

TOWN OF STOW
PLANNING BOARD

Minutes of the July 2, 2013 Planning Board Meeting

Planning Board Members Present: Kathy Sferra, Lori Clark, Len Golder
Steve Quinn, Ernie Dodd

Voting Associate Member: Mark Jones
Non-Voting Associate Member: Brian Martinson (Absent)

Lori Clark called the meeting to order at 7 PM

Discussion of Meeting Minutes

Minutes of June 18, 2013

Kathy Sferra moved to approve the minutes of June 18, 2013 as amended.

Len Golder seconded.

Ernie Dodd abstained

VOTED: (4-0) in favor (Lori Clark, Len Golder, Kathy Sferra, Steve Quinn)

Minutes of June 26, 2013

Ernie Dodd moved to approve the minutes of June 26, 2013 as amended.

Kathy Sferra seconded.

**VOTED: (5-0) Unanimously in favor (Lori Clark, Ernie Dodd, Len Golder, Kathy Sferra
Steve Quinn.)**

Correspondence Update

Steve Quinn asked which building Subway was looking at in Lower Village. Jesse Steadman said 132 Great Road.

Public Input

none

Member Updates:

Center School

Steve Quinn said the pervious parking is being replaced at Center School since the pavement was defective and is falling apart.

Coordinator's Report

323 Great Road

Karen Kelleher reported that Town Counsel continues to work with Malcom Fitzpatrick's attorney on a purchase and sale agreement. Karen Kelleher said the most recent draft includes a closing date of August 6th.

Proposed Subway for Lower Village

Steve Steinberg has been pursuing approval from DEP to locate a Subway at 132 Great Road and was denied. Karen Kelleher said he is now looking into the possibility of locating the restaurant at 118 or 108 Great Road because they have a public water supply. The Health Agent responded that the Water Operator must submit a report to the Board of Health.

NPDES Permit for Marlborough's Wastewater Treatment Plant

Karen Kelleher said that in the Planning Board packets is an email from Allan Fierce to the Conservation Commission on behalf of OARS concerning an upcoming Draft of an updated 5-year NPDES Permit. It might make sense for a Joint comment letter on the draft. Ernie Dodd said that it would be in the Town's best interest do so.

FEMA Flood Insurance Rate Map Updates

We will be holding a join informational meeting with the Town of Bolton to provide an overview of the preliminary Flood Insurance Rate Map update and help residents navigate through the appeal or Letter of Map Amendment process. The maps Jesse Steadman created have been very helpful to Stow residents and some have already begun the process of requesting a map amendment. Jesse Steadman also assisted the Town of Bolton in creating a similar map for their community.

Economic Development Committee

Karen Kelleher reported that Planning Staff have been running behind in planning for an Economic Development Committee. She reported that the intent was to get together with the group of business owners that met over the winter with an update on the meeting with the Town of Bolton. Jim Salvie, Karen Kelleher and Jesse Steadman all agree that something similar to Bolton's EDC makes more sense for Stow than aspects of previous discussions. Rather than scheduling another meeting, Karen Kelleher said planning staff are in the process of drafting a letter to the initially interested business owners that outlines staff recommendation. This could be followed up by drafting something for the newspaper seeking interested residents to serve on a committee.

Regional Housing Services Proposals

Three proposals were received for the Regional Housing Services Consultant for the Town's of Hudson, Bolton, Boxborough, Littleton, and Stow:

Leonardi Aray Architect's (Current SMAHT consultant)

Metro West Collaborative, Watertown, MA

Community Opportunities Group, Inc./Fine Point Associates LLC
Copies have been forwarded to SMAHT for their review.

Gleasondale Planning

The Board discussed possible options for future UMASS student work, including funding for such a project. Lori Clark said that the Planning Board should place discussion for beginning the neighborhood planning process in Gleasondale on a few future agenda to get that aspect of the project moving. Lori Clark said the Planning Department could see what kind of ideas UMASS faculty think will be well suited to the students. Kathy Sferra said there is some CPA funding for historic preservation given that a piece of a proposed study is focused on some aspect of Historic Preservation, which could include administrative funds if necessary.

