

# Town of Bellingham MA

10 Mechanic Street, Bellingham MA 02019

## Zoning Board Meeting Minutes 12/07/2017

Minutes of Meeting  
December 7, 2017

### **Present**

Brian Wright (BW) – Chairman  
James Dunlea (JD) – Vice Chairman  
Brian Salisbury (BS) – Member  
Arturo Paturzo (AP) – Member  
Peter Gabrielle (PG) – Member  
Joseph Flanagan (JF) – Alternate Member

### **Absent**

James Jeschke (JJ) - Alternate Member

### **Other Attendees**

James S. Kupfer (JK) – Town Planner and Zoning Compliance Officer  
Laura Renaud (LR) – Zoning Clerk  
Barbara Saint. Andre' – Town Counsel

7:00 PM

JK introduced Barbara J. Saint-Andre', new Town Counsel. He explained she has been with the town for about a month. She explained her past experience and stated she was looking forward to working with all the town boards. JK explained she is the main contact and the board should have all her contact information.

BW opened the meeting.

### **Continuation – 19 Pelletier Drive - Rita Forrester**

Special Permit request for a Family Apartment

Sitting In: BS, BW, AP, JD and AP

JK explained that this is a continuation. There is a letter that went out to Mr. Dumont by certified mail which is in your packages. He did not pick it up but he is in the audience. The other owner, Rita Forrester, is the one that signed the application. Mr. Dumont did not. Attorney Patrick Holland explained that his client, Mr. Dumont is one of the owners and tenant in common, he does not accept the application, does not want the application and will not sign the application. He respectively asks the board to deny the application. He is the only resident at that address right now.

Ms. Dumont does not live at the address nor did she ask Mr. Dumont about this before applying for the permit. Ms. Forrester is Mr. Dumont's sister. AP asked who was going to occupy the apartment. Attorney Holland stated they did not know, as she has not been in contact with them about this. JK stated it was Ms. Forester and her nephew on the application. We did request that Ms. Dumont provide the board with evidence that she was the primary occupant and the board did not receive that. The board asked if he was the only occupant living there right now. Mr. Dumont said he was the only one living there and he is the caretaker. BS stated that the board does need both people on the application.

BS motion to deny the application.

AP second.

All in favor to deny the application as all owners were not in attendance.

### **799-801 Pulaski Blvd. – John Wasylean, Jr.**

Special Permit for Earth Removal

Sitting In: BS, BW, AP, JD and PG

JK stated that they received a continuation request by Mr. Wesylean and the continuation notice that the board requested to go out to remind the abutters about the meeting since it has been continued for so long. The request is for February 1, 2018. They have also continued with the PB until January. BW asked what are the issues with the PB. JK explained that the issues that still exist are not only with the stormwater but the easement with National Grid. AP stated that assuming the abutters got notified the applicant should be covered to move forward.

AP motion to continue as requested.

BS – second.

BS asked if that was reasonable.

Discussion:

JK stated it does run with the PB schedule. National Grid time frame is a long and arduous task. AP suggested that this should be the last time a continuance is allowed without showing any updated plans; at least some progress. JK stated he could send a letter stating that if all are in agreement. JK stated he would state the last continuance without new plans or changes.

BW confirmed that there is a motion and a second to continue to February and JK will notify the applicant this will be the last one without any new information.

All in favor to allow the continuance to February 2018.

### **Continuation - 174 Maple Street – LMP Properties ,LLC**

Appeal of an order by the Building Inspector

Sitting In: BS, JJ, AP, JD and PG

JK stated in the package the Board should have a letter from the PB as well as a letter from the property owners.

(Reading aloud) The Development Agreement stated the terms in which to move forward to make the site compliant. JK explained that in September the PB stated that the plan in front of them wasn't permitable and there was several submission requirements missing. The PB took a vote for A 3 month continuation to revise the plan and come back to the PB. The PB felt it was enough time for an engineer to take care of this and bring forward a plan that could at least be reviewed to meet the standards in town. The letter you received yesterday is in response to that meeting. The letter from their attorney states that they are no longer pursuing those and that they wouldn't be in attendance at tonight's meeting. JK gave a recap of the steps of the past events:

In the Development Agreement the board required the applicant to come before the board tonight to provide an update on the permits they were in the process of receiving in compliance with the development agreement. (JK showing on GIS map) He stated the mapping is Massachusetts GIS system called "OLIVER". It is public record and can be accessed from home.

2005—Shows operation of when it was RJ Cobb.

2008 – Started doing clearing. The PB gave a permit for an indoor motor cross. It shows some mulch piles at 174 Maple Street and some clearing at 169 Maple Street.

