

TOWN OF STOW PLANNING BOARD

Minutes of the July 20, 2010 Planning Board Meeting.

Present: Planning Board Members: Kathleen Willis, Steve Quinn, Ernest Dodd and Lori Clark
Associate Member: Brian Martinson
Planning Coordinator: Karen Kelleher
Administrative Assistant: Kristen Domurad

Absent: Planning Board Member: Lenny Golder

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

REVIEW OF CORRESPONDANCE AND MINUTES

Workshop

Planning Board members and staff; Kathleen Willis, Ernie Dodd, Lori Clark, Karen Kelleher and Kristen Domurad plan to attend the “Transforming the Commercial Corridor Strip: Re-development Design Strategies to Create Mixed-Use Centers” on August 3rd 2010 at 6PM.

Letter to Rich Presti from Craig Martin RE: 84-102 Great Road

Lori Clark and Brian Martinson requested they discuss the letter Building Commissioner, Craig Martin, sent to Rich Presti answering his question as to which uses on his property warranted permits.

Brian Martinson asked if the Building Commissioner had the authority to issue a decision on this matter.

Karen Kelleher advised Brian that the Building Commissioner has the responsibility to make determinations on grandfathered uses according to his best interpretation of the Zoning Bylaws.

Lori Clark, Kathleen Willis, Ernie Dodd and Brian Martinson did not agree with the building inspector’s interpretation of the bylaws.

Ernie Dodd supported this statement. He also said often in other towns Planning Boards and building commissioners interpretations of the bylaws are not always the same.

Lori Clark stated she did not feel like the building commissioner and members of the Planning Board were aligned.

Brian Martinson was upset that the Building Commissioner did not discuss his determination with the Planning Board before he issued it to Mr. Presti.

Ernie Dodd asked if the Board could ask for with Town Counsel, Jon Witten’s interpretation of the bylaw. Lori, Kathleen and Brian agreed.

Brian Martinson wanted to know what avenues of appeal might exist.

Karen Kelleher advised Brian that if someone wants to appeal a decision made by the building commissioner, he or she would have to appeal to the ZBA. If they are not satisfied with the ZBA's determination, one can file an appeal through the courts.

Steve Quinn did not think this was a productive direction for the Planning Board.

Lori Clark said the Planning Board should ask Town Counsel because if he disagrees with the determination made by the Building Commissioner the Planning Board members could bring the matter up with the Board of Selectmen.

Steve Quinn asked other members of the Board what outcome they would expect if they proceeded with an appeal to ZBA.

Kathleen Willis noted the Planning Board would probably lose, but that they should still obtain an interpretation from town counsel.

Steve Quinn stated that if the Planning Board appealed to the Zoning Board of Appeals they would eventually lose. He also stated that by putting one town entity against another in court they would also lose valuable planning board meeting time and cause tension amongst town departments.

Steve Quinn said he did not want to waste time discussing zoning bylaw compliance when it is not related to Planning Board special permits and is not within the Planning Board's charge. He reminded the Board that the special permits in question are not the Planning Board's but the Zoning Board of Appeals. He would rather spend time on the priority work plan as agreed to by the Board.

Steve noted that the Presti property has always been a property with nonconforming uses and will change until water is available and the site redeveloped. He stated that the Planning Board should focus on working with Mr. Presti to better understand his vision for the future of the property. Steve said he would rather sit down with Mr. Presti and work with him on an idea that is both economically viable and beneficial for the town. He said he would rather have a friendly development than a contentious one.

Kathleen and Lori did not think the Planning Board would have a say in the future redevelopment of this property.

Brian Martinson asked if Karen was going to talk to town counsel.

Karen Kelleher noted they must ask Bill Wrigley, Town Administrator for approval to contact Town Counsel, noting that he would be concerned using town funds for legal advise against another town entity.

Kathleen Willis asked what the Planning Board should do if Bill Wrigley does not approve the above request to speak to town counsel.

Steve Quinn did not think the Board should pursue the issue any further and that the Board should not speak with Town Counsel without informing Bill Wrigley.

Karen Kelleher was asked to relay the three Board member's request to seek legal advice about the Building Commissioner's interpretation of the ZBA special permit to Bill Wrigley.

