



# BELLINGHAM PLANNING BOARD

---

10 MECHANIC STREET  
BELLINGHAM, MASSACHUSETTS 02019  
(508) 657-2892  
[PlanningBoard@bellinghamma.org](mailto:PlanningBoard@bellinghamma.org)

## **Meeting Minutes January 26, 2017**

**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  
Dennis J. Trebino (DJT), Member  
Bruce W. Lord (BWL), Member  
Nikyda Resto (NR), Alternate

### **Other Officials:**

James S. Kupfer (JSK), Town Planner and Zoning Compliance Officer  
Jean Keyes (JK), Planning Board Coordinator  
Jay Talerman (JT), Town Counsel

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

**7:00 p.m.**

**Premier Equipment, Inc. 47 South Maple Street, Development Plan Review and Stormwater Management Permit, Continued Public Hearing. Decision Deadline: 3/25/17**

Present: Attorney Joe Antonellis for the Applicant, Eric Bazzett of Heritage Design

JSK gave an overview of the status of the project and directed the Board to look at Bylaw 240-17 and 240-19 regarding Development Plan Review. There are two aspects of the development plan that should be considered by the Board and any discussion about possible zoning violations should be directed to the building inspector. JSK confirmed with Building Inspector that currently no zoning violations exist. JT stated that the Board's authority for development plan review does not reach into the enforcement or things that were not implicated by this project. JT cannot endorse expanding the Planning Board's jurisdiction that far to encompass the abutters' accusations.

Attorney Antonellis stated that this site plan is for building a new building. The Applicant has made concerted efforts to adequately remedy problems in the area and agrees with JSK concerning jurisdiction of the Board.

The Board discussed the stormwater management system and the swales and the Applicant agreed to install two bollards in front of the swales and fencing around the new detention basin.

The Board asked the Applicant about fencing along the southern boundary of the property and the small section on the west side of the property. Attorney Antonellis explained that the berms still exist on the property with vegetation. The Applicant has agreed to install fencing but will not be planting any vegetation next to the fence. No vegetation will be removed to install the fence, but vegetation would have to be removed to add screening and they do not want to do that. The area where the abutters want a fence would require disturbing a lot of vegetation and the Applicant has chosen not to add a fence in that area as it would be intrusive to the operations of the business.

The Board asked for assurances that there will be no light spillage. JSK commented that he visited the site before the meeting and there was no light spillage to the abutter's property.

JT further explained that the previous meeting minutes are not in the Decision or on the plan; therefore, the Board cannot consider the minutes. Minutes cannot create a condition for approval.

Questions from the Public:

Doug Troyer, Attorney for Maplebrook Condominium Association stated that, in respect to Bylaw 240-19, the Planning Board shall approve a development plan if there are no other zoning violations observed. The condo association believes that there are zoning violations. In addition, Attorney Troyer stated that the previously approved plan specifically called for berms to be installed. Vegetation has been cleared from certain areas and there is no lighting plan showing the spillage. The light coming off of garages shines into the condos. Substantial landscape buffer has been eliminated. BWL responded that the berms are in place. Attorney Troyer responded that the plan does not show one of the berms and this is a concern. Attorney Troyer pointed out that there are details missing from the plan and no parking is shown on the plan for the new building. Additionally, Attorney Troyer stated that the fence shown on plan is not screening the condos behind the garages and the condo association would like to see a fence installed in this area. This is a zoning violation because they modified the site from the previous plan by clearing vegetation. Attorney Troyer finally stated that the condo association wants mitigation by not removing any further vegetation or berms and would like the Applicant to install fencing behind the garages on the existing building.

BTS responded that Town Counsel has told us that the Board does not have the authority to address their concerns during this review. BTS asked JSK to include language in the Decision about not reducing further the vegetation or tree line and that the Plan should show the existing berms and vegetation.

Mr. Bazzett responded that the new building will not require additional parking. The parking requirement was previously reduced and they are not asking for any more now. There is more than enough parking now.

