

BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

**WILLIAM M. WOZNIAK, CHAIRMAN
RICHARD V. DILL
PAUL CHUPA
EDWARD T. MOORE
ANNE M. MORSE**

MINUTES OF REGULAR MEETING

OCTOBER 8, 1998

Meeting commenced at 7:00 p.m. All members except for EM was present. Minutes recorded by Planning Coordinator Jill Karakeian.

GENERAL BUSINESS

Mike Dubeau is in front of the Board from Victory Heating & Air Conditioning asking the Board to release their bond that has been posted for the completion of their landscaping. All the landscaping has been done, all the seeding is done, all the irrigation is done, the trees are in, the grass is up and the shrubs and mulch are in as well. The only change that was made was the we did put one of the shrubs near the sign at another location on the site. It just didn't work with the sign layout.

WW states that the building looks great.

AM says that she doesn't have a problem with the landscaping.

AM makes motion to release all funds to Victory Heating & Air Conditioning for Landscaping. PC seconds. Unanimous vote of 4 (WW, RD, AM and PC) EM was absent.

The Board signs monthly payroll for Clerk and invoices including Postage and Office Supplies.

Ted Bailey spoke to the power company and Alexander Capital that developed Rawson Farm. The street lights are going to be erected within the next three weeks. He asked about the waiver to only put 7 street lights instead of the original nine because of the cost to the Town.

AM asked what is happening with the Alternates position?

WW said that we should set up at a time for the next meeting (10/29/98) to have them come in during General Discussion at 7:00.

Jill said that she will contact the applicants and schedule them to come to the October 29th meeting at 7:00.

DEPOT INDUSTRIAL PARK – Preliminary Subdivision – Continued

AM reads the memo from Phil Herr dated August 18, 1998. We have reviewed the Depot Industrial Park preliminary subdivision plan as revised August 17, 1998 for determination of completeness. The concerns raised in my memo of July 26 have all been responded to, so that the submittal now seems unquestionably complete. Further, the substance of the plan appears to meet your Subdivision Regulations, although with discussion some revisions may prove appropriate.

WW says that there are concerns about the strip that Phil refers to as the buffer zone. There is something about leaving a 200' buffer along Box Pond Road that brought up at the last meeting.

John Halnon of Guerrier & Halnon and Joe Antanellis, Atty. representing Varney Bros. And presenting to the Board updated Preliminary drawings for Depot Industrial Park.

J. Antanellis says that last time Mr. Herr made the comment that the Preliminary Plan that we had submitted constituted a legally sufficient Definitive Plan and while he was pouring through the plans he had some comments that he wanted to discuss with the engineering firm. I believe he has written a letter to the Board saying that the minor concerns that he had which is comfortable with them. If I'm right about that letter, then it is our intentions of going forward and file the Definitive Plan within the allowable time.

WW asks if they could high light on Phil's comment with regards to "although with discussion some revisions may prove appropriate." Do you know what that is about?

J. Halnon says that there were only two issues that was discussed today when I spoke with him on the phone. One thing was, one of the buildings that we had at a proposed location of it, next to Box Pond Road. He had a question in his mind whether it was too close to the road, being a different zone. Actually, if you are next to a residential zone, then the side yard increases to a 100'. This is actually 171'. Then, the Boston Edison that goes through the property is a fee parcel. They own it, it's not an easement. He saw our property lines going through it and he had a question about that. We put a "z" on the lines and told him that Boston Edison owns right through. He said that those were the only issues that he had.

WW asked if J. Halnon could point out where the 171' setback is? Says that the issue has to do with the area along Box Pond Road, and with the land when it was zoned Industrial and as far as the setback off of the road. There is something with a buffer zone.

Jill reads Phil's comments with regards to the zoning of Depot Street by the Petitioners with regards to the 200' buffer zone.

J. Antanellis asked if that is with regards to Power Plants or anything that goes there?

WW says that it pertains to any building. Anything along Box Pond Road needs a 200' buffer zone. It is my understanding that it is 200' as a buffer plus the setback of the building.

