



BELLINGHAM PLANNING BOARD

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Meeting Minutes January 14, 2016

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 - absent

Other Officials:

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

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

BTS welcomed new member Bruce Lord

7:00 p.m.

Brookfield Estates Bond Reduction and Permit Extension requests

JTS explained situation and the bond reduction request and referred to a letter dated November 24, 2015 from DPW Director, Don DiMartino recommending a bond reduction.

Emil Gareau from Brookfield Estates was present and explained that he has completed everything on the Form J, but he is requesting an extension for the Definitive Subdivision permit. The signed deed and article have been submitted to the Town Clerk and the As-built is being prepared.

WFO: Motion to extend the Definitive Subdivision permit for one year until January 23, 2017.

BWL: Second.

Discussion: None.

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

WFO: Motion to reduce the bond to \$25,533.00 in accordance with the November 24, 2015 letter from DPW Director Don DiMartino.

PCP: Second.

Discussion: None.

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

Hillside Estates Bond Reduction request

Applicant Mounir Tayara is present and explained that in this 6-lot subdivision he has built 4 houses. He will finish the road when the last two septic systems have been installed. He has completed significant work on the roadway including curbing and the sidewalk. All that is remaining is the final coat on the road. The subdivision will probably be completed by October 2017.

WFO: Motion to reduce the bond to 20% to \$96,000.00 in accordance with the November 24, 2015 letter from DPW Director Don DiMartino.

PCP: Second.

Discussion: None.

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

Pine Acres Bond Reduction request

Leo Dalpe from Pine Acres explained that he is almost done with project and has one lot left. The road is completely done. JSK explained that the transfer of two parcels for open space would be worked out with the Conservation Commission (Con Com) and Mr. Dalpe.

WFO: Motion to reduce the bond to 20% to \$103,000.00 in accordance with the November 24, 2015 letter from DPW Director Don DiMartino and to notify the bank of this reduction.

BWL: Second.

Discussion: None.

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

Rapid Refill: Request for determination of a minor or major change to the approved plan. – The applicant is not present and so the Board did not discuss this matter. JSK will contact Joe Antonellis, attorney for the proponent and arrange a new time for him to appear before the Board.

Post Office Place conceptual design discussion – JSK – requesting a friendly 40B and are in front of the Selectmen now. Here to give insight to PB about the project.

Present: Attorney Mark Kablack and proponent and landowner, Mr. Ron Nation. Peter Lavoie from Guerriere and Halnon was also present on behalf of the proponent.

Mr. Nation explained that he chose to submit a friendly 40B because he believes this will improve the site. He has met with Town Administrator, the DPW Director, the Con Com and the Police and Fire Departments to gain input. Based upon this input, they have changed the building, the site, and the parking. In addition, they are proposing a left turn lane on Route 140 to improve access to the site.

Attorney Kablack explained that the friendly 40B would benefit the town by adding 90 rental units to the town's affordable housing stock and help the town to move very close to the 10% threshold set by the state. He and the proponent believe this project will add to the village concept of town and it will have sidewalks and children could walk to school. This smart growth opportunity is a way to improve this section of town. Benefit to town is the addition of affordable housing units. Town needs 97 units and this would provide 90 units. All mitigation is negotiated with the town up front and is part of the development agreement and is done before they go to the Zoning Board of Appeals (ZBA). The ZBA does not issue a variance for 40B's, they issue a permit that grants waivers.

Mr. Kablack and Mr. Lavoie explained that there would be a berm in the front of the property to hide the first story of the buildings. From the street, only the 2nd, 3rd, and 4th stories will be visible. The buildings are substantially set back from abutters.

Mr. Lavoie further explained that the Fire Chief has consulted the plan and fire apparatus can get around both buildings and the entire site. Hydrants have been added to the site and the road around the site is

24' wide. Access to the site is perpendicular to David Rd, however, they need Mass Highway approval to add the left turn only lane on Route 140.

Attorney Kablack further informed the Board that the wetlands have been delineated. But they have to go back to Con Com for a new Order of Conditions and they are confident it will be approved. They are looking into the stormwater impacts to Charles River Watershed and will address that.

Mr. Kablak explained that the buildings would contain 34 1-bedroom apartments, 48 2-bedroom apartments, and 8 3-bedroom apartments. There will be 158 parking spaces. They are expecting about 10 school-age children to reside in the apartment and so it will have a low impact on schools.

BTS explained his and the Board's concern with any negative impact to the abutters/neighbors and do not generally like not having two means of access/egress. Attorney Kablack responded that they have talked to the Fire Department about this issue, but it would be very hard to have second egress in the back of the property.

BWL was concerned about the residents of David Road exiting their neighborhood. He suggested that a sidewalk be added on the north side of Route 140 from David Rd to the small plaza.

The Board expressed their concerns about not having enough overflow parking and traffic backing up to the light at Rapid Refill. Attorney Kablack responded that their studies show they have sufficient parking and he will talk to the Town Planner and the Town Counsel concerning mitigation for traffic. He did believe that the threshold was met to add traffic light, but to help mitigate they have added a left turn lane. They will be connecting the sidewalks going towards Franklin. WFO reminded the proponents that safety procedures must be followed during the construction process.

