

TOWN OF STOW PLANNING BOARD

Minutes of the February 15, 2012 Planning Board Meeting.

Present: Planning Board Members: Steve Quinn, 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 7:01PM.

PUBLIC INPUT

Resident Mark Jones of 203 Boxboro Road stated that he was concerned about the property at 218 Boxboro Road. The owners of Ridgewood LLC. applied for a special permit to extend the grandfathered use. Mark stated that he was concerned that the house could be knocked down and replaced with a large McMansion. Mark stated that his understanding of the Section 3.9.7 of Zoning Bylaw in Section is that the house could not be enlarged. Mark asked the building inspector his understanding on the section. The Building Commissioner stated that he believed he could issue a building permit for a house that is much larger than the existing house, provided it complied with setback requirements. Mark stated that he did not think the building inspector had this authority as the bylaw states that you cannot intensify the nonconforming use and by making the 2-bedroom house into a 5-bedroom house this would constitute intensification. Mark wanted the Planning Board's opinion on the matter.

Steve Quinn stated that he did not think that by replacing a single-family house with another single-family house would constitute intensifying the use. He stated that it would have to comply with setbacks and requirements of a residential property.

Karen noted that the property is large enough to meet dimensional setbacks and residential requirements.

Karen asked Mark if he was asking if a new house had to be on the same footprint. Mark stated that the way the bylaw is written it is discussing structures not uses and the structure is intensified.

Steve noted the alternative is that the parcel turns back in industrial.

Mark stated that there were three options that could happen; he believed it could turn into a 40B, it could become part of the AAN or the Planning Board could rezone it to residential.

Ernie Dodd suggested he contact the Stow Municipal Affordable Housing Trust (SMAHT).

Lori noted that the Planning Board did discuss the parcel becoming an affordable unit. Karen noted that she alerted SMAHT of this parcel on several occasions.

Mark asked the Board if he was misunderstanding the bylaw.

Lenny stated that he would read it the same way as Craig had; it's a residential legal non-conforming use, which has been asked to be changed to the same residential use. Lenny noted he would prefer a smaller affordable house on that lot but it did not seem like the bylaw was written in a way to control this.

Ernie Dodd noted that Section 3.9.7.1 gives the building inspector the right to make this type of judgment and it is not more substantially detrimental to the neighborhood as it can meet all the setbacks and its a residential use.

Steve Quinn stated that he felt the best thing that could happen on that site for the neighbors is that it be grandfathered to a residential use. He noted the Planning Board has not historically sponsored rezoning of specific properties. He also stated that he did not think it would be likely for a 40B to be put on the property as it is a small parcel and the financial gains would be small. Steve stated that if the property does not remain residential it would most likely be turned into a contractors yard.

PLANNING BOARD MEMBERS' UPDATES

Elementary School Building Committee (ESBC)

Steve Quinn reported on the ESBC's meeting last week. He stated that the move-in date is this Friday. They will have 30-day temporary occupancy, as there are still small items to be taken care of. They are planning on holding weekly meetings with the sub-contractors and breaking up the projects into smaller pieces to keep the project timeline on track.

Linear Retail Pylon Sign

Brian asked if there was any update from Gordon Whitman regarding the sign.

Kristen noted that she spoke with the Town Clerk, Linda who noted that a representative from a sign company called her office asking how to get a hold of the Zoning Board of Appeals (ZBA) to schedule a meeting to discuss their plans for their sign at Linear Retail. Linda stated that she provided the representative with the ZBA's Secretary, Kay Desmond's, number. Linda also noted both she and Kay had not received an application from Linear Retail and the ZBA typically does not hold meetings with applicants to discuss their submission prior to the hearing.

Karen stated that the last she spoke with Gordon he said he would be applying soon to the ZBA.

COORDINATOR'S REPORT

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

Interviews for Planning Board Member Appointment

Karen noted that the Planning Board would be interviewing candidates at their next meeting.

Lori stated that she wanted to coordinate some questions to ask the candidates before hand.

Ideas for questions were:

- Planning experience
- Vision for Stow over the next 5 years
- Implementation ideas for the Master Plan
- Vision for the town's village districts

- Ideas for approach on golf course zoning/protection
- Philosophical approach on zoning enforcement and planning

Ernie noted that this topic had been settled and that the Building Commissioner is the zoning enforcement officer.

Lenny stated that he agreed but it does seem to keep cropping up as a discussion topic.

Board members agreed the main questions and topics covered would be:

- An overview of the applicants experience as it relates to planning
- Comment on their vision for the town and what they hope to accomplish as a Board member

Lori also noted that the Board should also ask the candidates if they plan to run for the open seats during the election.

