

TOWN OF STOW
PLANNING BOARD

Minutes of the August 26, 2015 Planning Board Meeting

Planning Board Members Present: Lori Clark, Ernest Dodd, Stephen Quinn, Margaret Costello and Leonard Golder

Absent: Voting Associate Member: Mark Jones

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

Wheeler Road Hammerhead Lot Special Permit/ANR Plan

Karen Kelleher reported that the Wheeler Road Hammerhead Lot Special Permit, dated August 6, 2014 was subject to submission of:

- an Operation and Maintenance Covenant;
- amendment to the Common Driveway Agreement; and
- Grant of Sidewalk Easement to the Town

Draft documents were approved and the Applicant was advised that the ANR/Special Permit plan would be endorsed upon receipt of the endorsed documents. There was a delay in obtaining final endorsed documents because the applicant had difficulty in obtaining endorsement of the Common Driveway Agreement from the Cell Tower Company. The endorsed documents were finally submitted on August 20, 2015.

Ernest Dodd moved to authorize Karen Kelleher or Stephen Quinn to endorse the Plan entitled "Plan of Land on Wheeler Road in Stow, Massachusetts, prepared by Foresite Engineering, for James P. & Meghan Lipcon. The motion was seconded by Margaret Costello and carried by a unanimous vote of four members present (Lori Clark, Ernest Dodd, Stephen Quinn and Margaret Costello).

Planning Board Members' Update - None

Planner's Report

Karen Kelleher updated the Board on ongoing activity in the Planning Department:

Collings Foundation Application/Decision - Mr. Collings inquired about the process to submit additional information into the record for the Planning Board's consideration. He was advised that the only way the Board could consider new information is to reopen the Public Hearing. If requested, the Board would have to vote on whether or not to reopen the public hearing. The Board's vote should be based on whether they think the additional information be a substantive change as to what was already presented. An extension in the time which the Board has to render a decision would also have to be granted.

Wedgewood Country Club - As previously reported the application filed by Wedgewood Country Club to amend the Special Permit to allow a residence on the rezoned portion of

the property was incomplete. Karen spoke to the Applicant's engineer today about the need for a site plan and advised him and Joe Pitterino that: upon receipt of a site plan, a Public Hearing will be scheduled.

Petition for Zoning Bylaw Amendment - Andrew Curtis of Curtis Septic Services would like to amend the Zoning Bylaw to allow accessory dwellings on second floor of a retail establishment in the Business District. Staff advised that the Planning Board is considering bylaw amendments for the Business District which includes mixed-use development. Mr. Curtis is meeting with the Economic Development and Industrial Commission on Thursday, August 28, 2015 to seek their support.

General Bylaw Amendments (Earth Removal and Noise Bylaws) - The Board of Selectmen will be holding a public hearing on September 8th to consider proposed General Bylaw amendments for Earth Removal and Noise. Copies of the proposed bylaws are included in the meeting packets.

The proposed bylaws were presented to the Selectmen and it was suggested by some that the Planning Board should be the Permit Granting Authority. Karen Kelleher checked with Town Counsel, who advised that, because it is a General Bylaw, The Permit Granting Authority should be the Board of Selectmen.

A Zoning Bylaw amendment will also be necessary or the Noise Bylaw. Members agreed that the Zoning Bylaw should be amended by making reference to the General Bylaw.

Delaney Street Commercial Solar Photovoltaic Renewable Energy Installation - The Permit for the Delaney Street Commercial Solar Photovoltaic Renewable Energy has expired. The facility is now owned by AES Distributed Energy, who recently became aware that the bylaw requires annual renewals. They will be requesting that the permit be renewed and would like to know how to apply.

Section 8.10.8 of the Bylaw states:

“All COMMERCIAL SOLAR PHOTOVOLTAIC RENEWABLE ENERGY INSTALLATION Special Permit and Site Plan Approval Decisions shall be valid for a twelve (12) month period unless renewed or extended by the Special Permit/Site Plan Approval Granting Authority following application made by the applicant. There is no limit to the number of renewals or extensions the special Permit/Site plan Approval Granting Authority may grant for a COMMERCIAL SOLAR PHOTOVOLTAIC RENEWALBE ENERGY INSTALLATION.”

