



BELLINGHAM PLANNING BOARD

5 COMMON STREET
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July 10, 2003 Meeting Minutes

- **Present at the meeting:**

Richard V. Dill (RVD), Chair
Edward W. Guzowski, (EWG), Vice Chair
Brian J. Sutherland (BJS), Secretary
Roland R. Laprade (RRL)
Richard V. Dill (RVD)
Arthur P. MacNeil (APM)
Glenn C. Wocjik (GCW), Alternate

Other officials: Stacey Wetstein (SJW), Town Planner
Beth E. Partington (BEP), Coordinator
Amy Cook, (AC), Commission on Disabilities

RVD opened the meeting at 7pm.

- **Gary Swanson 81-P**, 32 Pine Street, conveying land to neighbors to square off his lot. The way the lot was configured, it seemed to make sense.

RRL: Motion to sign G. Swanson 81-P.

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

- **Germaine Realty Trust, 230 Wrentham Road.**

The applicant, Germain Realty Trust, owner, Leo Dalpe, is conveying lands to the Town, moving a lot line for the entrance to Town property.

BJS: Motion to sign the 81-P for Germaine Realty Trust.

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

- **Country Club Estates II Bond release:**

RRL: Motion to reduce CCII (Acorn & Walnut) to \$16,260.00.

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

- **Sand Castle Lane Bond release:**

RRL: Motion to release remaining funds for Sandcastle Lane.

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

▪ **Grenon Back-Lot Subdivision, Special Permit:**

EWG: Motion to approve the Grenon Back-lot Special Permit.

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

High Ridge Estates Discussion:

EWG stated that construction on High Ridge has come to a halt. Several residents have complained to him. He took a drive down there and it's a mess.

RVD agreed. Don DiMartino has asked for a construction schedule.

RRL stated that was his concern when he got the temporary access permit for the sewer, that he would sell those few houses and things would slow down.

Bill Bissonette asked when he planned on doing Lake Street, because that is horrible.

RVD stated they did it backwards with the winter. Center was done first and not Lake Street, then with the way winter hit so early, it made things very difficult.

▪ **Sunken Meadow Estates Definitive Subdivision, Public Hearing, Bruce Lord:**

Mark Brady, an abutter to the project, stated his concerns, with water and fire services. He feels Sunken Meadow Rd. is a private road and doesn't feel Mr. Lord can extend it. This proposal was denied by the Planning Board in 1987. The present day facts support the decision the Board made back then.

MB asked that the materials he submitted be made part of the public hearing and public file.

RRL: Motion to make Mr. Brady's submittal part of the public record.

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

MB stated that BL met with himself and Sue Flaherty to propose the building of one house for his son. BL didn't do what he said he was going to do. Bruce went before the ZBA and all was going well, but it fell apart. Bruce wasn't going to develop this parcel himself. He had a buyer and was going to sell it. There was not plot plan. The variance doesn't go with the project. There was no indication of where the house was going. Bruce stated he could not guarantee more than one curb cut because he was selling it. The lack of trust we, as abutters, have in this project is immense.

MB stated that nobody is looking to hurt Bruce. He originally came forward to build one house, then he went to the ZBA.

The abutters' would like to see one house, with conditions, that it be the middle house, situated in or behind the tree line. They would like buffers created for all the neighbors. They would like the house to be deed restricted to it couldn't be over turned in court. They want the road to be a private road, maintained as a private road, never to be made a through road. They would like the extra land turned over to ConCom or deeded in such a way, that no other houses could ever be built on the property. In exchange for our signatures to extend the road, we, as abutters, would go with Bruce to the Town of Franklin, for fire, sewer and water services. We cannot guarantee any of those as abutters, but we can extend our support and a justified argument.

RRL: You keep saying abutters, have you spoken with all the abutters?

MB: Yes.

RVD asked for a list of abutters.

Daniel Ben-Israel, the Town Planner in Franklin stated that Franklin regulations state a dead end road must be 400' minimum, 600' maximum. Back in '99, it was a minimum of 200', maximum of 600'.

RRL stated he was curious to get a response from Mr. Lord to the proposal from Mr. Brady, of one house, maybe we can make this all go away.

BL stated that he was not open to that option. He feels that he is into it for too much money now and that one house is no longer financially feasible for him.

Bill Bissonette stated that he and his wife are abutters. Joseph Circle is right across the line from Beech Street, it's a huge cul-de-sac, there is a map showing how quick from Bellingham to Joseph Circle. He spoke with Chief Ranieri, re: fire and safety. We feel access is more of a problem with all the traffic.

RVD questioned that the fire chief said there are no across town services.

