

TOWN OF STOW PLANNING BOARD

Minutes of the April 24, 2007, Planning Board Meeting.

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

Associate Member : Bruce Fletcher

Planning Coordinator: Karen Kelleher

The Meeting was called to order at 7:05 p.m.

ARBOR GLEN AAN

Kathleen Willis noted concern about the color of the units at Arbor Glen, which are shades of beige and are not in keeping with the Board's understanding from discussions with Pulte Homes. She suggested forwarding a letter noting the Board's disappointment. Malcolm FitzPatrick said it would be nice if the roof colors were also varied. Len Golder questioned if the Board wants to be the color police. Kathleen Willis noted that the Board had extensive discussions with Pulte Homes about this concern. When there is a dense development, the use of multiple colors for the units creates a more village feel. Kathleen agreed to draft a letter.

Kathleen moved to forward a letter to Pulte Homes requiring a variety of textures and colors throughout the AAN Development. The motion was seconded by Malcolm FitzPatrick and carried by a vote of three in favor (Ernie Dodd, Malcolm FitzPatrick, Kathleen Willis) and one opposed (Len Golder).

PLANNING BOARD MEMBERS' UPDATES

SITE INSPECTIONS

Ernie Dodd viewed development sites after the recent rains:

Trefry Lane – Looked okay

Arbor Glen – Ernie Dodd referred to Sue Sullivan's report::

Overall, the site has weathered the storms well. There are many puddles and in some instances, the areas of future detention basins have significant volumes of water collected. Basin 4 and the center detention basin have received the majority of the silty runoff and mud. These basins are being monitored for recharge and the contractor is on notice that remedial action may be necessary to restore the exfiltration rates originally used in the drainage design. At this time, it is premature to take any action as there is too much construction and permanent stabilization to do.

He believes they could have done a better job. The first basin was very full and silted. The middle basin had a lot of water and is silted.

Derby Woods – The basin was full.

Asa Whitcomb Way – The basin was full.

Taylor Road - Bruce Fletcher reported that he received a call from the Cataldos about the Taylor Road PCD. The strip between the Cataldo property and Taylor Road had a major river.

He was there with Scott Morse of the Highway Department and they determined there was no concern about flooding. Bruce said he was concerned about the pipes taking silty water across the street. The Cataldo property always had a water problem on either side of their drive, which should be alleviated when the Taylor Road PCD is done as the drainage system will correct the previous problem.

LIGHTING – Kathleen Willis referred to an email from Bruce Fletcher noting concern that the proposed lighting bylaw is not user-friendly and referring to an outdoor lighting ordinance from the Town of Kennewick, which he feels is a user-friendly (i.e. enactable and enforceable) outdoor lighting ordinance. Malcolm FitzPatrick suggested deferring the Residential Portion of the proposed bylaw until the fall. Len Golder said he has concern about the section, noting concern about safety. Karen Kelleher said that Harry Blackey noted that security is an issue and that is why the lights at Meeting House at Stow are left on all night. Kathleen Willis said that would not affect the fixture type.

STORMWATER MANAGEMENT - Bruce Fletcher noted that we are in the fifth year National Pollutant Discharge Elimination System (NPDES) Program and Stow is in good shape. We still need to hold a hearing on Stormwater Management I and II to complete and then implement.

Ernie Dodd asked if Bruce has ever thought about lining basins and placing gravel on top during construction. Bruce Fletcher said it was a good idea and suggested that the Board include it as a requirement in the Rules and Regulations. He noted that geotextile can be used for many applications. Malcolm FitzPatrick said he thinks stone would be better. Bruce said he would think about a standard to put in the Rules and Regulations.

Malcolm FitzPatrick said he is concerned about West Nile disease because stormwater basins create a habitat for mosquitoes. He said you can reduce catch basins using swales. He noted that he knows that Sue Sullivan likes catch basins because they alleviate the potential for icing on the Road. He said the Board needs to adopt a policy. It should also be addressed in the Zoning Bylaw and Subdivision Rules, and be specifically noted in Decisions.

Laura Spear arrived at this point in the meeting.

