

## **TOWN OF STOW PLANNING BOARD**

Minutes of the August 10, 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 CORRESPONDENCE AND MINUTES**

#### **Town's Brief for Appeals Court: Bob Collings vs. Town of Stow Planning Department**

Karen Kelleher reported that Town Counsel, Jon Witten, filed a brief with the Appeals Court in response to Collings appeal of the Riverhill Estates Subdivision Decision. A copy was provided to the Planning Board.

#### **Planning Board Follow up Letter to Mr. Presti RE: Great Road**

Lori Clark said she wished the letter stated that the Planning Board did not agree with the determinations made by the Zoning Enforcement Officer.

Karen explained that the letter's purpose was to state the current status of issues raised. She referred to Craig Martin, Zoning Enforcement Officer's letter as he had made determinations on some of the issues.

Ernie Dodd said the Planning Board should appeal the Zoning Enforcement Officer's determination of grandfathered uses on Mr. Presti's property.  
Lori Clark agreed.

Steve Quinn said he did not think it would be appropriate for the Planning Board to spend valuable time and town money on a subject that is not within their jurisdiction and that if members still feel it necessary to appeal, they should do so as individuals, but not as a board.

Ernie Dodd and Lori Clark suggested the Board ask the Zoning Enforcement Officer, to attend a Planning Board meeting and explain his rational for making such determinations on grandfathered uses.

Brian Martinson said he was upset that the Zoning Enforcement Officer did not discuss the letter he sent Mr. Presti with the Planning Board. Lori Clark said she wished he had discussed his opinion with them at their last meeting when they were discussing Special Permit processes. Brian Martinson asked Karen Kelleher what Bill Wrigley, Town Administrator's, response was concerning the Planning Board member's request to contact Town Counsel for his input on the Zoning Enforcement Officer's rational.

Karen Kelleher said she spoke with the Town Administrator concerning the Planning Board member's request to contact Town Counsel with regard to the Building Commissioner's letter to Mr. Presti. The Town Administrator refused to authorize expenditure of legal funds in this regard as he could see no compelling reason to question the opinion of the Zoning Officer.

Karen explained that there is also concern of relationships between two departments.

Ernie Dodd said the Planning Board could have gotten Mr. Presti to fix issues on his property if they kept working on agreements with him.

Karen Kelleher explained that Mr. Presti could have sought a special permit from the Zoning Board of Appeals for a change in a pre-existing non-conforming site rather than the Planning Board all together.

Lori Clark suggested meeting with the Zoning Enforcement Officer to talk through this situation, and was concerned about the relationship between the departments moving forward.

Steve Quinn related the Stow Shopping Center's tenants to the tenants at Mr. Presti's site. He stated that the new Chinese food restaurant that is going in did not apply for a special permit because there are similar uses on the site and said it is similar to the uses that change on Mr. Presti's property—they are similar in nature as well.

Kathleen Willis stated she wanted Jon Witten, Town Counsel to clarify what constitutes "grandfathering". She said she does not understand grandfathering based on the Zoning Enforcement Officer's letter and that this topic will come up more often as the Lower Village is developed.

Lori Clark requested the Board send a letter to Bill Wrigley stating why the Planning Board wants to contact Town Counsel.

Brian Martinson asked if they could seek their own legal counsel, other than Jon Witten, Town Counsel.

Steve Quinn suggested instead asking Craig Martin for a response to the grandfathering concerns.

Ernie Dodd asked Karen Kelleher if the Board could use Planning Board funds to pay Town Counsel for legal opinion concerning the Zoning Enforcement Officers judgment on Mr. Presti's property.

Karen Kelleher said the Planning Board does have authority to use their own funds for legal advice and stated that the funds would be taken out of the Master Plan/ Engineering Consulting Account.

Karen asked the Board if they were planning on seeking legal advice for just this particular issue or for understanding the terminology of grandfathered uses in general.

Steve Quinn cautioned the Board, reminding them that they should not concentrate solely on Mr. Presti's property but on understanding grandfathered uses town wide.

Brain Martinson said that his property is an issue specifically because the Planning Board sent a letter stating their concerns of non-compliance issues and the Zoning Enforcement Officer overruled their opinion.

Ernie Dodd requested Karen Kelleher's opinion as to how they should approach a meeting with Town Counsel.

Karen Kelleher said if the Board wishes to seek legal advice she would suggest they invite the Zoning Enforcement Officer so everyone is aware of the same interpretation. She suggested phrasing their questions to Town Counsel about grandfathered uses in general and not to any one specific site.

Board members will invite the Zoning Enforcement Officer to their meeting with Town Counsel.

Lori Clark suggested the Board come up with planned scenarios to ask Town Counsel.

Steve Quinn noted that he did not think there was much support in town to pursue compliance issues on Mr. Presti's site in this manner or at all.

He stated that the best way to improve the area is to focus on a plan for the Lower Village, as discussed in the re-development workshop Board members attended the week prior.

