

BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

RICHARD V. DILL, CHAIRMAN
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STEVEN CHOINIERE (Alt.)

MINUTES OF REGULAR MEETING

September 23, 1999

Meeting commenced at 7:00 pm. All members were present except PC. Minutes recorded by Planning Coordinator Jill Karakeian. Planning Board Consultant Phillip Herr was also present.

GENERAL BUSINESS

The Board signed miscellaneous invoices.

JK informed the Board that Earl Vater went to Algonquin Industries and spoke to Kaz Kasper to ask his intentions of fulfilling the Decision and he will report to me for the next meeting.

CERTIFICATE OF RELEASE

JK received a Certificate of Release for 30 (Lot #13) Saddleback Hill Road from Spillane and Spillane Attorneys.

AM motions to sign the Certificate of Release for 30 (Lot #13) Saddleback Hill Road. VD seconds. Unanimous vote of 4 (RD, VD, AM and WW).

DEPOT INDUSTRIAL PARK PLAN ENDORSEMENT

Joe Antonellis, Attorney for Depot Industrial Park. The 20-day appeal period is up and he is looking to get the plans endorsed.

RD informed J. Antonellis that there aren't enough members present to endorse the plans that originally signed the decision.

J. Antonellis was okay with that and said he will come back to the next meeting.

DEER RUN DISCUSSION

VD abstains and leaves the room.

Tim Jones, Developer of Deer Run is in front of the Board to report on the outstanding items that need to be complete by September 30, 1999 in order for Deer Run Road and Taylor Drive to be accepted at the October 13, 1999 meeting. Also, I am here to discuss the concerns of the residence that attended the Selectmen's meeting. The fencing is going to begin installation on Monday, September 27, 1999. As long as the weather cooperates and there are no rain delays, the fence should be installed by September 30th. I am also installing the street signs the same time the fence is going in because I am going to cement in the posts for the signs the same time the fence posts are being installed.

JK said that Don DiMartino faxed over a few names of companies for the traffic study to Tim Jones. Tim is going to hire a company to perform the traffic study as stated in the decision.

Ellen Pike (resident of Deer Run) passed out a letter from Tony Gareau (resident of Deer Run) regarding the traffic and closing off Deer Run.

AM feels that the next step is to do a traffic study. I don't think that we have any other powers at this point other than to require a traffic study to be done.

RD asked if we can ask for the traffic study now even though the street hasn't been accepted or should we wait for Town Meeting acceptance?

WW says that the traffic study according to the decision that was made when the subdivision was approved, was to be done when? When the subdivision was complete, up and running?

P. Herr says yes.

WW says that the subdivision is not complete. There are still homes that aren't framed.

T. Jones says that there are four more lots to be built on and one is being framed as we speak.

P. Herr says that he thinks you have enough development there to sort out any traffic study. You certainly could wait to town acceptance. There are issues about safety.

T. Jones says that it is up to the Board and I am willing to do whatever the Board decides.

WW says that this road is going to town meeting. Where is the money for the gate, if the gate needs to be put up?

T. Bailey says it is in the bond.

P. Herr says just don't release that portion of the bond.

AM says that she thought the Board was obliged to release the entire bond once town acceptance?

T. Guerin says that no, two cars cannot pass on that turn. The problem with the development is not the gate, it is the speed of the vehicles. The way they made Pine Grove and Deer Run meet is a disaster. The hydrant almost sticks out in the road.

T. Jones says that he will let the Town hold \$2,000.00 for the gate and the traffic study.

RD says that where it stands right now is that is it going to Town Meeting so that the Police can do dudiligence on it and monitor it as far as speed wise goes.

Bob Burchill (42 Deer Run Road) says that if you put a stop sign, you're not going to take care of the problem. I have been a police officer in Franklin for 13 years and have done alot of traffic enforcement. From where I live, I have noticed cars averaging (estimated) between 40 and 45 mph.

WW feels that we really have to wait until the traffic study is complete.

T. Jones asked if he is directed by the Board to start proceedings for the traffic study?

RD says that he thinks it should go to Town Meeting and get accepted so that radar can be enforced. Then come back so you can have the traffic study done. I think it should be the second week in November to start the study. Therefore, it gives the police a month to do traffic enforcement.

