



BELLINGHAM PLANNING BOARD

2 MECHANIC STREET
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October 28, 2010 Meeting Minutes

- **Present at the Meeting**

Patricia M. Buckley (PMB), Chairman
Glenn C. Wojcik (GCW), Vice Chairman
Dave Brown (DB)
Peter M. Morelli (PMM)
Peter Pappas (PP) (Secretary) (absent)
Roger Oakley (RO), Associate Member

Other Officials: Stacey J. Wetstein (SJW), Town Planner
Amy Sault (AS), Coordinator
Sergeant / Safety Officer Lee Rolls

PMB opened the meeting at 7:00pm.

GCW: motion to open the public hearing for North Woods

DB: Second.

Vote: 4-0 Approved. (PMB, GCW, DB, and PMM)

Discussion Toll Brothers Bond Reduction

Mark Kablack, attorney representing this project, Eric Carlson, Toll Bros employee.

PMB made it clear that no outbursts will be tolerated, this is a discussion and there will be no talking over anyone, she reiterated that this behavior will not be tolerated. PMB also mentioned that Sergeant Lee Rolls was present at the meeting and he will remove any person(s) who get unruly. Mr. Kablack advised that he agreed to abide by these rules.

PMB asked the Board if they were aware of all the issues that are before them tonight. GCW advised that Toll Bros does not have a good idea to what this will cost to fix these issues. GCW advised that years ago the bond was raised due to outstanding and unforeseen issues. DB agreed as there has been ample time to do the study and nothing has been done. PMM wants to know what assurance the Town would have if

the funds were released, he thinks we need to have due diligence, what will Toll Bros do to assure the Town?

Mr. Kablack advised that he is before the Board to ask for a bond release not a reduction, the record is clear and is what the bond covers. He advised that Mr. DiMartino (DPW Director) agreed that the punch list was completed and all those issues have been hashed through. He advised that with the concern of Fox Run, he has a written letter by the Chairman of Con Com and that the minor modification (granted by this Board) was not needed, the swale does not need to be installed.

Mr. Kablack advised that all they are required to address is the issue of the modification of the subdivision plan, with respect with the Morse' property, it is separate from what the Board is requested to do. He advised that the offer they made to the Morse' is still on the table and they are willing to submit in escrow the cost with the multiplier of 20%. Furthermore, he advised that Toll Bros is a National Corporation which has been in this community for 20 years, it has a permanent presence in this area, and he advised that they are not going anywhere. They do not plan to just close up shop after the reduction is granted.

PMM asked if anything could be given in writing guaranteeing this. Mr. Kablack advised that it is in writing to the Morse' and the Con Com. PMM finds it hard to believe that with the different issues and supposedly it was in writing, the abutters are still not satisfied. PMM does not want to make the Town of Bellingham responsible for any of their lacking. PMM read allowed an email from Alan and Maureen McQuarrie (email attached to the minutes).

PMB advised the audience that the reason that they are here before the Board discussing this tonight is because Toll Bros requested a release of the bond, she explained that Mass General Law states that any request be discussed in a public forum within 45 days. Mr. Kablack advised that all they can do is respond to what the Town has asked from them including not installing the swale due to a Con Com request.

RO commented that he was not on the Board when this project was approved but this Board has a responsibility to the Town's people, the Board has a responsibility to Toll Bros and have their ok. In good faith the Board accepted their responsibility back and right now he can say by what's been happening here that he does not think his "good faith" responsibility has come back to the Town. RO continued by stating that the highest authority in the state is the BOH and the Board has documentation that the BOH states that Toll Bros has a problem and suggested that in a court of law, the Town would win the BOH on our side. RO advised that Mr. Kablack only follows what the Town asks of him when it is convenient for them to do something.

SJW advised that the swale was not constructed due to the request of the Con Com because they felt that the damage to the environment by taking all the trees would be bad. She advised that it was assumed not checked that it would be ok not to build, her recommendation to the Board is to give direction to Toll Bros to go out and do the study that is needed to figure out if the result of not building a swale is what is happening. SJW advised then we can have our peer review go over it and if the Board needs to rescind or adjust the minor modification then the Board will have all the documentation necessary and in the mean time Toll Bros can do what they need to with the abutters.

