



# BELLINGHAM PLANNING BOARD

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## Meeting Minutes April 23, 2015

MEETING LOCATION: ARCAND MEETING ROOM – MUNICIPAL CENTER

### **Present at the Meeting**

Patricia M. Murphy (PMM), Chairman - absent  
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

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

### **7:00 p.m. Public Hearings for Articles 22 and 23 on the May Town Meeting Warrant:**

- **Article 22:** To see if the Town will vote to amend Article IX, sec. 240-48 of the Town's Zoning Bylaw regarding Noise as proposed by James Dunlea, 57 High Street, Bellingham.
- **Article 23:** To see if the Town will vote to amend Article VII, sec. 240-43 through sec. 240-46 of the Town's Zoning Bylaw by adding to, deleting, and amending various sections as recommended by the Town's Sign Bylaw Subcommittee.

### **GCW: Motion to waive the reading of the public notice for Articles 22 and 23 on the May Town Meeting Warrant.**

PCP: Second.

Discussion: None.

Vote: 3-0. Motion Carried. (GCW, BTS, PCP)

### **Article 22 Discussion – Noise Bylaw:**

James Dunlea of 57 High Street, Bellingham, MA present as proposer of the bylaw. Mr. Dunlea explained that there are key gaps in the current bylaw and this revision addresses one specific gap. The current bylaw has a loophole that allows residents to exceed the bylaw decibel limit 24 hours per day 6 days a week and there is no differentiation between daytime and evening hours. What has occurred as a result of the loophole is that businesses have taken advantage of this. Mr. Dunlea has made a few small changes that state that a business or resident cannot exceed the decibel level limit more than once per evening. Currently, the bylaw does not limit the number of times it can be exceeded.

BTS and WFO questioned if existing business would be impacted and Mr. Dunlea explained that only future business would be affected. Existing businesses would be grandfathered under the existing bylaw.

Don Martinis of 334 Maple Street and is on the Board of Selectmen questioned how would this change article impact current business. Mr. Dunlea reiterated that these changes would not affect preexisting businesses because they are grandfathered.

SJW clarified that the change in this bylaw, if passed at Town Meeting will not change the situation now but only going forward. She further explained that this revision did not go through any committee review or Town peer review and she strongly suggested that the Board consider passing this over at Town Meeting since bylaw changes generally have a higher level of review.

JT explained that this bylaw revision is not sponsored by any board but is proposed solely by Mr. Dunlea. JT reviewed the form of the changes but did not review for content. He made sure that this bylaw is in the proper format and does not conflict with other bylaws. JT also reminded the Board that grandfather status is not in effect if the use of the business changes. In addition, Towns may choose to regulate noise in two other ways for which there is no grandfathering: under general bylaw; under Board of Health jurisdiction. This is one way to regulate noise but other methods could be used.

**WFO: Motion to recommend Article 22, Noise Bylaw, on the May 2015 Town Meeting Warrant.**

GCW: Second.

Discussion: None.

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

**Article 23 Discussion – Sign Bylaw:**

James Dunlea of the Sign Bylaw Committee was present to propose changes on behalf of the Sign Bylaw Committee.

Jim Dunlea provided two drafts for the Board to consider: one with minimal changes and the second with very minimal changes. Changes to the rest of the bylaw will be reworked for the October Town Meeting.

WFO arrived at 7:06 p.m.

WFO, BTS, PCP all agree that the draft with minimal changes should be proposed at the May Town Meeting because it contains the narrative that explains the why the bylaw is being changed.

SJW explained that the changes as proposed do not help with enforcement as the penalties for violations are not stated in the bylaw. The enforcement language can be discussed to prepare for the October Town Meeting. SJW further stated that she prefers the minimal version with the narrative at the beginning.

Public comments:

Susan Bradford of 45 Bellwood Circle stated that she agrees with the minimal version as it makes more sense.

**WFO: Motion to recommend Article 23 on the May 2015 Town Meeting Warrant.**

GCW: Second.

Discussion: None.

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

**WFO: Motion to close the public hearing for Articles 22 and 23 on the May Town Meeting Warrant.**

GCW: Second.

Discussion: None.

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

**7:15 p.m. Pine Hollows Townhouse Special Permit, Project Remand, off of Countryside Way, 1<sup>st</sup> Public Hearing; Decision deadline: 90 days after the close of the public hearing.**

**WFO: Motion to waive the reading of the public notice for the Pine Hollows Townhouse Special Permit, Project Remand.**

GCW: Second.

Discussion: None.

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

Present: Alan Nash, Applicant, Bob Poxon of Guerriere and Halnon for the Applicant, Attorney William Sack for the Applicant.

Attorney Nash gave an overview of the project history and the proposal they have presented to the Board. They have proposed a gated emergency access from Brookside Road that will be kept free of snow at all times and gated at all times. A donation will be provided to the Town for each standard rate unit sold. The Police, Fire and DPW have seen this plan and they approve.

