

TOWN OF STOW  
PLANNING BOARD

Minutes of the September 21, 2021 Planning Board meeting

Planning Board members present: Lori Clark, John Colonna-Romano, Karen Kelleher, Nancy Arsenault, Margaret Costello, Mark Jones (Voting Associate)

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

**Correspondence**

Karen Kelleher asked if any Board action is required following correspondence regarding activities at 180 Crescent St. Jesse Steadman said that any issues are being handled by the Building Department, and that correspondence was provided just to update the Planning Board.

**Planning Board Member Updates**

Lori Clark reported that Nan's Market made a post on Instagram stating they do not intend to pursue any outdoor seating this year, and that the Town created too many obstacles for too long for them to follow through on the seating proposal. Karen Kelleher noted that the Special Permit granted in July will remain valid for two years, and the applicant can return with required plan modifications within that time.

**Planner's Report**

Town Planner Jesse Steadman reminded the Board of several public meetings happening in October. Jesse Steadman said that there will be a public forum on zoning in Lower Village with the Planning Board, Economic Development & Industrial Commission, and Lower Village Revitalization Subcommittee on Oct 7<sup>th</sup> at 7pm. Jesse Steadman said there will also be a Public Hearing on proposed zoning amendments on Oct 19<sup>th</sup> at 7:30pm.

Jesse Steadman said he met with the owners and tenants at Nan's Market to discuss compliance with the existing Special Permit. Jesse Steadman said the owners have recognized that the season for outdoor dining has passed and that they will try to come into compliance with the Special Permit sometime in the Spring before any of the proposed uses commence, and that there may be a request for a further permit modification at that time. Karen Kelleher said that the owners must make the plan modifications conditioned in their Special Permit from July before the Board would consider a further permit modification. Karen Kelleher said that the Board should not lose sight of the outstanding conditions and required plan modifications from the most recent Special Permit.

Jesse Steadman said the Planning Board will soon see an "Approval Not Required" (ANR) plan from Plantation Apartments II to complete a land swap with an abutter to allow adequate area for their water supply. Margaret Costello asked if that work explains a new access road created next to Minister's Pond. Jesse Steadman confirmed the purpose of that access road, and that it will be gated and not accessible to the public once completed.

Jesse Steadman said he has been discussing a proposal for a possible lot division through ANR at a parcel on Maple St. Jesse Steadman said the potential applicant is discussing ways to divide the existing 3-acre lot to have adequate frontage and maintain large enough buildable areas. Jesse Steadman said the Board may receive correspondence regarding the site in coming weeks.

Jesse Steadman said that he has been monitoring the stormwater reports for the Spring Hill Estate subdivision and has no pressing concerns about their erosion controls at this time.

Margaret Costello said she will not be available for the next Planning Board meeting.

### **Appointments to Lower Village Revitalization Subcommittee**

Jesse Steadman said that the Lower Village Revitalization Subcommittee had been appointed to take a closer look at Lower Village and produce a report with a vision that would eventually result in zoning recommendations. Jesse Steadman said that the subcommittee had produced a report outlining a vision for Lower Village after months of work and had requested that the charge be updated to study water supply issues and zoning in greater depth. Jesse Steadman said that the Planning Board had updated the charge of the subcommittee and re-appointed all members, and shortly after Covid-19 emerged and stalled that work. Jesse Steadman said that zoning recommendations have been received from a zoning consultant and the subcommittee is due for re-appointment to continue their work. Jesse Steadman noted that Nancy Arsenault has already been appointed by the Planning Board as representative to the subcommittee during the Planning Board Annual Appointment. Jesse Steadman said all previous members had submitted letters of interest, as well as Katie Fisher for one of the at-large seats.

Lori Clark asked the Board for comments on the interested parties. John Colonna-Romano asked if the previous committee had worked well together. Jesse Steadman said he thought they had, and that members he had spoken with are eager to resume their work that was interrupted in 2020.