PMB advised that the Board is not required to release the bond; she does not think that Toll Bros is acting in good faith and that they are trying to walk away from a problem. PMB advised that the Board can hold up to 20% of the bond and does not think that the Board should release it. PMB advised that if they don't want to do the work then the Town can keep the bond and do the work themselves.

With respect to RO's comment, Mr. Kablack commented that this Board is sitting here in jurisdiction of the Subdivision Control Law and stated that the Board does not sit as a police authority over all general matters regarding the Town of Bellingham. Mr. Kablack advised that they have abided by the rules and regulations and he would fully expect that this Board do the same.

With respect to SJW comment regarding the minor modification, Mr. Kablack advised that they have asked for and the Board has granted a minor modification request, if the Board decides to pursue the revision of that then there is a process that the Board needs to follow under section 81W of the Subdivision Control Law and they would fully expect that as well.

Mr. Kablack addressed PMB's comments; he advised that he fully disagrees with her characterization that they have proceeded in bad faith.

The Board discussed what about the motion and how much it would cost an engineer to go out there and perform the study. SJW advised the Board to give Toll Bros clear direction as to what the Board would like to see happen and when the Board wants it to happen regarding the swale.

PMM: Motion to direct Toll Bros to hire an engineer to investigate whether that swale is necessary or not and come back with two or more alternative plans and give them 45 days to get back to the Board with a report to give to the Town's peer review consultant.
DB: Second.

Vote: 4-0 Approved. (PMB, GCW, DB, and PMM)

SJW advised that she would right a letter to Toll Bros.

PMB asked the Board what should be done with respect to releasing the bond, she advised her opinion is not to release the bond.

PMM: Motion not to release any monies tonight.
GCW: Second.

RO stated the fact that the acceptance of the street did not pass at Town Meeting, which is more than five people sitting on a board. RO advised that that should help this Board make its decision which is voicing the opinion of the people in the Town.

Vote: 4-0 Approved. (PMB, GCW, DB, and PMM)

RO advised that if he was allowed to vote, he would have voted no.

**North Woods Definitive Subdivision and Major Residential Special Permit, 1st
Public Hearing; Definitive Subdivision Decision Deadline: 2/19/11; Major
Residential Special Permit Decision**

Mark Anderson, Heritage Design Group, advised that he will presenting North Woods II, the second submission, it is now a cluster development. Mr. Anderson advised that they have worked with the DPW, creating an 18 lot subdivision; it is 100 feet off the road and now has about 25 acres of open space.

Mr. Anderson advised that they have worked with the DPW in great length to develop this new plan. He pointed out that it has a grassy shoulder and a sidewalk along the inside area. They created a waterline which will be looped to Maddi way. He advised that this is where the abutters and the Board wanted to be with a large amount of open space at the street. Mr. Anderson advised he received comments from Don DiMartino, and they have just received Graves draft comments which they will need to respond to once they receive their final comments. Mr. Anderson did mention that Graves had some small suggestions but nothing major for drainage, and overall, they have a plan that everyone has agreed upon.

PMB commented on the sidewalks and that it should continue onto North Street. PMB also stated that it would be a good idea to have a solar flashing sign installed stating how fast a person is traveling. PMB stated that if people see how fast they are going, they will slow down, even if it prevents one life, she stated it is just in the interest of safety.

SJW advised that the sidewalks should come along the side of phase III, to continue the sidewalk. SJW commented that the sidewalk should continue down North Street to Blackstone Street for the safety of pedestrians.

SJW advised that after speaking with the Con Com, Mr. Anderson needs to file with them ASAP as they run concurrent reviews with this Board. SJW advised that the review from Graves was only a draft and there might be more information to respond to.

SJW advised that the rules do state that the plans do require that there is a building layout shown on the plan. SJW had questions about the open space and if it will be gifted to the Town. Mr. Anderson asked for direction on this. Mr. DiMartino advised that it can be dedicated open space.

