



BELLINGHAM PLANNING BOARD

2 MECHANIC STREET
BELLINGHAM, MASSACHUSETTS 02019
(508) 657-2892; FAX (508) 966-2317
PlanningBoard@bellinghamma.org

October 8, 2009 Meeting Minutes

- **Present at the Meeting**

Patricia M. Buckley (PMB), Chairman (absent)
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

GCW opens the meeting at 7:00pm.

New Business

Woodbury Ridge Definitive Subdivision and Special Permit extension request.

Kerry Harkins, broker / owner Harkins Realty Group Inc., the applicant's property is his listing, he was representing the applicants. Mr. Harkins advised that they are looking for a one year extension for the Special Permit (expiring October 12, 2009) and a two year extension on the Definitive Subdivision (expiring December 28, 2009).

SJW asked the status of the building, Mr. Harkins advised they have had six inquiries in the past six months but due to the recent economy the development is too expensive to build now. They are getting responses but they do not have the person interested to step forward to develop right now. BJS asked about the other parcel that sold, Mr. Harkins advised he did not know the answer.

BJS: Motion to grant a two year extension for the Definitive Subdivision for Woodbury Ridge until December 28, 2011.

DB: Second.

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

BJS: Motion to grant a one year extension for the Special Permit for Woodbury Ridge until October 12, 2010.

DB: Second.

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

SJW advised she would write a letter to the applicant stating the extensions granted, BJS advised that it is the applicants responsibility to know when the permits expire they will not receive anymore written notice from the Planning office.

Bellingham Commons II Drive Thru Special Permit extension request

George Levine, one of the owners of the property, he requested a one year extension of the Special Permit for construction of the drive thru window due to the down economy. Mr. Levine advised that the overall development has been more than substantially completed and has received his final As Built and the bond for the road has been released today. Mr. Levine has letters from the engineers and the final As Builts.

BJS: Motion to grant the extension for the Drive Thru Special Permit for Bellingham Commons II for one year until November 28, 2010.

DB: Second.

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

High Ridge Estates Security Release Discussion

Due to the Board running ahead of schedule, the Board conducted old business until their scheduled 7:15pm hearing time.

Old Business

GCW advised that the Board has not had the time to review the minutes from the September 24, 2009 meeting, they will be signed at the next meeting.

BJS: Motion to sign the vouchers.

SB: Second.

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

High Ridge Estates Security Release Discussion

Gerry Blair, attorney representing High Ridge LLC, Tim Jones, owner / developer and Mr. Talerman, Town Council. Mr. Blair distributed updated information to the Board already given to Town Council, GCW questioned if Don DiMartino, director of DPW, has seen this info. SJW advised probably not as he was out of the office today. Mr. Talerman advised that he is generally aware and more or less in agreement with the tasks that have been completed although hopeful that more progress would have been made.

Mr. Talerman advised they have been negotiating a three way agreement including the bank in which monies could be released as completed. Mr. Talerman advised he has done some work and that some amount of release is warranted. Mr. Talerman advised the Board that they may want to consider releasing some of the money for the work Mr. Jones completed as a good faith gesture, while leaving the \$100,000+ for the work that remains and that he believes that Mr. DiMartino would not object to this.

Mr. Jones advised the Board that more is completed than what reflects on the Form J, three out of four of the retention ponds are completed and the all the concrete posts are in and are ready to wrap the fence around it. BJS asked when the fences would be completed, Mr. Jones advised by the end of next week (October 16th) due to the size of the pond. BJS stated it is a security issue, Mr. Jones advised that the other three are completed.

Mr. Jones advised that he has not started planting the trees; he has started going door to door last week to find out who wants them and where they want them planted, all trees have been ordered and are at the nursery awaiting pickup. BJS questioned why are they not in yet as they were supposed to be. Mr. Jones advised that it is not as easy as knocking on people's doors and planting because it is their personal properties. BJS expressed his concern with this item not being completed yet.

GCW asked Mr. Jones if anything else needs to be clarified. Mr. Jones advised he just received a 65 item punch list for PL.1 and he has not talked to the bank yet about it. GCW advised his concern is the Board just got the list today and that the Board does not have a letter from the DPW stating what is completed. GCW wanted to know why the Board just seeing this 65 item punch list now. Mr. Blair advised that they are not asking for the funds to be released from the latest list, they are just looking for funds for the completed items, not what they are working on or incomplete. GCW questioned why there are so many things that are wrong on the list, Mr. Jones claimed that those items were not originally on the Form J, they were just added.

Mr. Talerman advised that through an email dated October 2, 2009 that those items are a two man job that would take one full week to complete. Mr. Blair advised that Mr. Jones does intend to complete this work as he has been moving along as fast as he can due to weather, leaking water pipe issues, etc. He claims that the delays have not been all Mr. Jones' fault. Mr. Jones advised that if the Board does not want to release the money, he was just before the Board as requested to give an update. SB asked the discrepancy between the 10 items they have listed and the four that Don DiMartino has listed under completed. Mr. Blair and Mr. Talerman clarified the discrepancy. Mr. Talerman advised that via email that there are some lawn issues and some pavement on the Gerner Lane side of the water loop.