Members agreed that there is no need for a new application and that a letter requesting renewal of the permit is sufficient.

Zoning Board of Appeals Decisions

The Zoning Board of Appeals endorsed the Crow Island decision on Monday, August 24th. They are meeting to review and approve the Collings Decision on August 31.

7:15 pm - Leonard Golder arrived at this point of the meeting.

Ridgewood at Stow Special Permit Public Hearing continuance

At 7:15 PM - Lori Clark called the Public Hearing continuance (continued from August 5, 2015) to order to consider a request for Modification to the Special Permit for the Ridgewood at Stow Active Adult Neighborhood Special Permit to order.

Greg Roy, of Ducharme and Dillis Civil Design Group Inc., representing the Applicant advised that they submitted a revised set of plans and calculations based in what they heard at the June 17, 2015 public hearing session. Mr. Roy reviewed the plan and noted that the revised plan shows:

- units shifted, while maintaining the same number of detached and duplex units;
- the proposed club house and pool are moved several hundred feet away from the street and tucked to the side so as to be private and secluded;
- the grading plan and watershed calculations were also updated.

Tony Casapulla of Toll Brothers, Inc. advised that Toll Brothers considered all of the issues and concerns raised at the June 17, 2015 hearing:

- The old beacon tower will be taken down.
- Drainage calculations have been updated and reviewed by the Places Associate, Inc., the Board's Consulting Engineer.
- They do not anticipate the need to empty the pool or backwashing, however if for any reason it is necessary, the water will be taken away in trucks.
- The reason for the modification to include the pool and clubhouse is that they see it as a huge marketing benefit. The location of the pool, as shown on the revised plan, was placed so as to be screened by the club house and landscaping; the pool will be covered but not enclosed; and will be noted in the Homeowner's Association documents that it will be for the exclusive use of the homeowners. The hours of operation for the pool will be dawn to dusk.
- They plan to provide four affordable units on-site and a fee in lieu of construction for the remaining units.
- They propose to provide the Affordable Housing and Homeowner's Association documentation prior to the first production house Certificate of Occupancy.
- The Homeowner Association will include provisions for an escrow account.
- They plan to provide a fee in lieu of construction of the sidewalk along Boxboro Road.
- They plan to demark the Homeowner Associate Open Space Property Bounds vs the Public Open Space property bounds.
- The only future development that would occur is for a well.
- The Public Open Space is configured in a manner so as to provide enough land, without encroaching on the 35' no disturb wetland buffer, for a trail consistent with

Stow's Emerald Necklace. They are not willing to donate endowment funds for the open space.

- Lighting will be in compliance with the town's lighting bylaw.
- A stop sign will be installed at Boxboro Road.
- The septic design exceeds Title V Regulations.
- They feel the entrance off of Boxboro Road as proposed and previously approved is appropriate.
- There is no alternate location available for a construction entrance.
- They do not feel there is a need for internal sidewalks for an Active Adult Neighborhood, and if provided, it would add impervious surface.
- The abutting airport operation will be disclosed to buyers.
- They are not willing to provide increased road easements along Boxboro Road.
- Hours limiting construction activity are a condition of the Special Permit (7 am to 5 pm Monday through Friday, 8 am to 12 pm Saturdays, and no work on Sundays).
- Activities such as parties with grandchildren will be controlled by the Homeowners Association.
- There are no proposed buildings in the open space.
- The Pool should not bring property values down.

Stephen Quinn asked if they received the review letter from the Board's Consulting Engineer, Places Associates, Inc. Greg Roy responded that they just received the letter this evening and believes they can address the issues raised. He is not sure about the comment concerning the cul-de-sac radius, noting that it is adequate. The previous plan showed a larger cul-de-sac than needed. Greg Roy also questioned the comment on setbacks ("....all buildings except the clubhouse and pool house meet the required 25 foot setback from the roadways and the 20 foot separation of buildings." Ernest Dodd said there is no minimum required setback from the proposed road because the Development is an Active Adult Neighborhood and it is not a subdivision road.

