

TOWN OF STOW PLANNING BOARD

Minutes of the January 3, 2012 Planning Board Meeting.

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

Called to order at 7PM.

REVIEW OF CORRESPONDENCE AND MINUTES

Minutes

Ernie Dodd moved to approve the minutes of the December 6, 2011 Planning Board meeting as amended. The motion was seconded by Steve Quinn and carried by a vote of five in favor (Ernie Dodd, Steve Quinn, Kathleen Willis, Lori Clark and Lenny Golder).

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

Correspondence

Town Counsel, Jon Witten's email with attached case law

Ernie Dodd suggested the Board add golf course water monitoring to a future agenda.

Brian Martinson stated that the case was overruled by the courts was very different than what Stow is proposing. He stated that in the case, the town appeared to be pre approving pesticides before usage.

PUBLIC INPUT

No public input at this time.

PLANNING BOARD MEMBERS' UPDATES

Elementary School Building Committee (ESBC)

Steve Quinn stated that the school district has started moving supplies into the new addition. They hope to have everything moved in during the Martin Luther King Jr. Day weekend.

COORDINATOR'S REPORT

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

Inquiry from solar facility on Minuteman Airfield property

Karen reported that she received an inquiry from a solar company about constructing a solar facility on the Minuteman property. Karen provided information about the approved zoning bylaw. She also noted that another solar company has been in discussions with the Assessors for the Teradyne property. She stated that both companies have been trying to come to an agreement

with the Assessors before submitting site plans. Both Karen and Dotty, Principle Assessor felt it would be more appropriate if the companies submitted site plans before discussing an assessment.

Commercial Photovoltaic Renewable Energy Installations Rules and Regulations

Ernie Dodd suggested the Board hold a public hearing for the Rules and Regulations. Karen noted that the Board is not obligated to do so, but could if they felt it was advisable.

Lenny Golder felt it might be a good idea so that the public could be better educated on the topic. Steve Quinn noted that oftentimes residents bring up good ideas the Board hadn't thought of.

Special Permit and Site Plan Approval Modification for Spring Wireless Service Facility

Karen stated that she received an application from Sprint for a Special Permit and Site Plan Approval modification at the Gleasondale Mill.

A public hearing will be scheduled for February 28, 2012.

Mistletoe Farm

Karen reported that the owners of Mistletoe Farm inquired about building another house on their property. They also discussed using the barn for a gift shop. Karen informed them that only one dwelling unit is allowed per lot. The owners do not wish to subdivide, so Karen informed them of the use of an accessory apartment as well as the historic homes bylaw which allows other uses by Special Permit that are not otherwise not allowed in the district. Karen asked if the Board would be willing to look at historic structure bylaw in order to preserve the historic farmhouse.

Members noted concern about enforcing a decision to disband the existing residential use. Karen suggested the Board invite the owners to a meeting to discuss the proposal in more detail. Board members agreed.

Karen will call the owner to schedule an appointment.

Upcoming meetings

Karen stated that Coler and Colantonio would be attending their next meeting on January 10th. She will take the Rules and Regulations off the next agenda in order to post for a public hearing. Karen will also add the golf course water monitoring discussion to the agenda.

The following week, January 17th the Board will hold the public hearing for 433 Taylor Road and the Ridgewood at Stow AAN.

APPOINTMENTS

Sylvan Drive (Derby Woods) Residents

Karen Kelleher explained that she had received several calls from Sylvan Drive residents over the last two weeks concerning placement of the required street trees as staked by Habitech in consultation with the Tree Warden. She stated that the two of them had been staking out the location to plant the trees, which would be a little different than the plan had shown for review by the Board. She noted that Dave Coia of Habitech and Tree Warden Bruce Fletcher also came to an agreement on three different tree species.

Karen explained that once the stakes were put in, property owners called with several concerns. Some property owners had spent a lot of money on their landscaping, some were concerned about the proposed locations on their lot, and others were concerned about the type of species chosen. She also noted that residents were concerned that no notice was given about the surveyors coming onto their property.

Lori asked Karen what the Board's typical practice is when choosing trees.

