



BELLINGHAM PLANNING BOARD

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Meeting Minutes October 9, 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
Jay Talerman (JT) – Town Counsel

PMM opened the meeting at 7:00 p.m. Peter Pappas was not present until 7:23 p.m.

7:00 p.m. Woodland Hills Definitive Subdivision Bond Acceptance and Lot Release

Present: Kevin Lobisser, Applicant.

Mr. Lobisser stated that he would like to request a release of lots 4, 5, 6, 10, 11 and 12. SJW explained that The Form J has been completed and the amount of bond is set. JT stated that the covenant should only be released for the lots that are released. But the bond amount is for all the lots so the bond can take the place of the covenant for the lots that are not yet released. SJW explained that only six lots can be released because one affordable unit must then be completed. So the Board agreed to release the six lots and then accept the bond which will cover the released lots and the unreleased lots. JT agreed that this is fair. He doesn't want anyone else to get confused that there are two forms of security.

Mr. Lobisser asked if reducing bond in the future is a difficult process. SJW explained that he can come back, once significant work has been completed, and ask Don DiMartino, DPW Director to revise Form J. If that is done, the bond can be reduced. The Board is reasonable as long as Mr. Lobisser is showing that work is being completed and the affordable housing being done. JT explained that SJW will need to draft a tri-party agreement. SJW will contact Mr. Lobisser when the agreement is ready.

GCW: Motion to approve the Release of Lots 4, 5, 6, 10, 11, 12 on Julia Drive for the Woodland Hills Definitive Subdivision.

BTS: Second.

Discussion: None.

Vote: 4-0. Motion Carried. (PMM, BTS, GCW, WFO)

WFO: Motion to accept the Bond as outlined in Form J Acceptance for the Woodland Hills Definitive Subdivision.

GCW: Second.

Discussion: None.

Vote: 4-0. Motion Carried. (PMM, BTS, GCW, WFO)

7:05 p.m. Pine Hollow Estates, off of Countryside Road, Special Residential Use Special Permit and Development Plan Review; Continued Public Hearings; Decision Deadlines: Special Permit 1/1/15 and Development Plan: 1/1/15

Alan Nash, Applicant, Attorney Kathy Elia from Jepsy and Sack Law Office, Bob Poxon of Guerriere and Halnon for the Applicant

Mr. Poxon explained the revised layout of the townhomes and has contacted Natural Habitat who told them that they have to stay within the original limits of disturbance. The cross road (Pine Way) has been eliminated and they have turned the buildings so they back up to each other and do not back up to Countryside Road. The elimination of Pine Way now puts them in compliance with the slope issue on Pine Way. They decreased by 2/10 of an acre the amount of impervious area and there is no change to the grades of the main roads but minor corrections to drains. They did not alter the Stormwater report as the drainage basin will now be slightly oversized. This new configuration allows them to create a single septic system in the center of the development.

PMM questioned where is the additional or guest parking will be located. Mr. Poxon explained and also showed on the plans the designated areas for snow storage and stockpile during construction. They have also added a dumpster that will be fenced and gated.

Peter Pappas arrived at 7:23 p.m.

SJW requested an updated landscaping plan from the Applicant. Mr. Poxon responded that he can have the plan tomorrow and the response to BETA's comments.

Phil Paradis, from BETA, Inc. is the Town's peer reviewer. Mr. Paradis explained that he advised the Board to revisit the Countryside Road issue as the majority of the road is in an easement and there is no established street line. According to the Bylaw the street line must be established and the best way to make this project comply is to assume there is a 25' offset from the centerline and set the units back from there. The setback as shown now is not adequate. Attorney Elis stated that this is not a public road so this setback would be fine. SJW asked Mr. Poxon if he can get Countryside to correct the easement. Mr. Poxon stated that he can adjust the easement so all the pavement is within the easement. PMM asked JT about the setback issue and does it apply to a private road. JT agreed with Attorney Elis that is not standard definition of a street but that the Board would want setbacks. JT further stated that Special Permit authority allows the Board the flexibility to import that provision as a guideline into this project. It does not rigidly apply, but the Special Permit provides that flexibility. This road has been functioning like a street but it is really a driveway and he hesitates calling it a street. JT does not think the Board has to rigidly apply the bylaw of the 62' setback as it is up to the Board and 20' could be appropriate with the correct screening.

