

TOWN OF STOW PLANNING BOARD

Minutes of the January 23, 2007, Planning Board Meeting.

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

Associate Member: Bruce E. Fletcher (Voting Associate)

Planning Coordinator: Karen Kelleher

The Meeting was called to order at 7:10 p.m.

ANR Plan, Maguire Lane

The Planning Board reviewed an ANR Plan for the Taranto property on Maguire Lane. The Board found that the plan does not reflect the most recent plan on record in this office. The ANR plan entitled "Plan of Land in Stow MA", prepared by H & R Survey, dated October 4, 1993 and approved by the Planning Board on October 6, 1993 created Lot 7B, which is not reflected on the above referenced plan. Lot 7B, created by the October 4, 1993 plan, includes the following notes:

Lot 7B is not a separate building lot.

Lot 7B is to be deeded to the Stow Conservation Commission and shall remain as open space in perpetuity.

Karen Kelleher reported that Lot 7B, created by the October 4, 1993 plan, was in response to a requirement of the Order of Conditions, File No. 299-178 issued on August 17, 1993, by the Stow Conservation Commission. This order of conditions includes the following finding:

There is an existing upland on the lot that could be used to locate the house and not require a wetlands crossing. However, there is a benefit to the Town by the commitment of the applicant to deed to the Town of Stow a strip of land to access Elizabeth Brook. This strip of land will allow green space access to Elizabeth Brook to the public.

The Board is unable to determine compliance with the Zoning Bylaw, Sections 4.3.2.1, 4.3.2.3 and 4.3.2.4:

4.3.2.1 - LOT area - LOT area shall be determined by calculating the area within a LOT including any area within the LOT over which easements have been granted, provided that no area within a STREET shall be included in determining minimum LOT area. Water area beyond ten (10) feet from the shore lines shall not be included in determining the minimum LOT area. Furthermore, in all districts, at least 50% of the minimum required LOT area shall be land which is not in a wetlands or Flood Plain/Wetlands District.

4.3.2.3 - Area Suitable for BUILDINGS - Except in the case of hammerhead LOTS as permitted in a Residential District, each LOT in a Residential District shall have sufficient area suitable for BUILDINGS. The area suitable for BUILDINGS shall be considered sufficient if: (a) a circle of 150 feet in diameter, or, (b) a rectangle with an area of 20,000 square feet and a minimum side of 80 feet can be drawn on the LOT plan without overlapping any LOT line or any wetlands or Flood Plain/Wetlands District.

4.3.2.4 - LOT Width - In the Residential District, each LOT shall have a minimum width of at least 100 feet between the STREET LINE and the area suitable for BUILDINGS. A LOT meets the minimum width requirement if a 100-foot diameter circle can move on the LOT plan from the STREET LINE to the area suitable for BUILDINGS without overlapping any side or rear LOT line or any Flood Plain/Wetlands District line.

Len Golder moved to reject the Plan for the following reasons:

1. The Plan does not show Parcel 7B, to be deeded to the Stow Conservation Commission, created by Plan entitled "Plan of Land in Stow, MA", dated October 4, 1993, by H & R. Survey.
2. The Planning Board is unable to determine compliance with Section 4.3.2.1 of the Zoning Bylaw. The Plan should indicate compliance with this section of the bylaw for proposed Lots 7A and 7B by indicating at least 50% of the minimum required LOT area shall be land which is not in a wetlands or Flood Plain/Wetlands District.
3. The Planning Board is unable to determine compliance with Section 4.3.2.3 of the Zoning Bylaw. The Plan should indicate compliance with this section of the bylaw for proposed Lots 7A and 7B by depicting the area suitable for BUILDINGS. (A circle of 150 feet in diameter, or a rectangle with an area of 20,000 square feet and a minimum side of 80 feet can be drawn on the LOT plan without overlapping any LOT line or any wetlands or Flood Plain/Wetlands District.)
4. The Planning Board is unable to determine compliance with Section 4.3.2.4 of the Zoning Bylaw. The Plan should indicate compliance with this section of the bylaw for proposed Lots 7A and 7B by depicting a 100-foot diameter circle can move on the LOT plan from the STREET LINE to the area suitable for BUILDINGS without overlapping any side or rear LOT line or any Flood Plain/Wetlands District line.