SJW asked about a phasing plan and how long it will take because a special permit is only good for one year. She suggested they do it as a phasing plan so they do not need to continually come before the Board asking for extensions.

SJW advised that she would like to see the waiver list on the plan. Sgt. Rolls thanked Mr. Anderson for taking the driveways off of North Street as it makes it a better, safer plan. PMB asked Sgt. Roll's opinion on having the flashing speed limit signs, he suggested having two signs, he advised it would slow people down and it would be going above and beyond. Sgt. Rolls advised that this Street is a major cut through from Woonsocket and Milford and it would help the police department out.

PMM asked about the access roads that would get to retention ponds one and two and the easement itself where it goes to the cul-de-sac on Maddi Way, he requested some

notation on the drawings. Mr. Anderson pointed out where the water and access easement is, PMM advised that there is nothing on the construction of the road itself going through where there might be a walking path, etc. Mr. Anderson advised that the agreement they have with the DPW is to clear it, stump it, grade it and the DPW is going to install the water line and from that point forward, they are going to fully maintain that access to Maddi Way. PMM questioned the eight inch PVC cap and the three gate valves on Maddi Way itself. Mr. Anderson reiterated that the DPW is going to take care of the installation of the waterline which is what Mr. DiMartino asked for.

PMM commented that there would need to be two access roads for them to be able to get at the other two pond one and pond two, because they are going to have to maintain those by mowing. PMM advised that he would like some clarification on the plan as to how the road will be constructed. Mr. Anderson advised that presently the former fire road was intended to be the emergency access from Maddi Way, that is physically there, (not well maintained) their intention is that the DPW would have access in three different ways and he would make those notes on the plan.

GCW is glad to see they have listened and done things to make it more palpable for everybody and he agrees with the signs. GCW thinks this plan will work.

DB likes what he sees so far.

RO questioned why they are not showing birms, Mr. Anderson explained that the grass swales allow for the low impact design they are going for. RO asked if all the water is coming down hill, Mr. Anderson advised that not all of it, RO asked if it is between two lots and it is a grass swale. Mr. Anderson advised that it is captured and goes into the detention basin. RO asked if the swales will be constructed with stone, Mr. Anderson advised they are grass. RO made a comment that it is hard for grass to grow in an environment like this. Mr. Anderson advised that it has to be seeded and growing before water can be introduced into the swales.

RO commented that he is not convinced that there is enough room between the two lots shown to run the water through, Mr. Anderson advised that there is a pipe there under the road and they have about a 38,000sf lot. RO questioned the volume; Mr. Anderson advised he would address this on the plan.

RO questioned if the road would be the last thing done. Mr. Anderson advised that RO is correct, that is their plan. RO questioned where the pipe comes out, Mr. Anderson showed where on the plan, RO asked for the volume of the water through the pipe. RO asked if they are enclosing the basins with a fence, PMB suggested 6 foot chain link fence rather than the 4 foot proposed.

PMM asked if the detail showed a 2-1 pitch on the sides of the swales but on the narrative he has it talks about a 3-1 pitch. Mr. Anderson advised that they are asking for a waiver from the ~~3~~-1 slope to the ~~2~~-1 slope. PMM asked what the advantage of one would be over another. Mr. Anderson advised that it is not a safety or a mowing issue,. PMM advised that he read a letter from the DPW that the Town will be maintaining it because they don't want the residents to have to do it. Mr. Anderson advised that these ideas were approved by Mr. DiMartino, that they be 2-1 vs. 3-1 because they can get the volume and can reduce the distance. It worked out well, there is a nice defined channel and they could be maintained that way with far less maintenance all around.

RO advised that with the more slope, the less bottom so the wider the slope, the less chance of erosion. RO advised he is not in favor of 2-1 that is his opinion, he would rather have the 3-1, because the water will go slower which is less chance of erosion.

PMB apologized for not mentioning sooner in the meeting but there is a Board member missing. Mr. Anderson advised that he is aware and ok with it.

