

**TOWN OF STOW
PLANNING BOARD**

Minutes of the October 11, 2011 Planning Board Meeting.

Present: Planning Board Members: Leonard Golder, Steve Quinn, Ernie Dodd, and
Kathleen Willis
Planning Coordinator: Karen Kelleher
Administrative Assistant: Kristen Domurad

Absent:
Associate Member: Brian Martinson

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

MINUTES

Ernie Dodd moved to approve the minutes of the September 27, 2011 Planning Board meeting as amended. The motion was seconded by Steve Quinn and carried a vote of five in favor (Ernie Dodd, Kathleen Willis, Steve Quinn, Lenny Golder and Lori Clark).

Ernie Dodd moved to approve the minutes of the October 3, 2011 Planning Board meeting. The motion was seconded by Kathleen Willis and carried a vote of five in favor (Ernie Dodd, Kathleen Willis, Steve Quinn, Lenny Golder and Lori Clark).

CORRESPONDENCE

Miniature Horses/Quirk Property

Kathleen Willis stated that she spoke with her Veterinarian about Dr. Robert Tashjian. He knew of several veterinarians who have worked with him but did not have much positive feedback.

Mass Planners List Serve: Storm water Run Off

Kathleen Willis stated that there were some interesting concepts in the email and that the Board should look into this for future zoning bylaws.

PLANNING BOARD MEMBERS' UPDATES

No updates at this time.

COORDINATOR'S REPORT

Karen Kelleher updated the Board of the on going activities in the Planning Department.

Finance Committee Meeting

Karen reported that the Finance Committee requested that a Planning Board member attend their October 25th meeting to discuss the proposed Solar Bylaw.
Ernie Dodd stated that he would attend.

Citizen Planner Training Collaborative (CPTC)

Karen informed the Board that there are CPTC workshops available and if anyone was interested in attending to let Kristen know ten days prior to the workshop date.

Minuteman Advisory Group on Interlocal Coordination (MAGIC)

Karen reported that Laura Spear attended the MAGIC meeting in which the Metropolitan Area Planning Council (MAPC) announced the organization's top 5 priorities, one being the Comprehensive Land Use Reform and Partnership Act (CLURPA).

The remaining top 4 were:

- Municipal Health Insurance Reform
- Regional Collaboration (similar to criteria for DLTAs, the focus is on regional services and empowering regional planning agencies)
- Community Preservation (75% matching funds, support for maintenance of recreation land, alternative local funding sources)
- Surplus Land

Laura reported that they also had a presentation on MAPC's Local Energy Action Program providing technical assistance to help communities plan and implement local clean energy projects. Applications are due November 10th. Laura indicated that there are very little funds available and they would probably only award up to five projects and matching funds/assistance would be required.

Pedestrian Walkway

Karen reported that she spoke with Bruce Fletcher who indicated that he had already negotiated the work to be done in lieu of construction of the stamped pavement, which did not include the Crescent Street Crosswalk signage as the Board had voted on at their last meeting. She reported that Bruce did get a quote for signage, which he thinks is exorbitant. He said could do it at a much lesser cost. He also recommended that we take a look at all of the crosswalks – as the plan didn't show signage for any. Karen asked the Board if they wanted to vote again for additional signage on Crescent Street as a separate item and to clarify the agreement made with Century.

Kathleen stated that he didn't make it clear that he had already negotiated or else they would not have added that in.

The Board agreed to add this to their agenda for next week.

Lori Clark stated that Century Paving paved the aprons in front of the Leone property, which the Highway Department was supposed to do. She stated that the Highway Department should pay for the crosswalk signs on Crescent Street signage because they did not have to pave at the Leones.

Kathleen Willis agreed. She suggested that the Highway Department should use their Great Road Sidewalk Fund for any additional signs needed.

Linear Retail

Karen reported that she has still not heard anything back from Gordon Whitman concerning the Linear Retail Special Permit.

