



BELLINGHAM PLANNING BOARD

2 MECHANIC STREET
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June 25, 2009 Meeting Minutes

- **Present at the Meeting**

Patricia M. Buckley (PMB), Chairman
Glenn C. Wojcik (GCW), Vice Chairman
Brian Sutherland (BJS), Secretary
Stephen Bartha (SB)
Dave Brown (DB)
John Sexton (JS), Associate Member

Other Officials: Stacey J. Wetstein (SJW), Town Planner
Amy Sault (AS), Coordinator

PMB opens the meeting at 7:00pm.

New Business

Pine Acres Definitive Subdivision and Major Residential Special Permit Decision Signings

BJS: Motion to sign the decision for Pine Acres Definitive Subdivision dated June 25, 2009.

SB: Second.

Vote: 4-0 Approved (JS, GCW, BJS, and SB)

BJS: Motion to sign the decision for Pine Acres Major Residential Special Permit dated June 25, 2009.

SB: Second.

Vote: 5-0 Approved (JS, GCW, BJS, SB and DB)

DB joined the meeting at 7:05pm.

Bellingham Residential Realty #2:**81P off of Silver Lake Road (4 lots)**

Donald Seaberg, Benchmark Engineering Corp., advised that this parcel of land they have, they plan to subdivide it into 4 lots for single family houses. Mr. Seaberg advised that the frontage is on Silver Lake Rd. BJS questioned if this was part of the larger parcel, SJW clarified it was not and it was one parcel, 4 lots with each lot having frontage and plenty of square footage. PMB questioned if there is any purchase and sales, Mr. Seaberg advised not yet but hopefully soon.

BJS: Motion to sign the 81P for Bellingham Residential Realty #2 LLC on Silver Lake Road (4 lots) date June 11, 2009.

SB: Second.

Vote: 5-0 Approved. (PMB, GCW, BJS, SB and DB)

81P off of Silver Avenue (2 lots)

Donald Seaberg, Benchmark Engineering Corp., Mr. Siaberg advised that this is part of a larger 63 acre parcel and they are looking to break off 2 lots with the required frontage on Silver Ave.

BJS: Motion to sign the 81P for Bellingham Residential Realty #2 LLC on Silver Avenue (2 lots) dated June 11, 2009.

SB: Second.

Vote: 5-0 Approved. (PMB, GCW, BJS, SB and DB)

Bellwood Condominium and Brook Estates Condominium 81P off of Brook Street

BJS recused himself as he may have a potential conflict of interest with this agenda item.

Doug Aricko, attorney representing Bellwood Condominium, explained that there are 2 adjacent condominium associations one is Bellwood and the other side of the land involved is Brook Estates condominium.

Mr. Aricko explained that there is a large area of undeveloped land in the middle which is developable. Mr. Aricko advised that both associations have agreed to both mutually withdraw certain lands from each condominium association which is a statutory procedure that's allowed under the Condominium Act, chapter 23A. He advised that some land would be coming out of Brook and Bellwood Estates which had currently been held by land court, combined into one parcels in the middle which would be a developable parcel subject to the endorsement of the 81P plan.

Mr. Aricko explained that they would then have three lots numbered 1, 2 and 3, the idea of it is to have one developable parcel that would be combined in the middle, they would then sell that property to a new developer and the money would go to both existing

condominium associations, then the new developer would come forward to this Board again in the future with developmental plans to develop a new town house project. Mr. Aricko explained that right now it looks like it would be for a 36 unit project. Last year it was originally projected for 44 units but because of some possible spotted salamanders on the site they have reduced it to 36 acres.

PMB questioned if they needed to modify the existing Special Permit to be able to take land. Mr. Aricko advised that it turned out it was not necessary to do that or at least he did not think so although it was suggested to him.

Mr. Talerman, Town Council, advised that even though we are here tonight to look at the 81P but if you look at the whole package if the criterion granting the Special Permit with relation to traffic flows, the relationship of the properties for the open space on the parcel, with all those criteria then yes he thinks that an amendment is required. Mr. Talerman is not sure whether 2 amendments would be required, he would suggest that anytime you change land from a divided defined project and with the Special Permit criteria and also taking into consideration there will be more traffic, he believes that there is likely an amendment required.

