



# BELLINGHAM PLANNING BOARD

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## 9/25/03 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)  
Arthur P. MacNeil (APM)  
Glenn C. Wocjik (GCW), Alternate

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

### Old Business:

BJS: Motion to accept the minutes of 8/28/03.

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

EWG: Motion to approve the minutes for the 9/8/03 emergency meeting.

APM: Second. Vote: 3-0-2, approved. (BJS, RRL abstained)

### JPI Update:

BJS discussed the letter being sent from the Planning Board to the Zoning Board. He also discussed the double counting of the acreage being allowable if a conservation restriction was placed upon it. BJS explained that JPI submitted wording that would prevent any restriction on the land, but the ZBA and their attorney felt the language was too broad. Compromise text was reviewed and was submitted as a letter. Discussion also revolved around wording of a condition relative to roadway improvements. It was determined that the wording previously approved by the PB should be used in the ZBA's final draft. A draft of the letter was typed and submitted to the PB for review during the meeting. The PB agreed with the language and agreed to sign.

APM: Motion to sign the letter and send it to the ZBA.

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

**Appointment of the Coordinator:**

RRL: Motion to Appoint the Coordinator, Beth E. Partington for the term of one year.

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

**Grenon Backlot Subdivision Signing:**

There was general discussion about signing the mylar for the Backlot Division for Diane M. Grenon. It was noted that there was a difference in terminology between the language suggested by Phil Herr for this decision and previous decisions. It was noted that the wording in previous decisions clarified the approval by the PB that it was not intending to circumvent the Subdivision Control Law.

SJW noted that it was appropriate for the PB to correct an error or omission (of clarity) as long as it did not change the intent of and conditions of the original decision.

BJS stated that it was not his intention at the time of the approval to circumvent the Subdivision Control Law, and that he was comfortable stating that as a correction to the decision. The other members affirmed that their intent was the same.

BJS: Motion to modify the decision to reflect the change with wording, "The proposal does not circumvent the intent of the Subdivision Control Law."

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

BJS: Motion to sign the Mylar for the plans identified as The Backlot Division for Diane M. Grenon dated July 18, 2002.

**Maplebrook Commons 81-P, Form A, Approval Not Required**

The Board discussed this plan. It was submitted two years ago and denied for not meeting the lot shape factor. It is the exact same plan and still does not meet the lot shape factor.

RRL: Motion to deny the 81-P for Maplebrook Condominiums.

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

**Frozen Ropes Development Plan Approval, Maple Street, Public Hearing:**

Don Nielson of Guerriere and Halnon, spoke for the applicant. They are proposing eight, (8), batting cages. It is a circular site with a drive and parking around the building. There are walkways around the building with various landscaping. There is wetland in the rear of the property. ConCom is in the process of an order of conditions for the site. Skylights are built into the roof to provide natural lighting in addition to artificial lighting. The proposed building is to be a natural beige metal building. In the future, they are

proposing two, (2), Babe Ruth fields and three, (3), Little League fields, which they will apply for later. They will be back when it is designed. The current traffic design is keeping future development in mind.

*At 8pm, RVD opened the public hearing for Algonquin Industries Development Plan Approval.*

BJS: Motion to waive the reading of public hearing notice.

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

RRL asked if they were proposing leagues of their own, if it would interfere with the local town leagues.

Ted Novio answered the uses would be varied. Some leagues would rent the spaces; it would provide additional playing space for teams to use. The fields could be used for tournaments as well.

RVD asked if it was a training facility or can someone come in off the street? He also asked for clarification that the fields were not a part of the submission and was told the plan reflected their interest in the future. They were not part of the submission.

TN stated a little of both. There are 19 Frozen Ropes across the country. Teams use them to train and local residents go there to practice as well.

BJS suggested a stop sign at the intersection of the entrance to the facility and the road to the Industrial Park.

GCW discussed parking flow and suggested a stop sign on the northerly entrance to the site for outgoing traffic.

DN agreed to the changes and would provide copies of the plans once updated.

RRL: Motion to approve the Development Plan Approval Application for Frozen Ropes Batting Cages with the two additional stop signs.