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

COMMUNITY PLANNING ACT – 2

Members reviewed the Community Planning Act – 2 document (proposed comprehensive rewrite of Chapter 40A and 41) received from the Mass. Planner's List Serve and noted the following:

Section 1, Development Impact Fee – This proposed change provides a specific reference to development impact fees and establishes requirements and limitations to the use of this growth management technique. Land development projects which create impacts within a community may be required to pay fees to create or improve streets, sewers/water supplies, parks, police/fire facilities, affordable housing, schools, libraries and similar capital facilities. Affordable housing is exempt from impact fees.

Board members agreed that it is a good idea to establish the ability to impose a Development Impact Fee. Kathleen Willis noted that the State of California's Development Impact Fee is based on sq. ft. Malcolm FitzPatrick said the Development Impact Fee should be established by the Special Permit Granting Authority.

Section 2, Rate of Development – Members agree with the definition for Rate of Development.

Section 3, Construction and Purposes – Members noted that this section mentions Transfer of Development Rate and can't see how Stow could make Transfer of Development Rate work.

Section 7, Adoption or change of zoning ordinances or by-laws; procedure – This proposed amendment introduces a local option to reduce the statutory two-thirds majority vote requirement to pass zoning amendments. A two-thirds vote of the local legislative body is required to make this change. Members noted that they would be supportive of this proposed amendment, however, the Board would not recommend Stow adopt such a change.

Section 8, Adoption or change of zoning ordinances or by-laws; procedure - This proposed amendment strikes the words "provided, however, that such ordinance or amendment shall subsequently be forwarded by the city clerk to the office of the attorney general." Members do not support this amendment. They feel it is important that bylaw amendments are reviewed by the Attorney General.

8:15 PM – Laura Spear and Bruce Fletcher arrived at the meeting at this time

PUBLIC HEARING CONTINUED – RIDGEWOOD

At 8:15 PM, the Public Hearing continuance from January 9, 2007 to consider the Ridgewood Estates Active Adult Neighborhood and Erosion Control Special Permit was called to order.

Greg Roy of Ducharme and Dillis, representing the Petitioner, presented a memo to the Board, dated January 23, 2007, outlining stormwater management related design features. He also said they made an effort, as requested by the Board, to look at Low Impact Development features with road layout and building placement, as well as the stormwater system in areas where the topography lends itself. They are also working with the Conservation Commission to use the isolated area subject to flooding as part of the stormwater program, as opposed to the conventional extended detention basins that would result in further tree and vegetation loss. They are trying to preserve as much vegetation as possible. In some areas, the use of swales vs. storm drains would be less than desirable on this sight because of the loss of vegetation and aesthetics. The trade off might not be worth the effort to excavate a swale, which would require more earthwork.

They evaluated the site for additional LID features and found the following modifications would be possible:

- A reduction in impervious areas by reducing the road width from 20' to 18' in the areas of unit numbers 1-4, 14-18, and 19-23.
- Design additional runoff from units and yards to woodlands where feasible.
- Modify stormwater system west of West View Lane.
- Eliminate the proposed detention basin west of the cul-de-sac.

Bill Roop said they looked at a number of developments to get a feel of the 18' vs. 20' roadway. They feel 20' is important because they didn't provide guest parking lots. An 18' width would be tight to allow guest parking on the street. He noted that the first drive on the left and the secondary roads serving 4-5 units could be reduced to 18'. They feel the cul-de-sac should be 20'.

Bill Roop also noted they agreed to move unit 63 closer to the road to satisfy the abutter (Mangiafico).

Len Golder questioned, in response to the comments on a swale vs. pipe, if the runoff from a pipe would disturb the vegetation. Greg Roy said they were more concerned about the

construction stage. A swale would require more clearing and cause the loss of mature trees. He explained that a swale would intercept all of the water. A pipe is proposed to intercept roof runoff only. If properly designed and maintained properly, it should not create the loss of mature trees.

Harry Blackey said they propose a pipe so that the disturbance from the residences to mature trees (hundreds of feet) will not be an issue because the vegetation is higher. The difference between a 20' swale and an 8" pipe should not impact views significantly. Malcolm FitzPatrick said he supports a swale, noting that a pipe has to go deeper. Construction of a swale can be created in a narrower area and be worked around the vegetation. Any damage would be quickly re-seeded and the area would restock itself. It was noted that the pipe that will pick up roof drainage will help the neighbor who noted that he currently has surface water in his basement. Ernie Dodd noted that the pipe reduces existing runoff toward abutters and the swales will not. Ernie said he likes the use of swales better but in this instance, he feels a pipe will be better for the abutters.