BTS was concerned about the traffic on Rt. 140 and the significant backup from the center of town as well as toward Franklin. He stated that the project seems a bit out of place because of the height of the buildings but this is just his first impression.

WFO expressed this appreciation of the of the Safe Harbor aspect of this project. The Board thanked the proponents for presenting.

316 Hartford Ave Solar, Development Plan Review and Stormwater Management Permit Large-Scale Ground-Mounted Solar Photovoltaic Installation, 316 Hartford Ave, Continued Public Hearing, Decision Date: 2/15/16

Present: Brian Geaudreau of Hancock Associations, Attorney. V. Van Johnson, Applicant Joseph Pellegrino and owners from Slocumb Trust and H&B Realty Management. Tom Houston from PSC, the town's peer review firm.

JSK explained what documents the Board received and that the Applicant and peer reviewer have met with the Town Counsel, the Fire Department, Police Department, and the DPW to discuss outstanding issues.

Mr. Geaudreau explained that there is not a tremendous amount of change from the previous meeting. They have moved the array to both sides of the access driveway and the existing access needs to be upgraded to a 16' wide asphalt driveway atop gravel drive in accordance with Fire Department requirements. In addition, a chain link fence with gated locks will be constructed and the Fire Dept. the owners, and the utility companies will all have a key to the fence and gate. FD, Owner, Utility co to have key. They have addressed all stormwater requests from PSC and will comply with the requests. They have met with utilities to discuss the easement and the plan reflects that discussion. PSC comments show that the vast majority of items have been addressed.

Tom Houston from PSC agreed that the Applicant has responded to many issues. There are a number of significant land use rights issues and including the feasibility of the site. Mr. Houston referred to his memo dated January 13, 2016:

- The land rights issues should be resolved prior to any decision.
- Comment 2: A minimum of 20-acre lot. The Site is less than that and this requires a variance from the ZBA. This self-created hardship makes it harder to gain variance. Attorney Van Johnson responded by saying that the 20-acre minimum requirement could be waived in accordance with the Dover Amendment of Mass General Law. Attorney Van Johnson will speak with Town counsel about this issue.
- Comment 3: This lot is non-confirming to frontage. A waiver is needed and it is probably attainable. Attorney Van Johnson responded by saying that required frontage is most importantly about access. Once the solar arrays are constructed, the site will not need standard access. Consequently, in this circumstance, the site does not need 200' of frontage.
- Comment 4: There is an outstanding land rights issue regarding access to the site over town-owned right of way. This requires either a license from Board of Selectmen (BOS) or an easement that is approved at Town Meeting. No substantial progress has been made in these areas.

Comment 4.a: Attorney Van Johnson referred to Exhibit A, which shows the title of First Baptist Church of Society of Bellingham, MA parcel, and he is prepared to issue a certification of title for both parcels. BWL explained that this parcel was deeded into a trust fund and the Society mentioned by Attorney Van Johnson has not owned this parcel since 1908. The trust is a separate entity from the church. Attorney Van Johnson responded that he would issue a certification of title from the Church. JSK informed the applicant that he would give this to Town Counsel to review. JSK recommended, based upon his conversation with Town Counsel, that the Board should conduct its own title search, conducted by an outside firm, to verify that there is clear title. BTS and the Board agreed with JSK. BTS asked the Mr. Pellegrino if he agreed to pay for this title search and responded that he does agree.

Comment 4.b: Attorney Van Johnson will be requesting an easement from the town at the May 9, 2017 Town Meeting concerning the right of way to gain access to the site. In the interim, the applicant will be requesting a license from the Board of Selectmen (BOS). Next week, Attorney Van Johnson will submit a letter to BOS requesting a license. He is hoping that both the Planning Board and BOS will facilitate this approval of the license as the National Grid solar credits will run out within the next 60 days.

4.c: Attorney Van Johnson will be obtaining underlying lease agreements from the landowners and will provide the Board with copies of all agreements. The applicant intends to obtain modifications of the existing easements. Mr. Geaudreau explained that both the interconnection agreements and the easement agreements are happening concurrently and so he cannot provide it right now.

- The town should seek documentation showing that Spectra Energy and National Grid have granted easements that allow the applicant to gain access to the site.
- Comment 7: An 8' high fence is required but the applicant has proposed a 6' fence. Mr. Pellegrino responded that he would install an 8' fence. Comments 10 & 11: per JSK and the Police and Fire Departments, the applicant must provide written documentation from both department that they are PD & FD they are satisfied.
- Comment 12: Recommendation that some type of safety measures are taken during construction because access to the site is right next to the school property and there is no separation. The applicant must meet with the School Dept. for mitigation during construction.