Mr. Poxon explained that the proposed one-way access through Brookside Road where a gate would be installed. The Fire Department wanted the gate be triangular in style for snow removal and to have a double chain and double lock system. There will be one Knox box system to allow all departments to have access with single key and the second key will be held by the Pine Hollow Estates condo association to open for snow removal. The assistant DPW Director would like the gate specifications and location drawn on the plans.

The Board held a lengthy discussion about this proposal and whether it provided for safe egress for all residents and did not negatively affect the abutters in the Thayer Road neighborhood. The Traffic Study showed no change in the level of service for Thayer, Bellwood, or Countryside Lane.

Mr. Nash explained that currently the residents of Bellwood and Brook Estates only have one way out. But with the new emergency egress through Brookside Road, all residents including the new ones in Pine Hollow Estates would gain emergency egress.

Public comments:

Ann Odabashian 133 Bellwood Circle expressed her concern that Countryside is a very narrow road that cannot handle the additional traffic especially in the winter with snow. Ms. Odabashian was very concerned that this past winter the snow was not sufficiently removed to drive safely around the development. Mr. Poxon explained that since this is a private road, the condo association will be responsible for maintaining the roads year round.

Lee Crocker, resident of Brook Estates was very concerned that they were told there would be two means of egress and now they find out that with the proposed gated access, there will only be one exit. The concern was that adding 36 more units and potentially 72 additional cars, not counting guests, is too much traffic for this small area. BTS responded that the Board wanted the emergency egress gated to protect the Thayer neighborhood.

Bill Parker of 3 Countryside Rd stated that this is not a true second egress and that the Board was correct to deny it when it previously came before the Board. It is his opinion that the Board should send this back to the court. GCW agreed that this development needs two egresses and the proposed gated second egress is really not an egress. The court is concerned only with emergency access and not traffic. If the court rules that this fulfills emergency requirements then the Board has to accept it. The Board does not have to accept the current proposal from the Applicant.

Alice Sutherland of 46 Countryside Road asked if Brookside Road could be a full egress and who will police this road to see that it is plowed. Ms. Sutherland gave an example of another condo development in town where the emergency access was not plowed all last winter. PCP responded that it cannot be a full egress because the Board does not want to direct traffic to Thayer. BTS responded that the Board would have to discuss that issue tonight.

Suzanne Bradford of 45 Bellwood Circle asked if the developer of Pine Hollow Estates will plow and have a key to the gate. Mr. Poxon responded that ultimately the condo association will be responsible for the plowing and will have a key. Ms. Bradford doubted that the plowing would be done and does not think it is safe or realistic. Additionally, she is concerned with the narrowness of the road and the lack of a stop sign on Countryside Road. BTS reiterated that the condo association is responsible for plowing the roads in the development and installing stop signs.

Brian Sutherland of 57 Yvonne Rd suggested that traffic controlling measures could be used to keep cars from speeding and it would eliminate the gate. The likelihood of this gate being successful is not realistic or practical and is concerned about access to the gate key in an emergency. Mr. Sutherland suggested that an elevated crosswalk type calming measure could be used instead of a gate and it would address all concerns. He recounted that the traffic study showed that the Thayer neighborhood could accept the new traffic and then all the condos would have secondary access and the road would remain open in winter. SJW responded that the DPW did not want any type of speed bumps nor would the Fire Department Fire as they believe speed bumps and are inherently unsafe.

JT explained that the court's Remand allows the Board to be pointed in a certain direction but does not require the Board to stick with agreement. The Board is not required to take any particular action; the Board could stay with the negotiated solution or could stick with their original denial. Third option is to negotiate a new position with the Applicant. For perspective, JT explained that the project was denied because it did not have two means of access and did not believe the Brookside Road access was a true second egress. JT was doubtful that this decision criterion would hold up. The Applicant wanted the second access to serve in emergency. In his opinion, the Board came up with a reasonable solution which is the gated one-way emergency access.

WFO directed his question to JT and asked if the Board stays with the denial, could he summarize how the court would rule. JT stated that he is not going to project how the court would rule but he is confident that if the chances are not good for the court upholding the decision, then there is an incentive to negotiate. It is up to the Board as to the way they want to go with this and the Board can make snow storage and plowing a very strict condition. However, JT strongly stated that the town does not plow private roads and it is the condo association that will be responsible. In addition, if the Board sticks with the original decision, then the Applicant can choose to go back to court and request two full egresses or whatever they want.

Walter Mirrione, Attorney representing the Bellwood condo association, stated that this is an opportunity for the Board to improve the situation of Countryside Road. Attorney Mirrione suggested that the permits that were given for Bellwood and Brook Estates probably do not have language concerning the upkeep of roads since they were done a long time ago. The Board now has an opportunity to mandate how Countryside Road is to be maintained and can condition this project so that the developer has to maintain Countryside out to the main road. Attorney Mirrione further explained that this land is owned by a trust and the trust agreed to sell the land to Mr. Nash on which the proposed Pine Hollow Estates would be constructed. In order for the trust to sell this land, they previously gained approval of all the unit owners of Bellwood who voted to sell this land to a developer. The Bellwood condo association has agreed to this easement and Bellwood fully supports road maintenance improvements and this project.

