

TOWN OF STOW PLANNING BOARD

Minutes of the February 27, 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 7:05 p.m.

TOWN MEETING – BYLAW AMENDMENTS

Karen Kelleher reported that Steve Dungan, Selectman and Ed Newman, Moderator, are not in favor of Zoning Bylaw Amendments at Town Meeting.

PLANNING BOARD MEMBERS' UPDATES

Community Preservation Committee – Malcolm FitzPatrick reminded Laura Spear to ask the Community Preservation Committee about affordable deed riders on the Elm Ridge Road homes.

Working Meetings – Len Golder said he is not available to meet tomorrow morning. He is available on March 5 and March 7 and Thursday morning at 8:00.

Sign Bylaw – Ernie Dodd reported that the Agricultural Commission is meeting tonight to review the proposed changes to the sign bylaw. They provided a copy of Chapter 40A, Section 3, as revised, to recognize "Commercial Agriculture" and copies of bylaws from the Towns of Rutland, Bolton, Lancaster and Sterling.

BUTTERNUT FARM GOLF CLUB

Members reviewed correspondence, dated February 1, 2007 from Butternut Farm Golf Club requesting release of the performance bond. They have not made a good faith effort to comply with the Special Permit from the Original Special Permit through the Special Permit Modification # 5. Members agreed to forward a response letter advising:

- The Board is unable to comply with your request.
- The letter was in response to a Planning Board letter requesting payment for inspection services, which are separate from the issue of a Performance Guarantee and remain outstanding.
- Our records indicate a number of outstanding issues, as outlined in a letter, dated November 22, 2006, from the Planning Board's Consulting Engineer.
- As required by Section 8.1 of the Special Permit Modification # 5, your request must include a written certificate from a registered professional engineer that site improvements conform to the Board's requirements, as specified in this Decision.
- The Special Permit Modification also requires a written certificate from a registered land surveyor that the As-Built Plan submitted accurately reflects the conditions in the Site Plan.
- If it is your intention to request to modify the conditions of the Special Permit and the Final Plan, such request must be accompanied by a formal Application to the Board for its consideration.

Malcolm asked if the Board can put a lien on the property. Len Golder said the Town could bring them to court to enforce the Special Permit.

ORCHARD VIEW SUBDIVISION

Karen Kelleher updated the Board on the Orchard View Subdivision. She drafted a letter to Attorney Holmes advising him of the Board's action to decline the offer to split the passbook funds 50/50 and giving notice of the Board's intent to use the Passbook Funds to take whatever corrective measures are necessary to ensure the basin is functioning properly. The letter was forwarded to Susan Sullivan, the Board's Consulting Engineer, to confirm the facts with regards to inspections and will then be forwarded to Town Counsel for his review.

7:30 PM – Bruce Fletcher, Associate Member, arrived at this point of the meeting.

PUBLIC HEARING CONTINUED – RIDGEWOOD AAN

At 7:30 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.

Harry Blackey, Dean Blackey and Bill Roop were present to update the Board on Plan Modifications.

Ernie Dodd requested that the plan show the location and type of signs.

Malcolm FitzPatrick said that the Board needs a development phasing plan. Harry Blackey said they have provided a phasing plan. To some degree, it is a function of sales. They may well be working on two phases at the same time.

Ernie Dodd said he has not done a detail review of the documents submitted.

Harry Blackey reported that they met with Susan Sullivan, the Board's Consulting Engineer, who is in the process of reviewing the plans. Since the last meeting, they submitted:

- A memo dated February 20, 2007 summarizing issues discussed during the public hearing
- Ridgewood Condominium Trust
- Declaration of Trust
- Memo dated February 21, 2007 summarizing comments that correlate to the matrix prepared by Ernie Dodd
- Declaration of Covenants, Conditions and Restrictions
- Master Deed of the Ridgewood Condominium

Harry Blackey said there needs to be some discussion on the public access location. The affordable units will be built in proportion with the market rate units.

Ernie Dodd noted that the performance bond must be with a Massachusetts Corporation.

