

TOWN OF STOW PLANNING BOARD

Minutes of the Tuesday February 2, 2010 Planning Board Meeting.

Present: Planning Board Members: Kathleen Willis, Steve Quinn, Ernest Dodd and Lori Clark, Lenny Golder

Planning Coordinator: Karen Kelleher
Administrative Assistant: Kristen Domurad

The meeting was called to order at 7 P.M.

REVIEW OF MINUTES AND CORRESPONDENCE

MINUTES

Ernie Dodd moved to approve the minutes of the January 12, 2010 meeting as amended. The motion was seconded by Steve Quinn and carried a vote of four in favor (Kathleen Willis, Lori Clark, Ernie Dodd and Steve Quinn).

[Lenny Golder arrived at 7:20P.M.]

Ernie Dodd moved to approve the minutes of the January 12, 2010 executive session minutes. The motion was seconded by Steve Quinn and carried a vote of four in favor (Kathleen Willis, Lori Clark, Ernie Dodd and Steve Quinn).

Public Input

No public input at this time.

PLANNING BOARD MEMBERS' UPDATE

Elementary School Building Committee (ESBC)

Steve Quinn told the Board the meeting was cancelled due to a posting issue. He said a similar SMMA school project went out to bid. They expected bid to come in about \$250 per square foot and they received a bid for \$216 per sq ft., which was good to see before Stow's bid was sent.

He also reported that the Massachusetts Historical Commission ruled that this property does not meet the criteria of eligibility for listing in the National Register of Historic Buildings and the town is not obligated to protect it from demolition.

Karen Kelleher said that the Stow Historical Commission's letter went out after this decision came back.

Bruce explained the Massachusetts Historical Commission's response was due to alterations and changes in environment. Because of this the building is no longer eligible to be considered for the Historical Register so they have no jurisdiction.

This does not mean there is no historic value to Stow.

Master Plan Committee

Karen Kelleher reported that The Master Plan Committee will be meeting on the 10th and they hope to have a draft plan by the end of the month.

Lori Clark asked how many chapters the Board had reviewed; Kathleen said they had reviewed chapters 3, 4, 5, 6, and 7. Karen said the Planning Board will have the opportunity to review the entire document when released at the end of month.

LIGHTING

The Board commented on the lighting violations at Citizen's Bank, Video Signal and the Bank at the Stow House of Pizza Plaza.

Karen will notify the Building Inspector of ongoing violations.

ASSABET WATER

Steve Quinn asked if there was any progress on the public water supply for the Lower Village.

Karen said she did not know of any updates.

Steve suggested the Town petition the Town of Maynard again as they are in need of upgrades and may be more willing to expand in order to share the cost burden.

Kathleen Willis noted that the Pilot Grove and Plantation Apartments expansion is predicated on having this water line.

COORDINATOR'S REPORT

Karen Kelleher updated the Board of the ongoing activities in the Planning Department.

Dunster Drive

Karen reported that she had asked for legal opinion from town counsel to see if the Board could hold back two lots for security as opposed to a bond and is waiting his reply.

She said there was a request for field change to use HDPE pipe for the drainage at Dunster drive from drain manhole 5 to FE-1. She reported that Sue Sullivan suggested checking with Mike Clayton. Mike Clayton has no objection as long as it has a smooth inner wall.

Stow Community Housing Corporation

Karen reported Greg Jones had called concerned about the proposed Chapter 40B repeal, worried that, if passed, projects in the pipeline with no building permits issued before January 2011 will not be accepted. He stated that the Stow Community Housing Corporation would not be in a position to obtain a building permit by January 2011 as they will not have all the funding in place. He is concerned about the risk of making major investments, and losing it all if 40B is repealed. He wanted to know if the Board would be willing to consider an Affordable Housing overlay district so the projects supported by the town would be safe.

Karen said she had spoken with Jon Witten and asked him what towns could do if they have a friendly 40B and wanted to avoid a problem with the repeal.

Jon stated that in his own town they have a friendly 40B in the works and said as long as a building permit is issued it could still go through.

