

TOWN OF STOW  
PLANNING BOARD

Minutes of the March 4, 2015 Planning Board Meeting

Planning Board Members Present: Lori Clark, Ernie Dodd, Len Golder, Steve Quinn,  
Mark Jones

Voting Associate Member: Margaret Costello

Lori Clark called the meeting to order at 7:00 pm

**Planning Board Minutes of February 18, 2015**

*Ernie Dodd motioned to approve as written.*

*Steve Quinn seconded.*

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

**Planner's Report**

**Bose**

Karen Kelleher reported that the Planning Board received a formal request for modification to the Special Permit as submitted on Friday. The project includes repaving, lighting, and trails. The Department need to schedule public hearing date. The Board agreed that April 8<sup>th</sup> is the best available date.

**Ridgewood**

Karen Kelleher said she spoke with Bill Roop by phone to advise the Board that they have agreements signed off by them and Toll Brothers. They are now waiting for signature from the owner.

**Pine Bluffs**

Karen Kelleher reported that the Design Architect responded to the staff memo concerning the site plan with a memo and updated plans on Monday, March 2. Sue Carter of Places Associates is reviewing the updated plans and it appears that they did not address many of the Site Plan Approval regulations as outlined in the December 31 staff memo and February 23 staff memo that outlined discussions with the Applicant's Consultant, Sue Carter of Places Associates, and Planning Board and Conservation Staff.

The Conservation Commission held its public hearing last night and continued the hearing to April 7 due to the snow cover and the fact that they need more information.

**Airport Zoning**

The Board of Selectmen are meeting in executive session on Tuesday, March 10 to discuss correspondence from MassDOT and Town Counsel concerning airport zoning. Karen Kelleher encouraged board members to attend.

### **Lower Village Common**

The Planning Department received quotes for an archeological survey as required by Mass Historic in response to the Lower Village Route 117 Design Plans. We received three quotes. Staff recommends contracting with PAL. Although not the lowest proposal, the PAL proposal is comprehensive and staff have received good reports on their work from other planners. The Community Preservation Committee approved CPA funds in the amount of \$8,913.00.

The proposals received for the project are itemized below.

\$7,300 - Plymouth Archaeological Rediscovery Project

\$17,500 - Gray and Pape Inc.

\$8,913 - Public Archaeology Lab (PAL)

### **Zoning and General Bylaw Amendments**

The Annual Town Meeting Warrant closes on March 20. Proposed Planning Board articles are included in the Planning Board packets.

- **Fences**

Karen Kelleher said the fence article is in response to Don Hawkes's request for the Board to sponsor a bylaw amendment to require that the finished side of the fence face the street or abutting property. Karen Kelleher noted concern about the Board sponsoring this article as it seems to be more appropriate for design guidelines in specific zoning or overlay districts.

- **Temporary Moratorium on MEDICAL MARIJUANA TREATMENT CENTERS**

The Temporary Moratorium expired on November 6, 2012 and is no longer necessary since the Overlay District was adopted.

- **Noise Bylaw and hours of operation**

Craig Martin is working on a noise bylaw for the Annual Town Meeting and agreed to try to incorporate hours of operation into the bylaw said Karen Kelleher.

- **Wedgewood Country Club**

Wedgewood Country Club submitted proposed zoning bylaw petitions to the Board of Selectmen. Karen Kelleher contacted the engineer who drafted the articles and explained that they are proposing two articles. One to allow for a caretaker structure associated with golf courses and a second one, in case the first doesn't carry to rezone a 1 ½ acre parcel from Recreation/Conservation to Residential. Karen Kelleher recommended that the owner meet with the Board.

- **Stretch Code**

The Building Commissioner and Energy Working Group will be proposing adoption of the Stretch Code, Karen Kelleher reported.