2011 – 2012 – This is when the zoning changed in 2012 of bulk storage in an Industrial Zone by special permit only.

Prior to 2011 it was by right. The Town issued a cease and desist in 2014. In 2015, a new Zoning Compliance Officer came aboard and in 2016 he began to compile the complaints from various departments and residents. In 2017 the development begins to encroach at the town property line. It maximizes the sight and it has increased over the years. JK explained that in 2017 TA and myself went and did a noise evaluation. It was also witnessed that there isn't proper drainage. The Town then issued the cease and desist. In March 2017 the applicant appealed the cease and desist. They came before the ZBA. We have reviewed it for many months. The cease and desist clearly states what the issues are. They stated they would refuse a special permit. The ZBA said they would work with them. There are single family homes there and once housed families. They are now dilapidated as no one can live there with the surrounding conditions. This board, TA and myself worked with the landowner to come with a "special permit like" development agreement which would require site plans to be reviewed and approved by the PB to simply adhere to the laws already in place. They filed with the PB and it's the same plan from the beginning. The PB reviewed it and it was extremely apparent that it could not be permitted. The PB allowed them to come back in December with a revised plan. Tonight was to be a recap of the plan and they have refused to attend. JK recommendation is that they would adhere to the development agreement. JK felt they should come back in January and meet the agreement as stated.

JK stated he felt that the board has done everything in good faith to compromise with them. They should come back in January with what was agreed upon. I feel it would be proper to continue and give them the opportunity to meet the Development Agreement as both parties agreed upon. We want to work with the landowner but it does not look like they want to work with us. JK stated he and Town Counsel can work on a final letter outlining what was agreed upon and tell them the final date is the next meeting, which they agreed upon. PG agreed with JK to wait until January even though he doesn't feel they are really going to do anything. JD stated he would like to add that the board has put in a lot of effort to draft the agreement and felt disappointed they didn't follow through. JD agreed to let it ride until January. It was a good start but apparently they didn't feel the same way. PG felt in the past month the site has gone backwards. They are continuing to grind and ramp up the mulch piles, but felt they should stick to the January date as the board agreed upon. BS stated he is in agreement to allow them to go to January. They are not in attendance.

AP motion to move to continue to the January 4, 2018 meeting at 7:00 PM with the letter stating our final requests.

PG stated that their deadline date is January 19<sup>th</sup>.

JK stated that is correct.

PG second.

All in favor to continue to January.

JK stated in the package there are 2 memos. I sent one and the other is Paul Battie's response. There are a few overall items from the decision the town wanted to talk about with the property owner.

There are 5 items in here. Point by point.

Paul Battie (PB), General Counsel for FRE and Michael Harrington (MH), FRE site superintendent.

#16 – DPW did provide us with a list of outstanding infrastructure. JK is concerned about the loop road. In reviewing this it was permitted as a one way street. It services many homes. (showing on screen) I feel you should have proper access to all homes that are occupied.

PB every part of the first phase 1A has all the essential infrastructures.

BW stated he lives there and it floods out if any rain. He felt that the basin down there should be essential.

PB stated that this is the crossover to Silver Lake and it is being re-engineered in the spring.

BS asked if they would commit to a time line. PB said spring but hard to give an exact date. BS asked could they have a more definitive at the next meeting? PB will talk with his people. MH stated they have to give themselves a 12-week minimum. AP asked about the actual installation. MH from when ordered he would have to check on final design plans.

BS asked if they would want their homes next to here.

MH I know the process so I can answer on that. It wouldn't bother me. Some homeowners don't understand. They don't know there are some processes that have to take place. BW stated the hills do concern the neighbors; an unsafe area. MH agreed it is unsafe. The police do go down and monitor. We ourselves have caught people down there. MH stated they don't want anyone in there. They are doing our best to monitor. BS stated he wouldn't live next to the site.

He stated he didn't feel like they are working with the town well. There has to be a definitive timetable to get this moving. They are getting the runaround. It is being pushed off. He stated he took the site walk. There are people with children and elderly people. They are stuck there living with this project. He felt like you should come back next month with answers and timetables. PG if you had any medical issues or emergencies it's a one lane road and very dangerous.

MH stated he understands. PB stated there is a bigger picture here. They do pay consultants to do the best job they can.

They all do the best job we can. JK asked about the mitigation agreement they agreed on...asked why would you request public funding and delay it 3 years? PB we shouldn't be penalized. JK stated it's been 4 years and you haven't finished a road? PB stated they gave a reason and if we can't accept that reason. JK stated this is just a discussion. If the board believes that it is not in accordance with the decision then they need to request an extension.

