

**TOWN OF STOW  
PLANNING BOARD**

Minutes of the March 16, 2010 Planning Board Meeting.

Present: Planning Board Members: Kathleen Willis, Leonard Golder, Steve Quinn, and Ernest Dodd

Planning Coordinator: Karen Kelleher

Administrative Assistant: Kristen Domurad

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

**REVIEW OF CORRESPONDENCE AND MINUTES**  
**MINUTES**

No minutes were reviewed.

**CORRESPONDENCE**

Correspondence was discussed under Action Items.

**DISCUSSION/ACTION ITEMS**

**Discussion on Permit Application: Class II/Used Vehicle License for Omega Motor Sports 102 Great Road.**

The Planning Board heard of this application from a resident who noted this item on the selectmen's agenda. Karen Kelleher reminded the Board that used car lots are not allowed in the business district and the use should be grandfathered in order to issue a new permit without violating the town's zoning bylaw. Karen reported her conversation with Town Counsel, Jon Witten. Jon Witten advised her that a use is only grandfathered if the use is not discontinued for two or more years. He said even if a license has been kept, the use would still be illegal unless it has been grandfathered. He also stated that each business owner must operate under his/her own license and should not operate under property owner's license. Town Counsel said it would be the applicant's responsibility to prove the use has been grandfathered.

[Lenny Golder arrived at 7:05P.M.]

Kathleen Willis noted that earlier in the year the Board of Selectmen and Planning Board discussed appropriate methods to address license permitting. It was decided that the Planning Board would be notified of any license applications when filed so they could address any zoning issues and make informed recommendations to the Selectmen.

Karen Kelleher said, the original ZBA permit and general zoning compliance of 102 Great Road should be evaluated on the lot before issuance of a used car licenses.

Two residents voiced concerned about activities on 102 Great Road:

Resident Victoria Fletcher of 12 White Pond said when the lot was used as a car dealership; car alarms would go off very frequently. She complained of noise and idling school buses on the site affecting the air quality on her property.

Resident Brian Martinson of 43 Pompositicut St., said he had observed several non-conformities on the site, and said they were not consistent with the town, efforts to revitalize the Lower Village area. Brian said he noticed that one vehicle is always kept on the lot with a for sale sign on it, and did not believe that constitutes as a used car lot.

The Board discussed this property and areas where zoning violation seemed present. Some questioned how long it had been since a used car lot was operating on the property, and if the grandfathering rights had been lost.

Karen reported the applicant applying for the license is not Presti, but a dealer that would like to sell 3-4 cars on the lot at one time.

Karen Kelleher suggested the Planning Board request the Selectmen hold off on any action at their meeting tonight regarding the permit application on 102 Great Road.

Kathleen Willis agreed, and stated she wanted the Planning Board to have time to consult with Town Counsel and put their suggestions in writing.

Ernie Dodd offered to leave the Planning Board meeting at 8:10 P.M. to attend the Selectmen's meeting to discuss this.

### **PLANNING BOARD MEMBERS' UPDATE**

#### **MASTER PLAN COMMITTEE**

Karen Kelleher reported the committee would be releasing a draft at the end of the month and will be holding a public forum on April 12<sup>th</sup>.

### **COORDINATOR'S REPORT**

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

#### **ANR PLAN SUBMITTED BY BOB COLLINGS FOR PARCEL # R-25 16**

Karen Kelleher reported that Mr. Collings came by the office to drop off the completed application and filing fee for the proposed ANR lot. Mr. Collings expressed frustration about the previous letter written by Town Counsel, Jon Witten, in response to his request to the Conservation Commission for an emergency access road on the land where his proposed subdivision is located. Karen suggested he put his arguments in writing so they could be submitted to the Planning Board.

#### **SYLVAN DRIVE LOT 4**

Karen said the property owner of Lot 4 called, concerned about silt on his property coming from Lot 7. He explained that he contacted a landscaper to plant more trees to add privacy from the height of the new house. The landscaper told him that trees would not survive in the amount of silt that had come onto his property.

