

BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

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STEVEN CHOINIERE (Alt.)

MINUTES OF REGULAR MEETING

April 22, 1999

Meeting commenced at 7:00 pm. All members were present except EM. Minutes recorded by Planning Coordinator Jill Karakeian.

FEE REVISIONS

RD asked if Phil had made the changes that the Board suggested?

Jill says that he did.

AM motions to adopt the Fee Revisions as drafted by Phil Herr effective immediately. PC seconds. Unanimous vote of 4 (WW, RD, AM and PC).

81-P SUBMISSION

Atty. Saurino submits 81-P plan for Lot #54 Fourth Ave. and pays \$10.00 application fee.

WW notes the comment from Phil.

Atty. Saurino says that his client owns the lot on the corner of Main Ave. and Fourth Ave. His plan is to cut off this section and add it to the adjacent lot that he is in the process of buying. Phil had suggested that we put that intent somewhere on the plan and that small parcel that is being separated from the corner lot is not a buildable lot by itself.

WW asked what would happen if the sale of this other lot doesn't go through?

Atty. Saurino says that should that not happen I can represent that it will be put back into the original lot.

AM motions to sign the 81-P plan for Lot #54 on Fourth Ave. as submitted by Atty. Saurino with noted change per Phil Herr's request. RD seconds. Unanimous vote of 4 (WW, RD, AM and PC).

JOSEPH CIRCLE

David Weigel (10 Joseph Circle) is in front of the Board to indicate that himself and other residents of Joseph Circle would like to look into not having the sidewalks or street lights installed. There is one more house to be built before the neighborhood is complete. Is it possible to waive the requirement of the developer to put a sidewalk in?

PC asked what the reason for not wanting the sidewalks?

D. Weigel says that a number of us brought the properties because they are in a rural setting and would like to keep it that way. It is a cul-de-sac property, so the amount of traffic is limited. For the side of the street where the sidewalk is going to be placed, it is our understanding from looking at the plans that the sidewalk will come in about 12' into our property.

AM wants them to know that it isn't their property, it is a road easement.

D. Weigel understands that.

AM says that it would be extremely unusual for this Board to waive sidewalks. It is a safety issue.

WW states that the sidewalk ends in Franklin and will continue through the subdivision into Bellingham. This Board went over these plans over and over again.

PC mentions that the bylaw once said sidewalks were required on both sides of the street, but so many people asked to only install it on one side that we changed it to only one side of the street.

D. Weigel asked if there were any other developments in Bellingham that don't have sidewalks?

PC says not any new developments. They all have sidewalks.

Bob Muresi (resident of Joseph Circle) asked about the frontage and enough land to allow for sidewalks.

WW says that was all approved at the beginning of the project.

D. Weigel says that all of us on the north side of the street don't want sidewalks. The second question is streetlights. We have an access of 68 lights on the homes on the eight properties, between the spotlights, front lights. We would like the streetlights waived as well. We also have questions about the retention pond on site. We were just wondering the requirements of the developer for that retention pond. We don't want it to be an eye soar and we want it to be a safe place for the kids.

WW says that it shows on the plans that it has to have a 4' chain link fence around it. When the Developer comes into the Town and ask for his bond to be released on the project, all the items that are stipulated on the plans and in the Decision will be checked to make sure everything is complete before the bond is released.

D. Weigel asked the minimum width for sidewalk?

WW suggests talking with the Developer. I think what everyone is looking at is the right of way and not the actual sidewalk that is going to be installed.

D. Weigel asked if the Developer could change the design of the sidewalks?

WW said that the Developer will have to come before the Planning Board to amend his plans that have already been approved.

STOR/GUARD SPECIAL PERMIT & DEVELOPMENT PLAN REVIEW – Public Hearing

RD motions to waive the reading of the Notice. AM seconds. Unanimous vote of 4 (WW, RD, AM and PC).

Denis Donovan presents to the Board a letter requesting a continuation.

RD reads letter dated 4/20/99. Dear Ms. Karakeian, we are scheduled to appear at a public hearing before the Bellingham Planning Board on April 22, 1999 for a Special Permit related to the Section 4932(a) of the Bellingham Zoning Bylaws and for a Development Plan Review. Our engineer is currently working with the Town of Bellingham engineering consultant, Amory Engineer to ensure that our Development Plans meet the needs and requirements of the Town of Bellingham. This process is taking longer than we anticipated and we therefore request that our hearing and review be continued to your May 27, 1999 meeting. We hope that this delay does not cause any inconvenience to the Planning Board or the interested citizens. Thank you for your help. Sincerely, Denis J. Donovan, Vice President.

