

TOWN OF STOW PLANNING BOARD

Minutes of the December 11, 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

September 11, 2007 – Kathleen Willis moved to approve minutes of the September 11, 2007 meeting, as amended. The motion was seconded by Laura Spear and carried by a unanimous vote of four members present (Ernie Dodd, Laura Spear, Kathleen Willis and Steve Quinn).

November 20, 2007 – Kathleen Willis moved to approve minutes of the November 20, 2007 meeting, as written. The motion was seconded by Laura Spear and carried by a unanimous vote of four members present (Ernie Dodd, Laura Spear, Kathleen Willis and Steve Quinn).

November 27, 2007 – Kathleen Willis moved to approve minutes of the September 11, 2007 meeting, as amended. The motion was seconded by Laura Spear and carried by a unanimous vote of four members present (Ernie Dodd, Laura Spear, Kathleen Willis and Steve Quinn).

ZONING - LANDING FIELDS

Members reviewed correspondence from Bob Ritchie, Assistant Attorney General, concerning Landing Fields. Bob Ritchie suggested contacting Wayne Kerchner, General Counsel for Massachusetts Aeronautics Commission (MAC). Members agreed to contact MAC after Christmas.

PLANNING BOARD MEMBERS' UPDATES

Community Preservation Committee

Laura Spear reported that she attended a meeting at Department of Housing and Community Development (DHCD) with Community Preservation Committee Chairman Bob Wilbur and Town Counsel Jon Witten to discuss Stow's Deed Restriction Program. Representatives from Representative Walrath and Senator Resor's office were also present. Laura noted that DHCD is concerned that the program does not create new units. She also noted that DHCD's priority is to update the Chapter 40B Regulations and gave a time frame of the first quarter fiscal year for a response to Stow's Deed Restriction Program. Jon Witten asked, if the Town went forward with the program now, would the units be approved retroactively if DHCD approves the program? DHCD representatives responded, yes, they assume they would be approved retroactively. Laura Spear pointed out to DHCD that we are talking about a handful of units and that the program gives existing residents the opportunity to stay in their homes. It is a win-win situation.

They also explained to DHCD that new construction is not easy for Stow because we don't have the infrastructure. Stow has been proactive in providing affordable housing. The Deed Restriction Program is just one tool. Stow also approved an Affordable Housing Inclusionary Bylaw, an Active Adult Neighborhood Bylaw which includes an affordability component, and created an Affordable Housing Trust. They also explained that the Town brought forward a proposed bylaw to allow accessory apartments by right, which failed.

DHCD raised concern about the potential of fleecing seniors. Stow representatives showed DHCD a packet that encourages prospective applicants to talk to a representative to ensure the program is for them. The Council on Aging can also serve as a neutral third party in identifying support.

Len Golder arrived at this time in the meeting.

COORDINATOR'S REPORT

Karen Kelleher reported on ongoing activities in the Planning Department.

Butternut Farm Golf Course

The Board of Selectmen are renewing Liquor Licenses this evening and, as discussed at a previous Planning Board meeting, Karen Kelleher sent a memo to the Selectmen urging them to consider the numerous outstanding items, relative to the Special Permit, in their deliberations on renewal of the Liquor License, and recommending that they consider either renewing the Liquor License with the provision that the License will be rescinded if they do not comply with the Planning Board's Decision or renewing the License for a two or three month period.

Karen Kelleher further reported that Susan McLaughlin, Administrative Assistant to the Selectmen, advised that the state says the Selectmen must renew the license if they're in compliance with inspections by the Fire Dept and Building Inspector, which they are.

Cushing Property

Karen Kelleher reported that the office has received many inquiries about a proposed subdivision plan for the Cushing property since the Conservation held their Public Hearing for a wetland delineation. Nothing has been filed with the Planning Department yet. An abutter, who owns property in Hudson and Stow, wants the developer to provide access to his landlocked property. Karen Kelleher suggested he speak with the Developer before plans are finalized for submission.

Riverhill Estates – Bob Collings is meeting with the Conservation Commission this evening. He is requesting permission to start on the proposed fire pond, claiming he has an approved subdivision. Karen Kelleher informed Pat Perry, Administrative Assistant to the Conservation Commission, that the Planning Board's decision is a conditional approval and that Mr. Collings appealed the decision.

