

**TOWN OF STOW
PLANNING BOARD**

Minutes of the October 18, 2011 Planning Board Meeting.

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

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

REVIEW OF MINUTES

Ernie Dodd moved to approve the minutes of the September 13, 2011 Planning Board meeting as amended. The motion was seconded by Steve Quinn and carried a vote of four in favor. (Kathleen Willis, Lori Clark, Steve Quinn and Ernie Dodd).

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

Ernie Dodd moved to approve the minutes of the October 4, 2011 Planning Board meeting as amended. The motion was seconded by Steve Quinn and carried a vote of five in favor. (Kathleen Willis, Lori Clark, Steve Quinn, Lenny Golder and Ernie Dodd).

Ernie Dodd moved to approve the minutes of the October 11, 2011 Planning Board meeting as amended. The motion was seconded by Steve Quinn and carried a vote of five in favor. (Kathleen Willis, Lori Clark, Steve Quinn, Lenny Golder and Ernie Dodd).

PLANNING BOARD MEMBERS' UPDATES

Community Preservation Committee (CPC) Liaison Update

Kathleen Willis reported on the CPC's last meeting. She stated that the Selectmen removed the article for the Larson Apple Barn from the warrant, in response to the proponent's request for its removal.

Board of Health Liaison Update

Kathleen Willis reported on the Board of Health meeting in which they discussed updating their Beaver Policy, as it is too vague as written. She stated that there has been some question of protocol as to the State's permitting process. The Highway Department, in consultation with the Board of Health, clears dammed up culverts etc.. They also assist private property owners, who experience flooding problems. Kathleen noted that State regulation requires that the property owner obtain a permit.

Kathleen also reported that Linear Retail Shopping Center experienced a water issue last week. She stated that they had to shut the water off throughout the plaza because too much sodium bicarbonate was put into the water system as a result of a valve that was stuck in the open position.

COORDINATORS' REPORT

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

Open Space Committee

Karen reported that the Open Space Committee is looking into doing some GIS planning work with golf courses in town to identify the highest natural resource values and those that are most suitable for development. They would like to meet with Karen and maybe a board member for an informal discussion either early in the morning or later in the afternoon.

Kathleen Willis and Steve Quinn both expressed interest.

Collings

Karen stated that she received a formal request from Mr. Collings attorney for him to meet with the Planning Board without counsel.

Board members reiterated that they would only be willing to meet with Mr. Collings if Town Counsel was present.

Finance Committee

Karen stated that the Finance Committee would be meeting next week on October 25th and requested that the Planning Board be represented to explain the proposed solar bylaw. Ernie Dodd confirmed that he would attend.

S.T.O.W.S. (Stow Town Official Working Session)

Karen stated that the S.T.O.W.S. meeting will be held November 2, 2011.

The moderator said it would be okay for the Board to turn in their Power Point presentation to the Town Moderator on the 2nd. This would allow the Board to meet and prepare for their presentation on November 1, 2011.

Linear Retail

Karen reported that she followed up with Gordon Whitman of Linear Retail in regards to the outstanding special permit issues. Gordon stated that in response to the Planning Board's letter they had hired a Lighting Specialist to review the Light Pollution Study Committee's recommendations.

Kathleen Willis asked Karen if she mentioned to Craig Martin (Zoning Enforcement Officer) her suggestion to have the Linear Retail sign removed, as it is not being properly maintained as required by Section 6.3.1.4 of the zoning bylaw.

Karen stated that she had not mentioned it, as she did not get a directive from the Board.

Kathleen said she would like to discuss the sign issue later in the meeting.

Habitech

Karen reported that she sent a follow up email about the sidewalk request to Bruce Wheeler and Lou Levine, but has not received a response.

Derby Woods

Karen said she sent the requirements for trail standards to Dave Coia and a reminder of the requirement for three Accessory Apartments. Habitech will provide one on Sylvan Drive (Lot 9) and Bentley will provide the other two on Dunster Drive (Lot 31 and one to be determined).

Quirk Property

Karen stated that the office received an inquiry from an Acton resident about the Quirk property for an equestrian use.