SJW responded that since there is no landscape plan now maybe Mr. Poxon could provide a nice buffer from the Countryside Street. Poxon responded that he can provide adequate screening and set back the units 30'.

NR questioned where the fire hydrants are located and Poxon stated that there are three hydrants and they are on the plan and within the subdivision.

BTS: Motion to close the public hearing for Pine Hollow Estates, off of Countryside Road, Special Residential Use Special Permit and Development Plan Review.

WFO: Second.

Discussion: None.

Vote: 4-1. Motion Carried. (Yes - PMM, BTS, PCP, WFO) (No- GCW)

The Board held discussion about the project and the following was stated:

- GCW explained several times that he feels very strongly that connecting Brookside Road to Thayer Street does not provide a full second egress. If Brookside is gated then two full egresses is not achieved. This development does not meet the bylaw.
- PCP suggested that this development, as viewed as a standalone development has two egresses but the problem is that everything funnels into one egress. But went on to agree with GCW that surrounding neighborhoods should not be impacted.
- JT was reluctant to weigh in but advises the Board to make sure the Fire Chief agrees with the gated access and that a fire truck can get in through two different ways as some chiefs are okay with gated and some are not. JT further stated that GCW has been doing this for a while and has good instincts.
- BTS stated he was okay with the gated access if the Fire Department was comfortable with it. SJW wanted reassurances of developer that plowing does not push snow against the gate and Bellwood is completely plowed. WFO strongly agreed that there should both sides of gate are cleared. GCW – two full egresses for various reasons for public and emergency.
- PCP suggested that if the problem is egress, shouldn't all three tenants (Bellwood Condo, Brooks Estates, and Pine Hollow Estates) fix the situation. PMM responded that it is not the others problems as they are grandfathered in. It is this developer's problem as it the second egress must be part of their development. GCW agreed with PMM and PCP then agreed as well.

At the request of the Board, SJW read the entire bylaw about 2nd full egress not being on the same road. The Board stated that they were now ready to vote having heard that two full egresses are part of the bylaw and this development does not comply with that requirement.

GCW: Motion to write an unfavorable decision for Pine Hollow Estates, off of Countryside Road, Development Plan Review.

Second: None.

Discussion: None.

Vote: None.

Since there was no Second to the above motion, it cannot be considered by the Board and it is treated as if it was never offered.

BTS: Motion to write a favorable decision for Pine Hollow Estates, off of Countryside Road, Special Residential Use Special Permit.

WFO: Second.

Discussion: None.

Vote: 2-2 with 1 abstain. Motion did not carry. (Yes – BTS, WFO), (No – PMM, GCW) (Abstain – PCP)

BTS: Motion to write a favorable decision for Pine Hollow Estates, off of Countryside Road, Development Plan.

WFO: Second.

Discussion: The Board asked JT if the Development Plan is approved, does the Applicant have to wait for Special Permit to be approved to build. JT replied yes.

Vote: 1-3 with 1 abstain. Motion did not carry. (Yes – BTS), (No- GCW, WFO, PMM) (Abstain – PCP)

**7:05 p.m. CVS Pulaski Boulevard, Development Plan Review Modification; 1st Public Hearing;
Decision Deadline: 11/16/14.**

BTS: Motion to waive the reading of the public notice for the CVS Pulaski Boulevard, Development Plan Review Modification 1st Public Hearing.

GCW: Second.

Discussion: None.

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

Present: Attorney Joe Antonellis, Attorney Robert Knapik, Jason Plourde of Tighe & Bond, John Rinone, lighting consultant for the Applicant.

Joe Antonellis submitted the green abutter return cards and reviewed the changes that require modification for the site and building lighting and the traffic controller.

The following discussion ensued:

