

TOWN OF STOW PLANNING BOARD

Minutes of the September 25, 2007, Planning Board Meeting.

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

Associate Member: Bruce E. Fletcher
Planning Coordinator: Karen Kelleher

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

PLANNING BOARD MEMBERS' UPDATES

Community Preservation Committee – Laura Spear reported that the Community Preservation Committee has a lot going on.

- Town meeting article to rescind the Spring Hill (Cushing property) vote.
- The Cemetery stonewall rehabilitation is complete. They did not do the section along Pompositticut Street, and they didn't factor the cost of scheduling a Police Detail.
- Snow Property, Maple Street - The Agricultural Commission and Recreation Commission came to an agreement on a proposed mitigation plan, which is necessary in order to convert agricultural land to another use. They propose agricultural use on the back 6 acres and recreation use on the front portion of the property. Planning Board members noted that affordable housing should also be considered.
- Stow Community Housing met with the Community Preservation Committee to inform them that they are interested in creating additional housing.

Len Golder arrived at this point in the meeting.

- The Community Preservation Committee was asked for funds for an appraisal of the Tyler property, which is required for an Agricultural Preservation Restriction

COORDINATOR'S UPDATE

Karen Kelleher reported that she observed roundabouts in the State of Vermont and New Hampshire. The roundabout in Plymouth, New Hampshire, located at the end of the downtown area, was a good example of accommodating heavy traffic flow entering and exiting the downtown area. It seems to work well.

RED FOX RUN SUBDIVISION (Cranberry Circle)

Becky Stockhaus, representing Alyssa Real Estate, met with the Board to request release of the Bond (Tri-Party Agreement between the Town of Stow, Hudson Savings Bank and Stow Woodlands, LLC) for Cranberry Circle. This street was accepted at the May 2007 Annual Town Meeting. Bruce Fletcher, Tree Warden, reported that he inspected the street trees today and noted they are stressed but surviving.

Laura Spear moved to release the Performance Guarantee (Tri-Party Agreement) for the Red Fox Run (Cranberry Circle) Subdivision. The motion was seconded by Kathleen Willis and carried by a unanimous vote of five members present (Ernest E. Dodd, Laura Spear, Kathleen Willis, Leonard Golder and Steve Quinn).

COUNTRY CLUB ESTATES (Fairway Drive)

Becky Stockhaus, representing Alyssa Real Estate, met with the Board to request a reduction in the Bond (Tri-Party Agreement between the Town of Stow, Hudson Savings Bank and Stow Woodlands, LLC) for Fairway Drive. It was noted that Fairway Drive was presented to the May 2007 Annual Town Meeting for acceptance. The roadway was completed to the satisfaction of the Board; however, no action was taken at Town Meeting because the plan was updated after the Board of Selectmen's Public Hearing and Order of Laying out of Way.

Laura Spear said she recalls concern about the remaining undeveloped lots. Becky Stockhaus referred to a letter from Sue Sullivan, the Board's Consulting Engineer, which stated "It is also my understanding that the Board is in agreement that the portions of lots 8 and 10, where there is no loam and seed, are not a concern as they will be addressed at the time those lots are developed. It appears that although there is only scrub vegetation, there is not an erosion problem." Becky said the road is complete. They had to do a patch from a fuel leak, which was taken care of and inspected by the Board's Consulting Engineer and the Superintendent of Streets.

Kathleen Willis moved to authorize a reduction in the Performance Guarantee (Tri-Party Agreement) for the Country Club Estates Subdivision from \$109,641.00 to \$15,000.00. The motion was seconded by Laura Spear and carried by a unanimous vote of five members present (Ernest E. Dodd, Laura Spear, Kathleen Willis, Leonard Golder and Steve Quinn).