Brian Martinson said it is important to stop illegal activities and that several activities on that site area also unsafe.

***Ernie Dodd motioned to use Planning Board Engineering Consulting funds to consult Town Counsel on the terminology of grandfathered uses and to invite him to a Planning Board meeting with the Zoning Enforcement Officer. The motion was seconded by Kathleen Willis and carried a vote of four in favor (Ernie Dodd, Kathleen Willis, Steve Quinn and Lori Clark).***

Brian Martinson noted they should send Town Counsel a list of discrete questions to provide guidance.

Steve Quinn stated he would like to understand grandfathered uses as they apply town wide.

The Board agreed to compile a list of questions concerning grandfathered uses for next meeting.

Brian Martinson asked Karen Kelleher to try asking the Town Administrator again for the use of Town funds for seeking legal advice, since such advice would benefit various town boards.

## **PUBLIC INPUT**

No public input.

## **MINUTES**

*Kathleen Willis moved to approve the minutes of the July 20, 2010 Planning Board meeting as amended. The motion was seconded by Ernie Dodd and carried a vote of four in favor (Ernie Dodd, Kathleen Willis, Lori Clark and Steve Quinn).*

*Kathleen Willis moved to approve the minutes of the July 20, 2010 Executive Session Planning Board meeting as amended. The motion was seconded by Ernie Dodd and carried a vote of four in favor (Ernie Dodd, Kathleen Willis, Lori Clark and Steve Quinn).*

### **Planning Board Members' Updates**

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

The Planning Board suggested the PWP committee interview candidates for the vacancy position on their sub-committee and then make a recommendation to the Planning Board for appointments, Lori Clark agreed.

#### **Elementary School Building Committee**

Steve Quinn stated that the project is under way. Blasting on the property has begun and is almost finished. He stated that the Blacksmith Shop was successfully moved off site. The contractors are trying to complete necessary items before the children are back in school, such as the work on the sewer and leaching field and an access road in the back of the building off of Hartley Road. Steve Quinn explained that the fence surrounding the grassy knoll is to protect the area from construction material and potentially to mark out a safe area for the children to play when the play sets are being moved. He stated that they plan to keep the play structures up during Phase 1.

Karen Kelleher asked if there was an update on the soil that tested positive for arsenic on site. Steve Quinn noted that there are currently three different options to move the soil.

Steve Quinn reported that the committee discussed the possibility of adding four extra classrooms to the top of the building, if a reasonable price were negotiated. He noted that the cost of building extra classrooms now would be less expensive than adding them in the future, but stated that the committee had not made any decision on the matter to support such a proposal at Town Meeting.

### **Coordinator's Report**

#### **Light Pollution Study Committee**

Karen Kelleher reported that Victoria Fletcher resigned from the Light Pollution Study Committee and Karen is waiting to hear back from the committee on how they would like to proceed with membership.

#### **Bob Collings ANR lot for Collings Foundation**

Karen Kelleher reported that Bob Collings requested time on next week's agenda to revisit his plan to transfer the hanger on his property to the Collings Foundation. He stated that he was able to address all the Planning Board concerns and would submit the plans before the Board's next

meeting. Members stated that next week's agenda is too full and asked Karen to schedule him on the following agenda 9/7/20.

### **Taylor Road PCD**

Karen told the Board that she received a request for clearance for Building Permit on Taylor Road. She advised the Building Commissioner of several outstanding items that need to be addressed:

- Sidewalk donation
- Bond
- Conservation Restriction
- Lighting

### **Villages at Stow Sidewalks**

Karen Kelleher stated she had not heard back from Bruce Wheeler after the last letter they sent regarding sidewalks at Villages at Stow.

Karen said that Sue Carter said she would not recommend a bond reduction until the funds are received.

Lori Clark noted the PWP Committee sent Bruce Wheeler a sketch plan of the proposed sidewalk locations.

### **Lower Village Committee**

Karen said the Lower Village Committee meets tomorrow. Bruce Fletcher resigned from the Lower Village sub-committee. Karen noted another member, Lucille King does not attend meetings regularly and recommended that membership be reduced from 9 to 7.

Lori Clark also noted that the committee seems to be tying things up and that adding another member may not be appropriate at this time.

### **Pompositticut Building Use Study**

Karen asked the Board if they had any suggested uses for the Pompositticut building. Members said they completed the Pompositticut Use Survey online.

### **Ridgewood**

Karen said she was in the process of preparing a draft response to Ridgewood on their request for input on submission requirements for the Subdivision and asked if the Board supports the request to refer to the AAN Special Permit Plans rather than filing a whole new set.

Kathleen Willis said that a new set should be submitted to make it easier for members to review.