Karen noted that typically the Board has a landscaping plan, but one was not required with this decision, the tree locations were only required to be shown on a plan. She said that the type of street trees proposed are from the list of trees recommended by the Tree Warden and referenced in the Planning Board Handbook.

Lori called on residents of Sylvan Drive to share their comments.

Ed Hastings of 14 Sylvan Drive stated that he had erosion on his property from when they installed curbing for the road which they did come back to fix. Then he said, he woke up and saw stakes on his property for trees and for the bounds. He noted he did get an email, but one stake was in the middle of yard and that they were going to dig up his yard to put the bounds in. He was also upset that they only have the choice of three trees. In addition Mr. Hastings does not want any trees to be planted during the winter, and would like them planted during the growing season so that there is no erosion. He stated that he wants the final say as to when, where and what type of tree is planted on his property.

Mr. Hastings also noted that lot 6 has yet to be developed and reminded the Board that they said they would hold part of the bond until the foundation was in and for 6 months after the drainage was completed.

Eric Lindin of 22 Sylvan Drive stated that his property was built 5 years ago and he landscaped it the way he wants.

Eric stated that he has two open police reports with Habitech for trespassing onto his property. He said a neighbor forwarded him an email he had received about Habitech coming onto their property to complete the bounds.

Eric said that Habitech has buried almost everyone's sprinklers under 12 inches of dirt and the Tree Warden staked trees 15ft into his yard, right up against where the septic system is located.

Dan, resident of 7 Sylvan Drive stated that his biggest objection is that the landscaping should be done in the spring and the limited selection of trees. He would like to have a say in where the trees get planted.

Joe Toomey of 43 Sylvan Drive said he had been living in his house for five years and Habitech promised to repair the sprinklers. He stated that he hopes the bond will involve fixing the sprinklers. He also asked how far the Town land extends, as the markers they placed are on his property and they paid a lot of money for landscaping.

Andrew Ferguson of 39 Sylvan Drive said he echoes the concerns already raised but his fundamental concern was being notified about what was being planted on his property and that he would like to give input.

Allison Wallace of 10 Sylvan Drive stated she also had the same concerns as they have spent a lot of money on landscaping. She said they are requesting that no trees be planted on their property.

Dan Richards of 32 Sylvan Drive was upset that the Town wanted to plant all of the trees. He stated that he wants the trees to be integrated into their existing landscape plans.

Steve Quinn noted that this particular case is a very different situation as some people have lived in the homes up to five years and some houses have even changed hands. He noted that the trees are shown on the plans for the subdivision and shouldn't have been an issue, but the site was constructed slowly. Steve stated that it should not be a problem moving forward to just figure out who wants trees and who does not and working with the residents to place them appropriately.

Karen stated that the Board could have flexibility on placement of the trees and number of trees per lot.

Ernie stated that the trees could be moved into the right of way.

Lenny and Kathleen expressed concern about planting the trees in the winter.

Board members suggested the residents meet with Habitech to work out the placement of the trees.

Ernie noted that if they wait to plant until the spring this would give Habitech time to meet with the residents to discuss tree location and species.

Kathleen noted that this is the first time the tree planting has taken so long. She said that if the developer waits this long it changes the dynamic, and it is important to have the property owners involved.

Lori suggested tying the landscaping and tree planting to a timeline for future decisions.

Karen stated that she understood that Habitech ordered the trees and they were now in their possession.

Kathleen asked if they were properly stored, balled and burlap?

Dave Coia said they were.

Bruce Fletcher stated that the trees could be protected through the winter. He stated that any landscape yard would bunch them together and put woodchips over them.

Dave said his landscaper has done this with hay.

Bruce noted that he did some research on winter planting, and also planted some birch trees a few weeks ago. He noted that once the trees are dormant they don't know whether its November, but stated once there is frost in the ground then there can be issues with back filling.

Kathleen asked if it wouldn't just be better to plant in the spring when the roots have a chance to take hold.

Lori stated that the machines would also disrupt the landscaping around them.

One resident was concerned that their sprinklers need to be fixed so the trees could be properly watered.

Kathleen stated that the residents should know that trees need to be deep watered with a slow trickle and that a sprinkler will not appropriately water trees.

