



BELLINGHAM PLANNING BOARD

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February 24, 2011 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)
Roger Oakley (RO), Associate Member

Other Officials: Stacey J. Wetstein (SJW), Town Planner
Amy Sault (AS), Coordinator (absent)
Lynnea Thody, representing Town Council

PMB opened the meeting at 7:00pm.

Cranberry Meadows Plaza, 829 South Main Street, Decision Modification

Lee Ambler, representing the applicant, summarized the two memos submitted by the Applicant concerning traffic and parking. Mr. Ambler stated that the traffic memo prepared by GPI gives The Institute of Transportation Engineers (ITE) land use definition for specialty retail uses and states that the proposed uses (dry cleaners and pizza shop) do not meet the Bellingham regulation standards for a full traffic study.

Mr. Ambler referenced the original decision rendered by the Board in 2008 that indicated that the traffic study was done in the general area and also looked at Pine Hill Plaza on North Main Street. Mr. Ambler stated that Pine Hill is an area of comparative use, there being also a pizza shop, a convenient store and other structures and is three times the size of the use that they are proposing. Mr. Ambler stated that it was determined that Pine Hill Plaza met the standards and there was no need for a full traffic study for the Cranberry Meadows plaza.

Mr. Ambler stated that while the decision stated there could be specialty stores it took away the right to have food establishments. He mentioned that the Board left in the decision things like a medical clinic, an auto sales and service, and places like banks or credit unions are permitted. His concern is that the enforcement of this section seems to be somewhat scattered. He referenced another restaurant on Hartford Ave. Both PMB and SJW advised that this property is not relative to this discussion because it was a selectman issue not a Planning Board issue.

PP asked what Mr. Ambler's issue was. Mr. Ambler advised he wants his client to be treated the same way every other business is treated in the Town of Bellingham and he does not believe this is happening.

PMB advised that the Planning Board is completely within its purview to ask him to have a traffic study done. She advised that Mr. Ambler's client was the one who originally agreed to have no fast food in this plaza. PMB stated that since December 9, 2010, the Board has asked on two separate occasions to have a traffic study performed. The Board wants to know what the AM and PM trip generations are going to be. PMB advised that the 10% threshold Mr. Ambler is referring to in his letter is not applicable here; the Board's threshold is 25 trips in any given hour not 10% which refers to a study area. PMB stated that the Board is in possession of Mr. Ambler's letter which states that he is not going to provide the Board with the traffic study that has been requested several times.

PMB stated that this hearing will be closed and a decision will be made tonight as there is nothing further to discuss. Mr. Ambler further argued that every project in Town is not treated the same way and that other places were not required to have a traffic study performed. PMB conferred with Lynnea Thody regarding the Board's right to treat every project individually, as needs require, especially where this project back in 2008 asked for an approval excluding a fast food establishment which is why a traffic study was not performed, due his client's request. Lynnea Thody advised that the Board has been absolutely consistent with respect to this project; each project is unique as PMB stated. She further advised that that what is decided for one project does not have any affect on what the Board decides on another project.

SJW advised that within this project, the Board had been consistent since 2008 but looking at how the Board has applied the rules themselves to other projects is also consistent. SJW said she told Mr. Ambler at the start of this project that the 10% threshold was for scoping studies, the 25 trips per hour is what the threshold is and in our regulations it allows for the Board to ask for additional information if the Board feels it is warranted.

There was discussion as to how a meeting should be run and when someone is allowed to speak. RO advised that he does not agree that a mom and pop shop in Town should be heavily regulated due to the economic state we are in. PMB reiterated the history of the project and that all the Board wants is to see if this site can handle the traffic of a pizza shop. GCW agreed, and claimed that Mr. Ambler's client is a wasting his money by hiring an attorney and the Board's time.

PP asked why Mr. Ambler's client is refusing to do a traffic study. PP also stated that because his client is consistently rejecting the Board's request, it tells him they don't want to do the traffic study because the study is not going to support their position. PP advised that if the traffic study were to support what they want on the site then his client would have done the study to begin with to prove to the Board that this type of use can be supported at this site. SJW advised that per her calculations, they would need a minimum of 33 spaces, but that that number was an estimate since she did not have exact square footages for each use.

Mr. Ambler summarized his parking calculations stating that he did not use Section 3320(g) Retail Uses for the convenience store which requires one parking space per 150 square feet of gross floor. Instead Mr. Ambler stated that he calculated the number of spaces by the customer floor area and that he did not count any shelving spaces. He estimated 5 spaces needed.