APPOINTMENTS

David Maxon and Steve Riggs of Isotrope presented their findings regarding the wireless service coverage in Stow.

David explained that the different frequencies allow for a range of coverage capabilities and companies run on different frequencies. He noted that cellular bands get better coverage from each cell site if vegetation is a controlling factor.

David also noted that AT&T and Verizon have been retrofitting their existing facilities to accommodate 4G.

David reviewed the existing cell frequency maps for AT&T, BRS frequency for Clearwire, PCD frequency for Sprint, PCS frequency for T-Mobile, and cell frequency for Verizon.

David stated that AT&T has pretty good coverage in town, he noted that if anything there is a soft spot up near Kirkland Drive to the west of the airfield and to some degree in the south east near Sudbury Road where it is a bit patchy.

David asked Resident Don McPherson to speak regarding this issue.

Resident and owner of the Minute Man Airfield, Don McPherson stated that he spoke with David during his research on the overlay district and has thought about the possibility of putting a tower on the airfield property. Don stated that there is an option for putting a wireless service facility on the airport radio beacon, which they want to relocate. He noted that it would need to be about 147ft. above ground but there was an area far away from residential properties where it could be located. Don also noted that he has a path for approval and has already cleared it with the Federal Aviation Administration.

David stated that there is significant benefit to have a wireless service facility at the airport and that the entire airport is in the overlay district. He noted that a height variance would need to be granted but this would most likely not upset residents as it is a large parcel and there are locations further away from residential properties.

David reviewed the Clearwire wireless site. He stated that they have not been particularly active in the past few years because of the economy but they may look for other locations in the future.

David then reviewed Sprint and T-Mobile's coverage areas.

David noted that companies like T-Mobile are looking for places to put in new facilities as more people are using their wireless devices indoors and for data services. He noted that cell companies also need to have enough cell sites to handle the capacity now, not just the strength.

Lenny Golder asked how some companies have better frequencies than others.

David stated that the FCC auctions them off and some companies may not have enough cash to purchase the more expensive types.

Steve Quinn asked how the town's overlay district related to the overall coverage ability.

David said his study would address this.

David stated that they did not have the information directly from the carriers but used the town's data on location, type and owner.

Lenny asked if the town had to cater to each type of carrier and their frequency and if they could do that through a special permit process.

Ernie asked if a cell company could locate on the Channel 66 tower in Hudson to provide better coverage for people off Sudbury Road and the Lake Boon area and if they could refer to things like that in their decisions.

David said that they would have to evaluate the height and stated that most cell companies are happy to rent space from existing facilities.

David stated that the Board should look at their overlay district and determine if the owners of those properties are actually willing to have a wireless facility. He noted that the only area in the south east quadrant that is in the overlay district is the small lot owned by the fire fighting academy.

Lori asked what the process was when the district was originally created.

David stated that the town identified large parcels that were dispersed around the community.

Steve noted the Kane property in the southeast quadrant might be a good location.

Lori asked if the towns overlay district was sufficient or not.

Steve asked if it was even worth looking at amending the overlay district and potentially adding to it because cell companies just come in and end up being able to place them wherever they want anyways because the courts typically do not uphold local decisions.

David stated that the more defensible the overlay district, the easier it is for companies to locate within it. He noted that T-Mobile seemed to have looked at land uses that are typical locations for cell towers, like a golf course. David noted his coverage analysis differed from T-Mobiles, his seemed to find that their proposed location was not as beneficial to them as a tower at the airfield would be. He stated that T-Mobile's study was showing that Harvard Road needed extensive coverage not already being obtained and a tower at the airfield would not provide this

type of performance. David noted that the computer model system he uses applies more physics and T-Mobile's is based more on statistics. David's model showed a difference of opinion of coverage.

Lenny suggested he use a different approach such as surveys of users.

David noted that this type of data is unscientific and not statistically good for diagnostics and is also subjective.

David noted that another way to show the data is by doing a drive test with equipment showing the signal levels.

David then explained a map where he showed the potential coverage from a 150ft. facility at the Minute Man Air Field property, which is in the overlay district. He stated that this was a very good location and the area around Kirkland Drive, Taylor Road and Boxboro Road would get much better coverage.

Steve asked why the T-Mobile chose to go to court rather than locating at the airfield property, which is located in the overlay district.

David stated that they identified the area near Harvard Road and Taylor Road as necessary to provide better coverage. They sent someone out to look at the real-estate. At some point they may have looked at the airport and most likely decided it was too far away from the search ring they wanted to be located in. David noted that T-Mobile thinks they need to reach a part of Harvard Road and Isotrope's studies shows they are already provided with enough coverage. He noted that he does have the capability to prove this by doing drive tests if necessary.

