

# Town of Bellingham MA

10 Mechanic Street, Bellingham MA 02019

## Zoning Board Meeting Minutes 09/07/2017

September 7, 2017  
Minutes of Meeting

### Present at Meeting

Brian Salisbury, Chairman  
Arturo Paturzo, Member  
James Dunlea, Member  
Peter Gabrielle, Member  
James Jeskche, Alternate Member  
Joseph Flanagan, Alternate Member

### Other Attendees:

James S. Kupfer (JK) – Town Planner & Zoning Compliance Officer  
Laura Renaud (LR) – Zoning Clerk  
Jason Talerman (JT) – Town Counsel

7:00 PM

BS opened the meeting.

JK read the Public Hearing Notice

AP motion to open this hearing.

PG second.

All in favor to open the hearing

### New – Hixon Street (Map 23/Lot 6) – K & S Development

Special Permit for Earth Removal

Sitting In: BS, AP, JD and PG

JK explained what was in package.

JP Connelly (JP) was in attendance and was representing for K & S Realty. They are adding to the 55 plus community that already exists on Hixon Street. He explained reasoning for the earth removal had to do with the lower right portion of the property. There is a significant cut in the property. There are some trees there also. The slope ratio is 3 to 1. They are before the BOH for the septic system and have been before the PB for many months as well as the Conservation Committee. AP questioned the buffer area.

JP explained the wetland system and they have been before the ConCom. The intrusion into the 100 foot buffer already exists. JP (showing landscape plan) explained it shows beautification measures for the existing abutters. The vegetation will be Junipers, Eastern Red Cedars, 6-7' high and shrubbery. The landscape plan will develop as the project grows. AP asked if inside of the shrubbery will be graded. JP stated yes as they do not want steep yards for the residents. The tree line will be cut back about 8 feet. JD asked for explanation as to the leeching field. JP Explained they will maintain the existing vegetation. When they do cut fill the analysis balance comes out to about 7000. JK stated with the earth removal permit there are 2 types of activities that take place: gravel removal operations and for construction purposes. During the construction phase the storm water management needs be reviewed. They want to make sure the public ways are protected. JP explained Village lane will be the haul road. Village Lane and then they go towards route 495, take a left, and proceed to 495 N or S. If toward Medway or Millis they would take Hartford Ave. The dump trucks will have a screen cab to gate. In addition to that the construction management plan will be utilizing the construction entrance between Village Lane and the proposed site. By the time the trucks leave and get on to Hartford Avenue they will be free of debris and mud. JP went on to explain the developer has done quite a few projects in town. He lives close to the site and has a good reputation.

The construction sequence consists of getting the septic up and running first so that the existing 48 units could utilize the new system. One to Two thousand yards are moved on a daily basis. They don't want to leave the site barren for long. They want to get the model home ready as soon as possible. After the construction of septic system it should be storm water management infrastructure. The board asked how long it will take. JP stated from start to end approximately 24 months. The septic 6 to 8 weeks with the rough grading 4 to 6 weeks and then the final product. Hours of operation: general construction hours, 7 to 4 by PB, if they wanted to work on a Saturday they would have to go back to PB. There will be no work on Saturday unless back to PB first. He continued to explain that when they have to work on a Saturday it would mostly be frame work, not site work. AP asked if there is a reason why they are removing soil and not grading. JP said they do not have a suitable site that they could utilize. It would make it 2 to 3 times smaller. Harry Hamjian (HH) of 35 Hixon Street stated he lived up North to the project and that the northern buildings are close to his property. He asked how deep they go down in the soil. JP showing on plan: about 3 feet and then towards the back 6 to 7 which doesn't include excavation down to the foundation. HH stated they may hit ledge. He asked what if and would they need to blast? HH stated he

would like to be notified in advance as he has very sensitive electronic equipment he would need to unplug. JP stated they would do so. He (HH) would just like to be forewarned. JK stated they would need a blasting permit from the Fire Department. PG said they took photos of his property when a builder blasted close by his home.

BS motion to close the hearing.

AP second.

All in favor to close.