STREET ACCEPTANCE – FAIRWAY DRIVE AND INDIAN RIDGE ROAD

Becky Stockhaus, representing Alyssa Real Estate, requested that the Board recommend acceptance of Fairway Drive and Indian Ridge Road. Karen Kelleher noted that Indian Ridge Road was previously accepted but could not be recorded because the Town was not in receipt of the deed, conveying fee in Indian Ridge Road. Mr. Walter E. Lankau, Trustee of Hudson Road Realty Company, has since provided the deed.

Karen Kelleher will notify the Board of Selectmen of the Planning Board's recommendation for acceptance of Fairway Drive and Indian Ridge Road.

PUBLIC HEARING – MEADOWBROOK ESTATES (Trefry Lane)

At 7:30 PM, the Public Hearing to consider a request for modification to the Decision and Certificate of Action for the Meadowbrook Estates Definitive Subdivision, Planned Conservation Development Special Permit and Erosion Control Special Permit, for construction of an Emergency Access Way on Lot 1, from Trefry Lane to the Town of Boxborough.

Len Golder moved to waive the reading of the Public Hearing Notice. The motion was seconded by Kathleen Willis and carried by a unanimous vote of five members present (Ernest E. Dodd, Laura Spear, Kathleen Willis, Leonard Golder and Steve Quinn).

Ernie Dodd explained the purpose of the Public Hearing.

This hearing will only consider the Planning Board's decision on Paragraph 10.24 dealing with the Subdivision Rules and Regulations, Section 7.5.4, requiring the Plan to be modified as recommended by the Planning Board on the determination of what happens to the abutting Boxborough Property. The easement shall allow a pedestrian easement or an emergency only connection or possibly an access road, if the Boxborough Planning Board requires a through connection. The Boxborough Decision for Cricket Hollow requires an Emergency Access.

Facts:

1. The Original Decision addresses use of the easement.
2. The construction design of the easement has not been approved by the Stow Planning Board.
3. The Boxborough Planning Board's decision for the Cricket Hollow Subdivision requires an Emergency Access from Stow's Trefry Lane to the Boxborough development.
4. Eldamar Development has filed lawsuit against Stow and has requested a preliminary injunction to permit construction of the emergency access road without the approval of the Stow Planning Board.
5. The court has ruled against the preliminary injunction and has ordered that the parties meet with a mediator for the resolution of the lawsuit. If resolution cannot be made, the lawsuit shall continue.
6. The parties met with the mediator and came to an agreement, which was approved by Eldamar and the Stow Planning Board.

The Purpose of this hearing is to review only the design of the emergency access, which addresses the issues agreed to in the mediated agreement. Eldamar reserves its rights to continue with the lawsuit, if the Stow Planning Board decision does not comply with the agreement.

The Public Hearing will proceed in the following order:

1. The Chairman will review the agreement
2. Eldamar will present the design
3. Public comment
4. Review correspondence received
5. Planning Board members' comment

Ernie Dodd reviewed the Mediation Memorandum, which was based on the Planning Board's letter of May 31, 2007 to Eldamar Development.

- A. The natural terrain elevations shall be maintained with no excavation of soil or filling along the entire portion of the access within the Town of Stow, except as necessary to construct a foundation for the access and a surface for travel.
Agreed as written.
- B. The emergency access road shall be curved to obscure the view directly between Stow and Boxborough. This will maintain a line of trees on the horizon when viewed from either town.
Strike
- C. The surface of the emergency access road should be paved with pervious pavers to provide a good surface for the transport of heavy fire and emergency equipment and to facilitate snow plowing. This will permit natural grasses to grow in perforations and between the pavers to give the appearance of a grassed walkway.
Eldamar will construct the first 75 feet from the edge of the pavement toward the Town of Boxborough line with pervious pavers, with the remainder to be constructed with gravel.
- D. A gate locked with an emergency access lock shall be provided. During the Public Hearing, some of the abutters asked for a gate at each end of the emergency access way and others requested one gate at the town line. The location of the gate shall

be identified by the applicant for approval by the Board, such approval to not be unreasonably withheld.

