

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

October 28, 1999

Meeting commenced at 7:00 pm. All members were present. Minutes recorded by Planning Coordinator Jill Karakeian. Planning Board consultant Philip B. Herr was also present.

81-P SUBMISSION

Gordan Curtis, Chairman of the Bellingham Senior Center Building Committee came before the Board with an Approval Not Required plan for 1 lot off of Blackstone Street where the new Senior Center will be built.

WW motions to sign the 81-P plan for Lot 15 on Blackstone Street. VD seconds. Unanimous vote of 5 (RD, PC, VD, AM and WW).

GENERAL BUSINESS

Jill let the Board know that Town Counsel said that WW can not act on the Stor/Guard public hearing because he did miss a meeting that had lengthy discussion.

AM questioned her sitting on any public hearings if she missed one meeting, or is it only for Special Permits?

RD asked Jill to check with Town Counsel and request in writing what the procedure is when a member missing a meeting that was advertised.

AM feels that she is not going to sit on 9 No. Main Street because it is an advertised meeting and I wasn't here when it was opened at the last meeting and what I got out of Lee is that if a member misses any advertised meeting, then they can't sit.

The Board discussed November and Decembers meetings and adjusting the schedule due to conflicts of holidays.

The Board agreed on the second meeting in November to be Monday, November 22, 1999 and there will only be one meeting in December and it will be December 16, 1999.

RD asked Jill to draft a letter to the Town Clerk to post the meetings.

RD asked Phil his interpretation of variances. The sign at Summit Bank has a variance. The Board forwarded a letter to Stuart LeClair letting him know that the sign was out of compliance and it needed to be turned off immediately. I spoke to Ed Clair, Chairman for the Zoning Board of Appeals and he said that according to their application, they mentioned about the sign being flashing. The only thing I could see is that they are looking for a variance on the sign size, Section 3143. At what grounds do you think the ZBA should grant as far as size of the sign a variance?

P. Herr says that a good example is the Charles River Center. They have a parcel of land that is so configured that you can't see it. But, they have a lot of frontage. That is a good example because they can't be seen, so granting them a larger sign made sense.

RD says he is going to the next ZBA's meeting on November 4, 1999 and I want to talk to them about what bases do they look at articles?

P. Herr asked if the ZBA sends notice to the Planning Board of all their hearings?

JK says yes.

P. Herr says that when you get a notice for such a hearing, maybe you want to send a note saying that you don't see any grounds for this.....

RD asked why the Board is not made aware of those.

VD says that if it has something to do with an application that is before the Planning Board, then it gets filed in that file.

MINUTES ACCEPTED

VD motions to sign the minutes of the meeting held 9/23/99 with the following changes: everywhere it says a Vote, it should say PC absent. Page 9, where it says "formally discussed options of the Bellingham Shopping Center, located on Route 126". WW seconds. Unanimous vote of 5 (RD, PC, VD, AM and WW).

BELLINGHAM SHOPPING CENTER – SPECIAL PERMIT & DEVELOPMENT PLAN REVIEW – PUBLIC HEARING

AM abstains and leaves the meeting.

VD motions to waive the reading of the notice of public hearing. PC seconds. Vote of 5 (RD, PC, VD, SC and WW). AM abstains.

Bruce Babcock, Engineer for the applicant presents to the Board what is going on with the project presently. They had met with Conservation last night and that meeting was continued to November 24, 1999. The water system, we are excavating on the site to find where that is located. We know that it is live and is working, but we are not exactly sure where it is on the site. We recognize that there are still items missing on the plans, but we would like to get feedback from the Board, Phil Herr and any residents that may have any questions. We have done a preliminary traffic analysis at the entrance to the project. We realize that there needs to be a more extensive study done.

VD asked if the entrance has been changed to line up with the subdivision going in across the street?

B. Babcock says yes we have.

VD asked if the building out in front of the site intended to be a drive-thru?

B. Babcock says at this point yes, but we don't have a tenant as of yet.

VD says that drive-thru anything would trigger a Special Permit and it is not mentioned in the notice of public hearing. It will have to be advertised separately.

Glen Gerrier (abutter) mentioned that the intersection that was before the Planning Board in 1986 had a signalized intersection. It was one of the Special Permit decisions that was made back in 1986 that the intersection would have a light.