BB stated Chapter 41, mutual aid, if a town is asked, if their equipment is available, they're required to help, but there is no written agreement.

BL stated that the difference in Cranberry Meadows was not four lots, but four duplex lots, which would be eight dwelling units. All covenants were deed restrictions. The only one that would have a legal problem that could be challenged, is the one relative to the school buses. There is a school bus now that goes down Pine Street and goes around to Joseph Circle, so in reality, it would stop here.

▪ **CVS Rezoning Public Hearing:**

At 8:30, RVD opened the public hearing for CVS for rezoning of land from residential to B1 at the Pulaski Boulevard South Main Street intersection. He asked for representatives for CVS. Attorney Maciolek came into the room. RVD asked for one of two things, leniency and time or if they wanted to come in before the Board and present something that would expedite matters.

BJS Motioned to waive the reading of the public hearing notice.

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

Richard D. Maciolek stated he represents CVS and it's developer, Mammoth Acquisitions, regarding the Cook's Corner project.

The audience stated they couldn't hear in the back. RVD asked if they were going to move forward with the project.

RDM stated no, and asked if he could read a statement and read into record the following letter:

Mr. Chairman:

*I represent CVS and its developer, Mammoth Acquisitions,
Regarding the proposed Crooks Corner project.*

*I have been asked to inform you that, as a result of the
votes of both the Finance Committee and Board of Selectmen
Recommending dismissal of the Special Town Meeting Articles, CVS
Decided to not bring this proposal forward to the Planning Board
at this time.*

*If CVS decides to develop a new proposal for the Town of
Bellingham, we will of course, provide you and other town boards
all the pertinent information.*

Thank you for your consideration.

A member from the audience asked what that means.

RVD said one moment.

RRL: Motion to accept the withdrawal of the article for rezoning from residential to B1.

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

RVD stated what that means is that they're withdrawing.

Ernie Taft, of the Historical Commission, asked if that included articles 5, 6 and 7.

RVD stated we don't have a listing of the articles.

Mr. Maciolek : We're just withdrawing, from the...not going forward with the Planning Board.

ET: What is this for?

RVD: This is for the rezoning.

ET asked if they were still going forward with Stenson St.?

RDM stated they haven't withdrawn anything. They're just not going forward tonight with the Planning Board.

RRL well you just requested a withdrawal without prejudice.

RDM: We didn't request a withdrawal.

BL asked if he could indicate one thing and stated that if they do not make a presentation to the Planning Board, they cannot go forward at town Meeting. If the Planning Board does not hold a hearing within 60 days of the Town Meeting, which they are not doing, as I understand it, than the matter cannot go before Town Meeting.

RDM: That's not necessarily so. I don't want to get in a debate with you, sir. They opened the meeting; they're having a hearing right now.

RVD: But we just made a motion – it was under the impression that you were not moving forward.

RRL: What is it you're asking for? You're just withdrawing the rezoning?

RDM: No.

RRL: What is it you said?

RDM: Just what the statement said, we decided to not go forward before the Planning Board at this time.

BJS: Are you requesting an extension?

RVD: You're asking for a continuing of this public hearing?

RDM: No.

RVD: What are you asking for, tell me. You just told me they're asking for a continuance or to extend this?

RDM: No, we're not asking you for anything.

RVD: Let me see the letter you just read.

RRL suggested reading it out loud.

RVD read: *I represent CVS and its developer, Mammoth Acquisitions, Regarding the proposed Crooks Corner project.*
I have been asked to inform you that, as a result of the votes of both the Finance Committee and Board of Selectmen Recommending dismissal of the Special Town Meeting Articles, CVS Decided to not bring this proposal forward to the Planning Board at this time.

RVD: Sir, not at this time means you are withdrawing it and you are going to resubmit it at a later time.

RDM: No, read the next paragraph.

RVD read further:

If CVS decides to develop a new proposal for the Town of Bellingham, we will of course, provide you and other town boards all the pertinent information.

Which in my eyes means you will re-file. We can make this real easy and just deny it right now.

EWG: Mr. Chairman –

RVD: Hold on.

EWG: Mr. Chairman, I make a motion –

RVD: No, no. Hold on. I have to hold you off for a point of order. I didn't think it was going to come this far. I am going to recuse myself from this vote because my wife works for CVS and has for 24 years. I was just thinking that we were going to move and it was going to go away. If we're going to a vote, then I'm recusing myself and turning the meeting over to Mr. Guzowski.

EWG: Alright, first of all, folks, why don't we try to get some of you in here.

RVD said to BL, do you mind? I thought this was going to be out of here quick.

BL: No problem.

RDM: I thought it was too.