P. Herr mentions that the description of the study is contained in paragraph C2 of the Special Permit Decision.

WW thought he remembered that the study was supposed to be done by an actual person, I thought, counting cars over so many hours during the day.

RD reads the paragraph from the Special Permit. "Prior to the final release of security for the subdivision, the applicant shall install a gate at the intersection of Deer Run Road and Pine Grove Ave. with the specifications approved by the Bellingham Police Department preventing all motor vehicle access accept for emergency vehicles and shall construct a hammer head or other means of vehicle turn around and snow storage on both sides of the gate. However, the Planning Board will waive the closure at the turn around requirement upon receipt of evidence of sufficient to support the determination that opening of Deer Run Road is not resulting in a substantial net increase in daily traffic on Pine Grove Ave. at the intersection of Muron Street. The specifications for what constitutes such sufficient evidence are contained in a memorandum Deer Run/Pine Grove Traffic Analysis dated August 22, 1996 prepared by Philip Herr & Associates." What constitutes substantial increase?

P. Herr says that it is spelled out on Page 3 of that Traffic Analysis. It would be good if the engineer that is conducting this, in his report, would give his conclusion with regard to the amount of through traffic which that count implies.

RD asks that when Tim Jones makes a decision with which traffic engineer he is going to go with, can we suggest that, that person be in contact with Phil's office and obtain a copy of that memorandum Deer Run/Pine Grove Traffic Analysis?

T. Jones says that is fine.

P. Herr says that will be fine.

WW asked that when Tim does come back with the traffic study, if that will become a public hearing?

P. Herr says that it will sure be a public meeting.

JK says that she can mail the agenda to a designated person that can let everyone else know about it.

Bob Burchill of 42 Deer Run Road said that he would contact everyone regarding the meeting.

RD says that Tim Jones should schedule the traffic study a month after the Town Meeting and have the person that you hire contact Phil Herr's office.

T. Jones agreed.

VD returned to the meeting.

STOR/GUARD SPECIAL PERMIT & DEVELOPMENT PLAN REVIEW

Joseph Santos, Attorney for Stor/Guard comes before the Board to request an extension be granted to October 29, 1999 for action and the public hearing be continued due to not enough Board members present to act.

WW motions to grant an extension for action for Stor/Guard Special Permit and Development Plan Review to October 29, 1999. AM seconds. Unanimous vote of 4 (RD, VD, AM and WW).

AM motions to continue the public hearing for Stor/Guard Special Permit and Development Plan Review to October 14, 1999 @ 8:30 pm. WW seconds. Unanimous vote of 4 (RD, VD, AM and WW).

HARTFORD VILLAGE - SPECIAL PERMIT DECISION ENDORSEMENT

Joe Antonellis, Attorney representing Brad Wright is in front of the Board to discuss the Special Permit Decision. The decision was faxed to my office and my client had a concern relative to paragraph 2 of Section C dealing with future subdivisions. It was my understanding that the Board had not yet acted on the decision and there was a clause in there relative to subdivision of the parcel in the future that we have a concern about and we were going to ask if we could address you relative to that one issue. I had quoted to Mr. Herr some language that we believe

effectively prohibits any further development of this property unless and until the Planning Board grants another Special Permit or an amended Special Permit or modified Special Permit. We were of the opinion that we should have the right to subdivide the property irrespective of the burden to come back to the Planning Board. Assuming that this is a very successful project and well received in the neighborhood. It is proven to be something that people in Bellingham want. We would like the opportunity to subdivide the property, but we don't ask that the Board give us anything other than no further building of any kind on that parcel can take place without a Special Permit.

WW says that we haven't gotten any answers regarding future development in that parcel, that is why that language is in the decision.

P. Herr says that he doesn't feel it unreasonable to ask for a site plan. We would like a plan showing the land that goes with the buildings.

B. Wright says that his whole thought is that questions come up about the undeveloped part and I've sat here and said my intent is if the front part is successful, it would be for the back part. We also understand to do anything other than what we are presenting we would have to go to Town Meeting and also amend the Special Permit.

