

BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

WILLIAM M. WOZNIAK, CHAIRMAN

ROLAND R. LAPRADE, VICE CHAIRMAN

PAUL CHUPA

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MINUTES OF REGULAR MEETING

MAY 22, 1997

Meeting commenced at 7:08 p.m. All members were present. Planning Board Consultant Philip B. Herr was also present.

DISCUSSION WITH D. DIMARTINO RE: STREET OPENING PERMIT BYLAW

Donald DiMartino, DPW Director, explains the street opening permit Bylaw came out of the workshop held last year to set a standard for minimum access and prevent situations like River Bank Road which was accepted in 1938 but is not improved and is less than a cart path. A town accepted street should be considered like any other street. This strengthens the street opening permit policy. 10 minutes before this meeting he read P. Herr's comments which show concern about the Bylaw. They could consider changing it on the Town Meeting floor. We are not trying to beat the clock on this. P. Herr's comments come from his experience and other communities.

P. Herr doesn't think anyone will disagree on what the Bylaw is trying to do. The issue talked about when they met in November 1996 was #B Substantive Concerns. If the Bylaw is adopted they can't open a public street unless the street meets town standards. If people come in with a lot, under the Subdivision Control Law, the Planning Board is obliged to endorse it. This won't do anything about the ways which are in existence but are not town accepted roads. He would like to see the Bylaw expanded. The concern deals with the waiver of minimum standards for adequate access. He explains how a waiver of standards for adequate access can be done. The state adopted the Rivers Act but there are lots under the Town Bylaws "lot area is not subject to the jurisdiction of the Wetlands Protection Act." If people asked the Attorney General what that meant using words from the latest edition of the Bylaw reference adopted, the Attorney General would come back and say they can't delegate another body authority to waive the Bylaw.

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EM thought this would be passed over.

RL thinks there will be confusion if they try to change it on the Town Meeting floor.

D. DiMartino responds if they change it, they will eliminate everything after the first two sections and add at a later date.

AM thinks they should wait until October. There could be issues on the Town Meeting floor and more discussion than anticipated.

D. DiMartino explains there are various classifications of roadway. It may be worthwhile to expand it.

WW asks how this would effect Pinecrest. It is a town approved road and a paper street. What would this do to that?

Bruce Lord, Esquire, from the audience doesn't think it will do anything because the houses are already built. According to the Subdivision Regulations, they have no right to stop it no matter what the Bylaw says.

EM notes this is a Town Bylaw and not a Zoning Bylaw.

D. DiMartino understands this restricts what the Planning Board can do and that is not his intention.

WW thought in November 1996, there would be another meeting held to discuss this further.

D. DiMartino agrees they should have had another meeting but with the Master Plan Meetings and other meetings this was forgotten.

RL thinks they should have another meeting.

P. Herr suggests D. DiMartino send him the Bylaw on disk so he can fiddle with it.

D. DiMartino will pass over Article #28 on the Town Meeting floor. Article 31 deals with temporary repairs for certain private ways. It is set in place for the Board of Selectmen to improve certain roads. He has a list of streets which are unaccepted. The list is long and there are major streets on the list. The DPW shouldn't be filling potholes on those streets.

AM asks about drainage for Elm Estates.

D. DiMartino received a plan from Bruce Lord which doesn't have the drainage detail. The

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Planning Board doesn't have the plan either. Mr. Choinere who lives on Rear Elm has two plans. There is a fairly extensive drainage ditch which he questions how it works. There is no crushed stone on the underdrain and he doesn't know how to solve that.

PC thought the swale worked for a few years.

D. DiMartino further explains there is a gradual swale which is not 3' deep or 34" in depth. The top drain pipe has no stone around it. He doesn't know how it was required because it is not on a signed plan.

HERITAGE PINES DEFINITIVE SUBDIVISION **CONTINUED PUBLIC HEARING**

EM abstains from the proceedings and removes himself from the hearing room.

Bruce Lord, Esquire refers to the letter from Amory Engineers, the town's engineering consultant, which the applicant's engineer hasn't had time to respond to yet so he asks for an extension of the hearing to June 12, 1997 and an extension of the time frame for action to June 30, 1997. The Amory letter in particular points out he needs discussion between the engineers so they need permission from the Board to have the engineers talk directly. He asks for the Board to give permission for the Amory engineer to talk directly with Guerriere & Halnon, the applicant's engineer, about what they need, particularly about comments relative to hydrological problems. Mr. Amory is reviewing it himself.

WW explains the Heritage Pines continuance reasoning to the audience.

Kenneth Briggs, 1128 S. Main Street, thought the Board was going to ask independent people to go out to the land.

