



BELLINGHAM PLANNING BOARD

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May 13, 2004 Meeting Minutes

- **Present at the meeting:**

Roland R. Laprade (RRL)
Edward W. Guzowski, (EWG), Vice Chair
Brian J. Sutherland (BJS), Secretary
Arthur P. MacNeil (APM)
Thomas J. Guerin (TPG)
Glenn C. Wocjik (GCW), Alternate (*not present*)

- **Other officials:** Stacey J. Wetstein, (SJW) Town Planner (*not present*)
Beth E. Partington (BEP), Coordinator
Amy Cook, (AC), Commission on Disabilities

EWG opened the meeting at 7pm. Turned meeting over to BEP

BEP asked for nominations for the position of chair.

APM: Motion to nominate RRL for chair.

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

The meeting was then turned over to Roland Laprade as chairman.

RRL asked for nominations for Vice Chair.

APM: Motion to nominate BJS for Vice Chair.

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

RRL asked for nominations for Secretary.

Motion by APM to TJG nominate for Secretary.

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

The Planning Board reorganized as follows:
RRL as Chairman, EWG as Vice Chairman, TJG as Secretary.

- **Minutes:**

APM: Motion to accept the 4/22/04 minutes.

BJS: Second. Vote: 4-0, approved. (TJG abstained as he was not a member of the Board at that time.)

APM: Motion to sign the vouchers.

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

- **Hidden Pines Subdivision Decision Signing, off of David Road:**

EWG: Motion to approve the Hidden Pines Definitive Subdivision Approval.

APM: Second. Vote: 4-1, approved. (TJG abstained as he was not on the Board at that time.)

BEP: Told the Board that the applicant had a question about the Boards approval. Stating that the "Conditions of Approval" state that applicant must guaranty securities prior to the Boards approval.

The Board questions the wording within the regulations as it relates to the timing of the securities. The question was: " When does the securities need to be in place, prior to of the Board approval or prior to obtaining a building permit, or does the applicant just need to show the ability to get the securities necessary".

Phil Herr created the wording for a reason but the Board did not understand the exactly what it meant.

Board to get official interpretation from Town Counsel.

- **JPI Apartment Complex Update:**

BJS gave a report on JPI. They appeared before the ZBA and came in with their final wording for the affordability component. Rich Hucksom, the attorney for the town, made sure it met with the criteria for the town. They made minor changes to the plans, making sure the trash compactor was moved away from the neighbor. They took the emergency access road required by the Fire Department, which had been intended to be paving stones; they decided it would be better to be paved. They also put in a gate to discourage any traffic such as off-road vehicles to the back-lands. It will be curbed, not an at-grade entry. BJS had concerns they would need additional drainage for the new roadway and the engineers had added them in. Now that they have their approvals, they will begin the project.

TJG stated the Fire Department met with their engineer to go over those items.

BJS stated the one bedrooms under affordable would be \$1,100 and the 2 bedrooms would be \$1,300. They met with the Housing Authority to go over the figures.

Pierce Estates: Modification to a Subdivision: South Main Street:

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

APM: Second.

EWG recused himself on the advice of Town Counsel, as he is an abutter to an abutter within 300 feet.

Vote: 4-1 (EWG abstained)

Eric Gardner here to request a modification to the subdivision to allow for phasing and to request two of the lots is released for the project for a model home and trailer. The Board had requested Toll Brothers make the traffic contribution in advance of the requirements in the special permit. They have made the arrangements to make the contribution in advance of that and they are pleased to let you know that it will be done now. It will take a few weeks to get the paper work done, but it will be done shortly.

RRL asked if that would take place even if they didn't get approved.

EG: Yes. He understood it was important to the Board and they were prepared to do it now.

EG: There were minor changes made to the plans because of crossing the gas lines and other minor modifications the Con Com requested.

The way they came up with the phasing was to start in the beginning and to work in terms of the infrastructure and to make sure the drainage works. Phase 1 works with a detention basin and the sewer system will be installed under the binder course as well. There will be a temporary cul-de-sac to allow for vehicles to turn around. Phase II brings you down another 1100 feet on Pierce crossing. Phase three will finish the road to the end and Phase 4 is the cul-de-sacs. The other request was the release of a lot for a sales model, with the garage being the sales office. It will be fully finished and furnished to use as a show room. The other lot request is lot 38 to be used as a sales trailer while the sales model is being constructed.