**Public Hearing Continuance**  
**Spring Hill Estates Definitive Subdivision Plan**

Present: Alice Cushing - Applicant  
Greg Roy: Ducharme and Dillis Project Engineer

Lori Clark opened the Public Hearing

Greg Roy explained that there are two main issues left to discuss, including a letter from Places Associates and a decision on the Open Space. Sue Carter of Places Associates provided four recommendations that Greg Roy explained:

1. The Wetlands should be encompassed in a drainage easement.
2. Infiltration of roof runoff – Greg Roy noted that a formula can be added based on the square footage of the roof area to account for any changes.
3. Driveways should be paved. Greg Roy said they have agreed this will be done.
4. Discharge from the existing catchbasins – there are no discharges and he can work with Places Associates if there needs to be an easement there.

Steve Quinn asked why the easements needed to be located on the wetlands. Greg Roy said that if there is a downstream abutter that creates an impediment it gives the Town the right to remove the impediment.

**Discussion of Open Space**

Greg Roy discussed that the open space proposed can be:

1. owned by the applicant and protected with a conservation restriction
2. owned by an HOA and protected with a Conservation Restriction
3. deeded in fee to the Town or an organization that can hold land for such purposes.

Greg Roy said his clients are not interested in retaining ownership, noting the preferred option is deeding the open space to the Town. Greg Roy said the prominent comments they have received have to do with access: how it is accessed from the existing conservation land and from the parcels of the homeowners in the future? Greg Roy said in all, the open space would encompass about 20 acres to be deeded to the town.

Ernie Dodd said although he cannot vote it would be nice to have an easement to at least get to the land.

Mark Jones asked if the entirety of the land is accessible without crossing into the 35 foot buffer. Greg Roy said they could reorient the open space to create some space for trails around the wetlands and outside of the 35 foot buffer.

Len Golder said the land is contiguous to SCT land it seems to make sense for them to take ownership of the parcel.

Lori Clark asked what the Conservation Commissioner would think about the proposed plan.

Kathy Sferra, Conservation Coordinator, said that in terms of ownership it would be the preference that SCT owns the property. Kathy Sferra noted that in order to get to the upper area you would need to do boardwalks or bridging which can be expensive. Kathy Sferra said it seems that it would be hard for people to travel all the way to Edgehill to access an open space. Kathy Sferra noted that an easement could float, and could be a fifty foot wide easement that at a later date could be pinned down at the time of future development. The easement would need to be recorded at the time of the permit, however.

Don Rising said no matter the ownership it has to be open to the public and the trust would like to avoid having to cross the wetlands to access the open space. Don Rising also noted that the boundaries of the open space should be a series of straight lines to aid in enforcement.

Mark Palmer said that at a previous meeting there was discussion of providing a thin strip of access connecting to the common driveway. Lori Clark said she had originally given feedback from the basis of finding it difficult to manage thin strips.

Greg Roy said such a strip could be mirrored in easement form. Kathy Sferra said that a strip could be added but not if it takes away from the other areas and makes access more difficult.

Greg Roy said he is hearing that there needs to be access from the properties to the open space through an easement and reworking the lines of the open space to accommodate buffer. Steve Quinn said it seems odd to traverse an open piece of land and asks if it can be easier to provide a deeded access. Greg Roy said that he perceives the benefit to the Town's open space as more significant than the open space access afforded to the individual lots.

Karen Kelleher asked if the drainage would be installed prior to the construction of the lots. Lori Clark said she is concerned that different contractors would not be in the position to carry out the work on the other lots.

Greg Roy said it may be a condition that a trigger is identified that would necessitate the drainage being constructed prior to the lots being individually developed.

### **Public Comment**

Bruce Morgan, of 55 Edgehill Road said that it seems like the open space parcel is mostly wetlands, and he is trying to understand how the public benefit is being adequately satisfied given the amount of waivers being granted. Bruce Morgan said he does not see the public good in giving away wetlands. Future development is a big unknown. Bruce

Morgan explained an encounter with a truck on a turn near the applicant's access. Solid ice exists along the curve at the existing driveway. Has to be concerned that public safety is not being equaled by the public good.

Greg Roy said the regulations require that 10.4 acres of upland are required through the Regulations to demonstrate the public good. With respect to traffic concerns, Places Associates has helped address the curve issues by widening the curb. If any more lots are proposed it is a brand new process, with a public hearing needed.