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

**Algonquin Industries, 139 Farm Street, Development Plan Approval Public Hearing:**

Michael Romanow, attorney for the applicant, presented the proposal. He stated that presently, daily or every other day, gas is being delivered to be stored in small tanks they have on site. They're hoping to put in concrete pads with larger tanks, alleviating the necessity of such frequent deliveries. With the larger tanks, they would only need a delivery once every six (6) weeks.

SJW read an email from Lee Ambler, Town Counsel, determining that parking for commercial property is not allowed in residentially restricted land.

The file submitted to this office is admittedly somewhat sketchy, but based upon that file, I find no basis for a determination that Parking or extensions are so grandfathered. Statements like "Future Parking" do not freeze zoning.

Admittedly "less restricted District" is vague, but the only interpretation that makes sense is where you do residential in commercial but not commercial in residential.

Less Restricted is akin to less negative impact.

BJS discussed moving the dumpster and concrete pad to another location on the property. It was also noted that the plans submitted were sketches and not updated engineering drawings. The submission had differing sketches as well.

RVD stated, you're asking us to waive our by-laws because you don't want to move a dumpster.

RRL asked, "Are we even allowed to waive that? Town Counsel stated our by-laws don't allow commercial parking in residential."

BJS stated it seems that inconveniencing 1 person, 1 driver, ever six, (6), weeks for a delivery would be a much better solution than not upholding the by-laws and inconveniencing neighboring residents who live in a residential zone, with traffic and parking from a business, and potential hazard from the storage of larger volumes of gases. Discussion also revolved around placing the storage area at the east side of the building facing Route 495 and away from residents and Farm Street aesthetics.

MR stated in accordance with your by-laws, we're requesting to withdraw without prejudice, the application for development plan review for Algonquin Industries.

RRL: Motion to withdraw the Site Plan Review Application for Algonquin Industries.

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

**Sunken Meadow Estates Definitive Subdivision, Off Pine Street, Public Hearing:**

Bruce Lord provided a summary of what's gone on today. He stated he has addressed the access issues, that the application is approvable as it sits. I can put this development in today, as it stands. There is nothing anyone can do to stop me, because I have legal access to the property. I'm not going to develop it without talking to Franklin, but I'd rather go and talk to them with an approval from Bellingham, rather than a case of you turned me down until they approved me and they turned me down until you approved me. It doesn't make sense to do it that way and we get a long legal battle. I think the best way to go forward is for you to approve it as it should be and I'll deal with the rest.

Mark Brady, a Franklin resident and abutter to the property, stated the issue was never whether or not Mr. Lord had the right to use Sunken Meadow Road, but whether or not he had the right to extend Sunken Meadow Road. He also stated that Franklin's regs state that subdivisions expire after four (4) years. This expired twelve (12) years ago. When this was proposed, it was shown as a single road, with the hopes of extending sewer and water. Franklin is in dire need with sewer and cannot extend it. Mr. Lord wants to extend water for fire protection another two hundred feet, (200') and he has not heard back from the Town of Franklin yet. He asked, "What has changed since the Planning Board denied this plan back in the 80's?"

RVD asked if BL was extending the road or making another road?

BL: Extending the road.

RVD: Stated what has changed since this application came in the first time, are water and sewer and Joseph Circle, which set a precedent. He asked Mark Brady, "What's the big deal? What's the real issue here? How much more of an impact are two, (2), houses going to have? What is the real huge impact of three, (3), houses?"

MB stated that years ago, Mr. Narducci went forward with three houses and this Board denied it. BL does not have the right to extend the road and we feel he should not develop it.

BL stated that Mr. Narducci, when he obtained his subdivision, referred back to the original easement indicated, which he feels he still has access to. Mr. Narducci failed to put in the deeds the access to develop the property; that's why the land wasn't developed.

RRL asked if there is a legal definition of use? He's trying to say using is not improving.

BJS stated we could argue semantics all night. Before we come back, I want these answered.

RRL stated Town Counsel has determined legal access.

BJS stated according to Town Counsel it's up to us to determine adequate access.

