



BELLINGHAM PLANNING BOARD

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Meeting Minutes June 11, 2015

MEETING LOCATION: ARCAND MEETING ROOM – MUNICIPAL CENTER

Present at the Meeting

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

Other Officials:

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

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

7:00 p.m. Hillside Estates, Novus Homes LLC, Inclusionary Housing Special Permit, Continued Public Hearing

PMM: Motion to continue the Hillside Estates, Novus Homes LLC, Inclusionary Housing Special Permit to July 9, 2015 at 7:00 p.m.

PCP: Second.

Discussion: None.

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

7:15 p.m. Bellingham Shores, South Main/Center/Cross Streets, Preliminary Subdivision, Discussion; Decision Deadline: 7/23/15

Present: Sean Malone, Oak Consulting Group for the Applicant.

Mr. Malone gave a recap of the project and stated that wetlands have been flagged and located. The locations were substantially similar to what was on the previous plan except for the buffers and riverfront areas for the stream.

Mr. Malone created a yield plan and received comments from PSC. The revised plans now have a loop road into the site with two points of connection. There is one wetlands crossing at the narrowest point of wetlands. All lots conform to shape factor and the total yield was 97 lots. The proposed major residential development (MRD) is substantially similar to the previous plan. The maximum number of lots they could create is 106; however, the applicant is only proposing 104 lots. They have received the comments from the DPW comments. Per the DPW, there is adequate water and sewer when Fafard makes the connection for their 40B project Lakeview Estates. The wetlands need ANRAD from the Conservation Commission (Con Com) and this will be filed next week.

SJW questioned if every lot meets the 90% uplands. Mr. Malone said that they all do. SJW asked Tom Houston of PSC to double check these figures. WFO agreed that he would like to see the numbers checked.

Tom Houston of PSC stated that the applicant is pushing the limit of the wetlands regulations under the wetlands protection act for MRD zoning. Mr. Houston further explained that while up to 10% of the riverbank can be altered, the location of the wetlands is still unknown. The next step is to have the wetlands accurately delineated by the Con Com and get their approval.

SJW clarified to the Planning Board that this public discussion was continued until tonight so the Applicant could get Con Com confirmation of wetlands. However, the applicant has not even applied to the Con Com nor are they scheduled on their agenda. To gain an accurate yield plan, the Board has to wait for the Con Com decision. SJW also questioned if the stormwater management parcels could be within the buffer zone or near the wetlands. PSC clarified that it cannot be near the wetlands or within a certain number of feet of buffer.

SJW stated that Candlelight Lane is actually the access road for the Lakeview Estates 40B and was concerned that it cannot legally be used to connect to this property. Mr. Houston agreed that there needs to be legal clarification if the applicant has a legal right to connect to this piece of land. It is called a street but right now it is probably still in private ownership. The Planning Board should consult town counsel to determine if the applicant has the legal right to use that road.

Mr. Houston further stated that a subdivision is traditionally the division of a single tract land into multiple lots. This project proposes the division of at least two tracts of land into multiple lots. Zoning says that the Planning Board can consider contiguous land in common ownership. But Mr. Houston questioned if land across a public way is contiguous. This is probably one of the most important parts of the open space, as it is near the lake. There are legal questions which have to be clarified before can be considered as part of the by-right MRD development.

Mr. Malone clarified that Lakeview Estates and Bellingham Shores is owned by Fafard and he will provide documentation to show common ownership. If there is a problem with Candlelight Lane, Mr. Malone stated that Fafard will probably lop it off this development. Mr. Houston responded that due to the fact that this is a special permit, the Planning Board has to find that there is a public interest in approving that special permit. One of the key factors in the special permit is the quality of the open space. If this lot is taken out of the equation, it will significantly reduce the quality of the open space. Mr. Malone argued that there is a large amount of open space without that lot. Mr. Houston, advised the Planning Board members that they can make a decision based upon their understanding of the situation and bylaw, but would suggest that they consult with Town Counsel while Mr. Malone is meeting with Con Com and to not allow the removal of this lot as open space from the plan.

WFO: Motion to continue the Bellingham Shores, South Main/Center/Cross Streets, Preliminary Subdivision discussion to August 13, 2015 at 7:00 p.m.