AM asked if that was because of legal issues?

D. Donovan said that we are working with Amory Eng. to try and resolve some of the issues that he came up with when we was doing the review. We are still not the owners of the property and the lot line issues are being handled by the current owners of the property.

AM asked if we could legally go forward when there are questions on the ownership.

Karen Dexter (abutter) informed the Board that there is a court date in 2 years.

D. Donovan says that they can still go forward with the permitting process. If the Town grants us the necessary permits to build this facility, at that time, the owner of the property has offered to allow us to take the property with Title Insurance so that will cover our end of it.

AM states that she thinks this is something that Town Counsel should see and gives his legal opinion on whether or not the Board can proceed.

Steven Dexter (abutter) submits to the Board a plan done by Bowie Eng. who is a professional engineer and surveyor back in 1965. It is dated the same day as the deed when Varney acquired this piece of land.

WW agrees to send a copy of the plan with the Dexter's attorney's letter and ask his legal opinion whether or not the Board can move forward.

AM motions to send the plan dated January 13, 1965 and letter from Mr. Dexter's attorney Stephen Kenney dated April 9, 1999 to Town Counsel for review and legal opinion. PC seconds. Unanimous vote of 4 (WW, RD, AM and PC).

AM motions to continue the Public Hearing for Stor/Guard's Special Permit and Development Plan Review to May 27, 1999 @ 9:00 pm. PC seconds. Unanimous vote of 4 (WW, RD, AM and PC).

GENERAL BUSINESS

Tom Guerin brings to the Board's attention Wal-Mart's gardening center extending into the parking lot and using up a substantial amount of parking. The Fire Department is concerned for safety issues. I have brought it to Stuart LeClair's attention and he said he would speak to them, but nothing has been done yet.

RD mentions that Home Depot's gardening is blocking the sidewalk.

WW says that Home Depot has storage sheds blocking the main roadway.

T. Guerin says that Home Depot was stopped from doing exactly what Wal-Mart is doing. When Home Depot was stopped, their question to the Town was, How come Wal-Mart is doing it? Now, Wal-Mart has a petting zoo at the same time which is taking up more of the parking. I don't mind the carnival or petting zoo for a week out of the year, but the gardening center is all summer long.

J. Karakeian reads from Phil dated 3/11/99. Wal-Mart Addition: Architect from Arkansas engaged by Wal-Mart called regarding procedures for review of a proposed addition of about 4,500 square feet plus some outside garden center space. Some parking will be displaced. My reading is that it will be a Site Plan Review, not Development Plan Review.

WW asked if all the trailers were behind Wal-Mart in the parking spaces out there?

T. Guerin says yes.

WW says that if the trailers are parked out back and using parking spaces they need to be moved. We made Home Depot take their trailers out.

AM motions to send a letter to the Building Inspector copying Lee Ambler, Denis Fraine, Home Depot and Wal-Mart saying that it was brought to the Board's attention of the parking problems at Wal-Mart and Home Depot, could he please look into it. PC seconds. Unanimous vote of 4 (WW, RD, AM and PC).

DEPOT INDUSTRIAL PARK – DEFINITIVE SUBDIVISION – Public Hearing

AM abstains.

Joe Antonellis, Atty. represents Varney Bros. Sand & Gravel, Linda Varney, owner of the property. Mike Simmons of Guerriere & Halnon is the project engineer. Steve Pritchard of IDC is also present in case there are any questions of their intent of the property. This is not intended to be a discussion of the power plant. We are providing you with a basic three (3) building lot subdivision. Each of the lots conforms to the zoning requirements within the Town of Bellingham. The access is off a way shown on the plan which is intended to be a public way and has been designed and would be constructed according to the Rules and Regulations of the Bellingham Planning Board and Department of Public Works. The property has been subdivided to show, two major parcels and a smaller parcel. There are also parcels listed on the back that are listed as non-buildable lots because they do not have any frontage. I know that the Board has received comments from Phil Herr regarding the extensive number of sheets submitted with the Subdivision Plan and the fact that many of those sheets are more Site Development oriented rather than Subdivision oriented. When we came for the Preliminary Subdivision we had an open discussion and we felt that the best way to make calculations relative to drainage, etc. were to be able to show proposed buildings and sites so that the calculations relative to drainage runoff pavement could be based on something in fact. I think Mr. Herr's comment indicates that you should not act as a Site Development Board tonight as part of this Subdivision process and we agree with that process.

