

# **TOWN OF STOW PLANNING BOARD**

Minutes of the October 2, 2007, Planning Board Meeting.

Present: Planning Board Members: Laura Spear, Leonard Golder and Steve Quinn

Planning Board Associate Member: Bruce Fletcher

Planning Coordinator: Karen Kelleher

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

## **CORRESPONDENCE**

Members reviewed reports from its Consulting Engineer, Sue Sullivan.

### **Wildlife Woods:**

The road shoulders on Woodland Way, after Lady Slipper Lane haven't been permanently stabilized. As these shoulders slope to the drainage basins for recharge, erosion from these shoulders should be prevented either through temporary/permanent stabilization or with the use of erosion control barriers (silt fence or hay bales).

*Mark White responded that he will get this area stabilized in the next week or so.*

The binder does not extend across the frontage of the second house under construction on Lady Slipper Lane. Are you planning on paving this portion this fall?

*Mark White responded that he plans to pave, binder only, this fall sometime in early November but before November 15<sup>th</sup>.*

Foxglove Lane has three new houses and one that is currently under construction. The pavement in front of the house under construction needs to be swept and a temporary stone construction entrance should be installed on any lots not completed (or driveway binder installed) prior to the onset of winter.

*Mark White responded that he will address this issue.*

The area over the fire cistern remains gravelly and has not been loamed and seeded.

*Mark White responded that they need to put the sidewalk in and are not planning on doing this until next spring, if it is okay with the Board. Board Members are okay with the sidewalk being installed in the spring.*

### **Cider Mill Road**

Several lots remain and are currently for sale; therefore, it is not anticipated that the roadway will be completed until next year at the earliest. The roadway was paved in 2005 and appears to be holding up well.

Lot 1 is nearing completion and the loam was being spread on the lot. The erosion control barrier at the rear of the lot needs attention, as the hay bales have decayed and the silt fence is sagging in spots. The erosion control barrier should remain in place until the lot is fully stabilized.

The entire erosion control barriers should be inspected and repaired, as needed. (This is a requirement of the NPDES permit and should be done automatically).

There are several large stockpiles of material (loam and soil) on site, which should be stabilized, unless they will be used within the next 21 days (also a requirement of NPDES).

It is recommended that the catch basins be cleaned this fall and proof of the cleaning submitted to the Board (normal requirement for the Stormwater Quality regulations).

*A copy of the report will be forwarded to John Anderson with a request for his immediate attention to these matters.*

#### Arbor Glen

Sue Sullivan reviewed the request for Bond Reduction and recommends a reduction, as requested. As this issue was not included on the agenda, it will be addressed at the next meeting.

#### **PUBLIC INPUT** - None

#### **PLANNING BOARD MEMBERS' UPDATES**

Lower Village Sub-Committee – Laura Spear reported that the Lower Village Committee is looking at pathway locations along Route 117 and the Common. They are also looking at some change in the streetscape specifications. It is anticipated that the Planning Board will be receiving a formal request for sidewalk funds.

#### **PUBLIC HEARING – ZONING BYLAW AMENDMENTS**

At 7:30 PM, the Public Hearing to consider proposed Zoning Bylaw Amendments was called to order.

***Steve Quinn moved to waive the reading of the Public Hearing Notice. The motion was seconded by Len Golder and carried by a unanimous vote of three members present (Laura Spear, Steve Quinn and Len Golder).***

#### **Section 3.1 – Recreation-Conservation District Uses**

Laura Spear explained that these proposed amendments are merely housekeeping to clarify the intent of Recreation-Conservation District Uses by:

- Changing the term “swamp land” to “wetlands” and the term “permitted” to “allowed”;
- Including cross country ski areas, as a non-commercial recreation use allowed in the Recreation-Conservation District;
- Correcting the Zoning Bylaw reference to Farm Stands;
- Adding uses allowed for religious, non-profit educational and Public Service Corporations, in accordance with G.L. c.40A, s.3; and
- Adding golf carts, but no other motorized recreational vehicles, as a permitted use subject to Special Permit.

Section 3.1.1.4 - Gay Gibson McDonald, Gleasondale Road, noted concern about the potential for additional buildings that might be needed for rental equipment.

Section 3.1.1.7 – It was noted that the proposed language should be clear that the uses are for non-profit organizations.

Section 3.1.2.6 – Gay Gibson McDonald noted concern that the proposed language should address the use of snowmobiles and suggested all motorized vehicles should be prohibited. Bruce Fletcher suggested that the Board come up with some clarifying language so it is clear that the intent is to prohibit commercial recreational vehicles.

Gay Gibson McDonald, Gleasondale Road, said she is concerned about noise from snowmobiles, noted they can now even hear tee time announcements.

It was noted that golf carts should be allowed.

#### Accessory Apartments -

The Proposed change would allow Accessory Apartments by right. Laura Spear noted that the Planning Board merely goes through a checklist when reviewing a Site Plan Approval or Special Permit Application and feels that the Building Inspector can do that just as easily.