JT expressed his concern about making a hard and fast requirement about Countryside Road as this is a private road. The Board could try to add conditions to see if something could be bridged but he was not sure that the Board can condition street maintenance, upkeep, or widening.

Ann Smith of 33 Countryside Road stated that there are children in Bellwood and Brook Estates and her concern is with the number of new cars impacting pedestrians walking in the developments. JT responded that there is nothing in the original denial that focused on the traffic impact on pedestrians. The denial only focused on emergency impact and not impacting Thayer. He does not want to see the Board address this now since it was not addressed previously.

SJW agreed that no one ever mentioned pedestrian impact in original hearing and the traffic study clearly met the bylaws. An increase in the number of cars was never an issue, as the concern was getting the cars in and out of the development.

SJW then questioned JT if there was a need to readvertise the project if a new Board member is elected in the May 5, 2015 Town Election. JT stated that he does not believe that advertising would be necessary as the Board would still have a voting quorum even without the new Board member

Attorney Sack suggested that Brookside Road will have little impact on abutters as the traffic study showed that very few cars would go out Brookside. He and the Applicant believe that a one-way in would still work.

Jennifer Shelly of 2 Countryside Road questioned how the Board and Applicant can predict which way the traffic will flow. Mr. Poxon responded that in all likelihood, all residents would use the main entrance and that Brookside would be used only if the main entrance was blocked. Mr. Poxon pointed out that Countryside Way was originally constructed to provide an entrance and exit to Brook Estates.

**WFO: Motion to continue the public hearing for the Pine Hollows Townhouse Special Permit, Project Remand, off of Countryside Way to May 14, 2014 at 7:00 p.m.**

GCW: Second.

Discussion: None.

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

#### **General Business:**

#### **Old Business:**

**WFO: Motion to sign the April 9, 2015 Meeting Minutes.**

PCP: Second.

Discussion: None.

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

**GCW: Motion to sign the Vouchers/Payroll.**

PCP: Second.

Discussion: SJW explained the vouchers.

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

**WFO: Motion to sign the Cumberland Farms Development Plan Approval and Stormwater Management Permit Decision.**

PCP: Second.

Discussion: None.

Vote: 3-0. Motion Carried. (BTS, PCP, WFO) (GCW cannot vote as he missed two public hearings for this project)

#### **New Business (81-P)**

##### **WFO – Streamline meeting and Transparency**

WFO would like to streamline meetings by putting the agenda on the large TV, and providing handouts of the agenda to the attendees, Abutter conduct, rules of meeting, how to conduct a meeting. Be more transparent.

To improve transparency, WFO would also like to have handouts of meeting procedures and rules of conduct available to attendees as well.

SJW stated that it would be too much to read if the agenda, procedures, and rules were on the big TV. She suggested that just the agenda should be broadcast and the other items should be printed and made available as handouts at the meeting.

JK stated that she is unsure how to broadcast the Agenda and take her minutes at the same time if both require use of the laptop and she will investigate this further. Also, JK stated that she had previously posted Abutter information for Planning Board meetings on the Planning webpage. This document explains what a public hearing is and the code of conduct at the Planning Board meetings.

All Board members agreed that this was a good idea.

**Town Election**

SJW expressed her thanks to Glenn and Brian for serving on the Board just in case they are not re-elected at the May 5, 2015 Town Election.

**WFO: Motion to adjourn.**

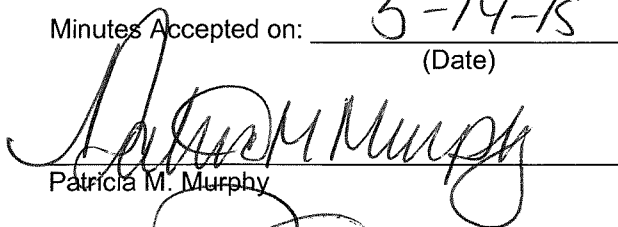
GCW: Second.

Discussion:

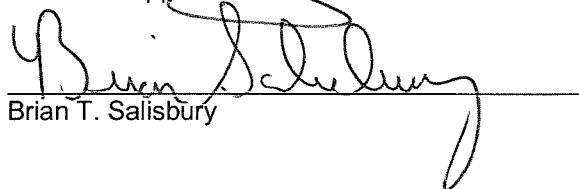
Vote: 4-0. Motion Carried. (GCW, BTS, PCP, WFO)

Meeting Adjourned at 9:45 p.m.

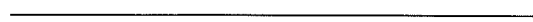
Minutes Accepted on: 5-14-15  
(Date)

  
Patricia M. Murphy

  
Peter C. Pappas

  
Brian T. Salisbury

  
(Prepared by: Jean Keyes)

  
Dennis J. Trebino

  
William F. O'Connell Jr.