Bill Maxfield of Edgehill road asked to clarify the size of the remaining unbuilt land. Greg Roy said it total 32 acres.

Bill Maxfield asked if there needed to be any improvements to the common driveway.

Charles Jowett commented on the ice on the corners and the proposed widening and asked if the drainage would be upgraded. Greg Roy said that they have a catchbasin that will be added to the stormwater operations and maintenance plan which will be recorded as part of the approval.

Lori Clark asked if he had received feedback from the Fire Department. Greg Roy said he has yet to hear back from the Fire Chief. Greg Roy produced a copy of the plans for his review.

Don Rising asked that the open space be monumented at the corners.

*Steve Quinn Moved to close the hearing for Spring Hill Estates.*

*Mark Jones seconded.*

**VOTED (4-0) in favor (Lori Clark, Len Golder, Mark Jones, Steve Quinn; Ernie Dodd Abstained).**

### **Collings Foundation Inc. Site Plan Approval and Special Permit Public Hearing**

*Ernie Dodd moved to waive the reading of the Public Hearing Notice*

*Mark Jones Seconded.*

**VOTED: (5-0) Unanimously in favor.**

Present:

Stephen O'Connell – Andrews Survey and Engineering

Bob Collings – President | Collings Foundation

Robert Collings Jr. – Executive Director | Collings Foundation

Lori Clark read through the Public Hearing Guidelines including opportunities for public comment and procedure.

Lori Clark explained that the hearing on this night was a new hearing and that the last application involving the subject property had been withdrawn. Lori Clark explained that

written correspondence from abutters could be transferred to this hearing, but that oral testimony cannot be due to the fact that new abutters had been notified as part of the current application process.

Stephen O'Connell said that the application includes a 67,000 square foot museum building, sharing many similarities to prior application. Steve O'Connell said the building is situated exactly as it was in the past hearing, adding that one unique and noticeable difference is that access is to be through the Hudson Main Street Entrance. Stephen O'Connell said the applicant has received Site Plan Approval from Hudson Planning Board, Special Permit from Zoning Board of Appeals and decision with conditions from the Internal Traffic Committee.

### **Access**

Steve O'Connell described the three lanes of travel designated for inflow and egress of traffic which will evolve as the Hudson Police Department sees fit. Two lanes will be designated for inflow with one lane for egress. Steve O'Connell said the first 40' are hot mix asphalt and the rest recycled asphalt, with shoulders to create a 30' travel way. Steve O'Connell said the lanes converge from two lanes to one lane and the configuration allows vehicles to get off of Main Street and onto the private way. The staff can move their operation to queue up cars on private property, which takes the vehicles off of Barton Road and onto private property. Steve O'Connell noted there is 2500 linear feet of driveway in Hudson alone, which parallels Kane Industrial park and enters Stow. The road then follows the existing historic gravel access road.

Steve O'Connell note that there will be a wetland crossing. After that vehicles will approach the museum as they reach the existing egress driveway to Barton Road, where there will be signage and barricades, which will indicate closure except to emergency vehicles. Steve O'Connell noted the access to the rear of the museum building. Steve O'Connell said that hot mix for the handicapped spaces will be added. A large grass area provides access to the parking area and hangar Steve O'Connell said.

Steve O'Connell said that stormwater is stored in a basin and discharged to the Fire pond. Roof drains have been redirected to an infiltration basin near the wetland crossing. Steve O'Connell noted that a grass swale along the driveway toward the viewing area will convey water to infiltration basin north of wetland. South of the driveway a swale conveys water to smaller infiltration basin. Excess materials will be stored along an existing plateau to create a sloped platform and viewing area for spectators.

Steve O'Connell noted that the applicant is pursuing a public water supply with the Board of Health and DEP and are underway. Steve O'Connell said the test well radius is 145 feet. Steve O'Connell said there will be an onsite sewage disposal system with a fire protection well and 25,000 gallons of fire protection in the cistern. He noted that the site will be loamed and seeded when the sitework is finished. Steve O'Connell noted the location of an earthen berm to mitigate noise and visual impacts to abutters in Stow, which is similar to a berm along the Hudson stretch of roadway.