Harry Blackey said he prepared language on their request for flexibility. Bill Roop said they based the drainage calculations on the largest unit. Laura Spear said she was re-assured when she saw that the total number of detached units will not change. Ernie Dodd said they will need to work with Sue Sullivan in adjusting the units. She will need to be intimately involved to be sure drainage is not impacted.

Malcolm FitzPatrick said the plan should clearly define the limit of clearing so that trees are preserved wherever possible. It was noted that the plan shows a "limit of clearing" area.

Laura Spear noted they requested a waiver to show large trees and suggested they show trees in the limit of construction. Harry Blackey said there are acres and acres of trees and it would take days and days to do that. Laura Spear asked why they can't show large trees in the area of construction. Harry Blackey said they can, but it would involve extensive survey work. Bill Roop said they believe, philosophically, that it is best to save trees, however, to locate all of the trees would be a huge undertaking. Harry Blackey said, if this site wasn't heavily vegetated and there were specimen trees to be saved, it would be easier to locate them. Ernie Dodd said he doesn't recall seeing large specimen trees. There is a lot of similarity. Laura Spear said the area of construction is not hundreds of acres and asked if they can locate large trees only in the limit of construction. Bill Roop said all trees throughout the site are similar. Harry Blackey said, if the Board feels strongly that they want to save large trees because they are specimen trees, he could locate them. Ernie Dodd suggested looking at the site at each phase. Laura Spear said she understands that they want the Board to trust them, but there have been other sites that were cleared. Harry Blackey suggested waiting on a determination until the Board sees a plan with the area of construction. Len Golder suggested locating trees of a specific size or language to outline the areas that trees will be remain. Kathleen Willis said it is important to leave a variety of trees. Malcolm Fitzpatrick likes the idea of an evaluation at each phase.

Kathleen Willis would like to see the developable site area for each lot. Harry Blackey and Bill Roop said there are no individual lots.

Waivers:

Trees - Bruce Fletcher, Tree Warden, agrees with the requested waiver with regard to trees.

Pavement Width – Members agree with the requested waiver with regard to pavement width.

Laura Spear said it would be good to have all waiver requests in one document.

Laura spear asked who would do the initial lottery for the affordable units. Harry Blackey said they expect that they will do the same as Pulte Homes did for Arbor Glen. He noted they expect that it will be difficult to find eligible buyers in the 55+ age group. Bill Roop recommended that the Town maintain a waiting list.

Laura Spear noted that the Fiscal Impact Statement speaks in terms of only school related costs and assumes there will be no other costs, such as public safety. She noted that the Counsel on Aging is very stressed in terms of services.

Malcolm FitzPatrick questioned if all of the affordable units are proposed to be built on site. He feels the Town has been lax in accepting cash donation in lieu of building units because we don't have the land. He would like to have an open and frank discussion about building units on the land on Boxboro Road, which is currently under agreement by the Petitioner. He would like to see them use a friendly 40B process to develop that parcel. It would behoove the Planning Board to work with the Petitioner on the construction of affordable units, whether it be on-site or off-site. Harry Blackey said the bylaw offers alternatives, which is good because it is difficult to find qualified buyers. The advantage is that it provides a vehicle for the creation of family housing. Because the Petitioner has a lot and the Town has funds, Malcolm suggested working together to create some affordable units. This may be a win-win situation. Bill Roop said they are open to discussion on using the existing house for affordable units.

Bruce Fletcher questioned what their discussion with Stow Conservation Trust was about. Bill Roop explained that the Stow Conservation Trust's goal is to create a trail connection. They have not talked about ownership. Malcolm Fitzpatrick said the Town got a lot from the Arbor

Glen AAN in terms of open space and trails and he would like as much open space, public access, trail and Conservation Restrictions on this development. Bill Roop said they like the idea of permanent open space and they set up the covenant so that it cannot be changed without the approval of the Special Permit Granting Authority. He said this site is different than the Arbor Glen site. They don't have farmland or a hill. Malcolm would like to ask Town Counsel if the Covenant provides enough protection as compared to a Conservation Restriction.