PMM: Second.

Discussion: None.

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

Brian Wright of 99 Silver Lake Road asked if some of the lots already have houses on them. Mr. Malone said that there are no houses currently, only empty lots.

PMM: Motion to extend the decision deadline for Bellingham Shores, South Main/Center/Cross Streets, Preliminary Subdivision discussion to September 1, 2015.

DJT: Second.

Discussion: None.

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

Discussion: Town Planner/Zoning Enforcement position

Present: Mike Soter, Chairman of the Board of Selectmen, Mike Connor, Board of Selectmen

BTS explained that the Planning Board and Town Planner received a letter from Mike Soter, Chairman of Board of Selectmen (BOS) to change town planner position from a part time position to a full time position with the added responsibilities of zoning enforcement.

SJW explained her position that only the Planning Board has the authority to make any changes to her contract and not the BOS. The contracts are very clear about when the contracts are not renewed, e.g. for cause or if the Town does not renew funding. In addition, the planner's contract states that it can be renewed at her option. To change funding for the current position, the BOS has to get approval at Town Meeting. If the Planning Board decides not to renew her contract, there has to be cause and it has to be in writing.

SJW further stated that Bellingham's zoning bylaw requires the building inspector to be the zoning enforcement agent. Any changes to this bylaw have to be approved at Town Meeting. In addition, SJW polled several different surrounding towns and found that zoning enforcement in Massachusetts is generally not combined with planning, as there is a conflict of duties. SJW explained that some towns have a community development office with planning, zoning, and enforcement under one director. In the past, she has offered to be the zoning agent, not the zoning enforcement agent, in addition to the Town Planner in a full-time capacity. Zoning enforcement takes a tremendous amount of work and she could only find two towns where the planning department does zoning enforcement. In the town of Acton, they have multiple full time people to do planning and building permit reviews/zoning. In Williamstown, the planner does enforcement; he has almost no planning work and so his job is almost exclusively zoning and zoning enforcement. In fact, he was the enforcement agent first. Both Acton and Williamstown had to go to town meeting to change the bylaw.

PMM stated that she has a problem with this new position. The Town already has an enforcement agent who is Stuart LeClaire. To ask the Town Planner to do this job is an incredible volume of work for the Planner and the Planning Board. There are over 500 new homes being built in this town and it would be overwhelming for a planner to be the zoning enforcement agent. PMM went on to say that Stacy is excellent in her job. If the Town is going to hire a new person, they could be very inexperienced especially when faced with the potential application of the Bellingham Shoppes. The Town will suffer greatly if we lose SJW and an exclusive town planner position. PMM further stated that she believes this process is procedurally inappropriate for the BOS to try and implement on their own. This issue has to go before a Town Meeting. In addition, if this position comes to fruition, the developments in town will suffer because there will not be any oversight from the planning office. PCP agreed with PMM and stated that either zoning enforcement will improve or planning suffer or vice versa. The concept to bring zoning under planning makes sense, but not enforcement. The planner and staff cannot do both jobs.

Mr. Soter read from Town Charter, Section 2 about Town Administrator duties. Mr. Soter read Section 6, 3-6-1 about that composition of the Planning Board and duties. Mr. Soter stated that SJW has a contract as a sub-contractor with the Town and the Town wants to make this a full-time position. SJW repeated her opinion about the terms of her contract. Mr. Soter said the Town Administrator, on advice of the Town Counsel, has the authority to make these changes and that no one is getting rid of SJW and she is welcome to apply for the new full-time position. SJW explained that in her meeting with Mr. Fraine, she was not invited to apply for the new position.

PMM stated that the Planning Board does not even know what Mr. Soter is talking about specifically and he has not defined it. He has described the position as a zoning enforcer but then said it would not be an enforcement position. Mr. Soter responded that all the Planning Board has to worry about is voting on SJW's existing contract. PMM pressed Mr. Soter to define what he is asking the Planning Board for and Mr. Soter responded that the BOS will define it on June 22, 2015, at the BOS meeting. The Planning Board can come to that meeting to learn about it. PMM suggested that the Planning Board table the discussion until after that meeting; thereby giving the Planning Board the opportunity to learn more about the proposed position by asking the BOS. Mr. Soter also informed the Planning Board that he will send a letter to the Planning Board outlining that the BOS has the authority in the charter to make this change.