J. Halnon says that he is not sure of that.

J. Antanellis says that the buildings on these particular plans are not necessarily what is going to be built.

PC suggests that they speak to Phil to get the interpretation on whether it is a 200' buffer plus the setback of the building.

J. Halnon says that this issue shouldn't case the Board not to approve a Preliminary because of a hypothetical situation. In other words, 200', we will move it 200'. If it has to be 300', then you couldn't put a building there within 300'. Probably Town Counsel could advise us on that.

J. Antanellis says that when we come in with the Definitive Plan we will have an answer to that Buffer Zone issue.

AM reads comments from EM at the September 10th meeting. He assures everyone understood, but I think I can explain. On the Zoning Map the proposed rezoning of this article to change the zoning back to Agricultural/Suburban the Buffer strip would not be effected by the description. Apparently, the article and the description some how got construed or misconstrued but, right now if it is to be rezoned the 200' Buffer strip would stay Industrial. This isn't what you want. Right now with the land being Industrial people that come in with plans for Industrial use the Board can say that they want that 200' Buffer to stay to protect the people on Box Pond Road.

J. Halnon asked if they are going to get a written Preliminary approval within the 45 days.

WW says that we will let Phil know what was discussed tonight and he will write up the Preliminary approval.

MINUTES ACCEPTANCE

PC motions to sign the minutes of 9/10/98. RD seconds. Unanimous vote of 3 (WW, RD, and PC) AM was absent from meeting of 9/10/98. EM was absent.

HIXON FARM ESTATES – Discussion of Road

Bill Eagan of Fidelity Financial and they are the Developers of Hixon Farm Estates and he is just in front of the Board to bring them up to date. We have just, in the last couple of weeks sold the last house. We are now getting ready to go back and finish up both roads at the same time.

WW asked what roads he was referring to.

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B. Eagan says the extension of Hixon Street down to the cul-de-sac and also Beaver Pond Road. What we wanted to do was to clarify the Bond. When I had posted the Bond for both those streets, we had met with the DPW and numerated items that had to be done on those two roads. Mr. Bailey with the DPW asked me if there was any mention on those Bonds about doing some work on the old Hixon Street. I said that there wasn't anything in the Bonds.

AM said that we had engineering done by the Developer of the old Hixon Street so that the Town could later do something. That is what I remember.

WW says that the engineering was for the entire Hixon Street.

B. Eagan says what we intend to do is to go back in between now and Thanksgiving and finish up the two new roads that we have built. Then I will be back before Christmas to ask for a release of the Bond money.

AM asked if the binder coat has survived a winter on both roads?

B. Eagan says that Hixon Street has. I don't know if Beaver Pond Road has.

T. Bailey says that both roads have gone through a winter.

WW says that something still isn't right on Hixon Street. As far as what is supposed to be done on Hixon Street. They paid for engineering to be done and what could be done without being on private property was to be done too.

T. Bailey says that there is a note on the drawing that says that pavement to be widened to 20'. Coming up to Barrett Lane. Is that part of the Decision?

WW said that the roadway easement on the plan was there to get the roadway widened to 20'.

B. Eagan says that it says in the Certificate of Approval the right of way width requirements of Section 4241 have been waived for the portion of Hixon Street being reconstructed in light of constraints on potential right of ways enclosed by land and other ownership's.

WW right. That is everything from the beginning of the easement point on the plans down to Hartford Ave. has been waived.

B. Eagan says that there are people that he spoke to including the Belchers who own houses on that end of Hixon Street. They are quite concerned about the road getting widened in front of their homes.

WW says that it was also a major concern of this Board about approving that Subdivision.

B. Eagan asked the reason for the road to be widened?

WW says that it was for safety.

B. Eagan says that the road appears to him that it is easier to get back and forth up at the top of Hixon Street compared to the bottom of Hixon Street near Hartford Ave.