WW asked how much land is needed to construct the 48 units?

P. Herr says not much, they have plenty.

B. Wright says that by going with the formula, we need approximately 4 acres. The part that we are proposing takes up about 7 acres.

P. Herr says that the paragraph that restricts can be taken out as long as you bring in a plan that shows the land that you are not going to subdivide.

J. Antonellis says that we can do that. We will bring in a plan.

VD mentions that there were some other things about this decision that was brought up at the last meeting. On Page 2, under G it says that the Police Safety Office has expressed no concerns regarding this proposal. We did get a letter from him regarding the clearing of trees and earth on the corner of Hixon Street and Hartford Ave.

P. Herr says he did receive that letter and it will be reflected in the revised decision.

VD says she felt that there was to be no children and it is not mentioned in this decision.

P. Herr says that he wasn't sure that you couldn't say that. The issue is that you are discriminating based on age. So there is a great deal of both State and Federal law that says you can't do that. Mr. Antonellis provided the Board with a letter from the Section of the Massachusetts Laws which references a Federal Court Decision. I will find the verbiage for the revised decision.

RD asked JK for a time at our next meeting for this?

JK says October 14, 1999 @ 8:15 pm.

J. Antonellis says that is fine.

**MAPLEBROOK COMMONS - SPECIAL PERMIT & DEVELOPMENT PLAN
REVIEW - PUBLIC HEARING - CONTINUED**

Bob Maschi of Real-Estate Engineering Management, engineer for the applicant is here to request an extension for acting and to continue the public hearing for the Special Permit and Development Plan Review.

WW motions to grant the request for an extension for action for the Special Permit and Development Plan Review for Maplebrook Commons to October 29, 1999. AM seconds. Unanimous vote of 4 (RD, VD, AM and WW).

AM motions to continue the public hearing for Maplebrook Commons Special Permit and Development Plan Review to October 14, 1999 @ 9:15 pm. WW seconds. Unanimous vote of 4 (RD, VD, AM and WW).

BROOKSIDE ESTATES - INFORMAL DISCUSSION

RD informs the audience that there was correspondence submitted from Don DiMartino, Director of the DPW with regards to the outstanding items and cost to complete these items for Brookside Estates. Don is present and RD asked him to respond.

D. DiMartino says the major issue is that the Board is considering taking security and attempting to complete the project. Reviewing numbers and looking at what it would cost for the Town to complete the project, and it appears to be roughly \$100,000.00. If we had to move to complete the project, certain issues have to be resolved. One is, or course, determine how much of the work we should try to complete with the amount of money we have. The next is what steps can we take to get the developer to pay the remaining costs? If the town takes it over, it becomes a municipal project and we have to bid it under the laws of the State of Massachusetts, regarding regulations and wage scales. Which can and generally run the costs up. I'm not sure, but wouldn't doubt that a private developer or contractor could complete the work for roughly what we are holding. On this project, the site contractor caused almost more damage than the work that was left to be completed. The first thing that the DPW is going to do is start using Mass Highway items numbers and figures. Our From J for private projects, doesn't really help us at all if we are going to bid it out at a later date due to the contractor not completing the project. We are going to go to the Mass Highway Standard Specifications. Using those items will cover us should this ever happen again. Another issue is that if the town takes this project over, we need to draw up plans and specs and then get it out to bid, which needs to be advertised for atleast a month. The award that needs to be awarded by the Board of Selectmen. There is no way we can

get the contract awarded before Thanksgiving. No paving work is supposed to be done after December 1st.

WW asked if there was any civil action the Town of Bellingham could take on Mr. Ballarino for the additional money needed to complete the project?

D. DiMartino said that is Town Counsel's question.

WW asked if the Board could waive the sidewalks to cut down on the costs?

D. DiMartino says at this point that should be done. That is not alot of money, but to put it out to bid you should put it out in full then after the bid is awarded, then take items away. It is more difficult to add something then take it away.

VD says that she feels it is pretty clear that Mr. Ballarino doesn't want to complete the project. He is not even at the meeting tonight and he knew we were meeting on this.