Eldamar will install a locked emergency access gate at the Town of Stow/Boxborough boundary.

- E. Plantings shall be placed along ROW to block view of the access from property owners.

Strike

- F. Either the Town of Boxborough or a Homeowners Association must assume maintenance responsibilities, including repairs, snow plowing, etc.

Agreed as written.

- G. A snow plowing procedure shall be established to determine the best place to store snow from this access. The Storm Water Management System for Trefry Lane was not sized to handle this additional water and sedimentation load.

Eldamar shall store plowed snow upgradient to Boxborough until the right of way is accepted by a Town.

Ernie Dodd noted that during the mediation meeting, they discussed the issue of indemnification and determined that it is not necessary, as M.G.L. provides protection to the owners of the ROW. Eldamar Development or the Homeowners Association would be liable. Ernie said he doesn't think Stow would ever accept the ROW and therefore would not be liable.

Len Golder questioned if the Town should be indemnified. Jon Witten responded that Stow cannot get indemnification because Stow would not be responsible for a private way.

Kathleen Willis noted that the Planning Board's May 7, 2007 letter requires that the emergency access way shall not be used as a construction entrance to the Cricket Hollow Subdivision. Ernie Dodd noted that issue is addressed in the Cricket Hollow Decision.

Laura Spear noted a few comments to explain the Board's rationale:

- B. The emergency access road shall be curved to obscure the view directly between Stow and Boxborough. This will maintain a line of trees on the horizon when viewed from either town.*

The Board's agreement to strike this language was based on a safety perspective. It is preferable to have a straight way for emergency access.

- C. The surface of the emergency access road should be paved with pervious pavers to provide a good surface for the transport of heavy fire and emergency equipment and to facilitate snow plowing. This will permit natural grasses to grow in perforations and between the pavers to give the appearance of a grassed walkway.*

The Board wanted the emergency access way to have the appearance of a grassed walkway and was also concerned about erosion control. Given the topography of the land, the Board agreed to require pervious pavers for the first 75 feet. Ernie Dodd said he thinks the pavers will fill in and eventually blend in with the gravel surface.

- E. Plantings shall be placed along ROW to block view of the access from property owners.*

The Board feels there is enough vegetation and the area should fill in with natural growth. Ernie Dodd said the homeowners could also plant a buffer on their property.

Laura Spear noted that some of the property owners cut trees that the Planning Board required to be retained.

Ken Kaulbach reviewed the revised plan entitled "MODIFICATION TO DEFINITIVE SUBDIVISION PLAN – MEADOWBROOK ESTATES – A PLANNED CONSERVATION DEVELOPMENT – PLAN AND PROFILE TREFRY LANE TO MADELINE LANE", dated September 13, 2007, prepared for Eldamar Development Co., LLC, by Stamski and McNary, Inc.

Ken Kaulbach said he will install a sign, as shown on the plan and required by the Cricket Hollow decision, but noted it will be difficult to fit all of the text on a sign.

Joe Hogan, 47 Trefry Lane, said he objects to the location of the access road because it cuts into his residential driveway and will obstruct their day-to-day use (bus stop, trash pickup, etc). It will create a maintenance issue, noting that the driveway was paid for and is maintained by him and Mike Travalent. He said there is plenty of room to shift the emergency access road over a few feet and urged the Planning Board to require it be shifted.

Mike Travalent, 62 Trefry Lane, noted that the street curves twice in Boxborough. He asked who is responsible for maintenance and liability. He is also concerned about pavers being installed only half way, resulting in three different surfaces, which will look like it was under funded. He noted that they have not done any landscaping because they wanted to wait until they knew what was going on with the emergency access driveway. He feels there should be a determination as to the type of sign, as it could be an eye sore.

Larry Zimmerman, 62 Trefry Lane, said he paid a lot for their house and there was a variance so the house could be closer to the lot line. If the emergency access way is shifted it will be even closer to his house. He is also concerned that they will see the gravel drive which will retract from the value of their home. He feels the pavers should go all the way to the Boxborough Town line.

