



BELLINGHAM PLANNING BOARD

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

Meeting Minutes December 14, 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
Barbara Saint Andre (BSA), Town Counsel

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

Discussion:

New Town Counsel Introduction

Present: Barbara Saint Andre, Town Counsel

Ms. Saint Andre introduced herself and thanked the Board for inviting her to the meeting. She will be the primary attorney for Bellingham and she is with the firm of KP Law whose entire practice is focused on municipal law. WFO welcomed her to the Town and is looking forward to working with her.

BTS arrived at 7:04 p.m.

JD Raymond, 174 Maple Street, Development Plan and Stormwater Management Permit, Continued Public Hearing. Decision Deadline: 1/12/18

JSK explained the status to date and that the Applicant has submitted a letter to withdraw the Development Plan Application from the Planning Board (PB). JSK read the letter dated 12/13/17.

Present: The Applicant was not present at the meeting.

BWL said since the beginning, the Applicant has never had any consideration for working with the Zoning Board of Appeals (ZBA) or the PB. They are only responding to the Cease and Desist Order. If the PB allows the withdrawal, BWL suggests that it be done with prejudice. BWL stated that the Applicant's actions have been less than honest. BWL suggested that the PB send a letter to the ZBA asking that they move forward with the Cease and Desist Order. BWL would like to meet in executive session to discuss this matter and also believes the ZBA was misled by previous Town Counsel. BTS stated that he does not believe they have cause to enter executive session. Town Counsel BSA confirmed that under open meeting law there are specific provisions for entering executive session. BSA expressed her opinion that this **does** not meet the criteria and it would be extremely difficult to meet the criteria.

WFO and PCP agreed that a letter should be sent but that the PB should take no action until the December 28, 2017 meeting. WFO agreed with the sending the letter informing the Applicant of the continuance and that no action was taken on the Withdrawal request. PCP further stated that the Applicant never had any intention of following the ZBA guidelines agreed to in the Development Agreement or to comply with the Planning requirements for the Development Plan. PCP agreed that a decision should be made at the December 28, 2017 meeting and to send them a letter to give the Applicant every opportunity to comply.

JSK reminded the Board that the Development Plan that was submitted did not meet the minimum standards of the Zoning Bylaws. In addition, no revisions or updated documentation has been provided since September 28, 2017. JSK clarified that the ZBA's next meeting is on January 4, 2018 at which time the ZBA has to make a decision concerning the Cease and Desist Order. Finally JSK added that the only item under the jurisdiction of the Planning Board is the Development Plan application.

WFO: Motion to continue the public hearing for the JD Raymond, 174 Maple Street, Development Plan and Stormwater Management Permit to December 28, 2017 at 7:00 p.m.

PCP: Second.

Discussion: BWL does not want to continue. PCP explained that the Board needs time to digest the withdrawal letter. JSK added that the deadline for the Planning Board decision is January 12, 2018 and so action must be taken at the meeting on December 28, 2017.

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

BTS: Motion to send a letter to the Applicant inviting them to re-engage in the process and for the Planning Board to specifically refute comments in the Applicant's Letter to the ZBA dated December 6, 2017.

WFO: Second.

Discussion: BWL does not agree with language suggested.

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

Discussion:

Victory Packaging Warehouse – solar traffic sign update

Present: Jeff Trelegan, Victory Packaging Warehouse, Scott Thornton, Vanasse & Associates Traffic

JSK explained that Sergeant Rolls has approved the proposed signs.

Mr. Thornton presented a rendering of the proposed signage for the High street and South Main Street intersection. Mr. Thornton explained the reason for the new solar signs that would be installed in this location. The signs will have blinking LED's and will be mounted on 12' poles which won't impede pedestrians and will have anti-theft devices. JSK explained that the Board of Selectmen will have the final acceptance of the signs and recommended that Mr. Trelegan move the signs slightly to help the neighbors. The Board thanked Mr. Trelegan and Mr. Thornton for the new signs. Mr. Trelegan agreed to pay for the signs.

PCP: Motion to accept the new signs and recommended that Mr. Trelegan work with Sergeant Rolls and the DPW on the correct locations and that no further traffic studies will be required.

DJT: Second

Discussion: None.

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

Urban Air Trampoline & Indoor Adventure Park – driveway connection

Present: Matt Clark of TMC Holdings

JSK explained the driveway connection which is Condition 2 of the Decision.

Mr. Clark stated that he attempted to seek approval of property owners George Levine of Bellingham Commons II and Eddie Moore of Rapid Refill. Mr. Levine agreed to the driveway connection but Mr. Moore was opposed to the plan. Mr. Clark requested that the Board waive this requirement and return the \$7,000.00.

JSK read the Condition in the Decision and explained that the Town has a security agreement with the Applicant and the Town is holding the money in escrow. BWL agreed with the idea of the connection but he stated that the landowner of Rapid Refill and the tenant of the property should come before the Board to discuss what is best for all parties. WFO asked BWL if he has had any interaction with any of the parties involved. BWL responded that he has spoken to both Mr. Moore and Mr. Levine and he does not believe Mr. Clark should be responsible for this negotiation. BWL would like to return the money. BWL does not believe the Town has the right to build it on private property. He further stated that he has not represented either party.

