



BELLINGHAM PLANNING BOARD

5 COMMON STREET
BELLINGHAM, MASSACHUSETTS 02019
(508) 966-0991; FAX (508) 966-2317
PlanningBoard@bellinghamma.org

February 22, 2007 Meeting Minutes

- **Present at the meeting:**

Brian J. Sutherland (BJS) Chair
Glenn C. Wojcik (GCW), Vice Chair
David Brown (DB) Secretary
Thomas J. Guerin (TJG),
Roland R. Laprade (RRL),
Stephen Bartha (SB)

Other officials: Stacey J. Wetstein, (SJW) Town Planner
Amy Cook, (AC), Commission on Disabilities
Mary Chaves, (MC) Coordinator

BJS opened the meeting at 7:10 PM.

Dunkin Donuts Noise Mitigation Discussion

BJS reviewed the circumstances surrounding the noise mitigation monies for Dunkin Donuts. He let the applicants know that there would be no further funding by Dunkin Donuts beyond the \$40,000.00 currently available for distribution.

SJW advised the Board that an applicant had been approved for monies for fencing but requested that they be allowed to use the funds for Douglas fir trees as it would be better esthetically.

RRL: Motion to allow for large trees rather than a fence for 2 Kathy Drive.

DB: Second.

Vote: 5-0 Approved.

Leigh Ramuni, 3 Grove St, presented estimates for fencing in the amount of \$5660.00 and windows in the amount of \$1592.50.

RRL: Motion to award maximum of \$1753.78 upon proof of completion of work to be received in the Planning Office by August 22, 2007.

DB: Second.

Vote: 5-0, Approved.

The Ramunis commented on the noise from the trucks at 2 am and asked about restricting use of air brakes and asked if the trucks could be rerouted. BJS stated that

the Planning Board had no authority on the operations of the vehicles and sympathized with the Ramunis.

Nancy Forbes, 216 Hartford Avenue, presented invoice for windows in the amount of \$2000.00 and an estimate for arborvitae in the amount of \$240.00.

RRL: Motion to grant maximum of \$1753.78 pending receipt of final payment.

DB: Second.

Vote: 5-0, Approved.

Marek Rutowski, 3 Wethersfield Road, presented estimate for fencing in the amount of \$10,228.00.

RRL: Motion to award maximum of \$1,753.78 upon proof of completion of work to be received in the Planning Office by August 22, 2007.

DB: Second.

Vote: 5-0, Approved.

Mr. Rutowski commented that the trucks often were speeding and there was inappropriate use of breaks causing a great deal of noise in the early morning hours at approximately 2 am. BJS stated the Board would pass the message to the Police Dept.

Dean Stone, 155 Hartford Avenue, presented estimate for windows in the amount of \$3,626.40 and a storm door in the amount of \$184.00.

RRL: Motion to award maximum of \$1,753.78 upon proof of completion of work to be received in the Planning Office by August 22, 2007.

DB: Second.

Vote: 5-0, Approved.

William Smith, 123 Hartford Avenue, presented receipt for central air in the amount of \$2,914.00 and an estimate for fencing in the amount of \$13,892.00.

RRL: Motion to award maximum of \$1,753.78.

DB: Second.

Vote: 5-0, Approved.

John Murphy, 98 Hartford Avenue, presented a receipt of arborvitae in the amount of \$1,045.00.

RRL: Motion to award \$1,045.00.

DB: Second.

Vote: 5-0, Approved.

Lorraine Spencer, 23 Hartford Avenue, presented a receipt for windows in the amount of \$1,874.00

RRL: Motion to award maximum of \$1,753.78

DB: Second.

Vote: 5-0, Approved.

Crystal Springs Phase III Development Plan Review and Modification to Special Permit

DB recused himself from the discussion as a Board Member and sat in the back of the room. He is a direct abutter and his family had interests in the project at one time. SB will vote on the special permit.

Attorney Allan Greenwald and Mark Allen the developer appeared on behalf of Crystal Springs Condominiums. BJS advised them that the Board had met with Town Counsel for a review of the submitted materials supporting the applicant's contention that the Special Permit had not lapsed. Town Counsel gave the Board the reasons why he was of the opinion that the special permit had lapsed.

As stated in the original special permit, the project was to be phased and a report was to be generated to the Board annually. Annual reports had not been supplied to the Board since 1988. Also, additional sewer capacity was never requested when available. BJS stated that the Board is not opposed to development on the site, but they wanted to make sure that the Board made the right decision regarding the status of the special permit. He also stated that since the time the permit was granted significant changes had been incorporated into the town's bylaws. Since no action had taken place for Phase III for over fifteen years, it was unreasonable to assume that the permit could be modified to reflect a new plan without abiding by the current zoning bylaws.

Attorney Greenwald argued that in his opinion the Crystal Springs case was almost identical to the Bernstein case and that it didn't matter that they never did anything to indicate they were intending to build out the other phases. He referenced a letter, dated in 1988, that he said came from the developer after a Planning Board meeting at the time which indicated that they would wait until sewer was available. BJS advised Attorney Greenwald that according to all public records, no such agreement was ever in place and there is no record of the developer addressing the Board on this or any issue at the time the letter was written.

There was much discussion about the availability of sewer, intent shown in continuing development and lack of submission of plans annually as required by the Special Permit. SB stated that the ball had been dropped when no initiative was taken to secure sewer gallowage when it became available in 1991 and that plans were not submitted annually as stated Special Permit. The development rights were also discussed. They had been assigned to Verne Brown at one time. A letter from the Board of Governors of the Condo Association to Verne Brown, holder of the development rights, was presented indicating that in 1996 they had no plans to develop. Since that time Mr. Brown's development rights have lapsed and the right is that of the condo association. When BJS asked Attorney Greenwald who held the development rights at the time sewer was available, Attorney Greenwald stated he did not know.

Martin Roche, condo association member, stated that they did not realize that they needed to do anything.

Carolyn Childbare, 25 Crystal Way, stated that they've been trying to get a builder for 5-6 years and just found one.

RRL: Motion to deny modification to special permit based on the opinion that the special permit has lapsed and to deny the development plan review based on the fact

that since the special permit has lapsed the development plan becomes an incomplete submittal.

GCW: Second.

Vote: 5-0, Approved.

Planning miscellaneous

Judith Katz asked about procedures for major proposal over 50 units. BJS stated that a concept plan for a development over 50 units or 100 bedrooms would need to be approved by the Planning Board and then voted on at a Town Meeting. The Planning Board hearings would be posted in the newspaper and abutters within 300 feet of such a development project would be notified.

MC advised the Board that the ZBA decision for Lakeview Estates would be appealed by the applicant, and asked the Board comment on the MEPA study before Monday. BJS directed SJW to send a comment letter.

RRL: Motion to sign minutes of February 8, 2007.as amended.

DB: Second.

Vote: 3-0 Approved (only those present voted).

RRL: Motion to sign vouchers.

GCW: Second.

Vote: 5-0, Approved.

TJG asked about newly constructed building on Mendon Street which had no Planning review. DB advised that the building was a storage building bought and delivered to the lot. SJW added that it did not meet the threshold for a site plan review as it was too small.

RRL: Motion to adjourn.

TJG Second.

Vote: 5-0, Approved.

Minutes Accepted on: _____
(Date)

(Prepared by: Mary Chaves)

Roland R. Laprade

Brian J. Sutherland

David Brown

Glenn Wojcik

Thomas J. Guerin