Bill Bissonette, Mohawk Path, stated it's quite evident that Sunken Meadow Road issue of ownership is in Franklin. I believe this Board should deny it with the basis that he doesn't have the access to the road. I believe if the Town of Bellingham goes forward with this project, it should not be until he gets approval of the project from Franklin.

RVD asked "How is it different from Joseph Circle?"

BB stated it's a lot different going from Beech Street to Joseph Circle, than accessing Sunken Meadow Rd. Beech Street was a public road, not a privately owned road. It's a

lot different than Joseph Circle.

RVD discussed how roads are approved as Town Accepted roads in Franklin and that a lot of roads are not accepted because the deeds go to the centerline of the road. He asked where the road as approved ended.

MB stated the road as approved expired, that he didn't have the right to unilaterally build on it.

BL stated he had access from the original title.

BB stated as a resident of Bellingham and one of the closest abutters in this room, "I find it incredulous that he didn't even go to Franklin before he came here. I don't trust Mr. Lord. He hasn't talked to me. He already told you, he doesn't have to go to Franklin. If you approve this, I can guarantee you that I will hear back-hoes in my yard."

Jim Hastings asked, "Why doesn't he just go to the Town of Franklin? It would make things better for everyone involved, but he doesn't feel he has to."

RVD stated it's up to this Board to make the determination for Bellingham, not Franklin.

BJS stated it hasn't been proven clearly to him, whether or not he has access to the road. If the applicant had taken care of things, and really wanted to prove the access in Franklin. We've asked for a clarification. It's been a problem for months. All it would have taken was one trip to Franklin by the applicant, to Franklin, to clear these up. It might have been better. I'd like to make a motion to deny Sunken Meadow Estates due to inadequate access and lack of availability of public services.

EWG: Second.

RVD: Now we're into discussion. When a road is approved, and it hasn't been built on, does that mean it expired?

BJS: I'm not prepared to answer that. The adequate paperwork has not been taken care of to supply the answers.

Jordan Burgess, resident of Sunken Meadow Road stated that originally BL stated one of his concerns with going to the Town of Franklin, were the political connections of Mr. Brady. He feels BL needs to go to Franklin and get approval and then come back here.

BB: I think it would be in the Planning Board's best interest – the problem here is simple – we don't have enough information to make a decision.

RRL: Mr. Chairman, this is a three (3) lot subdivision, a private way, I feel they do have access, they have fire safety, a school bus already goes by.

RVD: There is a motion and a second to deny. Let's call for a vote.

Vote: 2 aye (BJS, EWG), 3 nay (RVD, RRL, APM). Motion to deny does not pass.

Marie Drinko, 96 Plymouth Rd., When Mr. Lord wanted to put one, (1) house on ten (10) acres, he could not guarantee there wouldn't be more development. If this is approved, can we guarantee there are only three houses?

The Board and the applicant agreed these would be for single family homes.

BL stated he would put it in the deeds.

SJW read the conditions. (The following of which are taken from the decision)

1. Each of the three lots (Lot 1, Lot 2, Lot 3 as shown on Sheet 1 of signed plans dated October 9, 2002; Revised June 3, 2003) shall contain only one single family dwelling units per approved lot; furthermore each lot shall not be further subdivided for additional lots and/or dwelling units.
2. The single family dwelling unit on Lot 3 shall be constructed no less than 160-feet from the present lot line of Map 121 Parcel 1-5 (shown as Parcel C on Sheet 1 of signed plans dated October 9, 2002; Revised June 3, 2003); and the single family dwelling unit on Lot 1 shall be constructed no less than 60-feet from the present lot line of Map 14 Parcel 61. A plan indicating the placement of the proposed single-family dwelling units for Lots 1 and 3 shall be submitted to the Planning Board indicating that this condition has been met.
3. The applicant, Bruce Lord, shall provide a deed or easement for buffer land between Lot 3 and Map 121 Parcel 1-5 and Map 128 Parcel 90 (shown as Parcels C and D on Sheet 1 of signed plans dated October 9, 2002; Revised June 3, 2003), extending 22.52-feet westerly from the present easterly lot lines for both Parcel C and D and south to the proposed road easement for Parcel C, as shown on Sheet 1 of signed plans dated October 9, 2002; Revised June 3, 2003. The applicant shall confer with the owners of said Parcels to determine the preferable treatment, of either an easement or deed, and the applicant shall provide a signed copy of either the deed or easement to the Planning Board indicating that this condition has been met.
4. The applicant, Bruce Lord, shall construct a 6-foot high vinyl solid barrier fence to be installed along the southerly lot line of Lot 1 from the northwest corner of Parcel A (as shown on the signed plans dated October 9, 2002; Revised June 3, 2003), westerly along the entire length of Lot 1 (approximately 480-feet, as shown on the signed plans dated October 9, 2002; Revised June 3, 2003); furthermore, this fence shall be maintained by the owner of Lot 1 and shall be recorded in the deed to Lot 1. The applicant shall provide a copy of the signed deed to the Planning Board indicating that this condition has been met.
5. The road accessing Lot 1, Lot 2 and Lot 3 in the Town of Bellingham shall be deeded to the owners of said lots, to be maintained as a private road. The

