

TOWN OF STOW PLANNING BOARD

Minutes of the January 20, 2009, Planning Board Meeting.

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

Associate Member: Bruce E. Fletcher (Voting Associate)
Malcolm FitzPatrick (Non-Voting Associate)

Planning Coordinator: Karen Kelleher

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

CORRESPONDENCE

Zoning Board of Appeals Public Hearing Notice –Members reviewed the Public Hearing Notice from the Zoning Board of Appeals for proposed stables at 3 Forest Road. Laura Spear did not participate in this discussion as she is a neighbor.

Kathleen Willis noted that a Stable Permit was issued and is concerned because it does not appear to meet the stable guidelines. She understands the applicant is calling it an existing stable. Kathleen is worried about manure management given the fact that it is so close to the river. She said the applicant claims they have the required 80,000 sq. ft. because they are counting land area on an abutting property. Ernie Dodd said that, if the proposed stable is within 100' of the property line, it is not allowed because it would be considered a use variance, as the setback requirement is stated in the use section of the Bylaw. It was noted that the horses are already at the property.

Members agreed to forward a memo to the Zoning Board of Appeals noting:

- Section 3.2.2.5 of the Zoning Bylaw requires a building setback of one hundred feet (100') from all property lines for veterinary hospitals, stables and kennels, raising or breeding animals for sale, and boarding animals. The existing barn, proposed for use as a stable, does not provide the required 100-foot setback, therefore, is not a permitted use in a residential district. Chapter 40A: Section 10 (Variances), states: "...Except where local ordinances or by-laws shall expressly permit variances for use, no variance may authorize a use or activity not otherwise permitted in the district in which the land or structure is located.....". Therefore, the Planning Board is of the opinion that, because the required setback is stated in the "Use" section of the Zoning Bylaw, it cannot be waived.
- Board questions how a stable permit could be issued, as the proposal does not meet the requirements of the Board of Health regulations "Keeping of Horses", adopted December 6, 2005, which states: "2. No license for a NEW stable for a single horse shall be issued unless the entire lot of land on which the stable is to be erected contains at least 40,000 sq. ft. of suitable land. No such license shall be issued for two (2) horses to be kept on any lot of land that contains less than 60,000 sq. ft. or for three (3) horses on any lot of land that contains 80,000 sq. ft. Licenses for any additional horse(s) shall be subject to review by the Board of Health."

- Concerned about manure management, given the proximity of the site to the Assabet River.

PUBLIC INPUT

Bill Byron, Gleasondale Road, questioned where the proposed Highgrove Estates Subdivision is located. Members responded that the proposed development is for property located off of West Acton Road on the Acton town line. Karen Kelleher reported that the Applicant stopped by the Town Clerk's office for a copy of the Chapter 40B regulations. Kathleen asked Bill Byron to be sure the Zoning Board of Appeals reviews the Planning Board Decision.

PLANNING BOARD MEMBERS' UPDATES

Land Use Task Force - Kathleen Willis reported that the Land Use Task Force is compiling their Land Use Report and getting read to work on Municipal Needs.

Community Preservation Committee - Laura Spear reported that a Cub Scout Troop, working on their civics badge, will attend the next Planning Board Meeting. Laura will talk to them before the meeting and then they will observe the first half hour of the open meeting.

Presti Property - Malcolm FitzPatrick said that it bothers him to see the sign at the Presti property (formerly Erkkinen Property) advertising a used car lot for rent. He spoke with the Building Inspector about this. Kathleen Willis said she thought they are grandfathered as to the use for two years, as it is a pre-existing non-conforming use. Malcolm FitzPatrick said that, under the Bylaw, they can only have a used car lot as an accessory use to a new car sales yard, which is how the used car lot was originally established. He argued that the accessory use cannot continue without the primary use. Laura Spear said this is an enforcement issue for the Building Commissioner. Malcolm FitzPatrick said he thinks the issue should be addressed before the land is leased to someone.

Kathleen Willis also noted that the APEX sign at that site should be removed.

COORDINATOR'S REPORT

Karen Kelleher reported on ongoing activities in the Planning Department.

Firefighting Academy

The office received an inquiry from MEPA, in response to a call from a Stow resident. MEPA was looking for copies of the final plan. He was referred to the Conservation Commission. Steve Quinn asked if Stow benefits in any way from the academy. He said it would be good training to man a fire station from the Academy.

Sweeney Property

Christine Sweeney contacted the Zoning Board of Appeals for a copy of the Comprehensive Permit Regulations. Bentley Building Corporation requested a copy of the Board's decision on the Preliminary Subdivision Plan. Laura Spear said she is glad that the Board put some much detail into the Decision.