WFO disagreed and stated that he would like a deadline set on how long to hold the funds and DJT agreed. PCP stated that the agreement is clear: if the Applicant can complete the driveway connection, the money is returned; if the Town has to complete the connection, then the money is not returned. WFO, BTS, and JSK stated that it is too early to return the funds because the Town has to try to negotiate this driveway connection.

Mr. Clark stated that Mr. Moore was pretty clear that this will not happen and left no room for negotiation. He has done everything that he can. BTS believes that it is a safety issue and it is a shame that Mr. Clark was not successful. BTS thanked Mr. Clark for trying and stated that he does not want to hold money indefinitely but has always thought this was speculative. It was anticipated that this money will sit in escrow for a while. The Town knew that the landowner was resistant and that it may take time to try to change his mind. BTS would like to hold the funds for five years so that the Town has time to negotiate especially in light of the changes coming to the Maple Street and the Route 140 intersection.

BTS called a recess for five minutes.

JSK stated that he has had direct discussion with the Rapid Refill tenant and they are in favor of the driveway connection. Mr. Moore is the landowner of the Rapid Refill site and is opposed to it. The Board discussed the time frame to hold the funds and all agreed, except BWL, to hold the funds for two years. JSK stated that the Board is only providing direction to Mr. Clark and this will not hold up anything on the site.

Post Office Place – Permit extension request and security agreement review

Present: Chris Nation, Post Office Place LLC

JSK explained the Form J – Security Agreement for the property and the permit extension request.

Mr. Nation requested that he would like to request the permit extension but the road needs further work. He has no specific plan for the business lots and has not applied for building permits for the residential lots. He is asking for a 2-year extension of the permit.

JSK explained that the Town does not yet have a security agreement in place yet or proof of bonding. The binder course for the road was not accepted by the DPW so that work is still on the Form J and in the language for the security agreement. Mr. Nation was given warning that the binder course was installed in the winter and it was not the proper temperature.

BWL questioned if Mr. Nation new about the lawsuit connected with this property and that it sale of this property may be held up due to the lawsuit that is ongoing. Mr. Nation responded that he is vaguely familiar with it but can't really speak to it. Mr. Ron Nation could speak to it but is not here tonight. WFO questioned how Mr. Nation could make the binder coat sufficient. JSK responded that he has to work with DPW and that a building permit cannot be authorized until the binder coat is fixed and accepted and the security agreement has been executed.

JSK spoke concerning the permit extension request and that it is premature to grant this extension as the security agreement is not in place yet. JSK recommended waiting to grant the extension until the security agreement in place. Nation – would prefer to get the extension sooner rather than later. Has asked DPW to review the Form J numbers but has not had much luck.

Mr. Nation stated that he is concerned about not being able to get building permits due to the binder coat and he presented the Board with SRC Core Samples handout. He stated that he disagrees with the findings concerning the binder coat and explained his data and how it differs from the DPW testing data. Mr. Nation asked that he be able to move forward with the assurance that the road will be fixed at a later time. He is the landowner and the builder and is on site every day. If he had not paved it the road when he did, then it would have eroded over the winter. JSK is happy to set up a meeting between all parties but he has previously spoken to the DPW who stated that the DPW will not do the Applicant's design for him. The applicant has to come in with a solution and the DPW will review it.

DJT responded that the binder course has to meet the standard or the road will start to sink. This is a decision for the Building Inspector and the DPW Director. BWL added that if this isn't constructed property, the Town can deny a request for street acceptance.

The Board agreed to have Mr. Nation come back on January 11, 2018.

General Business:

- ☐ **ANR 10 & 12 Mill Street, 12 Mill Street Real Estate Trust**
Present: Byron Andrews of Andrews Survey & Engineering explained the ANR. JSK explained that this plan meet all ANR criteria. The Board signed the Mylar and the four paper plans.
- ☐ **As-Built Certifications**
- ☐ **11/9/17 and 11/16/17 Minutes Signing**

BTS: Motion to sign the November 9, 2017 and November 16, 2017 Meeting Minutes.
WFO: Second.
Discussion: None.
Vote: 5-0 Carried. (BTS, WFO, PCP, DJT, BWL)
- ☐ **Voucher Reports - JSK explained the report.**

BTS: Motion to adjourn.

PCP: Second.

Discussion: None.

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

Meeting Adjourned at 8:40 p.m.

December 14, 2017 Public Hearing Documents List

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

1. Attorney Hogan Letter to ZBA 12.6.17
2. Withdrawal Request from Applicant 12.13.17

New Town Counsel Introduction

Victory Packaging Warehouse – solar traffic sign update

1. Trelegan Email RE Proposed Signage Modifications 11.7.17
2. Blinking Solar Sign Example 12.14.17

Post Office Place – Permit extension request and security agreement review

1. Permit Extension Letter from C. Nation 11.20.17
2. SRC Core Samples Information – submitted by Applicant 12/14/17

Minutes Accepted on: _____

(Date)

(Prepared by: Jean Keyes)

Brian T. Salisbury

William F. O'Connell Jr.

Peter C. Pappas

Dennis J. Trebino

Bruce W. Lord