APPOINTMENTS

Coler and Colantonio – Lower Village Traffic Planning

John Morgan of Coler and Colantonio gave an overview of their last meeting and presented two new concept plans for Lower Village traffic calming.

John stated that the preferred plan from FST showed a roundabout with four two way entrances. He stated that two of the roads enter the roundabout close to one another, which was not ideal.

John also showed Concept 2, where a section of Route 117 is a one- way around the common to the roundabout. He stated that where they had originally proposed parallel parking on both sides of the common he altered the plan to show only parallel parking on the north side of the common. John said that with parallel parking only on one side, it actually increases the amount of green space on the common from 48,900 sq. ft. to 49,100 sq. ft..

Kathleen stated that it looked like there was less space on the common, probably because a small triangle section was cut off for the through road. She was concerned about usable area being taken away from the common.

Lenny Golder asked how much green space was on the common when the small triangle section was not included.

John stated that without that area it would be smaller.

Lori stated that she saw two concerns with the one-way road: changing the dynamic of the common and that businesses may not be too pleased.

Steve said he would be interested in hearing what the business owners thought. He noted that this scenario would appease entrance and egress into the businesses.

Lori stated that the Board should really define what the goals are.

Board members noted that a major goal would be to accommodate Red Acre Road and Pompositticut traffic onto Great Road and the roundabout is intended to serve that purpose.

Steve stated that right now the common isn't used that often and many people don't even know that we have a common in Lower Village. He stated that this might increase the visibility.

Brian Martinson asked if the preferred plan (concept 1) would work better if the east bound approach to the roundabout were moved to the south in order to separate the Red Acre Road and Pompositticut Road entrances further apart. John Morgan responded that a significant land taking would be required.

Ernie Dodd noted that the Town doesn't like to do takings and thinks that Town Meeting would be hard pressed to approve such a request.

John then displayed concept 3, which consisted of an ellipse roundabout. He explained that it separates Red Acre Road from the eastbound approach off Route 117. He stated that the drawbacks are there would be a need to acquire easements to accommodate sidewalks on both sides and that it would impact the common on the corner. He noted that the ellipse could do everything that a regular roundabout could do. He noted that he thinks it would function okay, but noted that people would pick up some speed on the areas that are straighter.

Kristen Domurad asked John if there was a difference in the safety ratings of an ellipse roundabout vs. a typical roundabout.

John stated that he did not think there was a difference in safety, but stated that there was not a lot of data to confirm it as they are not typically used. He noted that they have sketched one for another Town but they did not end up using it.

Karen Kelleher asked John what concept their office preferred.
John stated that they hadn't done an ellipse roundabout yet.

A resident was concerned about losing the granite posts on the common because CPC funds were used.

Kathleen Willis stated that the granite posts were installed as part of an agreement with the Faxon Farm applicants, not CPC funds, and that they could be easily relocated.

John then showed the board scenario 4, which directs Red Acre Road to a stop-controlled outlet onto a two way Route 117. He stated that the constraints with this concept is that it would leave the Red Acre Road left turn with the same difficulties it has today.

Board members noted that one of the big issues right now is getting out of Red Acre Road.

Kathleen stated that she liked the elliptical roundabout and that it seemed to fit the best.
John noted that the ellipse roundabout would make the common much smaller and would require sidewalk easements.

Ernie noted that they could do a land swap with the Shoemakers for a sidewalk easement, but that it would bring the road closer to the Shoemaker's house.

Steve stated that he thinks their next step should be getting business owners' input.
Lori stated that they should get all abutters input first.

Ernie Dodd agreed they should have a public forum.

Lenny Golder asked John if they had configured any traffic light scenarios.
John stated that they did a quick sketch of a traffic light at Samuel Prescott Drive. He said that it would help out people at the Stow Shopping Center.

Lori stated that it would not solve any of the other issues.

John stated that scenario also includes the roundabout at the Pompositticut/Red Acre Road end of Lower Village.

John said that he placed the traffic light at Samuel Prescott Drive so it would be as far away from the roundabout as possible.

