

TOWN OF STOW PLANNING BOARD

Minutes of the January 25, 2005, Planning Board Meeting.

Present: Planning Board Members: Bruce E. Fletcher, Donald G. McPherson, Malcolm S. FitzPatrick, Ernest E. Dodd and Laura Spear

Associate Member: Kathleen Willis (Voting Associate)

Planning Coordinator: Karen Kelleher

The Meeting was called to order at 7:05 PM.

PUBLIC INPUT – None

COMMITTEE REPORTS

Community Preservation Committee – Laura Spear reported that the Community Preservation Committee has not heard back from Jane Gumble, of DHCD, on approval of Stow's Affordable Housing Deed Restriction Program.

Lower Village Committee – Don McPherson reported that Karen Gray resigned from the committee. Karen Kelleher will post a vacancy notice. Don McPherson invited Planning Board Members to attend a Lower Village Committee meeting on February 2, 2004 to discuss the proposals received for a Traffic Planning Study. Malcolm feels that the Planning Board should discuss the proposals before meeting with the Lower Village Committee. Karen suggested that Planning Board Members first meet with the Lower Village Committee to hear their input. The Planning Board can have a follow-up discussion at one of their meetings.

Special Permit Rules and Regulations – Laura Spear reported that she and Ernie Dodd continue to work on the Special Permit Rules and Regulations. Because there is not enough time on the Board's regular scheduled meetings, they suggested that the Board consider holding one "working" meeting per month. Members agreed to meet on the 3rd Tuesday of each month to work on special projects such as review of Rules and Regulations and Bylaws. No appointments will be made for the working meetings.

PUBLIC HEARING CONTINUED – HILEY MEADOWS ESTATES (MICKY'S WAY)

At 7:30 PM, the Public Hearing Continuance to consider the Micky's Way Special Permit/Subdivision was called to order. Keith Murray presented revised (reduced scale) plans. He advised that a better survey plan will be submitted at a future date. Bruce Fletcher asked if it is possible, even though the sight distance meets ASSHTO standards, there might be a low spot somewhere before the furthest distance. Keith responded that there is a low spot, which will need to be regarded. Malcolm FitzPatrick questioned where the optimum point is for location of the roadway to improve sight distance. Keith Murray said, if it were moved to the north, it would encroach on the Hill.

Members discussed the 10% open space requirement. If the Cul-de-sac Road exceeds 500' in length, Section 7.8.2.2.d of the Subdivision Rules requires a minimum of ten percent of the land suitable for development (excluding wetlands) contained within the Subdivision to be dedicated for open space, parks or future public facilities and infrastructure. Section 7.10 of the

Subdivision Rules gives the Planning Board authority to require that the plan be modified to show a park or parks suitably located for playground or recreation purposes and for providing light and air and require that no building be erected upon such park or parks without its approval for a period of three (3) years. Malcolm suggested an easement along the wetlands for access to abutting properties. Keith Murray questioned what the benefit would be, noting that it does not abut Town Property. Malcolm said he would like to see an easement on the westerly side of the property, which could be used in the event that the abutting property is developed. He would also like to see an easement along the back of the property. Keith Murray said he doesn't see the potential link and feels it is restrictive to impose an easement on each development unless there is a master plan in place. Ernie Dodd said that wherever the easement would be located; it will be up against wetlands. He doesn't see the potential for a big development on abutting property. Keith Murray presented a legal opinion relative to the open space requirement in section 4.4 (Table of Dimensional Uses) of the Zoning Bylaw, which requires 10% open space on the lots. He also asked the Board to consider that this is a Special Permit and the Town will receive a donation for the sixth lot.

Malcolm questioned how usable the easement is for maintenance of the sedimentation pond. He also noted concern about elevations. Keith Murray said he provided a profile on Sheet 5 of 7. Keith Murray also reviewed the profile for the drainage easement, which will be loamed and seeded.

Laura Spear noted that good land development practice is sustainable development. Although this plan does not meet standards for sustainable development, it is what Stow's Bylaw allows. She is concerned by the fact that the Petitioner is not willing to give on pavement and minimize sight distance. She said this plan is completely against smart growth principles. Keith Murray asked if she would change her mind, if the sidewalk were eliminated. Laura responded that that would be a step in the right direction.