Tony Keirouz, 53 Trefry Lane, wants to be sure this emergency access road will not be used as a construction entrance.

Mike Travalent, 62 Trefry Lane, would like a stipulation as to how long it will take to construct the road so it doesn't get drawn out for a long time. Ken Kaulbach said his plan is to take a couple of days to complete construction, noting there is no reason to take longer. He will probably do it sometime next month.

Larry Zimmerman, 62 Trefry Lane, said he has not done landscaping in this area because of this issue.

Ken Kaulbach said, if the residents want to pay for the extra pavers for the second half of the road, Eldamar Development will put them in. Kathleen Willis asked what the difference in price would be. Ken Kaulbach thought it would be a couple of thousand dollars. It would be less expensive to pave.

Laura Spear noted that the Planning Board originally requested that the emergency access road should be curved to obscure view from Stow to Boxborough and questioned: If they adjust the entrance, would it still meet the letter of the agreement? Jon Witten said both parties could agree to the change.

Ernie Dodd said the entrance could be shifted over some to avoid crossing the common drive and the Board needs to determine the location. Steve Quinn suggested shifting the road over and placing something like a large rock to separate the entrance from the common driveway.

Steve Quinn would like to see some means of approval on the type of pavers to be used. Laura Spear noted that the Board has a catalog of different types of pavers. Ken Kaulbach said his engineer has a type of pavers that they typically use. Ernie Dodd said he wouldn't have a problem, if it were a concrete color. Steve Quinn said he wouldn't want to see pink colored pavers. Members noted that the Decision could include a condition as to the type and color of the pavers and/or require prior approval.

Ken Kaulbach said he provided a plan to the Planning Board and didn't get any feedback. Laura Spear noted that the Board received the plan just last week and this is the first time the Board met. The Board cannot provide feedback before discussing at a public meeting. Ken Kaulbach said that we will be back in court, if the Board wants to redo the agreement. Len Golder said the Board would like some adjustment to the plan, but does not want to change the intent of the agreement. Ken Kaulbach said he does not want to go to the expense of revising the Plan. Jon Witten said if the Board votes to approve the plan with a condition that the road be adjusted, it should be stated as a condition and be recorded. Ernie Dodd said he thinks the Board's decision will include reasonable conditions and Ken Kaulbach can decide if he wants to go along with them. Ken Kaulbach said he will have a problem, if the conditions deviate from the agreement. Jon Witten said it is worth continuing discussion this evening and articulating the concerns.

Ken Kaulbach said as to the requirement to curve the emergency access road, this issue was discussed and noted that the Board should keep in mind that the easement has been there all along. The properties were bought with full notice of the possibility for an access drive.

Joe Hogan, 47 Trefry Lane, said Ken Kaulbach designed the driveway and the easement and it is up to him to design the emergency access drive to work in harmony. He noted that the area in question is actually on the Town road, past the easement.

Ken Kaulbach noted that many of the driveways were moved after they were installed and he doesn't think the plan will impact the driveway. He said that he would be willing to shift the emergency access road over, but would ask for a pen and ink change to the Plan, rather than going to the expense of having an engineer revise the plan. He thinks the plan comports with the settlement agreement and property rights.

Larry Zimmerman, 62 Trefry Lane, asked how far the drive would be shifted. Members responded that they expect it would be no more than 4 feet.

Len Golder questioned how to address the issue of color and texture of the pavers. Jon Witten said the Board's Decision could condition they be a grey concrete color.

Len Golder and Laura Spear said they would like to approve the sign to ensure it is not intrusive. They agreed that it would be difficult to fit all of the text. All members agreed that the text on the sign can be limited to "EMERGENCY VEHICLES ONLY". Kathleen Willis suggested including the words "NO TRESPASS". She also noted that it makes sense to place the sign a few feet in.

Laura Spear noted concern about gravel eroding into abutter's loamed yards. It was also noted that the standard gravel should be used...not white rock.