Steve asked what it would be like to have a traffic light at Pompositticut Street and Red Acre Road.

John said that in order to do that you would need to significantly widen the roads as you would need two lane traffic on both sides and left turn lanes. He said getting Red Acre Road into the same system would be very difficult and would cause back up if there were a signal there.

Brian asked John, if land taking weren't an issue, would the preferred plan would be his best choice.

John stated that he would have to lay it out.

Lori Clark asked what the next steps should be.

Lenny Golder stated that if the Board is looking to slow traffic down they should look at just adding rumble strips or using a police officer to direct traffic during the 1-2hrs of rush traffic.

Board members noted that the issue is not so much speed but traffic flow, especially being able to turn left out of south side businesses, Pompositticut and Red Acre Road. Brian Martinson noted that the problem exists throughout the day, not only during peak traffic times.

Lori noted that the Lower Village Sub-Committee had conducted a traffic speed study and found that speed was not really the issue within the Lower Village.

John stated that the FST study found that the roundabout would queue up and not always be perfect.

PUBLIC HEARING CONTINUANCE-RIDGEWOOD Active Adult Neighborhood (AAN)

Harry Blackey and Bill Roop were present.

The Board introduced themselves.

Lori Clark stated that at their last meeting they agreed to a continuance in order to allow the attorneys to discuss the fee simple lot structure within the Active Adult neighborhood.

Karen Kelleher stated that the Board had asked for a written opinion from town counsel, which was in their packets. She noted that this was also forwarded to Bill and Harry.

Harry Blackey stated that the one thing that hasn't happened, was having a discussion with the board about their own opinions and now the issue is that town counsel had weighed in. He stated that at their last meeting with the board they had decided to table the discussion of allowing fee simple lots within the AAN. He stated that they haven't received comments from the Board yet and that they just received the letter from town counsel this afternoon. He said they had been coming to the board for over five years in respect to this development.

Steve Quinn asked when they planned to begin building as they had approved the decision over five years ago.

Harry stated that this development and every other un-started age restricted development is not economically viable right now and no one should realistically begin building until they are economically viable. He said that the Planning Board has worked very hard with them on this project and knows they wouldn't have done so if they didn't think it was in the best interest of the community and if they cannot get it built because it is not economically viable all the energy put into the project would be a waste. Harry stated that they could sit and wait until the economy improves or they could take a proactive stance. He said they cannot control everything but what they can do is take a step in the right direction to make the product more marketable. He said they need to see how they can change it within the rules and regulations. Harry stated that they looked at the issue independently and hired an attorney who is an expert in zoning and subdivisions and would not have done this if they were not confident in their position.

Lenny Golder stated, that legality aside, when did they think it would get developed as this will not necessarily fix the problem.

Harry stated that he did not think this would solve the problem, but that they have a responsibility to help solve a piece of the problem.

Bill stated that they receive calls all the time about people who are interested in an AAN unit but one in which they could own their own land. He stated that if they could offer a few configurations within this AAN they would be more marketable.

Lori Clark stated that she believed the Board did understand how this change, to allow for fee simple lots, may open up development to a wider range of buyers, but the Board needs to follow the bylaw and as their town counsel weighed in, the bylaw is currently written in a way that would not allow for fee simple lots.

Lenny stated that from a legal stand point there are solutions. He noted that if town counsel's opinion is correct, as he believes it is, there are alternatives. Lenny said Harry and Bill or the Planning Board could propose a change in the bylaw.

Lori stated that although this is an alternative, the Board has not discussed changing the bylaw.

Bill stated that they disagree with a number of things that town counsel says, such as, each lot has to be 25 acres.

Steve Quinn stated that he would prefer having some units as fee simple lots and likes the idea from a marketing standpoint, but asked if they could still do this by allowing the homeowners more leeway as if they owned their own lots.

Harry stated that the problem with this is that most buyers aren't sophisticated enough to appreciate all the nuances and when they see condominium, they stop reading.