WW motions to move forward to take the bond for Brookside Estates. VD seconds. Unanimous vote of 4 (RD, VD, AM and WW).

VD asks Phil if when we have a developer that has projects on going and they problems and not completed, is there anything we can do. Where the Town has to take the bond, eat additional costs. Isn't there anything that we can put in our rules and regulations that he can never build in this Town again?

P. Herr says that he feels Lee Ambler is the right one to talk to about that.

Dan Kennedy (resident of Brookside Estates) asked that when and if it comes down to deciding what not to do in the subdivision. Could we as residents have some input on those decisions on what things get cut or not cut?

WW says that it will become a public hearing because it will be modifying the plan and all abutters will be notified.

M. Civitarese asks if the Planning Board, under emergency situations, to authorize under the town's guidance to come in and go forward to start the repairs of these roads?

D. DiMartino says that the Town has a bylaw and there are state laws that if a project is over \$10,000.00, then it is to go to bid. There is a way, to declare an emergency, and the Planning Board doesn't have the authority, but the Board of Selectmen. That has to be a risk of health or a probable cause.

WW says that he would think that if the neighborhood has an emergency situation to get through the winter, that between the DPW and the Board of Selectmen, they can address the items.

R. Eldridge (resident) asked about additional catch basins and if there are any purposed?

D. DiMartino says there are no more additional catch basins. The catch basins don't work unless there is curbing along the sides of the roads that directs the water to it.

RD asked if at this point, now that we are taking over, would the Planning Board obtain progress reports?

D. DiMartino says that is fine. This is really the first time the Town has taken a bond. On Hixon Farm Estates, they sent a letter to the Town releasing the money so the Town could take it over. But on Brookside Estates, we are taking the money, so it is a little different.

Melaney Raynolds (8 Woodside Lane) asked who decides whether we give this project to the Town to finish or a private contractor completes it?

RD says that it is done.

VD says that she thinks that the residents could approach the Board of Selectmen and ask for work to be done due to the damage that is being done to the properties below that are not in the development. It is not something that the Planning Board can do.

Dan Kennedy (resident) asked if the residents have to go through the winter, do we have a commitment from the DPW that the road will be taken care of from a plowing standpoint?

D. DiMartino says that it will be kept cleared throughout the winter.

VD suggests asking Town Counsel if there is anyway that the Town could do any kind of bylaw, that when the Town is in a situation like this and the Town has to take someone's bond, if the Town can restrict that person from building in this Town ever again.

P. Herr says he believes there is a way. It has to deal with a person and you deny further authorization for any organization for which this individual is in control of.

BELLINGHAM SHOPPING CENTER - INFORMAL DISCUSSION

Bruce Babcock, Bruce Wilson, engineers representing the partitioner and Bill Sax, attorney for the partitioner is in front of the Board to informally discuss the options for the Bellingham Shopping Center located on Shopping Center.

B. Babcock, informs the Board approved a Special Permit in 1986, the Conservation had a Order of Conditions and BOH had approved septic system. The Building Inspector issued a building permit that had been started. The drainage system had mostly been installed. The water system is constructed. Part of the building had been constructed. The septic system had been constructed. Today, permits have expired. My clients have gotten a purchase and sale agreement to purchase the property and we have started to evaluate the septic system, water system and drainage system. We have worked with the Board of Health agent and it will meet Title V with about 20 items that need to be taken care of. We plan on filing with the BOH. With regards to Conservation

Commission the site needs to meet current Stormwater Management Regulations, which the original design would not. We have applied with the Conservation Commission and have a date for the end of October. With regards to the Building Inspector, we met him at the site and informed him on what is going on. The DPW has been contacted in regards to Route 126, the original plan had improvements included. We have activated the water system and verified it was in good shape and it was. We are in front of the Planning Board to let you know what is happening and ask that the process be expedited as soon as possible so we can finish the project. We would like to resubmit the plan that was done in 1986 with current stormwater management and drainage shown on the plans. We would file with Conservation Commission and apply for a road-opening permit. The square footage of the buildings will stay the same. There is a portion of the building that will change in shape a little to move it away from the wetlands, but the square footage will stay the same. We would also like to submit the same landscaping plan as well.