RRL asked where the sewer from phase I would be going.

BJS: At the time you were here before was that the sewer line needed to be connected before the lots were released so we did not end up with a situation that we currently have in Highridge Estates. People purchased homes with the expectation that they could move into their homes. That's no surprise; it was discussed the last time that we met.

EG: I apologize for the misunderstanding.

RRL: You can't build that part and allow it to be occupied until there is available sewer.

TG: Are you saying that you will build the houses, sell them and not allow the people to move in?

EG: We're going to be working on the sewer concurrently. It takes 8 months to build a house and we will be working on the infrastructure at the same time.

TG: Are you working from both ends? Because I know the crossing over the river has to happen at a slow period.

RRL: At what point are you right now in you construction?

EG: The road has for the most part been completed except for a stretch in the middle with Con Com regulations.

TG: I would have no problem releasing the two lots for the sales model and the trailer, but I know the residents in the town had a difficult time up at in High Ridge.

RRL: There were people who had purchased homes, had their furniture in there and couldn't move in.

APM: Is this something we could address by saying they cannot sell a home until they put the sewer in there.

Charlie Connors, with Toll Brothers asked if it would help if they initiated a document with the sale that indicated that no certificate of occupancy would be issued until the infrastructure was installed completely. We've done that before and I can understand that people would be upset if they had not been disclosed that information.

RRL: Is Toll Brothers going to be building all the homes?

EG: Yes, that is our intention.

RRL: The difference between this development and High Ridge was that all of those lots were sold off to different developers.

Mel Levinthal: As a potential buyer, I would like to know more specifically when the houses would be built and ready for occupancy instead of this nebulous date that makes it uncertain when occupancy would be allowed.

TJG stated that was exactly what the Board was trying to prevent. So that you didn't have a house that you purchased and one that you sold and not have one to move into.

RRL: There could be a lot of problems encountered along the way. If it's a heavy rain season, then that ridge won't be crossed this year.

BJS: You're making arrangements for a completion date and there can't be one until the sewer and water system was complete. You're making promises you can't keep if the infrastructure is not complete.

EG: Yes, there's no question to that, but it is our commitment to the residents that we keep that commitment to the buyer and come up with occupation when we promised it.

BJS: I can understand your position on that but there are a lot of things that could go wrong.

Mike Carter, GCG Associates, stated he was very familiar with High Ridge Estates and this one. On this site there are a lot less off-site improvements. On this site it is approximately 500'. The size of the road on this project is much smaller. The off-site slowed that project (High Ridge) down incredibly. The distance for sewer is a lot less than the 8000' of the road.

RRL: So what would be the problem of getting the sewer in before that's completed?

MC stated that there wouldn't be a problem. The developers for this project wanted to get a head start on building the homes so that the completion would be finished at the same time.

Eric Van Der Wal, 60 Fox Run Road, had concerns with the blasting. He has an artesian well. It was discussed that his well would be monitored and tested. He had a groundwater analysis done.

BJS: Just so you know it was up the Hartford Village people to do their own testing.

EV stated the Pierce Estates people had stated they would monitor and test the well. He is the closest abutter besides Charlie's Tire.

BJS: The problem with Hartford Village is there is a large leeching field across from the road. The blasting could have been a cause, but the main reason for concern at that location was the nitrates from the leeching field.

EV: When I put my well in, they went down five feet and hit ledge.

RRL: Have you discussed this with the Toll Brothers?

EV: No, I didn't even know it had gotten sold off until I saw the trucks roll in.

RRL: Do the Toll Brothers have an issue with helping out with this well?

EG: We're certainly willing to discuss it with them.

APM: Have you addressed the issues with the Stravinsky's?

EG: We were not aware of them.

TJG: They had concerns the trees were cut down.

EG: We'd be happy to look at this.

TJG: The difference with this is that we haven't had mention previously of not selling off lots. We could check with Town Counsel to see the legality of an agreement such as that.

RRL: But does the homeowner know that?

APM: That was multiple builders and multiple sellers. This is a world of difference.

BJS: If this is a shorter layout for the sewer, it's not an unreasonable expectation that by the time the first phase goes through than the feeder pipes would be in place.

TJG: So you're saying it takes 8 months to complete a house? That's the fall anyway; you'll have the construction done at that time.

