



BELLINGHAM ZONING BOARD

10 MECHANIC STREET
BELLINGHAM, MASSACHUSETTS 02019

Minutes of Meeting
Thursday, December 5, 2019

MEMBERS PRESENT:

Brian Wright (BW) – Chairman
James Dunlea (JD)– Vice Chairman
Arturo Paturzo (AP)– Member
Brian T. Salisbury (BTS) – Member
James Jeschke (JJ)- Alternate Member

MEMBERS ABSENT:

Peter Gabrielle (PG) Member
Joseph Flanagan (JF)– Alternate Member

ALSO PRESENT:

James S. Kupfer, Town Planner and Zoning Compliance Officer
Laura Renaud, Clerk

Chairman Wright opened the Zoning Board of Appeals meeting at 7:00 PM.

Lakeview Estates Comprehensive Permit Continuation: Appeal of Cease and Desist

Prior to opening of the Lakeview Estates Comprehensive Permit Public Hearing
Chairman Wright recused himself. Vice Chairman James Dunlea sat in as Acting
Chairman.

Members Present:

James Dunlea, Brian T. Salisbury, Arturo Paturzo

Applicant Representatives:

Bob Poxon, Site Engineer, Guerriere & Halnon South Center Realty Attorney Angela Conforti, and Site Supervisor Michael Harrington.

The Attorney for the applicant Angela Conforti informed the Board that the appeal of the Cease and Desist was filed in October 2019 and the Cease and Desist was lifted at the prior Zoning Board of Appeals meeting. The applicant would like to withdraw the appeal of the Cease and Desist.

On a motion made by Vice Chairman Dunlea and seconded by Member Salisbury the board voted unanimously to accept the withdrawal of the appeal of the Cease and Desist.

Lakeview Estates Comprehensive Permit Continuation Public Hearing:

Vice Chairman Dunlea opened the continued public hearing for Lakeview Estates Comprehensive Permit and continued acting as Chairman of the proceedings.

Members Present:

James Dunlea, Brian T. Salisbury, Arturo Paturzo

Applicant Representatives:

Bob Poxon, Site Engineer, Guerriere & Halnon, South Center Realty Attorney Angela Conforti, and Site Supervisor Michael Harrington.

Planner/Zoning Officer Kupfer gave an update of the progress since the last meeting:

- There were photos of the site from November 2019 provided.
- There was a concern about the shoulder along Candlelight Lane. This has been addressed with grading, seeding and hay.
- Basin C will continue to be monitored.
- There will be follow-up with DPW regarding the outfall.
- The pump will need continuous monitoring. The system should be able to function without the pump. The security bond should have a performance clause related to this.
- The plates and boulders have been placed over the large openings at the basin.
- The hotline numbers are posted on site to allow the public to contact Fafard with construction related issues as those issues arise. Fafard agrees to be very responsive to calls into the hotline.

The applicant informed the Board that more fencing with integrated screening was ordered and will be installed to replace the damaged sections that fell over with the storms. Rebar will be used so this will not keep falling over.

The Engineer communicated that the basin was dry after 2 inches of rain. It is designed to empty between storms. The flow is going from Silver Lake Road and into the check dam.

Vice Chairman Dunlea provided an overview of the status of the project:

- The applicant is seeking an extension on the Comprehensive Permit to March/April 2020.
- The Cease and Desist has been uplifted.
- The applicant is working on the foundations.
- The performance bond should include considerations for the basin. The monitoring and financial guarantees if failure occurs again once the basin is owned by the town.

Abutters Concerns:

- There have been concerns raised about the amount of water traveling into the lake which might include silt and sediment.
- Another concern is that this project will continue to have delays, and no one will monitor what is happening on site.
- A request was made to have a third-party peer review done to look at the as-built and design plans of the basin.
- There has been little to nothing done and the residents communicated that they feel held captive to the developer. There has been little respect from the developer to the abutters. More issues occur on the jobsite and the developer does little to rectify the situation until forced to do so by the Zoning Board and that the developer is never proactive or responsive to developing situations.