Mr. Aricko advised they are not squeezing the sites; the actual Bellwood site was permitted for 136 units on this site and they have only built 64 units and they are proposing 36 more. So they are at about 100 units now and they were originally permitted under the Special Permit for 136 units. PMB advised that it has more to do with the combining of the land and not the reduced amount of units built. Mr. Talerman advised that he remembers that they were going to need to apply for 1 new Special Permit for the middle project and 2 amendments for the existing projects as needed. PMB questioned what the requirements are for amending the Special Permits. Mr. Talerman explained that technically under law there is no such thing as an "amended" Special Permit, it is a new Special Permit. It is called an amendment but there are provisions for it but it has to be all the same criteria.

Mike Dane and Paul Atwood from Guerriere and Halnon representing the applicants. Mr. Dane showed on the plans the property and how the 81P will split the land. He advised that all 3 lots meet the current zoning criteria under this split from Bellwood and Brook. Mr. Dane advised that the land on the western side would be coming from Brook Estates and the land from the eastern side of the common property line would be coming from Bellwood, therefore forming this interior "middle" parcel. He advised that all three lots meet the minimum criteria of the current zoning now based on the area and the ratios.

Mr. Dane advised that there are 64, 2 bedroom units in Bellwood and the minimum square footage requirement is 29.8 acres, the minimum required area is 20 acres with 90% upland and with the natural wetland that runs through the middle of this it all works into the square footage. Mr. Dane advised that in order to meet the minimum, the interior parcel will end up being 25.09 which leaves Brook Estates at 49, 2 bedroom units. PMB questioned where the frontage is for this, Mr. Dane explained both of the existing condo developments are along Brook Street, there is excess frontage there for

the minimum requirements so the frontage for the new parcel is in the same area that is being used for the frontage for the existing two.

PMB questioned if the legal matters have been worked out with these 2 condos, Mr. Dane advised that it will be with this 81P. GCW questioned the wetlands. Mr. Dane advised that it is almost all wetlands which they will still meet their minimum criteria under the current zoning and they have been before the Con Com as well.

Bernie Maher, trustees of Brook Estates (has a vested interest in the outcome of this) advised that it is land that has no value to them, they are looking to sell the land to gain money for the condo association and they are in favor of this especially since the majority of the land is wetlands and it will not effect their quality of life.

Ethel Patricia, resident of Brook Estates, questioned if accommodations will be made for the Brook Estates egress during the construction of the new condos. PMB advised that this hearing is just for the 81P not the development of the parcel, their will be future hearings designated for this.

SB questioned if taking land from a completed project is ok to do. Mr. Talerman advised that the 81P process is mechanical and is not completely black and white but it is among the most black and white issues that we have under zoning, the question is they could do an 81P that makes it totally useless if the Board does not then approve what needs to be approved if the approval is required. Mr. Talerman advised that there is no guaranteeing that signing an 81P stating "no guarantee that this parcel conforms to the zoning, in any way shape or form except for frontage." He advised that all they are here for tonight is to discuss is whether or not there is frontage.

Mr. Talerman believes that there is a separate issue with frontage as he sees it, which is for a later date but he is not sure if there is adequate frontage considered under the statute as "having frontage on a way, a private road or a public road of certain character which it does but the case law has developed such that that frontage has to provide some legitimate access if there is no other means of access along a roadway." Mr. Talerman advised that the tricky thing about this one is that there is other access but it is on a private driveway not a roadway so that is something that the Board has to weigh as to whether or not to give the 81P. As he sees it, there is no way anyone will build a roadway on top of the wetlands.

SB questioned if this 81P and any following project is to the benefit of these two condo associations, they are both appearing to support this, he questioned if there were some documentation that can be provided of that this will always be access, so thereby the frontage issue is not as big of a problem. Mr. Talerman advised that he would feel a lot better if he knew the access were locked in, the problem with the private driveway is it may disappear. Mr. Talerman advised that at least both associations seem happy that with this project.

SB advised that his overall concern is that they are taking land from a completed project. SB just wants the proof that this will always be the access point and he will be satisfied. Mr. Aricko advised that they have signed papers over and he will provide

copies to the Board. He also advised that the access easement is even shown on the plan. Mr. Aricko advised that this Board 20+ years ago already approved this situation and for the Board to say now that they have a problem with the frontage aren't they saying that the 100+ units already there don't have frontage? He would find that inconceivable.