In response to an inquiry from the Board, Tony Casapulla said they do not plan to phase construction. It is their plan to build the project at once.

Tony Casapulla said they plan to take the same approach to the affordable requirements. They will provide 4 affordable units on site and a fee in lieu for the remaining units.

Leonard Golder asked how close the proposed pool is from the nearest house on Boxboro Road. Greg Roy said the nearest house is approximately 700 feet away.

Karen Kelleher asked if the proposed well is for irrigation. Tony Casapulla responded yes.

Joe Mangiafico, 176 Boxboro Road, questioned why a second well is needed and if they still propose to use the Public Water supply at Minute Man Airfield. Greg Roy responded that DEP doesn't look favorably to using a potable water supply for irrigation.

Mike Jordan, 166 Packard Road, noted that the limit of clearing changed since the last plan. It now goes to the property line. The plan also shows a road to a well. He is concerned about the impact to his and his neighbors well. He is also concerned about the visual impact give the limit of clearing and the road to the well shown on the plan. Greg Roy confirmed that the well is not at the property line it is located on the private open space area and 500 feet from the property line. The limit of clearing was modified to access the well. The limit of clearing was reconfigured but not increased.

Bill Roop said the Open Space green area will be irrigated - mostly around the proposed units and club house. The gravel drive to the well will be 12 feet wide.

Peter Erickson, 218 Boxboro Road, noted there doesn't appear to be sufficient ingress/egress for construction activity.

Warren Nelson, 213 Boxboro Road, questioned what the cut off for the number of units served by a septic system is. Greg Roy noted that Title 5 allows up to 10,000 gallons per day, or 150 gallons per day for each over 55 unit - the proposed development, with 66 units would be 9,900 gallons. Warren Nelson questioned how the Villages at Stow Development with 96 units was permitted. It was noted that the Villages at Stow installed a tertiary wastewater treatment system. Marcia Rising, Board of Health Members asked if there will be toilets and showers associated with the clubhouse that would put them beyond the 10,000 gallon limit? Greg Roy said there will be a toilet in the clubhouse and because they would be for the exclusive use of the residents of the development, they do not believe they would need additional flow. They will be meeting with the Board of Health tomorrow night.

Don MacFarlane, 113 Boxboro Road, noted that the traffic has increased over the last 15 years. The increase has been mostly trucks and fast cars. He asked if there is any feel for how much truck traffic during construction will be coming from route 495 to the site. He also asked if Packard Road will be used which is very narrow and pretty much suicide to try to walk on the road. He suggested that the applicant donate an electronic speed limit sign. He also asked if a traffic study was done. Ernest Dodd responded that the development was approved in 2007 and the only change proposed is for the pool and clubhouse. Warren Nelson said the Boxboro Road and the traffic has increased considerably since the original plan. Joe Mangiafico, 176 Boxboro Road, said the Board has an opportunity to make changes to reflect the increase in traffic and concerns raised.

Joe Mangiafico, 176 Boxboro Road, noted that Minute Man Airfield recently made improvements to the runway which required cutting trees and causing more noise to travel. He noted this development will also require tree removal resulting in more

noise. He would like to see a noise barrier and evergreen plantings before the property is sold. He also noted that traffic will increase.

Don MacFarlane, 113 Boxboro Road, asked if the retention ponds will be installed prior to clearing the property. He is concerned about the impact to Health Hen Meadow Brook. Greg Roy said they are required to file a NPDES Permit with the Department of Environmental Protection. This permit requires erosion control measures to be installed and inspected.

Warren Nelson, 213 Boxboro Road, noted that the Board of Selectmen will be holding a public hearing on a proposed noise bylaw.

Don MacFarlane, 113 Boxboro Road, asked if they plan to blast for ledge, noting that blasting that took place at Minute Man Airfield continued for a period of 2 months.

Tony Casapulla said there is some rock on the site but not a significant amount. If blasting is necessary they will coordinate the activity with the Fire Department.