Lower Village

A cost estimate for construction of sidewalks along Pompositticut Street was received from Mike Clayton, Superintendent of Streets. This item will be placed on a future agenda for the Planning Board to consider use of the Sidewalk Funds.

Community Development Director

The Selectmen are considering the idea of creating a new Community Development Director position. This position, as opposed to a Professional Planner, which has also been discussed, would be more involved in implementation of the Town's Master Plan, preparing grant applications and acting as project manager on specific projects. Planning Board Members seemed to be supportive of this suggestion.

PUBLIC HEARING – ACCESSORY APARTMENT

At 7:30 p.m. the public hearing to consider a Petition for Accessory Apartment at 242 Hudson Road was called to order.

The Petitioner/Property Owner, Maisie Hochella, and Russ Wilson of R. Wilson and Associates and Construction Contractor Mark Rude were present.

Russ Wilson reviewed the Plan, which shows an existing 4-bedroom house. He said the septic system passed a Title 5 inspection for 4 bedrooms. The interior will be changed so that there will be no more than 4 bedrooms. Russ Wilson advised that he talked to the Health Agent, who is okay with the proposed change as long as a deed restriction limiting the number of bedrooms to four is recorded with the Registry of Deeds.

Mark Rude explained that he is working with the Building Inspector on the construction plans. He noted that 2 of the people who will occupy the Accessory Apartment are handicapped.

Maisie Hochella explained that her two parents, who currently live in Medway, will be living in the accessory apartment. She hired an architect to prepare the plans. Her family of three will live in the main home. She is thinking to the future in the plans for the accessory apartment, which will most likely be used in the future by her daughter, who has Downs Syndrome. She also noted they have an Order of Conditions from the Conservation Commission, which is recorded at the Registry of Deeds. A deed restriction for the Septic System will also be recorded.

Members noted that the plans do not indicate the total sq. ft. of the proposed Accessory Apartment. Mark Rude calculated the total sq. ft. (including the sunroom) to be greater than the 700 sq. ft. Bylaw limitation. The total square feet, excluding the sunroom is 665 sq. ft. It was noted that the sunroom will not be heated.

Ernie Dodd questioned why the septic tank does not meet the Board of Health setback requirements. Russ Wilson said he submitted the plan to the Health Agent, who said the plan is okay, subject to a variance and deed restriction limiting the system to four bedrooms.

Members reviewed the requirements of the bylaw:

Section 8.1.2.3, subsection 1, requires 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. ***(The proposed Accessory Apartment (excluding the unheated sunroom is 665 sq. ft.)***

Section 8.1.2.3, subsection 4 requires that 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. ***(A variance is required from the Board of Health).***

Section 8.1.2.3, subsection 6, requires any entrance required by the inclusion of an ACCESSORY APARTMENT shall be clearly secondary to the main entrance of the primary DWELLING UNIT. ***(The plan shows the entrance to the proposed accessory apartment through the garage. Board members noted that the Building Inspector may want another entrance. Mark Rude said they could amend the plan to show an entrance through the sunroom.)***

Section 8.1.2.3, subsection 9, requires 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. ***(The Petitioner agreed to provide the required parking spaces.)***

Members reviewed required conditions and plan modifications:

1. **Plan Modification:** Prior to issuance of a Building Permit, the Plan shall be modified to show access to the Accessory Apartment through the sunroom.

2. **Condition:** Prior to issuance of a Building Permit, the Applicant shall obtain all applicable approvals and variances from the Board of Health and submit a copy to the Board.

Condition: Upon issuance of a Building Permit and prior to commencement of work, the Applicant shall provide proof of recording the deed restriction at the Registry of Deeds.

Condition: The total number of bedrooms for the Accessory Apartment and primary dwelling shall not exceed 4.

3. **Plan Modification:** Prior to issuance of a Building Permit, the Plan shall be modified to clearly define the area of the accessory apartment and state the total square feet.
4. **Plan Modification:** The plan shall be modified to clearly define 2 off-street parking spaces for each dwelling unit and an adequate turning area.
5. **Condition:** Exterior Lighting shall comply with the requirements of Section 3.8.1.5 of the Bylaw, as amended at the May 2007 Annual Town Meeting, a copy of which is attached to this Decision.

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

Karen Kelleher will draft a Decision for the Board to consider at its next meeting.

CROW ISLAND

Rob and Annette Albright met with the Board to discuss their plans for Crow Island.