David noted that from a planning perspective it may not be a big deal to make the Wedgwood Golf Course parcel part of an overlay district. He said that in Weston there is a two tier overlay, the first is the big one, the second is the one that you don't want higher than a certain amount (ex. 80ft.) and might have to be of a particular style (monopole/unipole), he also noted that maybe the airfield could be given a relaxed height restriction.

Lori stated that if anything the Board should look at the southeast area of Stow, as there seems to be a large lack in coverage and diversity of parcels within the overlay district. She stated that she didn't understand why the Board would look at adding more area to the overlay district in locations where sufficient coverage is available.

Steve noted that currently only one cell facility is actually located in the overlay district. He asked if there was any point in adding to the overlay district.

David stated that most times they would try to locate in an overlay district that is close to their desired location. He noted that with T-mobile they felt the airfield would not address their concern near Harvard Road.

Lori stated that if the Board saw that a gap existed in the northwest region we would discuss the best parcels to add into the overlay district or other measures to fix the problem. The resolution

would not necessarily be just adding the Wedgewood Golf Course parcel because it was convenient.

David noted an alternative that the Town of Wellesley has implemented is allowing cell towers anywhere in town, but by special permit. He stated that this allows them to say no until one is proposed in a location that they feel is suitable. The town avoids litigation because the cell company can locate anywhere, but he was not sure about enabling good service.

Ernie asked if the cell companies could use a distributed antenna system either along the road way on the telephone poles or else where but under 35ft, as the bylaw allows for this already. David explained that distributed antenna systems are not financially feasible for areas like Stow because of the lack of density and number of users.

Lori stated that the Board might need to consider adding some parcels to the overlay district in the southeast portion of Stow.

David agreed and noted that he is always reluctant when there is only one small parcel owned by one entity in an area like this. He noted that the Town would have a more defensible overlay district if it included more land in that area.

Lori asked David if, based on his analysis, did he feel there was a gap in the northeast section of Stow. David stated that his analysis finds that the area needs help, but a 150 ft. tower at the airfield could go a long way in addressing that.

David noted that T-Mobile is of the opinion that Harvard Road is more of an issue than his analysis has shown.

Karen noted the golf course also asked for a waiver to allow 150ft tower as well as several other waivers.

Lori suggested the Board consider how we would feel about allowing a 150ft. monopole in the overlay district at the airfield.

Ernie noted that the ZBA could grant a waiver.

David suggested the overlay district would be more defensible if they identified more locations in the areas where they see soft spots.

Ernie Dodd noted that the Sudbury Road side has poor service but it would be difficult to find other parcels to add into the overlay district as most of the land is in the wildlife preserve and open space.

It was noted that there are larger parcels near Honey Pot Orchard and Mistletoe Farm that may allow for better coverage in that area.

Lenny Golder stated that it seemed the Board needed to consider three objectives; considering the present litigation, preventing future litigation and making sure the residents are provided with the best service possible.

It was noted that David's study shows that the existing overlay district allows for adequate coverage if a cell tower was added at the airfield, but T-Mobile's study did not show the same data.

Lori stated that she did not agree to simply add the Wedgewood Golf Course to the overlay district in order to avoid litigation. She said we should only amend the overlay district if it is not providing adequate coverage. That area may need something but not necessarily expansion of the overlay district. .

David stated that he did not think this would be the case if the town added some more locations to address soft spots.

Lori stated that there are a few gaps and the Board should look at potential new sites, but simply adding the Wedgewood property would be against the results of Isotrope's study and is also against Board's policy to refrain from supporting a zoning change for a particular property.

David stated that he has great respect for the approach the Board has taken by establishing a district, which includes large parcels throughout town. He noted that from a planning perspective, he questioned if the Board wants to tell wireless companies where to place their towers or come up with a model of what is acceptable form of development. David said that the Cape Cod Commission did not want to bother with 80 ft towers so they just allowed their local building department approves them by obtaining a permit. He said it is important to get a sense of what the residents are willing to have in their community.

David also noted that they could take a different approach, such as allowing less of a setback in conjunction with certain land uses, such as behind a fire station or gas station or garage.

Ernie stated that he felt the airport parcel, which is already in the overlay district, seems to provide the necessary coverage.

Lori noted that this was proven in the study Isotrope originally conducted for the Zoning Board of Appeals.

David stated that the Planning Board could look at it separately from the Zoning Board of Appeals and decision. He stated that the Board could look at locations that are acceptable for sitting cell towers if the Board finds that a particular location is acceptable.

Lori stated that she believes finding places in town that need coverage is most important.

Lori noted she did not support adding the golf course to the overlay just to appease the applicant. Ernie agreed.

Lori stated that she did not want to rush this study because there could be potential gaps in different locations in town and potential ways of supplementing them.