Once the job is defined, it will be posted publically and candidates will be interviewed by Mr. Soter, Mr. Fraine, and Mr. Salisbury.

PCP questioned if this new position is not going to be zoning enforcement, why wouldn't the planner's current position be expanded to include zoning review and revision. Why do they not just convert SJW's position to a full time position? Mr. Soter stated that the Town will not convert a part-time position to a full time position under association bargaining agreement, and that all town positions have to be posted before they can be filled by a candidate.

JK questioned why the Town cannot just increase the current planner's position to full time, and include the new zoning responsibilities, as was done when the planner became the Town's grant writer last year. Mr. Soter responded that the Town Administrator and BOS do not want to do that. They want to create a new full-time position.

Mr. Soter explained that the Town Administrator and BOS came to the decision to create this new position because too many people are challenging the current zoning bylaws by trying to them at town meeting. This new position would be to develop, inspect, and enforce proper zoning laws. According to Mr. Soter, the new position would not involve inspecting, but would involve enforcing the zoning bylaws.

BTS explained that he had a conversation with Town Counsel, Jay Talerman, about the Planning Board's role in the creation of this new job. Mr. Talerman stated that the Planning Board is in an advisory role concerning the proposed position. The Planning Board has no authority to stop the BOS from creating this position. However, BTS stressed that the Planning Board would like to have input and be part of the process and he would like the BOS to consider this request. Mr. Soter explained that the BOS, Town Administrator, and Planning Board would be present during the interview process. Mr. Fraine has completed a salary review of these types of positions.

Mr. Soter responded that the Planning Board would be asked for input when hiring for the new position. The Town needs a person at town meeting who can discuss and explain the zoning bylaws; and advise people with the zoning bylaw revision process. The new job will be paid differently than an average town planner.

SJW questioned Mr. Soter and asked if this is zoning staff or zoning enforcement. Mr. Soter responded that the job will be advertised as full-time zoning enforcement. In addition, Mr. Soter stated that no one is saying that SJW cannot apply. SJW responded that in her discussion with Mr. Fraine, he did not say that she was welcome to apply and that it was never mentioned. SJW stressed that she has been reviewing zoning and performing her duties as Town Planner for 12 years and she can do this full time.

JK questioned Mr. Soter as to what happens with her job since there has been no mention of it. Mr. Soter responded that JK's position is not being changed.

BTS explained that he spoke with Town Counsel, Jay Talerman, and he said that the Planning Board cannot bind the Town because they do not have the authority. However, Attorney Talerman told BTS that he is not the Town's labor attorney, so he has no official opinion. BTS expressed that from the Planning Board's point of view, they currently have SJW as the town planner who completely works for this Planning Board and they do not want to lose any of the attention of the planner. Mr. Soter explained that the greatest percentage of the new position would still be planning and only a very small percentage would be zoning enforcement.

JK asked if the new planner/zoning enforcement agent would have to attend both planning and zoning meetings and Mr. Soter responded, "Yes."

BTS stated that he was very concerned about the Planning Board being without a planner. He would like a contingency plan if SJW leaves before the new person is hired. Mr. Soter explained that the BOS will have a contingency plan and, at some point in the future, they hope to move the planning office to the municipal center. BTS reiterated that the Town cannot be without a planner.

Public comments:

Mary Chaves of 289 Blackstone Street stated that the town assessor was given significant funds to be the zoning agent and asked what will happen with those funds. She also stated that as a Board, she would think would be taken aback if the BOS came in and presented this position that they want to remove a person (SJW) who has been competently performing the job as town planner for a very long time. In addition, Ms. Chaves stated that she know for certain that the BOS has full time contract employee on staff. Mr. Soter responded that the funds have been approved for the new position in the zoning enforcement agent budget and the planning budget.

PMM: Motion to sign contract for Stacey Wetstein Goodale for Fiscal Year 2016.

PCP: Second.

Discussion: BTS stated that he is not comfortable doing anything now that may or may not bind the town. He does not know how the Planning Board can't vote on SJW's contract as the Town has to have a planner. Assuming nothing happens before the next meeting, BTS stated that he will vote for SJW's contract. PCP questioned Mr. Soter why the Planning Board does not have authority to bind the town when the Planning Board has been signing the planner's contract each year.