Mike Simmons of Guerriere and Halnon goes over the plans. He states that there are three (3) lots that are being proposed. They are very large lots, 1 is almost 19 acres, 1 is 45 acres and 1 is approximately 50 acres. We are proposing a 250' roadway to access the lots. One the site is developed, all the access to the site will be through the 250' roadway. We have not other intentions of another access off of Depot Street. The road is 30' pavement, sidewalks on both sides of the road. There is a 12" water main on Depot Street we are going to tap into. There will be a hydrant on the site. We went on the site where the roadway is going and located certain trees. There is going to be 13 trees that is going to be removed that are 10" to 14" in diameter. The only drainage we are dealing with is the roadway itself. There are three catch basins, one at the entrance off of Depot Street and two at the end of the cul-de-sac which will discharge into a sanitation basin and then into a retention basin.

WW questions the retention basin. Phil says that it looks out of conformity.

M. Simmons says that the detention basin is constructed and built into a slope. If you look at the contours it starts up at elevation 251 and it slopes down. On the easterly side, the regulation that Phil is referring to says that the detention basin should not exceed five feet in depth. As you grade up the easterly slope is a 10' high slope. The westerly side is down to the maximum depth. This basin will not store more than five feet of water.

WW questions Phil's comment about referring the plans over to an independent engineer. But, he says prior to construction of the road. I think he knows this road isn't going to be constructed right away.

J. Antonellis says that is a fair assessment. He knows that the roadway is anticipating a use that may not occur. And, if the use does not occur, the roadway is going to be built for the particular subdivision that we brought in here. Mrs. Varney is not going to wait forever to develop her property.

WW suggests sending it out to an independent engineer now on behalf of the Town at the Applicant's expense.

J. Antonellis says perhaps that is the best thing to do. I want the process to continue towards approval. I want the Board to be comfortable with the Subdivision that is designed in front of you is an acceptable and approvable subdivision under your rules and regulations.

WW asked if the applicant agrees to pay for the independent engineer?

J. Antonellis yes, I don't have a problem with that.

WW mentions some comments from Don DiMartino, Director of the DPW.

J. Antonellis said that he did read Mr. DiMartino's letter and certainly understands why he would ask that the road be maintained as a private way assuming that the power plant were to be built there. What we are showing here tonight is an Industrial Subdivision with a road that would be used for public purposes and would be built according to the standards of the rules and regulations. If my client, because it isn't a long road, is willing to stipulate that it be a private road, then we will make that stipulation. I will discuss it with Mrs. Varney.

PC motions to send drainage calculations and detention pond design out to an independent engineer on behalf of the Town at the Applicant's expense. RD second. Unanimous vote of 3 (WW, RD and PC).

Jim McCandless (resident of Box Pond Road) mentions the buffer that is supposed to be maintained along Box Pond Road and defect that is in the zoning. Has that issue been resolved? It was on the warrant including that 200' buffer zone but what actually got sent to the Attorney General does not include that 200' buffer zone. To my knowledge that issue has not been cleared up.

J. Antonellis explains that this is a Subdivision of land and there are not buildings shown and I believe that the buffer zone has to do with buildings and there aren't any at this time. I believe this is a question for the Site Plan Review, when you have a structure going in.

M. Simmons says that on the plans there does show a 200' buffer zone along Box Pond Road.

J. Antonellis says that when the plan comes back in front of the Board, I just want to alert you of a couple of changes. It will have a different Road name because there were concerns that it might be confusing. You are required to show cart paths and trails on the plans. We showed a cart path on the plan originally and we have had a full a complete survey and found that the cart path originates and ends on our own property, therefore we can delete it.

J. McCandless explains that they have been making some entrances onto the site from Box Pond Road and Depot Street to do some digging and I didn't think they could disturb the area of the 200' buffer zone.

M. Simmons says that they are putting monitoring wells throughout the site and to dig these wells it is a rather large drill rig, so you have to be able to maneuver your way around.

J. McCandless says that the Box Pond Association were promised that the buffer zone would not be disturbed by IDC.

PC makes the comment that if the power plant doesn't go in there then Harry Martin has nothing to do with it.

WW things that were done at the Box Pond Association meeting as compared to a Public Meeting like this one is different.

