

## **TOWN OF STOW PLANNING BOARD**

Minutes of the September 5, 2007, Planning Board Meeting.

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

Planning Coordinator: Karen Kelleher

The Meeting was called to order at 7:00 p.m.

### **MINUTES**

***August 28, 2007 – Kathleen Willis moved to approve minutes of the August 28, 2007 minutes, as amended. The motion was seconded by Steve Quinn and carried by a unanimous vote of three members present (Ernest Dodd, Kathleen Willis and Steve Quinn).***

### **SPECIAL/ANNUAL TOWN MEETING**

Ernie Dodd reported that Steve Dungan, Chairman of the Board of Selectmen, met with him and Karen concerning the Special Town Meeting. Steve Dungan stated that the Recreation Commission is the driver for the December 3, 2007, date. He explained that the Selectmen would sign the final warrant on October 23, 2007 and he understands that it does not provide sufficient time for the Planning Board. Because the Selectmen prefer not to have zoning articles at the Annual Town Meeting, he suggested a January or February date. Karen and Ernie said the Board needs as much time as they can get so that the mandatory public hearings can be held. Ernie Dodd explained that he spoke with the Town Clerk after the meeting with Steve Dungan, who explained that a February Town Meeting would be difficult because she will be preparing for an election in March.

### ***Len Golder arrived at this point in the meeting.***

Members discussed the reasoning for zoning articles to be withheld from the Annual Town Meeting. The Selectmen prefer to limit the Annual Town Meeting to budget articles and are concerned that most residents would leave after the budget portion of the meeting. Members all agreed that the same population that would leave the Annual Town Meeting would not attend a Special Town Meeting for zoning issues. Karen Kelleher said the Selectmen noted that the cost involved for a Special Town Meeting is not great. However, they are not considering the staff time involved when department workload is already stressed. Steve Quinn said the Board would bring forth a better product, if it were not rushed for a Special Town Meeting. Len Golder said he agrees it would be best to wait until May. He has seen it both ways, and the same population shows up for zoning issues, whether it is a Special Town Meeting or Annual Town Meeting. Karen Kelleher noted that she and the Town Clerk discussed the need to specify a timeframe for an annual Special Town Meeting so that the Board can better plan for warrant deadlines from year to year.

Members were in agreement that, due to the extra cost and stress on departmental staff, it is best not to hold an additional Special Town Meeting. It was agreed that the Board will forward a letter to the Board of Selectmen stating that the Board will have some articles ready for the December Special Town Meeting and expect to present Zoning Articles at the Annual Town Meeting.

***Laura Spear arrived at this point in the meeting.***

### **ANR PLAN – DUNSTER DRIVE**

Members reviewed the ANR Plan for the Avery Property off of Dunster Drive, creating Parcel Z, to be conveyed to the abutting property, owned by Scott C. & Janet L. Wilson. Ernie Dodd reported that the plan was revised to show the remaining land of Avery on the Locus Plan. The Board previously denied the plan because the plan did not show the remaining land. Karen Kelleher spoke with Sue Sullivan of Inland Survey, who explained that the Registry does not require that the remaining land be shown on the plan and that one could review the previous plan on record to determine the remaining land. This is done all the time. Also, she said it would probably cost in excess of \$1,000.00 to do a perimeter plan. Karen Kelleher suggested showing the remaining land, without bearings and distances, on the locus plan.

Members further discussed concern about how the respective deeds are referenced and agreed that it would be a good idea to talk to someone about the process.

***Laura Spear moved to endorse the ANR Plan entitled “Plan of Land in Stow, MA”, dated August 9, 2007, revised August 28, 2007, prepared by Inland survey, Inc. DBA Zanca land Surveying, for Josephine V. Avery of the 50 Dunster Drive Nominee Trust. The motion was seconded by Kathleen Willis and carried by a unanimous vote of five members present (Ernie Dodd, Laura Spear, Kathleen Willis, Len Golder and Steve Quinn).***

### **DECEMBER 3, 2007 SPECIAL TOWN MEETING**

Members agreed to propose the following Zoning Bylaw amendments for the December 3, 2007, Special Town Meeting.

