bill Yasick indicating that based on correspondence from the Police Chief and at Sgt. Haughey's recommendation and explanation, the Planning Board has no issues with the developer. Police Chief letter to be forwarded with correspondence.

### **81-P SUBMISSION**

Leo Mayewski presents an 81-P for 3 nonbuildable lots at Stonehedge.

EM doesn't understand why he needs to do this.

L. Mayewski explains they don't have a strip of land through there.

EM knows they were supposed to show the surrounding land. He reads notes on the plan stating that Lots 16B, 2B and 1B are nonbuildable lots. He moves to sign 81-P for Pentad Realty Trust. PC seconds. Vote of 4 (AM, WW, EM and PC). RL not present.

### **PINECREST AMENDED SUBDIVISION CONTINUANCE**

AM spoke with Roger Gagnon and discussed a release. She requests a motion to continue to later on tonight since developer is not here and may be running late.

WW moves to continue to 8:35 p.m. PC seconds. Vote of 4 (RL not present).

### **ELM ESTATES DRAINAGE ISSUES**

Steve Choinere, Arcand Street, was here at the last meeting. The additional drainage system added to Elm Estates which was supposed to alleviate problems directed the drainage to Arcand Street. He is in the process of selling his house and has water in his cellar. The street is fractured and there is water in the street.

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AM asks if Mr. Gagnon was notified.

S. Choinere has been dealing with Emile from the DPW since last April 1996 when it was flooded. Emile talked with Roger directly when Roger said he would take care of it. Emile had a couple of men walk the site. Everyone admits it is a bad situation.

PC notes the Planning Board has directed the DPW to review the drainage.

Roger Gagnon joins the meeting and explains he put in a drainage ditch but someone pulled the pipe up. It is buried in the ground and covered with a 2' swale.

AM believes that would be a difficult feat and doesn't think someone could pull it out.

S. Choinere notes there is a pond there. The pipe is supposed to be 34" minimum below ground.

Joe Kauker, 23 Bellstone Drive, indicates the plan says the drainage easement with a pipe runs to the back of his mother's lot. Is it installed?

AM points out it should be done per plan.

J. Kauker asks again: Is there a pipe there?

R. Gagnon responds there is and it was put in by the developer not by him.

EM reads from plan which states 4" PVC wrapped under drain. They are both supposed to have a pipe.

PC states that someone didn't build it correctly.

S. Choinere refers to court case findings against Planning Board, Town of Bellingham. He asks if that agreement is binding for future developers.

EM states that if this happened before the approved agreement, it should be put on record.

PC believes that a lot of this is civil and beyond the scope of the Planning Board.

WW indicates that whatever is on the plan and is approved should be in the ground and should work.

R. Gagnon states there is a drain to the front of his (J. Kauker's) mother's house, It is drained to the whole back with a subdrain.

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EM notes that apparently it doesn't work.

J. Kauker states that if it is there it should be inspected by the DPW. He wants the DPW to say they signed off. D. DiMartino is coming up on Tuesday and they will meet on his land.

AM questions town employees going on private property.

EM believes they can find out if it was inspected and by whom.

R. Gagnon doesn't lie. He will dig it up to show them. This is the first time he heard about it. He did do the ditch. He will meet with S. Choinere.

S. Choinere asks what happens after the meeting with D. DiMartino.

PC responds it depends on what he says.

EM explains they can advertize to put up bids. If it is the best thing, they will try to get the developer to do it which would be the quickest and easiest way.

S. Choinere did contact R. Gagnon's office and spoke with his son. He thought the Board said an independent engineer could review it.

Mrs. Choinere wants to see the correct drainage there.

J. Kauker agrees. He wants what is on the plan to be there.

R. Gagnon, S. Choinere and J. Kauker leave to go view the drainage on the property and drainage problems on Arcand Street and will return later.

## **NORTH STREET REZONING ARTICLE CONTINUED PUBLIC HEARING**

EM explains this was continued from the last meeting because the applicant needed a map to show the surrounding land.