#### **HOUSING PRODUCTION PLAN**

Karen Kelleher said she spoke with Laura Spear that morning about the Stow Municipal Affordable Housing Trust (SMAHT). Laura explained the Housing Production Plan had been put on hold because the consultant was not receiving payment due to issues with invoices not being processed. She said the

situation has since been fixed and the group is working to complete a formal plan. They are also working on creating a grant program with affordable housing funds. The program would be available for small non-profit affordable housing groups.

## **APPOINTMENTS**

### **ELEMENTARY SCHOOL BUILDING PUBLIC HEARING CONTINUANCE FROM MARCH 9, 2010**

The public hearing continuance was opened at 7:30 P.M.

Kathleen Willis read the Public Hearing guidelines.

Kathleen stated that the Board had not received an updated report from the engineers and asked SMMA and the ESBC if they wanted Planning Board comments or just open the hearing and continue it to the next week to allow them more time to bring an updated report.

Karen Kelleher said it may be helpful for the Board to send general comments to her and she could compile them and send them to the engineers so they could respond to them at the continued public hearing and the Board could discuss them in public.

Kathleen Willis suggested she share her general concerns with the engineers about the landscaping plan so they could send them along to the landscape architect.

Kathleen found that some plants were shown on the plan but not designated in the plant schedule and vice versa.

Kathleen also suggested using alternatives to Red Cedars, Eastern White Pine, and the Yew.

[Kathleen's full list of suggestions and alternatives can be found on file in the Planning Department.]

Resident Victoria Fletcher of 12 White Pond Road suggested using Arborvitae instead of Junipers.

SMMA plans to meet with the town-consulting engineer Sue Carter Sullivan who is conducting the peer review to discuss her final comments.

Lorraine Finnegan of SMMA said they would be asking the Conservation Commission for a separate condition in the decision designating a person from the commission to conduct a site walk with the contractor before and after the rain to address any further issues.

Karen Kelleher said the Board would forward the final response from the Lighting Committee as soon as it is submitted.

Karen reported that the Greg Troxel from the Lighting Subcommittee has been working interactively with Phil Poinelli to come up with a solution that would appease both the zoning bylaws and the Illuminating Engineering Society standards that SMMA follows.

Karen said it was her impression from the correspondence between Greg and Phil, that a lighting variance may not be required due to the dimmers and timers added to the lighting plan.

Lorraine Finnegan said if they are forced to follow the town's regulations, their attorney advised them to get full indemnification to safeguard them from potential legal issues for not following the industry design standards.

Ernie Dodd asked SMMA if they would be conducting a demonstration of the acoustics.

Lorraine Finnegan said they would conduct one and are planning to set this up with the ZBA.

SMMA said the security system is web based and can be accessed remotely. They also said the lighting system can be accessed remotely from Bill Spratt's office in Bolton.

Kathleen Willis asked about the Fire Chief's response to parking in the bus loop. Jamie Warren said he did speak with the Chief and was told that cars could park down the lane but not in the bus loop.

Kathleen asked if wild grasses would be used to screen the mounding area for the septic system.

Lenny Golder said with concern to lighting, he would rather have the area be safe than comply with the bylaw.

Steve Quinn asked if the Town's lighting bylaws allows for safe lighting.

Lorraine Finnegan said that some private areas in town are different compared to a public building and space.

*Ernie Dodd moved to continue the hearing to March 23, 2010. The motion was seconded by Steve Quinn and carried a vote of five in favor (Ernie Dodd, Steve Quinn, Kathleen Willis, Lenny Golder, Lori Clark).*

### **COORDINATOR'S REPORT (Continued)**

#### **WARRENT ARTICLES: LAND ON SOUTH ACTON RD. AND GREAT ROAD**

Karen Kelleher reported that she was contacted by Susan McLaughlin from the Board of Selectmen's office, asking if the Planning Board would be willing to champion Town Meeting Warrant article for the town to purchase a the piece of land on South Acton Road. Karen told Susan she would ask the Board, but felt it was not appropriate for the Board to champion the article, as land acquisition does not fall under their jurisdiction.

