



BELLINGHAM PLANNING BOARD

2 MECHANIC STREET
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Meeting Minutes September 11, 2014

MEETING LOCATION: ARCAND MEETING ROOM – MUNICIPAL CENTER

Present at the Meeting

Patricia M. Murphy (PMM), Chairman
Brian T. Salisbury (BTS), Vice Chairman
Peter C. Pappas (PCP), Secretary
William F. O'Connell Jr. (WFO), Member
Glenn C. Wojcik (GCW), Member
Nikyda Resto (NR), Alternate

Other Officials:

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

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

PMM called for a moment of silence for remembrance of those who died on 9/11/2001 and those who died fighting for our country thereafter.

7:00 p.m. 135 & 143 Hartford Ave, 81P

Present: Byron Andrews of Andrews Survey and Engineering

Mr. Andrews explained that his client would like permission to divide out two buildable lots, Lot 1 and Lot 2, as they have adequate frontage and area and meet the lot shape factor. SJW clarified that the middle lot is not buildable. SJW further explained that the Applicant will probably come back before the Board with 3-lot subdivision application. Mr. Andrews stated that his client will be coming back to the Board in the immediate future.

GCW: Motion to approve the ANR Plan (81P) dated 9/2/14 for 135 & 143 Hartford Ave.

WFO: Second.

Discussion: None.

Vote: 5-0. Motion Carried. (PMM, BTS, GCW, PCP, WFO)

7:00 p.m. Hillside Estates, Novus Homes LLC, Inclusionary Housing Special Permit, 1st Public Hearing; Decision Deadline: 9/26/14

GCW: Motion to waive the reading of the Public Notice for Hillside Estates, Novus Homes LLC, Inclusionary Housing Special Permit.

WFO: Second.

Vote: 5-0. Motion Carried. (PMM, BTS, GCW, PCP, WFO)

Present: Mounir Tayara, Manager for Novus Homes, for the Applicant. Mr. Tayara explained that he is looking for an off-site affordable unit to rehab or for property to build a unit offsite. He would like to deliver the affordable unit after they finish constructing the 5th house in the subdivision (Hillside Estates). SJW explained that since the subdivision is only 6 units, it would be to allow construction to begin on units 1-5 as it is in keeping with bylaw. SJW further clarified that the Applicant can get building permits for units 1-5 but that no cert of occupancy will be issued for unit #5 until the Planning Board approves the off-site

unit. The Board must see the site and the plans to be sure that the affordable unit is comparable. So, there will be no Planning Board decision on this Special Permit until then. Mr. Tayara asked if a finished basement would that count toward the square footage. PMM replied that the Board is not sure and that SJW will have to find out and get back to him. SJW reminded Mr. Tayara that at the next meeting, he must have the lottery agent designated. SJW explained to the Board that a four-bedroom home is not feasible as most people cannot afford it within the income requirements. She recommends that Mr. Tayara build a three-bedroom home so that it will sell.

BTS: Motion to Continue the Hillside Estates, Novus Homes LLC, Inclusionary Housing Special Permit, Public Hearing to December 11, 2014 at 7:00 p.m.

GCW: Second.

Discussion: None.

Vote: 5-0. Motion Carried. (PMM, BTS, GCW, PCP, WFO)

GCW: Motion to Extend the Decision Deadline for the Hillside Estates, Novus Homes LLC, Inclusionary Housing Special Permit, Public Hearing to March 1, 2015.

WFO: Second.

Discussion: None.

Vote: 5-0. Motion Carried. (PMM, BTS, GCW, PCP, WFO)

7: 05 p.m. Victory Packaging Facility, Maple and High Streets, Development Plan Review, Major Business Complex Special Permit, Flexible Parking Special Permit, Stormwater Management Permit, and Scenic Road Permit, Continued Public Hearing; Decision Deadlines: Development Plan: 10/31/14; Special Permits: 10/31/14

Present: Applicant, Sean Tyyrell of Seefried Properties, Jeff Trelegan of Victory Properties, Dan Feeney of Beals and Thomas, Gregory C. Tocci of Cavanaugh Tocci Associates, noise consultants for the Applicant.