Sue Sullivan, the Board's Consulting Engineer, noted concern about flexibility for velocity. Greg Roy said it is not that large and it would be a check dam swale to control velocity. It would be visually apparent and will need to be maintained. Ernie Dodd, Kathleen Willis and Len Golder all prefer a swale. Malcolm FitzPatrick said they might be making a mountain out of a molehill on this issue.

Malcolm FitzPatrick asked how the impervious surface in the loop road will be handled. Greg Roy reviewed the drainage plan for Malcolm. Malcolm Fitzpatrick suggested a swale along the loop road and questioned why the sheet flow was not directed to the back of the homes. Greg Roy responded that it is a water quality issue. Malcolm thinks there is enough overflow. Sue Sullivan said the problem is that the stormwater standards require treatment. DEP does not give guidance for overland flow and that is why they have to put it into the basins. She said the stormwater regulations don't give a way to quantify overland flow; therefore, the Conservation Commission can't approve it. She said, practically speaking, it will be treated but there is no way to quantify it for DEP. She doesn't disagree with Malcolm, but it is a performance standard that DEP requires. Harry Blackey agrees they are good concepts, but DEP's regulations have not caught up, and therefore, they don't have as much flexibility. Sue Sullivan said Low Impact Development Techniques in many areas of this site would be difficult because of the slopes. Ernie Dodd said he is satisfied with the approach to use Low Impact Development Techniques, where feasible. He understands it cannot be done throughout the site. He would like to see a swale along the back of the 4 units and accommodate the sheet flows by directing it into the wetlands. Greg Roy said he would look into Ernie's suggestion.

Laura Spear asked if there is anything that directs water to a natural area and away from the houses near the base of the road. She asked if there would be enough elevation to accommodate the overflow. Greg Roy said they may need something to control erosion on the slopes.

Kathleen Willis said she appreciates the effort to reduce the road width in some areas. The use of as much Low Impact Development Techniques is important but the Board also needs to rely on the engineer's expertise.

Malcolm FitzPatrick would like to see more common drives to reduce the pavement. He suggested using gravel on the side of a narrower road width. Harry Blackey noted that common drives would require more pavement and there is also the issue of different elevations between the houses. They did use common drives where the elevation between houses is similar. Malcolm asked that they think about pervious surface pavement in areas where

practical. Bill Roop said they have tried the use of pervious surfaces in other developments and found it to be problematic in New England. Ernie Dodd suggested using pervious pavement for the driveways. Sue Sullivan noted that because this development is for older residents, the driveways and walkways would most likely be salted

Laura Spear said she has not seen the developable site area on the plan, as defined in the Bylaw. Harry Blackey said they did calculate the Developable Site Area and will provide it to the Board.

Len Golder said he is comfortable with the proposed 18' width roadway in areas where practical. Bruce Fletcher agrees.

Sue Sullivan said the only way to deal with Low Impact Development with DEP is through political pressure.

Bill Roop said he checked on the existing easement and found it is a utility only easement.

Harry Blackey noted there is a disconnect between the AAN regulations and the Subdivision Regulations as to the level of the plan details. The AAN Regulations do not require construction level drawings. Because this is not a subdivision and is a discretionary Special Permit, he feels it is premature to have all of the construction drawings. He would like the Board to take action as to the level of engineering and then condition the permit for a detailed construction plan. Malcolm FitzPatrick said, if the Board does, we would need to have an idea of which waivers would be required. Sue Sullivan noted that a detail plan is what sets up flags to the Board on the level of cut and fill. The level of review of other issues, such as color of the units, could be done later. Malcolm FitzPatrick would like to see a detail on the drainage flow line and some cross sections. Harry Blackey said the drainage detail is shown on the Plan in addition to the profiles, which is not required by the AAN Regulations. They have not undertaken the level of detail for the water system and grading around the buildings. They are concerned about taking on that level of detail without knowing they have approval. Sue Sullivan suggested that the Board agree on the concept of the Plan so the Petitioner can feel confident in going forward with the design. She said there is a lot of information on the drawings but there is no way of knowing how sewer and water affects the drainage plan. She said it would be best to see what makes sense in the field and then come forward with a final plan set. Malcolm FitzPatrick suggested updating the plans to show the flow lines and everything to be agreed upon to-date. Ernie Dodd said he sees this as a work in progress plan.