## **Public Comment**

*Ron Gerhard of 222 Barton Road* said it appears that an infiltration basin is proposed to be built over Linda Cornell's right of way and may not be able to be done without her permission.

Steve O'Connell said there is no metes and bounds to the easement and as long as the right of way is still given, he feels that the applicant will comply.

*Linda Cornell of 222 Barton Road* said that the right of way was decided by Land Court and there has been no discussion regarding any deviation from it. Any intention to do so would involve land court.

*Dan Barstow of 99 Pine Point* said the area of the application is zoned residential and the proposal is not a residential installation. The Collings Foundation believes they can do this through the Dover Amendment he explained. Dan Barstow said the MA Supreme Court says that the use has to be primarily educational. Dan Barstow read from a memo delivered into the record, stating ten metrics to understand whether education is the primary goal.

1. Governance
2. Budget
3. Staff
4. Educational Master Plan
5. Curriculum Materials
6. Teacher training
7. School Participation
8. Evaluation
9. Driving force defining the Collings Foundation's work

If the Board can obtain such data, Dan Barstow said, then this gives objective data for the Planning Board to judge the Dover Amendment's applicability.

Bob Collings said the previous application entailed many educational documents which should be carried over, adding that the Collings Foundation is a non-profit educational corporation since 1979 and is regularly audited by the state.

Lori Clark said it is unclear as to what carries forward.

Barbara Huggins, Town Counsel, said that the applicant should make it clear as to which documents the applicant would like to have reconsidered to avoid any ambiguity as all documents may not be relevant. People who submitted previous comments previously can still submit their comments, as she would not want someone to think their thoughts are not welcome.

Janet Belsky of 122 Barton Road said if you look at the listings of forms regarding non-profit status, educational status is fairly broad with the State.

Janet Belsky said that she found on the most recent 990 from November 2013, that the investment in antiques is 1.1 million and the acquisition costs are not in the figure. Janet Belsky said there is no line item dedicated to educational purposes. Charitable activities state that the Foundation provided events for the Wings of Freedom and events where public can enjoy the antiques in Stow.

Janet Belsky noted that the Foundation's purpose enables Americans to learn more but does not reference the primary, dominant purpose of education. The Foundation merely provides a passive opportunity she said. The primary dominant mission would be collection and restoration of antique items said Janet Belsky.

Bob Collings said that the reason there is only \$37,000 allocated to the events is because most of the staff are involved in those tasks as docents. Bob Collings said the Foundation uses docent instructed tours. Bob Collings said he does not think financial estimates are a good way to look at the educational aspects of the Collings Foundation.

Peter Christmas of 122 Barton Road read from a decision by the Appellate Tax Board, released January 14<sup>th</sup>. Peter Christmas said it appears that Mr. Collings is saying that he has a great collection of antiques but is not really providing any learning through that experience. On the basis of evidence, the Appellate Tax Board found that the Collings Foundation failed to meet the burden of proof that the subject property is a charitable organization.

Tom French of 151 Barton Road said the testimony has been considering the wrong entity. In the prior application, said Tom French, it was argued that a trust could gain Dover amendment protections. Now the trust's president is the executive director of the Foundation Inc. Tom French said the Collings Foundation Inc. is a dummy corporation set up as a proxy for the trust and meant gain the Dover protections. Tom French said the applicant fails the corporation test. Tom French asked and answered a series of questions: Is there a unity in interest and control between the corporation and the trust? Yes, that exists, said. Is there a perception of bad faith? When the corporation was established due to the Trust not being considered, bad faith can be shown. Tom French said he urges the Planning Board to recognize that Collings Foundation Inc, is an instrument of the Collings Foundation Trust.

Robert Collings Jr. said that the Collings Foundation Trust did set up a Corporation after looking at past case law. Moving from a private foundation to a public charity was a decision that was partly to do with this application and partly financial. The Collings Foundatin Inc. existed at the time of the last reenactment.

