

TOWN OF STOW  
PLANNING BOARD

Minutes of the September 14, 2021 Planning Board meeting

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

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

**Minutes**

*Margaret Costello moved to approve the minutes of the August 24, 2021 meeting as amended  
John Colonna-Romano seconded*

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

**Public Input**

Mark Forgues asked if the Planning Board would consider moving their meetings to another night so that residents could attend the Planning Board meetings as well as the Select Board meetings. Lori Clark said that the Board would consider the request.

Jon Mascia asked what criteria Planning Staff use to determine which correspondence is published for Planning Board meeting packets. Jon Mascia expressed concern that his schedule details were being published on the Town website. Jesse Steadman said that staff are challenged in determining which correspondence is acceptable to be published on the Town website and cited the need to comply with the Open Meeting Law. Jon Mascia asked about updates on 137 Harvard Road, Jesse said that he has spoken with the Engineer and is pressing them to provide updated plans soon.

**Planning Board Member Updates**

John Colonna-Romano said the Community Preservation Committee (CPC) recommended at its last meeting that the Town purchase a portion of the Stow Acres North Course and to apply \$2.5 mil in Community Preservation Act (CPA) funds toward that project. John Colonna-Romano said the final spending will now need to be approved by voters at Town Meeting.

**Planner's Report**

Jesse Steadman said there will be a Special Town Meeting on Saturday, October 30th, primarily to vote towards applying CPC funds toward the purchase of the North Course of Stow Acres. Jesse Steadman said that this will build on the actions taken by last town meeting to purchase a Conservation Restriction on the South Course. Jesse Steadman there would be one more public forum prior to that Special Town Meeting to provide voters with additional information.

Jesse Steadman said that the Planning Board ought to review some proposed zoning amendments from its annual workplan ahead of the upcoming Special Town Meeting. Jesse Steadman said that he will publish a notice of a public hearing for the proposed zoning amendments, and that the hearing will likely fall after the warrant submission deadline on Oct 4<sup>th</sup>. Jesse Steadman said there will be proposed minor amendments to the Active Adult Neighborhood overlay district, following up on discussions with a potential developer. Staff have drafted updates to section 9.2 of the zoning bylaw, which governs sidewalks and complete street improvements required for Special Permits. Also included will be a cleanup of the sections governing recreational marijuana in Stow, which will be updated to reflect ballot outcomes in 2018 and remove reference to a temporary moratorium which is no longer in effect. Jesse Steadman said that the Economic Development & Industrial Commission will submit a letter requesting amendments to the signage sections of the Zoning Bylaw, specifically those which regulate the use of internally illuminated signs. Jesse Steadman said that the Board can host a public hearing on all these proposed changes and delay bringing any of them forward until the following Annual Town Meeting if needed. Jesse Steadman said the Board should dedicate some time on the Sept 21 agenda to discuss these zoning proposals.

Jesse Steadman said there will be a presentation on Oct 7<sup>th</sup> about how to match zoning with the Town's vision for Lower Village. Jesse Steadman said consultants Dodson & Flinker have provided staff a preliminary report with some zoning recommendations, based upon case studies of similar business districts. Jesse Steadman said the Oct 7<sup>th</sup> forum will be conducted as a joint meeting of the Planning Board, Lower Village Revitalization Subcommittee, and the Economic Development & Industrial Commission.

Jesse Steadman said there should be updated plans and accompanying review regarding the Erosion Control Special Permit at 137 Harvard Rd available for the Board's review before the following meeting.

Jesse Steadman said he met with the owner of Stow House of Pizza and their engineer to give them clear instructions on what is expected for plan modifications. Jesse Steadman said there would likely also be a request for a permit modification when those plans are submitted.

Jesse Steadman said that he had sent a letter to the developer of Spring Hill Estates expressing concern that erosion controls have not been installed below lots that are expected to apply for building permits soon. Jesse Steadman said that he is also concerned about some existing erosion controls being in bad repair, but that efforts have been made to make improvements. Jesse Steadman said that he would await the following Stormwater Pollution Prevention Plan before taking any further actions.