ASSABET WATER COMPANY/HUDSON LIGHT AND POWER

Ernie Dodd suggested it would be a good idea to bury utilities in the Lower Village area, from Elm Ridge Road to White Pond Road, while Assabet Water Co. is installing the water line. He

understands it is very expensive to install utilities, but if nothing else, the conduits could be installed. All agreed we should contact Assabet Water Company and Hudson Light and Power.

Malcolm FitzPatrick said he spoke with Bill Wrigley a month ago about coordinating burying utilities when the gas company was installing lines. His reaction was that the Gas Company already has their plan in place and we should not interfere. Malcolm also noted there are six cable boxes that Digital Equipment Corporation installed. He is not sure what they are for or who owns them. Karen Kelleher said she thought it was for fiber optic cable.

Malcolm FitzPatrick said he also talked to Bill Wrigley about the water company taking a left onto Crescent Street and that they might want to plan to serve the Town Center, especially in light of the school project. Karen Kelleher said she spoke to Bill Wrigley, Town Administrator; Craig Martin, Building Commissioner/School Building Committee Member; and Bob Maynard of Assabet Water Company, who explained that they have considered serving the Town Center and it is part of their plan.

It was noted that the Plan for water lines should also take into consideration any plans the Town may have for work in the right-of-way, such as sidewalks, roundabout, etc. If there is sufficient room within the right-of-way, all utilities (gas, electric, water) should be considered and coordinated.

Karen Kelleher will contact Hudson Light and Power to ask if they have plans or have thought about underground utilities and how we can ensure that we are maximizing efforts.

BUTTERNUT FARM GOLF CLUB – LIQUOR LICENSE APPLICATION

Kathleen Willis reported that she read in The Stow Independent that the Board of Selectmen is holding a Public Hearing on January 27, 2009 to consider an expansion of the premises for the liquor license to include the upstairs function hall. Even though Butternut Farm Golf Club has already been using the upstairs function hall and an occupancy permit was granted, Butternut Farm Golf Club has not fulfilled their obligations under the Planning Board's Special Permit for the expansion.

It was agreed that the Board of Selectmen should not approve the expansion until Butternut Farm fulfills their obligations under the Planning Board's Special Permit for second floor function hall. It was noted that when the Board of Selectmen issued the Liquor License in 2007 the Planning Board requested that the license be withheld until Butternut Farm Golf Club fulfills their obligation. At that time, the Town Administrator advised that the Selectmen could not tie up the liquor license for reasons of non-compliance with Planning Board conditions and that, if they did so, the Decision would be appealed to the ABCC and the denial would be overturned.

Members are of the opinion that the Board of Selectmen should not approve the expansion because they are operating illegally due to insufficient parking spaces. Members feel that holding off on the liquor license expansion would be the best way to get Butternut Farm Golf Club's attention without potentially shutting down the business, as they will still have the liquor license for the first floor. Members agreed to forward a letter to the Board of Selectmen:

- Advising that, even though an occupancy permit was granted and Butternut Farm Golf Club is already using the second floor function room and bar, they have not fulfilled their obligation for the expansion.
- Providing a list of correspondence, meetings, etc., showing that the Planning Board has acted in good faith to approve the Special Permit and subsequent modifications in support of expansion of the business.

- Informing them that Butternut Farm Golf Club has been put on notice, since July 2005, that adequate parking does not exist to accommodate functions at this site and that Butternut Farm Golf Club is operating functions illegally with inadequate parking.
- Advising that the Planning Board is looking for ways to force compliance on agreed upon decisions. The board has considered fines, withdrawal of their occupancy permit, and withholding their liquor license. The board does not wish to damage their business, only to encourage Butternut Farm Golf Club to comply with their agreement.
- Urging the Board of Selectmen to consider the numerous outstanding items, relative to the Special Permit, in your deliberations on the request to expand the premises for the Liquor License to include the second floor function room and bar.
- Recommend that the Board of Selectmen deny the request until all conditions of the Special Permit, as modified, are satisfied.

Members also agreed to ask Town Counsel to record all of the Decisions related to Butternut Farm Golf Club.

EXECUTIVE SESSION

Steve Quinn moved to enter into executive session for purposes of discussing pending litigation and to adjourn the meeting upon completion of the Executive Session. The motion was seconded by Kathleen Willis and carried by a unanimous roll call vote of five members present (Laura Spear, Kathleen Willis, Ernie Dodd, Len Golder and Steve Quinn).

ADJOURNMENT

The meeting adjourned at 8:25 p.m.

Respectfully submitted,

Karen Kelleher
Planning Coordinator