WW well, this Board couldn't force you to widen the whole Hixon Street because it was out of your constraints because of ownership. The top part was not and that is why the roadway easement was put on the plans before approval.

AM says that she thought that people didn't want the widening of the road because they didn't want people traveling fast.

B. Eagan says that the impact that this widening would have on the peoples front yard.

WW says that to approve the subdivision originally we did not have to approve the subdivision because the road was not wide enough to substantiate the amount of traffic in these houses for a dead end street. Our approval was pavement to be widen to 20' at the start of the roadway easement all the way.

AM says that she needs to see the minutes from those hearings to determine what was decided. We need to see what we decided. If we decided to widen the pavement 20' on that roadway easement then, that needs to be done.

B. Eagan says that he just wants to get it clarified and find out what has to be done.

REMMY ESTATES – Preliminary Plan

Brad Allen, Developer for Remmy Estates come before the Board to develop. He also wanted to go on record that he is not affiliated with the prior applicant on the property other than we were both dealing with the same piece of land. I'm really here to speak to the Board about Blackstone Street. I'm trying to establish or determine if there is in fact a Blackstone Street. I was here at the August 17th meeting and it came clear at that point that the Town has not officially accepted Blackstone Street west of South Main. As a result of the August 17th meeting and hearing what Mr. Herr had to say about Blackstone Street. I have done some research to try to figure out whether the street is acknowledged in the deeds of the abutters and property owners along the street. All of the property owners along the street refer to Blackstone Street as one monument and the edge of the property where that property abuts Blackstone Street. I've also walked it to Blackstone.

WW being able to walk or drive on it doesn't mean that it is a road.

WW reads letter dated October 6, 1998 from Don DiMartino of the DPW. I met with Mr. Brad Allen regarding this proposed subdivision. We discussed the following: * The status of Blackstone Street in the area west of North Street as a town-accepted way is not clear. This office could not find any Town meeting records of acceptance. However, the road appears on

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some very old maps of Bellingham. The street also appears on the Massachusetts Highway Department map as being eligible for funding, as a town owned street. *We discussed possible street layouts. I do not recall the numbers of the specific options presented.

AM says that if Blackstone Street is eligible for funding I would think that, that would make it legal.

WW says that it was never town accepted.

B. Allen says that Blackstone Street is funded, Chapter 90 funds. It is funded 2.42 miles and the length from Rt. 140 to the area by the Remmy's house is 1.07 miles. There is about $\frac{3}{4}$ of a mile between the Remmy's house and the Blackstone town line. Blackstone acknowledges Bellingham Street as a Town Road up to the town line.

AM says that Lee Ambler's letter of November 13, 1997 to Bruce Lord clearly a portion of Blackstone Street is not being maintained and used as a public way and therefore this certification cannot be granted as requested. Basically, the only thing we have from Town Counsel is that it is not a public way. That is very confusing if they are getting funds to fix things that aren't town accepted.

PC feels that we need more input from Lee Ambler.

WW I think we should question Lee on the Chapter 90 funds and see how it is being collected. If it is a road or not a road. If it is town accepted or not. Somebody has to prove if it or isn't a road.

RD asked if it is common for the town to only accept part of a street?

WW says yes.

RD if it is not a town accepted road how did they get funding for it? Does someone just call the state and tell them we have this road that is so many miles long and we need money to fix it?

WW I believe that the Town submits a package to the state saying that we have X number of miles of roads in Bellingham and we are eligible for a certain amount of money. Not just one street at a time gets funding, it is a sum of mileage all together.

Marylou Courriveau, abutter on Blackstone Street has a question that the street is currently a dead end street. We also have a Dead End sign that is posted by the Town. I believe that there is only 12 houses allowed on a dead end street. What constitutes a dead end street? There are already 8 houses there and there is a Dead End sign posted by the Town.

RD says that we are trying to determine whether it is a dead end street. Just because you have a sign doesn't mean that it is infact a dead end street.