BJS: I still see the infrastructure has to be in place. It seems imperative that you have the infrastructure in place before any phasing could take place.

RRL: How long would it take to get the sewer in place, just the sewer, not the road and the entire infrastructure?

EG: One of the constraints is the section in the middle waiting for the water level. As a ball part, I'm thinking August. Probably three months.

TJG: So phasing shouldn't even be an issue.

EG: The thing is, if we connect this in July and do it in phasing, then we're looking at July. But if we do it the other way, then we're looking at September or October.

TJG: So lot 37 on Phase I. You'd like to put the house in there. If the Board waits, the problem comes in that you'll have this entire project developed with empty lots.

BJS: I understand the implications, but I want to prevent what we've been talking about with High Ridge.

TJG: So you're asking for two lots now, when will you be asking for the lot releases for the remainder of phase 1.

EG: Some time in July. We'd like building permits so that we could start the houses with the expectancy of occupancy some time in the winter.

Jim Summer, 76 Fox Run, has questions with what is planned to be put in place as far as fencing. Will it be open area for people to just run through?

RRL: Does anyone remember when the build out was supposed to take place?

BEP stated two years.

RRL: Two years to start or two years for completion?

BJS: I don't have any problem with releasing the two lots for construction. I have a problem with the phasing.

RRL: There's no way to enforce the deed document.

TJG: The problem is the homeowner was the one who got the shaft and they complained to the town. They said, "Why did you let them build this and put it in?"

RRL: Well, my understanding is that you will provide a document to the Building Commissioner when the permits are pulled.

BJS: No, there has to be an understanding that there is no sewer available and it is not complete. If someone were going to sign a purchase agreement on Phase I, they would have to know there is no definitive date that the sewer is going to be completed.

RRL: If I were a buyer, it would seem to me that I wouldn't buy until the sewer was completed. It would seem to me that it is not beneficial to do it this way.

Mel Levinthal: Why would you buy a house without a sewer?

RRL: What they're saying is that it is going to have sewer, there just wouldn't be a guaranteed delivery date of the home with the working sewer.

Joel Harris, 72 Fox Run Road, what happens if the time frame never opens? If it stays high and you can't get in there to cross it, if somebody buys a house from either end, then if I'm buying a house, I wouldn't be able to say maybe a year from now.

Mr. Capoccia of 44 Fox Run Road questioned the run off and how it would be handled as it related to his property.

EG explained that the run off would drain down into the present stream and off site.

RRL discussed getting more information from DPW and suggested continuing to June 10th.

BJS: We're not unwilling to work with you, but we need more information.

BJS: It's just too early in the project to make any real decisions.

TJG: Maybe later, at the end of May or into June the Board and take a look and the amount of work completed, especially if you work from both end.

RRL: At that time we'll ask for a report from the DPW director as far as how they're progressing with the sewer.

EG asked if the Board could act on releasing the first two lots.

APM: Motion to release 1 and 38.

TJG: Second. Vote: 4-0.

BJS discussed the well in Mr. Van Der Wal's well and the blasting.

BJS: Motion to continue the public hearing to June 10, 2004 at 7:45pm.

APM: Second. Vote: 4-0-1. (EWG abstained.)

EG discussed the entrance changes. They've taken the pillar out of the right of way. The second thing is the change in the wall. There are two fences along the abutting property. They've selected a fence, which is almond p.v.c. fence. On the plan it details there would be no changing in the elevations, which would create a gap.

TJG: Have you approached the residents on either side the fence you're proposing?

EG: No.

APM: I hope you will talk to the neighbors about the fence and the trees that you're chopping down. There were a lot of residents concerned about that.

RRL: You had said something about phasing in the off-site infrastructure.

EG: Yes, we're going to make preparations to make that donation. I've talked to Mr. DiMartino and he stated that as soon as that is done, he's ready to go.

EG: Also agreed to notify residence of any blasting in their area.

- **Dunkin Donuts Materials Discussion:**

RRL stated that previously there was confusion on whether or not the developer could proceed with the construction. The way the decision reads:

Prior to commencement of construction, final construction plans for the development shall be submitted to and approved by the Building Inspector

and the Superintendent of the Department of Public Works. Minor design and field departures from the approved Development Plan may be made if authorized by to the DOS Superintendent and the Building Inspector. However, none of the following shall be considered a "minor" departure:

- A change of more than five feet in any horizontal dimension
- A change of more than one foot in any vertical dimension.

