



BELLINGHAM PLANNING BOARD

5 COMMON STREET
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March 28, 2002 Meeting Minutes

- **Present at the meeting:**

Roland R. Laprade (RRL), Chair
Richard V. Dill (RVD), Vice Chair
Brian J. Sutherland (BJS)
Steve D. Choiniere, Sr. (SDC)
Edward W. Guzowski (EWG)
Glenn C. Wocjik (GCW), Alternate

Other officials: Paige Duncan (PED), Town Planner
Beth Partington (BEP), Coordinator
Lt. James Haughey, Police Safety Officer

RRL opened the meeting at 7:00pm.

RVD: Motion to accept 3/14/02 meeting minutes.

SDC: Second. Vote: 5-0, approved.

BJS: Motion to approve the 2/14/02 and 2/28/02 meeting minutes.

RVD: Second. Vote: 5-0, 4-0, approved. RRL abstained on the 2/14/02 vote, as he was not present at that meeting.

- **Fire Department Checklist**

Discussion took place on the Fire Department Checklist generated by Tom Guerin.

RVD: Motion to accept extension for Dunkin Donuts Special Permit and Development Plan to May 17, 2002.

SDC: Second. Vote: 5-0, approved. RRL abstained as he was not present in the original hearing. GCW is voting as an alternate.

- **Edwards Estates Informal Discussion, off Littletree/Laurel Lane:**

Mr. Gagnon of Foresight Enterprises came before the Board to discuss the possibility of making a 13th lot out of a very large lot at the end of Edwards Estates. RRL felt it would be setting a precedent, that the previous boards set it up that way, to be no more than 12 lots on a dead end and that he did not feel comfortable adding a lot. He said the buffer was put in there for a reason so that no one could get to the land in back of there.

RVD discussed why there would be a buffer and asked why wouldn't they want it built? The by-laws state that a dead end can't be more than 12 lots. PED discussed that it was probably for fire safety issues. RVD said setting a precedent is not a good thing. We could investigate why it was originally written that way. Maybe it was just a number of lots picked at the time. Maybe down the road, it could be changed in the bylaws. BJS stated that recently these issues have come before the Board and their hands are tied. The original application came in as a public hearing, the neighbors were present and the Board could not make changes and overturn what previous Boards voted in without the public present in a hearing format.

The board told Mr. Gagnon that it would investigate the logic behind the 12 lot rule, but at this time they could not approve any changes.

- **Bennett Motors, Informal Discussion on Used Car License:**

Robert Wotton, President of the Cripple Creek Realty Trust, which owns Bennett Motors and Blendtek, along with his attorney, Mr. Jonathan Fryer, came before the Board to discuss his application for an increase in cars for his used car lot, which is before the Board of Selectmen and needs Planning Board sign-off on the form. Mr. Wotton currently has 11 cars on his license and wants to increase by three to 14. The applicant is using off-site land on the edge of 140 for the used car lot, which is owned by the state.

The Board did not feel they could increase the number of cars, as Mr. Wotton was not operating the business on his own land but on state land. BJS suggested getting a letter from the state explaining that they allow the usage. RVD stated that he feels people mow grass along the edge of the road, plant flowers, sell cars, thinking its their property when it isn't; it's owned by the state.

The applicant was in a year ago for an application of Development Plan for Blendtek and didn't complete the landscaping. The Board was upset that the applicant got occupancy when there should have been a bond in place to finish the landscaping. There is concern over the 286 arborvitae trees not planted to create a living fence along the neighbor's property. The applicant wanted to make a modification to the plans and put up a fence instead of plant the trees. BJS stated he did not feel this was appropriate, as in years to come, fencing gets old and wears out; the trees would offer a true buffer to the neighbors.

- *At 7:45, RRL opened the Zoning Amendment Public Hearings for Development Plan, Signage Regulations, Adult Uses, Parking Regulations and Isolated Lots and Subdivisions.*

BJS: Motion to waive the public reading of the article.

RVD: Second. Vote: 5-0. approved. The board agreed to finish the discussion on Bennett Motors before continuing with the public hearing.

- Bennett Motors Discussion, cont.

RVD stated the landscaping is not in compliance. The have occupancy and the plans weren't completed. We should have a landscaping bond in place. We need to discuss that with the Building Commissioner and send him a letter. RVD stated that he was still confused on the 50' of land in front of the property owned by the state.

RRL stated that this Board along with previous Boards were concerned with buffers and fencing and creating living fences, not wooden fences that would be put up and in years to come need to be replaced.

BJS stated that recently a developer came in asking to make changes and the Board had to turn him away, because that's why we have public hearings with abutters and neighbors present, to give their input. When this was a public hearing, the public had the opportunity to come and express concern.

Mr. Wotton expressed that he felt the Board was just turning their back on him. RVD asked, "What have you done? You came in with a plan, are asking for a waiver because you don't want to comply with the plans!"

BJS stated the applicant asked this Board to waive the landscaping. "The first thing the applicant asked for is more spaces. We as a Board cannot issue our approval for you to do business on land that is not yours that you don't have permission to use. The Board offered suggestions to get evidence to support his request so we could then make an informed decision. That is not turning its back on you. Secondly, you asked to waive the planting of the arborvitaes as a fence. We're saying the plants are there for a reason and you need to comply with the plans. We're not turning our back on you."