Bruce Lord, Esquire representing applicants, explains this is a 17 acre property on North Street which was brought to the Board last year. It is divided into 3 separate parcels on the deed. He presents a plan which shows the zoning. Green is the part to be rezoned. Red is zoned residential with a finger to Blackstone Street. All white is agricultural. They request to rezone to suburban. They attempted to rezone to residential last year. Suburban would allow them to build 15 lots including 1 residential lot at the end. It was divided into 10 lots per 81-P under the present zone. With suburban they would gain 4 - 5 lots. There are 13 lots directly across the street, some duplexes. All the yellow is either the same size or smaller lots than what is requested.

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WW asks about the frontage.

B. Lord responds that 3 - 4 are below what the frontage is supposed to be today for suburban and have reduced frontage. 150' is suburban and 125' is residential. The Board received a letter from D. DiMartino about a 20' easement for the road and they have no problem with that. It would clearly be an advantage to the property owner but they can't put that as part of the motion. The property has been owned by the Thayer family for 80 - 100 years. It is really in line with the other lots in the area.

WW asks if they can get 15 septic systems in.

B. Lord responds affirmatively. With 40,000 square foot lots, they meet Title V. The lots will be 40,000 at the end and they will still have 2 lots at 2 acres which are large lots. They already looked at perking. The land is low in the front and high in the back so they can't get a road in.

EM moves to close the hearing.

Jay Fadden, 131 North Street, is not against them building. He is on 2 acres of land. What is to stop others from coming in one year and asking for 1 acre lots because this is 1 acre?

EM responds it takes a Town Meeting to do that.

B. Lord indicates the Planning Board doesn't forget. The next person will have a hard time using the same argument.

Mr. Kempton (applicant) states Varney owns the land across the street. This zoning is what the Master Plan is proposing for acreage.

AM explains there has been discussion about getting rid of residential and making everything suburban.

B. Lord refers to the 20' easement in the front which the DPW is asking for. They are agreeable but it can't be done as part of the Board's motion or recommendation.

PC believes it is to fix the drainage.

B. Lord explains history of North Street - built in 1700's. Nothing exists other than the pavement.

PC believes that 40,000 square foot are good size lots.

B. Lord explains as it is they can build 10 at 2 acres each.

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PC notes this only changes the frontage. The depth is still there.

Mr. Kempton notes that Mr. Fadden bought his lot from the Thayer family.

AM explains the applicants were in here last year when the Board told them it would be difficult to go to residential and suggested going to suburban.

J. Fadden asks who owns the land behind him and what they will do with it.

Mr. Kempton responds the family does and claims Fifth.

WW moves to close the hearing. PC seconds. Vote of 4 (RL not present).

EM moves for the Planning Board to recommend rezoning to suburban. PC seconds. Vote of 4 (AM, WW, EM and PC). RL not present.

### **SPRING MEADOW DEFINITIVE SUBDIVISION PLAN ENDORSEMENT**

Greg Rondeau, developer, presents the approved plan for signing and a copy of the covenant. He will send a copy of the covenant after it is recorded.

Clerk notes the Spring Meadow Definitive Subdivision was approved at the March 27, 1997 meeting.

EM moves to sign the plan approved March 27, 1997. WW seconds. Vote of 4 (AM, WW, EM and PC). RL not present.

Board Members sign plan. Mr. Rondeau will make 4 copies of the signed plan and forward to the Board for distribution.

### **INFORMAL DISCUSSION WITH PHIL RICE RE: 4 LOTS N. BELLINGHAM**

Phil Rice spoke with Denis Fraine and went to P. Herr's office and showed him this parcel which is on the Franklin town line.

Associate Member Richard Dill joins the meeting at 8:15 p.m.

William Bissonette, abutter, joins the discussion and refers to a builder, Marguerite, who was interested in this parcel but couldn't build.

P. Rice explains they are 40,000 square foot lots with 150' frontage. They meet the build factor for 40,000 square feet.

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RL joins the meeting at 8:17 p.m.

AM views the plan and notes there can only be 12 lots on a cul de sac. How many exist on the street?

P. Rice responds there are 12.

B. Lord notes there is not enough frontage on the street. It looks like it doesn't meet the requirement as it sits.

W. Bissonette explains that is why Marguerite didn't meet the requirements. Attorney Neil Roche was misinformed. He was stopped dead in his tracks.