Ernie Dodd said he did not feel it was the Board's responsibility to sponsor the article, and noted, the Planning Board had already voted to support the purchases.

The Board agreed that it was not in their jurisdiction to sponsor the article, but reiterated their previous vote in support of the article.

### **DISCUSSION/ACTION ITEMS (Continued)**

#### **PEDESTRIAN WALKWAY PLANNING SUB-COMMITTEE**

Lori Clark noted the Board's input on the brochure.

Karen Kelleher reported that she spoke with Bill Wrigley earlier that day and he believed the town would be exempt from 30B requirements, meaning no bidding process would be necessary for design plans. He said since the Planning Board has a contract with Places Associates they could go directly to them.

Bruce Fletcher agreed that the town was exempt from bidding out design engineering for this project. He advised the group to be careful as to not divide the project into segments intentionally to be under \$35,000.

Karen Kelleher suggested the Planning Board authorize the committee to submit a request for proposals to Places Associates.

Lori Clark asked if the Board should still consider sending out a request for proposals to several companies to better guarantee competitive bids.

Steve Quinn agreed this is an option and the Board could still pick whomever they want.

Karen Kelleher suggested sending a request to Places Associates and see if they come back with a reasonable offer and then go from there.

Kathleen Willis asked Bruce Fletcher about the question posed about bylaw requirements for shoveling byways.

Bruce Fletcher stated that under Massachusetts's law towns can create a bylaw requiring this but it would necessitate a vote at Town Meeting.

Karen Kelleher suggested that adding this responsibility might cause hindrance for resident support of byways.

Kathleen asked if the Committee spoke with Bruce Fletcher and the public safety officers about the location of the sidewalk along Route 117.

Lori Clark said the committee contacted them and also plan to discuss this further with Chief Trefry.

Steve Quinn moved to support the Pedestrian Walkway Sub-committee's brochure. The motion was seconded by Lori Clark and carried a vote of five in favor (Steve Quinn, Lori Clark, Lenny Golder, Kathleen Willis, Ernie Dodd).

Lenny Golder commented on the byway Phase 1 Implementation Plan. He stated concerns about pedestrians crossing the roads safely to connect to the opposite side where sidewalks resume. He asked why they committee did not plan to put sidewalks all along one side. He asked what the committee plans to do for traffic calming devices for pedestrians.

Lori Clark said they plan to follow the correct crossing standards, such as crosswalks. Lori said essentially the committee's goal was to complete sidewalks all along Route 117 by connecting those that already exist. She said the committee also concentrated on areas where easements were readily available to the town.

Bruce Fletcher added that design professionals should factor in the necessary crossing standards. He said there are new signage regulations for visibility of sidewalks.

Kathleen Willis referenced crosswalk safety features off Route 114 in the North Shore. She said dragon teeth were painted on the road in advance of the crosswalk, which makes it easy to see in advance.

Lenny Golder stated that there should be safety measures in place for people crossing the road to get to the connecting sidewalk.

Bruce Fletcher suggested putting the crosswalk on the west side before Harvard Road.

Lenny suggested pedestrian islands at each crosswalk.

Lori Clark said the scope of work proposal has been sent to Bill Wrigley and Mike Clayton for review.

Kathleen suggested the committee reconsider the crosswalk on Hudson Road on Route 117 because one was just installed below the corner that goes into the Villages at Stow at the emergency access.

Lenny Golder asked if bikes would be allowed on the byways.  
Kathleen Willis said byways are for both pedestrians and cyclists.

Lori Clark said they could add a statement explaining this.

Steve Quinn suggested the Committee hold a public forum with the designer to help foster more public outreach.