Laura Spear said feedback from the Conservation Commission is critical. Laura also said the Board should be consistent in that we always try to get the plans as final as possible. Bill Roop said they plan to build the project in phases. He doesn't want to provide full details on each phase. He suggested they could provide a typical detail. Laura is concerned that could make a difference because they could show all large units.

Kathleen moved to continue the Public Hearing to February 27, 2007 at 7:30 PM. The motion was seconded by Malcolm FitzPatrick. Malcolm asked that revised plans be provided at least a week in advance of the meeting. The motion was seconded by Len Golder and carried by a unanimous vote of five members present (Ernie Dodd, Malcolm FitzPatrick, Kathleen Willis, Len Golder and Associate Member Bruce Fletcher).

PUBLIC HEARING CONTINUANCE – RIVERHILL ESTATES

At 9:30 PM, the Public Hearing continuance from January 16, 2007 to consider the Riverhill Estates Subdivision was called to order.

Tom DiPersio reviewed a revised Open Space Plan showing 5.4 acres. Some of the Open Space is provided on Maynard Sand and Gravel property, which Mr. Collings currently has under agreement. In total, the Open Space is 5.43 acres.

Laura Spear noted that the Maynard Sand and Gravel property was not included in the original subdivision. The total area of the parcels affected in the original plan is 54 acres. Part of the open space shown on the plan submitted tonight is on another parcel, which is not part of the subdivision. Kathleen Willis noted that they don't own the property. Bob Collings said they have a verbal agreement on the Maynard Sand and Gravel property. Laura Spear said what she hears is that the Applicant wants to provide Open Space on property they don't own. She noted that, if the area of the Open Space were expanded, then the Open Space area would be greater. Bob Collings said the Regulations define the amount of land to be designated as open space. Malcolm FitzPatrick said he would like to give some flexibility, if it benefits the Town. He doesn't care as long as the Board can determine that it is useful open space. Len Golder agrees with Malcolm. Bob Collings said they tried to create an open space area that the neighbors can see.

Kathleen Willis asked if Mr. Collings has plans for the Maynard Sand and Gravel property. Bob Collings said he doesn't know. He will probably keep it open. Malcolm FitzPatrick asked if public access will be provided over the driveway. Bob Collings responded yes, they could create an easement on or next to it to close the loop. Malcolm FitzPatrick suggested coming down Sunset Road (Fisher property) and connect to the existing easement to the Moura and Parmenter properties.

Shirley Burchfield, Barton Road, noted that what Malcolm referred to as Sunset Road is not actually Sunset Road. It is a private way on private property with no public access. It currently has a gate and is posted. Ernie Dodd asked if Shirley Burchfield objects to the use of that property for pedestrian access. Shirley Burchfield said they would object to vehicular access, but not pedestrian access. She noted the property is actually owned by her father in-law who is very concerned about liability. She is not in the position to grant permission on his behalf.

Bruce Fletcher noted there is a public use statute to protect a property owner, if they allow public access. Shirley Burchfield noted they paid \$1,000.00 to remove construction debris that was dumped in that area. Laura Spear asked, if it was viewed as a potential access way, how would it connect to the road and how close the homes would it be. Ernie Dodd recommended that it come off the Y turnaround rather than off a lot. Malcolm asked if access to the pond could be provided. Bob Collings said he doesn't want to provide access on the other side of the pond.

Bob Collings noted that Sudbury Valley Trustees is talking about constructing a boardwalk on their property. He said they did not discuss Open Space issues with the Conservation Commission, however, their public hearing was continued to February 6, 2007. He didn't see that there were any showstoppers, but they didn't commit to closing the hearing on February 6, 2007.

Ernie Dodd said he prefers having a strip of public access open space coming off the Y and expand the area at the end near the property line.

Ernie Dodd asked Bob Collings how he plans to protect the open space. Bob Collings said a Homeowners Association allowing public access will control it.