Kathleen suggested that they look further into Section 6.3.1.4 of the Zoning Bylaw which states that signs that are not maintained and in deplorable condition should be taken down.

Karen asked if the Board wanted her to follow up with Gordon Whitman stating that they had not heard back from them concerning their letter about Linear Retail to coming into compliance with their open special permit.

Planning Board members agreed.

Board members asked if Linear Retail had filed with the Zoning Board of Appeals. Karen stated that they had not.

Board members suggested the Zoning Board of Appeals post their legal notices in the Stow Independent, as the Beacon Villager Newspaper is not widely read by Stow residents. *Board members requested that Karen make an informal suggestion to the Board of Selectmen Liaison suggesting to use the Stow Independent.*

APPOINTMENTS

Cushing Property – ANR Plan and Letter from Meisner Brem, Corp.

Jeff Brem of Meisner Brem Corp. as well as Penny Cushing, Landowner was present.

Jeff Brem provided a locus map and large-scale map of his most recent plans for the Planning Board. Jeff briefly explained his phased approach which was discussed at their last meeting.

Jeff stated that the two issues the Board found with his last plan was the shape ratio factor of the lots and the illusionary access issue to the ANR lots.

Jeff showed the Board where real wetlands had been defined by the Conservation Commission from a previous plan.

Jeff stated that his new plans take care of the issues the Planning Board had at the last meeting. He stated that one of the main issues was the R factor (lot shape). Jeff showed where he added some area to make the lot 20 acres, which brought the R factor to .255 which would comply with the requirements of a Hammerhead lot— which he plans to apply for. He showed that the other smaller proposed ANR lot also meets the R factor requirements of .73.

Jeff then stated that he solved the problem of illusionary access. He stated that he could bring the same 50ft. circle from the frontage to the building area without crossing lot lines or the Floodplain/Wetland District Line and that the ANR handbook explains that as long as you can put a car on the lot it should be endorsed. He stated that he found a record plan that showed some uplands in the far corner on the Hudson town line. He spoke to the neighbor and they indeed stated that it was not their land.

Jeff stated that the real access will be from the existing driveway.

Jeff stated that the two areas that were illusionary access in question are now solved and now he just needs to apply for a Special Permit for the Hammerhead lot and asked the Board if they wanted to table the ANR application until they receive the Special Permit Application or vote on the ANR Plan conditional upon obtaining a Special permit. Either way, the ANR Plan and Application is ready for submission..

He explained that the easements for the driveway were as follows:

A is for lot 1, B is for lot 3, c is for lot 2.

Jeff stated that Penny Cushing asked him why they don't just do the subdivision plan now. He stated that he explained to her how much more expensive it would be vs. as an ANR Plan, which is much simpler.

Karen asked the Board if they felt he addressed the issue of illusionary access.

Kathleen stated that she read Jeff Brem's memo and the ANR Handbook, and did not recall anywhere in the handbook where it stated that as long as you can pull a vehicle off the existing public way onto upland that it constitutes as access.

Jeff stated that it says that in the Fox vs. Planning Board of Milton case.

Lenny Golder stated that the quote Jeff stated in his memo, "access to the lot, not to the House", from the Fox vs. Planning Board of Milton case continued on to say, that so long as their lots have the frontage that makes such access possible.

Jeff suggested that perhaps Town Counsel could help the Board better understand the law.

Karen stated that she did talk to Jon Witten, Town Counsel verbally about the first plan Jeff submitted. Karen stated that Jon said it would require a subdivision. She also sent him the latest plan but has not heard back from him yet.

Jeff stated that he could write something explaining his plan and how it overcomes the illusionary access issue to give to Jon.

Karen Kelleher asked Jeff if the small pull off parking area now shown on the Plan was wetlands as delineated by the Conservation Commission, as he no longer has it labeled as such on the new plan.

Jeff stated that it is wetlands but the Plan does not indicate that wetlands were flagged that far.

Jeff stated that Corcoran Vs. Sudbury also states that and ANR cannot be based on a decision from another board.

