



BELLINGHAM PLANNING BOARD

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

Meeting Minutes September 28, 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
Philip Devine (PD), Associate

Other Officials:

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

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

Nerina Estates Definitive Subdivision, Stormwater Management Permit, and Backlot Division Special Permit, 799-801 Pulaski Boulevard, Continued Public Hearing. Definitive Subdivision Decision Deadline: 10/16/17

Present: JP Connolly of Andrews Survey & Engineering.

Mr. Connolly explained that he has not submitted the major changes to the Plan but has submitted them to the Peer Reviewer yesterday and will be formally submitting them next week. He also held up a letter that he received from National Grid but did not provide a copy for the Board or staff and did not formally submit it yet. Mr. Connolly explained that it is not the letter of assent, but he believes it will satisfy the Board. The party at risk is the Applicant and the homeowner and it does not affect the Town.

BTS asked when all plan updates will be completed and BWL asked if the applicant understands that the third lot will not be approved. Mr. Connolly responded that his client does not agree with BWL's position regarding the third lot and he is confident that he should be ready to go by the next meeting. WFO further explained that when the Board conducted a site walk, the Board stated that this is not a viable project for 3 lots. The Board wants to maintain the character of the neighborhood. Additionally, he is concerned about the standing water. JSK added that stormwater is being peer reviewed now and their comments and will show if this drainage plan will work. JSK suggested that the Applicant come back on November 9th meeting.

Public Questions and Comments:

Phil Devine of Deer Run asked if all the abutters could be re-notified by letter. Mr. Connolly stated that he can ask the Applicant and does not think he will mind. Mr. Devine was concerned that it appeared as if the existing basin was being used as a detention basin. Mr. Connolly responded that it is not a detention basin and further clarified that no water will leave the site with the stormwater design for this plan. Mr. Devine stated that the easement is 100' wide and in the easement language it states that can't excavate and fill in that easement. Mr. Connolly disputed the size of the easement and, based upon his research and discussion with National Grid, believes the easement is 60'. Mr. Devine wanted the Town to be aware of this and advised the Board to gain clarification.

JSK explained that the applicant is requesting a Special Permit and the Board can be very specific with the conditions of that permit. BTS wants land surveyor's letter from the Applicant stating why 60' is the easement width. The Board members agreed that the house on Deer Run should face Deer Run.

BTS: Motion to continue the Nerina Estates Definitive Subdivision, Stormwater Management Permit, and Backlot Division Special Permit, 799-801 Pulaski Boulevard public hearing to November 9, 2017 at 7:00 p.m.

DJT: Second.

Discussion: None.

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

JD Raymond, 174 Maple Street, Development Plan and Stormwater Management Permit, Continued Public Hearing. Decision Date: 10/5/17

Present: Attorney Hogan and Matthew Waterman of Land Tech Consultants

JSK explained the situation to date.

WFO referred to the JSK memo dated September 13, 2017 listing approximately 50 outstanding issues that have not been addressed. PCP proposed that the Board hear the presentation of the plan and then move forward after that. BWL reiterated that he believes the Applicant should apply for a Special Permit for Bulk Storage. PCP disagreed and stated that the Applicant must present the submitted plan. BWL agreed as long as it is a preliminary discussion. WFO disagreed with listening to a presentation of the plan as there are too many things that are outstanding.

BTS does not disagree with WFO that there is a lot that has to be done, but the usual Board process is to look at the plan and identify what needs to be addressed. Further, he stated that the plan submitted is woefully inadequate but the Board has to hear the presentation of the plan.

Attorney Hogan stated that while there are a fair amount of items on the checklist provided by the Town Planner, they have not had the opportunity to do anything about the outstanding items. They were prevented from presenting the plan in previous meetings. Attorney Hogan further stated that he does not want to represent that the plan covers every issue, but they have not had time to digest this memo beyond their initial proposal.

Mr. Waterman presented the plan and explained that at the Bellingham Department-head meeting he was asked to prepare a site plan showing what improvements would be done on the various properties owned by the Applicant. While there are multiple addresses for the business, the majority of work will be at 169 Maple Street. Mr. Waterman stated that some of the issues on the memo might carry over to the other sites and not be specific to 169 Maple St.

Mr. Waterman then stated that at that the Bellingham Department-head meeting he was advised that the Town is very concerned about traffic movement across Maple Street between the two properties. Mr. Waterman explained that the Applicant believes that by aligning the driveways across Maple Street it would minimize traffic movements. Additionally, they are working hard to minimize the construction traffic traveling across Maple Street. The site distances to the east were preliminarily studied and need to be improved as suggested by their traffic consultant. Mr. Waterman stated that they have been working with the Conservation Commission (Con Com) and are supposed to file an application for a Notice of Intent (NOI) but they have not yet filed. The stormwater management plan has been created to address the issues and Mr. Waterman explained the proposed changes. Mr. Waterman then explained that based upon the recommendations by in the Sound Study conducted for them by CavanaughTocci they have proposed mitigating the noise by constructing an 8' sound fence on top of a 2' wall that would be designed to meet sound wall standards. CavanaughTocci's analysis stated that installing this sound wall would help to lower all numbers by 10 decibels.

Mr. Waterman then explained that they are managing the mulch piles to keep them fluffed to reduce the buildup of heat.

WFO strongly stated his concerns about this project:

1. The history on this property is critical and the Cease and Desist Order is still in place on this property.
2. The Applicant previously received a memo from JSK with a checklist of approximately 50 items on the checklist that have not been addressed.
3. Mr. Waterman mentioned that CavanaughTocci trimmed certain noise from the sound study and questioned how this will help the residents who live near there.
4. The Applicant previously presented to the Zoning Board of Appeals (ZBA) the information about fluffing of the mulch piles. WFO stated that 40' or 60' is still high, fluffed or not, and the Board can work with them to manage this height.
5. Safety and OSHA and MSHA may have to oversee this site as it has to be run by the appropriate agencies.

