



# BELLINGHAM PLANNING BOARD

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

## Meeting Minutes September 12, 2013

MEETING LOCATION: ARCAND MEETING ROOM – MUNICIPAL CENTER

### **Present at the Meeting**

Patricia M. Murphy (PMM), Chairman - absent  
Glenn C. Wojcik (GCW), Vice Chairman  
Peter C. Pappas (PCP), Secretary  
Andrew T. Greene (ATG), Member  
Brian T. Salisbury (BTS), Member  
Nikyda Resto (NR), Alternate

### **Other Officials:**

Stacey J. Wetstein (SJW), Town Planner  
Jean Keyes (JK), Planning Board Coordinator

GCW opened the meeting at 7:00 p.m.

7:00 p.m.

### **Elmshade Preliminary Subdivision, 71 lots proposed off of Blackstone Street for Developer Anthony Marinella, Continued Public Discussion; Decision Deadline: 9/27/13**

Present for the Applicant: Attorney Michael Doherty, Eric Brissette of Heritage Design Group, and Scott Morrison of Echo Tech

Tom Houston of Professional Consulting Services, the Town's peer reviewer, was present and gave the Board copies of his most recent comments dated 9/12/13. SJW requested that the Mr. Houston give a summary of his comments to the Board.

Tom Houston:

1. Yield Plan is more realistic and the Applicant has eliminated the problematic entrance off Lakeshore Drive.
2. It is unclear if the stormwater basins work on the Yield Plan as the Applicant has not done either permeability or groundwater testing in those basins. Mr. Houston asked if the Board wants this done now to prove it works on the Yield Plan. Eric Brissette stated that the basins on the Preliminary Plan are only conceptual and will be placed in appropriate areas on the Definitive Plan.
3. Wetlands status is unclear as Mr. Houston is unsure if the entire amount of wetlands is less than 5,000 square feet and is also called a limited project. Mr. Houston disputes that this is a limited project as the prerequisite for that designation is that it has to be the sole means of accessing project. Since there are two entrances, Mr. Houston stated that it cannot be a limited project. Mr. Brissette responded that the total wetlands impact is 4,600 square feet and because they are under the 5,000 square feet maximum they are proposing wetland replication for those areas. Mr. Brissette stated that because they are less than 5,000 square feet they do not have to claim a limited project.

4. A stream on the site is has been designated as not perennial by the Applicant and Mr. Houston disagrees with this designation. If the Con Com disagrees with the Applicant's designation, then it will have a significant impact on the project. Scott Morrison stated that they have filed an Abbreviated Notice of Resource Area Delineation (ANRAD) with Con Com and they are prepared documentation to overcome the perennial stream issue and he believes the Con Com accepted that documentation.

Mr. Houston stated that overall the Applicant has been judicious in addressing the prior comments.

Neal Standley from the Conservation Commission (Con Com) explained that there are 7 miles of wetlands lines to be confirmed and they have completed 2 of the 7. There is a potential of a third wetlands crossing on the lower right of the plan between lots 21 and 21. Additionally, the Con Com is unsure how the National Heritage review will impact the number of lots allowed and the Con Com is not sure if 70 lots are viable.

SJW explained that she spoke with Brent Powers of National Heritage. Mr. Powers stated that they could approve a 70-71 lot subdivision with mitigation that would not involve losing lots, but would require either reconfiguring the plan or providing off-site mitigation. National Heritage cannot comment formally on a plan like this because it not an officially submitted plan. When the Major Residential Plan is officially submitted to the Board, National Heritage will review it and work very closely with the Applicant. In addition, they are commenting on the priority habitat area and not the wetlands issue. The wetlands issue must be addressed in accordance with the Wetlands Protection Act and the local wetlands bylaw.

SJW explained that the Applicant should submit wetlands filings when submitting the Major Residential Subdivision Plan application with the Board. The Con Com may have rulings that may affect the number of lots and/or the plan configuration. The Applicant proceeds at his own peril if he does not submit both at the same time.

GCW questioned how the Applicant could create a definitive plan if they do not know where the final wetlands delineation will be. Eric Brissette stated that because of the density bonus that comes with an open space plan, even if they did lose lots, they are allowed an additional 7 to 8 lots. In addition, Mr. Brissette stated that they are very confident in the wetlands delineation done by Echo Tech. Mr. Standley stated that the Con Com's wetlands delineation will probably be completed by the end of year.

