



## BELLINGHAM PLANNING BOARD

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10 MECHANIC STREET  
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### **Meeting Minutes** **Thursday, April 8, 2021** **7:00 pm**

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place. **This meeting will be via the Zoom online option; see information and instructions at the end of the agenda.**

#### **Present at the Meeting:**

William F. O'Connell Jr. (WFO), Chairman  
Brian T. Salisbury (BTS), Vice Chairman  
Dennis J. Trebino (DJT), Member  
Philip M. Devine (PD), Member  
Elizabeth Berthelette (EB), Member

#### **Other Officials:**

James S. Kupfer (JSK), Town Planner and Zoning Compliance Officer  
Amy Sutherland (AS), Planning Board Coordinator

Chairman O'Connell opened the zoom meeting at 7:00 pm.

#### **Continuation Hearing Red Mill:**

The Planning Board was made aware that Red Mill has requested a continuation to the April 22, 2021 meeting. The applicant is finishing up the revised plan set.

**On a motion made by Brian Salisbury, seconded by Philip Devine, the Board voted by Roll Call to continue the hearing for Red Mill until April 22, 2021.**

#### **Roll Call Vote:**

William F. O'Connell Jr.	aye
Brian T. Salisbury	aye
Dennis J. Trebino	aye
Philip M. Devine	aye
Elizabeth Berthelette	aye

## **Continuation Hearing 161 & 169 Maple Street:**

The Chairman opened the continued hearing for 161 & 169 Maple Street.

The applicant representatives Attorney Kim Kroha and Engineer Steve D'Ambrosia were present.

The Board is in receipt of the updated plan set. The applicant has also provided a memo dated April 2, 2021 addressing the comments from peer review.

The Engineer provided a share screen of the revised plans.

The Tech Environmental Consultant Mark Wallace was present to explain the report dated March 19, 2021. He explained that the June 2017 Sound Survey Measurements and Evaluation of Proposed Sound Wall. This report did not address the Scenic Roads Noise Bylaw. The document also does not address the DEP noise regulations under 310 CMR.7.10 Noise, and the Mass DEP Noise Policy requirements. The sound study does not provide any documentation or calculations to justify the effectiveness of any proposed sound wall. The sound study was inadequate in his opinion.

The Deputy Fire Chief Milot was present for the meeting. The applicant has communicated that they are requesting certain waivers from the NFPA 1, Fire Code 2015 Editions. The applicant is seeking a waiver from Section 31.3.6.3.1 for a requirement for an access roadway to the top of the pile. The Fire Department finds this waiver acceptable with conditions as the Department does have fire prevention vehicles that can reach the top of the pile.

The applicant asked for a reduction in the 30 ft. access road around the piles. The Deputy does not support the waiving of the 30 ft. access road. The Fire Chief does not recommend a three-sided barrier wall. The applicant has not adhered to the safety requirements. The pile shall be no more than 60 feet in height with 30-foot access drives around each pile with a low barrier wall around a minimum of three sides to prevent pile creep to the access way for this waiver to be granted. The Fire Department deems a physical low barrier wall is necessary safety tool for this use. The fully painted surface, as proposed by the applicant does not suffice. There needs to be a three-sided low barrier wall around the pile with one side painted. The Fire Department requests the applicant adhere to the

Massachusetts Fire Code and provide a 30-foot access roadway around the perimeter of the site as well as between the piles.

The Board next discussed the sound survey and sound compliance. A screen share was presented. The noise limits presented in table 3 cannot be exceeded by more than 20 dB (A) at any time or by more than 10dB(A) for more than ten minutes in an hour, or at all for more than 30 minutes in an hour. The sound study states that an 8 ft tall wall to the north and south of the Mulch Facility and along Maple Street would reduce noise transmitted. The sound study

presents no evaluation of compliance with the MassDEP Noise Policy. There is also no measurements representative of ambient sound levels.

The applicant presented the plan to show what was done to address the changes.