Minutes

Kathleen Willis moved to approve the minutes of the July 06, 2010 meeting, as amended. The motion was seconded by Ernie Dodd and carried by a vote of four in favor (Ernest Dodd, Steve Quinn, Kathleen Willis and Lori Clark).

Kathleen Willis moved to approve the minutes of the July 6, 2010 executive session meeting, as amended. The motion was seconded by Ernie Dodd and carried by a vote of four in favor (Ernest Dodd, Steve Quinn, Kathleen Willis and Lori Clark).

Kathleen Willis moved to approve the minutes of the July 13, 2010 meeting, as amended. The motion was seconded by Ernie Dodd and carried by a vote of four in favor (Ernest Dodd, Steve Quinn, Kathleen Willis and Lori Clark).

PUBLIC INPUT

No public input

PLANNING BOARD MEMBERS' UPDATE

AARP News Article, Alternative to Nursing Homes

Ernie Dodd referenced a news article discussing homeowners putting mobile homes on their properties for aging parents as an alternative to nursing homes.

Ernie noted the current zoning bylaws would not allow for a mobile home unless it is related to a natural disaster home and that the Board may want to look into altering the bylaw to allow them for these instances.

COORDINATOR'S REPORT

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

Comprehensive Permits:

Plantation Apartments II and Pilot Grove extension

Karen Kelleher reported that the Planning Department received notice of the Plantation Apartment II public hearing, which is schedule for August 7, 2010. She said the Pilot Grove comprehensive permit is expected to be filed next week.

Comprehensive Land Use Planning Act (CLURPA)/Minuteman Advisory Group on Interlocal Coordination (MAGIC)

Karen said that CLURPA would be the main topic of discussion at the next MAPC, MAGIC meeting on September 2, 2010 from 7:30PM-11:30PM. Location to be determined.

Assabet River Rail Trail

Karen reported on her conversation with Laura Spear and Michelle Ciccolo at the MAGIC meeting who explained that Design funds for Track Road are included in the TIP plan for FY2010. The Selectmen have been requested to forward a letter requesting that those funds be rolled over to the FY2011 Plan and that Track Road in Stow also be included in the

Acton/Maynard Project for construction funds in 2014. Design funds will require a 20% match from the Town, which could come from CPA funds. There is no match required for construction. This is on the Selectmen's Agenda for tonight. MAGIC will provide a similar request letter.

Wireless Facilities

Karen Kelleher reported that Star Tower and T Mobile Northeast LLC filed a preliminary application for a variance on Wedgewood Pines Country Club Property.

They are filing for the following variances; Use (not located in the Wireless Overlay District) Height (150' monopole with 9 antennas and 1 E911 GPC antenna, Design) monopole stile town that will support full, external antenna arrays and setbacks (within 1,000' setback from existing residential buildings and municipal building).

Karen also received a call from another Cell Tower Company, looking at the Presti property. This company representative explained that he understood it is not in the overlay district and said they could challenge the Town's bylaw because it doesn't provide adequate coverage for the Town. Karen will be meeting with him sometime next week.

Discussion with Rich Presti

Karen Kelleher said she had a had discussion with Rich Presti on his plans for future development on his property in Stow. He said he does want to redevelop the property, but the two things standing in his way are the economy and water. Mr. Presti told her that the building is old and not worth investing in. He did have Stamski and McNary look at the site to investigate what his options were; he has yet to follow up with them, but plans to do so in the near future. He agreed to share a preliminary plan with the Board after he meets with Stamsky and McNary. He said he was not opposed to design guidelines and would like to have a colonial style building. He liked the town's streetscape design with the granite posts.

The Cell Tower Company who contacted Mr. Presti, he gave the company permission to talk to the Town about a Cell Tower on the back portion of his property, but made it clear that the Cell Company is on its own and he will not stand behind them if the Town doesn't like the idea.

Karen said she would send a follow up letter to Mr. Presti on compliance issues previously discussed with the Board.

