



BELLINGHAM PLANNING BOARD

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

September 22, 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

PMB opened the meeting at 7:00pm.

Subdivision Rules and Regulations revisions, Public Hearing

PMB advised that she was hearing this agenda item first so the Board could waive the reading of the public notice.

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

PMM: Second.

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

Transfer funds request for W/S Development

PMB advised that Bob Frasier of WS Development has asked that the remaining \$8,000 be transferred from the Planning Board account to the Con Com because they are actively before the Con Com right now. If WS Development comes before this Board again, more funds will need to be collected to cover our peer review costs.

GCW: Motion to transfer the remaining \$8,000 from the Planning Board account to the Con Com account.

PMM: Second.

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

Pine Hollows Estates, off of Countryside Road (between Bellwood and Brooks Estates) Special Permit for Multi Family Development and Development Plan Review, Continued Public Hearing

Doug Errico, attorney for the condo association for Bellwood and Brook Estates advised the Board of where they are with this project and believes it would be feasible to request an extension for December 31, 2011. Mr. Errico advised that Bellwood is the owner of this project.

PMB advised she would like to see them put out until January 2012 to be sure they have enough time to submit all the Board is asking for. SJW advised that there would need to be a new public hearing notice with a revised set of plans.

PMM: Motion to recognize Bellwood Community Trust as the successor applicant.

DB: Second.

Vote: 4-1 Approved. (PMB, DB, PP and PMM approved, GCW opposed).

PMM: Motion to continue the public hearing of Pine Hollows Estates, off of Countryside Road (between Bellwood and Brooks Estates) Special Permit for Multi Family Development and Development Plan Review until January 26, 2012.

DB: Second.

PMM asked if Mr. Errico has spoken with Town Council, SJW advised that it would need to be re-noticed with an advertisement of a new public hearing notice with a revised set of plans.

Vote: 4-1 Approved. (PMB, DB, PP and PMM approved, GCW opposed).

PP: Motion to extend the decision deadline of Pine Hollows Estates, off of Countryside Road (between Bellwood and Brooks Estates) Special Permit for Multi Family Development and Development Plan Review until February 24, 2012.

PMM: Second.

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

PMB advised when they come back before the Board to be ready with all the information the Board has requested.

Street Acceptance Discussion: Hampton Court, Kensington Court, Leeds Lane, Oxford Court and Whitehall Way

Mark Kablack, Attorney for applicant, PMB advised that this is not a public hearing and the audience may or may not be asked to participate in the discussion. PMB advised that the Board will spend no more than 10-15 minutes discussing. PMB believes that there is enough evidence here to not ask that the Street be accepted by the Town. She believed that the runoff problem has not been taken care of by these trees and that the swale would need to be restructured so it works.

PMB wants to see Toll Bros clean up the mess that they have made. PP advised that when the Board was first shown this it was only the Morse' property, now after reading more info, PP advised that two areas of runoff are design flaws.

PP advised that the second runoff issue has to do with Fox Run and seems to be a design flaw. PP advised that due to the design issues in the subdivision, the Board's responsibility is to have these issues corrected.

GCW: Motion to not recommend street acceptance for Hampton Court, Kensington Court, Leeds Lane, Oxford Court and Whitehall Way at Town Meeting.

PMM: Second.

More discussion was held.

GCW asked PP to clarify his statement. PP advised that due to the history of this project it was not incorrectly designed and that it is a design flaw with the runoff that is occurring now. GCW advised that the big point is there is supposed to be a swale, it was removed but it needs to be put back.

PMM advised that he was at this site two weeks ago today walking around with the Morse's' and he saw water coming down the back of the lots 78 and 76 Whitehall Way, he claimed it was coming down heavily. PMM advised that Toll Bros attempted the swale but it is not working, PMM sees a problem with the road due to the swale construction, if this incident happens in the winter it could become an ice damming issue, a serious issue.

PMM further advised that the tax payers would be the ones having to fix these issues if the street was accepted. He believes that the pavement may fail and would cost the Town a lot of money. PP agreed. PMM advised that at the Mohondros property the water was sheeting down and not all was headed towards the swale, it was going over and into the Morse's property. PMM thinks it was poor design and should be fixed. PP referenced information that was given to the Board. PMM advised that the drainage system cannot handle this water issue and if Toll Bros came up with a solution it would be a modification to the plan. PP agreed.

PMM referenced some of the Fox Run pictures and that Mr. Graf advised that the water is coming off of the field stone wall. PMM claimed it was ankle deep and could be a breeding ground for mosquitos, he believes this needs to be addressed. GCW thinks that there are too many if's here. RO advised he was not on the Board when this project was originally approved but his opinion is that the building to the spec of the plans has not been met.

SJW advised that it would require a modification because of the stage that we are at. GCW would recommend a motion to not recommend the acceptance of the street.

GCW: Motion to not recommend Hampton Court, Kensington Court, Leeds Lane, Oxford Court and Whitehall Way.

PMM: Second.

Mr. Kablack asked if he could respond to this. PP advised that he would like to hear what Mr. Kablack has to say.