Shirley Burchfield asked how one goes about getting protection as to liability, if public access is granted. Bruce Fletcher said there is no action other than officially making it open for public access.

Bob Collings said he has a gate on his property and is willing to move the gate at the end near the Fisher property. Shirley Burchfield said that the Fisher property gate is more symbolic. It is not typically closed.

Malcolm FitzPatrick asked if they have spoken to the neighbor (Cressman) about access to the Subdivision Road. Bob Collings said he is willing to work with them and as long as the Planning Board doesn't count it as another house lot. They could do it in the future with an ANR Plan.

Shirley Burchfield said there are three homes that use the Fisher property for access: Clancy, Spenser (who doesn't really have a right of way) and Cressman (former Larossee property). Bob Collings said the time expired on his offer to the former owner, but he could work with the new lot owner.

A neighbor noted concern about the Maynard Sand and Gravel property because Maynard Sand and Gravel argued that the subdivision road should be extended to their property line. Bob Collings said, since then they have an agreement on the Maynard Sand and Gravel Property to exchange their property for two of the subdivision lots. Shirley Burchfield said she has no objection to his agreement, but asked if Bob Collings will propose to remove gravel from the site.

Len Golder questioned if the general public would have access to the Maynard Sand and Gravel property.

Shirley Burchfield asked why he did not pursue access to the Cressman lot. Bob Collings said he was concerned about the costs involved.

Malcolm FitzPatrick questioned where the cistern will be located, if they don't get approval for the fire pond. Bob Collings said the cistern would be located on Parcel B. Malcolm FitzPatrick said that parcel could make a nice park area. Bob Collings said he was thinking of a school bus stop area for cars waiting for their children.

Kathleen Willis said she would be interested in coordinating Sudbury Valley Trustees' efforts with this plan. Bob Collings said Sudbury Valley Trustees is still trying to figure out what they own.

Bob Collings said there is a considerable amount of wildlife in the area (turkey, coyote, fox, swans) and is concerned that public access would interfere with the wildlife.

Shirley Burchfield asked if Bob Collings has any idea of the current level of public use. She would expect it would be used by much more than the existing neighborhood. Bob Collings said he doesn't expect people to come across Town.

Len Golder asked how much land is around the fire pond. Bob Collings said it varies from 50' to 70'. Len Golder suggested more area across the top of the pond.

In response to an inquiry from Shirley Burchfield, Board Members confirmed that they do not expect the paths to be paved.

Malcolm FitzPatrick said he wants a culvert under the driveway. Tom DiPersio said the culverts could become problematic, if not properly maintained by the property owner. He also noted there is a swale on the other side that is not indicated on this plan.

Kathleen Willis said to be consistent; the Board should ask that the Plan show the Developable Site Area. She said, although it is not problematic for this site, it should be shown.

Ernie Dodd re-emphasized that the record plan is not acceptable. All parcels should be fully defined. Laura Spear questioned if they should also include the Open Space on the parcel they don't own yet. Malcolm FitzPatrick said no, because it was not part of the subdivision. He said the Board could approve it contingent upon the deal with Maynard Sand and Gravel.

Members noted that Section 4.3.6 requires wetlands, as defined by the Conservation Commission, be shown. Tom DiPersio said they have a Determination of Applicability from the Conservation Commission and there is no activity proposed in areas outside the fire pond. He agreed to look at a walk as suggested by the Board.

Malcolm FitzPatrick asked if there is a culvert in the location of the proposed path on the Maynard Sand and Gravel property. Tom DiPersio said there is an existing wood culvert. Malcolm FitzPatrick suggested expanding the open land over to the Maynard Sand and Gravel property for a nice park area.

Members noted that it is important that revised plans be submitted in advance of the meeting to give members time to review before the meeting.

Kathleen Willis moved to continue the Public Hearing to February 27, 2007 at 9:00 PM. The motion was seconded by Len Golder and carried by a vote of four in favor (Ernie Dodd, Malcolm FitzPatrick, Kathleen Willis and Len Golder) and one abstention (Laura Spear).

UPCOMING MEETINGS

The Board will meet Thursday morning, January 25, 2007, to discuss the Proposed Lower Village Overlay District Bylaw.

ADJOURNMENT

The meeting adjourned at 10:55 PM.

Respectfully submitted,

Karen Kelleher
Planning Coordinator