P. Rice met with D. Fraine and P. Herr and neither one of them mentioned the number of lots on a cul de sac requirement.

EM suggests Mr. Rice could buy one of the houses. There are only 12 houses on a dead-end street but not if it goes through.

B. Lord states if there is an active lawsuit, the Planning Board can't act.

EM explains the Planning Board could waive the 12 on a dead-end requirement but it would be waived for safety reasons.

### **81-P SUBMISSION**

Guerriere & Halnon Engineer Donald Nielson, submits an 81-P for Chickenville Realty Trust to subdivide 15 acres into 2 parcels - lots 2 and 3. Zoning is industrial.

EM notes they have the frontage and two lots - motion to approve 81-P for Maplegate Realty Trust. PC seconds. Unanimous vote of 5 (AM, RL, WW, EM and PC).

### **MAPLEBROOK COMMON CONDOMINIUM CONTINUED PUBLIC HEARINGS**

EM abstains and removes himself from the hearing room.

Bruce Lord, Esquire, on behalf of applicant, Longview Realty Trust, presents a request for extension to June 30, 1997 and a continuance of the public hearings to June 26, 1997. They would like to come in on a night that P. Herr is here. They are asking for the continuance because there are issues with Lee Ambler which are very involved.

WW moves to continue Pinecrest to 9:00 p.m. RL seconds. Vote of 4 (AM, WW, RL and PC).

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EM not present.

Clerk reads P. Herr's May 8, 1997 memo wherein he states that he received materials from Attorney Lord but nothing new from Guerriere & Halnon. Questions raised in his April 10, 1997 memo remain unanswered. There are disparities between the submitted narrative and the submitted drawings. One of many possible ways of considering the land availability in this situation: the town authorized townhouses on these premises under the original special permit at a density not to exceed 7,000 square feet per bedroom. Some 194 bedrooms were apparently constructed, requiring 31.2 acres of land for zoning compliance. The parcel area of 84.4 acres zoned agricultural minus 31.2 acres for 194 bedrooms leaves not more than 53.2 acres for subsequent development, regardless of where divisions have been created within the land acted upon as a single entity by the Planning Board. Under current zoning, the 20 single-family homes proposed in the cluster development would require 36.7 acres of lot area, some of which would be open space, but none of which would be street area. The 86 bedrooms in townhouses proposed at Birchwood Grove would require 19.7 acres of lot area under current zoning, if that is applicable, or 13.8 acres if the original zoning is still applicable. If new zoning applies to the condos 56.4 acres are needed for the condos plus the cluster, exceeding the acreage which is available to be credited to new development, even before taking area for streets into account, or deducting for wetlands. If old zoning applies to the condos, the lot area requirement overall might just barely be met. Getting to a more exact understanding of allowable development requires drawings which can be understood and narrative which is consistent with those drawings.

RL moves to continue to June 26, 1997 at 8:30 p.m. with approval for the extension to June 30, 1997. WW seconds. Vote of 4 (AM, WW, RL and PC). EM not present and abstains.

### **GENERAL BUSINESS**

RL moves to accept the March 27, 1997 minutes. PC seconds. Vote of 4 (AM, WW, RL and PC). EM not present.

EM rejoins the meeting.

Clerk presents Bellingham Shopping Plaza plan which P. Herr forwarded. One of the plans was copied at Attorney Bruce Lord's request at Land Planning. They were unable to copy the other plan because of the double size of the plan. Members instruct Clerk to find a place where the plan can be copied and to have 6 copies made.

### **ELM ESTATES DRAINAGE CONTINUED**

Roger Gagnon and Steve Choinere return from viewing the drainage. R. Gagnon agrees to go back and redig the trench to try to alleviate the problem.



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S. Choinere notes the pipe is above ground and stops. R. Gagnon agrees to bring the trench from the catch basin.

R. Gagnon will have it done on or before June 8, 1997. He will put in swale and pipe. He never saw the 34" buried below ground on the plan.

S. Choinere will still meet with D. DiMartino.

AM would like D. DiMartino to look at it prior to R. Gagnon doing anything. R. Gagnon should talk with D. DiMartino about what he wants to do since he may have input.

