



BELLINGHAM ZONING BOARD

10 MECHANIC STREET
BELLINGHAM, MASSACHUSETTS 02019

Minutes of Meeting
Thursday, November 7, 2019

MEMBERS PRESENT:

Brian Wright (BW) – Chairman
James Dunlea (JD)– Vice Chairman
Arturo Paturzo (AP)– Member
Brian T. Salisbury (BTS) – Member
Peter Gabrielle (PG) Member
James Jeschke (JJ)- Alternate 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 Public Hearing: **Appeal of Cease and Desist:**

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

Planner/Zoning Officer Kupfer read the Public Hearing notice.

Members Present:

James Dunlea, Brian Salisbury, Arturo Paturo and Peter Gabrielle.

The Applicant Representatives were:

- Bob Poxon, Site Engineer, Guerriere & Halnon
- South Center Realty Attorney
- Michael Harrington, Site Supervisor

James Dunlea explained that the appeal information and questions may be contingent on the extension hearing which part of the next agenda item.

South Center Realty Attorney asked for a Continuation of the Public Hearing to Thursday, December 5, 2019 as the appeal would be withdrawn if the essential infrastructure is found to be complete and the Cease and Desist is lifted.

On a motion made by Member Salisbury and seconded by Member Paturzo the Board voted unanimously to continue the Lakeview Estates Comprehensive Permit Appeal of Cease and Desist Order to December 5, 2019 at 7:00 pm.

Lakeview Estates Comprehensive Permit Continuation:

Vice Chairman James Dunlea opened the Continued Public Hearing for Lakeview Estates Comprehensive Permit and continued acting as Chairman of the proceedings.

Members Present:

James Dunlea, Brian Salisbury, Arturo Paturo and Peter Gabrielle.

The Applicant Representatives were:

- Bob Poxon, Site Engineer, Guerriere & Halnon
- South Center Realty Attorney
- Michael Harrington, Site Supervisor

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

- There was an inspection with DPW, and all agreed that there was substantial growth along slope and basin. There was extra seeding added.
- The well (JRD: replace 'well' with 'basin') was monitored and is working well.
- The paving was done on Candlelight and Northern Lights as well as curbing.
- The full (JRD 'full drainage ...') system is up and running. It will continue to be monitored.
- DPW will review the compaction testing report.

There is a concern about the condition of the shoulders of Candlelight Lane. It is somewhat in disrepair and needs to be cleaned up, graded and loamed. The applicant was made aware that once the 10th Occupancy Permit is issued; the security is required for the project's infrastructure. A status update on this will be provided.

Per Conservation Commission there are bio retention basins in the rear of the homes; 3 are up already, so they do need to be completed.

Board Member Dunlea explained that the Zoning Board could lift the Cease and Desist Order on the permits contingent upon cleaning up the area. The bottom line is that the developer is looking for an extension on Phase 1B. The Board is holding the extension due to incomplete work items.

Michael Harrington, Site Supervisor explained the grading and loam work will be done in a few days. The erosion and silt fence will be taken away in approximately 2-3 days. The retaining wall and lighting are complete.

The applicant's attorney explained that they cannot give a time frame for work completion since it is dependent upon sales. There are seven permits that are ready to be submitted to the town and five are active. There are twenty-one properties under agreement right now. There are three in the next phase. When the Cease and Desist is lifted the applicant can get started. It is anticipated that the paving will take place next year.

Public Questions/ Concerns:

The abutters stated the following concerns:

- Trucks going in and out of the site all the time leaving dirt everywhere.
- Asphalt waste is in the JRD stockpiled on the site.
- Their neighborhood has been ruined. This has gone on for 2 years.
- The only time the abutters get results is when the town makes the contractor do it.
- The JRD stormwater distribution boxes are open which makes it dangerous to the kids in the neighborhood. The abutters presented photos of the distribution boxes.

Michael Harrington, Site Supervisor explained the asphalt is a stock pile off to the side. He will take it to the recycle plant. There is currently no screening on the catch basin. The distribution boxes have 100 lb. steel plates on them. The kids are still moving them.

Vice Chairman Dunlea communicated that the essential infrastructure is complete. The Board can only hold the granting of the extension to keep the applicant in accordance with the terms. The Board agreed they need to be proactive, not reactive.

Site Supervisor agreed to the following:

- Putting a bucket of dirt over the distribution boxes to keep anyone from moving the cover.
- There is now a new superintendent on the job every day.
- Putting up a fence (abutters to call or email Zoning Agent Kupfer within a week with suggestions of mesh/no mesh on fence)
- Planting 4-5-foot arborvitaes trees alongside the fence.
- Installation of a sign with a complaint hotline phone number to allow residents to call to get a person on the line to report any problems.

Planner/Zoning Officer Kupfer explained the entire project must be done within 6 years. The Board must evaluate at each phase of the project.

Member Salisbury requested a site walk to evaluate Phase 1A, then re-convene while evaluating the basin, paving, and fence.

On a motion made by Vice Chairman Dunlea and seconded by Member Paturzo the Board voted unanimously to continue the hearing for Lakeview Estates to December 5, 2019 at 7:00 pm.

On a motion made by Vice Chairman Dunlea and seconded by Member Paturzo the Board voted unanimously to make a recommendation to the Planner/Zoning Officer

Kupfer and Building Commissioner to release the Cease and Desist. The Board will conduct a site visit to view the current conditions on site and will use this as an assessment for the extension recommendation. The Cease and Desist is conditional on DPW and Town Planner review of compaction report and the satisfaction of the cleanup of the debris. The hearing will be continued to December 5, 2019 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 Salisbury, James Dunlea, Artuto Paturzo, and Peter Gabrielle.