Ernie Dodd stated that the Conservation Commission already delineated wetlands in that area.

Ernie stated that either Jon or the applicant's attorney should look at this. He stated that as far as he could tell he thinks the only approach is a subdivision with drainage and it would only have to go up as far as Penny's house at the moment. He stated that it does not seem that there is proper access.

Karen asked if they considered doing a subdivision with some waivers for construction standards until Phase 2-3 is developed.

Jeff stated that they could go with this plan with the existing driveway as the road and waive the other requirement and then add the design standards when the property is further developed.

Kathleen noted that they would have to make a note, that the property could not be further subdivided until the road was upgraded.

She stated that the Board should get a list from Jeff as to the waivers he would be requesting so that they can review these with Town Counsel.

Jeff stated that it would probably be the width of the travel lane, overhead utilities.

Kathleen stated that the Board requires utilities to be underground.

Jeff stated that at that point when Penny is ready to develop the rest of the property they could put the utilities underground and widen the road.

Lori stated that the Board would have to consider the associated risks with a temporary waiver.

Karen stated that it would be important to look at the entire parcel and how it will be developed. She stated that it would be hard to know what should be required without knowing how the rest of the subdivision will be developed.

Ernie noted that the Board has an obligation to look out for the town and the people buying the property.

Jeff stated that the biggest issue that may come up with is the grade of the entire road.

Karen stated that this is one reason why you would need to look at the entire proposal.

Jeff stated that he had it surveyed but did not have the information with him.

Jeff asked if he should submit the Hammerhead Lot Special Permit now.

Karen stated that it might be best to wait until the Board hears back from Town Counsel about the illusionary access, that way they won't have to worry about the time frame to act on the application.

Lori stated that the Board would not want him to waste time doing a Special Permit application if the ANR is unable to be endorsed.

Jeff stated that he would come to the next Board meeting with a list of waivers so that they could discuss them if the ANR does not work out.

Arbor Glen/Pulte Homes

Ed Root resident at Arbor Glen stated that they received two quotes for the work required to replace and treat the trees at Arbor Glen, they were as follows:

- Evergreens :
 - o Tree replacement (12 trees), plus 20% overhead for subsequent failures: \$5,904
 - o Root Crown Excavation, plus 20% overhead for subsequent failures: \$4,092

- Scott Company:

- Root Crown Excavation, plus 20% overhead for subsequent failures: \$3,500

Kathleen asked if either of these companies had experienced tree planters.

Arbor Glen residents stated that both companies did have experienced tree planters.

Mark Mastroianni of Pulte Homes thanked the Arbor Glen Home Owner's Association for their research. Mark gave an overview of the current situation stating that Pulte Homes had completed the project and requested that the bond be released to them. They received a list of items from the Planning Board related to landscaping that had been done incorrectly: the recommendation states 13 trees need to be replaced and 21 need root crown excavation.

He stated that he would like the Board to make a decision on what is required in order to get their bond back. Mark requested that the Board make a decision tonight so they could move on.

He stated that he spoke with their landscaping companies certified arborist who explained root crown excavation to him, he now knows how much it costs and how it is done. He stated that he has a quote to do the tree replacements and root crown excavation that would be done or witnessed by a certified arborist and that they would provide proof that it is done within the industry standards.

Mark noted that if Pulte Homes is to do any of this work they request that the project be considered complete and that they would no longer be responsible.

Kathleen Willis stated that there should be two corrections to the list, as previously discussed:

Arbor Glen Drive 14 should be a root crown excavation

48 Heather Lane should be a replace

Steve Quinn stated that part of the decision was landscaping with specified techniques and that root crown excavation and replacement are necessary because the trees were not planted according to the plan. Steve asked Mark what Pulte Home's arborist said about the health of the trees in question.

Mark stated that they were not here to make that argument but that he was there in spirit of cooperation, looking for a decision from the Board so they can move forward. He stated that he believed it was their landscape companies opinion that everything was planted according to the plan and that Pulte feels have been unjustly scrutinized as some were planted an inch too high or low. He said that there is a lot of confusion on their end as well as in the field as to if the trees were planted too high vs. too low.