John Colonna-Romano asked which areas the subcommittee is expecting to work on this year, and if any applicants would be especially qualified. Karen Kelleher noted that the notice of vacancy lists collecting water case studies and recommending zoning changes. Lori Clark noted that the subcommittee had agreed to yearlong appointments with a specific policy focus laid out in the updated charge. Margaret Costello asked if the subcommittee is required to be 5 members, and that she does not like to have to turn away a willing volunteer. Lori Clark said that the Planning Board could appoint associate members to the subcommittee. Karen Kelleher spoke in favor of creating an associate member and raised concern that a committee with an even number of members could lead to voting complications. Jesse Steadman said that it would require a vote of the Board and reposting of the vacancy to expand the size of the subcommittee to include a sixth full voting member. Karen Kelleher said she would prefer the committee remain a 5-member board with the potential for associate members. Board members agreed that the subcommittee should remain a 5-member board but could welcome associate members.

Margaret Costello said that she is not sure how to best select the 5 members of the committee. Karen Kelleher noted that the previous members have demonstrated experience serving on the Board. John Colonna-Romano said that given that the committee was paused last year, he would suggest that the prior committee be re-appointed with previous members. Lori Clark said that the committee's yearly reorganization would allow an associate member to step into the role easily as members moved in and out.

Resident Mark Forgues said that one of the members should be someone who lives in the Lower Village, and that he does not believe any of the previous members do. Mark Forgues said that the “tree guy” (referring to Jonathan Bransfield) is looking to self-serve by sitting on the subcommittee. Katie Fisher said that so much has changed in Lower Village since Covid began and since the committee started. Katie Fisher said that if the subcommittee starts where it left off, they will not be able to adapt to the situation in Lower Village.

Resident Dorothy Granat said that she has seen a lot of changes in Lower Village and that she would like to see a resident serve on the committee that has the interest of the Town at heart as opposed to many of the businesses in Lower Village.

*Karen Kelleher moved to appoint Tom Farnsworth as representative of the Economic Development & Industrial Commission, Megan Birch-McMichael as representative of the Select Board, and Jen Gero and Jonathan Bransfield as at-large members to the Lower Village Revitalization Subcommittee, and that the Planning Board recommend to the Subcommittee that they appoint Katie Fisher as an associate member. Nancy Arsenault seconded*

**Roll Call Vote:** Lori Clark -**Yea**; Karen Kelleher -**Yea**; John Colonna-Romano -**Yea**;  
Margaret Costello -**Nay**; Nancy Arsenault -**Yea**

Katie Fisher requested to be appointed as an associate member of the Planning Board.

### **137 Harvard Road Erosion Control Special Permit – Public Hearing Continuance**

Lori Clark said she will ask for comments from the Planning Board before public comment, and that the applicants and their designee have a choice to respond to any comments but are not required to respond.

Rich Harrington introduced himself as the engineer contracted by applicant Jon Giordano. Rich Harrington said that work is complete on the site and that the site has been stabilized following installation of utilities. Rich Harrington said the new plans now shown at the hearing used the same contours previously provided to the Planning Board but in cleaner format. Rich Harrington provided background on the permitting up to this point and reminded the Board that he became involved in this project only after the Erosion Control Special Permit had been applied for. Rich Harrington said that he is hoping to close the hearing tonight or get some agreement from the Zoning Enforcement officer that the applicant is actually in compliance with zoning bylaw sections cited by the town in a previous cease and desist letter.

Rich Harrington highlighted areas of the site plan to show site clearance was less than 1 acre and did not result in any changes to grades. Rich Harrington provided an overview of all the work that was done on the site, including improvements to lawns, foundation drains, septic, and gas line installations. Rich Harrington shared updated plans that had not previously been seen by the Planning Board.