PUBLIC HEARING CONTINUED – RIDGEWOOD AAN and EROSION CONTROL SPECIAL PERMIT

At 9:04 PM, the Public Hearing continuance from the March 27, 2007 meeting, to consider the RidgeWood AAN and Erosion Control Special Permit was called to order.

Harry Blackey summarized documents submitted since the last meeting:

- Letters to the Planning Board, dated 4/19/07”
 - Agreed to the 6 conditions provided for in the Planning Board’s memo and vote, dated 11/14/06.
 - Agreed to provide Performance Guarantees in accordance with the Subdivision Regulations.
 - Updated request and summaries of waivers we are requesting.
- Phasing Plan, which showing proposed non market rate units.

They propose to either make a \$20,000.00 donation to the sidewalk fund or construct a pedestrian path and grant an easement.

The most recent plan set is dated April 10, 2007. Each sheet has a signature block.

Lighting - Harry Blackey said they reviewed the proposed lighting bylaw and their preference is for the Board to refer to the proposed bylaw in its decision. The proposed bylaw requires a Special Permit and therefore, Harry Blackey requested that the Board find in its decision that this Special Permit satisfies the requirements for an Exterior Lighting Special Permit and that a separate special permit for lighting is not necessary. Malcolm FitzPatrick said he would like them to adhere to the intent of the new bylaw. Harry Blackey said there are some differences between the condition in the Arbor Glen AAN Decision and the proposed Bylaw. They prefer to be obligated to the language in the proposed bylaw. He said one major issue is the section on exemptions from residential properties for up to 5 non-full cutoff fixtures per residential lot. He asked if there is a way to interpret that as each dwelling unit or allow a maximum of 5 40-watt bulbs or any one (1) 80-watt fixture. Bruce Fletcher noted that section was intended to apply to the Residential District – not a dwelling unit. Ernie Dodd noted that this application would pre-date the proposed bylaw.

Kathleen Willis questioned how many exterior fixtures they propose. Bill Roop responded:

- one at the end of each driveway,
- one by the garage,
- one at the front door and
- possibly, one on the deck in the back or at the walkway.

He suggested that the Board include as a condition that any fixtures proposed under the exemption provision of the proposed Bylaw shall require approval of the Planning Board including the number and location of such fixtures.

Malcolm FitzPatrick asked why they don't want full cutoff fixtures. Harry Blackey said, based on their research, it is pretty onerous because they have not been able to find a fixture. Members noted that its Light Pollution Sub-Committee will help find a fixture. Laura Spear noted that you can't buy a standard fixture. It would have to be special ordered. Laura believes the exemption was based on typical 1 to 2 acre lots, and noted that 5 fixtures on 66 units is a lot of light. Greg Roy of Ducharme and Dillis noted there are 5-different types of full cutoff fixtures. Ernie Dodd said he can see the difficulties in finding an attractive full cutoff light. Harry Blackey said they can buy from J. D. Daddario, but they won't be attractive. They are concerned about ambience rather than cost.

Laura Spear noted that at the March 27, 2007 meeting they said they would meet with the Lighting Sub-Committee. Harry Blackey said they talked to Russ Willis, who was helpful in finding fixtures. Malcolm FitzPatrick said he can see them not wanting ugly fixtures, and asked if they can find level 3 fixtures. He suggested that they propose something that would not be a blanket exemption. Harry Blackey asked if the Board would consider a limit on the number of fixtures per unit or per building basis with the total number to average over the whole site. He would like to use a traditional style light fixture. Lampposts are of particular concern for them because they want to create a visual ambience, which is important to have the appearance of continuity. Bruce Fletcher asked if the upright could be shielded. Kathleen Willis would rather have them work with the Light Pollution Study Sub-Committee. She doesn't want to get into a situation where the fixtures are already bought and are unacceptable. Harry Blackey said they are proposing low lamppost lighting instead of streetlights. Malcolm FitzPatrick suggested that they work with the Light Pollution Sub-Committee with the idea that they will be flexible. Bill Roop asked that the Board define the term flexible. He suggested they could bring a fixture back to the Planning Board for approval.