He stated that the trunks could have gotten damaged from snowplows or the heavy snow we had last year. Mark also stated that the arborist representing the residents at the site visit was a relative of a resident at Arbor Glen.

Ed Root stated that the Board's consulting engineer wrote a letter stating she had repeatedly told the landscapers that they were not planting the trees correctly. He stated that the tree trunks could have also been damaged during construction.

Ed stated that the Homeowner's Association was not trying to nickel and dime Pulte Homes and noted that they paid an additional \$2,000 to correct their own driveways.

Ernie Dodd stated that as far as he was concerned this list of trees was the final list. Lenny Golder asked if there was anything else of concern to the Homeowner's Association. Residents stated that there were no other issues of concern.

Ernie stated that he drove through the Arbor Glen property and did notice more trees than Pulte originally stated they thought were damaged.

Ernie then discussed a few trees that he felt were damaged. He stated that he thinks there are definitely more than 5 trees that need to be replaced but that 12 may be too many and that not all trees may not need root crown excavation.

Lori asked the rest of the Board members their opinions.

Kathleen stated that she felt the current list of trees to be replaced and have root crown excavation should all be addressed.

Steve stated that he would also go by the list as it was compiled by Planning Board members and the Homeowner's arborist. He stated that Pulte Homes did not provide the Board with any differing information so this is what he would have to base his opinion on and that anything the Board agrees to tonight would be the end of Pulte's responsibility and the Special Permit. There should be no additions to the list.

Lenny Golder agreed with Steve Quinn for the same reason.

Lori Clark agreed.

Karen asked if the proposal was for Pulte Homes to do the planting and root crown excavation or for them to provide the Homeowners Association with the proper funds to do it themselves.

Mark said that Pulte Homes wanted to know what the quotes were from the Homeowner's Association so that they could make the decision to either do the work or provide the check to the Homeowners to do the work. He stated that he has estimates that are a lot less than the homeowners, as the landscape company does a lot of work for Pulte and they did the plantings in the development and want a chance to see it done right and correct the situation.

Lori asked if Pulte Homes would prefer doing the work themselves.

Mark stated that their preference is to do the work on the list, providing proof that it was all done under the supervision of a certified arborist and that they would be completed with their requirements and not have to come back.

Lori then asked the Homeowners Association their preference.

Ed Root stated that they would be fine with having Pulte Homes fix the trees and will accept an arborist's certification.

Kathleen suggested that the maples be replaced with a different variety of tree so that if one species is plagued others would survive.

Mark stated that he mentioned this to the landscaping company and said that he gave them 6 other trees from the landscaping list.

It was noted that the first maple on the left of Heather Lane was removed by the homeowner's Association and replaced with arborvitae. It was also noted that the problem with the tree at 59 Heather Lane is that the area is too wet. It was decided that the tree at 59 Heather Lane would be relocated closer to the home, in lieu of replacing the first maple on the left of Heather Lane.

Kathleen stated that the homeowners should that they will need to water and maintain these trees.

Ernie Dodd moved that the Board release the remainder of the Arbor Glen Special Permit bond in the amount of \$20,000 to Pulte Homes once they received certification from a certified arborist that all trees identified in the list from the site walk conducted on August 18, 2011, as amended, have been either planted in accordance with the approved plan or that root crown excavations have been done in accordance to industry standard and that the maple tree at 59 Heather Lane be relocated away from the area where ponding was effecting it. The motion was seconded by Steve Quinn and carried a vote of five in favor (Ernie Dodd, Steve Quinn, Lori Clark, Kathleen Willis and Lenny Golder).

DISCUSSION/ACTION ITEMS

Butternut Farm Golf Course

Steve Quinn stated that the water monitoring tests revealed that no target analysis were detected. Ernie stated that the Board should consider requiring testing every five years assuming they come back negative.

