



BELLINGHAM PLANNING BOARD

6 MECHANIC STREET
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April 25, 2002 Meeting Minutes

- **Present at the meeting:**

Roland R. Laprade (RRL), Chair
Brian J. Sutherland (BJS)
Steve D. Choiniere, Sr. (SDC)
Glenn C. Wocjik (GCW), Alternate

*Not present: Richard V. Dill (RVD), Vice Chair
Edward W. Guzowski (EWG)

Other officials: Paige Duncan (PED), Town Planner
Beth Partington, Coordinator

RRL opened the meeting at 7:00pm.

Minutes from 4/11/02 were tabled as RVD asked that the language for the Development Plan Review for Energy Electric be verbatim. BJS felt that if RVD felt the text needed more substance then, that was fine.

- **81-P Mechanic Street:**

PED stated that Town Counsel is not able to act on this as he represents Mr. Moore. So we sought counsel from Gerald Moody in Milford. Mr. Moody sent a letter. RRL stated that in Mr. Moody's opinion, the Planning Board signature of this does not constitute ownership of "Parcel A."

Mr. Moore asked to go on record as to dispute of the plan, asking what information the engineer used to single out the "parcel A". He stated he has deeds going back to 1929, stating that he and his family are in ownership of the parcel.

RRL stated we're not here to determine ownership. Mr. Moore asked what right they have to claim a piece of his property. BJS stated we weren't sure how to deal with it, so we sought counsel. Mr. Lee Ambler, the Town's Legal Counsel, represents Mr. Moore on legal matters, so the Planning Board went to outside legal counsel.

Mr. Moore stated that an 81-P says it's not a subdivision. He understands that counsel says it isn't. But he feels that it is subdividing his land. Mr. Moore stated that the subdivision regs state that you can't create a lot that is unbuildable.

BJS stated what we're saying is that lot 1 and lot 2 are being separated. Parcel A is in dispute. They're only subdividing what they know to be their land. They're taking lot A out of the equation.

RRL stated he doesn't feel comfortable signing this plan and asked PED, if we were mandated by law to approve Parcel A.

PED stated the other two parcels have frontage and are entitled to endorsement.

BJS read Mr. Moody's letter:

"I have reviewed the above plan, spoken to parties involved, and done some research on the matter. The plan is carefully prepared and clearly indicates the dispute over ownership of 'Parcel A'. Endorsement and recording of the plan does not benefit either party to the dispute. The endorsement as to 'Parcel A' not being buildable is consistent with the relevant case law. See *Circones vs. Planning Board of Dracut*, 39 Mass. App. Ct. 264 (1995).

"In sum, the plan is entitled to the requested endorsement. If I can provide any further assistance, please advise."

PED read "Section 81P provides that an ANR endorsement "shall not be withheld unless such plan shows a subdivision." For purposes of the Subdivision Control Law, a "subdivision" is a "division of a tract of land into two or more lots." A "lot" is defined in Section 81L as "an area of land in one ownership, with definite boundaries, used, or available for use, as the site of one or more buildings." The court determined that the plan was entitled to ANR endorsement since a statement had been placed on the plan making it clear that lot B was not available for the site of building.

BJS: Motion to accept 81-P, lots 1 & 2 on Mechanic Street.

SDC: Second. Vote: 2, approved, 1 denied, RRL. Motion denied.

PED stated we would have to send a letter of denial to the Town Clerk, that after 21 days it's automatically approved.

RRL stated, that if it was going to be approved regardless, then let him reconsider his vote and vote to aye. Reconsidered Motion: Vote: 3, approved. Motion passed.

The Board then signed the 81-P plans.

- **Blendtek, Mechanic Street, Tree Planting Discussion**

Attorney Jonathan Fryer, representing Blendtek, came before the board to discuss that the owners of Blendtek would like to erect a stockade fence instead of the plantings of the 286 arborvitae trees. Michael White and Walter Woodman, two abutters, stated

they had no problem with the fence. He would like to amend the site plan and have a public hearing to change a condition of approval. Mike Graf indicated to the Board that he felt the tree plantings would help prevent run off. BJS stated his concerns were changing plans without the abutters being notified at a public hearing. The Board agreed. They have no problems with the applicant re-filing.

- **Road Name Change, Blackstone Fields Subdivision**

Bill Eagan from Fidelity Investments came before the Board to discuss the name change of Allen's Way. It seems there is a conflict in the name of the street with Allence Way on the other side of town off of Hartford Ave. Mail for 11 Allen's Way goes to 11 Allence Way. The police even directed a paving crew for 11 Allen's Way to 11 Allence Way. Tom Guerin is afraid that there will be a problem with emergency access vehicles. They won't know which house to go to if called in on a cell phone.

SDC: Motion to accept name change of Allen's Way to Maddie Way subject to approval by Tom Guerin when he gets back from vacation. *(The Planning Board Office has since received written confirmation from Tom Guerin, approving Maddie Way as an acceptable street name.)*

BJS: Second. Vote: 3-0, approved.

Mr. Eagan stated the trees that were marked with X's have been cut, the trees circled are going to be welled. Mr. Eagan confirmed the work would be completed by the end of May. Mr. Doug Ballum of the DPW will be inspecting it.

Regarding Hixon Farms, Mr. Eagan stated the paving work could be done in a day, it's just a matter of when the paving company can do it. Mr. Eagan wants to finish the work, not have the town take the bond money. PED expressed to Mr. Eagan that the Board voted to take the bond money at the last meeting. Mr. Eagan said that there's only \$25,000 of work to do, but \$58,000 in bond money, that they would get the work done before the Town Meeting.

RRL opened the public hearing for Dunkin Donuts. The applicant is requesting an extension until July 1, 2002, with the public hearing being continued to June 13th at 7:30. That is the night of Town Meeting.

