

**TOWN OF STOW  
PLANNING BOARD**

Minutes of the July 6, 2010 Planning Board Meeting.

Present: Planning Board Members: Kathleen Willis, Leonard Golder, Steve Quinn, Lori Clark 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**  
**CORRESPONDENCE**

495 Metrowest Partnership Email:

Karen explained that the 495 Metrowest Partnership is a public-private collaboration with businesses, municipal and other stakeholders with a focus on economic development for the route 495 corridor.

A Letter cc'ed to Planning Board from the Board of Health RE: Wellhead Protection Controls Department of Public Works letter to the Town of Stow:

Karen explained that this letter is stating that the Town of Maynard's recharge area for drinking water wells extends into the Town of Stow in some instances.

The Maynard DPW is requesting Stow consider adopting local controls for the drinking water wellhead protection area consistent with DEP's model Wellhead Protection Bylaw.

Karen explained that the Board of Health would be discussing this subject at an up coming meeting. She noted that Marcia Rising asked her if the Planning Board had interest in the matter.

Karen Kelleher suggested Kathleen Willis, as Board of Health liaison, attend the meeting or set up an individual meeting with the Board of Health to discuss this request. She mentioned that the Conservation Commission is interested in this matter.

Ernie Dodd mentioned that he would also like to discuss this matter with Bill Wrigley, Town Administrator in regards to bringing water into Lower Village.

*Karen will find out when the next Board of Health meeting will be held.*

Steve Quinn questioned how wellhead protection controls could affect existing property owners land and what benefits or drawbacks would be associated with it.

Kathleen Willis noted wellhead protection controls could prevent some future uses on the properties.

Karen suggested having a meeting with Bill Wrigley after the Board of Health meeting.

[Lenny Golder arrived at this point in the meeting.]

## **MINUTES**

*Kathleen Willis moved to approve the minutes of the June 8, 2010 meeting, as amended. The motion was seconded by Ernie Dodd and carried a vote of five in favor (Lenny Golder, Steve Quinn, Kathleen Willis, Ernie Dodd and Lori Clark).*

*Kathleen Willis moved to approve the minutes of the June 15, 2010 meeting, as amended. The motion was seconded by Ernie Dodd and carried a vote of five in favor (Lenny Golder, Steve Quinn, Kathleen Willis, Ernie Dodd and Lori Clark).*

## **PLANNING BOARD MEMBERS' UPDATES**

### **Community Preservation Committee (CPC)**

Kathleen Willis reported that the CPC conducted a site walk to observe the Blacksmith Shop. She said the CPC is still unclear as to why they need to move the building now. She noted that it is not on the final plan and asked if it could be put onto the plan as a minor modification. Karen Kelleher said this could be an option unless they have to adjust on the site plan.

Steve Quinn noted that he was not sure how the Blacksmith shop affects the driveway. Steve noted that the selectmen received one inquiry about Blacksmith Shop from Shelburne Farm. He also noted that rafters are too small according to building code.

Karen said that the selectmen had created a disassembling team for the Blacksmith Shop. Steve Quinn said it was his understanding that the Blacksmith Shop would come down by the end of the summer. He noted that it might be possible for them to disassemble the Blacksmith Shop into parts and not interfere with Hudson Light and Power's work. He noted that if the Blacksmith Shop were to be removed at a later date, it should be no later than the start of school in the fall.

### **Pedestrian Walkway Planning Sub-Committee (PWP)**

Lori Clark reported that the sidewalk requirements for the Villages of Stow special permit had become unclear between the PWP, Zoning Board of Appeals and Habitech (developers of Villages of Stow). She noted that Dave Coia of Habitech was under the impression that they had already paid a fee in lieu of sidewalks.

Karen Kelleher reported that the Planning Department and Town Accountant have no record of a donation to the sidewalk fund and therefore Karen suggested the ZBA request proof of payment. Ed Tarnuzzer suggested withholding funds from the Bond if the donation was not made. Karen noted that, if the sidewalk to the west of Harvest Road were not shown on the plan, it would not have been bonded.

Karen Kelleher said she understood that Habitech, Inc. is to construct a sidewalk along Great Road from the east of Harvest Drive to Hudson Road, as shown on the Plan, and that Comprehensive Permit Decision granted a waiver from the requirement to construct a sidewalk along Great Road from the west of Harvest Drive (which is not shown on the approved plan), provided that contribution to the Sidewalk Fund in the amount of \$10,556 be made in lieu

of construction. Karen said that ZBA Member Ed Tarnuzzer had a different interpretation of the Decision. He understands that the waiver was from the requirement to construct all sidewalks along Great Road.