At 8:00 pm. Ernest Dodd moved to close the public hearing. The motion was seconded by Stephen Quinn and carried by a unanimous vote of 5 members present (Lori Clark, Ernest Dodd, Stephen Quinn, Leonard Golder and Margaret Costello).

Collings Foundation Inc. Site Plan Approval and Erosion Control Special Permit
Members reviewed a revised draft decision based on the Board's discussion on August 3, 2015 and addition input from Town Counsel.

In addition to minor typographical, clarification and ordering of the document, the Board discussed and agreed on the following:

Applicant and Project Locus - Members agreed to include additional language with regard to the project locus to indicate the site is located along the Assabet River with frontage off of Barton Road, a densely populated Lake Boon neighborhood with small lots and private well and septic systems.

Members agreed to reference the Table of Principal Uses ((Section 3.10 (5) of the Zoning Bylaw)) where Section 9.9 is referenced.

Town Counsel recommended that the following sections be deleted as they do not describe the proposed use:

- Educational Definitions as submitted in the petition.
- Educational Awards and Honors
- Package Of 281 Letter of Support for Collings Foundation
- Petition in Support of Applicant's Goals and Purposes.

Members agreed to list the materials submitted and delete the "submission" and "finding" text.

Collings Foundation Inc. Staff Qualifications - Town Counsel recommended that this section is not a discussion of use and suggested that it be included in a footnote. Members agreed that this section should remain as drafted. With a statement that “It is not clear how these individuals are involved in various activities.

Hunter Chaney Resume - Members agreed to label this as Hunter Chaney’s Bio and to include a statement that no information is provided related to schools, certifications or degrees.

Relationship between Collings Foundation and Collings Foundation Inc., and Past, Present and Current Activities - Town Counsel recommended this section be put in a footnote. Members agreed that it should be part of the main document and to move it to the section before “Collings Foundation Inc. Staff”.

Education is the Primary and Dominant Purpose of the Proposed Use - Town Counsel recommended that the Board make some finding as what it believes the predominant use/activities are, if not educational, as the Court did in the Metrowest case. In the Metrowest case the Court said that the predominant use was recreation and exercise purposes. The majority of members agreed that the predominant use of the property as proposed is “open air festival/exhibitions primarily for entertainment, and acquisition, restoration and curation of artifacts”. Members further agreed that much of the activity described as "educational" is, for many visitors, “entertainment”.

Access to the Site: Members agreed to add two additional findings:

- Barton Road is not adequate to serve a significant volume of traffic, including transport of heavy equipment such as military tanks.
- Based on input and concern raised about the dam, the Board finds that it is not appropriate to cross the dam with heavy equipment such as military tanks.

Site Improvements - Members agreed to remove the following finding due to a lack of agreement on the finding’s context: “There is no sign detailing the location of the entrance at the overflow parking area to service pedestrians parking on the southerly concrete pad.”

After the Board completed its review:

Stephen Quinn stated that he feels museums are educational and that he feels that the Town would be better served by an approval with conditions that can require access from Hudson.

Lori Clark stated that the vote should not be interpreted as if the Board is deciding whether or not museums are educational. The Board must make its decision based on overall application as it relates to Dover, which requires a broader view of the use and on information submitted in the Application.

Leonard Golder stated that the Board should take pause in that there is no Dover case law involving museums. He feels that the site plan is good and he would have liked to condition the application. He noted that a philosophy professor stated “the essence of something is what it is”. Leonard Golder feels that a museum is educational.

Stephen Quinn said the existing use is not regulated as it is and this could be an opportunity to regulate the existing and proposed use.

Lori agrees there are pros to the Hudson access but the Board should not base its finding on whether it is Dover protected based on add-ons that we would get.

Ernest Dodd moved to DENY the Site Plan Approval and Erosion Control Special Permit for the Collings Foundation Inc., as drafted and amended. The motion was seconded by Margaret Costello and carried by a vote of three in favor (Lori Clark, Ernest Dodd and Margaret Costello) and two opposed (Leonard Golder and Stephen Quinn).

Meeting Adjourned at 9:30 pm.

Respectfully Submitted,

Karen Kelleher
Town Planner