BJS stated we could send a letter to the abutters. The Board discussed moving the 13th agenda to June 20th or 27th. PED thought we should try for June 20th because of all the new applications.

BJS: Motion to continue Development Plan for Dunkin Donuts Development Plan Review and Special Permit Public Hearing to 6/27/02 at 7:30pm and extend the application to 7/1/02.

SDC: Second. Vote: 3-0, approved.

- **Planner's Report:**

PED stated we got a formal letter from an attorney requesting the bond money from Fox Run Road. BJS recommended sending a letter stating the Town has spent the money completing the work on the subdivision that there is no money left in the account to finish the As-builts.

BJS also stated that he didn't agree with the letter from Town Counsel that anytime money is taken, it would need to go to Town Meeting. That money was appropriated to finish the project. It shouldn't be spent elsewhere.

RRL suggested to get the numbers from Don and check with Town Counsel.

PED got an email from the Town Clerk today requesting that zoning be done only on the October Town Meeting, that it was a lot of paperwork to do, coordinating with the Attorney General's Office.

BJS stated we have so much work to do that it shouldn't be limited to once a year. The Board discussed this and thought maybe once the by-laws are in better shape that once a year would be okay. RRL thought that instead of five (5) articles in the spring and fall, there would be ten (10) at the fall meeting. BJS suggested seeing how we make out at the Fall Town Meeting. RRL stated we don't want to put undo stress on other departments, but our by-laws need a lot of work.

1. **JPI:** Reminder to get your comments on the ENF to me soon. Comment letter must be in MEPA's hands by 5/10/02 (must be written and reviewed before this date).
2. **MAPD Conference:** I will be attending the MAPD Conference in Worcester on May 16th (and maybe the 17th). I believe each of you received a copy of the program in your last package. Let me know if you want to attend.
3. **Schedule:** A busy few months coming up:
 - Bainbridge Realty - 401 Hartford Ave - Backlot special permit (on 5/9)
 - Conroy Development - 210,000 sf Distribution Facility development plan/special permit (on 5/23)
 - Connors Estates definitive plan - 7 lots (3 commercial) (on 5/23)
 - Maplebrook Condos, phase II and III, development plan - 110 units (on 5/23)
 - Pierce Estates definitive plan - 78 lots (on 6/13)
 - Dunkin Donuts - continued to 6/13 and 6/27

The Board discussed the following possible zoning changes for the Fall Town Meeting.

Potential Zoning Changes for Fall Town Meeting – For Discussion

Following is a list of possible zoning changes for the Fall Town Meeting. The Planning Board discussed these, in anticipation of developing a strategy for drafting of the required zoning changes.

Item	Level of Effort Involved
• Use table overhaul	Major, with particular emphasis on whether commercial/retail should be permitted in industrial zones.
• Sign by-law (full revamp)	Major
• Cell tower by-law	Major
• Lighting	Moderate (not sure). Current requirements allow too much off site glare.
• Lot coverage	Moderate. Do we want to establish maximum lot coverage for non-residential development? Most towns have.
• Require bonds for condos	Moderate. Need to research and draft.
• Require site work inspections/bonds for private lots	Moderate. Need to research and draft.
• Change of use to require PB review	Minor, although need to find the right balance of what will trigger review.
• Limit size of accessory building	Minor, again need to find appropriate limit.
• Remove reference to burying stumps in Section 4652.	Minor, just eliminate language.
• Traffic regulations	Not sure. Currently in Subdivisions Regulations with reference to these regs in by-law. We should overhaul so that they are up to current standards.
• Home occupancy uses	Not sure, may be major.
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zoning ideas

Regarding signage, RRL stated political signs are constitutional. BJS stated his main concern is the big monstrous business signs. PED stated the sign by-law is horrendous.

Regarding wireless communications and cell towers, BJS stated we have to become proactive in areas of service. It's all based on areas they have coverage. The companies know where they have coverage and where they need it.

Regarding the change of use to require Planning Board review, PED thought the key was to have it indicated as an informal review.

In limiting the size of an accessory building, GCS thought if you limit size in private houses you're saying a homeowner with a 700 s.f. house can't have a 1000 s.f. garage, that this

was not the intent of limiting size. PED stated the intent is critical. If you have a neighborhood with small ranches with huge garages, it does affect the character of the neighborhood.

Traffic: PED can re-distribute the sample for traffic. The by-laws state that you can't affect a road by more than ½ %. Bruce Campbell stated if you add ½ % to a road that is already an F, it would still be an F. GCS stated there should be some mitigation to get to a better level instead of making worse an already bad situation.

BJS stated there is nothing stating the applicants need to mitigate in that way. GCW stated that if a road is already an F, bring it to the point where there's zero (0) impact from the project. PED stated that it's a gray area of huge concern to Bellingham.

SDC asked if N.E. Country Club on Paine Street was coming in for houses? PED stated as far as the office knows, no.

RRL stated that Home Depot and Wal Mart have all their spring and summer garden merchandise out and didn't come before the Board for any approval.

BJS stated that people had complained to him regarding the Sex Agenda sign for adult novelties. People with children were walking by and found the sign offensive. The children asked what it was for. It was an uncomfortable discussion. PED stated that the sign is 1' x 1' and within legal limits.

SDC asked about the license for Marty's, that there are a lot of cars over there and he didn't think they were abiding by the license. BEP will check on the number of cars approved in the plan.

BJS stated that Land Planning on Hartford Ave had an illuminated sign that was extremely bright. PED stated it was an enforcement issue.

SDC: Motion to Adjourn.

BJS: Second. Vote: 3-0, approved.

Minutes Accepted on: _____
(date) (prepared by: Beth E. Partington)

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Minutes Accepted on: 4/25/02
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