BJS is not opposed to give money for the completed items; he is just frustrated that this project has not been completed. BJS does not want to see the winter come without the trees planted again; he just wants to see this project finished. GCW advised that there is a lot of stuff still yet to be inspected. He is not averse to trying and shows some good faith but he believes that the Board has done that all along the line. Mr. Jones advised

that he needed to pick the things to do at the time they needed to be done, the summertime he had to do the water line because it is so wet, then he went to the retention pond because it was a safety issue and left the trees for a later because they were not a safety issue.

SB questioned which amount of money of completed work is correct; Mr. Blair advised that it is the \$69,000 amount. Mr. Talerman agreed that the one number they can all agree on is this number because this work has been completed. Mr. Jones wanted to know if the Board will be willing to pay him the \$69,000 for what work has been completed. BJS advised that he would be ok with that seeing that those items have been completed since August of this year. GCW advised that if this list would have gotten to the DPW a couple of days ago then the Board and DPW would have had time to look at it.

After Mr. Blair conferred with Mr. Jones, they had advised the Board that they would be willing to accept the \$69,000 now and come back before the Board one more time when the project is completed for the rest of the bond release. Mr. Jones advised he would come back after Don DiMartino gives his approval after the Subdivision is completed and ask the Board for the funds then. Mr. Blair advised that he would like the Board to make a motion to pay Mr. Jones the \$69,000. Mr. Talerman weighed in and that it would cost the Town much more to do the total job (\$385,000). Mr. Talerman advised that the bank has not been easy to deal with and has no problem going after the bank for the remaining funds if necessary.

BJS: Motion to release the security on High Ridge Estates in the amount of \$69,460 in accordance with the Form J dated August 18, 2009.

SB: Second.

BJS commented that putting all else aside, it might help Mr. Jones to move along to the completion of the project. SB agreed that he trusts what Mr. DiMartino has said is done and thinks we would be able to get proof. GCW questioned if Mr. DiMartino could validate the \$69,000 amount. BJS and SB both advised that they are comfortable with the release of these funds. Mr. Talerman advised that the Board would lose money comparing Mr. Jones cost to the Town's cost of completing the job. GCW questioned Mr. Jones if the \$69,000 gives him enough to complete everything, Mr. Jones agreed it does and he would have everything completed by November 15th.

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

The Board asked SJW to put them on the agenda to discuss on the November 12, 2009 meeting agenda at 7:15pm.

Old Business

SJW advised that she, AS and the Board has to complete an online training and fill out two forms through the State Ethics Commission's enabling act as Chapter 28 was signed into law by Governor Patrick, the training needs to be completed before December 28, 2009.

BJJ had questions as to what qualifies as an open meeting. Mr. Talerman advised that two members of a board getting together to discuss plans is not consider a meeting. He also advised that chance encounters does constitutes a meeting. Mr. Talerman advised that going to a Town Meeting and discussing things does not qualify as a meeting, same as at a selectman meeting this is also not considered a meeting and does not need to be posted. Mr. Talerman advised that if you are there as a caucus deliberating then it is considered a meeting. He also advised that site visits are not considered a meeting, they do not have to be posted but to summarize for the next meeting what they were.

Mr. Talerman advised on Crystal Springs and that he informed them that this is not a Special Permit hearing, they need to reapply for it.

SJW questioned holiday parties or where families come together and if they are considered a meeting. Mr. Talerman advised that this is not considered a meeting so long as plans or such are not pulled out and discussed.

SJW asked if Mr. Talerman could talk about the Special Permit requirement for Town Meeting as pertaining to the Shoppes. Mr. Talerman advised that the Finance Committee has approved a version that does not have the Special Permit requirement it has just the requirement to hit the Stormwater Permit that is in the Environmental Controls section. Mr. Talerman advised that there is a concern that specifically as it applies to the Shoppes because they are under the old bylaw right now that requires a Special Permit for major business, the Con Com also raises similar concerns that there are not enough checks and balances in place right now.

Mr. Talerman advised that the Shoppes is under a general Special Permit which has a number of generalized criteria, he believes it can be interpreted under section 1500 to include the review of Stormwater. Mr. Talerman wants to draft a regulation that interprets those very broad Special Permit criteria to include things like review of infrastructure, Stormwater, etc. But more than that because the Shoppes does not have their Special Permit yet, they would move into the new Bylaw which still requires them to still get the Stormwater. Mr. Talerman advised that the biggest concern we had was that they would say we are not looking at Stormwater, but he is not concerned with that and there is no grandfathering issue.

Planners Report

SJW advised that she and AS have been working hard to obtain free babysitting through the Girls Scouts, free snacks from Whole Foods and the YMCA donated child security bracelets for the October 14th Town Meeting for the hours between 7-9pm.

BJS: Motion to adjourn.

SB: Second.

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

Minutes Accepted on: 10 22 -09
(Date)

Patricia M. Buckley
Patricia M. Buckley (absent)

Brian J. Sutherland

Stephen Bartha
Stephen Bartha (absent)

(Prepared by: Amy Sault)

Glenn Wojcik
Glenn Wojcik

Dave Brown
Dave Brown