Members reviewed the Phasing Plan, which identifies units, drainage, utilities and affordable and middle-income units in each phase. Harry Blackey said their Engineer is working with DEP on a permit for the well. He anticipates a slow build-out, approximately 6 to 7 years.

Malcolm FitzPatrick noted that the affordable units are the smaller units. Harry Blackey said he hears that DHCD would rather see smaller units. It creates more diversity within neighborhoods and reduces the cost for heat and maintenance.

Kathleen asked for an estimate on the timeline for Phase 1. Harry Blackey said he estimates 1 year to 18 months.

Bill Roop said there will be a need for a small shed on the site for an emergency generator and the septic and well systems, and asked what type of design the Board would like to see. Kathleen suggested something similar to the one at the Villages at Stow. Bruce Fletcher asked if the building could be made bigger for the Association to use. Harry Blackey said they are talking about a 15' x 15' building. The basement to be used for equipment and the main floor for storage, such as snow blowers.

Kathleen asked if the septic will be the same design they used at Meeting House at Stow. Bill Roop explained that Meeting House has a treatment system. RidgeWood will be a septic system. He noted that there is a similar system in Lincoln, which requires a review every three years and is pumped on a regular basis.

Laura asked about water needs for landscaping. Harry Blackey said the Engineer is providing for irrigation for the entrance and lawn areas at the RidgeWood Common, which will be the primary gathering spot. Kathleen asked about watering shrubs around the homes when they are first planted. Harry said they will be watered from the homes.

Bruce Fletcher said he heard complaints from residents at Meeting House at Stow about high maintenance of plantings. Harry Blackey said the problem is, they planted an invasive bush. They do not plan to plant that bush at the RidgeWood AAN.

Kathleen Willis advised Bill Roop and Harry Blackey of the Zoning Bylaw Amendment relative to lighting and recommended they consult with the Planning Board's Light Pollution Sub-Committee before purchasing any fixtures. Laura Spear asked if the FAA has any issues with regard to lighting. Bill Roop noted that they plan to place a sign at the entrance and are concerned that the bylaw will not allow lighting.

Laura Spear moved to continue the hearing to March 27, 2007 at 7:30 PM. The motion was seconded by Kathleen Willis and carried by a vote of five members present (Ernie Dodd, Malcolm FitzPatrick, Laura Spear, Kathleen Willis and Len Golder).

PUBLIC HEARING CONTINUED – RIVERHILL ESTATES SUBDIVISION

At 9:00 PM, the Public Hearing continuance from January 23, 2007 to consider the Riverhill Estates Subdivision was called to order.

Bob Collings provided an update on the Conservation Commission's Public Hearing. They had three main concerns:

Fire Pond – The response from the Fire Department did not match the revised plan. The Fire Chief reviewed the revised plan and communicated to the Commission that the pond must have 60,000 gallons in drought conditions and 90,000 gallons in normal conditions.

Water Quality – The Commission is concerned about meeting DEP's Water Quality guidelines. They do not have an issue as far as wetlands are concerned, but there is a concern about Water Quality. They do not think there will be an issue with the Army Corps. of Engineers having jurisdiction

Pavement setback to the Pond – The Commission requested that the pavement be adjusted to maintain a 35' buffer to the pond. Therefore, they adjusted the pavement for a 100' stretch. Malcolm asked if that means the drainage is still in the right of way or if they will need an easement. Bob Collings said the ditch is still in the Right of Way.

The Conservation Commission continued the public hearing to March 20, 2007. Bob said, depending on the Planning Board's determination on the adjusting the road pavement, he believes they can satisfy the Conservation Commission's concerns.

Malcolm FitzPatrick questioned the drainage design because it drains down the driveways onto the road. Tom DiPersio, Jr. said they sized the system and stormwater calculations were based on that assumption. It may not be necessary. Malcolm doesn't see the need to direct runoff onto the road. He thinks it should be done on the lot using landscaping site design and would like to see a note on the plan to that extent. Laura Spear noted that Lot 3 has a low point to the right and questioned if that area could accommodate the runoff. Tom DiPersio, Jr. said only one lot is on a hill that will be directed to the road. The rest of the lots are flat.