AP motion to grant as requested with a 48 hour advance notice of blasting, up to 7500 cubic yards to be removed.

BS second.

All in favor to grant.

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

Special Permit for Earth Removal

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

JK explained that they have been continued in front of the PB to the 28<sup>th</sup>. The PB did receive plans. JP Connelly is representing them. It is going to be a 3- lot subdivision off of Deer Run Road. The project site does have some interesting conditions: it's a knoll and a low depression, lowering the grade, there are significant cuts and slopes. They are single family homes. BS asked how much dirt will be removed. JP said it is quite a bit, 110 elevation and grades want to be in the 88 range. It's about 26000 cubic yards, 4.60 acres and soil is gravelly sand and ideal. They are before PB and Con Com. JP will request a continuance to November 2, 2017.

BS motion to allow the continuance.

AP second,

All in favor to allow to continue to November.

JK announced that they are having a BOH hearing to review the septic system at 8:00 PM tonight, which is being held at the Bellingham Library.

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

Appeal of an order by the Building Inspector

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

JK stated at the last meeting the board directed Attorney Gary Hogan (GH) and Town Counsel Jay Talerma (JT) to keep working on the Development Agreement which was handed out to the Board Members. You also have a memo (dated incorrectly—August 29<sup>th</sup> is correct) outlining the options the ZBA has before them.

PG stated the PB would like to see the zoning infractions taken care of first. JK stated that the Zoning Board has to take their action before the PB can proceed with their Development Plan Review. JK explained that the memo lays out three options the ZBA has and if they choose to go forward the Development Agreement has been started and is in front of them to review. JK stated the applicant would have to do some work on their end.

PG stated he got it late last night and he didn't really look too deeply into it. JD agreed as just reviewed and he was expecting more. BS said that is just what they are proposing and the PB could ask for more. PG said he didn't see any hours for trucks and they are leaving very early right now. GH stated that is the town's baseline bylaw and it could be changed. BS said he felt it was too early to start imposing things. He thought it best to just have the Public Hearing first. PG asked if those items can be imposed under a Development Plan Review. BS stated under the Development Agreement that they could. AP felt it is not unfair to give our suggestions. BS said can give suggestions. JK read the PB would be able to further restrict if there was a reason to do so. BS stated the biggest source of complaint is from the neighbors and the town is protected adequately. PG felt like this has been gone over and over and feels the Special Permit is the appropriate, legal avenue for the town and the residents. GH stated this is an effort at bridging the gap and no one knows how it will turn out otherwise. GH said this is the best way to address a few of the major issues. BS stated that, noise, traffic, hours of operation are all covered in the agreement. PG stated he has been woken up very early. GH stated it is an Industrial Zone. It is a small road. The tractor trailers do take up space. PG stated it is a seasonal business and at times there is a high volume. He asked if there would be an increase in hours of operations. BS asked what their volume of storage was. GH said they could supply a detailed chart of their whole business. JD asked for more details of hours of operations: inbound and outbound trucks, hours of processing and requesting no processing on Sundays. GH stated he didn't think that was unreasonable. BS asked if the board felt comfortable with the agreement. PG felt that 4:00 and 5:00 o'clock is a bit early but to hold to 7:00 am that's a bit late as they do have to get out of there and before the school buses. AP/PG suggested maybe 6:00 am to 6:00 pm with 6:00 am to 12:00 pm on Saturdays or even 7:00 am to 12:00 PM. JK stated that there could be exceptions: flat tires, weather etc. PG felt they should just be reasonable.

BS motion to continue the public hearing to December 7<sup>th</sup>, 2017 and to allow the applicant to go to PB with the recommended hours of operations; and an amended executed Development Agreement.

Discussion: AP agreed. PG stated that he still felt that sitting through the PB meetings will be tougher than if they stayed with the Special Permit.

JF/BS The agreement has special permit like features. The applicant can back out if the PB has unrealistic restrictions. JK stated JT has worked closely on the Development Agreement. JK has made the hours of operation onsite and offsite. GH stated he doesn't have authority over his client. He can make a recommendation that these would be reasonable hours of operation. GH stated he thinks it is reasonable but he doesn't know the operations well enough. He suggested under 4.4 maybe add "zba recommends the following".....PG stated he likes what they are proposing but still feels Special Permit proper.

