

# **TOWN OF STOW PLANNING BOARD**

Minutes of the March 21, 2006, Planning Board Meeting.

Present: Planning Board Members: Bruce E. Fletcher, Malcolm S. FitzPatrick, Ernest E. Dodd and Kathleen Willis

Planning Coordinator: Karen Kelleher

The Meeting was called to order at 7:00 PM.

## **148-156 GREAT ROAD SPECIAL PERMIT DECISION (STOW HOUSE OF PIZZA)**

Malcolm reported that he reviewed the Plan for 148-156 Great Road and confirmed that the existing rough grading is not as shown on the proposed plan. He suggested adding language to the draft decision indicating that any site work that was initiated prior to issuance of the Special Permit shall be completed within a certain amount of time, whether or not a building permit is issued.

Members reviewed the Draft Decision and agreed to add the following new condition:  
"Any site work, other than building construction, begun after submission of the Petition, shall be finalized as shown on the Approved Plan within two years of issuance of this Special Permit."

***Malcolm FitzPatrick moved to approve the Special Permit Decision, as amended. The motion was seconded by Kathleen Willis and carried by a vote of four members present (Bruce Fletcher, Malcolm FitzPatrick, Ernie Dodd and Kathleen Willis).***

## **PUBLIC HEARING – ZONING BYLAW AMENDMENTS**

At 7:30 PM, the Public Hearing to consider proposed amendments to the Stow Zoning Bylaw, Sections 3.8.19 (Drainage), and Sections 8.6.1.2 and 8.6.1.3 (*Phasing of Growth*), was called to order.

Section 3.8.1.9 – Malcolm FitzPatrick suggested further amendments to Section 3.8.1.9 of the Bylaw by including the following language: "and in accordance with low impact development and stormwater management criteria, as stated in the Subdivision Rules and Regulations." Bruce Fletcher said it was his intent to deal with ground water infiltration issues so it will be more in line with DEP's Stormwater Policy and to address further issues at a later date. Kathleen Willis noted that Low Impact Development is not yet addressed in the Subdivision Rules. It was also noted that the Board advised the Board of Selectmen that only housekeeping items would be brought forth at this time, and the Selectmen may request that the proposal be postponed, if it is a significant amendment. Karen Kelleher suggested that low impact development and stormwater management criteria could be addressed through an amendment to the Subdivision Rules and Regulations now, and the Zoning Bylaw can be further amended at a Special Town Meeting. Ernie Dodd agreed that, if this is not a simple change, it may not make it on the Annual Town Meeting Warrant, and the Board can address these issues in the Subdivision Rules and Regulations. Malcolm FitzPatrick said, as an elected Board, the Planning Board has an equal right to have a warrant article on the Annual Town Meeting Warrant. Ernie Dodd said he agrees but doesn't want to fight with the Selectmen. Bruce Fletcher said that Malcolm's suggestions are more than housekeeping, and the Board can accomplish the same thing in the Rules and Regulations. Malcolm said he wants a commitment from the Board to get it into the Rules and Regulations. Bruce said he can commit to getting language into the Rules and

Regulations as soon as possible. Members agreed not to include the additional language proposed by Malcolm.

***Ernie Dodd moved to recommend that Town Meeting adopt the proposed amendment to Section 3.8.1.9 as amended:***

**3.8.1.9     *Drainage - When a Subdivision approval or a Site Plan approval or a Special Permit is required, drainage shall be designed so that the following conditions shall be met during and after construction and development:***

- 1.     *Pre-development surface water runoff rates and volumes shall not be increased;***
- 2.     *- This subsection deleted at the May 1, 2006 Annual Town Meeting -***
- 3.     *Pre-development erosion and sedimentation rates shall not be increased; and***
- 4.     *No building permit, special permit or subdivision approval shall be granted if these conditions cannot be met.***

***The motion was seconded by Kathleen Willis and carried by a vote of three in favor (Bruce Fletcher, Ernie Dodd and Kathleen Willis) and one opposed (Malcolm FitzPatrick).***

Sections 8.6.1.2 and 8.6.1.3 – Members reviewed the draft bylaw amendment to Sections 8.6.1.2 and 8.6.1.3 of the Zoning Bylaw and agreed to remove the comma after the word “land” in Section 8.6.1.2 and to include the words “of the Zoning Bylaw” at the end of Section 8.6.1.3.