Jesse Steadman said that the Boston Region Metropolitan Planning Organization (MPO), which handles regional transportation planning, will be visiting Stow for an assessment of the Town Center intersection.

Jesse Steadman said that he is finalizing a contract with Green International for engineering assessments for the crosswalk between Town Building and Town Hall, which will help ensure the best placement of new pedestrian warning beacons.

Jesse Steadman said that members of Sustainable Stow have met with Habitech, prospective developer of an Active Adult Neighborhood at Athens Lane, about creating energy efficient buildings. Jesse Steadman reported that Sustainable Stow had a productive discussion with the developer.

## **Joanne Drive Subdivision – Minor Modification Request & Project Update**

Jesse Steadman updated the Board that developer Chuck Black had previously decided to delay pursuing a minor modification to the subdivision approval for Joanne Drive in order to reach an agreement with the Conservation Commission on a timeline for conveying the open land parcel of the development. Jesse Steadman said that Chuck Black has recently installed street trees and marked locations for buffer trees adjacent to Lot 1 of the development, with some Town guidance. Jesse Steadman said that Chuck Black hopes to have all trees in for late September.

Jesse Steadman said the drafted minor modification before the Board provides an option to install all trees before Occupancy Permits are granted or to deliver a letter from buyers granting permission to the developer to plant the trees shown in the Definitive Subdivision Plans. Jesse Steadman said that a similar schedule has been offered for the installation of lot bounds.

Margaret Costello asked for review of what the Planning Board previously agreed upon as a condition for remediating open land and cleaning up debris. Jesse Steadman said that the currently drafted decision requires inspection before conveyance to the Conservation Commission.

Chuck Black said that Street Trees have been installed on Lot 1 and property bounds have been ordered. Chuck Black said that he and abutter Scott Bracci will be meeting soon to agree on exact placement of buffer trees, with an understanding that some of those trees will be planted on Mr. Bracci's property. Chuck Black said that he had not withdrawn money from the bond account for phase 1 at this time.

Lori Clark asked for comments from the Planning Board if they considered the request a minor modification not requiring a public hearing. Board members agreed that this request constituted a minor modification.

*Margaret Costello motioned to determine the zoning request a minor modification not requiring a public hearing*

*John Colonna-Romano seconded*

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

Jesse Steadman reminded the Board that the Open Land would need to be inspected and conveyed to the Conservation Commission prior to issuance of the 6<sup>th</sup> of 7 Building Permits for the subdivision.

Mark Jones asked if Chuck Black plans to install trees on further lots this building season. Chuck said that he will not and will likely need to ask for another minor modification during the winter for the following lots. Lori Clark recalled that the Planning Board has expressed preference for requiring either complete plantings or a letter from lot owners providing the developer to plant trees after people have moved in, and that this condition would carry over to any further modifications. Mark Jones expressed concern that the Planning Board will need to modify their decision for each lot. Mark Jones asked how Chuck Black could package his modification requests so that the Board does not need to modify the decision for each lot. Chuck Black said that he could not install the trees while heavy construction was ongoing. Chuck Black said that some of the Town's subdivision rules and regulations are unreasonable and cannot be met with advance planning. Lori Clark suggested that the decision allow the choice of planting or letter

granting access for all lots in the development. Planning Board members agreed to amend the draft minor modification to allow the option of a letter granting entry to plant trees as a condition for Occupancy Permits. Lori Clark said that the Planning Board has been obstructed in getting street trees planted after occupancy was granted for previous developments.

Margaret Costello asked if Chuck Black plans to stake the location of the trees so that homeowners could not haggle with him over exact location. Chuck Black agreed to stake locations. Margaret Costello also asked about bounds. Chuck Black said that they will be located where surveyors have staked out and are backordered due to greater supply chain issues.