Those changes include the following:

- Adding the 60 ft. flagpole.
- There will be a water utility brought in with an 8 ft. x 12 ft. shed with water service and backflow preventor heated and electric will be included.
- The shed will have wall pack for lighting.
- There will be a 30 ft. wide clear path throughout the middle of the site and demarked with a red line.
- The details and timber sound wall was updated.
- The plan was updated to show turning movements entering and exiting site.
- The locus plan was shown with neighbors listed on each property.
- The landscaping plan on Maple Street was shown.

Attorney Kroha proceeded to the peer review. It is her opinion that the scope of what the Consultant want for this project goes beyond the zoning bylaw. She communicates that the bylaw allows for comparisons process. The applicant contends that they are not actually permitting an activity, but a development plan based on putting a stormwater system into an existing business. This is a use which is non-conforming. The applicant does not think that the noise bylaw applies to them. There is a sound wall in place to help with sound. The highest noise report taken while the chipper was going was 71 decibels which is less than the 80 decibels noted in the peer review report. The applicant is questioning who is actually effected by the noise since LMP owns the residential properties around it. The neighbors are an energy company, and the town open space. The noise measurements taken from the outside of the property do comply with the bylaw. The bylaw as written allows of increase of levels in sound. The fence will reduce noise measured and designed by a sound engineer to limit the sound. Attorney Kroha explained that LMP is working in good faith on designing and approving the stormwater system. Attorney Kroha explained that the mulch yard is allowed by right, and a new mulch yard does need a special permit. The fire regulations were next discussed. If a fire occurs, there is a water truck on site, staff are trained to pull the pile apart and release the heat. There are two other mulch facilities in Bellingham which were noted. The screen share of those were shown in the aerial photo. D & D mulch was noted, and the majority of this site is in Franklin. Their access is through Bellingham. The revised plan includes a 15-foot drive around the perimeter which came from an agreement with the prior Fire Chief and with discussion involving the Conservation Commission. There will be a 30-foot drive through the middle of site which will provide access for each pile. LMP also noted that they have stayed true to the offer to grant an easement for a future pipe from Maple Street to town property. The decision could approve language for allowing monitoring of the noise to make sure it complies with the bylaw.

The hearing was opened to the public.

Resident, Don Martinis was present on the zoom meeting. He has been a 30-year resident who resides on Maple Street. He expressed that this facility has been an eyesore for years. He noted that there have been some improvements since the applicant took over the facility. When traveling past the site, can see the piles of mulch but when driving past another mulch facility called D & D the piles are so far back that one cannot see the piles. The resident wanted further clarification on where the sound barrier or wall will be and how tall it will be and what will it look like his concern is how tall it will be and what it will be aesthetically. It was recommended that there be more detail about the type and size of trees for the landscaping. The starting times of the facility is also a concern

since the noise from it can be heard when in operation. The large trailers are extremely loud especially when they equipment will shake house when they hit a pothole. He would like the fence size increased.

The applicant showed the rendering of the sound wall. This is a concrete block wall. The applicant is willing to put up an 8-foot fence but would need a variance to do this. The landscape architect was not at meeting, but the plan is proposing both trees and shrubs. The Chairman communicated that the rendering does not represent the site, and this was explained to the applicant at the last meeting. This is a misrepresentation of the site.

Resident Peter Gabrielle – He is concerned about the moving and hauling of the mulch.