Darryl McKay of 57 Barton Road asked a series of questions regarding the impacts of the proposed application.

- Barton Road is closed for events only?
- Will trucks be using Barton Road during construction?



- What will the visual from the riverside look like?
- What will the actions on the other side of the brook affect the conservation land?
- What will the events be like with the addition of the tank museum?
- What kind of safety and oversight will there be?
- Who takes responsibility for an accident?
- Are we insured under their policy?
- How will landing strip operation be affected by the tank museum?

Steve O'Connell said that all patrons of the existing and proposed operation will access through Hudson. A handful of employees will continue to use the existing access.

Construction vehicles will have to mobilize through Barton Road until the access in Hudson is created.

Lori Clark asked how the access is sequenced. Steve O'Connell said that the driveway is task number 1. While that road is being constructed, the wetland crossing will also be constructed.

Len Golder asked if the mobilization can wait until the Hudson access is constructed. Steve O'Connell said that they will need some equipment on the north side of the wetland crossing. Steve O'Connell said it would be the minimum amount of equipment to construct the wetland crossing.

Barbara Jones of 61 Sudbury Road said that regarding the signatures received from the Collings Foundation, very few came from residents of Stow. The Collings Foundation compares his activities to those at other museums and none of those listed are in residential areas and none contain the type of re-enactment activities. At the moment they are exposed to three day weekend events. However, prior to the events, the airplanes are flying and practicing. Barbara Jones said the activity only goes in one direction toward larger and more frequent events. I hear reasoned arguments on the website, but in the media it is a different story, such as feeling the ground shaking. An 8 foot berm will not be protecting anyone. It is inappropriate in a residential zone and it defies reason to think it isn't.

Steve O'Connell said this application is a building to house the tank collection and the activities that have been going on will continue to go on despite this building and will not lead to increased activities at the site. Noise cannot be distinguished from the common noise along Barton Road. The sound study data shows that the noise is not over normal levels at the border of the property.

John McDonald of 80 Hudson Avenue said tanks consume many fluids, and is wondering how the fluids will be stored? Will there be an emergency procedure.

Robert Collings Jr. said any fuel would be stored properly within the building. As part of the Hudson decision they are required to have a spill kit on site. The only fuels they are using are gas and diesel.

Pat Sorn of 74 Barton Road said the information given by the Collings Foundation must be documented somewhere? How do you know if the road will be built first? Lori Clark said they do not operate on trust but through conditions as part of a permit.

Chad Atwell of 171 Barton Road said the application is for residentially zoned land. He said he noticed a bus turnaround and amphitheater now proposed which shows how large the proposal is. Chad Atwell said he has not heard how this will benefit the greater public, but rather considers it a nuisance. Chad Atwell said during one of the events his house filled with smoke and his family had to evacuate, a matter that they are pursuing with Board of Health.

Lori Clark clarified that the Planning Board cannot waive sections of the bylaw.

Town Counsel, Barbara Huggins, said that the question is whether this is a dover protected use and to the extent that the weekend activities have been presented as part of the overall mission is under the Board's purview over whether which uses may be protected through Dover protections. It is not an all or nothing and there is case law showing

Adam Wagman of North Shore Drive said that just because an entity is an educational non-profit does not necessarily mean that it is Dover protected. Despite the letters submitted from supporters, the Collings Foundation is not qualified to make the determination. Flights and the firing tanks go beyond the residentially allowed uses he said. Adam Wagman said the existing uses would therefore not be grandfathered even if application is turned down. Sound studies need to be independent and performed while an event is taking place.

Janet Belsky of 122 Barton Road said that in an article and interview with Robert Collings, he talked about being able to smell diesel, see smoke and feel the earth shake. Janet Belsky said this kind of testimony gives a more realistic view of what can be expected from the proposal. In addition to the amphitheater, it is possible that further reenactments of other battles and wars may take place. Janet Belsky, said that regarding noise, residents can talk over the noise of a lawnmower, but when a plane takes off, all conversations cease. Saying that the noise is everyday noise, is a ridiculous argument.