B. Babcock says that it is noted on the plan that there would be a light there.

P. Herr says that he doesn't know how the Planning Board could act or make a decision on a modification until they know what happens with the traffic.

B. Babcock agrees that a design and study needs to be done for a signalized intersection.

Glen Gerrier mentions that his and his fathers property abuts the plaza and they are not against the plaza. One of the items, I do remember back in 1986 when I was on the Planning Board and we did approve it, it was also going to go into a four lane split out on South Main Street. Now that they moved the entrance to line up with the development across the street, they have brought it closer to our property line and will the intersection work in the same way?

VD asked if the Safety Office could address the site distance to the site?

Sgt. Daigle says that it is difficult to discuss something that isn't on paper anywhere to see. Our main concerns are the travel lanes and the turning lanes as well as the lights. The warning signals on the hills should be considered as well.

B. Babcock says that the layout of the lanes are the same that was approved back in 1986. It does have the turning lanes. The site distance is greater than 400 feet both ways and we do realize you go over a hill both ways. We would definitely consider warning signals. The intersection will be signalized.

VD understands that a traffic study will be done and Bruce Campbell and Associates will review it, but somebody needs to pay for that review. Is the applicant agreeable to pay for the review?

B. Babcock agreed at the last meeting to pay for the independent reviews.

Joe Corriveau (314 Center Street) is land abuts this project in the back. His concerns are about fencing that is put on the boundaries to avoid trash and trespassing.

G. Gerrier mentioned that back in 1986 he owned that parcel where J. Corriveau is now and at that time that was something that Mr. Menfi had agreed upon, was that he would construct some type of barrier between the plaza and the 17.5 acres behind the plaza. I now own the parcel on the side of the plaza and I have the same concerns as J. Corriveau has as far as some type of buffer to avoid wanderers and trash.

P. Herr mentions that there is a landscaping sheet, but it doesn't spell out exactly what is going to be planted.

B. Babcock explains that he will talk to his client with regards to screening of the abutters.

WW asked if the front building was part of the original approval back in 1986?

P. Herr says yes, except it was on the other side of the entrance roadway. Is the sign going to be the size that is prescribed by Zoning?

B. Babcock didn't know, because they haven't compared it with the regulations yet.

P. Herr says that his office did compare and it seems to be larger than what is allowed. There is also question regarding parking and seems to meet the standard bylaw.

WW questioned the size of the parking spaces?

P. Herr says that the plans didn't specify the size of the spaces. Also the location of some of the handicap spaces.

VD asked if there was going to be an access road that goes around the building?

B. Babcock said yes.

VD says that before we make a motion to continue there are a lot of issues that need to be addressed. Traffic study, drainage, the consultants review, find the water main. How much time do you think you need?

B. Babcock I would like to give enough time for review and I would like to continue to the 22nd of November.

VD mentions that Phil Herr will not be at the meeting of November 22nd, so he will need to have the revised plans a week prior to the meeting so he has time to review and comment.

PC motions to continue the Special Permit and Development Plan Review for Bellingham Shopping Center to November 22, 1999 @ 7:30 pm. VD seconds. Vote of 5 (RD, PC, VD, SC and WW). AM abstains.

VD questions the building in front and asked that if it is going to have a drive-thru they have to advertise for a Special Permit.

P. Herr says that it is hard for the Board to review that if there isn't a tenant yet.

B. Babcock says that he doesn't know what is going to go there. I will let my client know that he does have to advertise and apply for a Special Permit should a drive-thru business locate at that plaza.

PINE GROVE ESTATES II – BOND REDUCTION

AM returns to the meeting.

Joseph Delapa, Jr. is before the Board requesting his bond be reduced for the Pine Grove Estates II Subdivision.

VD questioned that the Developer is asking for release of everything except for \$1,500.00 and Don DiMartino is release of everything except \$11,220.00. She asked Ted Bailey to address that.

Ted Bailey says that the \$11,220.00 becomes the 15% security that the Planning Board holds on all projects until Town Meeting approval. It is 15% of the original cost of the roadway.

AM thought that we always did 15% of balance, that why it is different.

VD says that Don DiMartino is saying that the remaining work estimate is \$7,557.00. Why does the Developer only think it is \$1,500.00?