PMB gave the ITE definition of a fast food place, a large carry out cliental, it does not provide table service and usually order via cash register and they pay before they eat. PMB advised that a pizza place is a fast food place and it is not specialty retail. SJW advised that she spoke with MDM who conferred that a pizza place is considered fast food. SJW also reiterated the definition of a fast food restaurant.

Mr. Ambler reiterated a question asked earlier of Lynnea Thody, but was never answered, of whether or not the a change in an existing parking area that results in fewer parking spaces requires a Development Plan Review? Lynnea Thody does not believe this can be answered in a blanket statement because it all depends on whether the reduction in parking is going to involve bringing the property below zoning. She advised that it depends on the circumstances of the property. SJW clarified that the bylaw does not require a Development Plan review if a change results in fewer spaces, but if the changes results in fewer spaces than required by the zoning bylaw. Therefore a change to a parking area that has excess spaces may not need a Planning Board review if the reduction in spaces does not drop below what is required by zoning.

PMM advised that everyone on the Board is not objecting to the fact that Mr. Ambler's client wants to put a pizza shop in there, but that it is that the Board wants to see that it is done correctly and it meets the bylaws and safety issues of traffic that this business will generate on South Main St. PMM thinks his client should consider doing the traffic study as it would be in his best interest.

There was discussion on why Mr. Ambler did not use Section 3320(g) Retail Use. SJW stated that there is no gray area for a convenience store and that is simply by all definitions a retail use and that she has asked the Building Inspector on this many times before. PP then questioned Mr. Ambler on whether or not a convenience store was a retail business and Mr. Ambler said that it was.

Mr. Ambler continued that using the same formula for customer floor area he generated only 3 spaces for the dry cleaners. PP stated that it seems that Mr. Ambler wants to have the Board to apply the bylaws strictly in some situations, such as with the traffic, but to bend the rules in other situations, such as with the parking calculations.

Mr. Ambler discussed his application of the parking calculations to the pizza shop and he reduced the number of proposed tables and did not include non eating function spaces and came up with 18 spaces.

GCW questioned how Mr. Ambler was getting to his number for parking spaces. GCW advised that Mr. Ambler wants two spots per 4 top, one spot for 2 top, one spot for the waiting area and three for the maximum amount of employees per shift. GCW clarified that this equals seven for the waiting area, three for the employees and four for the 2 tops and four for the 4 tops. GCW advised that that is a total of 20 plus the seven existing which makes it 27 total. PMB advised that either way there is not enough parking. Mr. Ambler advised that the lot next door is his client's and some of those

spots could be used for overflow. Mr. Ambler advised the Board to look at the map that he submitted which shows his clients property next door this one, Charlie's Tire and Auto. Mr. Ambler claimed that this land is approx. 40,000 sf with a building on it that has 6,000+ sf, which would leave about 33,000 sf remaining. Mr. Ambler advised that the regulations state that you have to allocate 350 sf per parking space when it is not lined out.

Mr. Ambler stated that that would leave about 96 parking spaces at Charlie's Auto all of which is paved; he claims that this site shows he has the reserve spaces needed or available. Mr. Ambler claimed that they went out and counted the available spots and came up with 42. This parcel currently has approximately 12 vehicles on an overnight basis, maximum, which would leave 30 additional spaces available. Mr. Ambler stated that this is a business that closes at 5pm (the parcel next door). PP asked Mr. Ambler to clarify that he was referring to Charlie's Tire and Auto. Mr. Ambler claimed that there is more than enough parking available when this lot is included. GCW questioned if there were any walkways available between the two lots. Mr. Ambler advised that there is and is shown on the plan.

PMB asked where the parking spots are because she has not been to Charlie's before. Mr. Ambler advised they are everywhere on the lot. PP advised that there are a couple of spots available in the front. PMB asked what the lighting is on the site and if it is safe, etc. Mr. Ambler advised it does not have to be constructed it just needs to be available per what the Bylaw states. PP clarified that his client would make these spots available to Cranberry Meadows. PMB would like to see this clearly on the plan where these spots would be available.

PP advised he lives around the corner and advised that the south side of the lot is usually all cars either employees or cars that have been worked on. PP advised that the back of the site is where all the UHaul trucks are, there might be a few empty spaces in the back but if someone is over at Cranberry Meadows and they are going to go in the back of Charlie's, it might not all be available or safe at night. PMB would like to be able to see this clearly on the plan but stated that Mr. Ambler's client is taking the easy way out by not showing where exactly where these spots are. Mr. Ambler questioned where in the Bylaw it was stated that the Board requires this. PMB advised that it is not the given right of his client and the Board has the right to ask for such things. SJW read allowed from the Bylaw and stated that in the past other projects have always shown lined spaces where the reserve spaces would be.