Lori Clark asked Rich Harrington to further explain why he was treating the two parcels as separate sites and arguing that the area disturbed does not trigger the requirement for an Erosion Control Special Permit. Lori Clark said that the applicant had expressed interest to complete the application and finish the permit. Lori Clark said Rich is arguing about whether there should have been an application at all, and not

based on the application at hand. Rich Harrington said that the Development Impact Statements accounted for the site clearance, and that the information is sufficient to close the public hearing and render a decision. Lori Clark recalled a previous determination from the former Building Commissioner that the parcels are in common ownership and shall be considered a single site for permitting purposes.

Margaret Costello asked why Rich Harrington is attempting to challenge procedure at this point. Rich Harrington said that his opinion is that the site work does not qualify as site disturbance and should not have triggered a requirement for an Erosion Control Special Permit, and that he does not believe the Special Permit process will result in the best outcomes.

Lori Clark asked if a survey pin had been moved, which had been alleged by an abutter. Rich Harrington said that is a matter between the neighbors and the professional land surveyor who surveyed the site. Margaret Costello asked if Rich Harrington does not believe it is the applicant's responsibility to replace a removed survey pin. Rich Harrington said that the matter would have to be handled between the abutter and the firm that did the original surveying.

Karen Kelleher noted that late-arriving correspondence from Sue Carter, the Board's Consulting Engineer, provided some comments about the degree of site disturbance. Karen Kelleher said that the assessment and recommendations from that email should be included as information for drafting a Special Permit decision.

Lori Clark asked if the second lot meets dimensional and other zoning standards to be considered a buildable lot. Town Planner Jesse Steadman said that it does not.

John Colonna-Romano said that the Planning Board should continue with the current process and allow the applicant to appeal the process at a later time if they choose to do so. Nancy Arsenault agreed that the Board should continue with deliberation.

Lori Clark said that the situation is unique in how the Special Permit is being sought after work has been completed. Lori Clark said that it is important that the Board note all work that was done during the Public Hearing. Lori Clark asked Rich to recall the work that has been done at the site to date. Rich Harrington said that a gas line had been installed along the eastern edge of the house lot and related stormwater mitigation was also completed at that location. Rich Harrington said that frontage along the road had been cleared of debris. Rich Harrington said that measures to slow down runoff coming from uphill of the site have all been completed. Rich Harrington said that additional concerns are a matter for the Highway Department to address, especially those regarding water on the roadway.

Karen Kelleher said that the Planning Board has ample information to close the public hearing tonight and make findings about work that has been completed to date and necessary measures to mitigate the impacts.

Resident Mark Forgues said that many trees have come down in the same area of town and asked if Erosion Control Special Permits would be required for any resident that cuts down trees on their property. Lori Clark said that the Zoning Bylaw required a Special Permit for site disturbance over 32,000 square feet. Mark Forgues said that it does not make sense for the town to require a Special Permit for work done on gas line installation and septic work. Lori Clark said that the Building Commissioner had made a determination that a Special Permit was required and the Board is following through on that.

Abutter Jon Mascia asked if the Planning Board believes they have enough information to close the Public Hearing and raised issue that consulting engineer Sue Carter did not do a full walk of his abutting property. Jon Mascia asked if there had been a follow up on the leach field in response to an odor noticed by the Planning Board during a site visit. Jesse Steadman said that a Board of Health agent had inspected the field at the Planning Board's request and found no issue. Jesse Steadman reminded the Planning Board that the septic system does not fall under their jurisdiction. Jon Mascia asked if the septic system approval on the second lot meant that lot could be developed in the future. Karen Kelleher said that a septic approval is not sufficient to determine a lot is buildable and explained the process the Zoning Board of Appeals would need to go through to make a determination that the lot is a pre-existing nonconforming lot.