Kathleen Willis noted that Sue Sullivan, in her letter of November 2006, spoke about driveway runoff and suggested that Lot 4 be directed into the drain on Lots 2 and 3. Tom DiPersio, Jr. said that he addressed that letter noting it was more about the swale along the road.

Malcolm FitzPatrick noted there is a catch basin to the right of the driveway for Lot three and suggested an additional catch basin. Bob Collings said the grades are so slight there will not be a great amount of runoff and it would be difficult to calculate with much accuracy because there will be so little.

Malcolm FitzPatrick questioned the purpose of the retention area on Lot 3. He also thinks the drainage is over designed. Tom DiPersio, Jr. explained that the swales will discharge to the infiltration basin. Malcolm asked why they would not discharge into the inlet instead. Tom DiPersio, Jr. said the inlet is proposed, as recommended by Sue Sullivan to address winter conditions.

Bob Collings said he understands that the Board wants to use Low Impact Development techniques and they have been working with the engineers, however, the Board should give people some direction at the beginning of the project. Laura Spear said she understands the explanation concerning the purpose of the for snow, etc, but does not understand the purpose of the swale. She will talk to Sue Sullivan to get a better understanding.

Kathleen Willis asked for the Developable Site Area for each of the 5 lots. Bob Collings said the square footage is shown on the Plan. Kathleen said she wants the Plan to show the

developable site area for each lot, not the parcel. The developable site area is calculated by subtracting from each lot: wetlands, floodplain and grades greater than 15%. Bob Collings said none of the lots have wetlands or grades greater than 15%. He would like to know the reason for this information before they have to calculate it out. Kathleen Willis referred him to Section 1.3.16 of the Zoning Bylaw. Tom DiPersio, Jr. said there is no undevelopable area on the lots. Kathleen said she would like to see that information on the Plan. Tom DiPersio, Jr. said the only undevelopable area is beyond the District Line. The table indicates that each lot is part of the developable area.

Kathleen Willis said it would be helpful to have revision dates each time a plan is revised so the Board can determine what the most recent plan is.

Bob Collings presented a revised Open Space Plan. He noted the former plan showed an easement on land that was not part of the Subdivision because they do not yet own the property. The Plan was revised to show that all of the open space is on the subdivision property. The total open space is 5.8 acres, which is more than 10% of the total project. He said this will be Open Space for the Homeowners Association, but not necessarily for public access. He said the regulations do not say the open space has to be open to the public. Malcolm FitzPatrick said he thought that was the purpose of Open Space. Bob Collings noted that Chapter 41 states that no Rule or Regulation shall require public open space without just compensation of land. Malcolm FitzPatrick said he always interpreted discussion about public access as an exchange for waivers requested, such as the length of the road. Bob Collings said the Plan complies with the Regulations. The regulations say 10% of the land shall be Open space. It does not say public access. Laura Spear said conversations about the open space were always based on the intent of obtaining access to the River. It was always in the context of public access. She is taken aback on Bob Collings' position tonight, which is contrary to all previous discussions. Kathleen Willis said she recalls at the last meeting, Bob Collings noted that he doesn't want public access in a specific area around the pond, which she doesn't have a problem with, but she is disappointed at his statement that the Board does not have the authority to require the open space. Discussions were always in the spirit of providing for all of the neighborhood. Bob Collings said he would have no problem in providing the public access open space connecting to Sunset Road and on the Maynard Sand and Gravel property, but that is not part of the subdivision and he wants to stay legal. Malcolm FitzPatrick said he interprets the Rules and Regulations as saying the Planning Board may allow waivers and he is hearing that Bob Collings is not willing to work with the Board. Bob Collings said he is trying to comply with what legally needs to be done. This plan has cost him 3 times more than it should have. Laura Spear pointed out that the allowable length of road, which is 500', comes approximately to the driveway of Lot 3. She is hearing that he wants to comply with the letter of the Rules and Regulations and is hearing the same from the Planning Board's side. Ernie Dodd said the Board can decide on this issue when deliberating on the decision.

