

# **TOWN OF STOW PLANNING BOARD**

Minutes of the January 17, 2012 Planning Board Meeting.

Present: Planning Board Members: Steve Quinn, Lori Clark, Ernie Dodd 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**

### **Appeals Court Decision**

Karen reported that the Appeal Court upheld the Zoning Board of Appeals and Land Court's decision regarding the case of Richard Nelson vs. Zoning Board of Appeals concerning the Sudbury Road property.

## **PUBLIC INPUT**

No public input at this time.

## **PLANNING BOARD MEMBERS' UPDATES**

### **Zoning Enforcement Issues/Sign Bylaws**

Kathleen Willis stated that the Citizen's Bank floodlights are on 24/7 and both she and Brian Martinson had mentioned this in the past and nothing was being done about it.

Kathleen also noted that the Bank of America sign is internally illuminated.

Lenny Golder suggested the Board take a different approach with lighting and sign issues and create a long range vision for Lower Village and what types of signs to encourage, ones that would be more architecturally and aesthetically pleasing.

It was noted that Brian and Ernie volunteered to work on a sign bylaw.

Lenny stated part of this could be working on types of accepted external lights. He stated that they should come up with something that business owners would buy into so that they would want to go along with the idea.

Kathleen stated that wooden signs would be nice but they are very expensive.

Steve noted that some towns do require design guidelines, as an example he mentioned a Dunkin Donuts sign that has gold lettering and brown background.

Lenny suggested they provide an incentive to businesses to purchase new signs, like a tax reduction.

Steve noted that incentives are good but, most of the business owners are tenants and do not pay for the taxes directly. He mentioned that the Town of Waltham gives an incentive for owner occupied residential property.

Kristen noted that some towns administer grant programs where businesses can apply for funding to redesign signs, facade etc.

Karen asked the Board if there was anything she and Kristen could do to get the ball rolling on a bylaw, she noted other town's bylaws have been collected and provided to Ernie and Brian.

Brian stated that he did not think businesses wanted uniformity.

Ernie said that bylaws are not retroactive.

Kristen stated that examples from other towns show they have gone through a collaborative process with business owners to better understand their needs and to create a bylaw that is attainable for them and something that the town desires as for their business district. She noted that some towns require review of sign design before they are permitted, and this would eliminate the Board's frustrations about zoning enforcement because they would be installed looking the way the town has envisioned.

It was noted that moving forward any new signs would have to adhere.

Kathleen questioned how internally illuminated signs like the Bank of America sign were permitted through the Building Department.

Karen stated that she knows Craig Martin, Building Commissioner gives out the appropriate information and has specific criteria he follows for sign permits. She noted that just the other day she was in the Building Department and saw the permit with specific notations about lighting and information sheets he hands out about lighting and signage.

Brian noted that if someone doesn't come in for approval then there is no way of enforcing.

Kathleen stated that if she had an opportunity to do an exit interview she would tell the Selectmen the most critical thing in the town is zoning enforcement and the Planning Board works hard to draft new bylaws and then they sit there and aren't enforced.

Lori stated that she would talk to Jim Salvie, Board of Selectmen Chair and see what he suggests. She stated that the longer they let these issues go in the Lower Village the wider the gap will get and the harder it will be to change it.

Kathleen asked if there was any response from Craig in regards to their letter about zoning compliance at the Stow House of Pizza/Family Federal Savings Bank site.

Lenny stated that he understood the Board's frustration but said the Board should try to look at dealing with the issue through a different perspective. He stated that if the Board takes a more positive approach on working with the business owners, showing them how these bylaws are more aesthetically pleasing to their customers, maybe they would change. Lenny stated that the Board is just going around in circles when in focusing on zoning enforcement because nothing is going to get done.

Lori stated that it's not that we are going around in circles, it's that no one is doing anything about it.

Lenny stated that this was what he meant and that by working with the businesses or providing an incentive they might be more productive. He stated that if they come up with a sign plan and get everyone's input and businesses buy in, it will get done a lot quicker.

Brian stated that he believed many businesses might not want additional input at this time. He said there have been meetings in the past and they did not show interest.

Lori stated that businesses are looking to make signs noticeable while the Board is concerned with keeping them in character of the town.

Lenny stated that he disagreed and thinks they do want to have nice looking signs.

