

TOWN OF STOW PLANNING BOARD

Minutes of the February 28, 2007, Planning Board Meeting.

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

Associate Member: Bruce E. Fletcher (Voting Associate)

Planning Coordinator: Karen Kelleher

The Meeting was called to order at 11:00 AM.

TOWN MEETING

Members discussed whether they will be ready to present all of the proposed zoning bylaw amendments at the Annual Town Meeting and invited Linda Hathaway, Town Clerk, to join the meeting to discuss how soon it would be possible to hold a Special Town Meeting.

Ernie Dodd reported that he spoke with the Chairman of the Board of Selectmen about having the Zoning Articles at the end of the warrant of the Annual Town Meeting. He and Karen Kelleher also reported that the Moderator is opposed to zoning articles on the Annual Town Meeting Warrant. Ernie feels that some of the proposed amendments are important enough that they should not be held for a Special Town Meeting.

Linda Hathaway, Town Clerk, explained the posting requirements for a Special Town Meeting. The warrant must be posted 10 days prior to the Town Meeting and Voter Registration must be held 10 days prior to the Town Meeting. If the Town Meeting is on a Monday, more time is needed to meet the posting requirement, because the Library is not open on Mondays. Linda Hathaway also questioned if the Board has sufficient time for public relations to gain support for the proposed articles. As an example, she noted that the Board consulted with the Agricultural Commission on the proposed sign bylaw changes, but not the business owners.

Kathleen asked about the cost to hold a Special Town Meeting, noting it would be more cost saving if zoning was part of the Annual Town Meeting. Linda Hathaway thought it would cost approximately \$5,000.00 to cover printing and mailing the warrant, election workers, police detail, etc.

Laura Spear said it might be worth the cost of a Special Town Meeting, depending on the number of articles. If the Board were talking about only 4 or 5 articles, it would make more sense to tack it on to the end of Annual Town Meeting. She noted that the Lower Village Mixed Use Overlay District is a big change and if the Board waits until the Special Town Meeting, the Gleasondale Village Mixed Use Overlay District Bylaw might be ready.

It was suggested that the Planning Board ask the Board of Selectmen to commit to a Special Town Meeting.

PROPOSED ZONING BYLAW AMENDMENTS

Members then reviewed the draft Zoning Bylaw Amendments, dated February 22, 2007 and agreed to the following changes:

Underline = addition **~~Strike through~~** = Delete

SECTION 1 – DEFINITIONS:

(ACCESSORY APARTMENT)

- 1.3.2.2 A second DWELLING UNIT located within a separate structure, such as a barn, garage or shed that **was in existence on or before May 6, 2091 and** is clearly subordinate to the principal DWELLING UNIT.
- 1.3.24 FLOOR AREA, GROSS - The sum of the horizontal areas of the several floors of a BUILDING, **including basements,** measured from the exterior face of exterior walls, or from the centerline of a common wall, but not including any space where the floor-to-ceiling height is less than six feet. **Board to further discuss – Compare to Building Code.**
- 1.3.40 NON-CONFORMING USES, STRUCTURES and LOTS - A NON-CONFORMING USE, STRUCTURE or LOT shall be **as** defined in Chapter 40A, Section 6 of the General Laws.
- 1.3.42 OPEN SPACE – **The purpose of OPEN SPACE is to facilitate groundwater infiltration and foster the feeling of outdoors.** An area of natural or landscaped vegetated growth. This may include within said area recreation areas, playing fields, benches, trails, footpaths, bodies of water and certain other surfaces such as gravel, cobblestone, brick, pavers or other similar materials when used to construct permeable walkways, **wells, drainage and waste disposal systems, and municipal wells and waste disposal systems** as may be approved by the Special Permit Authority or Site Plan Approval Authority. **(Ernie Dodd to draft revised language)**
- 1.3.48 RECHARGE AREA - An area in which water **infiltrates and is absorbed that** eventually reaches the zone of saturation in one or more AQUIFERS.
- 1.3.64 YARD - An **OPEN SPACE open area** other than an enclosed court, on the same LOT with a BUILDING or group of BUILDINGS, which OPEN SPACE lies between the BUILDING or group of BUILDINGS ~~and a LOT line, and is not occupied or obstructed from the ground upward by a BUILDING or a STRUCTURE.~~

SECTION 3 – USE REGULATIONS

3.0 All uses not specifically named in the following table and further described in the text of the Bylaw are prohibited.