Bruce Fletcher asked if Jon Witten abstained from the conversation, as he wrote the legislation to repeal Chapter 40B. Karen Kelleher said she was asking him general legal advice concerning the process if the repeal is successful.

APPOINTMENTS

Public Hearing: Hammerhead Lot Special Permit- Hudson Road

Ernie Dodd moved to waive reading the public hearing notice as there was no public present to hear the notice. The motion was carried by a roll call vote (Kathleen Willis, Ernie Dodd, Lori Clark, Lenny Golder, and Steve Quinn).

Scott Hayes from Foresite Engineering represented the petitioner for the Public Hearing.

Scott gave the Board the certified mail receipts.

Scott then explained the hammerhead lot petition on Hudson Road. He stated that a hammerhead lot special permit was granted in 1998 but was not signed. Karen Kelleher said they did not have record of this, but if a permit were issued it would have expired after 2 years.

Scott described the layout and showed the Board how the parcel met the criteria for a Hammerhead lot. He stated that it meets the minimum frontage, it has 47.71ft. across and then a 3.25 ft. curve which makes the frontage wider than the required 50ft.

Kathleen Willis questioned the total site area being less than 180,000sq ft. Scott explained that the person who created the original application did a simple mathematical calculation rather than a metes and bounds calculation there is actually a little over 180,000sq ft. Kathleen Willis said they would need an amended application to correct this and Scott agreed.

Kathleen Willis also noted that the plan should include a notation stating that the lot may not be further subdivided.

Scott agreed but explained the petitioner had hoped to attach an exhibit to the plans.

The Board asked the petitioner for a revised plan, to avoid future problems if it were to ever be misplaced.

Scott notified the Board that he has an Notice of Intent filed with the Conservation Commission to address the flood plain and wetlands.

Scott said an abutter's driveway encroaches onto the property of the petitioner.

The Board questioned if there would be any future problems with adverse possession. The petitioner assured them that there is no ambiguity in the boundary line and there is written documentation of the encroachment.

Steve Quinn asked Karen if any residents had called with concerns.

Karen Kelleher told him that a few residents called, only curious as to where the property was located.

Karen advised the Board that the petitioner requested a reduction in the filing fee.

The Board asked if this was something the Board typically does.

Karen Kelleher told the Board that in the past the Planning Board has reduced filing fees for hammerhead lots because they tend to take less administrative time from the Planning staff. She did note that the Board has changed the regulations in which the Planning Department submits the public notices in the newspaper so this is an added cost.

Lori Clark questioned if the Board would be setting a precedent by reducing the cost.

Lenny Golder felt that if the fee of \$500.00 covered administrative costs then it should be kept at \$500.00. Ernie Dodd suggested reviewing the filing fee structure at a future meeting.

Karen noted that individual steps have to be taken for each petition, and the administrative cost is not cheaper. Even though although the petitioner is presenting them both on the same date, it is two separate hearings.

Ernie Dodd moved to reduce the filing fee from \$500.00 to \$250.00. The motion was seconded by Lenny Golder and was opposed by all (Ernie Dodd, Lenny Golder, Kathleen Willis, Lori Clark, Steve Quinn).

Kathleen Willis told the petitioner that full cut off lighting would be required as it is a new bylaw, and she offered him information on appropriate fixtures. Karen offered to send an email with a web link that contains examples.

Bruce Fletcher asked if the petition could foresee any street trees needing to be removed. The petitioner assured him that there was plenty of room without having to cut any trees.

Ernie Dodd moved to close the hearing of the February 2, 2010 Public Hearing for a Hammerhead lot Special Permit on Hudson Road. The motion was seconded by Steve Quinn and carried a vote of five in favor (Kathleen Willis, Steve Quinn, Ernie Dodd, Lenny Golder and Lori Clark).

Public Hearing Hammerhead lot: Randall Road, Parcel K

Ernie Dodd moved to waive reading the public hearing notice. The motion was carried by a roll call vote (Kathleen Willis, Ernie Dodd, Lori Clark, Lenny Golder, and Steve Quinn).