DISCUSSION/ACTION ITEMS

Request for Fairway Drive Bond Release (Country Club Estates Subdivision)

Kathleen Willis moved that the Town release any remaining funds in the road bond for Fairway Drive to Alyssa Real-estate. The motion was seconded by Ernie Dodd and carried a vote of four in favor (Kathleen Willis, Ernie Dodd, Lori Clark, Steve Quinn).

Planning Board Priorities

The Planning Board assigned high priority task items. The following members will be responsible for researching each task and drafting ideas.

Zoning Compliance- Karen Kelleher will draft the process for dealing with zoning complaints and compliance issues as discussed with the Building Commissioner at the July 13, 2010 Planning Board Meeting.

Lower Village Traffic and Pedestrian Safety Master Plan- The Board will wait to assign this item until the proposal for Lower Village design has been accepted.

Sign Bylaw- Review and update Bylaw – Ernie Dodd and Brian Martinson

CLURPA- All Board members will continue reviewing the document and send comments

Golf Course and Orchard Zoning – Kathleen Willis and Lori Clark

The Board will reevaluate the priority task items after the individual work is completed.

Update on Lower Village Request for Quote

The Board reviewed the draft Lower Village request for quote and made the following comments:

- Page 3, change to *Implement* standards
- Attach the Lower Village standard streetscape design and work of the Lower Village Committee
- Page 4, #2 add *not* limited too, #6 change to Highway Department, #7 add *a* digital based plan
- Page 5, capitalize Lower Village Program
- Page 6, #1 *addenda if any*, # 5 a listing *of* required references

Karen Kelleher offered to talk with Mike Clayton, Highway Superintendent about partially funding the request. Karen also noted she would have Bill Wrigley, Town Administrator, review the document before it is sent out.

Kathleen Willis moved to approve the draft request for proposal for professional consulting dated 7/13/2010. The motion was seconded by Ernie Dodd and was carried by a vote of four in favor (Kathleen Willis, Ernie Dodd, Steve Quinn, Lori Clark).

Comprehensive Land Use Reform Planning Act (CLURPA)

The Board made the following comments on the Comprehensive Land Use Reform Planning Act:

- Page 49, 41:81D. Master Plan
 - Master Plans are very difficult if not impossible to pass at town meeting
 - The Master Plan is a forward looking document, having them consistent with the town's bylaws defeats its purpose
 - This puts the town in a vulnerable position to litigation if their Master Plan is not accepted or consistent with current bylaws.
- Page 59 41:81P Minor Subdivisions
 - The Planning Board supports these amendments
- Page 61 Section 10
 - The Board restates that they do NOT support the requirement of the consistency between Master Plans and Bylaws
- Page 65 Land Use Partnership Act

- In general it excludes small communities, especially those who lack infrastructure such as transportation, public water and sewer. It is not fair to leave out communities who cannot opt-in. They will miss out on state funding and be denied good zoning tools. Residents in communities who cannot opt-it will be paying State taxes but not reap the benefits.
- In general smaller communities lack infrastructure and the resources to create them, it does not make sense to only aid communities who already have these tools

-Page 71 40U:5

- There is a lot of interest in regional planning but very little interest in the individual town's needs and capabilities

-Page 71 40U:5 B

- Required growth target is unrealistic, even in economic booms the Town of Stow has never had a development that was able to build at that rate

-Page 72

- C. The acceptance process for a partnership plan is awkward. It does not make sense to create an entire document without public input and then expect the public to vote on a document they have never seen or had a chance to comment.

-Page 73 – B. By right special permits do not allow for Boards to make provisions

- C. Opens towns up to appeals

The Board will send a letter to the Board of Selectmen outlining their main concerns with the CLURPA proposed legislation and recommend a joint Boards meeting along with Representative Hogan and Senator Eldridge.

Kathleen Willis motioned to enter into executive session for the purposes of discussing on going litigation related to the Meadow Brook Estates Subdivision and to adjourn at the conclusion of executive session. The motion was seconded by Ernie Dodd and carried by a roll call vote (Kathleen Willis, Ernie Dodd, Steve Quinn and Lori Clark).

The meeting adjourned at 10:02 P.M.

Respectfully Submitted,
 Kristen Domurad
 Administrative Assistant