

TOWN OF STOW
PLANNING BOARD

Minutes of the March 26, 2013 Planning Board Meeting

Planning Board Members Present: Steve Quinn, Ernest Dodd, Lori Clark, Kathy Sferra,

Voting Associate Member: Brian Martinson

Non-Voting Associate Member: Mark Jones

Lori Clark Called the Meeting to Order at 7:00 PM

Discussion of Meeting Minutes of 3/12/2013

Ernie Dodd motioned to accept as amended.

Kathy Sferra seconded

VOTED: 4-0 Unanimously in favor (Lori Clark, Ernie Dodd, Kathy Sferra, Steve Quinn)

Correspondence Update

None

Planning Board Member Update

Kathy Sferra said Community Preservation Committee voted to fund half of the amount for the appraisal for 323 Great Road. Kathy Sferra said she also applied to be Stow's liaison to MAPC.

Coordinator's Report

Escrow Agreement

Karen Kelleher reported that she has been working with Jon Witten on the Escrow Agreement. Karen Kelleher said it seems that we are still at an impasse on the issue of the Property Owner's Role. Karen Kelleher noted that she passed on the Board's suggested compromise language - "Documented incremental costs beyond the escrow amount" and "in no case shall the amount sought be more than the actual cost of the removal", which was not received well by the Applicant's attorney.

Karen Kelleher also noted that the most recent draft removes the reference to State Street Bank and indicates the Bank to be selected by the Town of Stow. Town Counsel agrees that the Town should not select the Bank she added. Karen Kelleher advised Cliff Chapman of Syncharpha that the Bank should be registered to do business in the State of Massachusetts.

Karen Kelleher noted that the Escrow Agreement names Syncharpha Stow LLC as the Developer rather than Syncharpha LLC. She continued, saying Town Counsel recommends

that the Special Permit be modified to reflect the change. Karen Kelleher believes this could be done as a minor modification to the special permit.

323 Great Road

Karen Kelleher said she met with the Capital Planning Committee and the Stow Municipal Affordable Housing Trust (SMAHT) to provide an update on due diligence efforts regarding 323 Great Road. Capital Planning did not take a vote. Karen Kelleher reported that SMAHT is still very interested in the property and will provide some visuals to show unit type for a Town Meeting Presentation.

Karen Kelleher said that she, Ernie Dodd, Ross Perry and Chief McLaughlin, representing the Fire Station Study Committee, met with representatives of the Union Church to see if they would be interested in working with the Town regarding attainment of a fee interest for access from Great Road. The Fire Station noted their ideal access location would straddle the property lines between the Union Church and the First Parish Church, said Karen Kelleher, which would require regarding the knoll. The Union Church is willing to work with the town and would consider a land swap for access on the west side of their parking lot in exchange for land or an easement at the north side of their parking lot for snow storage. Karen Kelleher said that currently Union Church does not have a location to move snow off the lot and therefore loses a row of parking in the winter. Their septic system is under the parking lot on the west side. Karen Kelleher explained that if that land were to be deeded, they would need an easement for repair of the septic. She added that the septic was designed to accommodate the use of a parking lot.

Kathy Sferra said that it would be smart for the Union Church to write a letter of support or intent for the land swap to assist the appraisal effort and quell any concerns at Town meeting.

The Board discussed that despite the potential challenges of passing a warrant article, there are cost issues and multiple use scenarios that could be vital to growing support for the acquisition. Lori Clark said the Planning Board should work with the Fire Department and other interested boards to provide a brief presentation at Town Meeting. Kathy Sferra said regarding water needs, the Historical Commission and the Fire Department could speak to the need.

Karen Kelleher said she, Ross Perry and Chief McLaughlin will be meeting with representatives of the First Parish Church on Friday, March 29 at 9:30 a.m.

Karen Kelleher also noted that she is working with the Town Administrator and Town Counsel on warrant articles. There will be two articles: one for acquisition subject to a debt exclusion and another for an option to hold the property to cover the period of time between the annual Town Meeting in May and the election in June, assuming the Town Meeting vote passes and/or an agreement to cover the time between spring Town Meeting and the election, and a fall TM (again assuming that the ATM vote and/or the debt exclusion fails).

Minute Man Airfield Commercial Solar Project

Karen Kelleher said she and the Conservation Commission Coordinator met with representatives of Provectus Development, who recently signed a contract with Minute Man Airfield for a Commercial Solar Installation. The plan will be similar to the previous plan that was withdrawn. Karen Kelleher said they met with two partners, John Ricketson from Westford, MA and the Hal Galvin from Minneapolis, MN, noting that this is their first Solar project. Provectus has not yet contracted with an Engineering Firm but will definitely be talking to Stantec, who worked on the previous plan. Karen Kelleher and Pat Perry recommended a joint meeting with the Planning Board and Conservation Commission before they submit a formal application. Meeting is scheduled for Friday, March 29 at 8:00 a.m.

Town Water for Rural Communities

Karen Kelleher said she and Jesse Steadman will be meeting with Dick Kilhart of Massachusetts Dept. of Rural Development about water supplies for rural communities.