3.0.1 Table of Principal Uses – SUMMARY MOVED FROM SECTION 3.10

Amend following Section of new 3.0 (Formerly 3.10.1.1)

3.0.1.1 Provisions Applicable to Table of Principal Uses - No land, STRUCTURE or BUILDING shall be used except for the purposes permitted in the district as set forth in this Bylaw and further indicated on the Table of Principal Uses. Each use set forth in the principal use column shall be subject to any conditions or limitations that are set forth in this Bylaw and in the Table of Principal Uses. ~~If there is a discrepancy between the Table of Principal Uses and the text of this Bylaw, the provisions set forth in the text of this Bylaw shall take precedent.~~

Move table from Section 3.10

Amend following sections of table:

Table of Principal Uses

All Principal Uses listed in this Table are subject to provisions in corresponding Sections 3.1, Section 5.1 and Section 5.2: 3 and 5 and other sections that are subject to the provisions of bylaw.

Principal Uses	Residential	Business	Compact Business	Industrial	Commercial	Recreation Conservation	FloodPlain Wetlands	Refuse Disposal	Site Plan Approval
<u>General Uses</u>									
Agriculture	Y (4) <u>(5)</u>	NY <u>(5)</u>	Y <u>(5)</u>	Y <u>(5)</u>	Y <u>(5)</u>	Y <u>(5)</u>	Y <u>(5)</u>	Y <u>(5)</u>	NR <u>(5)</u>
Conservation	Y	Y (5)	Y	Y	Y	Y	Y	Y	NR
Recreation	SPAP (4)	NSPP	NSPP	SPP	NSPP	SPP	SPAP	SPP	(3)
<u>Residential Uses</u>									
Single Family DWELLING	Y (4) (11)	N	Y -SPP(11)	N	N	N	N	N	(3)

Single Family DWELLING with ACCESSORY APARTMENT	SPP (4) (7) (11)	N	SPP (7) (11) <u>Y(4)</u>	N	N	N	N	N	(3) <u>NR</u>
Duplex DWELLINGS	SPP (4) (11)	N	N	N	N	N	N	N	(3)
Multi-Family DWELLING	SPP(4) (11)	N	N	N	N	N	N	N	(3)
Conversion to 2-Family DWELLING	SPA P(4)	N	N	N	N	N	N	N	(3)

Karen Kelleher will check with Town Counsel on proposed changes to Institutional Uses (Public Service Corporation, Religious, Educational Non-Profit).

Amend footnote:

Prohibited Uses - All uses not specifically named in ~~the~~ this table and further described in the text of the bylaw are prohibited.

3.1.1.2 Commercial agriculture, aquaculture, silviculture, horticulture, floriculture, or viticulture, all as described in Chapter 40A, Section 3, as amended, Farming and horticulture, including raising, harvesting and storing crops, truck gardening, grazing, dairying, and poultry and livestock raising, but not including piggeries or the raising of animals for fur;

~~3.1.1.3 Orchards, nurseries, forests and tree farms, provided that any logging equipment or other equipment necessary for these uses is normally stored in an enclosure, or is not visible from district or property boundaries;~~

3.1.1.4 Non-commercial recreation, including cross country ski areas, and municipal, county or state parks and boat landings, but not an amusement park; and

3.1.1.5 Display and sale or offering for sale, of farm ~~produce~~ products from uses ~~permitted~~ allowed in paragraphs ~~b. and c~~ 3.1.1.2 and 3.1.1.3 above, and products normally sold therewith, provided that:

~~1. At least 51% of gross annual sales is from produce raised by the owner, operator or lessee of the stand, and at least 90% of gross annual sales is from farm produce.~~