Jon Mascia asked if the undeveloped would need to go through an erosion control special permit process to be built upon. Karen Kelleher said it likely would not require such a permit, given the dimensions. Jon M said that water is still coming off the undeveloped lot and flooding his basement and asked if the Erosion Control Special Permit regulates the increased wind onto his property. Lori Clark said that increased wind is not regulated under the Erosion Control Special Permit.

Jon Mascia asked if consulting engineer Sue Carter would come and see where the water is entering his property from the undeveloped lot. Lori Clark said that Sue Carter's email to the Board stated that there is no reason to believe clearing work on that lot has increased the rate or volume of stormwater runoff from the lot.

*Karen Kelleher moved to close the public hearing*  
*Nancy Arsenault seconded*

Nancy Arsenault asked if there had been any change in runoff onto abutter Kathy Konno's yard since work was completed near the gas line installation. Kathy Konno said that the completed work appears to be helping.

Lori Clark commented that through this hearing there have been challenges identified that needs to be pursued outside of a Special Permit process. Lori Clark said runoff from Wedgewood Country Club is one example and the Highway Department will need to be approached about making improvement to roadway drainage in the area.

**Roll Call Vote:** Lori Clark -**Yea**; Karen Kelleher -**Yea**; John Colonna-Romano -**Yea**;  
Margaret Costello -**Nay**; Nancy Arsenault -**Yea**

Lori Clark said that the hearing is now closed, and the Planning Board will deliberate on the decision at an upcoming meeting and will not be able to accept new information.

#### **ANR Review – Land in Vicinity of 117 Walcott St / Spring Hill**

Jesse Steadman said that staff have reviewed the plan for compliance with Rules and Regulations governing the subdivision of land. Jesse Steadman said that the ANR would create a new parcel from a remnant parcel at the Spring Hill subdivision. Jesse Steadman said that there is an existing covenant for the land that would require the access road be brought up to full subdivision standards if an additional

home is built. Jesse Steadman said that this parcel will not be used for home construction, but instead as pasturing land with enough area to be placed into Chapter 61 protection. Jesse Steadman said that the proposed lot does not have adequate frontage under the zoning bylaw and has been noted as “not a building lot” on the plan accordingly.

Karen Kelleher asked if new “Parcel B” would be combined with an adjoining lot for the pasture. Jesse Steadman said that a different parcel would need to be modified to create a single contiguous lot. Applicant Randy Carpenter said that he will swap portions of land with a neighbor to create access to the new lot and create a contiguous parcel. Jesse Steadman confirmed that further modification of the lot lines for such land swap would require a further ANR process.

Margaret Costello asked why “parcel A” is not a buildable lot. Karen Kelleher recalled that an agreement for the Spring Hill Estates Subdivision requires that any further division for buildable house lots would require the access through Pennie Lane to be brought up to proper subdivision road standards.

*Karen Kelleher moved to endorse the plan titled “Plan of Land in Stow, Mass” prepared for Real Estate Marketplace by David E. Ross Associates, Inc., and to authorize Jesse Steadman to sign the plan on behalf of the Board*  
*John Colonna-Romano seconded*

**Roll Call Vote:** Lori Clark -**Yea**; Karen Kelleher -**Yea**; John Colonna-Romano -**Yea**;  
Margaret Costello -**Yea**; Nancy Arsenault -**Yea**

### **Joanne Drive Subdivision – Project Updates**

Town Planner Jesse Steadman said he has been in contact with the developer and that conditions for an occupancy permit for Lot 1 have been met based on the status of tree planting and property bounds as conditioned in the modified subdivision decision. Jesse Steadman said he will give a go-ahead to the Building Department when the developer requests that occupancy permit and will be in contact with the Conservation Commission to monitor installation of a culvert at the site.

### **Review of Proposed Zoning Bylaw Amendments for Oct 30th Special Town Meeting**

Jesse Steadman said the rationale for proposed amendments to the Marijuana section is for the bylaw to reflect election outcomes in 2018, in which Stow voters accepted some marijuana-related uses and rejected others. Jesse Steadman said that the proposed amendments are only intended to reflect these outcomes and do not change any regulations for marijuana establishments.