EWG: The people that are involved in Sunken Meadows, could we ask that you recess for a minute to let these other people come in? We're trying to determine if this is going to go forward or not and in order for them to do it, they have to clarify, and we're not getting that clarification. We'll get right back to you. Is everybody in for Crook's Corner?

Resident: You won't fit everyone in.

EWG: OK, well, if everyone could move as close to the doorway, so they know what's going on.

BJS: there are open seats still available, if you want to tell the people waiting outside.

EWG: This is for Crook's Corner. For the record, we're going on recess for Sunken Meadow. All the people involved in that hearing can take a break. What we're trying to determine is if CVS is going to withdraw to participate in the motion for the recommendation that they have coming before the Planning Board. We are unclear on what they intend to do.

Resident: So are we.

RRL: As I understand the law, you need to either make a presentation or withdraw without prejudice.

EWG: What would you like to do sir.

RDM: We're not making a presentation tonight. That's exactly what we're saying. We're not going to make a presentation tonight.

RRL: Okay, then I make a motion to not recommend the rezoning of the land.

BJS: You understand there are two things going on. Number one, is that if you don't make a presentation, then you would need to continue to a later date. If someone is in front of the planning Board and they do not make a presentation, if they're not prepared to do that, we continue to a later date regardless of what's pending on this, as far as the Town Meeting – that's a separate issue. He has the opportunity to continue to a later date. It doesn't mean he can go before Town Meeting, that's a separate issue. He has the ability to put this out to a later date. If you are not going to move this to a specific date, then you either have the choice of withdrawing without prejudice or we will say that this is an incomplete submittal, that you're not filing the appropriate plan, then that would be denied. So, which do you choose?

RDM: Well, we...

BJS: The choices are yours, you have the option to withdraw without prejudice or –

RDM: Which we're not doing.

EWG: Okay, so do we have a motion before the Planning Board on the recommendation for Town Meeting?

RRL: Motion to not recommend the article on the rezoning for Crook's Corner Common.

APM: Second. Vote: 4-0.

The crowd also yelled "Aye." One resident yelled out, "No."

EWG: It's the unanimous vote of the Planning Board, not the audience.

Resident: You seemed happy everyone wanted it denied. I just wanted you to know I didn't.

RRL: It's only because he refuses to make a presentation.

BJS: It would have been very nice to hear and see a presentation. We're willing to accept something – extend it out to the future, but since the applicant chose not to, we have no choice.

RDM: Okay, I guess that's it.

Resident: How long can this go on?

EWG: We'll take a few questions from the people.

Resident: Would this be a dead issue now?

EWG: At this point in time, we're not recommending it.

RRL: They're still coming at the Town Meeting.

Resident: At the Town Meeting can they raise this issue again?

RRL: They have an article on the warrant for Town Meeting. Yes they can. They will not have a recommendation of the Planning Board.

EWG: You need to show up at Town Meeting.

ET: For a point of information on the statement made by Mr. Lord. Mr. Lord said that if they do not make a presentation tonight, they can't come before Town Meeting.

BL: What I meant by that, Ernie, was not that they had to make a presentation, but the hearing had to be opened and the Planning Board had to hear whatever they had to say. They chose not to say anything and the Planning board took action. This is Lee's area, you'd have to ask Town Counsel. I suspect that what they did minimally met the requirements with that particular law and they probably can go forward. Therefore, the Planning Board did what it should have done, which is taking a vote to indicate that they weren't in favor of it.

EWG: What we did, just so you no, is, the Planning Board did not recommend this to Town Meeting for approval. What they did is they sent us a letter and when we asked

them, they did not want to withdraw. So the members of the Planning Board took the appropriate action. A motion was put before the Board not to recommend this proposal of a land swap and it was unanimous vote not to.

RRL: This is just for the rezoning.

Resident: How long can they play with us? The tax payers of Bellingham, the Boards. How long is this going to go on?

EWG: Whatever you do, show up at Town Meeting, make sure you're there.

Resident: it just seems like they're laughing at all the boards and they're laughing at the taxpayers of Bellingham. It seems like a crock, right now.

Mr. Tuttle: Would you read the letter Mr. Maciolek read before?

EWG: It's not even on letter-head. (He reads the letter)

RRL: All we have anything to do with is the Zoning Articles. All we are required to do is a public hearing for these zoning articles. The other articles, we had nothing to do with. But they did not submit a presentation for those zoning articles. So basically, we voted to not recommend the zoning article for Town Meeting Monday night. All it means is Monday night, when they read the article and ask for the Planning Board recommendation, the Planning Board recommendation would be not approved, or not recommended.

EWG: Any other questions?

Mr. Tuttle: Does the Planning Board sit as the Zoning Board also, or do we have a separate Zoning Board?