RRL stated he felt the intent was not that they reduce the building size but if it were to be increased in size. I spoke with Mr. Ambler today and he stated that all that was required was a letter stating they were requesting a waiver.

Bruce Babcock stated they are requesting a waiver for the front building (proposed Dunkin Donuts) in the Bellingham Shopping Center, Bellingham, MA. He read the following letter dated 5/13/04 into record:

Dear Members of the Planning Board:

I hereby request a waiver from the May 25, 2000 Bellingham Planning Board; Bellingham Shopping Center Development Plan Approval; Part C: Decision: 2.: 1st two bullets" which read as follows:

- A change of more than five feet in any horizontal dimension.
- A change of more than five feet in any vertical dimension.

The reason for the request is we are proposing to construct a structure that is entirely within the building envelope however it is considerably smaller and varies by greater than the five-foot restriction stated in the original approval.

During the original approval reviews and discussions the five-foot envelope was recommended by the Town's consultant so the building could be adjusted without having to return to the Planning Board. All of these discussions centered on a building of the same size and if the building was to be smaller it would be within the envelope, of minimal concern and we wouldn't have to return to the Planning Board.

This waiver request shall not prejudice any approvals granted to date regarding the Bellingham Shopping Center. Furthermore in the event the waiver request is not granted than the applicant hereby retroactively withdraws the waiver request without prejudice.

Gerry Lorusso
Lorusso Construction Co.

CC: Mr. William Sack, Esquire

RRL: As it stands right now, Stu LeClaire is waiting to hear from us for clarification before construction begins.

Gerry Lorusso stated it is 2,156 sf smaller.

RRL: This has all been reviewed by the Fire Department already.

BJS: Mr. Dill had stated the original intent was to make sure that it didn't increase in size or change location dramatically. They couldn't build a two-story building.

GL: In the future when we do a modification, we will address it being done in phases and the board can decide whether to change the language or not.

BJS: The only problem I have is that we have to go all the way down there for Baskin Robins Ice Cream. I don't have a problem with sending a letter to the Building Department

APM: Motion for a waiver for Dunkin Donuts

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

Neal Faulkner: stated that the exterior of the building is a heavy alco siding, an industrial siding to make it look like clapboard, but it will last longer. It will be a colonial looking building

RRL: What's the make up of that, is that a composite material?

NF: Yes. It's a heavy material and holds up better under winter. He's also sided in the walk-in, so it will look like its part of the building.

BJS: Given the topography of the building, will you be able to see it from the street?

NF: No, it's walled in. You can see it from above, but not from the side.

Parking spaces were discussed. The outside seating for the restaurant was discussed.

BJS: Questioned if the Board had any problem with the outside seating.

TJG: All seating counts toward the parking, whether you're seating inside or outside, you need a place to park.

BB stated that effectively for the outside seating, there is one parking space per seat.

GL stated you could get more parking for this plan.

NF stated we have enough.

TJG stated considering the location of the plan, he didn't foresee this site as having problem with the parking.

Amy Cook confirmed the handicapped parking.

TJG asked if there was going to be a sign between the building and the street.

NF: At this point, we're not asking for one, it's going to be on the shopping center sign.

BJS: Then why is there one on the plans.

NF: That was if it was divided off on a form A. At this point it would just be on the pylon sign and the building.

RRL: Just to be safe we should have a formal vote on it.

BJS: Motion to approve the design plan for the building materials review for the Bellingham Shopping Center Dunkin Donuts Parcel.

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

Posting an ad for the Coordinator Position was discussed. One to three days – were discussed, Friday, Saturday and Sunday or just Sunday.

It was discussed that there will be no meeting on May 27th

TJG Motion to cancel the May 27, 2004 meeting.

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

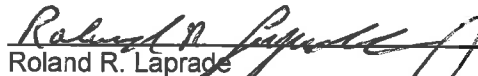
BJS: Motion to adjourn.


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


Minutes Accepted on: 6/24/04

(date)

(prepared by: Beth E. Partington)


Roland R. Laprade


Brian J. Sutherland


Edward W. Guzowski


Arthur P. MacNeil


Thomas J. Guerin