Jesse Steadman said that section 9.2.7.14 of the Zoning Bylaw requires that projects allowed by Special Permit construct a sidewalk along frontage or provide a fee-in-lieu. Jesse Steadman said that in the past the Board has needed to accept sidewalks in unsuitable locations or accept the fee-in-lieu. Jesse Steadman said the proposed amendment would broaden the requirement to include a wider variety of “complete streets improvements” and provide greater flexibility for improvements to be made at suitable locations around town.

Jesse Steadman said that the Economic Development & Industrial Commission (EDIC) has sent a letter requesting a zoning amendment that would allow any internally illuminated signs, so long as they



conform to other sections of the signage bylaw Lori Clark said the EDIC's proposal does not consider unintended consequences of removing all restrictions on internally illuminated signage. Assistant Planner Malcolm Ragan offered two approaches to amending the signage section of the Zoning Bylaw. One would allow each establishment in the business, commercial, and industrial districts to use a single internally illuminated window sign not greater than 3 square feet in size. Another approach would not limit the number of internally illuminated signs allowed per establishment but would restrict each sign to 3 square feet and limit the total area covered by such signs to 25% of each window. The Planning Board expressed preference for the approach that would allow a single internally illuminated sign per establishment. Lori Clark said that the Board needs to take a baby step before undertaking further and more comprehensive amendments to the Sign Bylaw.

Nancy Arsenault asked if there is some language that regulates flags. The Board noted that flags are not currently regulated in the Zoning Bylaw. Nancy Arsenault said a former vape shop's sign has stayed up for a long time after closing and suggested that any future amendment require a timeline for removing unused signage.

### **Active Adult Neighborhood (AAN) Rules and Regulations Update**

Jesse Steadman reviewed previous discussions and summarized how the proposed bylaw changes would bring some inconsistent floor area definitions into alignment and allow reasonably sized basements. Margaret Costello said she is opposed to the use of the FLOOR AREA definition from the Zoning Bylaw for area restrictions on new housing in an AAN district. Jesse Steadman recounted that using the GROSS FLOOR AREA would have required that basements be less than 6 feet high to not be included in the calculation.

Nancy Arsenault remarked that she visited some cottage dwellings under construction in Harvard that were between 1900-2200 square feet, and that those dwellings were tall compared to their footprint. Nancy Arsenault commented that those homes have very limited yards and said that a similar future development in Stow should provide ample green spaces.

Board members made several minor edits to the Rules and Regulations for Active Adult Neighborhoods.

Mark Jones suggested a requirement that at 25% occupancy residents be allowed into the newly created Homeowners Association (HOA) as non-voting members to learn how to participate in the HOA. Lori Clark suggested that the regulations simply require some resident representation on the HOA board. Jesse Steadman said he will update the relevant sections.

Margaret Costello requested that greater specificity about requiring infrastructure to encourage ride sharing and public transportation use by the residents. Jesse Steadman said he will provide a standalone item in a further revision.

The Board discussed their proposed parking minimums. Nancy Arsenault expressed concern that 25% of the units would be a high value for calculating common facility parking. Margaret Costello suggested the value be lowered to 20% or 15% of units. Jesse Steadman said the way it is written allows the applicant to request the number be amended in the face of compelling information. Karen Kelleher said that the base number in the rules should be low and require the applicant to argue that they need more, which the Board would have the liberty to grant if needed.

DRAFT

Jesse Steadman suggested that the Board deliberate on the 137 Harvard Road Erosion Control Special Permit at the following meeting. Lori Clark said that that discussion should also handle how the Planning Board will address issues raised in the hearing that fall outside their explicit jurisdiction.

*Meg Costello motioned to adjourn*

*John Colonna-Romano seconded*

Respectfully submitted,  
Malcolm Ragan