

TOWN OF STOW PLANNING BOARD

Minutes of the April 25, 2006, Planning Board Meeting.

Present: Planning Board Members: Bruce E. Fletcher, Ernest E. Dodd, Laura Spear and Kathleen Willis

Planning Coordinator: Karen Kelleher

The Meeting was called to order at 9:00 AM.

ARBOR GLEN AAN and EROSION CONTROL SPECIAL PERMIT DECISION

Members discussed the draft decision for the Arbor Glenn AAN and Erosion Control Special Permit.

Access for handicapped persons – Members discussed the requirement that the units be handicap adaptable. Ted Gowdy said that typically the standard that applies to Multi-Family Dwellings is the Fair Housing Accessibility Standards, which provides for wider hallway and doorway widths. He explained that ADA requirements are stricter. Fair Housing Design Guidelines can be found on the HUD website. Members agreed to the condition: “All units shall be compliant with Fair Housing Accessibility standards.”

Limitation to two bedroom units – Members discussed the requirement that all dwelling units shall be limited to two bedrooms each. Kathleen Willis said she sees the possibility for a live-in caretaker and hates to make that use unavailable. Laura Spear said she is concerned about opening up the opportunity for children to live there. Members agreed to require that: “All dwelling units shall be limited to two bedrooms each.”

Fences - Members discussed the proposed condition, which prohibits plastic fences. Ted Gowdy said they propose a white plastic vinyl split rail fence at the entry way and across the back, noting his objective is to minimize maintenance. The posts are solid wrapped vinyl. The rails are typically hollow.

Malcolm FitzPatrick moved that the Decision include a condition that: “No plastic fences, except for the proposed post and rail fences, as shown on the Plan, shall be installed on the premises.” The motion was seconded by Ernie Dodd and carried by a vote of three in favor (Malcolm FitzPatrick, Ernie Dodd and Kathleen Willis) and two abstentions (Laura Spear and Bruce Fletcher).

Affordable Units –

Members agreed that the 5% Middle Income Unit requirement should be rounded up.

Malcolm FitzPatrick feels that all of the affordable units should be built on-site. Ernie and Laura said they thought the Board already agreed to the Petitioner’s proposal to construct 4 of the affordable units on-site and make a cash payment for the remaining three.

Malcolm FitzPatrick moved that the Decision include a condition that all affordable units shall be constructed on-site. The motion was seconded by Kathleen Willis. Kathleen Willis said she originally felt the same way as Malcolm. However, the bylaw provides flexibility and the Board made good faith efforts in negotiating for other items and agreed to the Petitioner’s proposal. Malcolm said it will end up costing the Town to build affordable housing if

we accept a cash payment in lieu of constructing units on-site. Malcolm FitzPatrick said the Town should get what we can, noting that 10% will not downgrade the project. He also noted the Town should have a say in which units are designated as affordable.

Bruce Fletcher noted the Town is making progress, incrementally on affordable housing, noting the Town now has a Housing Partnership and the more money we have available, the better chance the Town can provide an affordable development. Malcolm FitzPatrick said the Town will always have Community Preservation Act (CPA) funds and should be concerned about diversity in housing. Bruce noted that the affordable units should not be the same: the intent should be to provide diversity.

Ernie Dodd said he would prefer all 7 seven units be built on-site but feels 4 is acceptable. He thinks they will have trouble selling the affordable units. Ernie also noted that, if all the units have to be the same, it will make the market rate units more expensive. Laura Spear said she agrees with Ernie Dodd, noting they are having trouble selling the affordable units at the Esplanade in Hudson.

Laura Spear also noted that the Bylaw provides the option to construct the units or make a cash payment. Malcolm FitzPatrick said he sees it as the Board's option rather than the developer's option. Laura Spear said she thinks that the plan to build some and make a cash donation on some is a good compromise. She also noted that this would only increase available affordable units for a certain age group, and a cash payment can be used to provide for all age groups. Kathleen said she feels it is important that affordable units will be located throughout town and the cash payment will give that flexibility.

The motion failed by a vote of 1 in favor (Malcolm FitzPatrick) and 4 opposed (Bruce Fletcher, Ernie Dodd, Laura Spear and Kathleen Willis).

Members agreed that the cash payment shall be made in increments:

- One third before issuance of the first building permit
- One third before issuance of the 23rd building permit
- One third before issuance of the 45th building permit

Ernie Dodd said the market rate units should be local preference.

Garbage Grinders – Malcolm FitzPatrick said the permit should prohibit garbage grinders in accordance with Board of Health regulations.

Open Space - It was agreed that the Decision should refer to the Order of Conditions issued by the Conservation Commission.