J. Antonellis says that what is going on the site is do-diligence. People are investigating the property for it's suitability, for a variety of uses. My understanding of the buffer zone is that it is a no build zone and is supposed to be left as natural as possible. I still believe this is a Site Plan question, not a Subdivision question.

Steve Pritchert, IDC comments that as developers of power plants, we have gone on record with the Sighting Board, we believe that we have to come back to the Planning Board for Site Plan Review and review alot of the details of the site. One of the details would be landscaping, and in the event that you feel that things need to be planted in the areas that have been created for access, then we will do so.

J. McCandless also mentions that they are digging these wells within the 200' wetland buffer zone.

WW mentions that Conservation should be contacted, not the Planning Board.

M. Simmons says that these buffer zones that we are talking about is something that the applicant stipulated for herself. It doesn't mean that you can't go into the buffer zone and drill to find the soil conditions or ground water table.

Mrs. McCandless asks that the access roads into the site for these tests, if they could be blocked off when not in use, so they don't get abused and used by kids.

J. Antonellis says that he will speak with Mrs. Varney and is sure she would agree.

RD motions to continue the Definitive Subdivision Public Hearing to June 10, 1999 at 8:00 pm.
PC seconds. Unanimous vote of 3 (WW, RD and PC).

AM returns to the meeting.

GENERAL BUSINESS

The Board signed miscellaneous invoices and Steve Choiniere's appointment from the Board of Selectmen.

REMMY ESTATES – INFORMAL DISCUSSION OF ROAD IMPROVEMENTS AND 81-P SUBMISSION

John Connor, Atty. representing Brad Allen. We are here tonight to ask for your informal endorsement or consideration of the Step 1 of a 2 step project. What the Developer would like to do is Step 1 which would be to ask the Board to consider allowing Blackstone Street to be developed down to the end of the Remmy property. To develop it according to the Town standards within the present layout. We know that it is not a public way by dedication and we know it is not a public way by the Town making or taking. There is a reasonable case that this is a street by prescription. That is that some point in time they were openly and continually used for over 20 years with the essence of the public as a public way. What we are asking to do is to determine that this is a reasonable and safe access and that it can be developed within the existing street layout. Phase 1 would be to would be Form A lots on Blackstone Street itself. The second Phase of it would be an open space subdivision. The first phase would be to ask to Board to allow us to develop Blackstone Street down to a cul-de-sac to your standards within the existing layout. The second phase after that is completed would be to come in under the Subdivision Control Law and ask for approvals for an open space subdivision.

WW asked if Mr. Connor knew that the Town had a bylaw of not more than 12 homes on a dead end street? Your asking for 20 plus what is already there.

J. Conner yes, that is the proposal that's here.

AM says that she doesn't see any changes from October on this project.

WW reads letter from Town Counsel. I am in receipt of your correspondence on October 15, 1998 relative to Blackstone Street. I must affirm my previous decision of November 13, 1997 forwarded to Atty. Bruce W. Lord and copy to Town Clerk. A copy of same was presented to this office was package given to me in conjunction of this problem. I believe that this is more between the realm of the Planning Board's decision to determine the treatment of the same as through way or dead end way but would suggest that in the event that the way, when it is in Blackstone is not maintained or unsuitable that this should be treated as a dead end. But, designed for it's continuation in the event of completion of same within the Town of Blackstone. I would respectfully submit that there is nothing contained in the information provided by Bradford W. Allen, president of the Allen Companies which would allow me to conclude Blackstone Street is an accepted public town road in the Town of Bellingham and further there is

little described as boundaries in the event that one would to say that it was a public way. Lee G. Ambler.

J. Connor says that he has not spoke to Lee Ambler. The only possible way that this is a public way is by prescription. An abutter on either side has the right to improve it.

WW says that this keeps coming back infront of this Board time and time again with nothing worked out about the road.

J. Connor says that I'm not going to try to convince you to go against Town Counsel. Based upon your Town Counsel's opinion, all we are suggesting at this point in time isn't there some way we can handle Phase I, and that is going down to the cul-de-sac shown on the hand out and improving the road within the 20' limit and building on Blackstone Street?

WW said that the most you can put in are four (4) more lots, because of it being a dead end street.

Marylou Corriveau (resident of Blackstone Street) asked about the road being surveyed as discussed at the last meeting for the project and that currently there are eight homes on the road. (The eighth one is being built right now).

WW asked Mr. Connor if the road had been surveyed?