Kathleen stated that they should look at other golf courses.

Kathleen stated that 5 sounded reasonable.

Ernie Dodd stated that the golf courses are putting chemicals into the Town's water supply so they should be tested.

Karen asked the Board if they wanted to modify Butternut Farm Golf Course's decision to do this type of water sampling every five years instead of what is currently required (yearly testing from their monitoring well, which has dried up).

Ernie Dodd stated that he thought the Board should discuss the issue with the Board of Health.

Kathleen stated that until the other courses are tested then they should wait to address changes all at once.

Kathleen Willis asked if the golf course paid for the testing.

Karen stated that the Planning Board paid for the testing.

Ernie stated that that he thought they had agreed to pay in order to find an initial baseline.

Kathleen suggested the Board send a memo to Jack Wallace, Health Inspector that the other two golf courses need to be tested for the DEP banned substances.

Lori said the Board should send a letter just following up to see if the Board of Health took any action with the golf courses to date.

Steve noted there might be a simple replacement to the banned substances.

Lori stated that in their last discussions on this topic the Planning Board and Board of Health decided to let the golf courses know that they plan to move towards adopting a new general bylaw ordinance to ban DEP banned substances so that the golf courses have time to react.

Karen stated that she could follow up with Jack Wallace to see if he has spoken to any other golf courses and the status of those discussions.

Lori agreed that the Board should ask for a status update.

Lenny Golder suggested the Planning Board just propose a general bylaw banning the DEP banned substances if the Board of Health does not.

The Board decided to get a status update from the Board of Health, and if they are not willing to go forward with proposing this bylaw the Planning Board will.

Lori suggested informing Laura Spear, the Planning Board's liaison to the Board of Selectmen, about the Planning Board's intentions.

Solar Bylaw Recommendations

The Planning Board had no changes to the summary prepared by Karen Kelleher.

Ernie Dodd moved to recommend town meeting approval of the proposed warrant article "Commercial Solar Photovoltaic Renewable Energy Installations" as written. The motion was seconded by Lenny Golder and carried a vote of five in favor (Ernie Dodd, Lenny Golder, Steve Quinn, Kathleen Willis and Lori Clark).

Highgrove Estates

Karen Kelleher explained that Highgrove Estates is requesting a minor modification to their Special Permit to allow the common drive to be widened 16 feet, and that their consulting engineer, Sue Carter, recommended this modification.

Ernie Dodd moved to accept the request for minor modification, to the Highgrove Estates Hammerhead Lot Special Permit and Erosion Control and Sedimentation Special Permit, dated April 12, 2011, to allow a uniform width of 16 feet of pavement between the wetland crossings, as shown on a plan entitled Highgrove Estates Pavement Modification, dated October 7, 2011, prepared by Stamski and McNary, Inc. The motion was seconded by Kathleen Willis and carried a vote of five in favor (Ernie Dodd, Kathleen Willis, Lenny Golder, Lori Clark and Steve Quinn).

Crow Island Special Permit Decision

The Board reviewed a draft decision for the Crow Island Special Permit and made the following comments:

- Sales shall be prohibited, as they are not allowed in the Recreation-Conservation District
- Number of boats should be limited to 25, and add a condition that the Board revisit the special permit to make sure there are no issues
- The \$500 application fee shall not be waived as the cost for processing the application should be covered
- Clarify that the boats should be washed before introduction and reintroduction into the Assabet River if previously in another body of water
- Reservations should not be limited to electronically
- The use shall not negatively impact the rail trail
- Signs saying slow to pedestrians, animals etc. should be all weather and permanent
- Notification in directions or advertising that the rail trail is multi use
- All parking for this use should be on Crow Island
- Access to Crow Island for renters could not be limited to just to White Pond Road as some people may drive that way if the gate is open and you cannot really restrict where people drive in from, but the directions should be given by way of White Pond Road

The meeting was adjourned at 9:45PM.

Respectfully Submitted,
Kristen Domurad
Administrative Assistant