Brian said he agrees with Lenny but there also needs to be enforcement measures that would be simple to implement. Brian felt Lower Village would look a lot better if it did not look like it were lit up like a Christmas tree.

Lenny stated that Lower Village would still look the way it does, even if those particular businesses turned off their lights, as the signage and architecture would still be the same.

Lori stated that what she was hearing is that the Board would like to work on sign bylaws and decide what they would like to see as a starting point.

### **Board of Health**

Kathleen reported that she would be attending the Board of Health meeting this Thursday and would report back to the Planning Board.

### **Elementary School Building Committee (ESBC)**

Steve stated that the new building should be occupied by the end of the month.

### **COORDINATOR'S REPORT**

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

### **Sylvan Drive/Habitech Tree Plantings**

Karen reported that Habitech sent an email to Sylvan Drive Residents, requesting input on street trees. She sent an email to the homeowners offering a meeting space at town building. She was informed that Habitech did receive about five responses.

Karen stated that it was her understanding that Habitech would come back to the Planning Board with a revised plan after meeting with homeowners.

### **Sprint Wireless Service Facility at First Parish Church**

Karen stated that she received an inquiry from Sprint who is proposing to change out their antennas at First Parish Church. They would like to know if they should file for a modification or if they could simply apply for a building permit.

Ernie stated that he would like to see some type of request. Board members felt it could be a minor modification as all the changes would be done within the existing steeple and nothing would be visibly changed from the outside.

Karen will contact Sprint and relay this information.

### **Lighting Issues**

Karen stated that she would follow up with Craig about the issues at Stow House of Pizza and Family Federal Bank.

Karen asked the Board if they wanted to invite property owners in to a Board meeting to share information on Stow's bylaws concerning signage and lighting.

Lenny stated that he thought this would be a good idea.

Lori said that they might need more personnel in the Building Department.

Ernie stated that the Town doesn't have much in the way tools to provide an incentive to comply with the Bylaw. He said the Town could take someone to court and they could be fined a few thousand dollars for zoning compliance but the town would be spending more in legal fees.

Brian stated that he didn't even think that would be necessary, only small measures need to be taken.

Kathleen stated that Greg from the Lighting Committee went to all the businesses a few years back and some owners have changed hands, which makes it difficult.

Ernie stated that maybe an article in the newspaper would help.

Brian stated that a communication sheets should be given along with business licenses.

### **Annual Report**

Karen stated that the Annual Report is due February 10<sup>th</sup>. She will have a draft ready for the February 7<sup>th</sup> meeting.

### **Site-walk at Villages at Stow Sidewalk Location**

Karen reported that Bruce Wheeler confirmed meeting at Great Road Sidewalk Thursday January 18<sup>th</sup> at 3:00PM.

### **APPOINTMENTS**

#### **Public Hearing Continuance - Ridgewood At Stow Active Adult Neighborhood**

Harry Blackey and Bill Roop were present at the meeting.

#### **[Zoning Enforcement/Village Planning**

Harry Blackey stated that he first wanted to speak on the issue of zoning enforcement and signage. He stated that in his experience a collaborative effort between the town government and business owners is much more productive. He stated that in his hometown of Winchester the Board of Selectmen changed the appearance of their downtown as a coordinated effort with the idea that the business community would benefit. Instead of government telling people what to do it was a collaborative effort. He also noted that he felt it works better if they meet with all businesses owners together so it does not feel like a one on one. Harry said getting everyone

together and listening to everyone's opinion even if it has to do with bright lights everywhere, provides them the opportunity to listen.]

Harry stated, in regards to their application for the Board to consider fee simple lots, they will be withdrawing their application. He stated that they looked into a bylaw change but felt it was inappropriate and counter productive in relation to their other objectives.

He stated that the problem they still have is with the current economic situation, their buyers are nervous to buy a new property when they are unsure they would be able to sell their own, and financing is difficult to obtain. Harry noted that they would most likely be coming back to the Board to ask for an additional extension to their permit.

[Kathleen left at this point in the meeting to attend the Conservation Commission meeting.]

Ernie asked what they planned on doing with the small house lot.

Harry stated they have an application filed with the Zoning Board of Appeals to determine if it is grandfathered and if the timeline is running out could they obtain an extension. They expect a hearing date to be scheduled in February.

Harry Blackey said they would provide a written notice of their withdrawal of the petition.