Scott Hayes reviewed the plan, stating there is 7.7 acres. He mentioned this property would require a wetland crossing for a driveway. This hammerhead lot was approved in 2005 but was never recorded, therefore expired and the applicant has refilled.

Karen Kelleher noted that members had copies of the 2005 Decision.

Karen Kelleher reported that Mr. Lankau came to the Planning office to confirm that easements are accurately shown on the plan and voiced concern about the location of the house because it will be bombarded by golf balls.

Residents were then invited to share their input on the public hearing.

Resident Gay Gibson McDonald said they have golf balls on their property.

Bob McDonald said surveyors tore down some of the stonewall and it was never repaired.

Kathleen Willis noted that this was addressed in a former decision and will be carried forward.

Bob McDonald stated his biggest concern was the way the lot is configured, and that it will force wetlands crossings by a vernal pond. Mr. McDonald was under the impression that the plan was going to be reconfigured to minimize wetlands crossing.

Scott Hayes explained that the wetlands crossing was approved in the 2005 and he told them he would be attending a Conservation Commission meeting right after this Public Hearing to address the issue. Scott explained that the driveway will be across an abutting lot, which is under the same ownership.

Bob McDonald asked if it would make more sense for the petitioner to meet with the Conservation Commission before meeting with the Planning Board.

Scott Hayes responded stating that the driveway is not subject of this hearing. He said the intent is for the driveway to meander through the 50 foot wide portion of the lot.

Gay Gibson McDonald said that she would be more comfortable if the driveway were set back 40 feet from the property line.

Kathleen Willis informed Mrs. McDonald that 40 feet set back is not a requirement for driveway setbacks.

Scott Hayes stated that the Planning Board would be approving a lot saying that they meet the requirements under the zoning bylaw.

Steve Quinn noted that there is no way to access the lot without a wetlands crossing whether it be on Parcel K or an abutting lot.

Gay Gibson McDonald was concerned that access from Parcel K would be in violation of a more important wetlands. Bob McDonald said the State Constitution leans towards property owners right to access.

Scott said that issuance of a special permit doesn't mean they automatically have the right to a building permit.

Steve Quinn asked if a house would be built in the area shown as building envelope. Scott stated that not necessarily that area is basically to show lot shape.

Lori Clark questioned how much clearing would be necessary. Scott Hayes said only what is necessary.

The McDonalds voiced that they have some trees near the property line and asked if there would be screening.

Ernie Dodd answered their concern by reading requirement 9.2.7, stating it is the bylaw that gives the Board flexibility to consider abutters.

The McDonalds questioned the quality of the soils on the lot because the soil on abutting lots are not great.

Ernie Dodd moved to close the hearing of the February 2, 2010 Public Hearing for a Hammerhead lot Special Permit on Hudson Road. The motion was seconded by Steve Quinn and carried a vote of five in favor (Kathleen Willis, Steve Quinn, Ernie Dodd, Lenny Golder and Lori Clark).

DISCUSSION/ACTION ITEMS

CONSERVATION COMMISSION MEETING-PB MEMBER OR STAFF TO ATTEND

Collings Foundation Request for Access Road

Kristen Domurad reported on the Conservation Commission meeting with Bob Collings concerning the proposed emergency access road.

Kristen stated that Mr. Collings provided a basic summary of his wishes for an access road off 169 Barton Road, which is part of a proposed subdivision. He explained that the entrance to his property for his events is a one-way street and causes congestion on Barton Road.

Mr. Collings displayed the proposed subdivision plan with Liberator Lane. He proposed to clear a 300 ft long road, 100 feet from the a pond and to connect with a future proposed road, which is already cleared and cut down. He asked for permission to cut trees and begin grading and stump removal.

A member of the Conservation Commission asked Mr. Collings what his intent was by coming to the Conservation Commission.