P. Herr believes the question he has is determining the wetlands delineation.

K. Briggs refers to a spring from Blackstone Street to Potter Drive. He thought the Board was going to ask the Safety Officer to be here and would appreciate it if he could be here for the continuance meeting.

AM asks if they have submitted through the Conservation Commission.

B. Lord responds affirmatively.

AM explains the Conservation Commission does the delineation. They have to go to the Conservation Commission for approval of the wetlands.

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WW further explains the company handling the independent engineering consultant is reviewing the numbers and calculations on the plan.

RL agrees that Amory is reviewing the drainage calculations.

B. Lord notes that Amory actually visited the site. They haven't had an official filing with the Conservation Commission but they will be notified. They have 10 lots of single family homes with the 40,000 requirement. They have 80,000 square foot lots so they could put a duplex on it. They have no control because of the Bylaw.

K. Briggs notes if there are 10 houses and they are duplexes, then that is really 20 houses which is a big difference.

WW asks if they will have 10 single family houses.

B. Lord responds there are 10 lots. It is not the owner's intent to do duplexes because they are unsaleable in this area and have little value for resale.

K. Briggs is concerned about traffic for 10 houses versus 20 houses. They are asking for 10 now.

AM notes they could say 10 but there could be 20. If they meet the requirements for 10 lots, the Board can't stop hm.

B. Lord indicates there are certain restrictions relative to the size of the lot. Some are double lots but the size is geared to what is wet and what isn't. He asked the landowner who said he would not build duplexes because he can't sell them but they can't restrict him.

P. Herr refers to the issue of egress on S. Main Street which is serious. The Board could approve not more than 10 dwelling units constructed on the lots presumably if there is a reason to do that.

K. Briggs asks the reason for creating an intersection across the street at Blackstone Street.

PC points out that Blackstone Street is a cut through.

Steve Patrick, abutter, refers to Harper Blvd. and Kansas Drive which are cut thrus from Blackstone Street. He asks if the road going in would need special permission.

RL responds the Board would have to grant a waiver.

P. Herr explains if the Police Safety Officer testifies that the authorized access would jeopardize life and safety, the Board will look at it to see if they can grant a variance if it is not optimal but they can live with it but they are not obliged to grant it to create something which would be

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intolerably dangerous. The applicant was asked to prepare an environmental analysis but it didn't include all the traffic analysis and did not include a gap analysis which is called for in the Regulations. Maybe the Board should insist they should get it done. The Safety Officer will speak to the issue of site distance.

RL believes it sounds like the gap is an important piece of analysis.

P. Herr agrees it does make a difference.

S. Patrick refers to gaps. There are 3 driveways right there. The road will go into the driveway across the street with 4 entrances at one time. He had his mailbox moved to the opposite side of the street because he couldn't get his mail.

K. Briggs is concerned about the wetlands and speed on 126. Harper Blvd. is residential. There are a variety of issues. It is not just the houses themselves.

Kenneth Bogan refers to the entrance road problem and putting a wall up. In 1974, the people were concerned it would look like another Blackstone Street and the Planning Board would not allow it and talked about the wall.

Clerks reads from the 1975 disapproval wherein it states reasons for disapproval: Street numbers are not shown; Existing monuments are not shown; Lot #5 frontage is not complete as shown; Drawings do not meet the specifications of the Board; Profile does not indicate drainage capacity and velocity; Drainage does not meet the specifications of the Rules and Regulations; No agreement has been made between the developer and the two abutters regarding the entrance of Donna Lane; Cross Section is not consistent with requirements; Right of way widths are below requirements; Street names have not been changed; Pavement width is less than required by Rules and Regulations; No catch basins at intersections as required. Clerk also reviewed old files to come up with the following history: In September 1965 a public hearing was held submitted by Dal-Mor Realty Trust, Joseph Dalpe/Maurice Morin which was approved for 15 lots on October 28, 1965 with conditions 1. Addition of 4 gate valves and 2. 8" size water main (decision dated November 1, 1965. On December 28, 1972, a public hearing was held to rescind the unrecorded plan because of changes occurring in 7 years. It was rescinded on June 28, 1973. A preliminary plan discussion was held on December 12, 1974 with a definitive application on December 20, 1974 by M.N. DiBona Company. On January 9, 1975 a public hearing was held for 20 lots. The Planning Board sent a letter to Mario DiBona asking that he contact abutters Bogan and Courtney. Subdivision disapproved at the February 27, 1975 meeting. On January 29, 1987 an informal discussion was held regarding Heritage Pines petitioned by Howard Wilson and Stavinski.

K. Bogan advises that his and Mr. Courtney's biggest concern is the water problem. They are meeting with Mr. Wilson to discuss the drainage. They don't want to get flooded out.