***Ernie Dodd moved to close the Public Hearing for the Ridgewood at Stow AAN Modification. The motion was seconded by Lenny Golder and carried a vote of four members present (Ernie Dodd, Lenny Golder, Lori Clark, and Steve Quinn).***

## **DISCUSSION/ACTION ITEMS**

### **Draft Letter to Mr. Collings**

The Board reviewed the draft letter to Mr. Collings.

Karen will check with Town Counsel to see if a new application would need to be modified, as there are new property owners. Members requested minor changes to the letter.

### **Hudson Department of Public Works-Water Division**

Karen stated that they received a letter concerning the Town of Hudson's requirement to comply with the Best Efforts Requirement for their Water Withdrawal Permit, as the Zone II of the water supply extends into Stow in the area of the Gleasondale Mill and White Pond off of Sudbury Road. The letter refers to the SuAsCo River Basin Water Supply Protection Plan, which encourages Stow to update the water resource protection overlay district to include Hudson's Zone II area that extends into Stow.

It was noted that there should be a discussion about Stow's needs and Hudson's needs with regard to water and sewer. Stow may be able to offer a potential water source in exchange for tying into Hudson's sewer system for the Gleasondale Mill.

Karen will contact Laura Spear to schedule a meeting with the Board of Selectmen and Bill Wrigley, Town Administrator, first and then invite them to a joint meeting with the Hudson DPW.

Lori said she would like to discuss the future of the Light Pollution Study Sub-Committee to an upcoming agenda.

Karen stated the Board has already discussed this and directed her to send the Light Pollution Study Sub-Committee a memo with Kathleen's suggestion to appoint Greg Troxel as an Associate Member of the Planning Board so he could advise the Planning Board on lighting issues, as there has been no interest in the vacant positions. She is still waiting to hear back from them.

### **PUBLIC INPUT**

Mark Jones of 203 Boxboro Road stated he had a lot of concerns about the RidgeWood developers desire to change the bylaw to allow fee simple lots in the AAN.

Ernie stated that it was not the Board's inclination to do so.  
Lori agreed.

Mark noted he would like to see the small individual house lot be used for something meaningful in a residential way.

Board members noted they are trying to promote its use as an affordable unit.

Mark stated that he liked that idea.

### **APPOINTMENTS (Continued..)**

#### **Public Hearing – 433 Taylor Road Site Plan Approval for Accessory Apartment**

Mr. and Mrs. Taylor and their Architect, Josh Bath, were present.

Mr. Taylor presented the proof of abutter notification.

Lori Clark read an overview of the public hearing procedures.

Josh stated that the Taylors were seeking approval for an accessory apartment for Mrs. Taylor's parents. He said they meet all the requirements in the zoning bylaw, are within the required sq. ft., lot size, parking and site plan requirements.

Radenko Cvijetic of 52 Houghton Lane in Boxborough asked why abutter notification was given out for an accessory apartment and why there was a public hearing.

Lori stated that the Town of Stow bylaw allows accessory apartments by Special Permit and/or Site Plan Approval and requires a public hearing with abutter notification. Ernie Dodd noted that other towns might be different.

Steve stated that the application was very thorough and met all the criteria in his review.  
Ernie agreed.

Steve Quinn asked if they met title 5 requirements and if the system was big enough to add another bedroom.

Josh showed the title 5 permit from the Board of Health and stated that the current system was large enough to accommodate an additional bedroom.  
Lenny asked if there were any wetlands near the location of the addition.  
Josh stated there was not.

Lori read Kathleen Willis' comments;  
Lori stated garbage disposals are allowed under the Board of Health bylaws.  
She asked if the sunroom to be enclosed, if so it would be over the accepted square footage.  
Josh stated that they revised the plans and took out the sunroom to meet the requirements.

Lori also noted that all exterior lighting should be full cut off.  
Josh stated that he uses dark sky fixtures in Concord and would make sure to use those on this property.

Lori asked if there were any new utilities.  
Josh stated that they would be using an existing transformer that will be underground.

***Ernie Dodd moved to approve the application for 433 Taylor Road Accessory Apartment Site Plan Approval. The motion was seconded by Lenny Golder and carried by a vote of the four members present (Ernie Dodd, Lenny Golder, Lori Clark and Steve Quinn).***

***Ernie Dodd moved to close the public hearing for the application for 433 Taylor Road Accessory Apartment Site Plan Approval. The motion was seconded by Lenny Golder and carried a vote of four in favor (Ernie Dodd, Lenny Golder, Lori Clark and Steve Quinn).***

#### **PUBLIC INPUT (Continued..)**

Mark Jones asked where the master plan sat in terms of their regulations and implementation.