J. Connor said that the purpose was tonight to get the Board's informal approval on Phase I and then come back at the next meeting when Mr. Herr was going to be here with a full surveyed plan of the road.

PC suggests that Mr. Connor converse with Town Counsel and then maybe we can get some answers regarding Blackstone Street and it's status.

J. Connor says that the only other way is to bring a petition into Land Court to prove this is a public way and I don't think anyone wants to go that route. We really don't want to go to court for a number of reasons. Time, money, chance and the fact that it might open Blackstone Street up all the way to Blackstone. If there was a way short of doing that and keeping Blackstone Street closed, and being able to develop this piece of land.

PC motions to authorize Atty. John Connor converse with Town Counsel. AM seconds. Unanimous vote of 4 (WW, RD, AM and PC).

32 WILLIAM WAY (BARTON HILL) – DEVELOPMENT PLAN REVIEW – Public Hearing – Continued

Jim Roselyn of Metro-West Engineering representing John Warfield for Barton Hill Development. We recently received your consultants comments and essentially we've not had enough time to coordinate with your consultant to resolve these 20 issues. Aside from that, we have already met with the Conservation Commission. We are looking for an extension so that we can resolve these issues with your consultant.

RD motions to continue the Development Plan Review public hearing for Barton Hill, 32 William Way to May 13, 1999 @ 10:00 pm. PC second. Unanimous vote of 4 (WW, RD, AM and PC).

PC motions to accept request for extension for the Development Plan Review for Barton Hill to May 28, 1999. AM second. Unanimous vote of 4 (WW, RD, AM and PC).

ANTRON ENGINEERING – DEVELOPMENT PLAN REVIEW

Jill presents to the Board the Decision for Antron Engineering forwarded by Phil Herr and reviewed by Town Counsel.

RD motions to sign the Decision for Antron Engineering Development Plan Review. PC second. Unanimous vote of 3 (WW, RD and PC) AM abstains because she was not present at the meeting.

GENERAL BUSINESS

WW reads letter forwarded to the Board by Mr. Ted Bailey of AKA Contractors regarding Chestnut Hill Condominiums dated April 8, 1999. Enclosed please find letters from the Conservation Commission and the DPW Director dated March 16, 1999 and March 23, 1999 respectively. The chairman of the Conservation Commission is very concerned that the detention pond is filled to capacity. The DPW Director sent a copy of his letter to the Condominium Association President. In it he stressed his concerns with regard to the Detention Pond water running over the top of the dike. In view of the fact that the water overtopping the pond is eroding the berm, I would be remiss in not notifying you of this grave situation. A good April shower could destroy this detention pond. This particular detention pond has already blown out a few years ago. The outlet pipe seems to be missing in the basin. The Planning Board has jurisdiction over the approval of the plans for this project. No other town board or inspector has jurisdiction over the installation sitework. The contractor that finished the last building (TNT Building Corporation) had a disclaimer written regarding the sitework on the project. Please forward to me, at your earliest convenience, the Planning Board's approach to remedy to this grave situation.

AM asked if Lee Ambler has been informed of this situation?

RD said that we should be getting a letter from Don DiMartino, not Ted Bailey. Ted should be sending his letter to Don, then Don should forward a letter to the Board.

WW said that this Board had approved the new detention basin based on the engineering work that was presented to us. That is not what was built? Daprato owned it at that time and the last building was not to be occupied until everything was complete on the site. A copy of our decision along with all of this correspondence needs to be forwarded to Lee Ambler and ask his legal opinion. No more buildings were to be built except what was there until the detention basin was built to plan and a fence was installed around the perimeter of the property. Who gave the building permits? Who gave TNT the disclaimer against the sitework? I think we should send a letter to Town Counsel and ask his opinion on how we can handle this situation?

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AM says back then the Town didn't have anyone that actually went out and inspected these things once they were done. Now there is, the DPW hired Ted Bailey.

WW says that when the Board re-approved the detention basin once Daprato purchased the site, I believe Ted was inspecting for the Town. The Building Department was the ones that gave out the Building Permits and they shouldn't have been issued until everything in the Decision was complete.

Jill informs the Board that they received a letter from Hoadly, the contractor that did work for Stonegate up at Brookside Estates. He is still owed money from that work and is asking if the Board could pay him out of the bond money that is being held by the Town?

WW says they should contact a lawyer and ask his opinion.

RD moves to adjourn at 10:10 pm. PC 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