- Lighting - Attorney Antonellis stated that at the request of the Board, the Applicant has had conversations with abutters about lighting on the site. The lighting plan does not violate the zoning bylaw as they have taken steps to reduce the glare by installing shielding on the pole and cove lighting. They have turned off the cove lighting and the CVS Drive-Thru and Pharmacy signs on the back of the building. The interior lighting is dimmed to 50% at night. Jason Rinone gave the Board a handout but it was not provided prior to meeting. The document explains the best practices for safe illuminates target for all types of lighting. As installed, the lights meet a minimum level of safety. The Board agreed that the cove shielding is not adequate and must be corrected and proof of correction supplied to SJW. The Board also agreed that the extra light poles can remain because Safety Officer Rolls believes they enhance the safety of the area.
- Photometric of existing conditions – SJW explained that this has not been provided to the Board.
- Construction Plans – Attorney Antonellis stated that his client understands that the Approved Plans should have been used but the construction plans were appropriate for the building permit to be issued. It was his understanding that the construction plans were circulated to each department in the Town and from the beginning the Applicant has agreed to everything the Board has asked. The As-Built construction drawings were based upon what his client believed was appropriate. Attorney Antonellis wants to substitute the construction plans at this public hearing. PMM explained that the Planning Board approves a plan and that is the plan that should be used to create the construction drawings. If some other plan was circulated, the Board and Town Planner never signed off on it. SJW only signed off on the foundation permit. The purpose of the Planning Board is to approve a plan and that is what the developer needs to follow. She stated that she understands what Attorney Antonellis is saying but respectfully disagrees. The Applicant listened and agreed with the Board but then built outside of the approved plans.
- Landscape Plan – Attorney Antonellis stated that the Applicant submitted the plan today to the Planning Board office.
- Traffic Signals – Attorney Antonellis explained that the 12-switch controller will work to fix the problem of synching the Moody Street light with the Crooks Corner lights. Ken Ho of BETA, Inc. peer reviewer for the Town explained that the 12-switch controller will work but it does not allow for any flexibility in the future. He strongly recommends that the 16-switch controller be installed to allow for potential future changes. He suggested that the Applicant put the Moody Street light on flashing until they install the 12-switch controller and sync the lights. Then, when the 16-switch controller comes in in several months, the Applicant can install it. The Board agreed Mr. Ho's suggestions. The Board instructed the Applicant to put the Moody Street light on flashing tomorrow as it is a safety hazard and cannot wait.

Ken Ho of BETA provided a chronological date of events concerning the traffic signal issues:

- On 8/20/14 it was explained by the Applicant that the component cannot be programmed based on the Planning Board's Decision because the Moody Street signal cannot talk to South Main Street signals.

- At the time of the Decision, the only way to make it the signals work together was a new 16-load switch which would require a new cabinet. (The signal now has a 12-load switch.) They later found out that there is a lead time of 5-6 months to get the new 16-load switch.
- On, 9/11/14, everyone understood that the 16 load switch would be best solution, but due to the long lead time to obtain the switch, the Moody signal should be covered/flashing/ etc.
- On 9/23/14, the Applicant proposed a solution that was to replace the controller (brain) but with a new 12-load switch. Mr. Ho agreed that this is a good step moving forward but strongly recommends that the Board replace the controller but keep the Moody Street signal on flashing until CVS opens. Once the store is open, the signal can be on and tested.
- BETA would like to see new controller and the 16-load switch cabinet installed to get the functions they would like to see at the intersection. If signal phasing sequence needs to be changed in the future, the 16-load switch will be necessary as the 12-load switch will not accommodate any changes.
- As-Built plans – SJW has received the As-Built plans and they are still being corrected.
- Escrow for \$40,000.00 – At the September 11, 2014 meeting, the Board requested a check for \$40,000.00 from the Applicant to be held in escrow to ensure the completion of the traffic signal work including the installation of the 16-switch component, timing of the Crooks Corner light with the Moody Street light, and testing to be sure this works correctly for the traffic. This check has not been received.
- Left Turn into CVS from Pulaski Blvd heading North – SJW explained that there is a serious issue about the confusion caused by this new left turn lane. There needs to be signage and pavement marking to make it clear to drivers that the left turn lane is only for CVS traffic. The Applicant agreed to correct this problem.
- Hydroseeding on Lafayette has been completed.
- Landscape Buffer for Abutter Lamphere – Attorney Antonellis and Bill Johnson stated that the Applicant will be happy to plant arborvitaes along the entire length of Mr. Lamphere's property to provide additional screening from the lighting from CVS. The Applicant will allow Mr. Lamphere to choose the arborvitaes and decide the number of plants he would like. The Applicant will then will bear the cost of planting the bushes as much on CVS's property as possible, provide some fill to decrease the slope from the yard to the fence, trim the bushes on a yearly basis, and warranty the bushes for one (1) year.