R. Gagnon agrees to put the trench in.

### **CHARLES RIVER CENTER PARKING REVISION PLAN ENDORSEMENT**

Clerk reads May 6, 1997 letter from Roy Smith, Sumner Schein, stating that the minor revisions requested at the last informal Planning Board meeting including the addition of four landscaped end cap islands with the associated loss of 8 parking spaces has been incorporated. They will pick up the plans after they have been signed and forward the appropriate copies after they are made. Clerk reads May 7, 1997 memo from P. Herr wherein he states they have reviewed the changes made in the May 6, 1997 revision to sheets L-1A, L-1B and L-2 comprising the Landscaping Plan for the Charles River Center which are in compliance with town regulations and consistent with Board requests.

EM moves to sign the Charles River Parking and Landscaping plan sheets noted in P. Herr's memo. PC seconds. Unanimous vote of 5 (AM, WW, RL, EM and PC).

### **STALLBROOK PARKING ADDITION DISCUSSION**

Clerk reads April 25, 1997 memo from P. Herr wherein he states that adding 38 parking spaces to a parking lot where that addition is voluntary and not required is subject to Site Plan Review by the Planning Board under Section 1430 but not Development Plan Review under Section 1420. The procedure is for the applicant to submit plans to the Building Inspector together with a site plan review fee which is \$50.00 plus \$3.00 per parking space. The Building Inspector forwards 2 copies of the drawing to the Board who acts without published notice. The issues are the safety of the parking arrangement, meeting lighting and landscaping requirements, and assuring that no drainage problems are created. No other agencies need to be involved under that section of the Bylaw. The applicant need not attend the meeting at which the plan is reviewed but it would be a good idea to do so in case there are questions. A copy should be sent to him at the same time the Board receives a copy.

WW notes that now is the time to fix the entranceway. He would think this change would trigger

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a change to the entranceway.

### **PINECREST AMENDED DEFINITIVE SUBDIVISION** **CONTINUED PUBLIC HEARING**

Roger Gagnon, applicant, explains the bank told him to make sure he got a release signed to make sure he is protected. The owners could make him buy the property back. He presents a Certificate of release for Lot 1 and 2, Pinecrest Court and a Form F, covenant.

EM moves to continue to June 12, 1997 at 7:15 p.m. with approval for an extension to June 19, 1997. PC seconds. Unanimous vote of 5 (AM, WW, RL, EM and PC).

Clerk to send the covenant and lot release to Town Counsel Lee Ambler and ask for his comments including whether it protects the people in the houses and whether it is precedence setting - reference letter previously sent by the Board which RL doesn't believe was ever answered. Clerk to find letter received from Lee Ambler in response to Board's original request and forward along to Lee Ambler.

WW notes he will never sign the Certificate of Release or the Approval before the bank signs.

### **OLD COLONIAL PLACE DEVELOPMENT PLAN REVIEW DISCUSSION**

Clerk reads letter dated May 1, 1997 from Lee Ambler, Esquire, indicating that he received documents from Mr. Broidy with copies of Deed of Easements and Agreements and sets of Plans. He conferred with Bruce Lord who advised that the parties have not entered into an Agreement for signature and therefore, the same cannot be recorded and is not enforceable. Until the parties enter into an agreement, execute same and forward to this office, it is his opinion that the Board's approval stands moot.

RL notes the motion said either an agreement or come back with a plan.

Bruce Lord, Esquire, explains Mr. Broidy won't sign the indemnification and that is what is holding it up.

Clerk to send Mr. Broidy a copy of Town Counsel's letter stating that the Planning Board can go no further based on letter from Town Counsel. Copy of the Mass. Highway May 6, 1997 letter (to be forwarded to Mr. Broidy as well) stating the Mass. Highway Dept. requirements for edge treatment of driveways within the State Highway Layout be either granite curb or bituminous concrete berm "type A" modified. Granite curb should be used in areas where the existing edge is defined by granite curb or granite edging. Bituminous concrete berm should be used in areas where the existing edge of the road is defined by bituminous curb, berm, or where no treatment exists. The Mass. Highway Dept. has allowed bituminous concrete berm to be used when the

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edge of the road is granite curb. This was allowed in order for edge of the driveway to match the edge of the parking area. A permit issued may require granite curb be used for the edge of driveway within the State Highway Layout to match the existing roadway if the MHD finds it necessary, or if the local authority so requests.