L. Remmy says that her family had the road blocked off. There was a dirt road going all way to Blackstone. I've lived there all my life. Cars were using it and then the road started to get over grown. We were getting barn fires and people shooting down there. People were driving cars and leaving them there as well as appliances. Kimball had asked us if we wanted to block it off? We got permission from the Town.

AM asked if they got written permission?

L. Remmy says yes, we did.

RD says that if it wasn't a road, then why would you need permission to block it off?

WW asked how much area is between the two barricades?

L. Remmy said about $\frac{3}{4}$ of a mile.

Jim Fuhrman asked if two private owners block a way, would that determine that it is not a public road?

AM they said that they had requested permission from the town to block off the road.

Jerry Corriveau, abutter says that they could of requested from the Town as an act of courtesy as well.

AM asked the Remmy's to send all the information they have regarding obtaining permission to block the street then Jill will include that in the package going to Lee Ambler for his response.

B. Allan would like to get on the next Agenda hoping that we have input from Town Counsel.

AM asked the Clerk what time is available and if we do not have any input from Town Counsel then we can call the Remmy's and let them know.

BEECH TREE ESTATES – Definitive Subdivision Review – Public Hearing

AM motions to waive the reading of the Public Hearing notice for Beech Tree Estates. PC seconds. Unanimous vote of 4 (WW, RD, AM and PC)

Sara Pultz of Salvetti Engineering is infront of the Board to present the plans for Beech Tree Estates, a 2 lot subdivision in Franklin. The development is all in Franklin except for 500 square feet of land is in Bellingham. Franklin has already endorsed. We are creating a private way and the road is to never be owned by the Town. The only waiver that is requested from the Town of Bellingham is the lot shape factor for Lot 3B noted on the plan.

PC motions to accept the waiver for the lot shape factor for Lot 3B. AM seconds. Unanimous vote of 4 (WW, RD, AM and PC).

PC motions to close public hearing for Beech Tree Estates Definitive Subdivision. AM seconds. Unanimous vote of 4 (WW, RD, AM and PC).

AM motions to approve the Definitive Subdivision Review for Beech Tree Estates. PC seconds. Unanimous vote of 4 (WW, RD, AM and PC) EM is absent.

MAPLEBROOK COMMONS – Development Plan Review – Public Hearing (continued)

Mark Babrowski, Atty. and Bob Maskey, Civil Eng. Infront of the Board with updated plans to complete the condominiums at Maplebrook Commons.

WW asked if we had any input from Town Counsel.

Jill said that Lee had no comments as of yet. He was waiting to talk to the Attorney that is involved in this matter.

Mark Babrowski, Atty. said that he did have any appointment to meet with Lee this morning but Lee got chosen for Jury Duty. So, we made another appointment for next Wednesday. Let me just briefly tell you what I plan on talking about with Lee. This is a work out for me, we have an existing project that everyone would like to see completed. We are going to see how this can be modified, how to get it built out in accordance with the Developers and the Town's best interest and also the people who live there, their best interest as well. I have seen Phil's memo raising a bunch of questions. I would say that we will be making an application to modify the Special Permit for the project certainly within the next month. In the mean time we have some changes to the concept plans. Bob Maskey is the engineer and will walk you through this.

Bob Maskey explains that along with Gail Fallon there are other parties now involved in this project that are ready, willing and able to finish the project. Try to meet all the rules and regulations as well as try to accommodate the Town and the other Condominium Associations surrounding the project so that the job gets completed and everyone is happy. I understand that the main concern of the other Association's is the sewer problem. The new Developers are willing to put in the sewer mains for all the surrounding Condo Association.

AM asked if it is available?

B. Maskey says that is another point. But, they are willing to put in the sewer mains. The actual pipes in the ground so that the buildings can be tied into the total system provided they get permission and of the permits to do it.

AM asked if the application has been made to the Town for this?

B. Maskey there has been an application for a certain amount of buildings. I am willing to tell you is that they are willing to put in the sewer mains. I would like your permission to do the designs on the plans to include the sewer mains as the total package. I would also like to reevaluate the need for the pumping station that is on the proposed plans.