Chairman Wright opened the Continued Public Hearing for Burton Woods.

Planner/Zoning Officer Kupfer updated the Board on the following items:

- A draft decision has been written to outline all findings and determinations to date.
- The applicant still needs to go to Conservation Commission
- A new plan set arrived right before hearing. This will need to be reviewed to determine if the drainage is sufficient.
- The peer review will be completed within the next month.

Planner/Zoning Officer Kupfer will provide the Board with the response from the Peer Review. The plan sets are posted online for all to view.

Public Questions and Comments:

- Abutter Bill Bisonette asked the Board to consider that Franklin Planning Board did not approve an extension. He believes the applicant does not have access to Sunken Meadow Road. He would like it on record that there is no access per the previous judgment.
- Another abutter stated the density is very high. A development of 28 single family homes is too many units.

Boards Response:

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. The previous case was not a 40B Comprehensive Permit request.

Member Dunlea stated he feels the Board should establish up front if there is adequate access and not defer this to the Franklin Planning Board to render a decision on this matter.

On a motion made by Member Salisbury and seconded by Member Paturzo the Board voted unanimously to continue the hearing for Burton Woods to December 5, 2019 at 7:00 PM.

Special Permit Public Hearing: 36 Yvonne Road:

Applicant: Susan Thibeault
Special Permit: Animal Kennel

Chairman Wright opened the Public Hearing for 36 Yvonne Road.

Planning/Zoning Officer Kupfer read the Public Hearing notice.

Members Present:

- Brian Wright, Brian Salisbury, James Dunlea, Arturo Paturzo, and Peter Gabrielle

The applicants, Susan and Reginald Thibeault were in attendance. Ms. Thibeault explained that she has lived at 36 Yvonne Road for 35 years and has owned the property for 10 years. They have 2 dogs and 2 cats. She stated they did not know of about the law. Since they were informed about the law, they have screened in the porch and all cats have become indoor cats. There is a 6- foot fence with 2- foot lattice on top for the dogs. They rescue animals. If a Special Permit is granted, the applicant will not take in any more animals. The waste is raked, put into bags, placed into a metal trashcan and kept 20 feet in from their property line. Then put in the weekly trash. All animals are vaccinated.

Health Agent Bruce Wilson was in attendance. He explained that the Board of Health has received numerous complaints of the cats roaming the neighborhood. If there are less than 4 cats, then they can roam free. The complaints have mostly been about the cats using the neighborhood as a litter box. This special permit would allow some stipulations to keep the cats confined.

The applicants stated that no neighbors came to talk with them directly. The applicant has a full basement and a “catio” (screened porch) the cats can roam in. The applicant will provide the vaccination paperwork to the Health Agents and will allow for inspection.

Public Comments/Concerns:

There were many abutters in attendance to voice their concerns:

- The abutters communicated that they did contact the Board of Health and applicant.
- Safety for all residents from the cats.
- The noise from the abutters dogs when the cats go into their properties.
- The abundance of feces.

- This is a public nuisance.
- The abutters did present a signed petition against the permit being issued.

Planning /Zoning Office Kupfer explained that there is special permit criteria which the applicant needs to meet for an Animal Kennel. It is a non-commercial license.

Member Salisbury stated the Board considers each permit on a case by case situation. The applicant stated they would keep the cats indoors, would not get any more if the current ones passed away, agreed to supply vaccination records along with spay and neuter records.

Member Gabrielle questioned if Animal Control is involved to check on the upkeep of the animals.

Health Agent Wilson explained that cats are not under their jurisdiction to monitor. He could check up on the site if a permit was granted. The applicant agreed to that. The Board stated they could put specific conditions in place with a special permit.

Planning/Zoning Officer Kupfer and Health Agent Wilson suggested working with the applicant and abutter concerns and put together a draft decision to go over at the next meeting.

Mr. Thiebault is concerned as to where his pets would go if the permit were not granted. He requested a continuance to December 5, 2019 at 7:00 pm.

On a motion made by Member Paturo and seconded by Vice Chairman Dunlea the Board voted unanimously to continue the public hearing for 36 Yvonne Road to December 5, 2019 at 7:00 pm.

Minutes:

September 5, 2019- Regular Session:

On a motion made by Member Salisbury and seconded by Vice Chairman Dunlea the Board voted unanimously to accept the minutes from September 5, 2019.

October 3, 2019 –Executive Session:

On a motion made by Member Salisbury and seconded by Member Patruzo the Board voted unanimously to accept but not release the Executive Session minutes from October 3, 2019.

October 3, 2019 – Regular Session:

On a motion made by Member Paturo and seconded by Chairman Wright the Board voted unanimously to accept the minutes from October 3, 2019.

Planning/Zoning Officer Kupfer reminded everyone about the upcoming town meeting to be held on Wednesday November 13, 2019 and the Zoning Articles which are on the warrant.

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 9:45 PM.

Minutes Accepted on

January 2, 2020
(Date)

(Prepared by)

Laura Binaud

Brian Wright
Brian Wright

James Dunlea
James Dunlea

Arturo Patruzo
Arturo Patruzo

Brian Salisbury
Brian Salisbury

Peter Gabrielle
Peter Gabrielle