There was discussion from the Board. A question was asked about the sound study and fencing and what does the opening entrance do to contribute to the sound. Is the mitigation achieved through the wall since the entrance is not enclosed? The Consultant responded that the capacity of sound reduction is achieved. The interpretation of 240.16 was mentioned and a number of triggering events which would warrant a development plan review. There is no restriction in the language of the settlement agreement itself that would sort out any type of limitation with our review of the development plan review. There was an effort made with applicant to include this language. The Board needs data to show that the applicant is in compliance. For example 240 (50)(B) needs to be satisfied. There is odor from the site, and it can be smelled from far away. The odors can be smelled when there is no wind. The environmental concerns are still a discussion point and concern to the Board. The Attorney agrees that the Development Plan application should be applied with the intent that a stormwater system would be greater than 10,000 sq ft. The stormwater system triggers Section 240-16 (A)(1)(D), "removal/Disturbance of existing vegetative ground cover from more than 10,000 sq ft of site area." The applicant is only seeking to disturb vegetation for purposes of installing a system to treat stormwater. The decision standards under Section 240-19 of the bylaws apply to the proposed development plan, but they do not apply to other portions of the site or preexisting uses that are not being modified.

The Chairman proposed that the Town Planner draft a favorable decision with conditions and also a second decision which is unfavorable. These will be reviewed at the next meeting on April 22, 2021.

**On a motion made by Brian Salisbury, seconded by Elizabeth Berthelette, the Board voted by Roll Call to have the Town Planner draft two decisions as discussed.**

**Roll Call Vote:**

William F. O'Connell Jr.	aye
Brian T. Salisbury	aye
Dennis J. Trebino	aye
Philip M. Devine	aye
Elizabeth Berthelette	aye

**Continuation:**

**On a motion made by Brian Salisbury, seconded by Dennis Trebino, the Board voted by Roll Call to continue the hearing for 161 & 169 Maple Street to April 27, 2021 at 7:00 pm.**

**Roll Call Vote:**

William F. O'Connell Jr.	aye
Brian T. Salisbury	aye
Dennis J. Trebino	aye
Philip M. Devine	aye
Elizabeth Berthelette	aye

**Town Meeting Warrant:**

The Chairman opened the public hearing for the town meeting warrant.

**On a motion made by Brian Salisbury, seconded by Dennis Trebino, the Board voted by Roll Call to open the hearing for the town meeting warrants.**

**Roll Call Vote:**

William F. O'Connell Jr.	aye
Brian T. Salisbury	aye
Dennis J. Trebino	aye
Philip M. Devine	aye
Elizabeth Berthelette	aye

The Town Planner showed a screen share and explained the proposed warrant.

The Town Meeting Warrant Article is for the proposed amendments to the Bellingham Zoning Bylaws Use Regulation Schedule §240-31 as well as Article XV Special Residential Uses §240-100, §240-101, §240-109 regarding the deletion of Townhouse Dwellings.

**On a motion made by Brian Salisbury, seconded by Elizabeth Berthelette, the Board voted by Roll Call to close the hearing for the town meeting warrants and support the articles as written.**

**Roll Call Vote:**

William F. O'Connell Jr.	aye
Brian T. Salisbury	aye
Dennis J. Trebino	aye
Philip M. Devine	aye
Elizabeth Berthelette	aye

**Warrant #17 Connor Lane Street Acceptance:**

The Board is in receipt of the warrant article for Connor Lane Street Acceptance.

**On a motion made by Brian Salisbury, seconded by Elizabeth Berthelette, the Board voted by Roll Call to close the hearing for the town meeting warrants and support Article #17 as written.**

**Roll Call Vote:**

William F. O'Connell Jr.	aye
Brian T. Salisbury	aye
Dennis J. Trebino	aye
Philip M. Devine	aye
Elizabeth Berthelette	aye

**GENERAL BUSINESS:**

**ANR Plan – 7 Beechwood Road:**

The Board is in receipt of an ANR application for applicant Richard and Rita Martinelli. This is for property located at 7 Beechwood Road. The applicant representative Bill Hasling from Land Planning was present. A screen share of the plan was shown.

**On a motion made by Brian Salisbury, seconded by Philip Devine, the Board voted by Roll Call to endorse the ANR Plan as presented for 7 Beechwood Road.**

**Roll Call Vote:**

William F. O'Connell Jr.	aye
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Amy Sutherland

Recording Secretary

Minutes Accepted on: 4. 22. 21  
(Date)

Amy Sutherland  
(Prepared by Amy Sutherland)