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B. Lord notes that Amory will recommend curbing be extended down the street to channel it so it doesn't go directly to S. Main Street. He asks the Board to tell D. Fraine it is okay for the engineers to speak directly.

RL moves to allow direct communication between Amory Engineers and Guerriere & Halnon. AM seconds. Vote of 4. (WW, RL, PC and AM). EM not present and abstains.

K. Briggs asks if he will be notified about the Conservation Commission hearing.

B. Lord responds he will be notified if he is a direct abutter.

RL moves to continue to June 12, 1997 at 7:30 p.m. PC seconds. Vote of 4 (WW, RL, PC and AM). EM not present and abstains.

PC moves to extend time frame for action to June 30, 1997. AM seconds. Vote of 4.

MINUTES ACCEPTANCE

RL moves to accept the April 10, 1997 and April 24, 1997 minutes. PC seconds. Vote of 4.

EM submits the DiPlacido Centre Run Estates Definitive Subdivision plan since Don Nielson, Guerriere & Halnon had to leave. Public hearing scheduled for June 12, 1997.

OLD COLONIAL PLACE DISCUSSION

Clerk explains Board received a letter from Mr. Broidy indicating that he and Mr. Lord have been unable to come to an agreement and therefore, he will erect a fence on his own property. He also asked that the Board send a letter of approval to the Building Inspector. At WW's direction, Clerk forwarded a response to Mr. Broidy indicating that a wall and fence was required since Mr. Lord's property is higher than Mr. Broidy's and prior to sending a letter of approval to the Building Inspector, the Board wants to see a plan depicting the screening intended.

WW notes that Mr. Broidy phoned him to discuss this but he was unable to speak with him at that time and asked that he return the phone call. Mr. Broidy failed to call him a second time.

Abutter Bruce Lord explains that the shopping plaza is on his property. If an accident happens he could be responsible. He asked Mr. Broidy to give him an indemnity so someone couldn't go after him. He doesn't care about the fencing and is not asking for money just the indemnity clause.

WW asks why B. Lord doesn't give Mr. Broidy the land.

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B. Lord explains that since he has private septic, he is reluctant to give up any of his land. He has a 37,500 square foot lot and if he gives Mr. Broidy 2,500, he will only have 35,000. If he had a 42,000 lot he would give him the land.

AM suggests he could give it in the form of an easement. He can't prevent him from showing adequate fencing.

B. Lord notes the fencing is on his own property all the way down.

Discussion about sending another letter to Mr. Broidy but Board decides to wait until Mr. Broidy contacts us again. It must be adequately properly screened.

GENERAL DISCUSSION

P. Herr distributes an article from Sunday's Boston Globe relative to Assisted Living Town Meeting Article.

P. Herr understands that Fafard is erecting a sign on his property. A freestanding sign will have to come back but the sign erected is pre-existing use. Board members apprise P. Herr that the Building Inspector ordered Mr. Fafard to bring the sign down.

P. Herr would like to hear the Board's suggestions relative to the Master Plan initial overview.

RL discusses residential strategies for minimum lots of 40,000 square feet and what it will ~~to~~ do to agricultural lots. They would like the Planning Board's input to bring back to the Master Plan.

B. Lord believes there are 2 aspects: 20,000 square foot residential lots would be upgraded which people see as a lower standard. 20,000 square foot commercial lot would be raised to 40,000 square foot in business zone.

EM thinks that maybe the number should be 30,000. 20,000 is too small.

B. Lord notes that a lot of commercial is 20,000 square feet.

P. Herr suggests they look at the map district boundaries and lot lines. People would be outraged if they had to build 40,000 square foot lots surrounded by smaller lots. He checks the amount of residential from the zoning map in the back of the room. Discussion follows relative to the amount of residential land left in town. They may want to change the townhouse revisions in order to get Fafard from utilizing townhouses but it seems unrelated. He doesn't think Fafard will seek townhouses because the town is residential. It would make sense to require larger lot areas to the north of town.

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AM thinks they will gain lots if they do this.

RL refers to North Street where the Planning Board recommended spot zoning agricultural to suburban densities.

AM believes that is a different situation and some of the lots are sized larger.

P. Herr refers to commercial districts with 20,000 square foot lots. People could subdivide business land for residential. If there is a residence in a business district, they could do it on a special permit. Business is so scarce they don't want dwellings to be pre-emptive to business. They have to prove they are not pre-empting business.

AM asks why they want to get rid of all the small lots. A lot of children live in them.

P. Herr refers to the Christy McAuliffe College. Fafard is willing to give a piece of land for institutional use if they rezone to residential.

WW discusses a proposal before the Affordable Housing Committee of which he is a member. Ronca is proposing to build 35 houses on S. Maple Street of which 7 will be affordable.