1. At least 25% of such products for sale, based on either gross sales dollars or volume, have been produced by the owner or lessee of the land on which the facility is located, or

At least 25 per cent of such products for sale, based on either gross annual sales or annual volume, have been produced by the owner or lessee of the land on which the facility is located, and

At least an additional 50 percent of such products for sale, based upon either gross annual sales or annual volume, have been produced in Massachusetts on land, other than that on which the facility is located, used for the primary purposes described in Section 3.1.1.2 above;

2. No stand for such sale is located within twenty-five (25) feet of the street sideline; and

3. Provision is made for off-street parking in accordance with the Parking Section of this Bylaw.

3.2.1.8 ACCESSORY USES and BUILDINGS, including such normal ACCESSORY USES as ~~PRIVATE GARAGES~~ private garages, storage sheds, tennis courts, swimming pools, cabanas for swimming pools, gazebos, and STRUCTURES approved by Civil Defense Authorities and designed for use by the inhabitants, employees or customers of the property to which it is accessory, and used for shelter from natural disaster or war, and detached fireplaces, but not including the outdoor parking of trucks or buses;

3.2.1.10 CHILD CARE FACILITY, provided that the facility complies with the standards set forth in the Table of Dimensional Requirements and the following standards:

1. Minimum OPEN SPACE, including outdoor play areas of 35% of the LOT;

2. Maximum NET FLOOR AREA of 4,000 square feet.

- 3.2.3.13 Notwithstanding the requirements in Section 3.2.2.9, which shall remain in tact as written, uses not otherwise permitted in the Residential District, if such use preserves historic and/or culturally significant BUILDINGS and STRUCTURES, provided that the historic and/or cultural character of the site, and BUILDING or STRUCTURE, in the opinion of the Special Permit Granting Authority, is not ~~significantly~~ altered, and the Special Permit Granting Authority finds that such use, with any necessary mitigation measures, is in harmony with the character and uses permitted in the Residential District. ~~Dimensional setbacks may not be varied in any case where the Zoning Bylaw requires that a use may only be permitted by a special permit and, that the use proposed will be entitled to a special permit only if the proposed buildings are located no closer than 100 feet of a lot line.~~

- 3.4.1.6 ACCESSORY USES and BUILDINGS, including such normal ACCESSORY USES as ~~PRIVATE GARAGES~~ **garages**, storage sheds, tennis courts, swimming pools, cabanas for swimming pools, gazebos, and STRUCTURES approved by Civil Defense Authorities and designed for use by the inhabitants, employees or customers of the property to which it is accessory, and used for shelter from natural disaster or war, and detached fireplaces, but not including the outdoor parking of trucks or buses; and

- 3.4.2.7 Uses not otherwise permitted in the ~~Residential Compact Business District~~, if such use preserves historic and/or culturally significant BUILDINGS and STRUCTURES, provided that the historic and/or cultural character of the site, and BUILDING or STRUCTURE, in the opinion of the Special Permit Granting Authority, is not ~~significantly~~ altered, and the Special Permit Granting Authority finds that such use, with any necessary mitigation measures, is in harmony with the character and uses permitted in the Residential District. ~~Dimensional setbacks may not be varied in any case where the Zoning Bylaw requires that a use may only be permitted by a special permit and, that the use proposed will be entitled to a special permit only if the proposed buildings are located no closer than 100 feet of a lot line.~~

- 3.5.3.7 ~~Screened storage~~, ACCESSORY BUILDINGS and USES; ~~Deleted -- / - /07~~

- 3.5.3.12 Uses not otherwise permitted in the ~~Residential Commercial District~~, if such use preserves historic and/or culturally significant BUILDINGS and STRUCTURES, provided that the historic and/or cultural character of the

site, and BUILDING or STRUCTURE, in the opinion of the Special Permit Granting Authority, is not significantly altered, and the Special Permit Granting Authority finds that such use, with any necessary mitigation measures, is in harmony with the character and uses permitted in the Residential District. Dimensional setbacks may not be varied in any case where the Zoning Bylaw requires that a use may only be permitted by a special permit and, that the use proposed will be entitled to a special permit only if the proposed buildings are located no closer than 100 feet of a lot line.

