

TOWN OF STOW PLANNING BOARD

Minutes of the June 5, 2012 Planning Board Meeting.

Present: Planning Board Members: Lori Clark, Steve Quinn, Ernest Dodd, Kathy Sferra and
Len Golder
Voting Associate Member Brian Martinson
Planning Coordinator: Karen Kelleher

The Meeting was called to order at 7:00 p.m.

Minutes

May 22, 2012 - ***Ernie Dodd moved to approve the minutes of the May 22, 2012 meeting, as amended. The motion was seconded by Steve Quinn and carried by a unanimous vote of five members present (Ernie Dodd, Steve Quinn, Lori Clark, Len Golder and Kathy Sferra)***

Public input - None

PB Members' Updates –

Meeting schedule - Lori Clark reported that she will not be available from the end of June for approximately six weeks. Several other members noted that they have conflicts with meeting dates in July. It was determined that the Board would only schedule one meeting in July, the date to be determined at the June 12th meeting.

Coordinator's Report

Karen Kelleher reported on on-going activities in the Planning Department

Derby Woods – Karen reported that Sue Carter received an inquiry from Attorney Lou Levine as to her and the Building Commissioner's availability to serve as expert witnesses for Derby Woods LLC on the law suit between them and the owner of Lot 7. Karen advised attorney Levine that he should go through Town Counsel. Attorney Levine explained that he is just checking their availability in case he needs them. If he does need them, he will issue a subpoena and Town Counsel will be advised at that time. Derby Woods LLC would be responsible for any costs related to the testimony.

Karen reported that she received a phone call from Mr. Hasting of 14 Sylvan Drive and Mr. Toomey of 43 of Sylvan Drive concerning outstanding items. Mr. Toomey advised that his sprinklers are still buried and the yard needs to be loamed and seeded. Mr. Hasting said his yard needs to be loamed and seeded. Karen contacted the developer, who confirmed that they are waiting for the sprinkler company to raise the sprinkler heads and after that is done, they will loam and seed the area. Lori Clark reported that she also got a call from Mr. Toomey who did acknowledge the response from Karen but he wanted to be sure that the Board takes his concerns into consideration before releasing the bond. Members noted that, although the Board is holding a bond, this issue would not be something that would be covered by the bond. *Karen will inform both parties and advise that they follow up with the developer.*

Cornell/Riverhill Estates property – Karen reported that she received an inquiry about the Cornell property, located in the Recreation/Conservation District and shown as part of the Riverhill Estates Subdivision. Because it does not appear that the subdivision is going forward,

the owner is investigating the idea of farming the property. In order to farm the property they would have to clear cut and remove soil. Karen referred him to the Conservation Commission because it is riverfront property and to the Board of Selectmen about earth removal.

Proposed Solar project at Minute Man Airfield – Karen received a call from Andrew Bernstein of Kearsage Energy, who is working on the Solar application for Minute Man Airfield, called about the regulations.

The regulations require that they do an appraisal indicating potential impact on abutting property values. He plans to request a waiver because there are no comps for this type of facility on an airport. Karen suggested looking at solar facilities that are not on airport property and they still responded that there are no comps. *Members said they would at least like to see a professional opinion from an appraiser.*

They also plan to request a waiver from the stormwater requirements. He feels they are not applicable because the panels are not considered to be impervious. Karen said she recalled that there would be some grading involved. He responded that the grading is related to the runway which is a separate project. Karen noted to the Board that, in reviewing their presentation, it is not clear that the obstruction removal is a completely separate project. It may be necessary for the solar panels as well as the runway obstruction. Members noted that perhaps the obstruction removal would be done before the solar project. Karen also asked Sue Carter what she thought and she noted that there may also be a change in ground cover due to the removal of vegetation, installation of access roads and accessory buildings. *Members said the Petitioner should be prepared to discuss the site as a whole at the Public Hearing. Karen will advise Andrew Bernstein.*

Stow House of Pizza – Karen spoke with Kostas about the lights at Stow House of Pizza, who said that Hudson Light and Power has adjusted the light several times. Karen told him it still appears to be a hazard and suggested either having it turned off or asking that Hudson Light and Power replace it with a streetlight fixture, which would be full cut-off. She also advised that he needs to either turn off or adjust the other spotlight, and put all building lights should be on timers to ensure they are off at the close of business.