PMM withdrew motion.

PCP withdrew second.

Vote: No vote, motion was withdrawn.

BTS explained to Mr. Soter that it would have been helpful to have the Planning Board involved in this discussion prior to this meeting. PMM agreed and stated that it would have been nice if Denis Fraine came and discussed the situation with the Planning Board. SJW concurred and added that in other towns it was a planner was transitioned into the new position.

WFO suggested that the Planning Board should not look at the person but look at the new position. NR also why can't this be rolled over and converted to this new position as SJW already does this job. PCP concurred that the Planning Board needs to see the job description to make an informed decision. SJW stated that there is a personal element here and the Planning Board should recognize it.

NR expressed her opinion that the underlying rational is that the BOS does not want SJW in this position. NR further stated that the BOS is not transparent and cited several examples: new solar projects, Bellingham Shoppes, New England Country Club (NECC). Mr. Conner, of the BOS took exception to NR's comments. NR then stated that the planner should be involved with all of these discussions.

PCP agreed with NR and stated that he discussed this issue with Mr. Fraine. The town planner should be involved in all discussions. PCP further stated that he felt like the Planning Board was blindsided by the solar articles on the Town Meeting Warrant.

General Business:**Old Business:****PCP: Motion to sign the May 28, 2015 Meeting Minutes.**

WFO: Second.

Discussion: None.

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

PCP: Motion to sign the Vouchers/Payroll

PMM: Second.

PCP withdrew his motion because there are no vouchers for the Planning Board.

Discussion: SJW explained the vouchers.

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

PMM: Motion to sign the Decision for the Pine Hollow Estates Special Residential Uses (Townhouses) Special Permit, Project Remand, off of Countryside Way.

NR: Second.

Discussion: None.

Vote: 5-0. Motion Carried. (BTS, WFO, PCP, PMM, NR) (DJT cannot sign)

New Business (81-P)

PCP explained that he attended the BOS for the NECC meeting where they voted to create a development committee. Appointed to the Committee were PCP and WFO from the Planning Board, Mr. Soter and Mr. Martinis from the BOS, Daniel Ranieri, At-Large member, and SJW and Mr. Fraine would be ex officio participants. SJW said she did not receive the email and WFO responded that he will forward it to her. The purpose of the committee is to look at information provided by the state and consider different options. The committee will negotiate with the developer and come to a final agreement to present at Town Meeting. PCP stated that it makes sense for the NECC to be developed to revive business in Woonsocket and Pulaski Boulevard but the right combination of housing uses is required to meet Town needs and to provide returns for the developers. PCP wants to have more over age 65 housing. WFO stated that the Town does not want to spend any town money or taxpayer money for the project. PCP added that this may require a zoning change to allow effective development and WFO responded that it will all be brought to the residents for a vote at Town Meeting.

WFO: Motion to adjourn.

PMM: Second.

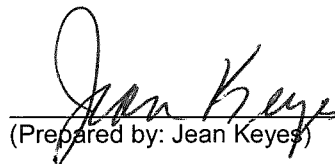
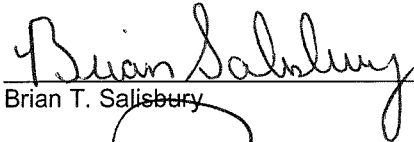
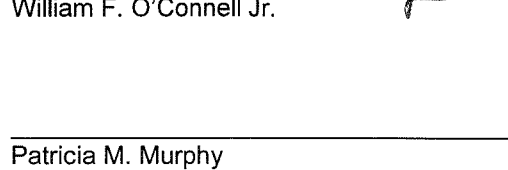
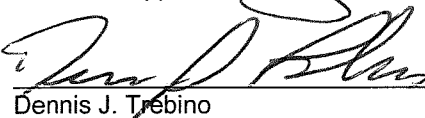
Discussion: None.

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

Meeting Adjourned at 8:48 p.m.

Minutes Accepted on: 6/25/15

(Date)


(Prepared by: Jean Keyes)
Brian T. Salisbury
William F. O'Connell Jr.
Peter C. Pappas
Patricia M. Murphy
Dennis J. Trebino