3.6.1.3—~~Wireless Communication Facilities. Deleted 05/ /07~~

3.6.3.5 ~~Screened storage, ACCESSORY BUILDINGS and USES; Deleted ---/---/07~~

3.6.3.9 Uses not otherwise permitted in the Residential Industrial District, if such use preserves historic and/or culturally significant BUILDINGS and STRUCTURES, provided that the historic and/or cultural character of the site, and BUILDING or STRUCTURE, in the opinion of the Special Permit Granting Authority, is not significantly altered, and the Special Permit Granting Authority finds that such use, with any necessary mitigation measures, is in harmony with the character and uses permitted in the Residential District. Dimensional setbacks may not be varied in any case where the Zoning Bylaw requires that a use may only be permitted by a special permit and, that the use proposed will be entitled to a special permit only if the proposed buildings are located no closer than 100 feet of a lot line.

Section 3.8.1.5 - Insert commas throughout section

Exemptions

Low-output fixtures on normal-sized LOTS.	On a LOT that is one acre or greater in size, non-FULL CUTOFF fixtures having an INITIAL DESIGN LIGHT OUTPUT of less than 500 lumens may be installed but are subject to a 20 foot setback from the LOT line, as long as after installation there are 5 or fewer non-FULL CUTOFF fixtures. (For this rule, a conventional incandescent bulb of 40W or less shall be considered to have less than 500 lumens output.) (This is intended to allow a moderate amount of light from decorative fixtures that shine light in inappropriate places, equal to approximately that of 5 40W incandescent bulbs.)
Seasonal Holiday Lighting	Seasonal holiday lighting may be installed and illuminated, provided that it is illuminated for no more than 90 days in any 270 day period. (This allows nonconforming holiday lighting even if the property is not eligible for the nonconforming fixture exemption. Conforming holiday lighting is not restricted in any way.)

- 3.8.3.1 Exterior lighting shall conform with the requirements of Section 3.8.1.5, except that the use of exterior lighting by a commercial or business activity or operation during the period from one-half hour after sunset to one-half hour before sunrise shall not be permitted. This provision shall not preclude the use of emergency lighting required by a public agency in the performance of its duties, lighting of SIGNS in conformance with the general regulations included in Section 6.3.1, customary holiday lighting or low level illumination of entranceways, exits and driveways.

Signs shall not be illuminated unless the business is open to the general public and employees are present and ready to receive customers, and shall not be illuminated between 9 p.m. and 7 a.m. Any fixture with an INITIAL DESIGN LIGHT OUTPUT of more than 2,000 lumens shall not be considered low level

illumination. Any peak illuminance on the ground, a building or a sign, of more than 10 lux shall not be considered low level illumination.

3.8.4 Prohibited Uses - All uses not specifically named in the text of the bylaw are prohibited.

3.9.1 – insert comma:

3.9.1 A pre-existing NON-CONFORMING USE or STRUCTURE may continue. However, other than Wireless Service Facilities, which may not be altered or extended unless specifically allowed in Section 3.11 of the Bylaw, no lawful pre-existing NON-CONFORMING USES or STRUCTURES may be extended or altered except in conformance with Sections 3.9.6 and 3.9.7 below **and shall be subject to a Special Permit granted by the Zoning Board of Appeals.** All applications for extensions and/or alterations shall include a scaled floor plan of the STRUCTURE(S) in question, showing FLOOR AREA and ground coverage prior to and following the proposed changes in order to determine the degree to which the use ~~has~~ **is to be** expanded from its original size. All applications for such special permits shall include such information and plans as required for a special permit as required in Section 9.2. **All Applicants applications shall also be subject to Site Plan Approval granted by the Planning Board and** shall also comply with the following site planning standards for “NON-CONFORMING USES or STRUCTURES”:

Respectfully Submitted,

Karen Kelleher
Planning Coordinator