Mr. Tocci explained the Sound Study dated September 4, 2014 conducted at the site that was performed to estimate the acoustic impacts from the property. He further explained that there are not federal regulations for sound but there are MA Department of Environmental Protection guidelines and Town of Bellingham sound ordinances. They found that the Bellingham regulations were much more strict than the states' guidelines and so they used the Town's regulations.

The Findings of the report and suggested mitigation are described below:

1. The mechanical systems (HVAC) meet all noise guidelines.
2. The nighttime limits restrict noise to no greater than 50 decibels (dB) w/in 200' of property. Since they exceeded this limit by 2-4 dB, they have set restrictions on the property that between 5 am and 7am there will be no trucking activity on north side of building.
3. They 12-16' berm along Maple Street will be extended so that it wraps around the property on the south side of the building.
4. All trucks under the control of the facility will have broadband backup alarms (whoosh) instead of tonal alarms (beeping). Mr. Trelegan submitted a memo from Ryder Trucks stating that they are willing and ready to comply with Victory's request for broadband back alarms.
5. They will make every effort possible to have all trailers loaded in the late afternoon or early evening so that the noise from trailer hookups will be limited.

There was extended discussion between the Board and the Applicant as to what could be done to mitigate the excessive 2-4 dB on the north side of the property during the 5:00 am – 7:00 am hours. PMM asked abutter Cindy Prescott of 314 Maple Street if she would want to see a wall on the north side of the property and Mr. Prescott replied no. Ms. Prescott has no problem with the development; she just does not like hearing all the truck traffic on Maple Street. The Board agreed that the measures described in Findings #2-5 above were sufficient.

PMM opened the meeting to questions from the public and explained that she will call on each person, and they must state their name and address and direct their question to the Board and not to the Applicant. If questions have already been asked and answered, PMM will ask the person to sit down. PMM further explained that this meeting is to discuss the sound study only. PMM further stated that the public was advised to go to Planning office or call SJW with any questions and no one did.

Steven Kohler of 26 Stonehedge Road stated that the Town's noise bylaw is very good and wanted to know if the truck throttle noise upon entrance and exiting of the site were evaluated. Mr. Tocci explained that they took the lowest levels of the bylaw 45-50 dB to conduct the study and he cannot not answer the throttle sound question. The study assumes assumed a high idle.

Rick Daly of 15 Stonehedge Road asked if the road on the North end of the site can be eliminated. SJW explained that they need the road to go around building for road for fire and safety access.

Kirsten Daly of 15 Stonehedge Road expressed her thanks to Victory for making concessions. She said that she observed Victory operating at 3:15 am in Milford. PMM responded that Ms. Daly should keep in mind that the Milford facility is not the Bellingham facility and that the hours of operation have changed for Bellingham. SJW clarified that the Board and Town can enforce the noise restriction and the public can call the police if it is being violated.

Chris Meehan of 363 Maple wanted clarification of sound abatement on the south side of the property as sound travels a lot further over water (over Charles river watershed). Mr. Tocci explained that they have extended the berm on the south end of the property. Mr. Feeney clarified that the berm will wrap around the south end of the property and will be 12' higher than pavement with some proposed trees as well as an 8' high stockade fence along the entire southern boundary. Sean Terrell agreed to make the fence a 12'-high vinyl fence in solid white.

Don Martines of 334 Maple Street expressed his appreciation to Victory for the sound mitigation. He suggested that the north side of the building be lowered. Mr. Dan Feeney explained that the height is as low as the building can go and still have the Stormwater and groundwater perspective systems work properly.

Peter Gabrielle of 6 Stonehedge Road wanted to know what are the sound levels are at the entrance on Maple Street. Mr. Tocci explained that he does not have that data with him and that Maple Street is public activity and they have not considered it. Mr. Tocci explained that it is considered it the public activity of the street. GCW explains that the bylaw restricts stationary noise measured at 10 minutes and not moving trucks.