WW asked who the other players are in the project?

M. Babrowski said that the other player is Fafard.

B. Maskey shows the Board a plan of the old Special Permit that was approved back in 1984. What has happened over the course of time, the wetlands have changed. We have redesigned the plan. We have moved some of the buildings to accommodate what is there know as far as the wetlands. We have done an architectural change of the buildings. Instead of having five (5) unit buildings, the maximum number of units per building will be four (4). A couple would be three (3). We have done away with all the parking lots. There is going to be garages and driveways to the buildings. We still meet the parking requirements in accordance with the Rules and Regulations.

AM asked what the difference in number of units?

B. Maskey says that it is the same number of units. We are just moving some of the buildings. Shows the Board what is proposed as far as building locations. The main road (Old Stonebridge Lane) is almost identical to what was originally shown on the Special Permit.

AM asked if this is subject to Conservation?

B. Maskey says yes. We have applied for a new Notice of Intent with the Conservation. Each unit is an L shaped unit with a court yard and an entrance. The wetlands have all been flagged last year and verified. This is also subject to the legal issues.

AM says that, that is the big thing here, is the legal issues. That has been the problem for many years.

RD what was the major issue there?

AM says that because they broke off into different sections was the problem. They can't do that. This Board approved one plan and all of a sudden there were different entities.

M. Babrowski said that you understand that the problems of different entities have nothing to do with this proposal?

AM says absolutely. But, the concerns are still following them to this discussion.

M. Babrowski is it this Board's sentiment that you would like to see this work out?

AM says absolutely.

RD says that he would love to see this work.

AM said that we were told with this most recent submittal that it is not possible for them to get sewer.

B. Maskey says that is why I want permission to go forward and evaluate that and get everyone satisfied and get all the Associations into the sewer system.

RD references Don DiMartino's letter and his talk of sewer connection.

B. Maskey says that sewer applications, conservation applications and legal issues are all in the process as we are speaking tonight. We are trying to get everything pulled together at once.

AM says that the problem she had initially with this new submittal was that again they were coming in as a totally separate entity. I think that the condominium owners that are there know should be notified and told what is happening.

Martha Circone, Manages property for Maplebrook – Aspen Property Management. Says from our prospective, what we are looking for is what was originally promised, that we would have sewerage. As far as the separate entities, that was all a legal mumbojumbo when it was first built. They had phased the building so that there was four separate condominiums so to speak. We have know one Trust. We are know 97 units and we operate as one Complex. We are not looking to stop the project. Whether or not sewer is available isn't even an issue because I don't think that there is any capacity. But, once the pipes are in, then we can get onto a list.

B. Maskey says that he thinks they are on the right track for everyone that is concerned.

RD questioned about the four different entities.

M. Circone said that the four trusts have become one trust. We are running as one Condominium Association.

RD asked if Martha Circone is speaking on behalf of the Condominium Association?

M. Circone says yes, she is their agent. As far as our septic systems and Title V we have had no problems complying.

PC mentions that the ground over there is all beautiful sand.

B. Maskey says that this is basically where we are at. Mark is going to continue working on the legal aspects. I would like to continue working on the design and show the proposed sewer mains going through into the older associations.

AM says that everything he is saying is fine and that is what the Board is concerned with.

M. Babrowski says that it is going to take us a month, minimum, to work out the legal aspects. If you will continue entertaining us in this process by continuing the Public Hearing.

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AM makes a motion to continue the Development Plan Review for Maplebrook Commons to November 5, 1998 @ 7:30 pm. RD seconds. Unanimous vote of 4 (WW, RD, AM and PC). EM was absent.

AM moves to adjourn at 9:40 pm. RD seconds. Unanimous vote of 4 (WW, RD, AM and PC).

William M. Wozniak, Chairman



Richard V. Dill



Paul Chupa

Edward T. Moore



Anne M. Morse