He stated that previously the Conservation Commission served a cease and desists in the same location. He stated that it is a traffic and public safety issue and the Fire Chief, Chief of Police and Highway Superintendent have all supported this idea. Mr. Collings stated that it would be similar to the access road Honey Pot constructed but would not go into the wetlands as theirs had. Mr. Collings said he is trying to clear the air and to do what is best for the town.

A member of the Conservation Commission then told Mr. Collings they had received a letter from Town Counsel and were asked by the Planning Board to read it aloud at their meeting.

[Conservation Commission read the letter aloud, it is available in the Planning Department.]

The Commission then said that given this letter from town counsel and that Mr. Collings was showing them the proposed subdivision and part of Liberator Lane they felt they did not have jurisdiction concerning his request.

Mr. Collings stated that he would not be constructing the access road in the way that is specified in the subdivision plan and that it would not include drainage or fill. He stated that he only brought the subdivision plans to the meeting as a reference for the Conservation Commission so they could better understand the layout of the area.

Mr. Collings said that the emergency access road is a different issue and the current subdivision plan will be going through more appeals.

He stated that none of the disputes relate to the roadway just to the lots and houses, he said they would not be constructing Liberator Lane.

Mr. Collings stated that the Fire, Police and Highway Department heads supported him and since it is a woods road that is why he came to the Conservation Commission.

The Commission stated again that the Planning Board has jurisdiction over this matter and they would not be able to handle the matter.

Mr. Collings said he came to the Conservation Commission because they had warranted the cease and desist before. He stated that he thought they did have some area of jurisdiction.

The Conservation Commission said they did not want to get in the middle of the ordeal.

A member of the Commission asked why the road couldn't avoid the pond entirely.

Mr. Collings said that more trees would have to be cut down, if it avoided the pond but it was a good suggestion.

The Commission stated they weren't suggesting anything.

They stated again that if he were suggesting something outside of the 100ft buffer he wouldn't be in their jurisdiction unless there was an impact from drainage or run off.

The Commission also reminded him that when they were dealing with Honey Pot they were very thorough.

The Commission also commented on the width of the proposed access way. They stated that 25ft. seemed very wide for a single lane access road.

Mr. Collings said he would be willing to change it to 20ft.

The Commission also stated that Honey Pot's road is seasonal only, and Mr. Collings said that this would be in their best interest as well.

Mr. Collings said he was not aware of the letter from Town Counsel.

Mr. Collings said he would stake out the wetlands.

Discussion

Karen relayed the Board's concerns about Public Safety and departments responding to residents or applicants' requests when it involves the need for Planning Board approval. Bill Wrigley would rather the Planning Board speak with the public safety officials directly and agreed, other departments should not respond directly to applicants but to Boards in response to their request for comments.

The Planning Board decided to give copies of the letter from Town Counsel's to the Police and Highway Department. They decided to schedule a time to meet with the public safety department heads to come up with a process on how to respond to requests from residents or developers when asked for their support on matters that could cause potential conflict.

Ernie Dodd added that other departments should not write suggestions or give solutions.

Lori Clark commented, applicants appear to be using departments, as an end run to justify specific plans not yet submitted to the Board. It is important that proposals be first submitted to the Board in order for the proposals to be thoroughly vetted in terms of compliance with bylaws and regulations.

The Board decided to schedule a meeting this Friday at 9AM for Kathleen, Ernie and Karen to meet with Public Safety officials.

HIGROVE ESTATES RESPONSE LETTER TO MASS HOUSING

Karen updated the Board about another item to be added to the final response draft to Mass Housing. She reported that Sue Sullivan found the proposed treatment facilities to be non-compliant with MEPA requirements. The applicants have proposed segmentation plan for septic in order to bypass the requirement of a sewage treatment plant.

Ernie Dodd moved to approve the Highgrove Estates Response letter with any modifications Karen Kelleher or Kathleen Willis feel appropriate after today, for submission to Mass Housing. The motion was seconded by Lenny Golder and carried a vote of five in favor (Ernie Dodd, Lenny Golder, Steve Quinn, Lori Clark, Kathleen Willis).