Ms. Lee of Maple Street stated that she can hear the Blue Lynx trucks at 1:00 am. PMM explained that Victory is not using the beep beep backup noise and they will not be operating at 1:00 a.m. Mr. Tocci further explained that the backup alarms can be heard over great distances because they are distinctive. Broadband backup alarms are as loud as tonal alarm but do not have the tonal characteristic that stands out. The broadband sound is a whoosh whoosh but it blends in to the surrounding noise.

Jim Dunlea of 57 High Street wanted to know if the sound measured was on the property line. Also he mentioned that: Blue lynx sounds all night; there has been no attention paid to High Street; the whoosh sound just as high. Mr. Tocci responded that they have done the computation for the residences along Maple Street. The study actually did use sound of back up alarm to estimate the decibels and they took into consideration the distance to High Street which diminished the decibels. The computations based upon worst conditions and the sound levels were monitored at three locations shown in the Sound Study.

Keith Dalzell of 350 Maple Street questioned the accelerating noise of the trucks. PMM stated that the bylaw deals with when the trucks are stationary for a specific period of time. The Applicant will put up signs with speed limits and to not use jake brakes, but once the trucks are on Maple Street the sound is out of the Board's control.

Jennifer Newman of 338 Maple Street stated that she appreciates the mitigation provided by Victory and the Board and that the mitigation at the north end of the property is fine for the exceeded decibel level which is negligible.

Marianne Gabrielle of 6 Stonehedge Road stated that this is a distribution facility and trucks must be considered part of the facility and it is incorrect to say that trucks noise traveling on the lot are not part of the facility. PMM and SJW both responded that the Board did not say that but explained the bylaw and believe that the sound levels meet the bylaw requirements. Mr. Tocci reiterated that they studied the operations at the facility and the juncture between the facility and the road is part of commerce and is part of the road.

Kristen Daly of 15 Stonehedge Road wanted to point out that the entrance to Victory is across from a school bus stop and is unsafe. Bellingham Police Safety officer, Sargent Rolls explained to the Board that he spoke with Vendetti bus and they agreed that the bus stop will be changed. The bus will pull into Stonehedge to pickup up kids on that street instead of Maple Street. Mike Connors of the Board of Selectmen also clarified that Vendetti could pick up at every house.

WFO: Motion to close the public hearing for Victory Packaging Facility, Maple and High Streets, Development Plan Review, Major Business Complex Special Permit, Flexible Parking Special Permit, Stormwater Management Permit, and Scenic Road Permit.

GCW: Second

Discussion: BTS asked if there was a peer review for the noise study. PMM stated no, it was not necessary.

Vote: 5-0. Motion Carried. (PMM, BTS, GCW, PCP, WFO)

PMM suggested to add the words "will take the steps to enforce" to Condition #3 of the Major Business Complex Special Permit and Condition 6 of the Development Plan Approval and wants it to go forward with the property similar to a covenant. PCP disputed that language as the Board does not have the authority to tell them how to run their business. SJW stated that she does not know the future conditions she hesitates to have this attached to the property. SJW further stated that the Town has protections built into the conditions and that there is already a condition of the Decision that the Applicant must conduct a six-month study to evaluate this condition and see if the policy is being enforced. WFO suggested that only the language be changed to read "create, maintain, and enforce" and Mr. Trelegan agreed with this change.

WFO: Motion to sign the Decision for the Victory Packaging Facility, Maple and High Streets, Development Plan Review and Stormwater Management Plan Special Permit.

GCW: Second.

Discussion: None.

Vote: 5-0. Motion Carried. (PMM, BTS, GCW, PCP, WFO)

GCW: Motion to sign the Decision for the Victory Packaging Facility, Maple and High Streets, Major Business Complex Special Permit.

WFO: Second.

Discussion: None.

Vote: 5-0. Motion Carried. (PMM, BTS, GCW, PCP, WFO)

WFO: Motion to sign the Decision for the Flexible Parking Special Permit.

GCW: Second.

Discussion: None.