*Karen will finish a draft response to the letter and discuss it at next week's meeting.*

### **DISCUSSION/ACTION ITEMS**

#### **“Transforming the Commercial Corridor Strip: Re-development Design Strategies to Create Mixed-Use Centers”: Discussion on August 3, 2010 Workshop**

The Board reviewed some of the important discussions from the workshop that should be considered in planning for Lower Village:

-Using visual preference studies to determine how the public would like to see the downtown change

- Improving landscaping
- Lining roads with trees in the right of way to create a cohesive look, slow traffic down and define space
- As a town, taking the first steps to address some of the issues
- Develop bylaws that follow the vision, laid out by the visual preference study
- Minimum setback instead of maximum setbacks in business and commercial districts
- Minimum height instead of maximum height to foster mix-use
- Creating a Village master plan
- Creating a circulation pattern that is desired, to encourage new development within the planned design
- Planning around community spaces and connecting green spaces

The Board discussed revisiting the bylaw to minimize and alter current parking lot requirements.

The Board discussed contacting design groups for assistance with zoning and design standards. Karen said she would ask Marcia Rasmussen, Town of Concord Planner, for the contact information from the consulting group that is working on West Concord.

Karen Kelleher told the Board that Mike Clayton offered Highway Department funds for the Lower Village Existing Conditions Proposal. Karen will discuss this with Bill Wrigley before sending the proposal. She also suggested asking the Board of Selectmen to contribute funds towards this project if the Highway Department does not have sufficient funds, as one of their main goals is economic development. Karen offered to contact Laura Spear the Board of Selectmen Liaison.

### **Lighting and Sign FAQ**

The Board discussed and edited the FAQ on lighting and sign bylaws in Stow.

Steve Quinn noted that having this information in the Building Department and other departments would be helpful for residents and other building professionals who deal with electrical work in Stow.

Lori Clark noted having this FAQ in ACE Hardware might be helpful for residents when choosing light fixtures.

Kristen will send the Light Pollution Study Sub-Committee a copy of the FAQ for their input.

### **Lower Village Committee**

The Board discussed the charge of the Lower Village Committee and potentially re-chartering a new committee to possibly focus on the visual design and layout of the Village.

The Board will discuss the Lower Village Committee charter at next week's meeting.

### **Plantation Apartments II and Pilot Grove II**

Steve Quinn stated the ZBA has continued their public hearing for Plantation Apartments to September 9<sup>th</sup> and have filed for a public hearing on August 16<sup>th</sup> for Pilot Grove Apartments II.

Karen Kelleher noted that Sue Sullivan had not received a complete application, and that drainage calculations were not included. Sue contacted the engineer to obtain the rest of the application and will begin reviewing the documents once she receives them.

Karen Kelleher told the Board she responded to the Zoning Board of Appeal's request for Board members to attend the extended the public hearing, which was last Thursday. Karen replied stating that the Planning Board would not be meeting before the extended public hearing and would be unable to provide feedback at that time.

Kathleen Willis said she was concerned they would not have enough time to review the plans together as a board.

The Board will review the application at next weeks meeting. They will reschedule Bob Collings appointment to their next meeting in September, as importance of reviewing the plans is critical and they have a prescheduled meeting with Martha Monroe.

Kathleen Willis stated the Planning Board should not support the creation of non-conforming lots and that the comprehensive permit applications request several variance that she is not in support of.

Bill Byron of the Zoning Board of Appeals attended the meeting to comment and ask questions about the Planning Board's opinion of the comprehensive permit applications.

Bill Byron noted both projects have not identified a water supply and he was unsure how they would be able to grant a special permit without this information.

Bill also said he was concerned about how the supportive housing services would function, he was told by the applicants that this should not be a concern of the board.

He noted that one abutter attended the Plantation Apartments II public hearing with his attorney. The abutter's attorney stated that Title 5 does not allow for a septic system to be under a paved surface, which was shown in the plans. The Board noted that septic systems and leaching fields are allowed to be located under paved surfaces and gave Stow Shopping Center as an example.

Bill Byron said the applicants have asked for a variance to waive the project bond, the applicants told him the contractor bonds would take care of any problems.

The Board stressed the importance of obtaining a bond for the project, as contractor bonds would not help the town if the project went under.

### **Zoning Compliance Process**

The Planning Board made comments on the Memo titled: "Special Permit and Zoning Compliance", a copy can be found on file in the Planning Department.

### **Comprehensive Land Use Reform and Partnership Act (CLURPA)**

The Board reviewed the response draft letter to Senator Eldridge and Representative Hogan.

Ernie Dodd stated he did not think the Town of Stow was being well represented by Jamie Eldridge and that they should discuss their concerns about this legislation again by inviting him to another meeting with the Board of Selectmen in attendance.

Karen Kelleher will forward a copy of this letter to surrounding towns as well as sending it on the Mass planner's email list serve to ask for comments and support from other Massachusetts communities.

The meeting was adjourned at 10:30PM.

Respectfully Submitted,

Kristen Domurad  
Administrative Assistant