T. Bailey says that after they paved the roadway, I went through and did a final walkthrough. I found a few minor items and it is in my memo. The detention pond has a few items and the drainage, some granite inlets that have to be fixed on catch basins, sweeping the road one more time. The plans call for oil separators in the outlets in the catch basins, and they weren't in. They are minor punch list items. Those items only come up to \$4,500.00 but when you put the percentages on at the bottom it comes up to \$7,500.00.

JK mentions to the Board that she had calls from the residents at Pine Grove Estates II and was they had concerns about the fence around the detention pond.

VD notices that comments on Ted's letter says that it isn't required.

JK says that a fence is shown on the approved plans in the Planning Board's files.

T. Bailey says that the plans that are at the DPW don't show a fence around the detention pond.

VD asked if they were approved plans?

T. Bailey says they didn't have the Boards signature on them.

VD says that there needs to be a fence around the detention pond.

WW asked if there is any money in the bond for the fence around the detention pond?

T. Bailey says no.

VD says that we should add the cost of the fence on top of what Don is requesting that we hold.

AM says that Don is saying that we have enough money without adding the cost of the fence.

VD says that the experience that this Board has had in the past makes me reluctant to give it up.

WW motions to reduce the bond on Pine Grove Estates II down to \$12,000.00. AM seconds.
Vote of 3 for yes (AM, PC and WW). Vote of 2 for no (RD and VD).

HARTFORD VILLAGE – DECISION ENDORSEMENT

Joe Antonellis, Attorney for Brad Wright is in front of the Board to discuss the Decision for Hartford Village. Phil had asked me to find a federal case that has to do with rules and regulations with regards to how old you have to be to occupy and how you manage that. I've given that to Phil and I believe he is incorporating that with the decision. One of the things that I have talked about with him was the ability to subdivide this property so if my client wanted to split the property and save the back piece until Town Meeting approval, he could do that. The first plan that went to Phil Herr he rejected because it showed the septic system that is servicing the front parcel as an easement onto the back piece and the drainage as an easement. So, I told the engineer that the septic system and drainage has to be part of the front piece and then draw the property lines. Give me the septic system so that someday I can get it back if sewerage goes by. The new plan I have today and it shows the buildings right up against the property lines and that is wrong. I apologize for that. I will shown you this plan, that will be revised. Let's assume that this project works fine and sewer goes by and we get Town Meeting approval and Special Permit authority to do some more of these in the back. We are not going to need the leach field and we would want that piece to with the back piece for the calculations for Zoning purposes. We would do an agreement that if in fact the front piece is hooked up to sewer and we don't need a septic system, we would take it back to the back piece. The drainage area will go with the front piece and we would reserve an easement to put more into it. I have been told by the engineer that the square footage calculations for the front parcel all fit.

P. Herr questioned Village Drive and asked if that was just a driveway.

J. Antonellis says that it would be a continuation of a private way to the back parcel.

P. Herr says as a driveway that is fine, but as it becomes access to the other lots out back, then I think it really needs to meet standards for a street. We had language in the 3rd draft of the

decision we had words about that way having exclusive use to the units in the front parcel. The engineer said that it couldn't be exclusive because we want an easement through it. I thought after I heard that, I said this sounds like a street.

VD says that is why we want the pavement width.

P. Herr says as we sit here right now, is what the language does it corporate words that is consistent with the Federal Court Decisions about that say you can't have anybody living in these units that is younger than 19 but they can come visit. With regards to the plan, simply make clear that there can be no subsequent conveyance apart from this plan such that it means less than 8.5 acres, exclusive use of these Condominiums.

VD asked what gives them the right, if they develop the back, to use a private way for public access?

P. Herr says that they can get the right in terms of these owners, but retaining an easement. But, what they don't get is public.

J. Antonellis understands the Boards concerns about what this could become. From my point giving my client advise, I told him what you have is a wide private way and if someone would be buying; they would hire a lawyer, I would tell them that they are buying subject to the rights of others to pass and re-pass to go onto the back parcel. I don't have a problem taking this plan back to the engineer and bringing back a corrected one and coming to the next meeting.