Regional Housing Services Office Potential

Karen Kelleher said SMAHT discussed participation in the Regional Housing Services Office and agreed to include a warrant article in the amount of \$10,000.00 for monitoring. The first year will be more expensive because the Housing Consultant will prepare an initial data base for a monitoring program, adding that the cost for participation will be on a per unit basis.

Red Acre Road Accessory Apartment Application

Karen Kelleher said she returned the Accessory Apartment Site Plan Approval application to the Applicant. She recommended they pursue a variance for the size of the apartment before filing with the Planning Board.

Planning Board informational table at SpringFest

Karen Kelleher suggested that the Planning Board have an informational table at SpringFest to highlight upcoming projects.

Meeting with Town Planners from Concord and Bolton

Karen Kelleher has been in contact with the Town of Concord and Town of Bolton Planners to talk about their design guidelines. Karen Kelleher said she and Jesse will be meeting with the Bolton Planner next week, and hopefully soon with the Concord Planner.

CPTC Conference

Karen Kelleher said she and Jesse, Ernie and Mark attended the CPTC Conference in Worcester.

MAGIC Comprehensive Agricultural Planning Project

Jesse attended a MAGIC meeting today to discuss and de-brief on the forum held in early March.

Kathy Sferra said that she believes the Right to Farm insert that is supposed to be given to all new homeowners has not been given out. Kathy Sferra said the document needs to become part of Town applications, specifically noting that local realtors should have a copy of it and should be including it.

Minor Modification Taylor Road Planned Conservation Development Special Permit and Subdivision

The Planning Board reviewed the Minor Modification to the Taylor Road Subdivision and agreed it should be signed at the next meeting.

Minor Modification Elizabeth Brook Farm Planned Conservation Development Special Permit

The Planning Board reviewed the Minor Modification to the Taylor Road Subdivision and agreed it should be signed at the next meeting.

Delaney Street Solar Project Escrow Agreement

Lori Clark began the discussion by referring to Section 18, specifically regarding the Town's ability file suit against the property owner for removal costs that exceed the escrow amount. Ernie Dodd explained the major points of his concerns, specifically paragraph 17. Ernie Dodd clarified that he believes that the Town should be able to hold the property owner liable for any excess costs associated with removal of the solar installation. He added that due to the uncertainty of the Developer's future, the Town is not sufficiently protected should they go out of business. He added that the bylaw indicates that the Town should be removing it and with inflation the way it is, the ten year escrow agreement may not be sufficient.

Kathy Sferra said that she believes the current language in the escrow agreement is adequate reasonably protect the Town against reasonable future scenarios. She added that if there is not enough to completely remove the property, the Town will remove what they can with the funds they have.

Steve Quinn said he believes that the Town has sufficient protection and that the escrow agreement contains sufficient funds to cover the remediation work.

Lori Clark said she understands both sides of the argument, knowing that 150% may not be enough to cover future work, yet at the same time she believes that it may be reasonable protection.

Regarding the switch of the Escrow agent, Brian Kopperl reported that State Street Bank is no longer in the escrow business and that the Enterprise Bank of Lowell, Massachusetts may become the next escrow agent.

Regarding the name change between Syncarpha LLC to Syncarpha Stow, Karen Kelleher noted that Town Counsel is concerned about the issue and believes the Board should

modify the special permit to reflect the change. Karen Kelleher said she will get the issue on an upcoming agenda.

The Planning Board discussed the conflict between sections 9 and 11 in the escrow agreement. Lori Clark said Section 9 essentially states that the escrow funds cannot be received by the Town without a signature of the property owner. Kathy Sferra said a sentence in paragraph 11 should state something similar to “notwithstanding the language in section 9” to emphasize the circumstantial nature of the section. Lori Clark said that would delineate the proper course of action in the event that the property owner does not perform the work.

Amendments

1. The Board agreed that Section 9 should remain the same, but Section 11 should be amended include the following language to the beginning of section 11:
Notwithstanding the language in paragraph 9
2. The Planning Board agreed that the beginning of the first sentence in Section 5a should be amended to include the underlined text below:
In the event that the sum resulting from the calculation set forth in section 4 (a), as approved by the BOARD and the PROPERTY OWNER pursuant to section 4(b), is less than the greater of the Initial Escrow Amount (\$150,000.00) established under section 2(a) or one hundred fifty percent (150%) of the Net Removal Cost as of the latest 10-Year Anniversary Escrow Revaluation.
3. The Developer will select the Escrow Bank (Enterprise Bank, Lowell, MA)

The Board withheld voting on the Escrow Agreement until the proposed changes are added to the document and the Escrow agent is able to review the document as well.

Karen Kelleher asked for a sense of the Board regarding their comfort level with the escrow agreement with language to be amended. Ernie Dodd maintained his concerns with Escrow Agreement. However, the remaining members of the Board reported that they are sufficiently comfortable with the language as proposed.