Dave Coia stated they would have had to backfill the edge of the road at any time of year. He said Habitech got the paving done this year so that residents who live there would have a real road with operational drainage and Habitech had time this year and only have one more house left they will need to construct with heavy equipment. Dave said that Habitech has been waiting for the economy to pick up as home sales have been slow, which is why some people have lived in their house for 5 years.

Dave explained that some of the sprinklers on the edge of the road got buried because they had to back up the berm or else the berms will be destroyed by the plows. He said in the spring they will simply turn the sprinklers on, see a wet spot, then have their landscapers dig them out and fix them accordingly and add grass seed etc.

Dave expressed that Habitech wants to get their road bond taken care of. They would like to get the trees and bounds completed so they are able to finish their as-built plans and go for road acceptance as May Town Meeting.

Bruce Fletcher said they did try to take into consideration resident's landscaping, but the Board needs to decide if they will waive the locations shown on the approved plan because either way the trees will be located differently than shown on the plan. He noted that the plan shows trees planted 15ft off the right-of-way line into the residents properties, he said he would be willing to agree to having the trees planted as far back within the right-of-way as possible.

One resident asked why the trees need to be planted that far back.

Bruce explained that the tree limbs grow out over the road and then need to be pruned back.

Bruce also noted that it is a Title 5 standard to have septic systems 10 ft off the property line and if they are installed correctly, locating the trees as far back within the right of way would not have a negative impact on septic systems

One resident asked why they need to have trees to begin with and doesn't like the look of a tree-lined street.

Bruce explained there are requirements to clear the full width of the right of way in order to build the road, lay utilities, etc. He said the regulations require, and it is an accepted practice to replace the trees lost during this phase by planting street trees. The intent is it have subdivision road with a rural character and so they don't look like Sylvan Drive does now. Bruce said he would not suggest or agree to waiving the requirement entirely, but said he has no problem with being flexible on the location, as long as the number was restored.

Ernie asked why there were only three species chosen.

Bruce stated that the three trees chosen are in compliance with the tree standards, they are on the list of acceptable trees the three species provides for more than 40% variety as required by the regulations. He said the reason for a variety is that some species have blight over time and if there were no variety, all of the trees would be lost at once.

Bruce said Dave chose two trees and he chose one and all comply with the list.

Lenny asked if there would be a greater variety to chose from if they planted in the spring.

Bruce said there would be more, but as far as he is concerned the trees follow the Board's requirements.

Carol ___ of 43 Sylvan Drive asked if they would be assigned a tree of if they will be able to choose the species.

Ernie said the Board had suggested the residents work this out with Habitech and come back to them with a proposal.

Kathleen asked why the trees were not planted last fall.

Dave stated that they typically don't plant trees in the yards until they have the road paved and almost all the houses completed. He stated that they are at this phase now. Dave noted Habitech is liable for one year after road acceptance so the trees are guaranteed for more than a year from when they would be planted.

Dave said if the Town lets him waive the trees until the spring, he could complete the bound installation and have his as-built plan ready for the May Town Meeting.

Dave noted that one of resident removed the bounds on the property line.

Kathleen stated she was concerned that the bounds were not located where they should be as a few residents stated that they were in the middle of their property.

Karen noted that the bounds define the right of way, which is consistent with the resident's property lines.

Some residents were upset that the bounds required digging holes in their yards and there was no communication prior to the work.

Dave said an email was sent around before they did the bounds and trees, he assumed everyone knew these things had to be done as part of their deed restriction for the subdivision.

One resident was very upset and stated that he owned the property and provides an easement to the Town. He asked for someone to explain to him why the Town could just go in and plant trees there as it is his property.

Ernie Dodd clarified that the right-of-way is not an easement. He stated that Habitech now owns the right-of-way, once the town accepts the road and drainage the right-of-way will be owned by the town. Ernie explained that the property line goes up to the right-of-way; the rest of the land extending to the pavement is either Habitech's or the town's property.

Lori stated that this is a common misconception, but is true throughout town; every road has a right of way beyond the paved surface.

Ernie said in some cases we have problems with residents filling culverts or changing the right of way and other times the town wouldn't care if it were landscaped but it still belongs to the town.

Mr. Hastings asked if the town would be mowing that part of the grass since they own it.

Ernie stated that the town does not typically have the funds to do this.