*The Planning Board suggested Karen Kelleher contact Bruce Wheeler of Habitech to discuss this matter.*

### **COORDINATOR'S REPORT**

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

#### **Stow Shopping Center**

Karen Kelleher pointed out the email from Gordon Whitman, who stopped by the Shopping Center on his way home from their last meeting.

#### **Master Plan Committee**

The Master Plan Committee will be meeting July 8, at 7 P.M.

#### **Ridgewood**

Karen reported on her conversation with Town Counsel, Jon Witten, in relation to the matter of selling individual lots in the Ridgewood AAN. Jon advised the Board to acquire more information about the homeowner's association and condo association rights, as homeowner's associations do not have as much legal backing. He was leery to support the selling of individual lots, as enforcement issues would end up being the Town's responsibility because the Homeowners Association would have limited power.

Karen said she spoke with Bill Roop of Ridgewood LLC. and relayed this message, she recommend he obtain legal advice from his attorney on detailing the documents so that it shows appropriate coverage for the individual lots proposed to be sold. Once she receives something from their legal counsel she will forward that along to Jon Witten for his review.

The Affordable Housing Documents were forwarded to Town Counsel, SMAHT and Housing Authority for review and comment. Housing Authority has no problem with the documents. *Karen Kelleher will give the Board a copy of the updated affordable housing documents.*

#### **Meeting with Coler and Colantonio and Mike Clayton**

Karen reported that she met with Mike Clayton, and Paul Guertin and Kenny Caputo of Coler & Colantonio, Inc. concerning the SAFETEA-LU Grant application and the Planning Board's request for services.

The problem with the SAFETEA-LU Grants is they are typically tied to ASHTO standards (wider roads, etc.), which are inconsistent with rural character. Coler & Colantonio said those issues could be offset by design standards.

They highly recommend starting with an existing conditions plan. The cost could be kept down if the Town could provide CAD files on properties such as the shopping center.

### **Archeological Site Project**

Bob McDonald, Associate Member of the Historical Commission asked for Assistance on mapping for an archeological Site Project. Kristen Domurad prepared a map identifying know locations of Archeological finds, using Latitude and Longitude data from Bob. This will be useful for the Planning Board when reviewing development sites.

### **Cell Tower on the Landfill property, which is in the overlay district.**

T-Mobile is interested in potentially developing a Wireless Service Facility tower on the Hudson Road Landfill within the wireless overlay district. The property is owned by Waste Management, who is not responding to T-Mobile's inquiries.

### **Tara Professional Site**

Karen reported she had received an inquiry from Andy Curtis (Flow-Right Septic Company) interested in the Tara Professional Site for Office space, and parking some equipment. The Building Commissioner referred him to Planning Board for Special Permit process. She told Mr. Curtis it would be considered a contractor's yard, which is not allowed in the Business District. Andy asked if it would be permissible to have an office and maybe one service vehicle or van on the lot. Karen expressed concern that even if a Special Permit included conditions; it would be too easy for other equipment to be showing up.

### **Arbor Glen**

Karen told the Board a resident had inquired about trails within the Arbor Glen development and if they were open to the public. The Planning Board reviewed the decision which states that all pedestrian trails in Open Space Area A and Open Space Area B and the pedestrian trail on the western side of the site that connects Open Space Area A and Open Space Area B shall be available for public access.

There was also a complaint that a culvert under the trail is blocked and logs are blocking the flow. *Karen has asked Sue Sullivan to check the culvert..*

### **Floodplain Zoning Amendment**

The Attorney General approved this amendment.

### **School Building Plans**

Karen reported on a survey error regarding the wetland line in the school building plans. It was flagged correctly in the field, but it was shown incorrectly on the plans. As a result, the project was put out to bid using an incorrect wetland location, resulting now in the north east corner of the building being about 1/2 foot from the wetland line and the fire lane and associated grading being in the wetland.

### **Whitney Homestead**

Karen reported that Assessors informed her that someone was interested in Whitney Homestead for a single family dwelling, this was the same individual interested a while back. He didn't follow through because the bank was requiring a commercial appraisal because of the class code the assessors were using. They were unwilling, at that time, to change the code. Assessor, Dotty Wilbur is now willing to change it to a residential class code because a number of years have passed since the rest home existed.

## **APPOINTMENTS**

No appointments were scheduled.

## **DISCUSSION/ACTION ITEMS**

### **Wildlife Woods Request for Bond Release**

Karen Kelleher told the Board that their consulting engineer, Sue Carter Sullivan, believed everything thing in the development was satisfactory and completed. She explained that the road was accepted with the understanding that the bond would not be release until a winter season passed to make sure the roads held up, and they have. This bond release for \$20,000 would close out the complete bond.