Hale Road Street Acceptance

Karen Kelleher reported that she has been contacted by a resident of the private ROW, Hale Road regarding the potential street acceptance by the Town. Karen Kelleher noted that Mike Clayton said the Highway Department does not have the funds to do any major work to Hale Road. She said that property owners have asked what they can do to get Hale Road accepted as a public way. Karen Kelleher said she told the property owners that there has never been a plan for the road that would allow the Board to review it as a street. In addition the work would cause several non-conformities, such as setbacks, to become more non-conforming.

Karen Kelleher said that if a road was built the property owners would no longer own the land under the private way. Kathy Sferra said the road should be constructed to a minimum standard, but the Town should not have to pay for the improvements.

Steve Quinn said the property owners are going to have to pay for permitting costs and engineering costs, but with no definite knowledge of whether Town Meeting would approve the road. Ernie Dodd added that they could get a contractor to do the improvements for less than the permitting costs and Mike Clayton can then work on an improved road.

Kathy Sferra said they could use betterments to fix the road, but they would still need a road layout; adding that she would not support the acceptance unless the street was brought up to minimum street standards, i.e. it is improved before by the homeowners or through a betterments program.

Lori Clark said she would not be in favor of accepting the road, citing that if a homeowner chooses to have a private road, why should the Town pay to maintain it for them. Lori Clark added that planning staff should let the homeowners know what would need to happen for the Planning Board to be in favor or the reasons why the Planning Board are against the process.

Karen Kelleher said the property owners would like to meet with the Planning Board. Karen Kelleher said she told the property owners that they would have to go through the planning board, the conservation commission, the zoning board of appeals and Town meeting for eventual acceptance.

The Board agreed that Hale Road appears more like a common driveway than a road.

Town Owned Parcels at Queens Lane and Pine Point

The Board reviewed their initial investigation into the Queens Lane parcels and agreed that although they are small, they recommended them for affordable housing if combined.

The Board reviewed their initial investigation into the Pine Point parcel and recommend the lot for affordable housing.

Kathy Sferra motioned to recommend the Board of Selectmen declare the Queen's Lane parcels (Map U-3, Parcels 5-A and 5-3) and Pine Point Road Parcel (Map U-1, Parcel 41) as surplus, subject to conditions outlined in the February 28, 2013 memo from the Stow Municipal Affordable Housing Trust (SMAHT), and provided that if in the future it is determined by SMAHT that the parcels are not feasible for housing in the future, control of the properties revert to the Selectmen.

Steve Quinn seconded.

VOTED – (4-0) Unanimously in favor (Lori Clark, Ernie Dodd, Kathy Sferra, Steve Quinn)

Gleasondale Mill Floodway Data

Jesse Steadman explained the potential difference in floodway data for Gleasondale Mill between the preliminary maps soon to be under review and the 2010 FEMA update, including the possibility of sending a comment to FEMA regarding the Mill.

Ernie Dodd mentioned looking at the Army Corps Assabet River Study flood data for comparison as well.

Coler and Colantonio Conceptual Traffic Plans

Steve Quinn said they spent a lot of money with C & C and have very little final product to show for it.

Lori Clark said her main concern with the concept plans for Route 117 is in regard to the pavement width, asking whether John Morgan, consultant with Coler and Colantonio is working with complete streets to gain funding. Karen Kelleher said John Morgan advised her that when an application is compared between a complete streets and non complete streets, the complete streets will usually win out to gain funding.

Mark Jones noted that capital planning committee asked the Planning Board to get numbers for putting utilities underground. Steve Quinn said that putting utilities underground could be the biggest aesthetic improvement in Lower Village.

Kathy Sferra said that the estimate for review of suggested changes seems high to not include a revised plan. Karen Kelleher said past multiple revisions of the plan likely sapped a lot of the funds. Kathy Sferra said she would like to see a plan that includes road widths that the Board is in favor of.

Steve Quinn said the Planning Board should hold off with future concept plan amendments, and if they get the money at Town Meeting they can restart the process, possibly with another firm, to move toward a final plan.

Kathy Sferra said that it may be the time to begin drafting an RFP. Steve Quinn said they could use some of the remaining funds dedicated to the concept plan to hire Stow's Engineering consultant to help draft an RFP, which could help refocus the effort. Lori Clark said they should look into the contract agreed to with Coler and Colantonio to be sure the funds could be used in that way.

The Board agreed that the Planning Board meeting of April 9th be dedicated to Lower Village work.

Warrant Article For 323 Great Road

Karen Keller explained that there will be two separate articles regarding the 323 Great Road: One for the purchase of 323 Great and another for the placing of an option to purchase on the property. Karen Kelleher said Bill Wrigley was concerned about the time delay between Town meeting and the Debt exclusion vote.

Kathy Sferra said an option agreement can be entered into without fixing a price at the outset. It can be based on an appraisal. Kathy Sferra said the purchase article is going to require CPA funds, necessitating that the article will have to include that aspect and CPC will need to have a discussion about it as well.

Lower Village Planning:

Jesse Steadman explained progress on preparations for a visual preference survey and plans to have it ready for Planning Board review on April 9th.