Attorney Antonellis stated that the Applicant is not here to remove the berm and they agree that the final plan will show the existing berm.

JSK informed the Board that there are currently no zoning violations on this site.

**WFO: Motion to close the public hearing for the Premier Equipment, Inc. 47 South Maple Street, Development Plan Review and Stormwater Management Permit.**

BWL: Second.

Discussion: None.

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

**BTS: Motion to draft an approval for the Premier Equipment, Inc. 47 South Maple Street, Development Plan Review and Stormwater Management Permit.**

WFO: Second.

Discussion: None.

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

**Decisions Discussion:**

**160 High Street Lot 1 & Lot 2 Development Plan Review, Stormwater Management Permit, Major Business Complex Special Permit, Flexible Parking Special Permit, Scenic Road Permit, 160 High Street. Decision Deadlines for Development Plan & Scenic Road Permit: 1/30/17. Decision Deadline for Special Permits: 4/14/17**

Present: David Kelly of Kelly Engineering Group, Inc. Mark Pilotte of Campanelli, Rob DeMarco of Campanelli, Molly Kelly of Campanelli, Attorney Robert Fitzpatrick of WilmerHale

JSK gave an overview of the project and the status of the four Decisions. JSK explained that the conditions have been discussed in great detail.

Development Plan & Stormwater Management Permit: PB, JSK, and JT discussed the changes made since the last draft Decision. JSK and JT explained specific parts of the Decision that required clarification.

BTS is concerned that the "No Left Turn Out Policy" could not be enforced to sub-contracted trucking services. BTS stated that he would like to add language concerning the "sub-contracting of trucking services." JT responded that per his discussion with Applicant, this language would be problematic for potential tenant, Spears but this is the Board's decision. The language in the Decision could be more precise to cover the sub-contracting of trucking services.

Attorney Fitzpatrick stated that they would make the "No Left Turn Out Policy" an attached exhibit to contract for trucking services that was entered into by any owner or tenant requiring the owner or tenant to enforce that policy.

Attorney Fitzpatrick stated that Spears is comfortable with the language in the Decision when the trucks are owned or leased by Spears. Spears has sufficient control over those operators to make sure they will comply with the no left turn policy and be responsible for those conditions. Generally, Spears relies on contracted vehicles. In the world of contracting services, you move a couple of links in the chain away from the control that they have over any drivers who are operating owned or leased vehicles. That creates the kind of risk relating to the use of GPS. For Spears, this creates zoning enforcement risk which puts their permit at risk which then makes them question whether they want to develop at the site. This raises a concern about the business risk associated with ongoing operations at the property. That is the question mark that JT was referring to earlier. As a business matter, Spears or any tenant operator at these facilities could find contract drivers who would be willing to enter into a contract that provided for direct zoning enforcement by the Town of Bellingham in the event that there was a zoning violation is a question that he did not discuss with Spears and would have to figure that out. We may be able to craft a condition that works within this discussion, but in real-world application, might not be able to find any truckers that would sign onto that risk because it is unusual.

JT stated that having the "No Left Turn Out Policy" as an exhibit to a contract between the tenant owner and the sub-contracting trucker creates another issue which is that the Town would be policing the contracts between the Applicant/owner and their sub-contracted trucking companies. He cannot imagine a zoning enforcement officer reviewing contracts between the tenant or owner and the sub-contracted trucker. WFO responded that he thinks adding language to the Decision would provide the Town with additional coverage for the Town. JT stated that adding additional language adds an enforcement mechanism for the Applicant and does require us to make sure it is done. The Board stated that they are comfortable adding to the Development Plan Decision and the Major Business Complex Special Permit Decision, the language suggested by JT: "Any user, tenant or owner of any such lot or building on the property shall endeavor to ensure compliance by other trucks not owned or leased as herein provided."

Major Business Complex Special Permit:

Both PCP and NR disagreed with 24/7 hours of operation. BWL wanted on the record that he would have voted to approve both special permits.