John Anderson said he wanted sidewalks because his nieces and nephews will be riding their bikes in this neighborhood. He now lives near a cemetery and people go 90 MPH past his house. He noted, at the Board's request that they reduced the road width to 18' and took out 2 pools because the Conservation Commission asked them to. He noted that the remaining pools might not be built, however, they were shown on the plan to cover the potential for a Wetlands Bylaw change. He also noted that he has to pay the Town funds for Affordable Housing for the 6th lot.

When Board members asked if he would consider a T-turn instead of a cul-de-sac turnaround, John Anderson said that he saw a T-turn off of Boon Road and feels that it is ugly. It causes traffic to turn-around in what appears to be a private driveway. He proposed the cul-de-sac turn-around because it creates a family atmosphere and a place for the kids to ride their bikes.

Keith Murray noted elimination of the pools will not make much difference in the drainage.

John Anderson agreed to remove the pool from Lot 6. Ernie Dodd said it really doesn't matter because the property owner can come in later for a building permit.

John Anderson reminded the Board that they talked about a cluster development in a pre-meeting and all agreed that a conventional plan for this site would work better.

Malcolm FitzPatrick said he thinks they could have a more compact plan with a PCD. John Anderson said they already have gone through that process with the Planning Board. Keith Murray said the 60% open space requirement for a PCD is difficult to meet.

John Anderson said they are willing to donate to the sidewalk fund in lieu of construction of sidewalks along the frontage.

Keith Murray said they looked into a swale between Lots 3 and 4, as Malcolm suggested and found that it doesn't work. Malcolm said he could design a deep pond. Keith Murray said, given the profiles, it would be difficult.

Don McPherson reminded him that the streetlight should be eliminated from the plan. He also noted that he would like to see curbing set back away from the edge of the road.

Bruce Fletcher said the area noted on Sheet 2 needs to be corrected.

Malcolm FitzPatrick questioned what is driving them to depress the roadway. He would rather see the roadway raised and no curbing to accommodate runoff. Keith Murray responded, the regulations require curbing and they need to direct flow. Malcolm suggested they request a waiver to eliminate curbing.

Laura Spear questioned if they checked with the Fire Chief about the cistern. Keith Murray said he left a message for the Chief. He also revised the plan to move the cistern close to the road to meet the Fire Department's regulations.

Bruce noted that a planting detail is required for the cul-de-sac, noting that the Tree Warden has a list of trees.

Don McPherson noted that a straight road is problematic and unnecessary.

Bruce Fletcher said this is a classic 70' style subdivision, which maximizes the use of the land.

Ernie Dodd moved to continue the hearing to February 8, 2005 at 7:30 PM. The Motion was seconded by Malcolm FitzPatrick and carried by a unanimous vote of 5 members present (Bruce Fletcher, Don McPherson, Ernie Dodd, Malcolm FitzPatrick and Laura Spear).

The Board agreed to get a legal opinion on the open space requirement.

SCHOOL BUILDING COMMITTEE

Greg Jones, representing the School Building Committee, met with the Board. He reported that the School Building Committee will have a recommendation on the Annual Town Meeting Warrant for at least one new school (for Pre-K to 2) and a renovation of Center School. In addition to the O'Grady property, the Committee is looking at the 13-acre Snow Property, which abuts Bose Corporation and the 130-acre Kane Property located off of Great Road and Gates Lane.

Greg noted that the last time when the Selectmen recommended the backland on the O'Grady property, the Planning Board spoke against it. There was opposition because it was in an agricultural use. He noted that the Snow property is large enough for a Pre-K to 2 School, but is also in agricultural use. Karen Kelleher noted that there was also a zoning issue with the

O'Grady Property. She understood that the backland is necessary to satisfy the open space requirement under the Active Adult Neighborhood Bylaw. There was some discussion of a bylaw amendment to allow municipal uses in the open space.

Bruce Fletcher stated that there needs to be some agreement on the Planning Board's role, noting the Board does not have a plan for schools. Laura Spear noted that Municipal Use was one of the four top priorities established at the Planning Summit and there was no real owner identified. The Board of Selectmen was going to look into assigning ownership. It was also noted that this issue may affect planning efforts for the west end of Stow and therefore, the Planning Board should be involved.

Ernie Dodd said he does not support a school on the O'Grady property or the Snow property because agricultural land should be preserved. He further stated, although he is not convinced the Center School site is not viable, the Kane property is a possibility. Greg Jones reported that the Center School site was studied for a 2-story school and it was determined that the site is not viable.