MAPLEBROOK COMMONS – DEVELOPMENT PLAN REVIEW & SPECIAL PERMIT – PUBLIC HEARING – CONTINUED

Bob Maschi, engineer for Maplebrook Commons. I will give you a breakdown on what is happening. We have gone through the MEPA process, and we have been given partial approval to go ahead on that. We are working with Conservation Commission. Conservation is going to want some revisions to the topography and the final grade, so we are working on that. At the last meeting, which was extended because there wasn't a quorum, I did submit a letter dated 10/14/99 which explains what has happened since the previous meeting. The previous meeting I had submitted a proposed contract between the parties involved (the Trustees of the Associations). Which indicated that it was pretty close to getting a signed agreement. Things have since fallen apart and there is no meetings of the minds at this point. On the second page of the last handout, we included what we thought was possibly a solution for the Board if they wanted to consider it.

RD mentioned that JK got in touch with the Board of Health Agent, Mike Grath who got the Board a copy of the Draft of the Environmental Impact Report dated 1987 and a section out of it, Part 4-b Sewerage Disposal: Prior to any construction the land was undeveloped, therefore did not have or require any sewerage disposal. Units built during the initial construction each have their own subsurface disposal system. Each system was designed in accordance with requirements of Title 5 and State Environmental Code and at that time Bellingham Board of Health Regulations. These units will be tied into the sewerage treatment plant and the existing system will be abandoned with the treatment comes on line. Next is the Final Environmental Impact Report dated 1987 and that states under Part 9 – Responses: Of the 250 proposed two bedroom units, 87 have been constructed. The units are currently tied into 20 subsurface

sewerage disposal systems as shown on Appendix A. These disposal systems are located so as not to interfere with any proposed building, utilities or other structures. Some leaching fields will be excavated during sewer line construction. The existing units will be tied into the sewerage treatment plant as soon as the plant is constructed and operational and the sewerage collection system is installed. At this point each existing line to a subsurface disposal system will be replaced with a connection to the sewerage collection system. This will be accomplished by tying the septic tank effluent line into the collection system. The line to the disposal trench will then be plugged...

JK says that Lee Ambler stated that the petitioner is looking to amend the Permit that will change that and he doesn't feel that the Board should approve it.

RD says that this Board has pretty much agreed this whole time that there was verbiage somewhere that the existing units were to be tied in.

P. Herr says that he has never seen what RD just referred to. I thought the first one was pretty ambiguous because it said that they would be connected, but it didn't say who would connect them. It seems that everyone agrees that they will be connected, but who is supposed to do it?

RD says that the Environmental Impact Reports says that it was prepared for Maplebrook Development Associates. I don't know how you read these things, but if it was prepared for them, then I'm assuming that the developer should tie them in.

Kathy Haggerty (resident of Maplebrook) hands to the Board a letter sent to her back in 1988 from the Attorney General's Office that has attachments she thought the Board would be able to use.

VD reads a section of the letter from the Attorney General and it says: the permittee shall also construct and install a lateral sewer pipe and collection system necessary to tie in Maplebrook Commons 1 through 5 pursuant to supplemental condition number 7 to either the facility or at present proposed extension of the Town of Bellingham sewer system.

PC says that he was on the Water and Sewer Board when this happened and the State and Town told them when sewer became available, they had to connect everything within 6 months everything became available.

VD reads item number 7 on the same letter says: no later than 2 years from the date of issuance of this permit, the permittee shall be required to either a. Demonstrate to the Division that Maplebrook Commons 1 through 5 have been tied into the, at present, proposed extension of the Town of Bellingham sewer system or in the event that the municipal sewer system is not available, then it talks to an Umbrella Trust.

K. Haggerty explains that one of the developers had wanted our association to sign an Umbrella Trust agreement and we wouldn't. He went and had that recorded anyway without our signature.

B. Maschi says that prior to the last meeting, I thought that a contract had been agreed upon and we had put everything rest. I was not aware that there was any commitment made to tie in any of the buildings, or to extend the sewer mains for the existing buildings. I don't know where all the

existing systems are located. I don't know to what extent we are talking about to tie in each and every building. My client and myself, not knowing. This information submitted tonight is all new to me.

K. Haggerty says that is why everyone else walked away from this project, because they found out that they had to tie us into sewer.