Mr. Houston recommended that the Board have copy of the ANRAD before they make a final decision on the Preliminary Plan. Attorney Doherty asks the Board not to wait as this is only a Preliminary Plan and they would like approval so they can get to work on the Definitive Plan. Scott Morrison stated that they have filed an ANRAD with Con Com and they have prepared documentation to overcome the perennial stream issue. Mr. Morrison believes that the Con Com has accepted that documentation. Mr. Standley stated that what the Con Com has seen so far has been very well done.

BTS questioned how delaying a decision on the Preliminary Plan would impact the Applicant. Attorney Doherty stated that it would cost his client both time and money and can see no benefit and, in addition, the ANRAD will not be available before the deadline for the Preliminary Plan.

SJW explained to the Board that approval of a Preliminary Plan only provides guidance to the Applicant and does not bind the Board or the Applicant. If the Board votes today without the completed wetlands delineation, the Board is not harming or binding itself to anything. The Applicant can bring a completely different plan for the MRD.

#### Questions from the Public:

Dan Houston, 319 Blackstone Street stated that he is concerned about how Blackstone Street is going to handle 71 new homes as a means of egress and asked if it will be emergency egress only or a second egress. He brought to the Board's attention that Planning Board Meeting Minutes from 2000 state that Blackstone Street could never be widened and it has been abandoned. Mr. Houston explained that traffic at North Street and Blackstone is now a nightmare and very difficult to get in and out and he has serious safety concerns.

GCW explained that all concerns will be addressed in the Definitive Plan review. PCP stated that the public can expect a lot of discussion about all issues raised and made the Applicant aware of it at the last meeting.

GCW stated that he is not in favor of the design. SJW explained the regulations about approving a Preliminary Plan within 45 days of filing. The Board will notify the applicant if the Preliminary Plan has been approved, approved with modifications, or disapproved with specific reasons. However, this decision does not preclude the applicant from moving forward with the Definitive Plan.

GCW stated that he understands and has no problem approving the Preliminary with conditions knowing it is not binding. PCP agreed. NR agreed and thinks the board should vote.

George Leal of 192 Lakeshore Drive expressed concerns with wetlands and the natural watershed that feeds Lake Hiawatha. Lakeshore Drive floods every spring and if houses are built, the water won't be there and will interrupt the water flow to the lake. Mr. Leal stated the stream is perennial and is there year round. Mr. Leal also asked if the Applicant is filling in wetlands and what does the town gain by filling wetlands and changing the watershed. GCW explained that this will all be addressed with the Definitive Plan. Scott Morrison explained that the Applicant is not looking to wholesale fill wetlands to build houses but just to fill in small areas to gain access to the site. Both are stream crossings that will be culverts and filled areas will be replicated. In addition, the design will have to be fully compliant with stormwater management standards. SJW stated that the Con Com has jurisdiction to be sure the wetlands are recreated in an appropriate place. Mr. Leal was more concerned with the overall effect of the construction on the watershed.

Bob Carnaroli of 19 Maddie Way explained that a large amount of water comes into that area and that the stream is always there. He asked if the pond would remain intact. Scott Morrison stated yes. GCW reiterated that just because the Applicant says the stream is not perennial does not mean that the Con Com will agree.

Jerry Boudreau of 486 Lakeshore Drive asked if there have been any long range or short range impact studies of the plan on this land. Mr. Boudreau has wetlands concerns and is also concerned that Lake Hiawatha is fed by springs on that land. GCW stated that he wants to be sure the flow of water coming off that site is uninterrupted. Eric Brissette stated that the Applicant will do a drainage analysis of watershed when they do a Definitive Plan. SJW asked Mr. Houston what studies could be done to measure the surface water impact of the construction. Mr. Houston stated that the Applicant should do a geohydro analysis that will show which direction the groundwater flows. He further explained that surface water is studied by a stormwater analysis and ground water through geohydro analysis. Mr. Boudreau requested a meeting with the Residents of Lake Hiawatha association and the Applicant.

SJW informed the Board that they can ask the Applicant for the geohydro study in the Preliminary decision. GCW and PCP agree that the Applicant has to look at Lake Hiawatha and prove that there will be no change as a result of this development. SJW advised the Applicant to also look at water that supplies the lake in studies that the DPW has. This should also be included in the Definitive Plan.

Pam Leal of 192 Lakeshore Drive was concerned that the construction will impact her well.

**BTS: Motion to accept the Elmshade Preliminary Subdivision, 71 lots proposed off of Blackstone Street with the conditions that the Applicant conduct a Lake Hiawatha water supply study and that the development will be esthetically thoughtful to the neighborhood as amended.**

ATG: Second.

Discussion: BTS personally feels that this large development should be esthetically thoughtful to the neighborhood that is already there and not tract housing and with the hope of keeping trees.

Vote: 4-0. Motion Carried. (GCW, BTS, PCP, ATG)

7:15 p.m.