***Ernie Dodd moved to recommend that Town meeting adopt the proposed amendments to Sections 8.6.1.2 and 8.6.1.3 as amended:***

**8.6.1.2     *DWELLING UNITs shall be considered as part of a single development if located either on a single parcel or contiguous parcels of land which have been in the same ownership at any time subsequent to the date of adoption of this Section.***

**8.6.1.3     *All newly authorized residential units for which individual or several building permits have been issued pursuant to The Massachusetts State Building Code, 780 CMR shall count toward the growth rate limit of 35 DWELLING UNITs defined in Section 8.6.2.1 of the Zoning Bylaw.***

***The motion was seconded by Kathleen Willis and carried by a unanimous vote of four members present (Bruce Fletcher, Malcolm FitzPatrick, Ernie Dodd and Kathleen Willis).***

#### **BED AND BREAKFAST HOME/ESTABLISHMENT SURVEY LETTER**

Members reviewed and approved a draft survey letter to Bed and Breakfast Home/Establishment owners.

#### **CINGULAR WIRELESS**

Members reviewed the revised draft Special Permit Decision for Cingular Wireless, as amended, based on the Planning Board Meeting of March 14, 2006 and comments from Town Counsel. Members agreed to the following changes to the draft decision:

Section 7.13.3 (Section 3.11.4.2.b of the Bylaw) – Town Counsel was not clear as to the intent of this section. Members agreed to the following language: “The Petitioner stated that it is not feasible to conceal the proposed antenna within the present structure.”

Section 7.21 (Section 3.11.9.2 of the Bylaw) – Members questioned the language provided by Town Counsel and agreed to the following language: “The Petition does not meet the requirement of Section 3.11.9.2 of the Bylaw, in that the Board concludes that the Petitioner did not adequately demonstrate that other facilities in the Town of Stow and/or abutting towns, in which it has legal or equitable interest, do not already provide, or do not have the potential to provide, wireless service by site adjustment. The Board interprets the phrase “site adjustment” to refer to the question of whether or not the Petitioner could reasonably be expected to alter an existing wireless service facility over which it has a legal or equitable interest to provide the desired coverage. As noted, the Petitioner has provided the Board with no evidence that it has made the necessary investigation or inquiry to satisfy this provision of the Zoning Bylaw.”

***Kathleen Willis moved to DENY the Request for Site Plan Approval for Wireless Service Facility, submitted by Cingular Wireless at 501 Gleasondale Road. The motion was seconded by Ernie Dodd and carried by a unanimous vote of four members present (Bruce Fletcher, Ernie Dodd, Malcolm Fitzpatrick and Kathleen Willis).***

***Ernie Dodd moved to approve the Special Permit Decision for Cingular Wireless as drafted and amended tonight. The motion was seconded by Kathleen Willis and carried by a unanimous vote of four members present (Bruce Fletcher, Ernie Dodd, Malcolm FitzPatrick and Kathleen Willis).***

#### **PETITIONS FOR STREET ACCEPTANCE**

##### **Farm Road and Militia Circle (Red Acre Estates Subdivision)**

Bruce Fletcher noted that he observed manholes that are starting to sink and that Farm Road has a number of breaks in the pavement. Bruce Fletcher explained that those issues could be due to age. Other than that, the roads seem to be in decent shape.