PB explained the 2 major phases. JK stated that if they are talking 3 phases overall with the project then they exceeded that. PB explained that 1a and 1b is one phase. He explained that they could only build a certain number of houses and they have reached the threshold before they can proceed with the rest of the development. JK stated he didn't understand the 1a and 1b. It doesn't make sense to go with the decision. PB stated they have to start the sewer and they need the Center Street infrastructure done. MH said they stopped at lot 43. JK following the phasing plan.... doesn't make sense.

BS asked if it is the wrong plan. JK stated maybe they are all reading differently. (all viewing the plan and phases) JK they stated they cannot pull the last 20 without the security. JK stated he is looking at it as subdivision standpoint. AP asked about the pump station and center street completion? MH stated 60% of Center Street. PG asked if all approved?

MH stated yes. There is 5300 linear feet left, 2800 feet done. AP asked if all this is contingent on the order we talked about earlier? PG stated just talking Center Street. MH stated the sewer coming from the next phase will be going down Center Street. It will be pumped up Cross street to Center Street to the gravity sewer. PG stated the pump station allows you to pump up. MH stated yes. MH said 26 houses done. Now the rest is being triggered because we can't build

anymore. We have been trying to get the pump station through. We do have a decision at this time. AP asked if everything is approved for the pump station. MH stated yes. AP asked that when they have possession of that then all the sewer can be tied in. MH stated yes and once started then they can go down Silver Lake Road.

BW asked if they are saying that the pump station has been holding them up. MH not necessarily but to complete everything they need the pump station. AP asked how long. MH stated there are many variables that could slow them down. Ledge, high water table in Spring. They just don't know to give an honest answer. AP asked if can give a range. MH stated through the summer. JK stated the next items are erosion control, dust and safety matter. When he asked MH for a few things, hydroseeding etc. he did take care of. Last year, the dust was terrible, cars caked. JK stated in any standard subdivision this would be grossly out of line. A house covered in dirt would not be tolerated. They have been talking several years before they even get to this. JK asked what can be done to help the homeowners. This is not acceptable...it is embarrassing we are allowing this. MH stated it is being worked every day. They are installing underground utilities for a year. MH stated they are trying their best to get a head start. They want to complete everything on Center street and go onto Cross Street. BW stated that they keep saying this and they need answers. PB stated there are deadlines and dates in the decision we have to follow. There is a 6 -year time frame. JK stated that they do have until 2020 but these homeowners can't live like this. MH stated there is a dust pile and they have seeded. MH stated they feel bad for homeowners and they do best to water down. MH stated there are wetlands there so they are limited. They pay for every gallon on their tanker truck. They keep it watered down. In some towns you can't use a hydrant. They now go to the DPW yard and fill up. They do their best. JK stated that last year was a drought time but why open it up if cannot control it. BS asked if there is something they can do there. MH stated they can complete the infrastructure, everything has to be in working order and cannot do paving...that is out of question at this time of year.

They blow mulch on certain areas. MH stated they are monitored weekly by 3<sup>rd</sup> party. JK stated it is bad for anyone living nearby...in spring? He asked what can they do? BW stated he would just like to get this done. It has been an empty construction area for long time...want to work with you. MH said they are trying to get approved from DEP right now. PG asked about phase 2...what is in question? MH said that basin A is now a totally different look, has been formed. PG asked if all underground work is getting done but will have to be set aside while they do sewer work? MH said they cannot let it sit for more than 2 weeks. They cannot leave it alone. They have to make sure it is stable and control the dust. AP asked when. MH in spring. JK asked what will they do in spring. MH said finish off everything and spread loam. Grade it off...not final. It has been our policy if work done and homes not sold then they spread the hydroseed. PG stated that if they could control that for the neighbors that would be great. AP asked if it was too late now. MH stated yes. JK stated the last thing is the HOA documents but they were sent. JK stated that was all and he will follow up with the developer with timelines and requests. The only question he has is the infrastructure and if they need to formally request extension. BS felt that it would be helpful to have a time line. We can have that discussion.

BS motion that phase 1A infrastructure is not complete and has exceeded the 3 -year time limit and the applicant will be required to seek an extension to proceed.

AP second

PG asked what was their plan for paving.

MH stated in 2018.

All in favor.

AP suggested getting the loam done early spring rather than later. MH will do weather permitting.

## **General Business**

### **Minutes – November 2, 2018**

AP motion to accept the minutes as presented.

BS second.

All in favor to accept.

### **Handout**

2018 Schedule of Meetings

Meeting Adjourned 8:30 PM

Approved 2/1/2018