AM asked that when you start a project if permits expire?

B. Babcock says that in the Zoning Regulations a Special Permit expires.

B. Sax says that if construction begins and continues in reasonable matter, then it doesn't expire.

P. Herr says that he has read it that the Special Permit is still in place. As far as Conservation Commission and the Stormwater Management. I don't know how you can update to Stormwater Management Regulations without significant changes to the plan. If there is significant changes to the plan, then you have to at least apply for a Development Plan Review.

B. Babcock says there will be significant changes due to stormwater management and yes, the building will change slightly in one area, but the square footage will stay the same. We would like to take the 1986 plans and submit those with the only changes being update stormwater management plan and the one part of the building change.

P. Herr says that you would have to draw up a new drawing to do that, correct?

B. Babcock says yes.

SC asked about the parking and if that is going to change?

B. Babcock says that the original parking on the Special Permit was reduced. We are proposing parking with accordance with the current zoning.

P. Herr says that, that will be very substantial change in the plan.

VD says that she would like to see it submitted as a Special Permit Amendment and show all the changes. The Board will probably want the drainage looked at by an independent consultant as well.

WW asked when the amend the Special Permit, do we get to see just what they are amending, or the entire Special Permit?

P. Herr says the entire Special Permit.

WW asked about the little outbuilding towards the front of the site, it is labeled bank. Whatever it becomes, if it is going to require a drive thru that should be included with the Special Permit.

VD asked about the development across the street and where the egress to that compared to the shopping center?

B. Babcock says that it is down the street approximately 60 feet. It is not directly across from the shopping center.

P. Herr says that where the same person owns both projects, it should be easy for them to align the two.

B. Babcock says that if that is something the board desires, then we don't see a problem with that.

JK gave B. Babcock the applications required for a Special Permit and Development Plan Review as well as the checklist for Development Plan Review that tells what needs to be submitted as well as what needs to be put on the plans.

MINUTES ACCEPTED

VD motions to accept the minutes of 8/26/99 meeting. WW seconds. Unanimous vote of 4 (RD, VD, AM and WW).

WW moves to adjourn at 10:45 pm. AM seconds. Unanimous vote of 4 (RD, VD, AM and WW).

Richard V. Dill, Chairman

Paul Chupa

Valerie DeAngelis

Anne M. Morse

William M. Wozniak

P. Herr says that in this case there was an obligation to take care of that gate and I'm confident that you can find a way to hold money for the gate.

T. Jones says that is fine. I would like to do the traffic study and if the traffic study doesn't warrant it, then I would like the monies released.

P. Herr says that is fine.

RD asked if there was anyone at the meeting from Pine Grove Ave. or Muron Ave.? It was originally the people from those two streets that were concerned about the traffic. Now, nobody from those streets are present but everyone from Deer Run Estates are concerned.

T. Jones says that he contacted a company that Don DiMartino recommended for a traffic study. I told him I would get back to him after tonight's meeting so I knew what direction I was going in.

AM asks if there is a line item in the bond for this breakaway gate?

T. Jones says yes, it is \$1,000.00.

AM says that he is agreeing that he will leave that money in the account until we know if it is required to be installed or not.

T. Jones says that he will leave that money.

WW asked about the traffic study and how much is that proposed to cost?

T. Jones figured it would be somewhere about \$400.00.

P. Herr says that it might be a little more than that, but not much more.

WW asked if T. Jones would be willing to leave \$2,000.00 for gate and traffic study in the account with the Town?

T. Jones says that is fine, but he would like some kind of time frame? I don't want to leave \$2,000.00 sitting for 10 years. I just don't want the money to get lost.

RD asked about the gate and the safety factor?

T. Guerin says that as far as the gate, I don't want to see it. As an official of the Town of Bellingham, I have a real problem with it. Time wise for safety is our main concern.

Ellen Pike (resident of Deer Run) is very concerned about the passing ability at the installed cul-de-sac at the end of Pine Grove and Deer Run and asked if you could say that if cars were coming from both ways, can they pass on that turn at the same time?