RRL: Separate.

Mr. Tuttle: When do they act on the zoning? Who acts on the zoning?

EWG: This is a public hearing for Town Meeting.

Mr. Tuttle: Have they been before the Zoning Board?

RRL: No, they have not.

Mr. Tuttle: After this meeting, do they have to go to Zoning?

EWG: We voted to not recommend it.

Resident: Given that correspondence was unsigned, how official is that documentation?

BJS: He represented himself by stating his name when he first came in and he made public statements on behalf of the organization.

RRL: The main thing is that we acted on the request of the public hearing.

EWG: We want to thank you all. What you need to do is make sure you are all there. Bring your neighbors and let your voice be heard. We heard them tonight and hopefully we represented and did our job as a Planning Board.

▪ **Sunken Meadow Estates Definitive Subdivision Public Hearing, cont.**

RVD rejoined the Board, taking his seat.

RRL asked if the road itself was waived.

BL asked that it be continued one month.

RRL asked to have Town Counsel determination regarding the deed entitlement to the road leading to the parcel.

Daniel Ben-Israel stated that legal access is an issue. There is a distinction to the rights to utilize a road versus right to improve it.

BL said the abutters keep saying they have ownership rights, he would like proof of that.

DBI: We cannot prove it. Our records show that the previous developer had sold the lots with ownership going to the center-line of the road. If that is determined, they will need to go to the Franklin Planning Board. At minimum, discussion between Town Counsel to oversee long-term maintenance of the subdivision. Our meeting left off that he come to Franklin. The new developer was only responsible to finish the construction to the temporary turnaround. Our by-laws specifically states that all construction needs to be finished in four years. At minimum, it requires a modification. Ownership issues still need to be determined.

RVD: Where does Sunken Meadow Road end right now?

DBI, as constructed, just shy of the Bellingham line.

RVD stated he thought it went to the Bellingham Town Line.

BL stated the road goes to the Town line. The Franklin office refused to get anything in writing.

DBI stated the two abutters own up to the Centerline. If it is legally determined that they do, then a subdivision of land is taking place according to Chapter 41-81-0.

BJS: The question of ownership of the road in Franklin doesn't diminish that it's Bellingham property. It doesn't diminish safety access to the road whether it's two or eight dwelling units. I don't care whether Franklin says it needs to go through them. The issue is clearly whether it's appropriate to have a subdivision that has no fire, water and other town accessories.

RVD asked DBI if that is typical that developers wouldn't keep the rights to the road in Franklin.

DBI: Stated yes, it's common.

RRL: So to have the town accept the road, they have to do the takings?

DBI: Exactly, that's why we have so many roads that are not accepted.

BB asked that Deputy Fire Chief Guerin's letter be part of the permanent record.

Further discussion took place. It was decided the Board would seek Town Counsel's determination on the deeds and access to the road.

RRL: Motion to continue the public hearing for Sunken Meadow Estates to 8/28/03 at 7:30pm.

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

Edward Estates:

BL: Mr. Gagnon doesn't want to extend the road, but he doesn't want to deed the property as such. The problem with the land behind the parcel, is that it is land locked. If this is deeded to ConCom, this could become access to the Conservation land in the back.

Gregg Scikevich, 78 Laurel Lane stated that he just got Mr. Lord's letter today at 5:03pm.

EWG stated the residents are not satisfied and that he was ready to make a motion to deny it and have it torn down.

APM stated he was ready to second.

RVD stated the list seemed reasonable.

Anne Marie Dadoli said if feels like they're steam-rolling us.

BJS: How is it that the abutters do not have the information? Something is going on here. I don't see it in writing.

BL: We've done everything possible. There's nothing on there that says we aren't willing to give them everything they want. Read the emails.

BJS: I don't care to read the emails. The folder is not that thick.

EWG: You don't have a phone Bruce? These people are very accessible.

The residents stated they thought BL was representing the Gagnons and when he said no, we thought the Gagnons were saying no.

The bond being held on Edward Estates is over 200,000. The residents wanted to be sure the conditions were met and wanted to make sure there was enough money in the bond account to cover the work left.

GCW stated he would like a rough estimate from Don Dimartino on what it would take to complete the project.

RVD called for a continuance to get these issues ironed out. He wants people to know that a mistake was made and to be able to explain to the residents how he could approve it.

BJS: Motion to continue the public hearing for Edward Estates, Modification to a subdivision, to August 14, 2003, at 7:30pm.

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

BJS: Motion to accept the extension of Edward Estates, Modification to a subdivision, to 8/18/03.

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

Minutes Accepted on: 8/14/03
(date)

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

Richard V. Dill
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