*Kathleen Willis moved to release the final bond in the amount of \$20,000 to Bentley Building Corp. for the Wildlife Woods PCD and any accrued interest. The motion was seconded by Ernie Dodd and carried by a vote of five in favor (Kathleen Willis, Ernie Dodd, Steve Quinn, Lori Clark and Lenny Golder).*

Steve Quinn noted that there are two age-restricted developments in Littleton where the lots are conveyed in fee simple form.

*Karen Kelleher will inquire with the Town of Littleton about fee simple processes used. Karen will also develop another list of special permits to review, including subdivisions and homeowner's associations.*

### **Special Permit Review Process**

The following Board members will be responsible for conducting a preliminary review of the following Planning Board special permit decisions.

Kathleen Willis	-Arbor Glen -Meeting House at Stow and Faxon Farm
Ernie Dodd	-Bose Corp. -Wedgewood Pines CC -C.W. Fuels
Steve Quinn	-Center School Add/Reno -Stow Community Recreation -Hillcrest Ave Wireless Service -Wheeler Road Wireless Service
Lori Clark	-Post Office and Gymnastics Club -First Parish Church Wireless Service
Lenny Golder	-Lower Village Place (Stow House of Pizza) -Gleasondale Mill Wireless Service New Cingular Wireless/Omni-Point

*Copies of all decisions will be distributed to Planning Board members for review.*

*The Board will review the special permits together at a meeting in September.*

### **Lower Village Request for Consulting Services**

The Board reviewed the document for survey work and services for the Lower Village long-term goals. The Board made various grammatical edits [A copy is on file in the Planning Department].

Lori Clark suggested listing overarching goals: safety, aesthetics and structural improvements and list specific items, under such as traffic calming devices. She suggested they include a statement asking the group to provide recommendations that would contribute to those goals as they are doing the detail discovery work.

*Before the document is sent out Karen Kelleher suggested sending it to Bill Wrigley, for review, specifically for contract legality.*

The Board discussed the technical scope of work. They hoped to separate the survey work from the design phase to minimize the up front financial cost. The Board discussed completing the survey phase first then going to Town Meeting for additional funding for the design phase.

*Karen Kelleher offered to contact Kenny Caputo to ask him how he would suggest breaking down the request.*

### **Presti Property and Zoning Compliance**

Karen Kelleher reported to the Board that the statement Mr. Presti made about the conditions under the expired special permits is null and void. She said that Jon Witten, Town Counsel, explained that because the special permits were never acted upon or recorded, the permits are null and void and the conditions do not apply.

Kathleen Willis and Lori Clark were concerned about non-conforming uses and or special permit violations on Mr. Presti's lot and the Linear Retail Shopping Center.

Steve Quinn said the most effective way to improve Mr. Presti's property is through development, and that by working with him the Board will be in a better position to advocate for businesses they would like to see in Lower Village once water is available on the site.

Kathleen Willis and Lori Clark did not agree.

Kathleen Willis believed it is the Planning Board's responsibility to uphold the bylaws and to ensure compliance. She said that there are several non-compliant issues on the Presti property that are not related to the lapsed special permits.

Lori Clark noted concern about lack of enforcement and that the letter concerning lighting is the first enforcement action she has seen of that type.

Karen Kelleher said that the Building Inspector issues violations, and that the Planning Board does not usually receive a copy of them unless the complaint has gone through the Planning Department. Karen explained that if a resident calls with a zoning violation complaint she asks they put their complaints in writing and submit it formally to Craig Martin.

Steve Quinn reported that he asked Jon Witten to provide an opinion on the roles of the Planning Board and their ability to enforce zoning bylaws under Massachusetts General Law. Jon Witten stated that under Massachusetts General Law it is the chief zoning enforcement officer's responsibility, and in Stow that is the Building Commissioner. He explained the Planning Board could enforce special permit and subdivisions they grant through the court system but not the bylaws in general.

Lori Clark said the Planning Board should work with Craig Martin, building inspector to come up with a standard process. She stressed the need for the bylaws to be upheld, and that the Planning Board should have a roll in this.

Karen suggested the Board meet with Craig to learn how he deals with resident complaints.

Steve Quinn stated that the Planning Board special permits should achieve an end goal, something to ensure the applicant's compliance. He proposed the Planning Board discuss this subject with the building inspector to work on this problem together. Steve suggested asking Craig if it would be a good idea to restrict the occupancy permit or issue temporary occupancy permits until all work for the special permits are completed.

Steve Quinn reported on his discussion with Board of Selectmen Chair, Laura Spear, on the matter of permits to be issued by the Selectmen. He suggested the Planning Board put a request in writing suggesting a standard process for notification of Board of Selectmen permit requests.

*Karen Kelleher offered to send Laura Spear a note from the Planning Board, reiterating their position, that they would like to have an opportunity to make recommendations on up coming licenses or permit applications/ renewals on properties that may have implications for the Planning Board.*

Lenny Golder suggested holding a joint Boards meeting to discuss how the Boards could become more aligned in matters such as these.

