

TOWN OF STOW  
PLANNING BOARD

Minutes of the March 21, 2017 Planning Board Meeting

Planning Board Members Present: Lori Clark, Margaret Costello Ernie Dodd, Len Golder,  
Steve Quinn

Voting Associate Member: Mark Jones

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

**Discussion of Meeting Minutes**

**Minutes of March 7, 2017**

*Ernie Dodd moved to approve the minutes as amended.*

*Steve Quinn Seconded.*

**VOTED: 4-0 Unanimously in favor (Lori Clark, Ernie Dodd, Steve Quinn, Margaret Costello -Yea).**

**Executive Session Minutes of March 7, 2017**

*Ernie Dodd moved to approve the minutes as written.*

*Steve Quinn Seconded.*

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

**Public Input**

*John Colonna- Romano of 233 Boxboro Road noted that at a past Planning Board meeting, Toll Brothers said that once they closed the temporary access road they would do some restoration work to bring the road back to its original state. It is clear that the soil is impacted enough that regrowth is likely not possible. Jesse Steadman said that Toll Brothers agreed to provide a restoration plan, and the Town's engineering consultant is planning to visit the site tomorrow, so an update on this is expected soon.*

John Colonna-Romano asked if the original decision for Regency at Stow mentioned blasting, and noted that the Building and Fire Departments appear to be complying with protocol for blasting. Jesse Steadman said that the decision does not include conditions around blasting.

Len Golder arrived.

## **Member Updates**

Mark Jones and Margaret Costello discussed their experience at the Citizen Planner Training Collaborative Annual Conference, noting that they attended workshops on topics such as historic designation, easements, bonds, variances, special permits, and the Ch.30B process.

## **Planner's Report**

### **Lower Village Traffic Safety Improvement Project**

Jesse Steadman said that the Highway Department is doing pavement cores this week, which will help in determining the final project estimate.

### **117 Walcott Street**

Jesse Steadman noted that the new owner of 117 Walcott is interested in exploring whether the restrictive covenant for the property could be changed to allow for his daughter to live in an accessory apartment on site.

### **Box Mill Bridge**

Jesse Steadman said that the Box Mill bridge is on the Transportation Improvement Program (TIP) for 2019 and that staff will be discussing the design and pending Carver Hill Orchards Conservation Restriction transaction with MassDOT District 3 to determine if there will need to be any design changes.

### **Gleasondale Bridge Design**

Jesse Steadman said that he introduced himself to the outreach manager for the upcoming DOT bridge design process in Gleasondale and it appears that the Planning Department will be assisting the outreach team in setting up an initial meeting with stakeholders in the village.

### **Solar Decision**

Jesse Steadman noted that he has finalized the Draft of the solar decision and will have it ready for the next meeting.

### **Stow Acres**

Jesse Steadman noted that Peter Brown of Stow Acres Country Club visited the Community Preservation Committee regarding preservation opportunities for the clubhouse in lieu of upcoming renovations. The Historic Commission has invited him to attend their April 6<sup>th</sup> meeting to discuss the potential in more detail.

### **Complete Streets Prioritization Plan**

Jesse Steadman said that the RFP for a Complete Streets Prioritization Plan has so far been requested a couple dozen times. This morning the Planning Department held a pre-proposal conference and answered questions. Proposals will be opened by the selection committee in about two weeks.

## **Rules and Regulations Amendments**

Jesse Steadman presented a draft of Rules and Regulations amendments, including the removal of the requirement for return receipt requests on Certified Mailings for Special Permits and Subdivisions. The location of existing or proposed driveways was added to the Subdivision Rules and Regulations for required items to show when submitting an ANR plan. Lastly, how the Board amends a Special Permit was clarified, with language added around what constitutes a minor modification versus an amendment to the Special Permit.

The Planning Board agreed with the Rules and Regulations amendments. Jesse Steadman said that a public hearing will be held on these amendments, though no Town Meeting vote is needed.

## **Public Hearing**

**Citizen Petition to rezone a section of property located at 44 Box Mill Road for the purpose of constructing a single family home**

### **Present:**

*Mark and Sharon Burrell, 44 Box Mill Road*

Lori Clark opened the Public Hearing.

*Steve Quinn moved to waive the reading of the Public Hearing notice.*

*Len Golder Seconded.*

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

Lori Clark noted that the Planning Department mailed out notices for the Public Hearing.