Ernie Dodd stated that he was and is very much in favor of the RidgeWood at Stow AAN development as it was approved and believes they will do a fantastic job executing it, but he does not believe as Town Counsel pointed out, that the bylaw will support it. He stated that the AAN bylaw was passed at town meeting to allow senior development in an industrial district and that fee simple lots are not allowed in the industrial district. He stated that he would be very much in favor of allowing condominium type developments in the residential district with regular or age restricted so they can get more multi family developments in Stow to provide more affordable units, but he would not support it in the industrial district.

Ernie stated that he was not in support of amending the bylaw to allow for fee simple lots within the industrial district because fee simple lots are already allowed in the residential district. He also pointed out that there are some issues with the draft condominium documents. Ernie questioned if fee simple lot structure was even allowed in a condominium under state law.

Bill stated that in other states homeowners associations have more control than condominium associations, but that you need to have the ability to impose Chapter 183A onto the fee simple units and that in their documents all fee simple units would have to abide by the same rules and built the same exact way that the decision states.

Harry stated that in a condominium you can have the residents own whatever you want and you can draw the line of ownership anywhere.

Kathleen stated that at this point the Board needs to take into consideration what Town Counsel had said and his understanding of the Town's Zoning Bylaw is that fee simple lots are not allowed and that she agreed with this. She noted that she would entertain a modification to the Zoning Bylaws to allow fee simple lots in an AAN.

Lenny asked if affordable units would be in the single family detached houses.

Harry stated that they have not decided where they would be just yet, but would have them dispersed.

Kathleen stated that they should be distributed and expects some of the single family detached homes to the left will also have some affordable units.

Ernie Dodd noted that the condominium fees need to be set in such a way that does not exceed the affordability restriction, as this cost is included in the total cost of the house.

Kathleen asked if Harry or Bill had come across any AAN developments with fee simple lots.

Harry stated that there is one in Plymouth and several all over the state.

Kathleen stated that Arbor Glen did not have a problem with selling their units and they did not have fee simple lots.

Bill stated that they had significant price reductions.

Harry stated that he was glad the Board brought up Arbor Glen because he feels they have a responsibility to provide a diversity of products. He said the town already has 66 age restricted units and he doesn't think it makes sense to have 130 age restricted units all the same.

Ernie Dodd stated that the Planning Board approved their plan for an AAN.

Harry stated that their position is that they respect Town Counsel's opinion and the legality of the matter but they personally believe they have a responsibility to provide diversity in town.

Resident Mark Jones of Boxboro Road stated he was concerned that if the bylaw is changed and developments are built with some fee simple lots, over time it may be more difficult to control.

Harry stated that they received Town Counsel's opinion late this afternoon and have not had enough time to review it. He said he was not sure to what extent the Board had looked at it and asked if the Board was open to any discussion about the specific arguments that Town Counsel has raised, or if they preferred not to.

Ernie stated that he has reviewed Jon Witten, Town Counsel's argument and agrees 100%. He said he could not possibly vote for something that the bylaw does not support. He said that unless they could convince Town Counsel to change his position, continuing will not get them anywhere.

Lenny said that in his opinion it seems Town Counsel is correct, but he would be open to hearing another view point.

Bill stated that another idea is for their attorney to review Jon's memo more closely and talk to Town Counsel about the specifics, as it appears to them that Town Counsel did not have all the information.

Harry said that when their attorney talked to Jon he said he could go either way on the issue.

Steve Quinn stated that he would go along with Town Counsel's opinion and agrees with Ernie that the intent of the bylaw is to allow AAN developments within the industrial district and that they would be under condominium ownership. He said he would personally be open to looking into a change in the bylaw to allow fee simple lots.

Kathleen stated that she agreed with Steve.

Ernie stated that he was not in support of changing the bylaw to allow fee simple lots in the industrial district.

Lori said from a legal standpoint she thought it would put the Board in a difficult position to ask them to overrule their own Town Counsel's recommendations. She stated that in terms of a recommended change to the bylaw she feels that they should look closely into the implications it could have over all areas in town not just this one specific site.

Bill stated that it could just be one small change needed in the wording of the bylaw.

Lori noted the Board wouldn't take changing the bylaw lightly.