Kathleen Willis commented on lighting violations at the Stow Shopping Center. She was concerned that not enough is being done to make the tenants comply with the bylaws.

Steve Quinn noted that an effective way to reach tenants might be to talk to them and explain the issue and their importance.

Lori Clark agreed that this would be a good way to reach them, but that it should be done in conjunction with enforcement.

Steve also suggested fostering a relationship with the Stow Business Association, by having meetings with them on a regular basis.

Karen suggested sponsoring a forum with business owners to educate them about the bylaws. She noted that if businesses are aware of the bylaws and discuss them together they might be more likely to keep any eye on each other.

Ernie Dodd said this would also give the Board an opportunity to learn what aspects of the current bylaw inhibit their businesses and aspects that could help.

Steve Quinn agreed that there are non-compliance and violations issues in Town, but believed the Planning Board should concentrate on forward looking objectives, such as design standards and zoning for the Lower Village. He stated that it would be important for the Board to have these tools in place for when water is brought to Lower Village.

Steve said when they meet with Mr. Presti next they should ask him what plans he would and could he could see for property.

Lori Clark was concerned about the Board setting precedent by allowing the logging company, which is not a permitted use, to stay on the Presti Property. She said there would be nothing to stop other businesses along 117 from doing the same.

Karen Kelleher noted the special permits on the Presti lot are from the Zoning Board of Appeals not the Planning Board.

Karen explained the main difference between Mr. Presti's site and others is they are not pre-existing non-conforming businesses. She also noted that some of the current businesses on Mr. Presti's property are not deemed illegal, as some are grandfathered as pre-existing non-conforming.

Steve Quinn said that if the Town wanted to create a new job position that only deals with zoning enforcement they could, but this would mean that all bylaws would be enforced. He said no bylaw is more important than another and every bylaw would need to be enforced, which would be a difficult sell at town meeting.

Instead he suggested changing the business license process and making them tied to the zoning bylaw.

A few members suggested having volunteer zoning officers.

Karen Kelleher advised that this may be difficult because people would need the authority to go onto other property owner's land, but that the selectmen may be able to appoint a non paying person to do so.

*Karen Kelleher will schedule a meeting with Craig Martin for the Planning Board meeting on July 13.*

*The Board will also add CLURPA to the July 13<sup>th</sup> agenda, and move the meeting with Mr. Presti back to a latter date. At this same meeting they will assign tasks for the high priority goals.*

### **Pedestrian Walkway Sub-Committee**

#### **Resignation Letter from Tori Fletcher**

Lori Clark reported that Tori Fletcher sent a letter of resignation to the Planning Board. Lori said Tori had been representing the Planning Board at the Pedestrian Walkway Committee meetings, since Tori is no longer an associate member and no longer wants to be on the committee, Lori asked if they should open the position to a member at large or to appoint another Planning Board member along side her.



The Planning Board agreed that a member at large would provide more resident feedback to the committee.

***Kathleen Willis motioned to accept Tori Fletcher's resignation letter from the Pedestrian Walkway Subcommittee and to post an opening for a resident at large in lieu of a Planning Board member. The motion was seconded by Ernie Dodd and carried by a vote of five in favor (Kathleen Willis, Ernie Dodd, Steve Quinn, Lori Clark, Lenny Golder).***

Although Tori Fletcher resigned from the committee, she plans to continue with her commitment to the endangered species habitat intent study.

Proposal from Places Associates

The Board reviewed the Pedestrian Walkway Planning Committee's proposal for sidewalk design plans.

Lori Clark said the committee plans to move forward with the proposal with the exception of the Habitat Study and Assessment, and Notice of Intent Filing.

Karen Kelleher reminded the Board that they would not need to send this proposal out to bid as it is under the \$25,000 requirement and would be covered under the contract with Places Associates.

***Kathleen Willis moved to approve the request for proposal from Places Associates for the Pedestrian Walkway Sub-Committee sidewalk design plans in the amount of \$15,500. The motion was seconded by Ernie Dodd and carried a vote of five in favor (Kathleen Willis, Ernie Dodd, Lori Clark, Steve Quinn and Lenny Golder).***

Karen advised the Pedestrian Walkway Committee to ask Sue Carter Sullivan to send them a final copy of the proposal with the changes mentioned above.

***Ernie Dodd motioned to enter into executive session for the purpose of discussing ongoing litigation and to adjourn at the end of executive session. The motion was seconded by Kathleen Willis and was carried by a unanimous roll call vote (Kathleen Willis, Ernie Dodd, Steve Quinn and Lori Clark, Lenny Golder).***

The meeting was adjourned at 10:22 P.M.

Respectfully Submitted,

Kristen Domurad  
Administrative Assistant