**Northwoods II, Linda Way Street Acceptance Discussion and Northwoods II Update**

Present for the Applicant: Attorney Michael Doherty and Cheryl Peterson of Heritage Design Group.

The Board and Attorney Doherty discussed the fact that the open space has not been completely restored to the grade indicated on the approved plans. In addition, various houses on Linda Way that abut the open space have encroached on the open space with plantings, mulch, grass mowing, grass clippings, all-terrain vehicles and trails, ornaments, trampolines, and a children's playground.

Attorney Doherty explained that they delivered a letter to each homeowner by going door-to-door to obtain the signature of most, but not all, encroaching residents. Attorney Doherty stated that the encroachment issues are not his or his client's fault.

SJW explained that the encroachment by abutters is the Applicants issue as it was not explained to the homeowners where the open space began and where their property ended. In addition, NR stated that if the bounds were installed at the beginning of the construction, the homeowners would have known where their property ended.

Mr. Doherty stated that he and the Applicant can take more aggressive steps by informing the homeowner that they are trespassing on property that does not belong to them.

GCW stated that there are other major concerns besides the encroachment issues. SJW explained that the swales are not seeded and the detention basins have not been maintained. In addition, the swale to Pond 2 is seriously eroded and destabilized. Finally, the Applicant has not submitted an annuity deposit yet. PCP and the Board agreed that they will not recommend street acceptance until the encroachment and other unfinished issues are completed.

Attorney Doherty would like to request the Town take the \$27,000 Annuity out of the bond that the Town is holding. SJW explained that he must submit a formal letter request to her.

Neal Standley from the Con Com – Neal Standley reiterated that the open space must be returned to original grade and be restored to original condition. SJW explained that the open space cannot be reforested (the Applicant removed all the trees), but the Applicant must at least restore the grades that were approved and put in the meadow mix that was discussed.

Attorney Doherty stated that he did not think they were required to return to same grade and disagreed about current grade. SJW stated that according to her review, the grade is now 4' off. SJW took as-built and approved plans and layed out the lines and there are significant differences. The Applicant also deforested the open space. Cheryl Peterson agreed there are still differences but stated that the grading today is gradual slope that is not dangerous or erodible and is uniform and is not in bad shape. The Applicant would like to put in loam and seed to get it stabilized. She further stated that lowering the grade will make really no significant difference and asked what the real goal is. BTS stated that the Subdivision Plan was approved with grades and should be followed. Neal Standley of the Con Com stated that the grade is unsuitable and is still significantly higher than the original grade. Mr. Standley further offered that frequently the Con Com requires fencing to delineate wetlands areas and maybe the Board should consider it for future open space delineation.

SJW expressed frustrations that the Applicant is making it seem like the Board is being unreasonable when the Developer did not follow the approved plan. The Board is just asking that the plan be followed.

BTS would like to see physical manifestations that problems are being solved and stated that as long as the Applicant owns the land he can take affirmative steps to take that encroached upon property back.

**PCP: Motion to not recommend street acceptance of Northwoods II**

BT: Second.

Discussion:

Vote: 4-0. Motion Carried. (GCW, BTS, PCP, ATG)

**General Business:**

**Old Business:**

**PCP: Motion to sign the August 22, 2013 Meeting Minutes**

BTS: Second.

Discussion:

Vote: 4-0. Motion Carried. (GCW, ATG, PCP, BTS)

**BTS: Motion to sign the Vouchers/Payroll**

ATG: Second.

Discussion: SJW explained the vouchers.

Vote: 4-0. Motion Carried. (GCW, ATG, PCP, BTS)

**Cedar Hill Estates:**

The entire Board is fine with red-line changes in the memo about Cedar Hill Estates.

**SJW – Planning Update:**

- Pine Hollows is submitting tomorrow.
- Shores III and II are appealing the Decisions. Attorney Roelofs letter stated that the Inclusionary Zoning Bylaw was not part of the Remand and so does not have to be part of the decision and he does not like the conditions.
- A 12-lot Preliminary Subdivision on Farm Street, a Varney property, will be coming in. Definitive Plan for Hixon Road will be coming in.

**New Business (81-P)**

**BTS: Motion to adjourn.**

ATG: Second.

Discussion:

Vote: 4-0, Motion Carried. (GCW, ATG, PCP, BTS)

Meeting Adjourned at 9:15 p.m.

Minutes Accepted on: \_\_\_\_\_

(Date)

Patricia M. Murphy

Peter C. Pappas

Brian T. Salisbury

(Prepared by: Jean Keyes)

Glenn C. Wojcik

Andrew T. Greene