***Ernie Dodd moved to recommend that Town Meeting accept Farm Road and Militia Circle as Public Ways. The motion was seconded by Kathleen Willis and carried by a unanimous vote of four members (Bruce Fletcher, Ernie Dodd, Malcolm FitzPatrick and Kathleen Willis).***

##### **Trefry Lane**

Members reviewed the list of outstanding items at Trefry Lane. It was noted that the double rail fence is installed; the catch basin near the detention pond has quite a bit of silt in it; the detention basins are dry; and the wetlands look fine. Members discussed the sidewalk requirement. Karen Kelleher reported that the Board granted a waiver from the sidewalk requirement and accepted the applicants offer to construct a walkway along the West side of Boxboro Road on the Pond View Estates Property, and any funds not expended for the construction shall be contribute to the sidewalk fund. The Pond View Homeowners Association recently agreed to allow the existing pedestrian path to be paved. Board Members noted that it would be their preference to receive the Sidewalk Contribution rather than paving the Pond View Estates pathway. Karen Kelleher will advise the Developer of the Board's preference.

***Ernie Dodd moved to recommend that Town Meeting accept Trefry Lane as a Public Way, contingent upon all outstanding issues being addressed prior to Town Meeting. The motion was seconded by Kathleen Willis and carried by a unanimous vote of four members (Bruce Fletcher, Ernie Dodd, Malcolm FitzPatrick and Kathleen Willis).***

### Whispering Way

***Ernie Dodd moved to accept Whispering Way (from Station 0+48.16 to Station 9+85.83). The motion was seconded by Kathleen Willis and carried by a unanimous vote of four members (Bruce Fletcher, Ernie Dodd, Malcolm FitzPatrick and Kathleen Willis).***

### SCHOOL BUILDING TASK FORCE

***Malcolm FitzPatrick moved to appoint Ernie Dodd as the Planning Board's liaison to the School Building Task Force. The motion was seconded by Kathleen Willis. Ernie Dodd said he would like to hear the Board's position on school building needs. The motion carried by a unanimous vote of four members (Bruce Fletcher, Ernie Dodd, Malcolm FitzPatrick and Kathleen Willis).***

### HAMMERHEAD LOTS

Ernie Dodd said he feels hammerhead lots should be allowed by right. Malcolm disagrees. He suggests a sliding scale that varies with the amount of frontage. He feels that sight distance is an important factor that the Board should look at. Bruce Fletcher said the sight distance would have to be real bad in order to warrant a denial. He also noted that you could require a common driveway on contiguous hammerhead lots. Karen Kelleher noted that the Highway Department has the ability to review driveway cuts.

### GENERAL BYLAW

Members agreed to review the following sections of the General Bylaw and be prepared for discussion at the next scheduled Working Meeting. The General Bylaw Review Committee is looking for input prior to May 1, 2006:

- Article 5 – Acceptance and Repairs of Private Roads
- Article 6, Section 6 – Public Ways
- Article 9 – Wetlands Protection
- Article 6, Section 22 – Removal of Earth Material
- Article 12 – Regulations for Underground Storage Facilities
- Article 13 – Regulation for Hazardous Materials

### SUBDIVISION RULES

Members discussed potential amendments to the Subdivision Rules and Regulations: Section 7.5. There is a discrepancy in the March 9, 1999 amendment to Section 7.5 of the Subdivision Rules. Members agreed that the amended section should have been 7.5.12 rather than 7.5.2 as indicated in the notice.

#### Section 7.5.12

***Bruce Fletcher moved that the Board propose an amendment to the Subdivision Rules by replacing the language in Section 7.5.12 with the language adopted on March 9, 1999 referenced as Section 7.5.2. The motion was seconded by Ernie Dodd. Malcolm questioned the intent of the language and if the word "shall" should be replaced with the word "that". The motion carried by a unanimous vote of four members present (Bruce Fletcher, Ernie Dodd, Malcolm FitzPatrick and Kathleen Willis).***

#### Section 7.5.1 (Design and Layout)

Members agreed to propose an amendment to Section 7.5.1 to read as follows:

**“Design and Layout** - All streets, roads and ways in the subdivision shall be designed so that, in the opinion of the Board, they will provide for safe and adequate vehicular and pedestrian travel within the proposed subdivision and in coordination with adjacent streets and ways. To that end, the Board may require certain traffic studies to be performed to support the developer's proposed layout.”