Carole Makary, Taylor Road, said she doesn't see what would be gained by making the process easier and allowing more density. Laura Spear responded that the gain would be diversity in housing choices, noting that although accessory apartments would not count toward Chapter 40B, in most cases an accessory apartment is for family members. Carole Makary said she is worried that the family member would no longer need the apartment and it would turn into a rental.

Gay Gibson McDonald, Taylor Road, said Stow doesn't need to provide everything in terms of housing in Stow. That is why they moved here. She is concerned about where the water will come from. She also likes the idea of a process that is more rigorous so the Planning Board would have the ability to say no.

Bruce Fletcher noted that Accessory Apartments do not increase density, noting the number of bedrooms would remain the same. If you have a house with a 4-bedroom septic system, you would be limited to 4-bedrooms.

Bob McDonald said it makes sense that neighbors should have input.

Janet Wheeler, Randall Road, said the Special Permit process provides the opportunity for input from abutters. She also noted that it can increase because it would become a rental. She feels the Town should not increase density when it is known that we will have 40B developments until we meet our ten percent affordable housing.

Section 8.1.2.3 - It was noted that the intent of the proposed new Subsection 11 to be added to Section 8.1.2.3, which states "The ACCESSORY APARTMENT shall not occupy more than 50% of an ACCESSORY BUILDING.", is to prevent one from building a 702 sq. ft. building with a 700 sq. ft apartment within that building.

#### Section 8.3 – Cross-Country Ski Uses in the Residential District subject to a Special Permit by the Planning Board:

Janet Wheeler, Randall Road, said she is opposed to allowing snowmaking equipment, which is very noisy and will cause neighbors to complain. She feels it is an environmental issue and that it is inappropriate for the Residential District.

Karen Kelleher reported that the Building Inspector also voiced concern about snowmaking equipment. He is concerned about it becoming an enforcement issue because of the noise.

Len Golder noted that Golf Courses are having financial difficulty and therefore, the Planning Board wants give options to golf course owners. Janet Wheeler said it is not up to the Town to figure out how a particular business can be profitable. She said she doesn't oppose cross-

country skiing, she is concerned about noise. She also noted that Golf Courses pay less in taxes and other rules are bent for them.

Bob McDonald asked if the Board has had a particular request for snowmaking equipment. Laura Spear said the Board has not had a particular request. The Board wanted to allow some flexibility in uses, as the Town values the resource that the golf courses provide. She also noted that the Board can control hours of operation as a condition of the Special Permit.

Although not included in the proposed amendments, Gay Gibson McDonald feels Section 8.3.4 should be amended to require a setback greater than 50 feet for trails or buildings.

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

Laura Spear explained that the Bylaw allows a "snack bar but not a restaurant" for Golf Course Uses in the Residential District. The Bylaw does not define either term (snack bar or restaurant) and therefore, it would be difficult to differentiate the uses.

Janet Wheeler, Randall Road, said a restaurant would be a year round use and may become a destination point, resulting in additional traffic during the winter months.

Len Golder said the Bylaw is so vague that a snack bar could become a restaurant, however they would still be limited to a 2500 sq. ft. building.

Laura Spear said there is nothing in the statute or definition section of the Bylaw that defines a snack bar or restaurant.

Karen Kelleher noted that this change would not apply to Stow Acres, which is a pre-existing non-conforming use. The Zoning Board of Appeals would have jurisdiction over any change.

Carole Makary, Taylor Road, said she heard a comment about Golf Courses having trouble and asked if the Town is privy to their financial statements and if not, how do we know we are dealing with a real need. Len Golder said we know from anecdotal information in the newspapers that it is an issue for golf courses across the state.

Bob McDonald, Gleasondale Road, asked if there could be a trade off, such as rezoning the property to Recreation-Conservation. He noted that Stow, unlike other towns allows commercial operations in the Recreation-Conservation District.

Janet Wheeler, Randall Road, said she has heard it mentioned that golf courses are going out of business for the past 25 years and should be careful that the Town doesn't respond to that type of threat.

Laura Spear said the Town should be supportive in providing the opportunity to increase revenue for this type of use because we have a very limited non-residential tax base.

Bob McDonald, Gleasondale Road, said most of the golf courses are in Chapter 61B and he is not sure if the buildings are taxed separately. If not, they are getting a healthy tax break. It was noted that the clubhouse and buildings are carved out of the Chapter 61B portion of the property. They are also subject to personal property taxes.

Section 8.4.1.6 – Laura Spear explained that the amendment to Section 8.4.1.6 proposes to require a permit from the Board of Health for application of pesticides/herbicides on the golf course site, as well as a periodic review by the Board of Health.

Bob McDonald, Gleasondale Road, noted the study, prepared by IEP, looked at water supplies and came up with a recommendation for the Flood Plain/Wetlands District and for 1½ acre zoning. He hopes that the Planning Board will try to keep to that overall 1½ acres, which is needed for groundwater recharge and clean water. He was worried about talk about buying water for Lower Village. Len Golder said there is nothing on the table that proposes to reduce the 1 ½ acre requirement but there are other issues to be addressed, such as Affordable Housing. Bob McDonald suggested using Transfer of Development Rights (TDR) so the total build out won't change. Laura Spear said the Planning Board has been looking at how we can be creative and are now looking at mixed-use development and know there are infrastructure issues tied to that. Janet Wheeler, Randall Road, said there is a lot of State pressure on Affordable Housing. Gay Gibson McDonald said, as 40B developments come along, we may need more area.