Kostas also stopped by to inquire about the Beef and Ale Property.

Associate Membeship

Karen Kelleher reported that Mark Jones submitted a request to be appointed as a non-voting Associate Member to the Planning Board. She will include his request on next week's agenda.

Lower Village Gateway Sign

Phil Moseley and Barbara Sipler met with the Board to discuss a gateway sign for Lower Village. Phil Moseley noted that this project was part of the Lower Village Sub-Committee's planning effort and is included in the final report. Although the Lower Village Sub-Committee has been dissolved, Phil and Barbara committed to move forward with implementation of the recommendation for a Gateway Sign.

They received quotes for the sign and decided on a company located in Manchester New Hampshire, owned by a former Stow resident, who has a good history of working with this type of sign in park and recreation areas. The quote is for a Gateway Sign consistent with the sign included in the Lower Village Sub-Committee's report, and includes design and installation. The total cost is \$3,555.92. The Garden Club committed to donate \$2,000.00 toward the sign. Phil

requested that the Planning Board fund the remaining \$1,555.92. The vendor requires 50% up front and the balance when the work is complete.

Phil explained that he reviewed the original location along Great Road by the Cemetery, as recommended by the Lower Village Sub-Committee, to reacquaint himself and he now feels it is not an ideal location due the extensive vegetation and being too close to the Road. He feels that a sign in that location will be subject to the negative impacts of all the vegetation that dominates the area. He also questions whether they can drill post holes in that area given the large tree roots. Based on this information, he and Barbara recommend placing the sign on the Town land between Pompositticut Street and Red Acre Road between two sycamore trees. Phil placed stakes in this area for the Board to observe. If the sign is placed parallel to Great Road it would have visibility in both directions. It is also in an area where people would be able to get a close-up view of the sign. He also noted that there is sufficient area to accent the sign with shrubs or flowers. Given the controversy as to ownership of this land area, the sign would help designate the fact that the land does belong to the Town.

Lori Clark said she has no objection to the location, but questions whether the sign should be placed parallel to Great Road, noting that drivers won't see it unless they turn their head. Kathy Sferra said she initially had the same concern but she drove by and noted that, because there is a bend in the road, it would be visible to drivers.

Brian Martinson noted that the Lower Village Sub-Committee did note the overgrown vegetation and asked if there were any other reasons why the location is not suitable. Phil Moseley noted that it is also very close to the road and it may be problematic for installation due to the large tree roots.

Ernie Dodd said that he feels this location (Town land between Pompositticut Street and Red Acre Road) is a good place to start, if need be it could always be moved in the future.

Brian Martinson noted that there are some overgrown evergreens in this area that were planted by the abutter and suggested that they be removed. His concern is that the Town has not made any major changes to the property to signify that it is Town land. The Town is not mowing it and the vegetation pile still there. Phil Moseley suggested that it might be time for the Planning Board to have a discussion with the Highway Department. He suggested it might also be worth a discussion with the Tree Warden to come up with a creative design for this area. It was also noted that there were plans to install walkways in this area. Phil said if walkways are installed, that might help determine where the sign should be located.

Len Golder moved to commit \$1,552.92 from the Planning Board's Engineering/Consulting/Master Plan Implementation Account for the Town's contribution toward the total funding of a Gateway Sign consistent with the gateway sign referenced in the Lower Village Sub-Committee's final report, to be located on the Town land between Pompositticut Street and Red Acre Road. The motion was seconded by Kathy Sferra. Nancy Arsenault questioned whether the size of the sign complies with the Zoning Bylaw. Members confirmed that it does. Steve Quinn said he thinks it is odd that we would use the engineering account for a sign. Karen Kelleher explained that the account is for Engineer, Consulting, and Master Plan Implementation and that Lower Village Improvement would come under Master Plan Implementation. The motion carried by a vote of five members (Ernie Dodd, Steve Quinn, Lori Clark, Len Golder and Kathy Sferra).