BWL agreed with WFO and stated that he has been looking at this for years and the Applicant has never submitted anything for permitting, has violated the Cease and Desist Order, and has not completed or addressed all of the items on JSK's checklist. This land has been sold twice in last eight years and no permits have been sought from the Town.

JSK added that the NOI application has not been submitted to the Con Com and may take time. This site plan shows a mulch pile within the 100' buffer zone. JSK then explained the ZBA process, the Development Agreement, and the Development Plan application. The Development Agreement provides additional language for the Planning Board, but it is the Planning Board's Decision on the Development Plan application that is binding. The preexisting non-conforming lot was explained by JSK. Additionally, JSK stated that the site has been altered significantly without any permits being acquired. So while a Special Permit has higher threshold, BTS clarified that the Development Agreement provides the Planning Board Special Permit-like powers.

BTS explained several concerns that he had:

1. He has witnessed trucks trying to leave the site and turn north and the trucks were barely able to make the turn out of the driveway. BTS advised the Applicant that when trucks leave the property, the trucks have to have sufficient space on the road to make the turn while staying in the proper lane. There needs to be an honest effort by the Applicant to address this issue and not pretend that it doesn't exist.
2. The business goes dormant for the winter and mulch piles are huge; consequently, a sound study done at that time will produce more favorable results than when the business is in full working mode.
3. BTS would like to see presentation of chemicals that are used to treat the mulch. The mulch piles can be smelled for an impressive distance.
4. Safety concerns of these piles must be addressed and would like to see literature and studies of how the piles are acting, internal temperatures, etc.
5. To obtain any relief from the Planning Board, there needs to be a holistic and comprehensive analysis of what is going on. BTS advised Attorney Hogan and Mr. Waterman to not insult anyone here by saying that these things don't happen.

PCP also stated his concerns:

1. The ZBA asked the Planning Board to review this submission and the Board has to start the process.
2. Need clarification on mix of driveways and how crossing this property does not violate mixed use – commercial driveway though a residential lot.
3. Driveway safety mitigation needs to be addressed and presented. Signs are not going to be enough.

4. Want to see what is actually on the site concerning the chemicals and materials. There is water going into wetlands from the mulch.
5. Pile heights are a safety risk and he wants to see safety improved for the workers on the site. Additionally the Board has to consider public safety and the safety of emergency responders.
6. The Applicant must address the outstanding checklist items on JSK's memo.
7. Would like the Applicant to explain how they can split the business using a public way to go across as this does not fit the use.

JSK advised Mr. Waterman that the Applicant owns other property abutting the site and this should be incorporated into the plan as well.

BWL finally stated that the Applicant currently has a Cease and Desist Order because he is running a non-permitted business. If the Planning Board continues this hearing, the Applicant will continue to violate the order. BWL believes that this order should be enforced and the Applicant should not be running the business until this permitting process has been completed. BWL strongly believes that the Planning Board does not have to hear any submittal when the Applicant is in violation.

JSK explained that the Cease & Desist Order has been appealed and has been stayed until the Planning Board makes a determination on this Development Plan application. Then it will go back to ZBA.

PCP: Motion to continue the public hearing for JD Raymond, 174 Maple Street, Development Plan and Stormwater Management Permit to December 14, 2017 at 7:00 p.m.

WFO: Second.

Discussion: None.

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

BWL: Motion to send a letter to the ZBA requesting that they enforce the Cease and Desist Order until proper permits have been issued.

DJT: Second.

Discussion: None.

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

BWL again suggested that in December the Applicant should be submitting applications for a Special Permit and Scenic Road Permit along with the Development Plan application. Attorney Hogan responded by referring to the Development Agreement

Decision Discussion and Signing

- ☐ **Irving Oil Gas Station, 310 and 320 Pulaski Boulevard, Development Plan and Stormwater Management Permit, Continued Public Hearing. Decision Date: 10/6/17**

BTS: Motion to sign the Approval Decision for the Irving Oil Gas Station, 310 and 320 Pulaski Boulevard, Development Plan and Stormwater Management Permit.

WFO: Second.

Discussion: None.

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

WFO requested that JSK invite the new Town Counsel, Barbara Saint Andre to attend the Planning Board meeting to on Oct. 26, 2017 so they can meet her.

General Business:

- ☐ **ANR**
- ☐ **As-Built Certifications**
- ☐ **9/14/17 Minutes Signing**

PCP: Motion to sign the September 14, 2017 Meeting Minutes.

WFO: Second.

Discussion: None.

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

- ☐ **Voucher Reports** - JSK explained the report.

WFO: Motion to adjourn.

DJT: Second.

Discussion: None.

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

Meeting Adjourned at 8:20 p.m.

September 28, 2017 Public Hearing Documents List

Nerina Estates Definitive Subdivision, Stormwater Management Permit, and Backlot Division Special Permit

1. Plans – 2nd Submission 7.6.17
2. Andrews Survey & Eng. Response to PSC 1st Comments 8.3.17
3. Stormwater Management Report & O&M Plan Revised 8.7.17

JD Raymond, 174 Maple Street Development Plan & Stormwater Management Permit

1. Development Agreement from ZBA 9.11.17

MINUTES OF THE PLANNING BOARD MEETING

September 28, 2017

Minutes Accepted on: 10/12/17
(Date)

Brian Salisbury
Brian T. Salisbury

Peter C. Pappas
Peter C. Pappas

Bruce W. Lord
Bruce W. Lord

Jean Keyes
(Prepared by: ~~Peter C. Pappas~~ Jean Keyes)

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

Dennis J. Trebino
Dennis J. Trebino