Lori stated that the Board accepted the current master plan and are now looking at the higher priorities and trying to fit those into the Boards goals for the year.

Karen stated that she and Laura Spear would be meeting to discuss the Selectmen and Planning Board's goals and action items relating to the Master Plan. Karen noted that it was great to see the Selectmen were actively looking at the Master Plan.

Lenny asked if there was any news about CLURPA  
Karen said there was no new news.

Lenny suggested meeting on Wednesdays if a Tuesday follows a Monday holiday.

A resident asked what the status of the Wedgewood Country Club Cell tower was.  
Karen stated that Zoning Board of Appeals Decision is still under appeal.  
Ernie noted the Town has a company under contract to evaluate the entire towns cell service to see if it is adequate.

Karen stated she would check to see if the report was completed.

Mark asked the Board if they felt the Building Commissioner had enough staff to deal with the enforcement issues. He noted every time he is in the Building Department Craig is very busy.

Lori stated that their frustration is in the lack of enforcement effort.

Mark asked if they propose to appropriate more money into that office.

Brian stated that he did not think more money was necessary. He felt it is a red herring for people to conclude that the department needs more money for staff to do the enforcement. Brian said that we run this town primarily on volunteers and they could use more volunteers to help the building inspector. He noted there have been people who have already volunteered to do so. Brian stated that enforcement also has to do with education and awareness and pointing out the problems. He said this could be delegated to committees and noted other towns do this by using volunteers.

Ernie noted that it has been pointed out that the Planning Board is not the zoning enforcement agent.

### **APPOINTMENTS (Continued..)**

#### **Bruce Wheeler of Habitech – Derby Woods (Sylvan Drive) Subdivision**

Attorney Louis Levine of D'Agostine, Levine, Parra & Netburn, P.C. was also present, representing Habitech.

Lori summarized that the Board met with Sylvan Drive residents about two weeks ago, as they were concerned about trees being planted in/in front of their yards. Lori noted this is an unusual circumstance, as some people have been living in their homes for over 5 years and now find out that a tree will be planted in their yard and didn't know for whatever reason.

Steve noted that at their last meeting the Board advised Dave Coia and the residents to work out the matter of where the trees go, what type of trees etc., then come back to the Board for approval of a plan.

Karen stated that the tree warden agreed to have the trees planted within the right of way and as far away from the pavement as possible.

Lori noted there were several residents at their last meeting who misunderstood who owned the right of way and its location.

Attorney Levine stated that they will work with the neighbors but will need the Board to ultimately make the decision.

Karen stated that the Board made it clear at their last meeting that they would be flexible on the placement of the trees but would not allow for a decrease in the amount required.

Attorney Levine said Habitech would need an agreement with the property owners if any trees are on their personal property.

Bruce Wheeler stated, once they get enough responses back they will mark up a plan, obtain Bruce Fletcher's approval and then bring the plans to the Board for approval.



Attorney Levine requested they be scheduled on an agenda a month from today to move the process along. He stated that they have intentions to obtain road acceptance at May Town Meeting.

Ernie stated they would need all the filing information for town meeting acceptance prior to the public hearing date, which will be well before May.

Lori stated that the other request the Board had was for Habitech to get in contact with Mr. Hastings to resolve the issue with their last bound.

Bruce stated that they had conversations with Mr. Hastings, but was not sure what a compromise would be.

Attorney Levine stated that under statutory authority the surveyors have the right to enter the property to conduct survey work and install boundary markers. He stated that this was part of the approval process for the Planning Board's decision and they are required to install them. He noted that every resident bought subject to conditions of the Planning Board's decision and in his career he has never had an issue with surveyors putting in a boundary marker.

Lori noted these were unusual circumstances as residents have lived in their homes for about five years.

Mr. Hastings stated that he wants an integrated plan. He only wants his lawn ripped up once for both the boundary marker and trees. He wants a date and time given to him so he can plan to be home.

Attorney Levine stated that this would not be a problem.