- Comment 13: DPW has interest in the project so they can improve access to the water facilities. The Board must receive comments in writing from Don DiMartino that he is satisfied
- Comment 16: Need confirmation from the utilities regarding the easement issues.
- Comment 19: Electrical system has components that may contain hazardous material. Since this project is in Zone 2 of a water zone, the Board should request further identification of those hazardous materials. Mr. Geaudreau will provide the standard information about any potential spill containment.
- Comment 25: PSC has no problem with the site having no screening due to remote nature of site. Mr. Geaudreau stated that he does not think perimeter fencing is needed.
- Comment 26: The Board would need written documentation from the Police and Fire Departments concerning the security needed for the shared access road as it accesses the town's water supply.
- Comment 27 & 28 & 44: Dollar amounts have not provided by the applicant concerning decommissioning and the Board should have this information prior to issuing a decision. The Applicant does not want to post a bond and wants to rely on the salvage value of the equipment. Inflation cost increases the decommissioning cost over time. Mr. Geaudreau and Attorney Van Johnson assured the Board that he would contact PSC and Town Counsel, Jay Talerman, to work out the details of the decommissioning costs. Attorney Van Johnson assured the Board that the applicant would provide a surety bond to assure completion of the project. He will discuss this with Town Counsel but suspect that a covenant may be sufficient.
- Comment 34: The modeling of the impervious/non-impervious of DEP solar panels needs to be corrected and modeled as unconnected impervious surface. The corrected numbers will be significantly higher and there will be more runoff and that will affect capacity of the basins.

Mr. Geaudreau explained that with impervious surface, the water does not have a chance to infiltrate. However on land covered with solar panels, it is a disconnected impervious surface. The site will have a chance to reclaim the runoff into the ground or through the detention basin. The DEP (Department of Environmental Protection) is concerned with erosion control. The DEP wants to slow down runoff and control it differently. The applicant is proposing to infiltrate the vast majority of clean runoff into the aquifer.

- Comment 40: The regulations state that test pits must be done in each basin. The applicant did not test one of the basins and has requested permission to do this during construction. PSC does not have a problem with this request.
- Comment 48: PSC would like two seed mixes used on the area: one that is sun tolerant and one that is shade tolerant. Mr. Geaudreau and Mr. Pellegrino agreed that two types of seed could be used along with a dwarf wildflower mix. PSC agreed with their suggestion.
- Comment 54: PSC is concerned with heavy construction vehicle accessing the site during construction, as it is adjacent to the elementary school. A formalized agreement between applicant and the Police Department is needed so that there will be no trucks gaining entry to the site during school arrival and dismissal times. Mr. Geaudreau stated that he would contact the school department about this issue and hopes this will be conditioned as part of the decision. JSK will meet with the applicant, school department, DPW, and police department to manage construction traffic.

JSK informed the Board that the Board of Selectmen will be meeting on the 28th. Mr. Geaudreau assured the Board that he can provide updates before the BOS meeting and complete all necessary documentation prior to the Planning Board meeting on February 11th.

Other issues:

JSK will check with Police Safety Officer Rolls regarding possible present and future all-terrain vehicle issues. The Board informed the applicant that the fire department wants snow removal done within 24 hours of a snowstorm and Mr. Pellegrino agreed to that condition.

BTS: Motion to continue the 316 Hartford Ave Solar, Development Plan Review and Stormwater Management Permit Large-Scale Ground-Mounted Solar Photovoltaic Installation, 316 Hartford Ave to February 11, 2016 at 7:00 p.m.

WFO: Second.

Discussion: None.

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

Miscellaneous:

JSK reminded the Board of the date of the Town elections and the deadlines to obtain and file nomination papers.

General Business:

- ☐ **ANR's**
- ☐ **As-Built Certifications**
- ☐ **12/10/15 Minutes Signing**

PCP: Motion to sign the December 10, 2015 Meeting Minutes.

DJT: Second.

Discussion: None.

Vote: 4-0-1. 4-yes, 0-no, 1-abstain. Motion Carried. (BTS, WFO, PCP, DJT)(BWL abstained)

- ☐ **Sign Vouchers**

BTS: Motion to sign the Vouchers.

WFO: Second.

Discussion: JK explained the vouchers and payroll and copier maintenance service contract.

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

BTS: Motion to enter Executive Session and not return to the public hearing.

WFO: Second.

Discussion: BTS explained the process.

Bruce W. Lord recused himself from the executive session.

JK polled the Board members to see if they agreed to enter Executive Session. The results of the poll are:

Planning Board Member	Yes	No	Abstain
Brian T. Salisbury	X		
William F. O'Connell Jr.	X		
Peter C. Pappas	X		
Dennis J. Trebino	X		
Bruce W. Lord			X
Vote	4	0	1

The Board voted 4-0-1 to go into Executive Session to consider strategy with respect to litigation where an open meeting may have a detrimental effect on the town's litigating position and the chair so declare, pursuant to General Laws chapter 30A, §21(a)(exception3)

MINUTES OF THE PLANNING BOARD MEETING

January 14, 2016

The executive session began at 9:45 p.m. and ended at 10:30 p.m.

Minutes Accepted on: 1/28/16
(Date)

Jean Keyes
(Prepared by: Jean Keyes)

Brian 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