Mark Burrell described the purpose of the petition and provided a description of the parcel. The parcel is a total of 5.5 acres with one house on 1.5 acres closest to Box Mill Road. The back portion of the parcel is cleared, level, and dry. Mark Burrell said that he is asking for the backyard acreage to be rezoned from Recreation/ Conservation to Residential to be able to build a retirement home.

Mark Burrell said that the parcel should be rezoned because it is not visible from the public way, and that rezoning would not change the character of the neighborhood, as residences and residentially zoned parcels abut his property. Mark Burrell said that as there is already commercial traffic on Box Mill Road, an additional home would have little impact on traffic. Mark Burrell noted that even with rezoning, a special permit from the planning board would be required.

Mark Burrell said that the current Recreation/ Conservation zoning is at odds with the land's topography, and that the lot isn't public recreation land, meaning the public doesn't benefit from it.

Mark Burrell said that an additional home would not be in danger of flooding.

Mark Burrell said that the Town would gain tax revenue from a home on the land were it to be zoned residential.

Mark Burrell said that he intends to build a small single family home to downsize, as is outlined in the 2010 Master Plan as a community interest. Otherwise, the land could potentially be developed as a 'pocket neighborhood' through Chapter 40b to include a number of homes.

Mark Burrell said that even though a Conservation Restriction is being proposed at Carver Hill Orchards, his land would not be visible from the proposed pedestrian access easement or proposed boat launch at the Carver Hill property.

#### *Public Comment*

*Nancy Arsenault of 267 Red Acre Road* asked about the 1988 rezoning of the land, and whether that action would legally allow or preclude any further zoning change. Lori Clark said that a rezoning of part of the land would not implicate future rezoning. Sharon Burrell stated that when the lot was rezoned, there was a mapping mistake, so in 1996 the error was corrected. Ernie Dodd noted that until 1986, houses were allowed in Recreation/ Conservation land, so the applicant at that time asked for a change.

*Don Hawkes of 9 Dawes Roads* questioned whether this would qualify as spot zoning, noting that if individual areas are chipped away, no matter how much of a personal appeal may be made, it opens the door for copycat rezoning. Don Hawkes said that at a previous public hearing on this petition, the argument was made that rezoning would allow for personal financial gain, another spot zoning concern, as a matter of land value should not be considered. Don Hawkes also said that the potential for a Conservation Restriction at an adjacent property should not enter into consideration.

Mark Burrell said that those issues are not represented in the Town's goals. Mark Burrell said that the Conservation Restriction potential at Carver Hill Orchards is an example of zoning change. The Town's interest in supporting retirement housing would include this project. Mark Burrell said that spot zoning is the process of singling out a parcel for a use totally different from that of the surrounding area to the benefit of one owner and the detriment of another. Mark Burrell said that because this parcel is surrounded by residentially zoned parcels, including the conservation area, this petition is not singling out this parcel. Mark Burrell commented on potential tax benefits to the Town in creating an additional residential unit.

Len Golder asked about the future of the land. Mark Burrell responded that the existing home would be sold, with a retirement home built in the back of the lot.

Len Golder asked about the creation of a road or driveway. Mark Burrell stated that the zoning bylaw encourages common drives, which they would attempt.

Steve Quinn clarified that the Planning Board is holding a public hearing on the citizen petition, yet there is no vote of approval or disapproval.

Ernie Dodd commented on the value of conservation land, saying that the bylaw values the protection of the balance of nature, to preserve and increase amenities of Town. The Town zoned this land recreation/conservation to protect the brook. Rezoning the lot would take a chunk of land out of R/C. Margaret Costello also expressed the importance of conservation around the Elizabeth Brook, and said that she believes the original home on the site negatively impacts the look and feel of the whole area.

Mark Jones said that he is concerned with incremental destruction of conservation land in Town. Regarding the need for elder housing, there are 66 units of housing in an Active Adult Neighborhood being built, and another 30 units planned at Plantation Apartments 2, so the Town has actively advanced those goals since the 2010 Master Plan. Mark Jones noted that the Town demographics could shift in the next 30 years, thereby shifting housing needs.

*John Colonna- Romano of 233 Boxboro Road* noted that if the parcel were to be rezoned residential, there is no guarantee that a hammerhead lot would meet dimensional requirements in that lot. Mark Burrell responded that the requirements would limit the footprint of the home, especially considering the needed setbacks from the brook.