### **DAIRY QUEEN DEVELOPMENT PLAN REVIEW REVISED PLAN**

Applicant forwarded revised plan which was given to P. Herr to review at the last meeting. Clerk reads P. Herr's May 6, 1997 comments relative to his observations: the dining area on the plans is labeled "seating for 50" and the plan shows 25 spaces, exactly meeting the Bylaw requirement (Section 3320) for that number of seats. Our original understanding was that there would be seating for 56 persons so he trusts that the current drawing is correct. Space #1 is in part less than the required 20 feet from the street line (Section 3332) having been dimensioned from the pavement edge rather than the right of way line. Opinion of Town Counsel re Fafard's restaurant proposal underscores how that measurement is to be made. The encroachment in this case is minor, involving only a corner of one parking space, and is heavily mitigated with landscaping. Space #8 appears to be unusable while the trash is being removed. Although the Bylaw requires no parking for walk-up customers, it appears that there will be quite a number of such customers, adding to parking demand. If there were to be outdoor seating in front of the building, which would be nice, that would further add to parking needs and Bylaw requirements. The building facade and signage have been revised, but he hasn't received drawings indicating such revisions. Earlier concerns re dimensioning, lighting, waste facilities, and other details have now been resolved, leaving only the above concerns. It appears that the Board could in good conscience allow the plan to proceed. However, there is also reason for concern that if the business is as successful as we all hope it will be parking demand might well exceed supply. Note also that almost the entire site is being rendered impervious. The Board may wish to observe this property as an indicator of the merit of in the future requiring some minimum amount of landscaped space in cases such as this one, which is not subject to the usual landscaping requirements.

EM notes they can get away with this because it is pre-existing.

PC moves to approve the Dairy Queen Revised DPR, with reference to the date of the revised plan. EM seconds. Unanimous vote of 5 (AM, WW, RL, EM and PC).

Clerk to send letter of approval to Building Inspector with stamped approved plan.

### **PLANNING BOARD REORGANIZATION**

AM turns the Chair over to Clerk. Clerk calls for Chairman nominations. EM nominates WW. AM seconds. Clerk calls for other nominations. No response given so Clerk calls for a vote. Unanimous vote of 5 for WW as Chairman.

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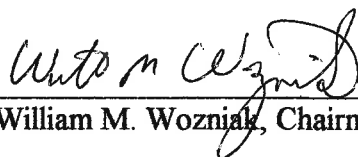
WW takes over as Chairman and calls for Vice Chairman nominations. EM nominates RL as Vice Chairman. WW calls for other nominations. AM nominates EM. EM turns down Vice Chairmanship. AM seconds RL. Unanimous vote of 5 for RL as Vice Chairman.

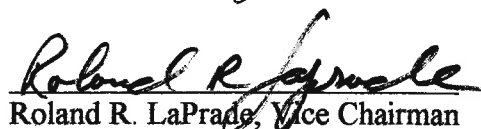
WW calls for nominations for Secretary. EM moves to nominate PC. RL moves to nominate AM. No second. AM seconds PC as Secretary. Unanimous vote of 5 for PC as Secretary.

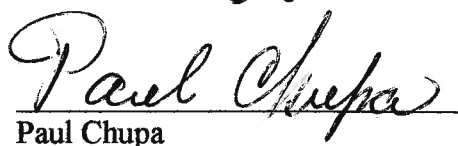
EM moves to reappoint Valerie DeAngelis as Clerk. RL seconds. Unanimous vote of 5.

Clerk to check Richard Dill's reappointment time frame.

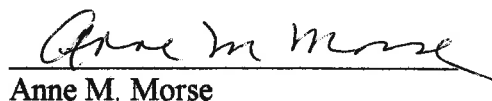
EM moves to adjourn at 9:45 p.m. AM seconds. Unanimous vote of 5.

  
William M. Wozniak, Chairman

  
Roland R. LaPrade, Vice Chairman

  
Paul Chupa

  
Edward T. Moore

  
Anne M. Morse