No Public comments/questions.

AP seconded the motion.

In favor: BS, AP, JD, JJ

Opposed: PD

JK stated he will work with the applicant to extend the decision deadline date.

#### **Continuation– 17 Elaine Circle – Michael Goodspeed**

Variances to allow an alteration to preexisting non-conform parcel

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

JK stated the applicant was seeking a withdrawal without prejudice.

AP motion to grant the withdrawal request.

BS second

All in favor to allow the applicant to withdraw.

#### **New – 2 Indian Run Road – Kenneth and Debbie Pritchard**

Variance for insufficient setback of a structure

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

JK read the Public Hearing.

AP motion to open the hearing.

BS second.

All in favor to open the hearing.

JK explained what was in package. The setback is 15 feet on either side. This property is zoned suburban. The applicant would like to put a 12 x 14 shed. It is also a corner lot. The applicants, Mr. and Mrs. Pritchard explained they need the shed for storage as they recently downsized and do not have room for anything. Mr. Pritchard stated the encroachment is in back 13 feet and side 7 feet. (Showing on plan) JK explain the shed will sit at the corner.

BS explained to the applicants that they were seeking the most difficult thing from the ZBA. You must meet certain criteria and that is the only way it is allowed. Often times we (the board) has had requests for sheds and there is just no good place to put the shed but that doesn't meet the criteria.

He asked the applicants to explain how they might meet the criteria. He told them by right they can have an 8 x10. Ken Pritchard stated there was a leeching filed on the other side. Debbie Pritchard stated there is no other flat area to put it. She explained they have a lot of stuff after downsizing and this house has no basement, no shed, and no garage. This is the only place to put the shed. She explained they want to keep it as close to the driveway as they can. BS stated it appears the side yard slopes down. He asked the applicants if they could put it on the slope. DP stated it was too difficult to get into the shed on a slope. PG asked about slightly smaller, could they do? They tried an 8 x 10 and was just too small. JK said an 8 x 10 would meet the requirements. BS said he is still looking for a hardship and unfortunately it doesn't appear they can meet. BS explained that the board is required to follow what the rules of the town. The people of Bellingham set the rules. BS stated the applicants knew what it was when they purchased it. BS stated if the applicants wanted to look into other options they have the opportunities to continue the meeting and come back to the next one. PG asked if you could put 2 8 x8 shed's. They would have to talk to the Building Inspector about that. PG asked the applicants if they read over the criteria. They stated they met with JK and he went over it with them. BS explained if the board voted tonight and they got a denial they couldn't return for 2 years. They can continue to think about it or withdraw their application. PG suggested they read through the bylaw and variance criteria and maybe they will come to a solution that works. The applicants asked for a continuance to October 5<sup>th</sup> to allow more time.

AP motion to allow a continuance to October 5, 2017 at 7:00 PM.

PG second.

All in favor to allow a continuance.

### **Minutes**

August 3, 2017

BS motion to accept as amended.

AP second.

All in favor to accept as amended.

### **General Business – Lakeview Estates**

JK explained the last Building Permit was taken out. There are 27 Building Permits and 25 have Occupancy Permits. The sewer will take a year to construct. They are roughing out roads and disturbing the earth. JK has gone down there many times. He will soon request their attendance to come back before the ZBA for an enforcement issue. He would like to have a site walk with the Board Members before it gets too cold. He suggested early evening or a Saturday. The board agreed a Saturday would work best for them. JK would let them know when he has a date and also post it for the public.

JK explained the BOS has put out bids for a new Town Counsel. The contract is up. BS stated he thought JT has provided the ZBA with a good service and if anyone felt the same way maybe they could write a letter of recommendation to the BOS to reflect what he has provided for us. Board all agrees. JK will draft a letter for the Board.

Meeting Adjourned at 9:30 PM

Approved 10/5/2017