RL asks if the Planning Board could be in the loop.

P. Herr advises the town blew the Caryville Crossing development because the Board of Selectmen signed off. The issue is if they can get standing. Caryville was signed off at the first level (Board of Selectmen), went to the ZBA and if they turn it down it can go to the state to get approval because it passed the first level.

WW notes the road is a condo road but the road proposed is to be a town accepted road. This parcel came before the Planning Board in 1983 and was turned down for a 10 lot cluster.

B. Lord believes it was because it is wet and the right of way.

P. Herr suggests they change the rules for a large subdivision. Anyone coming in with a large subdivision should be obliged to get a special permit and show a cluster alternative to a conventional subdivision plan. At the preliminary stage the Board would pick which plan to proceed with.

B. Lord agrees it would give the Planning Board more leeway to allow a developer to do a better development.

P. Herr notes they would get more open space and more flexibility for developers. They will go through the process for the town to have more control. He will sketch something up.

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EM asks about restrictions for residential business zones.

P. Herr indicates that elderly people build single family homes on small lots. In Yarmouth there are loads of them. Discussion relative to the issue of multifamily development system which is not now correct.

EM refers to the issue of condos which are never completed.

P. Herr believes it is hard to gauge the right thing to do since the market is soft.

B. Lord believes if they put up condo units, they will be saleable. He thinks the condo Bylaw works nice because it discourages over 50.

EM and RL would like to clean up the issue of detached condos. Discussion RE: Lakewood Development off Lake Street which was turned down a number of years ago which A. DaPrato asked Clerk to provide minutes and decision information.

WW asks how the Affordable Housing is asserting they can get sewer and Maplebrook doesn't have sewer.

B. Lord responds the town never offered it to Maplebrook.

PC notes it was mandated by the state that Maplebrook had to connect.

20 day appeal period has passed for the Fafard Restaurant Special Permit but the Planning Board cannot sign the plan until they receive a variance from the ZBA which they are appearing before in June.

Clerk to provide P. Herr, RL and WW with copies of the Mass. Highway determination relative to Charles River Center proposal and ENF for the American National Power Plant.

Clerk reads May 16, 1997 letter from Lee Ambler, Esquire, Town Counsel relative to the Pinecrest Amended Definitive Subdivision wherein he states that he reviewed forms forwarded by the Board including the decision and Forms F and G. Relative to the decision, the Board makes certain additional conditions and under the first of same make reference to "All subsequent deeds of Lot 1 or Lot 2 must contain...". Please amend to read "All subsequent deeds of Lot 1 and Lot 2 must contain...". Re: first condition under (a) just for purposes of clarity, it might be best to read: "... are to remain in their currently existing states, to wit: without any construction or building which is hereinafter further prohibited in these areas, and no trees existing in these areas may be removed unless by order of the Bellingham Tree Warden, and after notice to contiguous property owners". The covenant may be executed and completed. As to the Form G it indicates that the same having been completed to the satisfaction of the Planning Board then the Lots would be

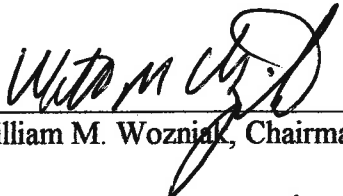
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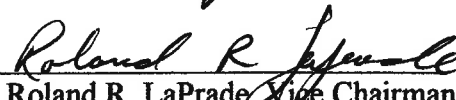
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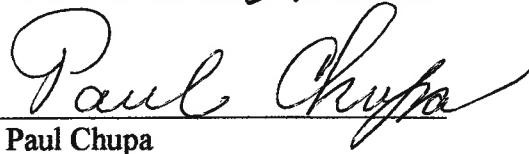
released from the Restrictions as to sale and building specified thereon. There may be some misunderstandings with regard to same as it is my understanding that the Restrictions as to sale and building must be ongoing as a result of the conditions described in the Decision concerning said Restrictions, and therefore perhaps it would be best to say: "Said Lots are hereby released from the Covenant above described". He believes there is sufficient information in the Board's decision to indicate the uniqueness of this particular problem, and therefore it should be for all intents and purposes, far removed from a blanket precedent making decision for other people to rely upon. A copy of this decision has been forwarded to Attorney Kathleen Windsor.


Planning Board July and August 1997 meetings to be held on the 3rd Thursday on July 17, 1997 and August 21, 1997.

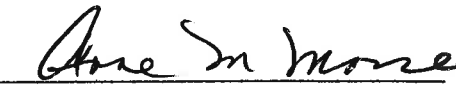
Meeting adjourned at 9:48 p.m.


William M. Wozniak, Chairman


Roland R. LaPrade, Vice Chairman


Paul Chupa


Edward T. Moore


Anne M. Morse