Karen told the Board that the Conservation Commission and the Board of Selectmen approved the letter, she explained that they amended the signature page and took Stow Municipal Affordable Housing Trust (SMAHT) off, as they did not hear back from the chair of the committee, Mike Kopczynski.

Jon Witten advised the Town to carbon copy the Inspector General. Ernie Dodd also suggested copying Senator Eldridge and Representative Hogan. The Board also agreed to send a copy to the Acton Planning Board and Board of Selectmen and Stow Zoning Board of Appeals.

HIGHROVE ESTATES SITE WALK

Kathleen Willis described the Highgrove Estates site walk earlier that day. Kathleen said the applicants started the site walk from the Acton side of the proposed development, which is flat, and led the walk with abutters and Mike Busby from Mass Housing through the flat part of the site through Acton. Kathleen said that several wetlands, springs and severe slope were noted by Board members and abutters but did not seem to be taken seriously. Kathleen stated that the site walk on the Acton side was stopped before they arrived at the steep sloped areas. The attorney for the petitioners asked only Town Officials to continue the site walk on the Stow side where slope is a serious issue.

COORDINATOR'S REPORT (Continued)

2011 FY BUDGET

Karen reported on her budget meeting with Bill Wrigley. Bill did not have any issues with the expected budget request but did ask if the Board could cut down their request for engineering account.

Karen told the Board the engineering account line item for the GPS locator, current request for \$5,000. She explained the GPS locator could potentially be reduced. She stated that this device would be essential to projects such as planning for byways. She said they could potentially cut it down to \$2,500 but further pricing and research on other GPS locators would be necessary.

Lenny Golder asked if the Selectmen could use a device like this to review property boundaries every year.

Steve Quinn asked if the Highway Department would use this or if they had something similar. Ernie Dodd said that they do not have a device like this.

Karen Kelleher reminded the Board that this is the only reasonable line item they could cut and Bill is looking for any extra funds he can find.

STAR TOWER/T-MOBILE

Karen told the Board she had not been contacted directly by either the Star Tower or T-Mobile Representative, but was told by the Assessor's office that the T-Mobile representative came in to their office asking for an abutter's list for a crane test. This confused the assessors because the address is not in the wireless overlay district, the representative told them it didn't matter and that they would be doing it anyway even if this meant appealing the decision.

CINGULAR WIRELESS

Karen reported that the attorney from Cingular Wireless called asking if a decision had been filed. Karen called town Counsel, Jon Witten because she was under the impression the court decision was the final decision. Jon assured her she was correct and another decision was not necessary.

PEDESTRIAN WALK WAYS

Karen told the Board a few members had made further comments and suggestions to her about the placement of byways after last week's meeting. She mentioned that Bruce Fletcher had some suggestions to divert the byway to Library Hill Rd. and Crescent St. as he was concerned about the elimination of

parking spaces on 117 by the Town Hall. He suggested the byway could extend past his house along the fence and then have a cross walk come across. Bruce also suggested a walkway with signs directing pedestrians to go around up to Crescent St.

Steve Quinn asked if parking should be moved to the other side. Ernie said that it would be too close to the street on the other side of the Town Hall.

Ernie also commented on putting byways next to the upper common. He said that some people might complain about taking away green space. Some members did not see this as a hindrance issue. Lori Clark noted the sub-committee discussed this and will expect some comments from citizens.

A few other members did not see this as a potential problem. Some members thought if the byway went up library road and connected to Crescent St. people would still take the fastest route regardless of where the byway is located. Lori Clark said the Pedestrian Walkway Committee did discuss this but also felt that people will walk in the unsafe direction anyway and a byway would make it safer. Kathleen Willis was concerned about safety and suggested it could come up Library Road and then connect to Crescent St.

Lori Clark said the committee is trying to extend the byway system by connecting to byways that currently exist.

The Board suggested the Pedestrian Walkway Sub-Committee contact the Police Department to weigh in on the proposed byway plan and to review the former walkway plan that Bruce Fletcher has.

The meeting was adjourned at 10 P.M.

Respectfully submitted,

Kristen Domurad
Administrative Assistant