Members agreed to check the area that Phil staked identifying where the sign will be installed before the next meeting.

Stow Ace Hardware/Stow Shopping Center Special Permit Modification

Members reviewed the Draft Stow Ace Hardware/Stow Shopping Center Special Permit Modification Decision.

Kathy Sferra noted the conditions concerning outstanding items related to prior modifications and questioned whether they are relevant to this application. Members noted that the request is for modification to the original special permit and the Board typically reviews previous decisions. Karen Kelleher noted that she tried to make it clear that Linear Retail, and not Stow Ace Hardware, are responsible for those items so as to not hold up Stow Ace Hardware. Members agreed to move those items to the end of the document as a separate section and make it clear that they do not apply to Stow Ace Hardware.

Members agreed to remove the finding about the parking lot lighting and the requirement to investigate the possibility of turning off a few select lights.

Ernie Dodd moved to Approve the request for Modification to the Stow Shopping Center Special permit, as drafted and amended. The motion was seconded by Steve Quinn and carried by a unanimous vote of five members present at the Public Hearing (Ernie Dodd, Steve Quinn, Lori Clark, Len Golder and Kathy Sferra).

Cushing Property

Members discussed the concept plan for the Cushing Property, as presented to the Board on May 22, 2012, and the request for the Board to consider waiving the requirements to construct the Road. The intent is to separate the existing house from the rest of the property so that the remaining land may be dealt with in the future. Although the Plan shows frontage off a proposed subdivision road, they intend to create an easement to use the existing driveway as access to the house until such time the remaining land is further subdivided.

Board members noted that the remaining land must be restricted in some manner so that it will not be further subdivided without the benefit of a full subdivision plan which addresses road design, construction and drainage for the site. Members also discussed the fact that in order to grant a waiver from the requirements of the Subdivision Rules and Regulations, the Board must find that there is a public benefit.

Karen Kelleher reported that, based on the discussion the Board had with Jeff Brem and Pennie Cushing on May 22nd, she asked if they have given any thought about offering something in terms of public benefit in exchange for the requested waivers. Pennie responded that she would have to speak to her attorney and Jeff Brem responded that they could talk about the possibility of a public access easement on the remaining land during the Public Hearing. Members wondered how an easement could be located when they don't know how the property will be developed.

Karen Kelleher reported that she spoke with Town Counsel about the Plan. He shares the Board's concern about not knowing what the overall plan is. He also noted that, when considering requests for waivers, the Board should make a finding that the waiver is in the public interest and that each waiver request must be voted individually. In order to ensure that the remaining land cannot be built upon until a new subdivision plan meeting the requirements of the subdivision rules, the owner could either place a perpetual or term conservation restriction or a legal agreement/covenant on the property.

Karen Kelleher also reported that Town Counsel advised that, because the property is enrolled in a chapter program, once a subdivision plan is filed it should be considered a change in use and notice should be given to the Town.

Karen Kelleher will forward a letter explaining that the Board cannot make a determination on a request for waiver until they have more information. They should provide a detailed list of requested waivers, along with the reason for the request and why such waivers would be in the best interest of the Town. They should also indicate how they intend to restrict the remaining land from further subdivision until such time a new subdivision, plan meeting the requirements of the Subdivision Control Law and Town of Stow Subdivision Rules and Regulations, is filed. The letter should also advise that because the property is enrolled in a chapter program, submission of the subdivision plan would be considered a change in use and notice should be given to the Town.

Members noted that it might make sense for the selectmen to consider beginning the Chapter 61 Notice process by calling together the quick response team.

Light Pollution Study Committee

Ernie Dodd moved to accept Russ Willis' letter of resignation from the Light Pollution Study Sub-Committee. The motion was seconded by Kathy Sferra and carried by a vote of five in favor (Ernie Dodd, Steve Quinn, Lori Clark, Len Golder and Kathy Sferra).