PMB asked who is putting in the water pipe; Mr. Anderson advised that they are putting in all the water pipes except for the easement. Dawn Davies, Board of Selectman, asked if there is any water connection running at the moment which would include fees. Ms. Davies advised that there are fees that are associated with a subdivision; she wanted to know if these fees are waived. SJW advised that it is the same as with the Board of Selectman. SJW advised there are two water lines being discussed, the one on North St. and then the water loop connection to Maddi way, which both are the same as the conventional plan approved. Mr. Anderson advised that they are going prepare the easement and the DPW will put the physical water line in. SJW asked if there is a connection between Maddi Way, Ms. Davies advised that the agreement that they had was not for this plan, it was for the old plan and the agreement was not what is being shown tonight. Which is why she was asking if fees were going to be charged. The Board discussed that that would be for the Board of Selectman to discuss, not this Board.

Ann Fuhrman, 305 Blackstone St, asked that all the clearing had been done because the bulk of it is behind her house and mentioned that the rock wall is the property line. Ms. Fuhrman advised that when Maddi Way was put in, the slope was off and then built up 6 ft; the people along here are already having water issues in their basements.

PMB advised that they are allowed to clear the property, along with two 81P lots, PMB asked if the way they pitch it will take care of the water problems. Mr. Anderson advised that there are two basins to protect those properties, there is water coming down the natural terrain, it was approved by the Town's consultant and by the Con Com and would be caught and improve the water situation. He also mentioned that the water would be held for no more than 48 hours, they are not holding ponds for a mosquito breeding ground.

Mr. Anderson advised that it is being built up, the stone wall will remain and they will build up a berm around there. Ms. Fuhrman advised that it has never been maintained and asked if the Maddi Way access will be abandoned as an access way because there is a new emergency access.

Mr. Fuhrman (same address) asked what his recourse is if there are any water issues. GCW advised that Mr. Anderson is a professional and other engineers will review and approve upon. Ms. Fuhrman asked what if there is a problem then what happens. SJW advised that we get a Storm Water maintenance bond that the Town can use to maintain or fix any problems.

SJW asked about the fire road and what will be done with it, paved, seeded, etc. Mr. Anderson advised that it runs to the back of the property and is natural, the balance of it runs to Maddi way. SJW questioned why there is access to the fire road. SJW is not sure but advised that maybe because it is on peoples properties. SJW recommended that they get rid of it.

Mr. Fuhrman stated that there is a natural grade where everything runs off and all the water is coming down towards his property and questioned what will happen with the topography when it runs down. He wants to know what is going to happen when it does not hold after the foliage is removed.

Mary Chaves, 289 Blackstone St, advised that the engineers are insured and they base their decisions on the 100 year storm. Mr. Fuhrman asked what if something goes wrong. PMB advised that that is the answer; the Board cannot sit here and tell the engineers they are wrong. Mr. Fuhrman asked what his recourse is, SJW advised that she is not in a position to say this will work. PMB explained that this is the 1st public hearing. PMM stated that he has a draft of Graves report, and they have touched on all these points. SJW advised Mr. Furman to take pictures now that he can use as evidence if needed. SJW explained that this is the 1st public hearing and nothing has been approved. PMB advised it is not a done deal but she likes the direction it is headed in. Mr. Fuhrman asked if there were public hearings before, PMB advised yes and she explained that their conventional plan was approved as well as 81P lots, this is now a new project for the cluster plan but they do have the right to clear the lots as they have approvals for that. PMM advised that erosion controls will be put in place that the contractors have to take care of.

GCW advised to keep in mind that they are only responsible to make sure they get no more runoff than what they already have, he reiterated for them to keep track and take pictures. PMM advised that the idea of a detention basin is to filter phosphates and allow it to slowly drain. PMM advised Ms. Fuhrman to write a letter to Mr. Anderson to state where her well is and their concerns.

Dean Remy, 325 Blackstone St, shares the same concerns, he has a well also. Mr. Remy is concerned with the increased traffic and suggested putting in a four way stop. PMB advised that the Board had already looked at that during the last review and the police dept did not agree, which is why they have come up with the flashing speed signs.