Bill Roop said they have not been able to find an acceptable fixture. They are either not full cutoff or not attractive. Members agreed that the Decision could be conditioned to require that

they bring the fixture to the Board for approval. Len Golder said the Bylaw is currently a “work in progress” and it makes sense that we work together. Bill Roop noted there are state requirements for lighting for multi-family developments.

Drainage - Malcolm questioned the need for the large retention area on the left. Greg Roy said it is needed, noting that they are required to design to the Wetlands Protection Act as well as the Planning Board’s Rules and Regulations. Malcolm FitzPatrick said he thinks they could attenuate the flows with Low Impact Development upgradient. Bill Roop said they wouldn’t be able to get credit for TSS by using rip rap. He agrees with Malcolm, but has to show it because it is in the buffer zone. Greg Roy said they need an Order of Conditions from the Conservation Commission and if the Board gives them flexibility to work with the Conservation Commission, they could take a look at it. Malcolm FitzPatrick said he is willing to give them flexibility to minimize site disturbance. Harry Blackey said a good part of the problem is they need approval from the Conservation Commission as well as the Planning Board. It was noted that 4 of the 5 ponds are in the buffer zone and are subject to the Wetlands Protection Bylaw. Malcolm is concerned that sediment from the pond will eventually end up in the wetlands. Greg Roy said the same would happen with Low Impact Development.

Open Space - Laura Spear asked if they responded to the Conservation Commissions concern about a buffer to Heath Hen Brook. Bill Roop presented a sketch plan showing public access. He said they could deed the Open Space with an easement across the Minute Man property with a bridge and trail path to Taylor Road. Laura Spear asked if the Open Space would be permanently protected. Harry Blackey said they would consider deeding it to the Stow Conservation Trust. Laura Spear and Kathleen Willis recommend a Conservation Restriction with covenants and restrictions on the Open Space Parcels. Bill Roop said the Conservation Commission noted an interest in the Open Space Parcel. There would be a deed with a covenant and restrictions.

Topsoil - Kathleen Willis referred to the Petitioner’s letter of April 19, 2007 that says no excess topsoil will be removed and noted that the bylaw isn’t specific as to “excess” topsoil. Harry Blackey and Bill Roop agreed that no topsoil would be removed.

Performance Guaranty - Harry Blackey said they proposed language for the proposed bond from the Arbor Glen Decision. Members noted that the Board typically requires a bond of 150% rather than 10% of the estimated cost. Laura Spear explained that one of the reasons the Board only required 115% on the Arbor Glen Decision is because Pulte Homes is a National Company.

Pavement Wearing Thickness - The Petitioner requested a waiver from the requirements of Section 8.2.4.4 (Pavement wearing thickness) of the Subdivision Rules, to reduce the required wearing course thickness from 2 ½” to 1 ½” on Ridgewood Drive and West View Lane. 2 ½” to 1 ½”, provided that a minimum 3” compacted dense graded crushed stone (AKA dense graded base) is laid over the gravel. Members agreed to require:

- 12” gravel base
- 3” dense graded crush stone
- 2” binder
- 1 ½” wearing surface.

Street Trees – Kathleen Willis noted that the Petitioner didn’t mention the height for proposed street trees and said the regulations require that they are 10’ to 12’ in height. Laura Spear said she is willing to grant a waiver, as long as the street trees are 2.5”-3” as measured 4” above the ground, as long as they meet American Nursery and Landscape Association standards.

Unit Colors – Bill Roop and Harry Blackey agreed that no two adjacent buildings would have the same exterior “body” color. They will also use different siding and trim for individual units within each building.