Mark Jones said a Demolition Delay bylaw maybe an appropriate thing to discuss given the latent potential of the mill.

Harvard Acres Lot Release

Karen Kelleher described the need to release portions of lots 159-162 in the Harvard Acres subdivision, since they had never been released at the time of the original subdivision due to the lot's association with the public water supply there.

Steve Quinn motioned to release the lots 159-162 of Harvard Acres Subdivision.

Ernie Dodd seconded.

VOTED: (5-0) Unanimously in favor (Lori Clark, Ernie Dodd, Len Golder, Kathy Sferra Steve Quinn).

Public Hearing Opened at 7:30 PM

Special Permit Modification of a Hammerhead Lot at 36 Homestead Lane.

Applicants Present:

Brett Taylor – Owner 36 Homestead and Builder

John Anderson – Project partner

Ernie Dodd moved to waive notice of public hearing

Steve Quinn seconded

VOTED: (5-0) Unanimously in favor (Lori Clark, Ernie Dodd, Len Golder, Kathy Sferra, Steve Quinn).

Lori Clark read through the Public Hearing Guidelines.

Applicant Presentation

Brett Taylor said he is asking the Planning Board for a Modification to the Hammerhead Lot Special Permit. He said he originally tried to buy the lot at 25 Laws Lane, which abuts his Hammerhead lot but was not able to gain control. Now he is able to buy it to get the frontage for the lot and would like to sell it as a single family home lot. Brett Taylor said that he would be the builder.

John Anderson said he and Brett are partners on the project and that he purchased the house at 25 Laws Lane to improve the lot configuration, bringing it into conformity with potential for more space to be added to the home by right and freeing new space for a new well, instead of the well located along Laws Lane. John Anderson said he purchased the lot with an understanding that a condition of the Special Permit had stated no further division or subdivision could take place on the Hammerhead Lot. He said that the original home at 25 Laws Lane has a very low ceiling and he would like to add space to it. John Anderson said the lot at 25 Laws Lane is currently non-conforming and he plans to bring it into a conforming lot. He said it would bring value to the home.

Brett Taylor said he is trying to retain privacy. He noted a buffer zone for wetlands that still needs to be maintained adding he is only planning to cut what trees they will need to.

Don Strauss of 18 Laws Lane said that one of the conditions of the prior permit stated that there would be no further subdivision of the lot and that that is his main concern.

Dave Conna of 54 Homestead Lane does not understand why this issue is even being discussed since the special permit says the lot shall not be further subdivided.

Bill Sivert of 37 Laws Lane asked Brett if he purchased 25 Laws Lane. Brett Taylor said he has not.

Kathy Sferra asked where the triangle of land that now houses the well for 25 Laws Lane came from. Brett Taylor said that piece of land is with 25 Laws Lane.

Dave Conna of 54 Homestead Lane said his home is just under an acre and he was able to make modifications to it with a special permit. He added that the applicant's do not necessarily need a conforming lot at 25 Laws Lane to construct additions.

Jeff Santos, of 16 Homestead Lane said he is right at the entrance of Homestead Lane and noted three new houses that have been built on Homestead have more than doubled the traffic. Jeff Santos asked where the entrance is proposed to be. Brett Taylor said it would come off of Laws Lane. John Anderson said they could not get to the property from Homestead Lane because it would require an easement through the Hammerhead Lot property. Jeff Santos said there is no legality to fall back on precluding Homestead Lane from being used as access. The applicant's agreed. Applicant's said that Laws Lane would be a shorter access and therefore preferable.

Lexi Strauss 18 Laws Lane said that she is concerned that the driveway and trees outside of her home would be directly affected and she does not know why this is even being discussed due to language in the past permit regarding no further division or subdivision of the Hammerhead Lot. The applicant's said they could move the driveway, put up screening and berms to mitigate the intrusion of any headlights from the home.