Mr. Morin Sylvan Drive stated that he has a pending lawsuit with Habitech relating to a drain invert and that there were major field changes. He asked if the town would want the responsibility of owning these drainage structures without knowing what will happen in the lawsuit. The Planning Board told Mr. Morin they would consult with Town Counsel.

Attorney Levine stated that the judge determined that Mr. Levin defaulted on the lawsuit. Attorney Levine stated that he did not believe what Mr. Morin was describing even pertained to the lawsuit. He noted that the town would have their engineer review the drainage structures to make sure they are acceptable and done correctly.

Ernie Dodd stated that the Board's consulting engineer has followed the entire process of those field changes.

Mr. Morin asked the Board if they knew what was going on with the invert between his lot and Mr. Hasting's lot, as there have been substantial field changes. He asked if Sue Carter, consulting engineer, was even aware of this.

Ernie stated that the Board relies on a professional consulting engineer to review drainage as they are the experts working for the town.

Karen noted Sue submits reports to the Board for review. She also noted that Sue would review a final as-built plan.

Mr. Morin asked if Sue submitted the field changes to DEP.

Ernie advised Mr. Morin that the developer is responsible for these submissions.

Attorney Levine stated that if Mr. Morin had an issue with the lawsuit he could contact him directly; at this point he feels that Mr. Morin is posturing litigation. Attorney Levine stated that they have continually worked with Sue and the Board throughout the process of the field changes. He noted that field changes do come up from time to time in developments because subdivisions are a fluid thing. He stated that he did not want to get into a dialogue about their pending lawsuit with Mr. Morin at this meeting.

Joe Tomey of 43 Sylvan Drive stated that he was confused as to whom he should contact regarding the tree placement and how to show the location of the desired trees. The Board referred Mr. Tomey to the email Dave Coia sent to the residents.

Attorney Levine suggested residents place stakes into the ground on their property indicating where they would like the trees planted so Dave could make a more accurate approximation.

Alison Wallace of 10 Sylvan Drive confirmed with Bruce Wheeler that she would not be receiving any trees on her property.

Daniel Richards of 32 Sylvan Drive suggested Habitech schedule a period of time where they work with the residents and if someone doesn't get back to them then they just don't get a tree.

Ed Hastings of 14 Sylvan Drive asked if the Board had any discussions on the species of tree chosen and if they would be forced to choose from the three identified or if they would be able to choose from the approved list.

Ernie Dodd stated that the species were selected by the developer and approved by Bruce Fletcher, Tree Warden. Ernie stated that he supports those three trees as they are on the approved list and Bruce Fletcher has accepted the selection.

Steve agreed that they meet the Board's requirements for type and no more than 40% of one species. He does not think the Board could impose further restrictions.

Bruce stated that if there was an issue with running out of one type of tree they would re-communicate with the neighbors, work something out and make sure it is balanced.

Mr. Morin asked the Board how they would review the placement of the boundary markers.

It was noted that Sue would make sure they are on the as-built plans.

Steve stated that they would receive stamped plans indicating a professional surveyor staked the bounds.

Mr. Morin asked if he could review plans in the Planning Department.

Karen stated that he is welcome to view the plans in the Planning Department and the as-built plans once they are received.

Mr. Morin stated that lot 6 does not have the proper siltation controls and that there are no silt fences. He wanted to make sure everyone else was being held to the same standards as he was.

Karen stated that the Board could ask Sue to look into this.

Bruce Wheeler stated that they would address the issue quickly.

The Board agreed to place Habitech on their February 14, 2012 agenda to discuss tree placement.

### **PLANNING BOARD MEMBERS' UPDATES**

#### **Conservation Commission**

Kathleen Willis reported on the Conservation Commission meeting where a presentation was given for a proposed solar field at the Minute Man Air Field property on Boxboro Road, as there are some areas proposed within wetlands.

Kathleen stated that the Conservation Commission pointed out that they should make clear any FAA requirements; Kathleen informed them that this information would also be important for submissions to the Planning Board.

Kathleen stated that the company is proposing solar installations at the end of the south side of the runway and about 4 telephone poles that would need lighting for FAA requirements in the wetlands. They hope to begin construction in August.

Kathleen noted if they have to place poles in the wetlands they would be required to replicate them elsewhere on site, but since it is such a small area they propose to do something else on the site.

The meeting adjourned at 9:20PM

Respectfully Submitted,  
Kristen Domurad-Guichard