Vote: 5-0. Motion Carried. (PMM, BTS, GCW, PCP, WFO)

GCW: Motion to accept the sign the Decision for the Scenic Road Permit.

PCP: Second.

Discussion:

Vote: 5-0. Motion Carried. (PMM, BTS, GCW, PCP, WFO)

7:15 p.m. Elmshade Definitive Subdivision, Stormwater Management Permit and Major Residential Development Special Permit off of Blackstone and North Streets; Definitive Subdivision/Stormwater Management Permit Decision Deadline: 9/28/14; Major Residential Development Special Permit; Decision Deadline: 9/28/14

Attorney Mike Doherty was present on behalf of the Applicant and explained that for economic reasons they would like to withdraw without prejudice. The economic reasons pertained to certain town requirements and affordable housing requirements.

WFO: Motion to accept the Withdrawal Without Prejudice request for the Elmshade Definitive Subdivision, Stormwater Management Permit and Major Residential Development Special Permit off of Blackstone and North Streets.

GCW: Second.

Discussion: None.

Vote: 5-0. Motion Carried. (PMM, BTS, GCW, PCP, WFO)

7:20 p.m. DPW Salt Shed, Development Plan Review, 26 Blackstone Street, 1st Public Hearing; Decision Deadline: 10/18/14.

WFO: Motion to waive the reading of the Public Notice for the DPW Salt Shed, Development Plan Review, 26 Blackstone Street.

GCW: Second.

Discussion: None.

Vote: 5-0. Motion Carried. (PMM, BTS, GCW, PCP, WFO)

DPW Director Don DiMartino explained that the Town would like to build a 60 x 120' salt shed so they can store enough salt for an average winter which is about 5500 tons. He has been before the zoning board and has received a waiver to build this in an agricultural zone. Trucks can drive right inside and dump inside so the product does not get wet. In addition, it puts the Town in a position to never run out of salt. Mr. DiMartino explained the plan and location and that a standard stormwater plan has been developed and will treat the impervious surface runoff.

WFO asked what will happen to the existing shed and Mr. DiMartino explained that it will become the sand shed. The Board questioned if the new building will be seen from the Blackstone Street and Mr. DiMartino explained that it will not. In addition, since the new shed will store rock salt, he has submitted an application from the Conservation Commission for approval.

GCW: Motion to close the public hearing for the DPW Salt Shed, Development Plan Review, 26 Blackstone Street.

WFO: Second

Discussion: None.

Vote: 5-0. Motion Carried. (PMM, BTS, GCW, PCP, WFO)

GCW: Motion to draft a favorable decision the DPW Salt Shed, Development Plan Review, 26 Blackstone Street.

WFO: Second.

Discussion: None.

Vote: 5-0. Motion Carried. (PMM, BTS, GCW, PCP, WFO)

General Business:**Old Business:****PCP: Motion to sign the 8/28/14 Meeting Minutes**

GCW: Second.

Discussion: None.

Vote: 5-0. Motion Carried. (PMM, BTS, GCW, PCP, WFO)

BTS: Motion to sign the Vouchers/Payroll

GCW: Second.

Discussion: SJW explained the vouchers.

Vote: 5-0. Motion Carried. (PMM, BTS, GCW, PCP, WFO)

Discussion: CVS Pulaski Boulevard**Present:**

Rob Knapik Attorney – counsel to Coast Realty filing in for Attorney Joe Antonellis for the Applicant

John Pesce and Bill Johnson of Coast Realty, Applicant

Mark Anderson, construction project manager for CVS construction

Jason Plourde of Tighe & Bond, Inc.