Public Present:

Charles Trottier – 81 Pleasant Street – Stated that he applauds the Board for putting up with this and agrees with BTS that there is no new information here. The traffic light is not supposed to be operating and it should be shut off tomorrow morning. The Applicant is not in compliance with the Planning Board's request. He will be going to the Police safety officer tomorrow to complain. He advises the Board and abutters to get everything in writing. PMM agreed that the Moody Street light should be shut off.

Sheila Gemme of 20 Orchard Street explained that the Moody Street traffic light is very dangerous. The Developer did whatever they wanted with the lighting on the site. The plan said "x" and developer did what they wanted. Arborvitaes are a great idea but Mr. Lamphere loses part of his yard. Why not on CVS side in front of fence would add to the aesthetics. Walgreens sign doesn't affect neighbors as the building blocks it. CVS did what they wanted and are now asking forgiveness. Ms. Gemme stated that the two extra poles issue was never truly addressed. PMM stated that Sargent Rolls wants the polls because it enhances the safety. Gemme stated that her issue is with the developer and not the Board. Pulaski Blvd residents need to be considered. It seems like the Board is rewarding them for doing what they want. PMM explained that the Board is not rewarding the Applicant; we are trying to remedy the situation. It is difficult to take out a pole – the Board didn't authorize it, and the Board cannot prevent the Applicant from installing them either as the Board and/or inspectors cannot be there every second to monitor the site.

Attorney Antonellis explained that the Applicant has made mistakes but the process has resulted in modification to a lighting plan that was approved. They have worked cooperatively to rectify situation and have worked with residents to improve other issues that are not part of the modification. Attorney Antonellis stated that his client is not interested in a Temporary Certificate of Occupancy but this was never articulated to SJW and he apologized that was not stated to SJW.

WFO reminded Attorney Antonellis that CVS project manager, Mark Anderson stated that he would like Temporary Certificate of Occupancy. GCW advised the Applicant that the Approved Plan is what he was supposed to build to. We are here to hold the developer, not CVS, accountable. The Board remembers who is a good developer and who is not.

All members of the Board agreed that there was a clear of the list of things to be done detailed at the September 11, 2014 meeting. In fact, Attorney Knapik recited the list verbatim back to the Board.

BTS: Motion to close the Public Hearing for the CVS Pulaski Boulevard, Development Plan Review Modification.

WFO: Second.

Discussion: None.

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

WFO: Motion to approve the Modification to the CVS Pulaski Boulevard, Development Plan Review.

GCW: Second.

Discussion: SJW stated the Conditions of the Modification Decision: 1) Arborvitaes will be provided for Mr. Lamphere with yearly maintenance and 1-year warranty. They will be planted on CVS property and Mr. Lamphere's property as close to fence as possible in consultation with landscaper and Mr. Lamphere; 2) The Applicant will provide fill to correct the grade near the fence; 3) Moody Street signal will be put on flashing; 4) New 12-load controller brain will be installed as soon as possible on the traffic lights and the Moody Street light will be programmed to function properly; 5) New 16-load traffic controller switch and cabinet will be ordered and installed; 6) The site lighting is okay as-built with all lights going off at 10:40 p.m. and the rear cove lighting, drive thru-sign, and pharmacy sign facing the Williamson property permanently shut off; 7) The left turn lane on Pulaski Boulevard heading northbound, will be clearly marked with painted lines on the pavement and a sign that says left turn CVS only with arrow; 8) The shields installed on the light poles will remain; 9) \$40,000.00 in escrow will be submitted to the Planning Office and will be held until the 16-load switch and cabinet are installed and functioning properly. 10) Any other changes have to come back to the Board for approval.

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

General Business:

Old Business:

BTS: Motion to sign the 9/25/14 Meeting Minutes

WFO: 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/payroll.

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

New Business (81-P)

WFO: Motion to adjourn.

GCW: Second.

Discussion: None.

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

*the Applicant shall maintain trees on an annual basis.

BTS PMM
GCW PCP
WFO

MINUTES OF THE PLANNING BOARD MEETING

October 9, 2014

Meeting Adjourned at 10:30 p.m.

Minutes Accepted on: 10-23-14
(Date)

Patricia M. Murphy
Patricia M. Murphy

Peter C. Pappas
Peter C. Pappas

Brian T. Salisbury
Brian T. Salisbury

Jean Keyes
(Prepared by: Jean Keyes)

Glenn C. Wojcik
Glenn C. Wojcik

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