Lori Clark said a member of the Recreation Commission had the engineer that designed the Stow Recreation Facility contact their committee to offer a template. Lori said the committee since received several calls from this engineer.

The Board recommended that the committee request a proposal from Places Associates first, then proceed from there.

#### 472 GLEASONDALE ROAD

The Board reviewed the request to extend the special permit and the proposed parking plan. Steve Quinn drove by the site and confirmed that residents do park where the spaces are indicated on the plan.

In response to Kathleen's question, Karen Kelleher said the Board was not that specific to set dimensional requirements for the spaces as they the parking lot would not be paved or marked.

Lenny Golder asked if the space calls for double parking. He said this can cause an issue for parking and asked if there was some way to regulate it.

Kathleen Willis explained that the fencing club that he requested parking permits for is only for a few people, a few times a year and is not a business.

Lenny Golder said he agreed as long as it was limited to special events.

***Ernie Dodd moved to extend the special permit issued on March 25, 2008 for an additional two years for the property located at 472 Gleasondale Road and to accept the parking lot plan. The motion was seconded by Steve Quinn and carried a vote of five in favor (Ernie Dodd, Steve Quinn, Kathleen Willis, Lori Clark, Lenny Golder).***

[Ernie Dodd left at this point in the meeting to attend the Selectmen's meeting on behalf of the Planning Board]

#### LETTER FROM ANN L. DELUTY 51 BIRCH HILL ROAD

Karen Kelleher told the Board that this letter was referring to the easement along the back of the Birch Hill Road lots.

The Planning Board reviewed the original decision.

Kathleen Willis stated that the original decision was written very clearly in 1975 with the intent to leave the buffer undisturbed. Kathleen said a public hearing and a modification to the decision would be required if any work would be considered in this buffer zone.

Steve Quinn agreed that this would require a major modification to the decision and assumed there was concern from abutters at that time the development was proposed. He said this would explain the specific language in the decision.

Karen Kelleher added that Ms. Deluty may also be required to get agreement from everyone in the subdivision as it would be a subdivision modification.

*Karen Kelleher said she would send Ann Deluty a letter stating the Planning Board's position that, the prior decision under Section 3 was very clear and after they felt a Public Hearing would be required for a major modification. Karen also offered to check if Ms. Deluty would need all owners in the subdivision to agree. A copy of the decision will be sent with this letter.*

#### LOT 7 SYLVAN LANE

Karen Kelleher said she received a call from the owners of Lot 4 who reiterated the silt problems he was experiencing on his property.

Steve Quinn said it was clear that Lot 7 needed to be stabilized and was happy to see a good amount of work put into it. Steve said he was anxious to know what the permanent fix will be to the problem.

Kathleen Willis and Steve Quinn both felt confident that Bruce Wheeler of Habitech would make sure the problem is taken care of.

Steve Quinn agreed, stating the house was originally a two story house with a below grade basement. The plan has been altered and the house has been built with a walk out basement, increased grading and a different septic design.

Kathleen Willis said the Board should have a mechanism to assure that lots being sold off in a subdivision are built as planned and done correctly.

Steve Quinn said the purpose of a PCD is not to have lots built on top of one another but to have smaller lots with homes placed on the lots in a specific manner, while preserving open space.

Karen Kelleher said the Board might want to consider changing the Regulations to require building envelopes on plans, to add control over lots sold to individuals.

Lori Clark suggested requiring a notice of disclosure and extra engineering requirements for lots sold in a subdivision.

Steve Quinn said selling lots can create a risk to the overall drainage design if there is a lack of communication with the primary developer or adherence to the original plans. He said some subdivisions don't have these issues because the sold lots are more closely managed by the primary developer.

Steve Quinn said the house on Lot 7 is not set up for gutters, which is why he asked the owner during the site walk if he intended to install them. He said the owner can still add gutters but the manner in which the eaves and soffits are designed it will be expensive.