Malcolm FitzPatrick moved to require a Conservation Restriction to the Stow Conservation Trust on Open Space Areas A and B. Ted Gowdy said he is not sure how a restriction would affect their ability to lease the land to the Farmer. Malcolm said it could be written into the Conservation Restriction. Bruce Fletcher noted that the Conservation Commission has restrictions in their Order of Conditions and adding another layer could complicate things, especially if it could be accomplished through deed restrictions. He said he doesn't see the need for a conservation restriction when the Conservation Commission will own the land.

Laura Spear said it is standard practice for the Conservation Commission to require conservation restrictions on property they own. Kathleen Willis noted that the Board received a

*letter from the Stow Conservation Trust, which talks about a conservation restriction. **The motion carried by a vote of three in favor (Malcolm FitzPatrick, Laura Spear and Kathleen Willis) and 2 opposed (Bruce Fletcher and Ernie Dodd).***

Malcolm FitzPatrick moved to require that the septic system area be placed in the open space area with an easement for the reserve area. Karen Kelleher said she doesn't think the Conservation Commission will want the septic system on land to be conveyed to them. Laura Spear agreed. Malcolm FitzPatrick said the whole area was originally going to be for agricultural use and has been shrunk down twice, once for the septic system and once for the units. Ernie Dodd noted that the whole area is not being farmed. Malcolm FitzPatrick said it's not being farmed because the farmer knew the property was for sale. Malcolm said he wants to make the area available to the farmer. Ernie Dodd said the farmer can negotiate with the Home Owners Association to use the reserve area.

It was noted that the trail between Easement A and Easement B should connect.

There was no second to Malcolm FitzPatrick's motion.

Roads/Sidewalks – Members noted concern about two-way traffic on an 18' wide road. Malcolm FitzPatrick noted that he is not convinced that the traffic will be as minimal as people think. He thinks it is significant enough to warrant the need for sidewalks and/or bike paths.

Bruce Fletcher said he thinks that one-way traffic would be a detriment to a community village feel. Ernie, Laura, Kathleen and Bruce all feel that the road should serve 2-way traffic in order to promote a village atmosphere.

Ernie Dodd moved to require a 25-foot wide sidewalk easement for a meandering pedestrian/bike pathway along Hudson Road and behind the stonewall, where the proposed AAN has frontage. Said easement shall incorporate as much of the well access road as feasible. The motion was seconded by Kathleen Willis and carried by a unanimous vote of five members present (Bruce Fletcher, Ernie Dodd, Malcolm FitzPatrick, Laura Spear and Kathleen Willis).

Ernie Dodd moved to accept a contribution to the sidewalk fund for 1,354' of frontage at \$30.00 per foot (\$40,620.00). Alternatively the required sidewalk shall be constructed along the frontage and the internal roadway. Ted Gowdy requested that the Board consider the requested waiver in light of the fact that they are required to install sprinklers at a considerable cost. Bruce Fletcher said he recollects that the Board would require one or the other. Ernie Dodd also noted that the Board agreed to waive sidewalks within the development in order to reduce road width. Laura Spear said she doesn't think sidewalks are necessary and is happy to accept a contribution for the frontage in lieu of construction of internal sidewalks and sidewalks along the frontage. ***The Motion was seconded by Laura Spear.*** Laura Spear said she would accept a contribution for a piece of the sidewalk rather than requiring all of the sidewalks being constructed. Ernie Dodd noted that the Rules and Regulations do require internal sidewalks, but a waiver from the requirement will cut down impervious surfaces, which is better for stormwater management. Ernie Dodd noted that sprinklers are a separate issue. Kathleen Willis said that in the past, the Board discussed the fact that sidewalks on the other side of the street would make more sense. Malcolm FitzPatrick said the drainage calculations would need to be revised, if the Board agrees to the waiver. He also noted that the sidewalk should be defined in an easement. He feels that the Board should grant a waiver for the internal sidewalks and require sidewalks along the frontage where there will be minimal impact. ***Ernie Dodd withdrew his motion.***

Ted Gowdy said they will offer a contribution to the sidewalk fund, if the Board is willing to waive construction.

Ernie Dodd moved to accept the Petitioner's offer of a \$20,000.00 contribution to the sidewalk fund and to require a pathway easement in Easement Area A. The motion was seconded by Kathleen Willis and carried by a unanimous vote of five members present (Bruce Fletcher, Ernie Dodd, Malcolm FitzPatrick, Laura Spear and Kathleen Willis).

Laura Spear moved to:

- **Grant the requested waiver from the requirement to construct a sidewalk along one side of the proposed AAN roadways**
- **If the Petitioner makes the donation of \$20,000.00 to the sidewalk fund, the Board GRANTS the requested waiver. Otherwise, the Board DENIES the waiver, and the Petitioner shall construct a meandering path within the easement along Hudson Road.**
- **Require all pedestrian trails in Open Space Area A and Open Space Area B and the pedestrian trail on the western side of the site that connects Open Space Area A and Open Space Area B shall be available for public access.**

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

Ernie Dodd moved to require that all pedestrian trails in Open Space Area A and Open Space Area B and the pedestrian trail on the western side of the site that connects Open Space Area A and Open Space Area B shall be available for public access. The motion was seconded by Kathleen Willis and carried by a unanimous vote of five members present (Bruce Fletcher, Ernie Dodd, Malcolm FitzPatrick, Laura Spear and Kathleen Willis).