RD says that it is his understanding that the existing units don't really care if you get sewer connected or not at this particular time but you are looking for some sort of security if the septic system do go bad. Whereas they are supposed to have been connected. The lines that are being proposed to be installed in the street, they are ready to go?

B. Maschi explains that they could connect to those lines, but there is no capacity available to connect.

K Haggerty says that what we are looking for is, twice we have had developers come in and promise that they were going to do something for us and we were left high and dry. We have asked Fafard if while they were installing the dry sewer lines, would they pay for an outside engineer to work on our behalf to oversee the work that they are going on our side of the project?

AM says that they Town will be overseeing this project and they get tested prior to closing in the pipe.

K. Haggerty says that they didn't in the past.

WW questioned whether or not this sewer issue is any control of the Planning Board or is in the State and the Local Board of Health?

P. Herr says that the State required them to connect them to a private treatment plant that never happened.

VD says that in the information submitted to the Board from the Attorney General tonight states that no amendment or revisions to these documents can be taken.....without the prior written approval from the Division.

P. Herr says that is right, but where is the State?

WW asked if we have the power for this?

P. Herr states that Lee Ambler has said that you not only have it, but you must exercise it.

B. Maschi says that MEPA says that we can go ahead and construct the 20 units that we have capacity for. They suggest that we rethink about recharging the water table and that when and if we got more capacity, we should reapply to MEPA at that time to determine whether or not it be required to go under ground or to connect to the sewer system.

P. Herr asked if Fafard's application to MEPA included raising concerns about connecting the existing units?

B. Maschi says they have the same plans that we have submitted to this Board. It showed the mains going down the street.

VD asked Phil to draft a letter to the proper authority to try and find out what is allowed as well as corresponding with Don DiMartino and Lee Ambler.

P. Herr says that he will contact Don DiMartino and Lee Ambler and draw up a letter to Mr. Durand and ask for his comments on the whole project and what has been found as well as what has been proposed.

AM motions to grant an extension for action on the Special Permit and Development Plan Review for Maplebrook Commons to March 10, 2000. WW seconds. Vote of 5 (RD, PC, AM, WW and SC). VD abstains.

AM motions to continue the Special Permit & Development Plan Review Public Hearings for Maplebrook Commons to February 24, 2000 @ 7:30. PC seconds. Vote of 5 (RD, PC, AM WW and SC). VD abstains.

635 PULASKI BLVD. – RELEASE OF COVENANT

VD abstains.

Brian Taylor lives at 635 Pulaski Blvd. and ended up with a covenant on his property as part of Deer Run.

JK explains that Brian Taylor's dad sold some land which, at one time, was part of his sons lot for the Deer Run project and for some reason his sons lot, which was an 81-P parcel got stuck on the covenant for Deer Run. He needs to release because he is refinancing and can't because of the covenant.

AM motions to sign the Release of Covenant for 635 Pulaski Blvd. PC seconds. Vote of 4 (RD, PC, AM and WW). VD abstains.

9 NORTH MAIN STREET – DEVELOPMENT PLAN REVIEW – PUBLIC HEARING – CONTINUED

WW abstains and leaves the room.

AM abstains from voting on this project due to missing the last meeting this was discussed at.

C. Finkelstein presents to the Board updated plans for the addition located at 9 North Main Street. We have the Fire Department on site and everything that was asked for in Phil Herr's letter is noted on the plans. I also asked my engineer to converse with Mr. Herr to make sure everything that is on the plan is what is required.

P. Herr says he never heard from Mr. Finkelstein's engineer.

RD asked if we ever determined the use of the building?

P. Herr says that the drawings don't say that.

C. Finkelstein says that the addition is labeled as garage on the drawings.

P. Herr says that it isn't used as garage space. I was there this afternoon and the whole addition is filled with materials. Maybe we could get two small vehicles in there.

RD asks how we can determine parking if we are not clear as to what the use is?

AM asked if warehouse is allowed in this location?

Tom Guerin says that half of this building is used for a garage. The garage recently was filled with machines. That was because of the crunch of the inspection machines. They told me when these machines are installed the addition will hold four vans. All the machines will be gone.