SB advised that he would personally have a problem with this if he were the developer for this project. Mr. Talerman advised that since this, the case law has since changed and advised that if there is an easement out there, he would want to see the grant of easement for this. Mr. Talerman advised that you can't really condition an 81P too much but he would like to see them lock in the existing access and satisfy this. PMB questioned if the easement is built into the settlement agreement. Mr. Atwood offered copies to the Board and would attach copies of the easement to the decision and plan. PMB advised that she would like to see that before she would feel comfortable signing the 81P before them.

Peter Pulouski, council, Mr. Talerman advised that there is another possibility in that there is a notation on the plan stating the easement. Mr. Talerman and Mr. Aricko advised that they could be fit on the July 9th agenda after they have a chance to talk.

Brian Sutherland, 57 Yvonne Rd, his parents own a piece of property on Brook Estates. He has concerns with 2 properties that does not have adequate frontage due to wetlands and would like to see it on paper that making sure that the Town's benefit would show the access (via the driveway with an easement). PMB questioned when they are signing; Mr. Aricko advised that they will sign the settlement after the 81P is signed. Mr. Aricko questioned if the Town could record items rather than send it off with the engineer. SB questioned if both condos voted and if they have the vote count, Mr. Aricko advised that they do have a copy of the certificate.

Ethel Patricio, 36 Countryside Road, asked if there would be consideration and impact on the residents of Brook Estates if the project was developed. PMB responded that there was no project in front of the board, but once there was one any concerns would be addressed at that time.

SB: Motion to continue the Bellwood Condominium and Brook Estates Condominium 81P off of Brook Street until July 9th at 7:00pm.

DB: Second.

Vote: 5-0 Approved. (PMB, GCW, BJS, SB and DB)

Old Business

Attorney Talerman advised the board on the Crystal Springs appeal before the SJC, and that the court had decided in favor of Crystal Springs. He explained the decision and the ramifications. SJW said she would forward an electronic copy to them to look at. They could then submit questions for review.

BJS: Motion to approve the June 11, 2009 meeting minutes.

SB: Second.

Vote: 5-0 Approved. (PMB, GCW, BJS, SB and DB)

DB: Motion to sign the vouchers.

SB: Second.

Vote: 5-0 Approved. (PMB, GCW, BJS, SB and DB)

Planning Board Coordinator and Town Planner Reappointments

GCW: Motion to sign the Memorandum of Understanding between the Town of Bellingham Planning Board and Town Planner, Stacey Wetstein for the period of July 1, 2009 – June 30, 2010.

SB: Second.

Vote: 5-0 Approved. (PMB, GCW, BJS, SB and DB)

GCW: Motion to sign the Memorandum of Understanding between the Town of Bellingham Planning Board and Coordinator, Amy Sault for the period of July 1, 2009 – June 30, 2010.

SB: Second.

Vote: 5-0 Approved. (PMB, GCW, BJS, SB and DB)

Planners Report

Security release for older projects: Town Common Estates and Spring Meadows

SJW advised that the finance department is trying to close out old passbook accounts and return monies that are due. She checked with Don DiMartino who advised that these projects are long completed, the roads have been accepted and the money should be returned.

BJS: Motion to release the bond money to Meronella Construction for Town Common Estates and Meronella Construction for in the amounts of \$20, 000 plus interest and \$14,460 plus interest, respectively.

SB: Second.

Vote: 5-0 Approved. (PMB, GCW, BJS, SB and DB)

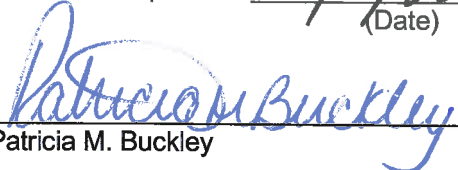
SJW advised that the Planning Board in Mendon have scheduled some planning training and have opened it up to Bellingham and are having their first training session this coming Monday and wanted to know who would be interested in attending. PMB, BJS and GCW advised they would attend.

DB: Motion to adjourn.

SB: Second.

Vote: 5-0 Approved. (PMB, GCW, BJS, SB and DB)


Minutes Accepted on: 7/9/2009
(Date)



Patricia M. Buckley


Brian J. Sutherland


Stephen Bartha

(Prepared by: Amy Sault)


Glenn Wojcik


Dave Brown