Malcolm FitzPatrick noted that the open space at Barton Road is not part of the subdivision, but the difference is that Bob Collings owns the property.

Malcolm FitzPatrick questioned how much of the open space is wetlands. Tom DiPersio, Jr. responded approximately .67 acres.

Malcolm FitzPatrick said he thinks the Planning Board's job is to straighten out land use problems and he thinks providing access to the Cressman property would be solving a planning problem. Bob Collings said he offered an exchange of equal amount of land, but the Cressmans didn't want to do the exchange because they would have had to do the legal and survey work. He said maybe something can be worked out in the future. Malcolm said he is not sure it can be done in the future and wonders if there is something the Board can do to help.

Ernie Dodd said the Cressmans had an opportunity to work with Bob Collings and apparently don't want to. Len Golder said, if it is an issue of cost and the Town would benefit, then maybe the Town could help.

Ernie Dodd said that 5.8 acres less the wetlands is less than 10%. Bob Collings said he feels that the total acreage is 38.9 acres – not 55 acres. He feels he is providing more than 10%.

Malcolm FitzPatrick asked if the Homeowners documents have been drafted yet. Bob Collings responded no. Len Golder asked what the Homeowners Associations responsibility would be. Bob Collings said it would be responsible for the fire pond and open space, and the road until it is accepted by the Town.

Ernie Dodd said he is not ready to close the Public Hearing. The Board and its Consulting Engineer have not had the opportunity to review the final set of plans. Bob Collings urged the Board to close the hearing. Malcolm FitzPatrick said he is not sure how he feels about the Open Space and closing the hearing would mean the decision must be based on the present plan. Kathleen Willis said she really needs time to review the Plan. It was suggested the hearing be continued to March 27, 2007. Bob Collings urged the Board to consider an earlier date. Ernie Dodd suggested adjusting the Board's working meeting so that the hearing may be continued to March 13, 2007. Bob Collings agreed to the continuance to March 13, 2007.

Kathleen Willis moved to continue the Public Hearing to March 13, 2007 at 7:15 PM. The motion was seconded by Len Golder and carried by a vote of four members (Ernie Dodd, Malcolm FitzPatrick, Kathleen Willis and Len Golder) and one abstention (Laura Spear).

Tom DiPersio, Jr. said he will check with Sue Sullivan on the drainage review. Karen Kelleher asked that he provide 8 sets of the final plan.

STREET ACCEPTANCE

Blueberry Court and Woodland Way - Stations 19+50 to 28+00

Laura Spear moved to recommend acceptance of Blueberry Court and Woodland Way - Stations 19+50 to 28+00, contingent upon the catch basins being cleaned prior to Town Meeting, as recommended by Sue Sullivan, the Board's Consulting Engineer. The motion was seconded by Len Golder and carried by a unanimous vote of five members (Ernie Dodd, Malcolm FitzPatrick, Laura Spear, Kathleen Willis and Len Golder).

Fairway Drive

Members are concerned about the extensive list of outstanding items on Fairway Drive identified by Sue Sullivan, the Board's Consulting Engineer.

Laura Spear moved to NOT recommend acceptance of Fairway Drive. The motion was seconded by Kathleen Willis. Len questioned if it is possible that the outstanding items will not be addressed by Town Meeting. Laura Spear said the Board should be consistent in its recommendations and wait until outstanding issues are resolved. The motion carried by a unanimous vote of five members (Ernie Dodd, Malcolm FitzPatrick, Laura Spear, Kathleen Willis and Len Golder).

Cranberry Circle

Board members agreed to withhold its recommendation on Cranberry Circle until a report is received from Sue Sullivan, the Board's Consulting Engineer.

The meeting adjourned at 11:00 p.m.

Respectfully submitted,

Karen Kelleher
Planning Coordinator