Members discussed the fact that there is now only one active member on the Light Pollution Study Sub-Committee (Greg Troxel). The Board talked about appointing Greg Troxel as an Associate Member to the Planning Board so that he may continue to offer advice to the Board on lighting issues. Karen noted that she asked Greg if he would be interested in becoming an Associate Member but has not heard back from him. *Karen will follow up with Greg.*

Ernie Dodd moved to dissolve the Light Pollution Sub-Committee and ask Greg Troxel to become an associate member. The motion was seconded by Len Golder and carried by a vote of five in favor (Ernie Dodd, Steve Quinn, Lori Clark, Len Golder and Kathy Sferra).

Foreclosed Properties

Members reviewed the draft memo to the Treasurer with Planning Board recommendations on whether the Town should auction a list of foreclosed properties. Karen will forward the memo, as amended.

Wireless Service Overlay District

Ernie Dodd reported that Honey Pot Orchards would be interested in including their property in the overlay district.

Members reviewed the email from Steve Riggs of Isotrope, noting that the southeast corner and Sudbury Road are areas that could need more coverage. He suggested looking at the Town Beach Property, where a 75-100 ft unipole or light stanchion would work. He also suggested the Natick Labs property across from the Fire Academy.

Steve Quinn said the more he thinks about it, he questions whether we should have an overlay district at all. Even if Honey Pot Orchard is included in the overlay, a wireless company could choose the abutting property, get denied, appeal the denial and most likely win in court.

Lori Clark is not convinced that we should do away with the overlay district. She did note that it is clear that the existing overlay is not effective. She is just not convinced that it should be allowed any place.

Len Golder noted that the presumption of the courts is in the cell tower companies' favor.

Steve Quinn questioned whether it is worth even putting a minute of time into updating the overlay district, when in the end it probably won't make a difference.

It was noted that there are towns that do not have an overlay district. Len pointed out that Weston is one of those towns and there doesn't seem to be a problem. Karen Kelleher said that Hudson did have an overlay district and they ended up doing away with it because it was consistently being challenged and the courts always favor the wireless companies.

Lori said our options are:

1. Do nothing
2. Continue with the review of the overlay district
3. Adopt a new bylaw with no overlay district

The Board needs to consider what the cost benefit is and if we think there is a direction that will change the course.

Karen will provide a list to see what other Town's similar to Stow do.

LOWER VILLAGE PLANNING

Scope of Work – Coler and Colantonio

Lori Clark asked members to clarify the action item agreed upon at the last meeting relative to Coler and Colantonio's Scope of Work. It was agreed that Coler and Colantonio will be asked to prepare a simple visual with the list of items referred to in the May 22nd minutes, to be presented at a public meeting (not the 25% Plan). After the public meeting, the Board will determine how to move forward. *Karen Kelleher will inform Coler and Colantonio.*

Public Meeting

Next week's work session for Lower Village will be to brainstorm on how to have an effective public meeting.

Zoning Goals

Members reviewed the draft zoning goals and vision, prepared by Kathy Sferra.

Members discussed whether "Foster increased tax revenue" is an appropriate goal. Len Golder feels that it is an important goal for Lower Village. Others agree that it is a worthy goal for the community as a whole, but not specifically for Lower Village, because the area is so small and it would not make a significant impact. Members agreed that increased tax revenues may be a "result" of the other goals, but it should not necessarily be a major goal.

Brian Martinson said he doesn't envision much mixed use (residential) development in Lower Village. Kathy noted that most of the bullets use the term "encourage" and she specifically used the term "allow" for mixed use development. It was also noted that the document also says "Encourage retail and other uses, most appropriate to downtown areas on the first floor. The idea is that there may be some residential use on the second floor.

Members all agreed to review the Lower Village Sub-Committee's final report in advance of next week's working meeting.

EXECUTIVE SESSION – Star Tower (Wedgewood Pines Golf Club property)

Ernie Dodd moved to enter into executive session for purposes of discussing ongoing litigation relative to Star Tower vs. Stow Zoning Board of Appeals, and to adjourn the meeting at the conclusion of the Executive Session. The motion was seconded by Len Golder and carried by a unanimous roll call vote of five members present (Ernie Dodd, Steve Quinn, Lori Clark, Len Golder and Kathy Sferra).

Adjournment

The meeting adjourned 9:56 p.m.

Respectfully Submitted,

Karen Kelleher