Mark Jones suggested that Chuck Black work with the Tree Warden on placement and other details of all street trees. Jesse Steadman said that it could be a good idea to meet with the developer and the tree warden as lots are further developed. Lori Clark said that the Tree Warden's input is most helpful when they have some idea how the lot will be developed.

*John Colonna-Romano moved to approve the Joanne Drive Definitive Subdivision, Planned Conservation Development and Erosion Control Special Permit, Inclusion of Affordable Housing, and Site Plan Approval Minor Modification #1 as amended*  
*Nancy Arsenault seconded*

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

#### **Nan's Market Plan Modification Review**

Lori Clark reminded attendees that this is not a public hearing, but only a public meeting. Lori Clark said that the purpose of this meeting is not to collect information and testimony from the public, but instead for the Board to review the required modifications and make determination of whether any modification can be made before she calls for input from the public. Lori Clark said that the applicant has been asked to submit plan modifications to come into final compliance with the conditions of their Special Permit from July.

Lori Clark said the Planning Board has received information from the applicant and a Planning staff review and asked for Board member comments. Mark Jones said that the modifications proposed are beyond the conditions of the Special Permit decision and should require a new public hearing. Nancy Arsenault said that there is clearly a lot of information to be heard, but that she believes no decision will satisfy everyone involved. John Colonna-Romano suggested going through the submitted plan modifications one by one.

Patio area lattice screening – John Colonna-Romano said he is fine with screening not being installed if no seating is being planned for that patio area. Nancy Arsenault recalled that the applicant proposed using the space for retail in the future. Lori Clark said that no specific use had been proposed in the application and so nothing had been conditioned in the Special Permit decision. Margaret Costello said she does not want to continually revisit this decision, and that the Planning Board should require a compliance timeline for the screening as it was originally conditioned in the 2015 Special Permit decision. Lori Clark said that it has been difficult to condition the permits because the proposed uses are frequently shifting. Lori Clark said that the fact the applicant is putting potential future uses in their plan modifications document

suggests they would need to return for a Special Permit modification for that use to be formally approved. Nancy Arsenault noted that the applicant said they may install landscaping along that property line at a time future use is commenced. Lori Clark said that the Planning Board cannot assume future uses and make conditions in anticipation. Lori Clark focused her question and if the Planning Board is ok with there not being lattice screening if there is no use on the patio. John Colonna-Romano said that if it serves no use, he is fine with it not being there. Jordan Mackey said that he has the lattice and is happy to install once he has completed other work on the site, but that the screening would be frequently removed to maintain access to the basement of the building. Margaret Costello and Mark Jones agreed that the Board should see a clear timeline for installation of the screening before the plan modifications are approved. Lori Clark said that if the Planning Board considered a minor modification to the Special Permit, there should be a clear condition requiring installation of the screening. Abutter Karen Martinsen Fleming said that she does not wish to view activity at the back of the business and requested a fence along her property line. Lori Clark said that the conditions around the patio screening should have required a clear timeline for installation.

Seating arrangement – Nancy Arsenault said she sees no problem with the proposed seating arrangement, as the tables and chairs are properly setback and can reasonably be expected to hold the number of patrons conditioned in the Special Permit. John Colonna-Romano said there is some advantage to limiting the concentration of activity, but that the Adirondack chair in the North may need more than a 30 ft setback given there is no fence at that location. Mark Jones said the plan should display the 30 ft setback. Margaret Costello said that the 30 ft buffer should not be compromised anywhere on the property. John Colonna-Romano reiterated that the seating on the back side could need more buffering than 30 ft given the lack of fencing. Lori Clark said that the decision allowed for seating in two locations but that the plan modifications have seating across the property. Lori Clark reiterated that this review is supposed to be of compliance with the decision. Jordan Mackey said that he was never intending to use the patio but was permitted to use it anyhow, which forced him to make a compromise of seating locations. Lori Clark said that the applicant said during the public hearing that he intended to reserve the patio for future uses. Lori Clark continued to pose the question to the Board about whether the applicant's submission shows plan modifications as required in the most recent Special Permit, can be accepted by the Planning Board as a minor modification to the Special Permit not requiring a public hearing, or is a major modification to the Special Permit requiring a new public hearing.