John Rinone - lighting consultant for the Applicant

John Racine of RGB Associates– architect

Attorney Knapik spoke on behalf of the Applicant and explained that the Applicant believes that all issues, with the exception of lighting and the traffic lights are completed and he asked the Board to allow the issuance of a Certificate of Occupancy. SJW stated that she and the Board believe the following items are still outstanding:

1. The gate for the fence at the rear of the property is larger than indicated on the approved plans.
2. Shielding for all pole lights and cove lights as the shields already installed on the cove lights are not sufficient.
3. All cove lights, exterior building lights, and drive through lights have to be off ½ hour after closing time starting immediately.
4. The pole and decorative lights were not installed according to the approved plans and more lights were installed than were approved.
5. Since the traffic switching equipment will not be available for 16 weeks and it could take up to 6 months to get the traffic lights to work properly. So, in the meantime, the new traffic lights must be set to flashing or must be bagged.
6. The hydro seeding on Lafayette Street must be completed and the silt sock must be removed
7. The As-built plans must be corrected and properly submitted to: the Town Planner, the DPW Director, and to BETA – the Town's peer reviewer

The Board expressed their extreme frustration that the Applicant has had two weeks to remedy some of the outstanding issues and has done nothing.

Attorney Knapik stated that his client believes that the lights as constructed meet the zoning bylaw (for brightness at perimeter) and to turn off any lights will make the site unsafe. GCW stated that what the Attorney is saying is that the Plans the Board approved were knowingly submitted by CVS as plans that did not have enough lights for safety purposes. SJW responded that in her experience with reading plans, the lighting on the approved plans match the photometric. In addition, the Town's peer reviewer reviewed the lighting plan and gave their approval. In 12 years of planning, this issue has never happened and the Applicant has never approached the Board with this issue.

PMM was especially frustrated that since this project was approved, the Applicant has never come back to the Board with changes that they wanted to make. They went forward with the changes and hope that the Board would not find out about them. In addition, the Applicant used construction plans that did not match the Approved plans.

Lighting Consultant, Jason Ranou of Abernathy Lighting Design previously submitted a memo from to the Board that states that the lighting on site meets minimum levels of safety. The lights constructed at the site now have lower wattage because there are more lights. By turning off non-complying lights, the approved lights would have to have the wattage increased so it would not constitute an unsafe area. GCW responded that he was upset that the Applicant changed the wattage of the lights without telling the Board.

John Racine, architect argued that the light levels at the perimeter show zero candles but SJW stated that shield must be installed because the light spillover to the abutters is much to bright.

PMM asked the abutters to speak about the issues:

Trisha Fraine presented to the Board the pictures on her phone that she took of her backyard lit up with the lights from CVS. She stated that she had no problem two weeks ago but now her yard is lit up. Patrick & Joan Williamson agreed with Ms. Fraine and stated that the only time they hear anything from CVS is when there is a meeting. Mike Lamphere agreed as well.

Mark Anderson of CVS asked the abutters if the lights going off at 10:40 pm every night. The abutters responded that sometimes they go off and Sargent Rolls replied that sometimes they are off and sometimes they are on. He then stated that he will check the energy management program to check that lights are going off SJW – stick to operating hours for shutting off lights

Mr. Racine stated that he talked with the electrician who told him that the cove lighting had been turned off and shields on the pole lights will be installed on Tuesday. Ms. Williamson stated that the cove lights were turned off in back. WFO noted that the drive through lights were on at night as well and stated that the Board asked for all of the lights to be turned off two weeks ago and that no one from CVS has talked to SJW about anything. GCW stated that he is frustrated with the Developer not CVS. It is not a matter of money; the Board has no confidence in you to get things done. We will work with you on the signal but he is amazed that all the other items have not been corrected.

PMM suggested that the Board open a new public hearing to modify the Decision but to give a temporary occupancy permit if the certain conditions are corrected and a correct As-built has been submitted to SJW, Don DiMartino, and BETA. PMM also asked for escrow funds to assure that the traffic signal will be fixed should the Applicant/Developer not complete the job. Mr. Pesce offered \$40,000 to be paid to the Town of Bellingham for the escrow.

Bellingham Police Safety Officer Sargent Rolls stated that he was told the lights would be put on flashing and this has not been done. Jason Plourde stated that he will talk to Ocean State Traffic to see if they can do this. Sargent Rolls also added that additional police details may be needed during the holiday season to get the traffic in and out of CVS without the traffic signals in operation.