RVD stated that as far as the fence between the neighbors goes, if the neighbors had a letter or came before the Board, it would help to make a decision in granting a waiver of the trees in that area. Mr. Wotton's attorney was going to contact the state regarding the land usage and contact the neighbors and get back to the Board.

- Zoning Changes Public Hearing

RRL opened the Zoning Amendment Public Hearings for Development Plan, Signage Regulations, Adult Uses, Parking Regulations and Isolated Lots and Subdivisions.

The language of the articles was discussed. PED gave a brief synopsis of each article.

- Article 21. Development Plan Approval

BJS: Motion to recommend for Town meeting, Article 21, Development Plan Approval with the modifications discussed tonight at the hearing.

RVD: Second. Vote: 5-0, approved.

- **Article 22. Adult Uses**

PED discussed why this has come up. The Supreme Court has stated that adult usage businesses are acceptable under freedom of speech. That it is unconstitutional for a town to ban these. So, if there is no adult use district designated, they are acceptable in any business and industrial district, which as you know Bellingham has a lot of. Some of our business and industrial uses are next to Stallbrook School, the church, the daycare. PED held up a map with the blue areas indicating areas that the Board has discussed to allow adult uses.

Lt. Haughey asked if they came in would they have to come before the Planning Board for approval.

RRL stated an applicant would come to the Planning Board under Special Permit.

Lt. Haughey stated his concern if one of these places came in, crime comes with them. You would have an increase in crime, drugs, prostitution, traffic. They would probably need a police detail.

GCW stated the Planning Board could regulate it under the Special Permit. PED stated the Board could list out any conditions and the applicant would have to comply.

RVD stated to Lt. Haughey that if he has concerns as a Safety Officer for the Town, that he is not limited to site distance and traffic. He expressed that by all means, the Board appreciates his input on safety.

BJS stated one of the things he learned from a zoning seminar he attended was to leave it somewhat open ended, so that if we've missed something, there would be a clause protecting the Town. The board however felt it was comprehensive enough.

EWG stated the only thing you might want to add was the language under section 272.

RVD motioned to recommend Article 22, Adult Uses, for Town Meeting as printed without modification.

SDC: Second. Vote: 5-0, approved.

Article 23. Isolated Lots and Subdivisions

RVD questioned the verbiage. The verbiage was discussed and changes indicated in the attached documentation.

SDC: Motion to recommend Article 23 with all modifications discussed tonight.

RVD: Second. Vote: 5-0, approved.

- **Article 24. Parking Regulations**

There was discussion on clarification on how to calculate parking spaces and whether or not duplexes should have higher parking ratios or double a single requirement. SDC stated that if it's a shared driveway, it should be 2+ spaces. PED stated the alternative is 5 spaces instead of 4. RVD felt that if people are buying duplexes or a place with a shared driveway, they understand that there could be parking issues. It comes with the territory.

SDC: Motion to recommend Article 24, Parking Regulations for Town Meeting.

RVD: Second. Vote: 5-0, approved.

- **Article 25. Signs**

This article is from the Zoning Board. BJS stated it seems the intent is to minimize the reflective quality of the sign to minimize the mirrored effect. There was discussion regarding minimum lighting, illumination and flashing lights. PED stated we could put this through now, but our sign by-law needs work. The board needed more clarification from the ZBA on understanding the illumination issue. That language was agreed upon to be removed.

RVD: Motion to recommend article 25, Sign Regulation with modifications made at the public hearing.

BJS: Second. Vote: 5-0, approved.

Planner's Report:

PED explained that there is an 81-P lot on Lake Street, the 7 acre lot that is part of the Special Permit of High Ridge. The first question is whether or not we have to open the Special Permit for High Ridge. The second issue is whether or not it affects that lot.

BJS asked if it was included in the Special Permit as a subdivision or does it stand alone.

GCW asked if it's a single lot now. PED stated that it is an 81-P that stands alone, but was included in the Special Permit for some reason and that it was a duplex lot. What the applicant wants to do is switch lots with a house he bought unaware that a pumping station was going to be built right behind their house. Mr. Jones wanted the Board to know that this is not being generated by him to get another lot, that he is just trying to help out the applicant.

RRL suggested they both come in before the Board. BJS said it would be good if the Board could have a letter in writing to state the intent of Mr. Jones.

PED stated the Board would be consulting with Phil Herr regarding Maplebrook and issues that have come up with the most recent phase of the development plan. RRL also discussed Maple Sands Street Acceptance, that they did not get the certificate of compliance from the Conservation Commission and the Board could not give their recommendation. They would probably have to wait until the fall Town Meeting.

RVD: Motion to adjourn.

BJS: Second. Vote: 5-0, approved.

Minutes Accepted on: 4-11-02
(date)

Beth E. Partington
(prepared by: Beth E. Partington)

Roland R. Laprade
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Attached are the Zoning Amendment s to be recommended for Town Meeting and the yes/no implications of each.