Mike Cressman of 199 Barton Road said he would like to see the berm barrier as big as possible since there used to be trees in the location across from his property boundary that have since been removed to make way for the museum building. The size of events has been growing and there is probably some reasonable limit based on parking or some other metric. If they keep getting bigger what will the impacts be? The idea of adding the tank museum without increases in the events and scale is unrealistic. It is logical that the scope would increase because there is more to show and do. How will there will be limits set?

Peter Christmas of 122 Barton Road said the Collings Foundation just went on record saying that the proposal is only a tank museum and there will be no sound differences or increase due to the construction of the museum.

Steve O'Connell said the sound study by Epsilon Associates is a reputable one. Steve O'Connell said he recommends that those who do not understand, look into it. Steve O'Connell explained how sound studies work, adding that results are from an entire weekend event. The baseline decibel level is equivalent, if not higher than the sounds recorded at the Collings Foundation.

Jon Lage of Hunter Ave said sound decibels are also a perception. If it is perceived that sound is hurtful it matters. The sounds are offensive. John Lage said the Board has heard a few ways to define education. If I applied the Collings Foundation logic anything can be educational. The act of teaching about something is not educational by itself. The ten points spoke of earlier are a much better way of defining education. This should be turned down.

Lind Cornell of 222 Barton Road said she has performed her own sound study and demonstrated that the decibels were well over 100 at the property line when the guns and planes were in motion. Linda Cornell asked whether the Planning Board will take the overwhelming opposition that they have received and move it forward to this new application? Linda Cornell said that the new addition to the road does nothing to mitigate those concerns. It is understood that the Board's powers are limited. Can the Board provide guidance on how to stop the activities?

Bob Collings said the second sound study was performed over the weekend of the WWII reenactment.

Tom French of 151 Barton Road reiterated that there are two independent entities that exist right now, and the aircraft are registered to the Trust. The tanks are owned by the Trust and donated by Littlefield and to acquire them the Trust received a federal firearms destructive license and the corporation owns no land, tanks or planes and is coming before the Board to pretend to be something that it is not. It is a dummy corporation before the Board. Deny the application Tom French said.

Robert Collings Jr. said Mr. French's comments were factually inaccurate, adding that you do not need a federal firearms license to own tanks, cannons and aircraft.

Lori Clark said she would like to allow the Board's consulting engineer to speak.

Sue Carter said that the new driveway raises circulation issues, asking what will the Collings foundation do to separate pedestrians from vehicular traffic? How will the internal circulation of the site work? Areas of the runway, vehicle display and onsite vendors, handicapped accessibility need to be shown given the large amount of people coming and going from the site. Areas need to be clearly shown on the plan to show

function of the safety aspects of the site. Details regarding fueling and washing of the equipment need to be shown.

Is the grading necessary to create an amphitheater? What are the cut and fill calculations? Everything has to work together, starting with the big picture and then followed by the details over time.

Lori Clark wants to be sure to go through the information submitted in the last application and find out what needs to go forward. She said staff can send correspondence and questions in more detail.

Bob Collings asked if the Planning Board had any specific questions regarding the wetlands since they are in the process of the Notice of Intent with the Conservation Commission. The Board did not have any comments on the wetlands.

The Board and applicant agreed on a continuance date of April 1<sup>st</sup> at 7:30pm.  
Ernie Dodd moved to continue the Site Plan Approval and Erosion Control Special Permit at the Collings Foundation until April 1<sup>st</sup>, 7:30pm in Stow Town Hall.  
Steve Quinn seconded.

**VOTED: 5-0 unanimously in favor. (Lori Clark, Ernie Dodd, Len Golder, Mark Jones, Steve Quinn).**

### **Minuteman Erosion Control Special Permit**

#### **The Board discussed the decision of the Minuteman Erosion Control Special Permit**

*Ernie Dodd moved to grant approval to the Minuteman Airfield Erosion Control Special Permit and Site Plan Approval as modified.*

*Steve Quinn Seconded.*

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

**Meeting Adjourned.**

**Respectfully Submitted,**

**Jesse Steadman**