Lenny suggested the Board create another step in the approval process, requiring Board approval of every lot in the subdivision for the site of the house.

Steve Quinn said the Planning Board might not want to approve every building lot because there is not enough time.

Karen Kelleher noted that Mark White of Bentley Builders has always sold off lots and they seem to be well managed in the subdivisions.

*Karen Kelleher offered to ask Mark White what he includes in his agreements when he sells individual lots and how he manages the ones that are sold.*

Karen Kelleher noted that Bruce Wheeler told her the new owners of Lot 7 are in violation of the covenant.

Lenny Golder suggested requiring a bond from the individual builders.

Steve Quinn said this might be difficult to do but they could hold the primary developer for a higher bond if he/she decides to sell individual lots because of the increased risk

Kathleen said this would discourage developers to sell individual lots if the bond is increased.

Lori Clark said the Ridgewood Subdivision was interested in selling individual lots and the Board should consider how they proceed with the main developer responsibilities.

Steve Quinn said the primary developer should be responsible for maintenance of site control, aesthetics, buffers and so on, so if there were a problem the Board would go back to the main developer.

*Karen Kelleher offered to contact the town's consulting engineer Sue Carter Sullivan for ideas on how to maintain site control.*

### STREET LIGHTS

Kathleen Willis said Russ Willis from the Lighting Subcommittee received a call from Susan McLaughlin from the Board of Selectmen's office regarding streetlights. Susan told Russ, a resident on the Maynard Town line called inquiring about getting a streetlight put up on her road. Russ informed Susan that the purchase of streetlights is not within their jurisdiction, but would fall under the review of the Board of Selectmen. Russ wanted the Planning Board's permission to attend a Board of Selectmen's meeting to discuss the purpose and benefits of dark sky initiatives and discuss the fiscal impacts of allowing new streetlights by request.

Kathleen Willis said she had concerns about installing new streetlights in town to anyone that calls to ask for one. Her main concerns were dark sky initiatives and setting a precedent that could become very expensive.

Steve Quinn thought the public safety offices should initiate a need for additional street lighting.

The Board supported Russ's request to attend a Board of Selectmen meeting to discuss these initiatives.

### PERMIT APPLICATION: CLASS II USED VEHICLE LICENSE OMEGA MOTORS SPORTS INC. (Continued)

Ernie Dodd reported from the Selectmen's meeting. Ernie said the Board of Selectmen decided to wait for the Planning Board to conduct a site walk and to write a memo with suggestions. He said Mr. Presti was not present at the meeting, only the renting business owner. Ernie Dodd recommended the applicant contact Karen Kelleher so they could get in contact with Mr. Presti to schedule a site walk.

Ernie Dodd said he was not sure if the Selectmen would eventually approve the license but they did not approve it contingent on the site walk. Ernie suggested the Planning Board get opinion from Town Counsel, Jon Witten to help determine issues with grandfathering rights and zoning bylaw requirements.

Resident Malcolm Fitzpatrick of 323 Great Road suggested the Board summarize all the issues in a memo, have Jon Witten revise and/or support the memo.

Karen Kelleher asked if the Selectmen discussed the process of notifying the Planning Board when license applications are submitted.

Ernie Dodd said they did not.

Ernie reported that a few selectmen felt that any business in Lower Village was worth supporting. Lenny Golder stated the Planning Board is very supportive of the businesses in Lower Village as long as they are the correct uses allowed in the Zoning District.

The Board decided to conduct a site walk on 102 Great Road as soon as they could, and will discuss the issue further at their April 6, 2010 meeting.

FINANCE COMMITTEE PUBLIC HEARING , THURSDAY MARCH 18, 2010

Steve Quinn offered to attend the meeting to represent the Planning Board's Warrant articles.

The meeting was adjourned at 9:50 P.M.

Respectfully submitted,

Kristen Domurad  
Administrative Assistant