Harry asked how they should proceed with their application, assuming the Board is willing to entertain a bylaw change.

Karen suggested either continuing the hearing to a later date or to have them withdraw and then resubmit their application at a later date. If they withdraw, the Board would not be under a time line and the application would not be in limbo for a year.

Harry stated that they are not happy that the Board does not support the fee simple lots as a modification on the current plan, but stated they would continue to work with them and do what's in the best interest for the town.

Lori said they would need to study the bylaw and see what it would take to make a change.

Harry stated that they would be more comfortable with a continuance, and if they go through that time frame and the Board decides not to make a change to the bylaw in their favor, they will withdraw their application. He stated he would rather not withdraw and reapply because he would like to keep the pressure on the Board to look into this bylaw change.

Board members indicated to Harry and Bill that they would be open to suggestions on any bylaw changes but that they would be working independently with Town Counsel on any changes.

Harry stated that if the Planning Board is willing to pursue a bylaw change to let them know if its in their best interest to either wait until after town meeting to meet again or to just withdraw their application.

Harry and Bill agreed to continue the public hearing to January 17th at 7:30PM.

Steve Quinn moved to continue the RidgeWood at Stow AAN public hearing to January 17, 2011 at 7:30PM. The motion was seconded by Ernie Dodd and carried a vote of five in favor (Steve Quinn, Ernie Dodd, Lenny Golder, Lori Clark and Kathleen Willis).

DISCUSSION/ACTION ITEMS

Cushing Property

The Board reviewed a draft memo about the proposed ANR plan on the Cushing Property by Meisner and Brem, as Ernie had suggested something be sent to the applicant in writing, explaining their position. (A copy is available in the Planning Department).

Lori stated that their other request for waivers on the subdivision road might seem like a nice idea but is concerned the Board would be making a decision based on not knowing what the rest of the subdivision would look like.

Kathleen Willis stated that they would lose all control and totally agrees with the draft memo.

Walcott Street resident Bill Maxfield asked if there was room to put a road in where Pennie Cushing's current driveway is located. He stated that it was his hope that Pennie would donate some land and sell 5 or 6 lots.

Kathleen stated that the road would need to be engineered appropriately for the amount of houses agreed to.

Ernie stated that Massachusetts Law requires the developer to bond the necessary funds in order to finance a road within a subdivision and the Board would require the applicant to provide something showing what the whole road would look like even if it were only built bits at a time. Bill Maxfield stated that residents at 121 Walcott St. currently experience a lot of water in their basement and that if any development is approved this should be considered.

Golf Course Water Monitoring Memo

Karen referred Planning Board members to a memo she prepared for Jack Wallace, Health Agent.

The Board requested that she talk to Jack first, explaining their position, then send the memo as a follow up.

Crow Island Decision

The Board reviewed the final decision.

Ernie Dodd moved to approve the Modification #1 to the Crow Island/Track Road Special Permit. The motion was seconded by Kathleen Willis and carried a vote of five in favor (Ernie Dodd, Kathleen Willis, Lenny Golder, Steve Quinn and Lori Clark).

Pedestrian Walkways

Ernie Dodd moved to rescind the portion of the previously approved motion made on October 3, 2011 which included walkway signage at Crescent Street to replace the stamped brick paving at Harvard Road. The motion was seconded by Steve Quinn and carried a vote of five in favor (Ernie Dodd, Steve Quinn, Lori Clark, Kathleen Willis, Lenny Golder).

Highgrove Estates Minor Modification

Planning Board members signed the final draft of the minor modification at Highgrove Estates.

Linear Retail

Kathleen Willis stated that she thought the Board should be proactive with Linear Retail as their current sign should be repaired or taken down in accordance with Section 6.3.1.4 of the Bylaw, until they apply for the ZBA for a new sign.

Steve asked if they had responded at all to the Boards prior memo.

Karen stated that Gordon Whitman told her they had hired a lighting specialist to look into the Light Pollution Study Sub-Committee's recommendations

The meeting was adjourned at 10:10PM

Respectfully Submitted,

Kristen Domurad
Administrative Assistant