Don McPherson said although he doesn't necessarily support the idea of a new site, of the three sites they are looking at, he would propose focusing on the Kane Property because he supports maintaining agricultural lands and it would remove a large, buildable, residential site off the table.

Steve Mong noted that the Snow Parcel is currently being farmed and is located in the same area as the Tyler Property, which is farmed and the Moseley Property, which is in the process of establishing Agricultural Preservation Restriction. He also noted that the property is located in the Water Resource Protection District.

Donna Jacobs, Associate Planning Board Member, noted that the Planning Board has utilized the Site Plan Review process for Municipal projects and therefore the Board does have a role.

Malcolm FitzPatrick recommended that the Planning Board should set a list of criteria that the Board would look at, such as: good access to public ways; dual accessibility; preservation of agricultural uses; preservation of open space; and preservation of wetlands.

Don McPherson noted that the Snow Property abuts Residential and the Kane Property is out behind and away from existing homes and therefore, would be more compatible with the existing area.

Don also stated that the Planning Board has a strong desire to preserve agriculture in Town. Greg Jones questioned the cost to preserve agricultural uses. He noted that the Kane property would be more costly for the land and development.

Laura Spear suggested designating a Planning Board Member to be a liaison to the School Building Committee. She further noted that the liaison could be armed with a list of criteria established by the Planning Board.

Ernie Dodd moved to appoint Laura Spear as Liaison to the School Building Committee. The motion was seconded by Malcolm FitzPatrick. Laura said she wants to get through the project she and Ernie started in reviewing the Special Permit Rules and Regulations first and she is targeting March 22nd for a completion date. She would be happy to serve as the liaison, if the Board wants to back off on the Special Permit Regulations. Malcolm said he feels the

*Board should respond to the School Building Committee in some manner. Laura Spear also noted that, if Roger Kane has plans for a 40B along with the school site, the Planning Board should also be involved in that effort as well. Karen Kelleher agreed that the Board should be involved in the entire site planning. Laura Spear said she would be happy to work on that effort, once the Butternut Farm Special Permit is completed. Donna Jacobs noted that she and Greg just met with the Board of Selectmen, who agreed to establish a Housing Partnership, which will result in another item for the Board to be involved in. **The motion did not go to a vote.***

Malcolm FitzPatrick suggested looking at additional parcels and reminded the Board that the Town has eminent domain powers. Greg Jones noted the School Building Committee wrote letters to several property owners. He also noted they did not consider the Habitech property. Malcolm noted the Board is concerned about parcels on the west end of Stow and the development potential. Greg noted they also looked at the Quirk Property and determined that it was not a viable site. He noted the School Building Committee's criteria for a Pre-K through Grade 2 school site is 13 developable acres. The original criterion was 20 acres for a Pre-K through Grade 5 School.

Laura moved to have Don McPherson and Malcolm FitzPatrick 1) recommend a list of additional potential sites and 2) compile a list of pros and cons on the three sites under consideration. The Planning Board will review their recommendations and, if agreed upon, they will be forwarded to the School Building Committee. The motion carried by a vote of 4 in favor (Bruce Fletcher, Don McPherson, Laura Spear and Ernie Dodd) and one opposed (Malcolm FitzPatrick).

BLUEBIRD LANE DEFINITIVE SUBDIVISION

Members reviewed a Draft Certificate of Action for the Bluebird Lane Definitive Subdivision Plan. Malcolm is concerned about the risk of the property being developed between now and when the APR is in place. It was suggested that the Board hold off on endorsement of the Plan until the APR is approved and recorded. Karen Kelleher will talk to the Applicant.

Don McPherson moved to approve the Bluebird Lane Subdivision, as drafted and amended. The motion was seconded by Ernie Dodd and carried by a unanimous vote of five members present (Bruce Fletcher, Don McPherson, Malcolm FitzPatrick, Ernie Dodd and Laura Spear).

STREET ACCEPTANCE

Bruce Fletcher noted that Farm Road and Militia Circle are private ways, maintained by the Town because the developer defaulted on the performance guarantee. The subdivision was completed by the Highway Department with settlement funds received from the Performance Guarantee. Because the Town is currently maintaining these roads, it is the Planning Board's recommendation that they be accepted as Public Ways so that the Town can benefit from Chapter 90 funds for continued maintenance costs.