**WFO: Motion to approve the 160 High Street Scenic Road Permit.**

DJT: Second.

Discussion: None.

Vote: 4-1 Carried. (Yes - BTS, WFO, DJT, BWL) (No - PCP)

**WFO: Motion to approve the 160 High Street Development Plan Review, Stormwater Management Permit as amended.**

DJT: Second.

Discussion: None.

Vote: 4-1 Carried. (Yes - BTS, WFO, DJT, BWL) (No - PCP)

**NR: Motion to approve the 160 High Street Flexible Parking Special Permit.**

DJT: Second.

Discussion: None.

Vote: 4-1 Passed. (Yes - BTS, WFO, DJT, NR) (No - PCP)

**NR: Motion to approve the 160 High Street Major Business Complex Special Permit as amended.**

DJT: Second.

Discussion: None.

Vote: 3-2 Failed. (Yes - BTS, WFO, DJT) (No - PCP, NR)

The Board took a five minute recess.

**General Business:**

☐ **ANR's**

JSK explained the ANR. BWL stated that this ANR needs Zoning Board approval before the Planning Board can sign it. JSK disagreed and responded that the ANR does not make the lots more non-conforming and if a zoning violation exists the homeowner must seek the relief but M.G.L. 81P does not require such action prior. BWL this is not an 81P because of the change in lot lines.

**BWL: Motion to not sign the ANR for 67 Little Tree Lane.**

WFO: Second.

Discussion: BTS asks JSK to look further in to the issue.

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

☐ **As-Built Certifications**

☐ **Northeast Energy Associates – Biennial Groundwater Monitoring Report suspension discussion**

JSK explained why the discussion is being held.

Present: Paul Aronian, and Eric Lucier of Nextera Energy Resources, LLC

Mr. Lucier explained that since 1991 Northeast Energy Associates has been required to conduct a bi-annual groundwater monitoring report. The Co-generation plant has ceased to operate and no longer exists. Consequently, there are a lot fewer chemicals on site therefore reducing possible groundwater contamination. All results from the groundwater testing over the past 25 years have been well-below action levels of all types of contaminants. Mobile trailers, which replaced the in-house treatment that was done previously, now super filter the water and there is no risk of contamination. When the co-generation plant was removed, the most dangerous part of the process was removed. The report costs \$13,000.00 every two years. The existing plant is running at about 25-20% capacity per year which is about 2500 hours of operation. They are highly regulated by the EPA with annual reporting requirements and they are obligated to report

any violations immediately to the DEA and EPA. There are eight groundwater wells that are not tested as the site not located within a drinking water source.

JSK recommended that the Board procure a third party review of the biennial reporting process to confirm results and provide recommendations. Mr. Lucier stated that Nextera Energy agrees to pay for the review. The Board authorized JSK to find a third party reviewer and, when the results are received, Mr. Lucier and Mr. Aronian will come back before the Board to discuss.

☐ **Victory Packaging Warehouse – Traffic Signs discussion**

JSK explained the signs that were installed on Maple Street and the Board reviewed the pictures of the signs. Pictures of the signs were provided in the email entitled "Trelegan Email RE Traffic Signs 1.4.17."

☐ **1/12/17 Minutes Signing**

**WFO: Motion to sign the January 12, 2017 Meeting Minutes.**

BTS: Second.

Discussion: None.

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

☐ **Voucher Report – JSK explained the voucher report.**

**WFO: Motion to adjourn.**

DJT: Second.

Discussion: None.

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

Meeting Adjourned at 9:40 p.m.

**Meeting Documents & Exhibits:**

Victory Packaging Warehouse

1. Trelegan Email RE Traffic Signs 1.4.17

Minutes Accepted on: 2/13/17

(Date)

Jean Keyes  
(Prepared by: Jean Keyes)

Brian T. Salisbury  
Brian T. Salisbury

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

Peter C. Pappas  
Peter C. Pappas

Dennis J. Trebino  
Dennis J. Trebino

Bruce W. Lord  
Bruce W. Lord