Members discussed exempt uses, such as Public Service, Religious and Educational Non-Profit organizations and if they should be prohibited in the Recreation-Conservation District, Refuse Disposal District and the Wetlands Flood Plain District. Of particular concern is the need to prevent residential dwellings under the guise of a non-profit organization.

Section 6.3 (signs) – Karen Kelleher noted concern about the draft bylaw creating and overwhelming administrative workload for the Building Department, who only has a part-time secretary. Members noted the need to work with the Stow business community on the proposed changes. It was agreed not to present the proposed draft at the December Special Town Meeting.

Section 8.5.6.4 (Planned Conservation Development) – Steve Quinn questioned why the Board is proposing an amendment to require units to have sprinklers when it is not required by the Building Code? Members noted that the proposal is at the recommendation of the Fire Department and further noted that a Planned Conservation Development requires a Special Permit. The Board routinely conditions a Special Permit to require sprinklers.

### **Section 3.1 (Recreation-Conservation District Uses)**

- 3.1.1 Uses **permitted allowed**, provided that no BUILDINGS are located within one hundred (100) feet of a district boundary line:
  - 3.1.1.1 Conservation areas for water, water supply, plants, and wildlife, dams necessary for achieving this purpose;

- 3.1.1.2 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 from uses permitted allowed in paragraphs ~~b.~~ and 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;
  - 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.
- 3.1.1.6 ACCESSORY BUILDINGS and USES.
- 3.1.1.7 Uses or structures for religious purposes or for educational purposes on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, provided that such use or structure complies with the dimensional requirements of the Bylaw and is not primarily used as a residential dwelling.
- 3.1.1.8 Uses or structures for a PUBLIC SERVICE CORPORATION may be exempted in particular respects from requirements of the Bylaw if, upon petition of the corporation, the department of telecommunications and energy shall, after notice given pursuant to section eleven of M.G.L. Section 40A and public hearing held by the ~~Planning Board?~~ Board of Selectmen?, determine the exemptions required and find that the present or proposed use of the land or structure is reasonably necessary for the convenience or welfare of the public.
- 3.1.2 Uses permitted subject to special permit, granted by the Planning Board, provided that provisions for disposal of waste products is approved by the Board of Health and parking is provided as required in the parking section of this Bylaw:
  - 3.1.2.1 Restaurants, provided that their use is in connection with a permitted use, and provided that no such BUILDING be located within one hundred (100) feet of a district boundary line;
  - 3.1.2.2 Country Clubs or other MEMBERSHIP CLUBs;
  - 3.1.2.3 Commercial picnic areas and swimming areas;
  - 3.1.2.4 Day camps, overnight camps, and camp sites, where occupancy is limited to the period between May 15th and September 15th, provided that there is only one camp BUILDING or site for each 3500 square feet of grass area;
  - 3.1.2.5 Recreation, including golf courses, ski areas and tows, MARINAS and commercial boat landings, but not an amusement park.

**3.1.2.6 Commercial motorized recreational vehicles are prohibited.**

**Section 3.10 (Table of Principal Uses)**

Principal Uses	Residential	Business	Compact Business
General Uses			
Single Family DWELLING with ACCESSORY APARTMENT	SPP (4) (7) (11) Y	N	SPP (7) (11) Y

**Section 8.1 (Accessory Apartments)**

8.1.2 ACCESSORY APARTMENTs Allowed by Right - The BUILDING INSPECTOR may grant a building permit for one ACCESSORY APARTMENT provided that:

~~8.1.2.1 The single-family DWELLING or ACCESSORY BUILDING was in existence on or before May 6, 1991, or~~

8.1.2.2 The ACCESSORY APARTMENT is attached to or within a single-family DWELLING ~~or ACCESSORY BUILDING constructed after May 6, 1991;~~ and

8.1.2.3 provided that all of the following requirements are met:

1. The ACCESSORY APARTMENT shall be a use secondary and incidental to the single-family DWELLING and shall contain no more than 700 square feet of GROSS FLOOR AREA, ~~not including garage space.~~
2. No more than one ACCESSORY APARTMENT shall exist on the LOT.
3. Either the single-family DWELLING or the ACCESSORY APARTMENT shall be occupied by the owner of the LOT. For the purposes of this section, the "owner" shall be one or more individuals who holds legal or beneficial title to said LOT and for whom the DWELLING is the primary residence for voting and tax purposes.
4. Both the single-family DWELLING and the ACCESSORY APARTMENT shall satisfy the requirements of 310 CMR 15.00 (Sanitary Code - Title 5) and Stow Board of Health regulations.