It was noted there may be some cost involved for Street Acceptance Plans and legal documents, which should be paid out of remaining funds, if any, from the Performance Guarantee.

Laura Spear moved to recommend that the Board of Selectmen consider acceptance of Farm Road and Militia Circle as public ways and to also advise that there may be some expense associated for legal documents, which should come out of the remaining bond monies, if any. The motion was seconded by Ernie Dodd and carried by a unanimous vote of five members present (Bruce Fletcher, Don McPherson, Malcolm FitzPatrick, Ernie Dodd and Laura Spear).

TAYLOR ROAD PCD PLAN

Members reviewed the Taylor Road PCD Plan Draft Decision. Malcolm FitzPatrick is concerned about runoff. He argued that the pipe will be close to the surface and suggested that they run the pipe up higher into the hill. Rich Williams of Hayes Engineering said grade of the drive is too close to the swale.

Malcolm FitzPatrick is concerned about drainage and erosion control during construction and suggested phasing construction. Rich Williams said there are two construction areas that cannot be phased because they need to excavate, fill and stabilize as soon as possible. An erosion control plan is in place. Malcolm is concerned about construction during a heavy storm event. He would like to see back-up erosion control measures across the Road.

Laura Spear moved to GRANT a Special Permit for the Taylor Road PCD, as drafted and amended. The motion was seconded by Malcolm Fitzpatrick. Malcolm said he would like to see an Erosion Control Plan with a time limit attached to it. The motion carried by a vote of four in favor (Bruce Fletcher, Don McPherson, Ernie Dodd and Laura Spear) and one opposed (Malcolm FitzPatrick). Malcolm stated he is opposed because there is no time limit on the Erosion Control Plan.

CHARTER REVIEW

Members discussed potential changes to the Charter.

- Laura Spear noted there has been discussion whether there should be one or two Town Meetings per year. The Annual for financial-related articles and a Special Town Meeting for Zoning and others - with no resolution. Currently, the Charter does not say what the focus of what should be. Karen suggested there should be some flexibility, depending on the subject matter and number of articles and suggested this be left as a policy issue for the Board of Selectmen.
- All agreed with Donna Jacob's recommendation that the Master Plan Committee be under the jurisdiction of the Planning Board, in accordance with State statute.
- There was some discussion about Donna Jacob's suggestion that there should be a separate Zoning Bylaw Review Committee. All feel that the Planning Board should have ownership of the Zoning Bylaw Review.
- Laura Spear questioned if the Charter Review Committee should discuss increasing the number of building inspectors, noting that the Town is faced with bigger issues that may need an additional person. She feels that maybe the current workload for the Inspector of Buildings and Zoning Enforcement Officer may be too much for one person. Bruce Fletcher noted that currently, the Building Inspector is also responsible for maintenance of all Town Buildings. Karen Kelleher suggested listing separate positions in the Charter (Inspector of Buildings, Zoning Enforcement Officer, Facilities Manager). The Board of Selectmen would still have the flexibility of filling the positions with one or more people.

- Laura Spear questioned what the “Development and Industrial Commission” is? Bruce Fletcher noted that it is a committee that was created years ago and was charged with promoting business in Town. He suggested that it could be an important function for the Town and suggested that it remain in the Charter.
- Kathleen Willis suggested re-instating term limits for both elected and appointed Boards. Others noted that there is value in peoples’ experience and it is difficult finding people willing to volunteer.
- Kathleen Willis suggested looking at the make up of the Zoning Board of Appeals in terms of Members and Associate Members and voting privileges. The current make-up of the ZBA is 5 Members and 5 Associate Members. Current policy allows an associate member to vote on issues on a regular basis and does not require that appointed members participate on a regular basis. The provision for Associate Members to be designated to sit on the Board in case of absence is not intended to mean to fill in for a regular Member so they are not required to be there.
- Malcolm FitzPatrick suggested the Charter should state the no elected official should be a member of the Zoning Board of Appeals.

Bruce Fletcher said he doesn’t feel it is appropriate for the Planning Board to make changes relative to other boards. Karen Kelleher suggested that each member forward their recommendation to the Charter Review Committee as individuals rather than as a Board.

The meeting adjourned at 11:00 PM.

Respectfully submitted,

Karen Kelleher
Planning Coordinator