Dave Karakeian, 28 Irene Court, asked about the septic and the safety of the well water, Mr. Anderson advised that any septic system on the lots have to be 100 feet away from a well. Mr. Anderson advised that soil testing has been done, PMB clarified as well. PMM advised that the grassy swale filters the water. PMM had an example of an existing swale. Mr. Karakeian advised about the pond and that it runs down Lynn Court. Mr. Anderson advised that isolated wetlands do contain water which has runoff going in that direction. He also advised that there is a point that they analyzed, they are capturing in the swale, and this type of drainage analysis will be checked and rechecked by various professional engineers.

Steven Kane, 19 Lynn Ct., advised that this pond cannot take the water it already gets; it is a pond and always has water in it, always. When you put in a house the street is going to get pitched. Mr. Anderson advised that they have to take into consideration that they are changing the soils and it will not absorb what the forest like area is now. He explained that the footprints are all taken into account and not only is it reviewed but they have to make sure that the workmanship is correct. Mr. Anderson advised that they have to make sure the contractor builds according to plan so that it works and they check it on a weekly basis. RO advised that some of the abutter questions would be

McQuarrie Email

From: busybeee23@comcast.net

Sent: Monday, October 25, 2010 10:54 PM

To: Wetstein, Stacey

Cc: fincomm@BellinghamMa.org; Selectmen; Town Counsel - Talerman, Jason; Holmes, George; DiMartino, Donald; dfrane@BellinghamMa.org; Graf, Mike; Bokoski, Jacki; Sault, Amy; ecarlson@tollbrothersinc.com

Subject: Bellingham Estates Surface Water Runoff--36 Fox Run Road

Dear Board Members,

I am writing this letter with disbelief that your Board is scheduled to discuss the issue of a bond reduction for Bellingham Estates. Furthermore, it is incredulous to me that the only movement on this issue has been this; not about how to address these serious water problems. It is my hope that you will consider the overwhelming response of the Town Meeting's message and handle this appropriately by holding their bond as leverage to assure the abutters and residents of the Town that you take these issues seriously and make the message clear to Toll Brothers that they need to resolve all problems FIRST and then talk about a reduction of their bond. Right now there is no way to determine what the engineering and repairs would cost and my concern is that they will not follow through if you agree to a reduction at this time.

Thank you for your consideration regarding our situation. We look forward to attending the Planning Board meeting on October 28th.

Sincerely,

Alan & Maureen McQuarrie
36 Fox Run Road
Bellingham, MA
508-883-9226

better served for the Con Com as part of the order of conditions. Ms. Davies advised when the Con Com meets.

PMM: Motion to continue the North Woods Definitive Subdivision and Major Residential Special Permit, Definitive Subdivision and Major Residential Special Permit Decision to November 18th at 7:15.

DB: Second.

Vote: 4-0 Approved. (PMB, GCW, DB, and PMM)

General Business

GCW: Motion to sign the October 13th and 14th, 2010 meeting minutes.

PMM: Second.

Vote: 4-0 Approved. (PMB, GCW, DB, and PMM)

DB: Motion to sign the vouchers.

PMM: Second.

Vote: 4-0 Approved. (PMB, GCW, DB, and PMM)

SJW advised that the shuttle bus service has started and that four people are regularly taking it, the more it used the more it will run.

SJW advised that Don DiMartino and she have interviewed some new firms for some new peer reviewers, to have a bigger pool of engineers. They have narrowed it down to two, she was thinking of scheduling them before the Board so they can have a say as well. The Board agreed.

DB: Motion to adjourn.

GCW: Second.

Vote: 4-0 Approved. (PMB, GCW, DB, and PMM)

Minutes Accepted on: _____
(Date)



(Prepared by: Amy Sault)

Patricia M. Buckley

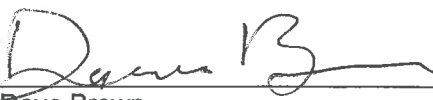




Glenn C. Wojcik

Peter Pappas (absent) 





Dave Brown



Peter M. Morelli