applicant shall provide a copy of the signed deeds to the Planning Board indicating that this condition has been met.

6. The roadway accessing Lot 1, Lot 2 and Lot 3 from the edge of the existing pavement in Town of Franklin and continuing into the Town of Bellingham shall be constructed to the requirements of both Towns.
7. Parcel A (as shown on Sheet 1 of the signed plans dated October 9, 2002; Revised June 3, 2003) shall be deeded or an easement provided to the owners of Map 121 Parcel 1-4. The applicant shall confer with the owner of said Parcel to determine the preferable treatment, of either an easement or deed, and the applicant shall provide a copy of the signed of either the deed or easement to the Planning Board indicating that this condition has been met.
8. The applicant, Bruce Lord, shall include in the deed for Lot 1 a provision to provide a "No cut, no disturb" buffer zone of 30-feet to extend out westerly from the present lot line of Map 121 Parcel 1-4 from the proposed road easement to the northerly lot line of Parcel A (as shown on Sheet 1 of the signed plans dated October 9, 2002; Revised June 3, 2003). This buffer zone shall be clearly indicated on the plan and the applicant shall provide both a copy of the corrected plan and a copy of the deed to the Planning Board indicating that this condition has been met.
9. Parcel B (as shown on Sheet 1 of the signed plans dated October 9, 2002; Revised June 3, 2003) shall be deeded to the Bellingham Conservation Commission as preserved open space. If the Bellingham Conservation Commission chooses not to accept Parcel B, the applicant, Bruce Lord, shall convey the land to parties interested in maintaining the land as open space, such as the Town of Bellingham. The applicant shall consult with the Planning Board prior to finalizing the ownership of Parcel B if other than that of the Bellingham Conservation Commission. The applicant shall provide a copy of the signed deed with the conservation restriction to the Planning Board indicating that this condition has been met.

In approving the Plan, the Board waives the following requirements of the Subdivision Regulations:

Section 271 for the requirement that the subdivider (the applicant, Bruce Lord) retain title to the fee of each street, path or easement in the subdivision until conveyed to the Town or for three years. The subdivider shall convey the road to the owners of Lots 1, 2, and 3 as a private way.

RRL: Motion to approve Sunken Meadow as stated on an unimproved road.

APM: Second.

Sue Flaherty, of 10 Sunken Meadow Road, requested he deed over the land.



David Russel, 37 Mohawk Path, asked where he was taking the measurements from for the no-disturb zone?

BL indicated on the plans the area of the no-disturb zone.

RRL: Motion to have the Town Planner draft the decision of approval for Sunken Meadow Estates Definitive Subdivision.

APM: Second. Vote: 3, aye (RVD, RRL, APM), 2, nay (BJS, EWG), approved.

APM: Motion to adjourn.

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

Minutes Accepted on:

10-9-2003  
(date)

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

absent  
Richard V. Dill

Brian J. Sutherland  
Brian J. Sutherland

Edward W. Guzowski  
Edward W. Guzowski

absent  
Arthur P. MacNeil

Roland R. Laprade  
Roland R. Laprade