Section 7.5.2 (Frontage)-

***Bruce Fletcher moved to replace the language in Section 7.5.2 (Frontage) with the language, adopted on March 9, 1999, referenced as Section 7.5.3. Members discussed the issue of frontage on a public or private way. Ernie Dodd feels that all should be considered as public ways because the property owners are paying taxes and could request abatement. Bruce Fletcher said he did some research on what abatement for road maintenance would be on an \$800,000.00 home and determined it would be 5 cents. Members agreed that this section needs further research. Bruce Fletcher withdrew his motion and agreed to provide alternate language.***

Section 7.5.3.3 (Improving Existing Streets)

Members agreed to change the word “insure” with the word “ensure”.

Section 7.5.5 (Alignment)

***Bruce Fletcher moved that the Board propose an amendment to delete Section 7.5.5. The motion was seconded by Ernie Dodd and carried by a unanimous vote of four members present (Bruce Fletcher, Ernie Dodd, Malcolm FitzPatrick and Kathleen Willis).***

Section 7.5.8 (Curvilinear Streets)

Members noted this section has proven to be problematic and agreed it is only an issue for high volume/high speed roads.

***Malcolm FitzPatrick moved that the Board propose an amendment to the Section 7.5.8 (Curvilinear Streets) to read as follows: “All proposed streets shall be curvilinear, reflecting the contour of the land.” The motion was seconded by Bruce Fletcher and carried by a unanimous vote of four members present (Bruce Fletcher, Ernie Dodd, Malcolm FitzPatrick and Kathleen Willis).***

Section 7.5.9 (Street Names)

***Bruce Fletcher moved that the Board propose an amendment to Section 7.5.9 by adding the following sentence at the end: “Preferably, street names should be taken from a list provided by the Board consisting of names of historical significance to the Town or the site.” The motion was seconded by Ernie Dodd and carried by a unanimous vote of four members present (Bruce Fletcher, Ernie Dodd, Malcolm FitzPatrick and Kathleen Willis).***

7.5.10 (Sight Distances)

***Bruce Fletcher moved that the Board propose an amendment to Section 7.5.10 to read as follows:***

***Sight Distances - Proposed streets and driveways shall be located so as to provide adequate sight distance in the opinion of the Board with respect to both horizontal and vertical alignment, as well as at intersections. Site distances shall meet requirements of AASHTO Geometric Design of Highways and Streets to determine adequate site distance including stopping sight distance, and intersection sight distance, at a minimum.***

***The motion was seconded by Ernie Dodd. Malcolm said the language “in the opinion of the Board” sounds contradictory. The motion carried by a vote of three in favor (Bruce Fletcher, Ernie Dodd, Kathleen Willis) and one abstention (Malcolm FitzPatrick).***

7.5.11 (Clear Sight Triangles)

***Bruce Fletcher moved that the Board propose an amendment to Section 7.5.11(Clear Sight Triangles) by adding the following sentence at the end: "Smaller sight triangles may be approved by the Board for Access, Sub Collector, and other lower order streets." The motion was seconded by Ernie Dodd and carried by a unanimous vote of four members present (Bruce Fletcher, Ernie Dodd, Malcolm FitzPatrick and Kathleen Willis).***

**7.7.1 (Rural Lane)**

***Bruce Fletcher moved that the Board propose an amendment to Section 7.7.1 (Rural Lanes) by increasing the number of lots served by a rural lane to 5. Bruce explained that five lots would be consistent with the inclusionary zoning bylaw. A six-lot subdivision, which would trigger the inclusionary zoning bylaw, is more expensive. This proposal is to provide incentive to reduce the number of lots and to make a smaller subdivision less expensive to build. Bruce said he is trying to get a bylaw that would result in less expensive housing addressing the market for people who are below the high-income market and above the affordable income market. Malcolm said he doesn't think the change will impact the price of a house. Bruce noted that the proposed change is also a matter of consistency. Malcolm said he agrees, and noted that is why we need a Planned Community Development Bylaw. The motion carried by a vote of two in favor (Bruce Fletcher and Ernie Dodd) one opposed (Malcolm FitzPatrick) and one abstention (Kathleen Willis).***

**ADJOURNMENT**

The meeting adjourned at 10:30 PM

Respectfully submitted,

Karen Kelleher  
Planning Coordinator