Ernie Dodd said he would like to see a trail connection to the Villages at Stow and asked the Petitioner if they would object to the Board talking to the Developer of Villages at Stow. Laura Spear said that the connection should not interfere with the agricultural use. Ted Gowdy said they have no objection to the Board talking to the developer of Villages at Stow.

Street Trees –

Members agreed to grant a waiver from the requirements of Section 8.9.2 of the Subdivision Rules to allow street trees of 2.5" – 3" caliper, as measured 6" above ground level, in accordance with the American Nursery and Landscape Association standards in lieu of 2.5" measured 4' above ground level. Bruce noted that smaller trees grow faster and that there is a conflict in the Subdivision Rules.

Parking

Malcolm FitzPatrick moved to include a condition to prohibit on-street parking and to require parking in garages. Kathleen Willis asked if the Home Owners Association documents will restrict on-street parking and if they will require parking in the the garage. Ted Gowdy said the master deed typically restricts on-street parking. **There was no second to Malcolm's motion.**

Operations and Maintenance Plan

Malcolm FitzPatrick moved to require that the Master Deed shall include notification that the Homeowners Association shall be responsible for the Operations and Maintenance Plan for Stormwater Controls. The motion was seconded by Ernie Dodd and carried by a

unanimous vote of five members present (Bruce Fletcher, Ernie Dodd, Malcolm FitzPatrick, Laura Spear and Kathleen Willis).

Laura Spear moved to:

- **Grant the request for waiver from the requirements of Section 3.25.2 of the Rules to restrict the hauling of earth materials to the hours of 7:00 a.m. to 5:00 p.m. in lieu of 9:00 a.m. to 4:00 p.m**
- **To require that exterior construction activity shall take place only between the hours of 7:00 A.M. and 5:00 P.M., Monday through Friday, and 8:00 AM to 12:00 PM Saturdays, unless specific approval is granted by the Board and**
- **To require that the Petitioner shall post allowable hours onsite.**

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

Community Center

Members discussed whether or not the Applicant should be required to provide a community center. Ernie Dodd said he feels that it is an issue the Town needs to address. Malcolm noted there is no better place than on a site with 66 age-restricted units. Kathleen Willis said they could provide outside community spaces such as garden areas.

Malcolm FitzPatrick moved to require a community gathering space. Ted Gowdy noted, that in the past, they have constructed community center buildings and found that they are not used and it becomes a burden to maintain. **There was no second to Malcolm's motion.**

Performance Guarantee

Ernie Dodd moved to require that:

Prior to issuance of the first building permit (excluding the model home building), the Petitioner shall post a surety bond for the completion of the site grading, drainage and road work. The value of the bond shall be equal to 115% of the cost of the remainder of the grading, drainage and roadwork, as determined by the Board. Prior to the release of the final two occupancy permits, the Petitioner shall replace the surety bond with a cash bond equal to 150% of the cost of the remainder of the grading, drainage and road work, as estimated by the Petitioner and verified by the Board. The cash bond shall be returned to the Petitioner upon verification that the final installation is in conformance with the approved Plan.

The motion was seconded by Kathleen Willis. Malcolm FitzPatrick said he doesn't think holding back the last two occupancy permits is enough and suggested changing it to the last two buildings. The motion carried by a unanimous vote of four members present (Bruce Fletcher, Ernie Dodd, Malcolm FitzPatrick and Kathleen Willis). (Laura Spear was not present.)

Modification

Malcolm moved to include a condition that "Any change which occurs after transfer by the Developer to a third party, in the sole opinion of the Planning Board, that would alter the character of the proposed AAN, including, but not limited to, an increase in number of total DWELLING UNITS within the AAN, an increase in the number of parking spaces, a decrease or cessation of any recreation amenities or similar use, any internal or external structural change or alteration, shall require approval of the Board." 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).

Deed Restrictions

Members agreed to a condition that the Master Deed and all Deed Restriction documents shall be updated, resubmitted and approved by the Board for compliance with this permit.

NPDES Permit

Members agreed to a condition that the Petitioner shall provide a copy of the NPDES submission and any update to the Board.

Pets

Ernie Dodd recommended a restriction on the size of pets. Members agreed that such a restriction should be up to the Homeowners Association.

Additional Conditions

Malcolm FitzPatrick suggested the following issues also be addressed in the Decision:

Signage control

Prohibit earth removal from the site

Prohibition of uses allowed in the underlying district

Enforcement of the Site Plan

Lien for non-payment of taxes

Prohibit home occupations

The meeting adjourned at 1:30 PM

Respectfully submitted,

Karen Kelleher
Planning Coordinator