The applicant communicated that the Environmental Scientist did go on site and found no silt or sediment. There is also a third-party reviewer who reports to the Conservation Commission and the Department of Environmental Protection. The water is clean and clear. The sump pump is in place just for the winter so there is no chance of anything happening again. In the summer, the area will be hydro-seeded, good loam will be used to make sure everything will take. The design changes were reviewed by the DPW engineer and the BETA Company which no concerns were found.

Vice Chairman Dunlea indicated that the Engineer from Ecotec reported that the situation is being handled by the professional staff members. Mr. Dunlea felt the developer will have to become more proactive and responsive going forward. There is a hotline for any problems that arise. The responsiveness of those calls by the developer will be a good indicator if the developer gets the message on becoming a better neighbor. The Conservation Commission has all the reporting. He suggests that water samples be taken and the water quality results be made available to the public/reported.

The Board understands why the residents are upset and suspicious. The Board is limited with it can do under the circumstances. Certain mitigations such as grass germination and soil stabilization cannot be done until the Spring.

The applicant discussed some questions which came up regarding the blasting permits. The Deputy Fire Chief Mark Poirier indicated that the blasting permits are not being held up. Every permit that the Fire Department issues has comments and remarks. The Fire Department works to keep everyone safe and will be on site for the blasting. It is a residential area. There were concerned of open pits within the job site. Those holes will not remain open. This will be done systematically. The Fire Department does work together with the ZBA and the Building Inspector. The applicant indicated that the fill will be loam and compacted gravel. The applicant is only allowed to do three lots at a time. The process is blast and fill within a week. No rock is to be left on site.

The Board communicated that if another rain event occurs before the March meeting, then the water flow will be sampled and tested with a control group for comparison. If an issue arises, a special meeting can be scheduled.

Continuation:

On a motion made by Vice Chairman Dunlea and seconded by Member Salisbury the Board voted unanimously to allow for an extension and will continue the Lakeview Estates Comprehensive Permit hearing to March 5, 2020 at 7:00 pm.

Burton Woods off Sunken Meadow Road – Lot 2 Continuation Hidden Meadow Road II Realty Trust – Edward Gately Trustee Comprehensive Permit Request 40B

Members Present:

Brian Wright, Brian T. Salisbury, James Dunlea, Arturo Patruzo

Chairman Wright opened the continued public hearing for Burton Woods.

Planner/Zoning Officer Kupfer updated the Board and the following is included in the packets:

- Revisions were made to the plan set and the storm water report. Conservation Commission had comments regarding the request to move the rear basin. The Peer Review came back supportive of the revisions.
- Public Comments
- Town Counsel Comments

Planner/Zoning Office Kupfer explained the final plan set would be reviewed again and stamped. The Conservation Commission will also review the plan one last time.

Deputy Mark Poirier spoke about the turning radius that is applied to all cul-de-sacs. The largest vehicle in the fleet must be able to turn around without having to back up. Visibility is always a concern, but it is not in their rules and regulations to enforce that. The above topic was discussed due to a public safety standard and by -law for the Town of Bellingham in that any subdivision over 8 units shall have more than one ingress/egress roadway. The Burton Woods project only has one ingress/egress point. This is a public safety concern for the Board and was also expressed by the abutters in the public hearing in light of the first anniversary of the Camp Fire, CA wildfires. Vice Chairman Dunlea noted that the Camp Fire was the deadliest and most destructive wildfire in California history and the most expensive natural disaster in the world in 2018 in terms of insured losses.

Public Questions and Comments:

Abutters were still questioning the right to access through Sunken Meadow Road. They believe the applicant does not have the access and that is an issue that the ZBA should investigate.

Chairman Wright communicated that the Zoning Board has presented this to Town Counsel numerous times. It is not the Bellingham ZBA's jurisdiction. It is a private matter with the Town of Franklin.

On a motion made by Member Patruzo and seconded by James Jeschke the board voted unanimously to close the public hearing for Burton Woods.

The Zoning Board of Appeals was provided with a draft decision which outlines the findings and determinations expressed over the past 6 months with revisions from Town Counsel as well as the 40B components that are in place. There will be no further testimony taken since the hearing is closed. The Zoning Board has 60 days to review and execute the decision.

Member Salisbury questioned if they are required to define if there is adequate access in the draft decision or acknowledge the fact that there is a question about this.