Lynnea Thody advised that the proposal of putting parking on an adjacent lot raises a couple of questions, not to say that it cannot be done but based on the Town's parking Bylaw, it doesn't explicitly allow for parking on an adjacent lot. In general, that would be read as not allowing parking on an adjacent lot. She advised that there are a couple of things to look at in figuring that out: 1) Prior practice, has the Board interpreted the Bylaw to mean when it talks about shared parking or has the Board allowed that to mean parking on an adjacent lot. Beyond that parking is listed as an accessory use. Lynnea Thody advised that when you look at the definition of accessory, it states that an accessory use is something that happens on the same premises. She advised that it is not a hurdle that you cannot get over but the Board would have to be making the conscience decision to be allowing the parking on another lot because of certain circumstances, including this lot being owned and controlled by the same person.

Beyond that you would want some kind of conveyance on the property guaranteeing that parking will be provided. She advised that there are a number of things to look at with that proposal and the Board should recognize that it is possible but it is not something that could just be done easily. There are some issues including access and lighting and that sort of thing and the Board should really look at this as this is out of the ordinary.

PP clarified what Mr. Ambler was asking for and he advised that Mr. Ambler seems to be using the Bylaw when it is in his favor but when the definition does not work for him, he does not want to use it.

PMB polled the individual Board members as to their opinion of the request to modify the decision. PMB advised that she would like to see the traffic study done. PP advised that he would need more information relative to parking. DB advised that we need evidence that the sites can handle this parking. GCW thinks they might be able to get it to work with the pizza parlor; he just would like to see the parking study done. PMM advised the Board needs more information done on the parking either that or it needs to be modified because the numbers are not adding up. RO advised because he cannot vote, he has no comment.

PMB polled the Board to see if they want a traffic study done. PP wants to know current traffic, DB agrees. GCW advised that they might have less traffic than three years ago but he would still like to see a study done. PMB would like to see a traffic study. PMM would like to see a traffic study done especially since he was not on the Board three years ago when this project was originally approved.

GCW: Motion to close the Cranberry Meadows public hearing.

PP: Second.

Vote: 5-0 Approved (PMB, GCW, DB, PMM and PP).

PMB asked for a motion to deny or approve the request to modify the Decision dated August 14, 2008 for Cranberry Meadows. The Board continued discussion on whether or not to make the motion as requested by PMB. Lynnea Thody advised that since the public hearing was closed, some sort of motion has to be made.

PP questioned that if the restriction was removed and they put in a fast food business, does it come before the Board again. SJW and PMB advised that all criteria must be met and another hearing or modification would not be needed unless all conditions of the decision are met.

RO asked if it would be appropriate to amend with stipulations that the other two criteria the Board has asked for be met. PMB advised that they are not willing to do it.

PMB wanted to clarify that the Board had asked for at the other hearings was a traffic study that simply looked at the AM and PM peak hours as it relates to the proposed uses and parking calculations. SJW confirmed PMB's clarification.

GCW stated that he could possibly go with the parking waiver request to utilize parking at the adjacent Charlie's Tire, but that the submission was inadequate and did not show

where the parking spaces would be and how the lots would connect and how pedestrians who might park there would be safe.

PP: Motion to deny the request to modify the Decision for Cranberry Meadows dated August 14, 2008 specifically condition #3.

GCW: Second.

Vote: 5-0 Approved.

General Business

SJW gave a brief summary of the LID forum held on February 10, 2011. She stated that there was a lot of good discussion by the engineers and that it resulted in a possible change in direction on how to incorporate LID techniques. She stated that she and Don DiMartino will need to talk further on the discussion. She will keep the Board updated.

DB: Motion to sign the vouchers.

PMM: Second.

Vote: 5-0 Approved (PMB, GCW, DB, PMM and PP)

DB: Motion to sign the February 10, 2011 meeting minutes.

PMM: Second.

Vote: 5-0 Approved (PMB, GCW, DB, PMM and PP)

DB: Motion to adjourn.

GCW: Second.

Vote: 5-0 Approved (PMB, GCW, DB, PMM and PP)

Minutes Accepted on: _____
(Date)

(Prepared by: Amy Sault)

Patricia M. Buckley

Glenn C. Wojcik

Peter Pappas

Dave Brown

Peter M. Morelli