Bob McDonald noted that the houses built next to the dump in Hudson are 1,000 deep.

***Steve Quinn moved to propose Zoning Bylaw Amendments as discussed for inclusion in the December 3, 2007 Special Town Meeting Warrant . The motion was seconded by Len Golder and carried by a unanimous vote of three members present (Laura Spear, Steve Quinn and Len Golder).***

## **ARTICLE (RECREATION-CONSERVATION DISTRICT USES)**

### **3.1 Recreation-Conservation District Uses**

*This district is intended to protect the public health and safety, to protect persons and property against hazards of flood water inundation and unsuitable and unhealthy development of unsuitable soils, ~~swamp land~~ wetlands, marsh land and water courses; to protect the balance of nature, including the habitat for birds, wildlife, and plants essential to the survival of man; to conserve and increase the amenities of the Town, natural conditions and OPEN SPACES for education, recreation, agriculture, and the general welfare.*

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 c~~ 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, or by a nonprofit educational corporation; 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 by a PUBLIC SERVICE CORPORATION pursuant to the requirements of G.L. c.40A, s.3.*
- 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 *Golf carts, but no other motorized recreational vehicles, are permitted.*

## **ARTICLE (ACCESSORY APARTMENTS)**

### **8.1 ACCESSORY APARTMENTS**

- 8.1.1 Purpose - As provided herein, one additional DWELLING UNIT may be allowed as an ACCESSORY APARTMENT in a single-family DWELLING or ACCESSORY BUILDING located on a LOT with a single-family DWELLING for the purpose of providing small additional DWELLING UNITS without adding to the number of BUILDINGS in the Town or substantially altering the appearance of BUILDINGS, the neighborhood or the Town; increasing the range of housing accommodations; encouraging a greater diversity of population; and encouraging a more efficient and economic use of existing housing stock by enabling owners of single-family DWELLINGS larger than required for their present needs to share space and the burdens of homeownership while maintaining the single-family appearance and character of BUILDINGS, the neighborhood and the Town.
- 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, 1994, or~~
- 8.1.2.2 The ACCESSORY APARTMENT is physically attached to or within a lawfully existing single-family DWELLING or ACCESSORY BUILDING constructed after May 6, 1994; 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.~~

Principal Uses	Residential	Business	Compact Business	Industrial	Commercial	Recreation Conservation	FloodPlain Wetlands	Refuse Disposal	Site Plan Approval
Single Family DWELLING with ACCESSORY APARTMENT	SPP (4) (7) (11) Y	N	SPP (4) (7) (11) Y	N	N	N	N	N	(3)

9.3.3 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;~~
- BED AND BREAKFAST HOME;
- BOARDING HOUSE or ROOMING HOUSE;
- permanent BUILDING or STRUCTURE for the sale of farm produce;
- in the Business District, uses permitted, provided that the BUILDING is less than 1,000 square feet GROSS FLOOR AREA; and
- in the Commercial and Industrial Districts, uses permitted, provided that the BUILDING is less than 1,500 square feet GROSS FLOOR AREA;

**ARTICLE (Cross-Country Ski Uses in the Residential District subject to a Special Permit by the Planning Board)**

8.3.5 No so-called snowmobiles or other recreational motorized vehicles shall be permitted except for emergency or maintenance purposes.

**ARTICLE (Golf Course Uses in the Residential District subject to a Special Permit by the Planning Board)**

8.4.1.6 Unless otherwise preempted by state law, 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.

Karen Kelleher will prepare the Planning Board Summaries.



### **SIDEWALK FUND**

Members reviewed an invoice from Berlin Stone Company, in the amount of \$3,011.21.00 for the Sudbury Road sidewalk, submitted by the Highway Department, to be paid from the Sidewalk Fund.

***Len Golder moved to authorize payment of the invoice from Berlin Stone Company, in the amount of \$3,011.21, from the Sidewalk Fund account and to send a note to the Highway Department asking that they give the Planning Board notice prior to commencement of any projects to be paid from this account, so that the Board may have the opportunity to determine if the project is or should be included in the priority list. The motion was seconded by Steve Quinn and carried by a unanimous vote of three members present (Laura Spear, Steve Quinn and Len Golder).***

### **EXECUTIVE SESSION**

***Len Golder moved to enter into Executive Session for purposes of discussing ongoing litigation and to adjourn at the conclusion of Executive Session. The Motion was seconded by Steve Quinn and carried by a unanimous roll call vote of three members present (Laura Spear, Steve Quinn and Len Golder).***

### **ADJOURNMENT**

The meeting adjourned at 9:45 p.m.

Respectfully submitted,

Karen Kelleher  
Planning Coordinator