Mr. Kablack introduced himself and proceeded to update the Board on these issues:

1. Mr. Kablack advised that Mr. DiMartino, DPW Director agreed that the roadway infrastructure is ready for acceptance.
2. Mr. Kablack advised that he would like to update the board on the Morse groundwater issue. He claimed that he also asked to have a written report by the GZA submitted to the Board. Mr. Kablack advised that Mr. Graf, Toll Bros and the Con Com have come up with a slightly modified construction of small berm not a swale. He showed a map of the area in discussion. Mr. Kablack explained this area at the thinnest point is 100 ft wide. Mr. Kablack advised that the Con Com does not want this area improved. Mr. Graf advised that the drainage issues are due to a natural water runoff because they are downhill. Mr. Kablack advised that Water is always flowing; he referenced the design flaws comments. He advised that there is no design flaw and that Toll Bros is willing to do additional work but claimed it is not a design flaw. Mr. Kablack advised that over the past 1.5 years it has been hard to focus on the issues that the Board has been requesting, he claimed it has been confused by the Morse issues and correspondence. Mr. Kablack advised that they are more than willing to deal with reasonable, legitimate claims and conditions. He advised that it gets complicated and reiterate that there is no design flaw. Everyone they have consulted says that the system is working properly,

PP clarified that the water that is running off would be running off whether his subdivision was there or not. Mr. Kablack explained the grade and the construction, he showed the plans he was referencing to the Board. PMB asked if the Board has seen this info before, Mr. Kablack advised the Board is that this plan was just put together. PP asked what was there before; Mr. Kablack advised that it was probably wooded.

SJW advised that there should be a modification made to this plan. GCW does not know why there items are still not resolved with all the time given. SJW advised that these same issues were identified before. Mr. Kablack advised that there is still not a uniform decision between all the Boards and Mike Graf involved.

SJW advised the situation between the Board and the Con Com are separate issues. The Board gave the ok at the time but this issue procedurally does not include the Con Com with a modification to the Subdivision. SJW advised that this cost to fix this cannot be put on the Town, the Planning Board requires a modification to the plan to fix the errors. PP advised that there should be no impact on abutters.

PP and Mr. Kablack had some more discussion; PP asked why there was no issue on the water puddling before this Subdivision. Mr. Kablack advised that there was no issue; there was no evidence out on their field visits. Mr. Kablack stated that the Con Com stated that there are no issues. Mr. Kablack advised that SJW's comment on the Con Com was short sided; PMB explained to Mr. Kablack the Con Com's position.

GCW advised that there is an issue and it needs to be resolved. Mr. Kablack further explained the information that he provided to the Board. GCW advised that if the swale was built to spec then there would not be a problem.

PMM referenced his site walk notes from April 2011; he read aloud from them and advised of what he advised Mr. Kablack agreed to. PMM advised that all the Boards and Departments worked together, there was a good discussion that day but now it is sounding like there were no issues. PMM advised he saw erosion and would swear to this in court. PP asked if this plan would rectify this situation, Mr. Kablack did not answer PP's question directly, PP asked again, will the plan resolve the issue.

PMB advised that he needs to file a modification, Mr. Kablack refused unless the ground rules are set forth because he claims that the Board changes their mind every time he is before them. PP would recommend that the Town hold back of 1 ½ x the value. Mr. Kablack is fearful that this will get further complicated by the Morse issue. PP advised that this could have been resolved in the year since the last request. The Board and Mr. Kablack had some discussion on how to handle this situation.

Mr. Kablack advised that the insinuation that they have been sitting on their hands is not accurate. Mr. Kablack advised that they are willing to work with the Board on reasonable requests. GCW explained what he would require. Mr. Kablack advised that Town Council does not agree with making it personal. GCW clarified the issues.

Mr. Kablack advised that the Morse property has been heavily excavated over time and that the only reason ground water has occurred on their property is because it has been excavated down to bed rock. RO advised that nothing that has come up tonight is new and that all this same information has been discussed over the past year, he claims that the original swale should be back in. RO advised that Mr. DiMartino is only concerned with the street not the property. RO advised that the job was not done correctly, Mr. Kablack disagreed. PP advised that PMM pointed out there was a runoff issue so how could the Board accept a road that would be dangerous during wet conditions.

SJW advised that that Mr. Talerman explained before that the Planning Board has wide latitude on why they decide not to accept streets. PMB advised that this discussion is now over.

PMB reminded of the not to recommend motion.

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

Subdivision Rules and Regulations revisions, Public Hearing

PMB advised that this public hearing has already been waived earlier in the meeting. SJW advised that the draft before the Board is a compilation of Mr. Talerman, the Board, Mr. DiMartino, etc. SJW wanted to get a public hearing opened and advised that it is a complete overhaul, the point of this is to input what they think the Town needs.

SJW would like to do Article 1 and 2 tonight. She advised that the editorial comments are not needed just the text.

SJW read through Article 1. The Board had some discussion on grants and whether they are helpful to the Town in general. SJW is a favor of planning grants. PMM referenced the phosphorus study and LID and claimed that the wording has left us wide opened for different opportunities.

Overall some definitions were amended. The Board also had some discussion of waivers. SJW will do more research on in this. The Board discussed not having presidencies set, proof of hardship, etc.

The Board agreed to continue this discussion on October 13th, where the Board will discuss Section 3.

General Business

PP: Motion to sign the September 8, 2011 meeting minutes.

DB: Second.

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

DB: Motion to sign the vouchers.

PMM: Second.

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

PMB advised that AS last day is October 4, 2011. SJW will put out an advertisement for the position of coordinator in the papers and online.

SJW did not update the parking Bylaws. SJW reminded the Board of Town Meeting on October 12.

SJW advised the Board that there is a 40B project at the old drive in. SJW briefly described the project.

MINUTES OF THE PLANNING BOARD

September 22, 2011

DB: Motion to adjourn.

PMM: Second.

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

Minutes Accepted on: 10-13-11
(Date)

A. Sault
(Prepared by: Amy Sault)

Patricia M. Buckley (absent)

Glenn C. Wojcik
Glenn C. Wojcik

Peter Pappas
Peter Pappas

Dave Brown
Dave Brown

Peter M. Morelli
Peter M. Morelli