Rob Albright explained that they bought Crow Island in 1983. At that time, the Zoning Bylaw allowed a caretakers cottage in the Recreation Conservation District. He was notified by a member of the Planning Board that the bylaw was changing to prohibit a caretaker's cottage in the Recreation Conservation District, and was advised that he would need to obtain a building permit in order to be grandfathered. Rob said he filed an application for a Building Permit but the Town Clerk did not log it in correctly and he now doesn't have a venue to address that error. He asked that the Planning Board either interpret the Bylaw in such a way to allow him to build a home on Crow Island or to amend the bylaw to allow a residential dwelling in the Recreation-Conservation District.

Karen Kelleher noted that, because the Bylaw was previously amended to specifically remove a caretaker's cottage as a permitted use in the Recreation-Conservation District, the only way a residential dwelling could be allowed, is through a Zoning Bylaw amendment. Ernie Dodd said a Zoning Bylaw amendment requires a 2/3 vote of Town Meeting. Karen Kelleher asked if the Planning Board would support such a bylaw amendment. Len Golder said he would like to review the file. Board members said they would not be willing to sponsor an article. However, the property owner could submit a petition article to the Selectmen.

Len Golder suggested requiring a deed restriction limiting a residential dwelling to the current owner. Ernie Dodd suggested maybe limiting the use as a Caretakers Cottage not to exceed 700 sq. ft., similar to the Accessory Apartment Bylaw. Laura Spear worries about the potential for more than one residential dwelling because the lot could be subdivided.

Rob Albright noted that the Planning Board granted a Special Permit for commercial soccer fields; however, the property is now operating non-commercial uses (model flyers, ultra light and horse shoe clubs). Len Golder questioned if he could have a caretakers cottage as an accessory use to the non-commercial operations. Members explained that the Bylaw was specifically amended to exclude a caretaker's cottage as a permitted use. Len said because the use was purposely removed, the Planning Board must abide by current zoning.

Ernie Dodd said Rob Albright should have pursued the issue 20 years ago. Rob Albright said he didn't proceed back then because he wasn't ready to retire. Laura Spear said if the Building Permit was issued, it would have expired by now. She said unfortunately they missed the window of opportunity. Laura Spear noted that she didn't see a full copy of the Building Permit application in the file. Rob Albright said he filed a full application but never filed the building plans.

Rob Albright asked the Planning Board to help draft a bylaw amendment. Len Golder said it would be difficult to draft a bylaw that the Town would be comfortable with and not be open to additional build out. Members pointed out several large parcels in the Recreation-Conservation District that could potentially be subdivided for residential development. Laura Spear said she is open to looking a Bylaw that Rob Albright prepares. Ernie Dodd suggested that Rob Albright consult with an attorney and come up with a bylaw amendment that is in keeping with the purpose of the Recreation-Conservation District.

Rob Albright will work on a proposed bylaw taking into consideration the potential for further development in the Recreation-Conservation District, by defining a large lot size and restricting the acreage to not include floodplain. He asked if he could obtain a list of Recreation-Conservation zoned property owners. Karen Kelleher said he could obtain that information from the Board of Assessors. Karen Kelleher also advised that he look at frontage requirements when drafting the bylaw, noting that Crow Island has no legal frontage.

ANR PLAN – 66 TAYLOR ROAD (R-17 # 33)

Members reviewed an ANR plan for 66 Taylor Road.

Laura Spear moved to approve the ANR Plan, creating two new building lots, entitled “Plan of Land in Stow, MA”. Prepared for Brett Taylor, dated November 30, 2007, revised December 11, 2007. Prepared by Thomas Land Surveyors, dated November 30, 2007, revised December 11, 2007, and to authorize Kathleen Willis or Karen Kelleher to endorse the Plan. The motion was seconded by Kathleen Willis and carried by a unanimous vote of five members present (Ernie Dodd, Laura Spear, Kathleen Will, Len Golder and Steve Quinn).

BUTTERNUT FARM GOLF CLUB

Members agreed to schedule a site visit at Butternut Farm Golf Club on Friday, December 14, 2007 at 8:45 a.m.

Karen Kelleher will contact the Engineer and property owner to advise.

ADJOURNMENT

The meeting adjourned at 9:50 p.m.

Respectfully submitted,

Karen Kelleher
Planning Coordinator