The Board agreed to review the draft decision individually and provide comments to Officer Kupfer by December 18, 2019. Officer Kupfer will put all the comments together and will refine the draft decision which will be provided to the Board before the January 2, 2019 meeting.

On a motion made by Member Salisbury and seconded by Member Patruzo the Board voted unanimously to continue discussing the decision to January 2, 2020.

Special Permit Public Hearing Continuation: 36 Yvonne Road

Applicant: Susan Thibeault

Special Permit: Animal Kennel

Members Present:

Brian Wright, Brian T. Salisbury, James Dunlea and Arturo Patruzo

Town Planner/Officer Kupfer updated the board.

- A meeting was held with the Health Agent and the applicant.
- The permit would be only for the owner at this location. The owner does not live here.
- The number of animals needs to be determined to make sure it is reasonable for all in the future.
- The concern for abutters is that they need to stay indoors. All cats will be housed indoors or in a confined "cat-io" (cat screened enclosure) when outdoors in order to mitigate impacts on the neighborhood.
- This is not a commercial area so there are to be no sales, breeding or boarding
- The permit will be tied to the Board of Health annual license.

Health Agent Wilson communicated that this is not a commercial venture with boarding animals. It is strictly their personal pets. The current bylaw allows for dogs. There are currently 2 dogs and 12 cats. It is not their intent to have any more dogs. The applicant has agreed that if any of their pets expire or are given away, they will not be replaced. The applicant agreed to 5 cats as they dwindle down.

The applicant agrees to a maximum of 5 cats and 3 dogs. As they naturally go or move out, the animals will not be replaced.

The Board of Health will follow-up yearly. If the Board of Health finds that there are more animals listed on the permit they would be fined or will have to come back in front of the Zoning Board of Appeals for failure to comply with the terms of the decision. The Board of Health also needs to make sure that sanitary and medical care conditions are met. Medical records will need to be provided. These records will be kept in the Board of Health office to be viewed at any point.

The applicant has put in a “catio” (screened in patio), the waste receptacle is kept in the center of the yard. The feces are emptied into bags and put in the trash on pick up day. All cats have been kept inside since September which is working out well. The applicant did meet with the neighbors and did not realize to the extent that they were causing such distress. The applicant wants to keep in compliance with the town, keep their pets and as time goes on, they will dwindle down the number of animals. If the applicant goes away, a reliable friend comes in to care for the animals.

The Board discussed the time frame to allow the applicant to get down to the permitted number of animals. A determination of 10 years seems fair if the applicant stays in compliance with the Special Permit and the Annual Board of Health Inspection. The applicant communicated that 10 years would be agreeable. There would be a yearly review just to see if all pets are in compliance with the permit.

Public Questions and Comment

Abutter Brian Sutherland explained that there was a neighborhood meeting and it was the consensus that there were too many cats. The abutters want to be sure the cats are taken care of along with there being a plan in place for the future. There should be fairness to all involved. It was suggested 1 year to dwindle down the number of cats. The neighbors would also like to be able to view the health records of the animals.

Health Agent Wilson has seen the medical records and the town does have copies of all the shot information. It will be available for the public. The dogs are licensed by the Town Clerk.

On a motion made by Member Paturzo and seconded by Vice Chairman Dunlea, the Board voted unanimously to close the Public Hearing.

Decision:

On a motion made by Member Salisbury and seconded by Member Paturzo the Board voted to grant the Special Permit to allow for an end state total of 8 domestic pets (5 cats and 3 dogs) per the numerous conditions discussed and natural dwindling down of the on-site pet population, along with the condition of a status update provided annually to the Zoning Board of Appeals.

Minutes:

The minutes of the November meeting were tabled to the January meeting.

Adjourn:

On a motion made by Member Salisbury and seconded by Vice Chairman Dunlea the board voted unanimously to adjourn the meeting.

The meeting adjourned at 10:30 PM.

Minutes Accepted on January 2, 2020 Laura Benard
 (Date) (Prepared by)

Brian Wright
 Brian Wright

Arturo Patruzo
 Arturo Patruzo

Peter Gabrielle
 Peter Gabrielle

James Dunlea
 James Dunlea

Brian Salisbury
 Brian Salisbury