Mark Jones said that he does not believe this plan constitutes a minor modification. John Colonna-Romano and Nancy Arsenault agreed that the plan modifications cannot be accepted as is. Margaret Costello said that her first job is to protect the abutters, and that information she is reading suggests that the business is continuing to be disruptive to neighbors. Margaret Costello said that she does not want to renegotiate this permit every 6 months. Lori Clark said that she considers the modifications proposed by the applicant as a request for a modification to the permit, which she does not consider so minor as to not require a new public hearing.

Lori Clark said that Jordan can get approval for outdoor seating with a modified plan that stays within the boundaries of the Special Permit decision. Jordan Mackey said that the Planning Board should consider the submitted plan to be amended to not include seating on any location other than the Eastern lawn. John Colonna-Romano said that he is fine with any such seating in that area as long as it meets the setback requirements of the decision.

Abutter Dave Batsford asked clarification if the seating count applies to the amount of seating that can be provided by the business or the headcount of everyone on the site. Lori Clark said that there are other conditions regulating the total site capacity. Sarah Cleary said that she believes the picnic tables allow for 6 customers, and the management plan should reflect that in the seating counts. Sarah Cleary said that she is doubtful that a person tasked with managing attendance will actually turn customers away. Mark Forgues said that there should be conditions for preventing people accessing catch basins. Abutter Mark Dexter asked when the fence required along the eastern property line would be built, site owner Weston Fisher said permits have been approved and the work should begin the week of September 20<sup>th</sup>.

Screening on Northern Property Line – Nancy Arsenault asked if there would be any screening there during off season times. John Colonna-Romano said the proposed vine barrier could prove more interesting than tree plantings. Margaret Costello said that the vines do not provide any substitution to thicker tree screening. Jesse said that the conditions states planting of additional evergreen trees along the existing fence line, and that this proposal appears to constitute a modification from that condition.

Mark Jones recalled that the Planning Board is interested in trees because the Board heard that many of the abutting Crescent Street properties looking down on the seating area from a higher elevation. Jordan Mackey asked for clarification about where additional planting is required. Jesse recalled that the decision conditions additional plantings along the existing and proposed fence lines. Margaret Costello said that photographs from abutters show that screening has gaps, and that trees could help plug these gaps. Jordan Mackey commented that trees will take several years to grow in and asked for clarification about tree height requirements. Jesse Steadman said he will review relevant rules and regulations and provide that information to the applicant.

Lori Clark summarized that in order to comply with the most recent Special Permit, the applicant must submit plan modifications that located seating in the permitted areas, noted the location of additional tree plantings and confirm that they have been planted, and contain some note about the installation of lattice screening at a later date.

Margaret Costello said that there should be no-parking signs along the edge of Great Road. Jesse Steadman cautioned the Planning Board to limit conditions to those things over which they have statutory authority.

Abutter David Korn said that he supports the business and hopes that there is still a way for the business to operate in the face of Planning Board conditions.

Jordan Mackey said that he is no longer interested in pursuing the outdoor seating and will not submit plan modifications in line with the approved Special Permit decision. Nancy Arsenault implored Jordan to complete the requested plan modifications that would allow for some outdoor seating. Jordan Mackey stated that the entire process has been prohibitively difficult and he is no longer interested in pursuing the seating given the constant pushback he has received from abutters and the Planning Board.

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

Jesse Steadman suggested that this discussion wait until the Rules and Regulations can be discussed in conjunction with the proposed bylaw amendments.

**Nan's Market (cont.)**

Lori Clark informed site owner Wes Fisher that plan modifications must be approved before any of the proposed uses can commence.

*Margaret Costello motioned to adjourn  
John Colonna-Romano seconded*

Respectfully submitted,  
Malcolm Ragan