The Board agreed that the following issues are major modifications to the Decision and the public hearing must be re-opened:

- Traffic signal operation
- Site and building lighting

GCW: Motion to re-open the public hearing to make Modification to the CVS Decision to October 9, 2014 and 7:00 p.m.

WFO: Second.

Discussion: BTS believes that that a temporary Certificate of Occupancy is an incentive for the Developer/Applicant.

Vote: 5-0. Motion Carried. (PMM, BTS, GCW, PCP, WFO)

SJW stated and the Board agreed that no temporary or permanent Certificate of Occupancy will be issued until the as-built plans are submitted to the correct parties and are reviewed and approved by SJW and the following items are corrected:

1. New shielding for all pole lights and cove lights must be installed that sufficiently prevents light trespassing to abutters.
2. All cove lights, exterior building lights, and drive through lights have to be off ½ hour after closing time starting immediately.
3. The extra pole lights that were installed and are not in accordance with the approved plans must be turned off.
4. The new traffic signals must be set to flashing or must be bagged.
5. The hydro seeding on Lafayette Street must be completed and the silt sock must be removed
6. The As-built plans must be corrected and properly submitted to: the Town Planner, the DPW Director, and to BETA – the Town's peer reviewer.
7. A check for an amount of \$40,000 made payable to the Town of Bellingham to be held in escrow to ensure the completion of the traffic signal issue.

SJW will not sign off on any as-built until our peer reviewer checks everything. If all items have been completed, she will issue a temporary Certificate of Occupancy that will only be good until Oct 10, 2014. The Applicant must provide notice to abutters and must pay for the advertising cost.

Sargent Rolls stated that he believes the Board is being very generous to CVS.

GCW: Motion to issue a Temporary Certificate of Occupancy to CVS if the following items are completed: 1) New shielding for all pole lights and cove lights must be installed and must sufficiently prevent light trespassing to abutters; 2) All cove lights, exterior building lights, and drive through lights have to be off ½ hour after closing time starting immediately; 3) The extra pole lights that were installed and are not in accordance with the approved plans must be turned off; 4) The new traffic signals must be set to flashing or must be bagged; 5) The hydro seeding on Lafayette Street must be completed and the silt sock must be removed; 6) The As-built plans must be corrected and properly submitted to the Town Planner, the DPW Director, and to BETA – the Town's peer reviewer; 7) A check in the amount of \$40,000 that is made payable to the Town of Bellingham to be held in escrow to ensure the completion of the traffic signal issues.

WFO: Second.

Discussion: None.

Vote: 5-0. Motion Carried. (PMM, BTS, GCW, PCP, WFO)

GCW: Motion to sign the Cook 3-Lot Definitive Subdivision Decision

WFO: Second.

Discussion: None.

Vote: 5-0. Motion Carried. (PMM, BTS, GCW, PCP, WFO)

SJW reminded the Board of the following:

1. Sign Bylaw Committee meeting for WFO and BTS on September 18, 2014 at 7:00 p.m.
2. All Boards Meeting on Sept 22, 2014 and someone from Board to be there. PCP, WFO, SJW stated that they will attend
3. SJW will not be present at the Sept 25, 2014 Planning Board meeting due to religious holiday.

WFO: Motion to cancel the Planning Board meeting on September 25, 2014 because there are no agenda items.

BTS: Second.

Discussion: None.

Vote: 5-0. Motion Carried. (PMM, BTS, GCW, PCP, WFO)

New Business (81-P)

WFO: Motion to adjourn.

BTS: Second.

Discussion: None.

Vote: 5-0. Motion Carried. (PMM, BTS, GCW, PCP, WFO)

Meeting Adjourned at 11:30 p.m.

Minutes Accepted on: September 25, 2014
(Date)

Patricia M. Murphy

Peter C. Pappas

Brian Salisbury
Brian T. Salisbury

Jean Keyes
(Prepared by: Jean Keyes)

Glenn Wojcik
Glenn C. Wojcik

William F. O'Connell Jr.
William F. O'Connell Jr.