Mark Burrell disagreed with the idea that rezoning this lot may open a door for others to apply for rezoning. Mark Burrell stated that the lot provides no public benefit as it is, as it is private property. Mark Burrell disagreed with the issue of nature disturbance.

Lori Clark said that at a future Planning Board meeting, support of Town Meeting warrant articles will be discussed. It will be a public meeting, but the Board will not take comments. The Planning Board does not determine if this rezoning is allowed or not, as that will be up to Town Meeting.

*Ernie Dodd moved to close the Public Hearing for the Citizen Petition to rezone a section of property for the purpose of constructing a single family home.*

*Steve Quinn Seconded.*

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

## **Subdivision Approval Not Required (ANR) Plan- 49 Old Bolton Road**

Len Golder recused himself as an abutter of 49 Old Bolton Road.

### **Present:**

*Helen Rizzo*

*Albert Scansaroli, Owner*

*Nancy Moran, Realtor*

Jesse Steadman said that this ANR plan will create three building lots and one non buildable lot between Great Road and Old Bolton Road. There is an existing dwelling on the property. The applicant included all required notes on the plans. Frontage is not an issue with this lot, and each lot created meets acreage requirements. The applicant reviewed all wells and septic systems within proximity of the lots and noted them on the plan. Ernie Dodd asked about the intended use of the non-buildable lot created. Nancy Moran said that the current use, a nursery, could be extended, and the lot will be marketed with another lot in the ANR. Otherwise, an abutter may wish to purchase it, she said.

Len Golder asked if there is any ledge that would require blasting to build the homes. Nancy Moran said no, as there is an aquifer.

*Ernie Dodd moved to authorize Jesse Steadman to authorize the ANR plan for 49 Old Bolton Road.*

*Steve Quinn Seconded.*

**VOTED: 4-0 Unanimously in favor (Lori Clark, Ernie Dodd, Steve Quinn, Margaret Costello- yea).**

## **Regency at Stow Acceptance of Legal Documents**

Jesse Steadman said that the acceptance of the legal documents for Regency at Stow will be pushed to a future Planning Board meeting, as some documents are still under review.

## **Lower Village Improvement Project Discussion**

Jesse Steadman said that the Planning Department will hold a public forum for the Lower Village Traffic Safety Improvement project on March 28<sup>th</sup>, having noticed abutters within 300' of the project.

Jesse Steadman said that the Highway Department and consultants at Howard Stein Hudson completed the pavement cores today, which is an important step in moving towards a final estimate.

Jesse Steadman noted the brief timeframe between receiving the plan of easements from the consultant and writing the easement acceptance article for the warrant at Town Meeting, as the warrant closes before staff will receive final easement plans. Town Counsel advised to write the warrant articles with some flexibility, so that once we are in receipt of the easement plans, the motions on the night of Town Meeting can be made more specific while still being within the 4 corners of the warrant article.

### **Temporary Moratorium on Recreational Marijuana Discussion**

Jesse Steadman reviewed the draft warrant article for a temporary moratorium on recreational marijuana, noting its similarity to the warrant article for a temporary moratorium on medicinal marijuana. The moratorium would last for 18 months, ending in November 2018. In April 2018, the State's Cannabis Advisory Board is scheduled to issue recommendations and regulations, therefore under the moratorium, the Town would have about 6 months to study those recommendations and craft a zoning response.

Ernie Dodd noted that although recreational marijuana did pass in Stow in November, it is unclear whether residents are only in favor of statewide legalization of recreational marijuana, or if residents are in favor of dispensaries in town.

The Board agreed that the temporary moratorium should be submitted for the Town Meeting warrant, and that a public hearing should be held at a future Planning Board meeting.

### **Executive Session- In Accordance with M.G.L. Ch.30A s.21 for purposes of discussing ongoing litigation**

Lori Clark stated that the last agenda item is an executive session, as public discussion would be detrimental to the litigation.

*Ernie Dodd moved to enter into Executive Session to discuss ongoing litigation and adjourn the regularly scheduled meeting of the Planning Board thereafter.*

*Steve Quinn Seconded.*

**Roll Call Vote: Lori Clark – Yea; Margaret Costello – Yea; Ernie Dodd – Yea; Steve Quinn – Yea; Len Golder- Yea.**

**Meeting Adjourned.**

Respectfully Submitted,

Valerie Oorthuys