Mike Travalent, 62 Trefry Lane, noted the emergency access road is on his property and asked if people would have the right to walk it. Jon Witten responded the easement is limited to emergency access.

Ernie Dodd told Ken Kaulbach that the Board does not want the emergency access road to be used as a construction entrance. Ken Kaulbach agreed.

Ernie Dodd suggested giving a year from start to stop of construction.

Mike Travalent, 62 Trefry Lane, would like the option to pay for the additional pavers. Members said they should work that issue out with Ken Kaulbach. Ken Kaulbach said he will ask for a quote to be broken down both ways (75' and 150' of pavers). Jon Witten suggested that the Decision include language to give the Applicant the discretion to use pavers for the entire length. Mike Travalent said he would like the option for a gravel surface for the entire length and for them to work it out with Ken Kaulbach. Ken Kaulbach said that is not relevant to this discussion. Kathleen said she feels it should be discussed now, because if not, the discussion probably will not take place. Ken Kaulbach said it is a private matter.

Mike Travalent said he is looking for fill and because the easement is on his property, asked if he could keep any excavated material.

Members reviewed conditions to be included in the Decision:

1. No construction vehicular access – other than for construction of the emergency access road.
2. The entrance of the emergency access roadway shall be relocated in the westerly direction.
3. Standard gravel and concrete gray colored pervious pavers shall be used.
4. Sign “Emergency Vehicles Only” to be posted on the tree line.
5. At the Applicant’s discretion, the entire emergency access roadway, as shown on the Plan, may be constructed of concrete gray colored pervious pavers.

Laura Spear moved to close the Public Hearing. The motion was seconded by Kathleen Willis and carried by a unanimous vote of five members present (Ernest E. Dodd, Laura Spear, Kathleen Willis, Leonard Golder and Steve Quinn).

Members reviewed the draft decision, prepared by Town Counsel, Jon Witten. Ken Kaulbach questioned the requirement to submit an as-built plan. Kathleen Willis said it is important to have an as-built plan for future Boards to see what was actually constructed. She also noted that it is important for the Board to be consistent in its requirements. Jon Witten suggested that the Applicant be allowed to file the asbuilt plan, consistent with the as built for the Cricket Hollow Subdivision.

Laura Spear moved to grant the Special Permit Modification Decision as drafted and amended. The motion was seconded by Len Golder and carried by a unanimous vote of five members present (Ernest E. Dodd, Laura Spear, Kathleen Willis, Leonard Golder and Steve Quinn).

CORZINE PROPERTY, off Walcott Street – (Map Sheet R-2, Parcel 1B)

Steve Glover met with the Board to discuss plans for landlocked property located in the residential district that he has under agreement. He last met with the Board to discuss this property on July 11, 2006, when he had someone interested in the property for a horse farm. At

that time, he proposed creating a 4-lot rural lane subdivision. The owners of Radant agreed to sell him a strip of land (industrial zoned) to create the roadway, provided that they can use the road as frontage for their industrial zoned property. He was willing to place a restriction on his property so that it can be no further subdivided. Although the potential buyer has since bought property in the Town of Sudbury, he is still interested in creating a 4-lot rural lane Subdivision. The Subdivision Roadway would go through Radant and EFMC Property, creating access to the Corzine, Banks, EFMC and Radant properties. He is still willing to put a restriction on the Corzine property and if Banks, EFMC or Radant want to further develop their property they would have to upgrade the road.

Members noted issues of concern:

- Need to determine the legal right to use Athens Lane
- The length of the dead end road would be in excess of 2,000 feet
- Potential connection to the Banks and Cushing properties

Steve Glover also asked if the Board would require a projection of the street from the Cushing development, as provided in Section 7.5.4 of the Subdivision Rules.

Members advised that they would like to see a concept plan before providing any specific input on his proposal.

Respectfully submitted,

Karen Kelleher
Planning Coordinator