~~5. The LOT on which the single family DWELLING or ACCESSORY BUILDING is located shall contain no less than 1.5 acres.~~

~~6. this subsection language deleted October 24, 2005~~

7. Any entrance required by the inclusion of an ACCESSORY APARTMENT shall be clearly secondary to the main entrance of the primary DWELLING UNIT.

8. Any modification to the existing entrances on the front facade of the single-family DWELLING shall result in the appearance of a single main entrance.

9. A minimum of two (2) off-street parking spaces shall be provided for each DWELLING UNIT. There shall be adequate provision for ingress and egress from all parking spaces.

10. There shall be no more than one (1) driveway per LOT.

11. The ACCESSORY APARTMENT shall not occupy more than 50% of an ACCESSORY BUILDING.

8.1.3 ACCESSORY APARTMENTS Allowed by Special Permit – A special permit for an ACCESSORY APARTMENT may be granted by the Planning Board provided that:

8.1.3.1 All of the conditions and requirements of Section 8.1.2 are met, with the exception of Sections 8.1.2.3.5 and 8.1.2.3.10.

8.1.3.2 All conditions and requirements for approval of a special permit are satisfied.

### ***Section 8.3 (Cross-Country Ski Uses in the Residential District)***

8.3.1 no snow making equipment shall be used;

8.3.5 No motorized vehicles shall be permitted except for emergency or maintenance purposes.

### ***Section 8.4 (Golf Course Uses in the Residential District)***

8.4 Golf Course Uses in the Residential District subject to a Special Permit by the Planning Board:

8.4.1 Commercial 18-hole golf courses of at least fifty-five hundred (5,500) linear yards and at least seventy-five (75) acres with common and incidental ACCESSORY USES including parking; clubhouse (inclusive of pro shop for sale of golf related items only, administrative office, and snack bar, but not a restaurant), with a total GROSS FLOOR AREA not to exceed twenty-five hundred (2,500) square feet unless entirely within a STRUCTURE in existence at the time of adoption of this Bylaw (11/6/89) but in no case shall the total GROSS FLOOR AREA devoted to golf related uses exceed three thousand (3,000) square feet; and a single family caretaker's residence, provided that:

8.4.1.6 A permit shall be obtained from the Board of Health for application of pesticides/herbicides on the golf course site. A state licensed person shall be responsible for applying pesticides/herbicides on the golf course site. Results from an approved laboratory of surface and GROUND WATER samples shall be periodically provided to the Conservation Commission and the Board of Health, the location and frequency of testing to be determined by the Planning Board Board of Health.

### ***Section 9.3 (Site Plan Approval)***

9.3.3.3 Notwithstanding that any particular use is an allowed use, site plan approval is also required for the following:

1. single family DWELLING with ACCESSORY APARTMENT;

2. BED AND BREAKFAST HOME;

3. BOARDING HOUSE or ROOMING HOUSE;

4. permanent BUILDING or STRUCTURE for the sale of farm produce;

5. in the Business District, uses permitted, provided that the BUILDING is less than 1,000 square feet GROSS FLOOR AREA; and

6. in the Commercial and Industrial Districts, uses permitted, provided that the BUILDING is less than 1,500 square feet GROSS FLOOR AREA;

**LOWER VILLAGE WARRANT ARTICLE**

Members discussed whether to propose a warrant article for the Lower Village Traffic Improvements. It was agreed that the Board will wait until the temporary pedestrian refuge islands are tested before moving forward with a warrant article.

The meeting adjourned at 10:00 p.m.

Respectfully submitted,

Karen Kelleher  
Planning Coordinator