C. Finkelstein explains that in the front of the building there are a couple of people pushing paper. There is a dispatcher that handles all the teams on the road doing deliveries. They will be down to four employees on site and they will have delivery people out fixing machines. Mostly warehousing. I'm told that since this business is not open to the public a handicap space is not required for parking.

VD asked about the parking agreement that Mr. Finkelstein has with Beacon Holdings if it is temporary?

C. Finkelstein says that it can be made permanent.

VD asked if the use changes of this building, they should come back to the Planning Board.

P. Herr says that he is concerned about the absence of construction drawings.

C. Finkelstein says that he can't obtain construction drawings from the builder and I don't believe they can be found at the Town. I don't have the drawings and the person I hired to do the construction is no longer cooperating and has left the area. That is why I went through the expense of having these drawings drawn up to submit to this Board.

P. Herr says that the most difficult thing has been the parking. If we can get to the substance of that, then we will be okay. One of the items that was on a previous set of drawings were the dumpster and after I sent you my letter of items that need to be on the drawings, the dumpster was removed from the present drawings. I think the issue is that the tenant was experiencing a peak of demand which the onsite parking could not accommodate. They have now dealt with that by making an arrangement off site to deal with that. We are being given assurance that once this peak is gone by, then the physical parking which is there will be adequate. It looks like the 8 parking spaces that are there will be sufficient.

SC questions the setbacks of the building.

P. Herr explains that this building is on a corner lot so there are two front yards and two side yards.

VD motions to approve the Development Plan Review with the conditions that parking is for only those that have spaces for and should the use change a Development Plan Review will be required at that time for 9 North Main Street. PC seconds. Vote of 3 (RD, PC and VD). WW and AM abstains.

COLONIAL HOUSE – SITE PLAN

WW and AM returns to the meeting.

Mr. Hakenson, the owner of the Colonial House Restaurant came before the Board to discuss an addition that he needs to do due to the reconstruction of Mechanic Street that is taking his parking out front of the restaurant as well as the side. The Town has already made a new parking area for me on the opposite side of the building. I want to make an entrance for the handicap because the main entrance is right on the main road.

P. Herr asked if the Town consulted with the Planning Board about the parking?

JK says no.

P. Herr asked how big the addition will be?

Mr. Hakenson says 34' x 26' and there is an area already there that is 8' x 12'.

P. Herr says that it sounds like it is less than 1,000 s.f.

Mr. Hakenson says it is 800 s.f.

P. Herr says that it is simply a Site Plan review.

VD asked how many parking spaces there are?

Mr. Hakenson says about 39 spaces.

AM and SC leaves the meeting.

JK reads the letter from DPW dated 10/28/99. The construction of the Route 140 Maple Street and South Maple Street intersection improvements will be under construction for much of next spring and summer. Although there is only a very minimal taking from Mr. Hakenson related to the project the roadway improvements will eliminate significant portion of his parking area. In an effort to work with the business owner, we came to an agreement where by the Town extended his parking to make up for the parking he was losing. He also mentions that the addition will be located on top of the existing sewer conditions. In this case Mr. Hakenson's contractor can modify the sewer service piping and go around the new construction. However, any new location should appear on the plan and the sewer connection application should be applied for to modify the service connection.

Mr. Hakenson says that Mr. DiMartino is going to mark it for us.

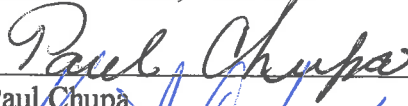
WW motions to approve the Site Plan for Colonial House Restaurant. PC seconds. Vote of 4 (RD, PC, VD and WW) AM left the meeting.

WW waives the \$50.00 filing fee due to cause being due to the relocation and reconstruction of Mechanic Street under no control of Colonial House. VD seconds. Vote of 4 (RD, PC, VD and WW) AM left the meeting.

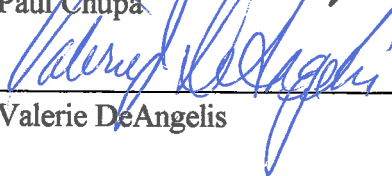
WW moves to adjourn at 11:25 pm. VD seconds. Vote of 4 (RD, PC, VD and WW) AM left the meeting.



Richard V. Dill, Chairman



Paul Chupa



Valerie DeAngelis

Anne M. Morse

William M. Wozniak