Lenny asked what the timeline was for town meeting and the litigation with Star Tower/T-Mobile.

Karen explained that the litigation is on hold, pending any proposed amendments to the Wireless Service Facility at May Town Meeting.

Ernie Dodd asked David what the courts position typically is on the need for obtaining perfect coverage.

David noted that no one expects perfect coverage, but stated that one person's soft spot is another's significant gap in service. He stated that as one judge noted in a previous case related to pornography, it is hard to specify it in the text of a bylaw, but you know it when you see it – wireless cases are similar in fashion.

Ernie stated that it seemed the Board would support a variance to the Zoning Board of Appeals to allow a 150ft. tower in the overlay district at the airfield.

Karen asked David if Star Tower ever looked at the airport property.
David stated that they were dismissive of it as an option.

Lori stated that the Board has consistently said they would not be willing to support a change in zoning for specific property and go against what they have said to other applicants.

Lori stated that she liked the idea of allowing different types of cell towers in different areas.

Brian said he felt the Board should have thoughtful research before bringing forth a bylaw amendment and there is not enough time before town meeting to do this.

Brian asked David if he had any recommendations.
David stated that he would just need to get a feel for the community and board's preferences.

Lori stated that when the Board was asked, we agreed to sponsor this study with the understanding that we would look town wide at any possible gaps that may not be covered with the current overlay district. She noted that this study has made it perfectly clear that it is not necessary for the golf course to go into the district.

David noted that changing the bylaw to allow 150ft. at the airport property would send a clear message to the courts. He noted that you couldn't say with certainty that the ZBA will approve it. Karen also noted that a zoning change would require Town Meeting Approval and that result is uncertain as well.

Ernie recommended the Board either support a variance or a change in the bylaw under Section 5.3.7.1 b to allow the height of a wireless facility of up to 150ft. in the current wireless service facility district at the airport location.

Karen asked the Board what they would ask for at town meeting.

Lori said they would state that in order for that overlay district to provide effective coverage for the remaining soft spots, a 150ft. pole is required.

Ernie stated that he wanted areas identified where they need additional coverage.

Karen stated that she and David could work on the contract and see if they need to amend it in any way to include this.

David stated that they have identified areas, but haven't put arrows or circles around anything. He said to move things forward faster the Board should start thinking about these areas in town and suggested the Board look at properties with deep setbacks. He further suggested looking at parcel maps and Goggle Earth for wooded areas etc.

Ernie asked David why companies don't just put up 35ft. towers in locations where they need better coverage, as the bylaw allows them throughout town. He suggested they install them on top of telephone poles.

David stated that this type is not feasible at this time in Stow. It would work better in more densely developed areas. He noted that municipal light companies are more flexible about allowing antennas on telephone poles than private energy companies.

David said the Board should look at large parcels for unipoles at about 55-65ft. height and 100ft for pine wooded areas.

DISCUSSION/ACTION ITEMS continued

RidgeWood at Stow AAN Vote to Accept Withdrawal of Application

Steve Quinn moved to accept RidgeWood LLC's withdrawal of their application for Modification of the Ridgewood Active Adult Neighborhood, Erosion Control and Exterior Lighting Special Permit and an Application for Definitive Subdivision Plan without prejudice. The motion was seconded by Lenny Golder and carried by a vote of four in favor (Steve Quinn, Ernie Dodd, Lori Clark and Lenny Golder).

COORDINATOR'S REPORT

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

Solar Facility at Teradyne Property

Karen stated that the Conservation Commission met with Renewable Energy Massachusetts LLC at their last meeting. Pat Perry Conservation Administrator did not have any details about the site plan or their discussion but provided a copy of the maps locating potential wetland areas.

Don McPherson – Setbacks in Solar Rules and Regulations

Don McPherson inquired about his property as most of his land is located within the industrial district, but small amounts are located in the Residential District. He stated that a solar facility is being proposed in this location and would be located in both districts. Don was confused as to the setback requirements because they would be 50ft from abutters on the land zone Residential, but 100ft on land zoned Industrial. Karen noted her initial response was that she would think the Board would be inclined to make all setbacks 100ft; he seemed to think the setback should only be 50ft at all boundaries of his property.

Public Comment Continued

Mark Jones asked the Board if there were enough funds for supporting litigation or if cases were purposely being dropped due to lack of funding/ budgeting for legal funds.

Karen noted that most of the Planning Board decisions that have gone to court have been fully supported by legal aid and the Town Administrator has never argued about defending them.

Brian Martinson stated that the Town Administrator is just doing his job, weighing the benefits and possible outcomes of certain legal fights.

The meeting was adjourned at 9:45PM

Respectfully Submitted,
Kristen Domurad-Guichard