One resident stated that she did not care if Habitech gets the road approved this year and did not think the residents should have to have their lawns messed up just so Habitech can get their bond money back.

Ernie suggested the residents, members of the Board and Bruce Wheeler of Habitech meet to come up with an acceptable approach for the trees.

Ernie stated that as far as the bounds go, they need to be completed.

It was clarified that the material of the bounds has not changed and no metal rod is necessary outside of the granite/concrete posts.

One resident suggested the Board consider trees the residents have already planted as part of the required number of trees.

The Board did not agree and feels that Habitech was required to plant a certain number of trees as part of their subdivision, aside from any trees residents may have planted.

Lori asked Board members if they would be agreeable to the tree planting during the winter. All Board members were opposed to having the trees planted in the winter.

Alison Wallace of 10 Sylvan Drive stated that she is the only one that does not want any trees. She also noted that the entrance of Sylvan Drive is a disaster and some neighbors made it look more presentable this past summer. She asked who owns the front entrance.

Karen stated that when the road is accepted the town will own the land in the entrance.

Allison asked if the resident would be allowed to do landscaping.

Karen said they should contact the Superintendent of Streets.

Dave also noted that the postmaster in the post office would not allow him to move the mailboxes onto Sylvan Drive until the road is accepted.

Residents voiced concern about having to get their mail in the current location and the lack of lighting as it is dangerous getting their mail in that location.

Dave said he only has one more bound left to complete and he could do the as-built plans for lot 3. He stated that MGL states that surveyors are allowed to go onto private property to complete survey work.

Mr. Hastings said that was his property and he did not want Habitech going onto his property.

Dave noted that those bounds define the right-of-way and his property line and is not technically in his yard.

Karen stated this is something Habitech and Mr. Hastings should work out.
Mr. Hastings said that Mr. Wheeler never returns his phone calls.

Dave asked if he could put in a temporary bound by hammering in a metal post flush to the ground so that there would be no disturbance to the grass but would still allow him to create the as-built plans and go back later in the spring to dig the granite post in.
Ernie stated that he would see no reason as to why they couldn't do this.

Mr. Hastings said he would not allow them to do this.
Lori suggested Mr. Hastings work with Habitech to resolve this.

Kathleen asked if anyone had additional concerns about erosion.
Mr. Hastings said that he was still worried about when lot 6 gets developed.
Dave advised him that the Building Inspector and Board of Health agent required extra drainage structures behind the house and driveway, above and beyond what is shown on the proposed plan.

Karen will identify some times to meet with Mr. Wheeler and try to coordinate a meeting with the Board.

Request for Partial Bond Release

The Planning Board reviewed Habitech's request, dated December 21, 2011, for a reduction in the Tripartite Agreement between Derby Woods, LLC, Boston Savings Bank and the Stow Planning Board in the amount of \$44,069.96 (\$128,281.00 to \$84,211.04) for work completed as outlined in the attached construction estimate. Upon review of the line items in the request, the Board determined that the reduction be reduced to \$42,425.00 (retaining \$1,645.00 for 1 street sweeping and catchbasin cleaning in the spring).

In addition, based on a site report from the Planning Board's Consulting Engineer noting concern about the paving, it was determined that the 50% contingency for the above referenced items is sufficient security for any damage to the roadway.

Ernie Dodd moved to authorize reduction in the Tripartite Agreement between Derby Woods, LLC, Boston Savings Bank and the Stow Planning Board in the amount of \$42,425.00 leaving a balance remaining of \$85,856.00. 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

CLURPA – Prioritize Planning Board Comments

The Board agreed to resend their original letter to Kate Hogan, and ask for an update on the pending legislation.

Pedestrian Walkway Planning Sub-Committee

Ernie Dodd moved to extend the term of the Pedestrian Walkway Planning Sub-Committee to March 1, 2012. 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).

Planning Board Vacancy

The Board discussed their options to fill Kathleen Willis' position until next election. The Board decided they would like to post for a vacancy as soon as possible.

The Board directed Karen to review the Town Charter, as they believed a posting could be done now because Kathleen has submitted her resignation.

The meeting was adjourned at 10:00PM

Respectfully Submitted,
Kristen Domurad-Guichard