Lexi Strauss said that she is also worried about contamination and issues regarding her well since it is inline with wells that may be rerouted.

Penn Ruderman 110 Gleasondale Road said when they made the consideration of buying their home they took into account that the Hammerhead Lot could not be subdivided and relied on that language to make the investment. He said that the rules should not be manipulated for financial reasons, although he understands the applicant's need to make a profit. He said that the Town should not condone going around town and reconfiguring properties to make them amenable to more building lots.

Tyler Fitzsimmons asked what the relevancy of the wetlands is to this conversation. Ernie Dodd said that it seems they are not building within the buffer and if there is any building within that area they would need Conservation Commission approval through a Notice of Intent process.

Brett Taylor said they are not proposing to go anywhere near the 35 foot no disturb buffer and are actually planning to stay at least fifty feet from the established buffer. Brett Taylor added that they are willing to aim the driveway in a considerate manner. John Anderson said he is not a neighbor to this neighborhood but has a financial stake in the matter. Brett Taylor said that he is a neighbor since he lives on the current Hammerhead Lot and that he is willing to take entertain considerations of the neighborhood.

Tyler Fitzsimmons said he is completely opposed to the project.

Jeff Court of 26 Homestead asked if there were going to be any changes to the driveway parking area in the front of the applicant's home. Brett Taylor said is driveway should not need to be altered.

Jim Harlow of 104 Gleasondale Road said that this seems to be a creep on the wording in the special permit and he is concerned that the water table is already high and that this project could back up the flow of water as well as disturb the well. Jim Harlow said when vehicles exit Laws Lane they will be flashing their lights directly into his home. He is concerned that the rural nature of the neighborhood is in jeopardy and would like the Board to stick to their guns.

Len Golder asked how many homes are on each road. Brett Taylor said five homes are on Laws Lane and Seven on Homestead Lane with a single lane road. Jeff Santos said there are 2-3 cars per house, adding that he moved to his current location to get peace and quiet from the city.

Jim Harlow asked if anything could preclude the applicant's from tearing down the home and building a McMansion? Brett Taylor said no.

Ernie Dodd said that moving lot lines in the Hammerhead Lot would qualify as a division or subdivision by the reduction of the lot's size and that was not the intent of the bylaw and

therefore he cannot vote to approve it. Ernie Dodd suggested to the planning board that they do the same.

John Anderson said they will do everything they possibly can to make this work with the neighbors. He said he is willing to work them as much as possible and if not feels that he will have to appeal to the courts. Ernie Dodd said that a Special Permit is not by right and they do have the right to deny the Applicant's request.

Kathy Sferra said they need to know that Laws Lane has adequate width if they are going to make a finding that the private way is able to accommodate the traffic. Lori Clark said that she would like to receive comment from Town Counsel.

Bill Sivert said that it sounds like the Applicant is talking about being neighborly but is at the same time threatening appeal of the decision. John Anderson said they can face the driveways away from the house and work with the neighbors as best they can.

Jeff Court of 26 Homestead Lane asked why a Hammerhead lot cannot be subdivided. Ernie Dodd said the Town voted on the bylaw at Town Meeting, regarding a condition that states the lot shall not be further divided.

Lori Clark referred to a letter by the Applicant's attorney, explaining that the attorney considered the division and subdivision language in the Special Permit to mean subdivision in a regulatory sense rather than the physical act of dividing the land. In that case Lori Clark explained, the Applicant's attorney suggests that this application is more like an Approval Not Required lot rather than an act of subdivision. Karen Kelleher said that verbally Town Counsel suggested the subject of this meeting is whether the Special Permit should be modified to be able to pursue the ANR lot.

Lexi Strauss said the addition of division as well as subdivision in the prior decision suggests that no variety of division should take place.