Road Length – Laura Spear is concerned about the road length and is willing to grant a waiver when she can see a public benefit. She asked the Petitioner what the public benefit is. Bill Roop said they originally thought about two proposed developments, an AAN Development and a 40B Development. He said the public benefit is the proposed development is of a lower density than what is allowed by the Bylaw. Larue Spear noted that the AAN Development limits them to 66 units. Bill Roop said the trade-off is more open space. Malcolm FitzPatrick said he thinks the proposed 66 units could be more clustered. Bill Roop said they are trying to show diversity in the unit type. Malcolm FitzPatrick noted that deeded open space is a benefit to the Town. Malcolm FitzPatrick said there are other ways to provide privacy without spacing the units out. Harry Blackey said they are open to variety, but want some latitude to offer a number of different types of product. He said it should not be assumed that all people aged 55+ want to live in the same type of environment. Malcolm asked how close together could he move the single family units and still keep within the same price range. Harry Blackey said the issue is that some people like to be close and there are other people who do not. He thinks it is appropriate for some small portions being spread out. They could duplicate what is happening on other sites but they want something different. Harry Blackey noted the public benefit is that they are proposing 66 units on only 40% of the entire site.

Ernie Dodd asked if Board Members are ready to close the hearing. Kathleen Willis said no because the lighting issue still needs to be resolved. Ernie Dodd said he would like to see the Conservation Commission’s position on the Notice of Intent to help frame the decision. Harry Blackey said the Board would have total control with their proposal to bring a fixture back to the Planning Board for approval. Len Golder said the Board could close the hearing, subject to information received from the Conservation Commission and if there was an inconsistency, the Petitioner could come back for an amendment. Laura Spear said she would have liked to see the Conservation Commission’s Order of Conditions but thinks it could be conditions.

Len Golder moved to close the public hearing. The motion was seconded by Kathleen Willis and carried by a vote of four in favor (Ernie Dodd, Malcolm FitzPatrick, Laura Spear and Len Golder) and one opposed (Kathleen Willis).

Malcolm FitzPatrick and Bruce Fletcher left at this point in the meeting.

OMNIPOINT – WIRELESS SERVICE FACILITY

Members discussed a draft decision for the Omnipoint Communications Application for Co-location onto a Wireless Communication Facility at First Parish Church.

Members noted the discussion with Town Counsel as to how the Federal Court would view this application. Town Counsel said the Courts would approve an appeal, if there is minimal visual impact. He also noted that this application is much different than the Cingular Application on Gleasondale Road. He advised that Section 3.9 gives the Planning Board the Power to approve extensions to pre-existing non-conforming wireless service facilities. Section 3.11.16 of the Bylaw gives the Planning Board the authority to determine that this Petition is a modification of a Wireless Service Facility and Section 3.11.16.1.a of the Bylaw gives the Planning Board the authority to grant a Special Permit Modification with respect to the number of facilities permitted on the site. Laura is still not comfortable. She is still concerned that the proposed facility is above the 35’ height limitation. She also questions if the Bylaw gives the Planning Board authority to “Modify” a Special Permit because the bylaw does not state the term “modify”. However, she does hear that the Board has some flexibility as the Special Permit Granting

Authority and that the courts could find it is minimal visual impact. She is also concerned that the proposed facility is still above the 35' height limitation. Len Golder said he thinks visual impact is the key. He said he wasn't a member of the Board for the Cingular Decision. If he were, he would have denied it because of negative impact. Laura noted that in that instance there was space for the facility to be placed below 100'. Len Golder said, in this case, the facility will be within the steeple structure and if it were denied it would be a problem with the Federal Court. Ernie Dodd said the Board would be in a weak position, if it went to court. Laura Spear noted that the Board found that it is an alternative. Len Golder said, in this case, there is no other alternative without creating a negative impact. Kathleen Willis said the meeting with Town Counsel was helpful and understands that this application is much different than the Cingular Application.

Len Golder moved to GRANT a Special Permit Modification under Sections 3.9, 3.11 and 9.2 of the Bylaw, and Site Plan Approval under Sections 3.11 and 9.3 of the Bylaw, to Omnipoint Communications, Inc., a wholly owned subsidiary of T-Mobile USA, Inc. at the First Parish Church – Unitarian, 339 Great Road. The motion was seconded by Kathleen Willis and carried by a unanimous vote of four members present (Ernie Dodd, Len Golder, Kathleen Willis and Laura Spear).

The meeting adjourned at 11:30 PM.

Respectfully submitted,

Karen Kelleher
Planning Coordinator