Penn Routherman asked about the process for an Approval Not Required lot. Ernie Dodd said if the applicant had owned 25 Laws Lane at the time of the initial creation of the Hammerhead lot, the ANR could have been created. He and Lori Clark explained that an ANR needs 200 feet of frontage in a residential district as well as an acre and a half of lot size to be validated by the Planning Department as an Approval Not Required lot.

John Anderson said he is formally asking for a continuance. John Anderson said their attorney would like to speak with Town Counsel. Ernie Dodd said that regardless of what Town Counsel says he will vote the same. Kathy Sferra said that if their attorney has any new information to submit, it should go through the Planning Department. Kathy Sferra said that she would like to get the width of Laws Lane on the record.

Ernie Dodd said he feels they have enough of information to vote on the matter tonight. Kathy Sferra said that she would like to hear more about the difference between the

division and subdivision aspects of the Special Permit. Steve Quinn said if the applicant requests a continuance and there is perhaps more information to gain, then the Planning Board should grant them that. Kathy Sferra said it would be a better meeting to wait. Karen Kelleher said that they would also be able to get a written response from Town Counsel. Kathy Sferra said that if they end up denying the project and the decision is appealed, they need to make the most informed decision possible regardless of the rearrangement of everyone's schedules.

Lori Clark said the Board needs to think long and hard about changing a decision about being subdivided or divided with so many decisions out there with the same language. Lori Clark added that she understands how buyer's expectations should be valued.

Lori Clark said the Applicant makes the final decision about when the continuance can take place. Lori Clark noted the abutters are looking for the 27th August and the Applicant is asking for the 13th.

John Anderson said if the Board feels they are going to vote it down he would like that to happen sooner than later. John Anderson said that his attorney has advised him to move as soon as possible.

Lori Clark said if their attorney is going to be present, she would like Town Counsel to be present as well. Len Golder said that this could be a contingent continuance if the applicant's attorney wishes it. Lori Clark said that expectation is that the attorney would provide some additional information.

Karen Kelleher said that the abutters can call the office until the next continuance to get more information that is in the public record.

Kathy Sferra motioned to continue the public hearing to August 13th, 2013.

Steve Quinn seconded.

VOTED (4-1) in favor (Lori Clark, Len Golder, Kathy Sferra, Steve Quinn in favor: Ernie Dodd against).

Steve Quinn Left the meeting at 8:30 PM

Vote for Non-Voting Associate Member

Kathy Sferra motioned to appoint Dan Beaudette as a Non-Voting Associate Member

Ernie Dodd seconded.

VOTED (4-0) Unanimously in favor (Lori Clark, Ernie Dodd, Len Golder, Kathy Sferra)

Discussion of Summer Activities

Jesse Steadman suggested moving the Visual Preference survey to July 23rd. Steve Quinn and Lori Clark said they will be out that night.

Hemenway Farm Subdivision

Karen Kelleher said she can talk with the applicant and see if they can work out an extension.

Kathy Sferra said that if she is going to be leaving the Planning Board in August, the Board should have a full board for the subdivision hearing. Mark Jones could vote even if the Board were down to four members for the subdivision decision. August 27th would be best for the subdivision if the applicant's are amendable to offering the extension said Karen Kelleher.

Ernie Dodd said he will be on vacation in September.

Future Items for Town Counsel to Discuss

The Board discussed many possible ideas to speak with Town Counsel about, including public hearing's for minor modifications, necessity of wireless overlay districts, how subset of the Planning Board should interact with an applicant, overview of non-conforming lots and Chapter 40A of M.G.L., considerations regarding the upcoming Natural Resource Protection Zoning effort, an overview of new case law and Medical Marijuana considerations regarding the agricultural exemption in Chapter 40a s.3.

The Planning Board agreed that Medical Marijuana and Natural Resource Protection Zoning considerations were priorities for the summer.

Kathy Sferra motioned to enter into Executive Session for Land Purchase and Access Discussion without returning to an open session.

Roll call Vote Unanimous. (Lori Clark, Len Golder, Ernie Dodd, Kathy Sferra)