

TOWN OF STOW
PLANNING BOARD

Minutes of the October 19, 2021 Planning Board Meeting

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

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

Previous Meeting Minutes

Karen Kelleher moved to approve minutes of the October 12, 2021 meeting as amended.

John Colonna-Romano seconded

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

Correspondence

Nancy Arsenault addressed rumors spread through social media suggesting the proposed Master's Academy will be a non-profit institution with a religious focus. Nancy Arsenault asked if and how the Planning Board could address this misinformation. Lori Clark asked Town Planner Jesse Steadman if the Planning Board will receive definitive information about the proposed academy. Jesse Steadman said the Board will view a short presentation about the proposal at this meeting, which will be repeated for the public hearing on October 26th. Lori Clark said that the Planning Board will hold off on taking public comment on the proposed zoning change until the proper public hearing on the 26th.

Planner's Report

Jesse Steadman said that he is working on drafting a decision for the 137 Harvard Road Erosion Control Special Permit, and that the Board should expect to vote on the decision in November. Assistant Planner Malcolm Ragan reminded the Board that the deadline to vote on a decision is December 20th.

Jesse Steadman said that there will be a public hearing on updated rules and regulations for Special Permits, Subdivisions, and Active Adult Neighborhood Special Permits on November 9th. Jesse Steadman said staff will prepare a memo to the Board to summarize the key elements of the changes.

Jesse Steadman said he has drafted a letter to the Department of Housing and Community Development (DHCD) to request flexibility for towns like Stow in meeting the requirements of recently passed housing choice legislation. Jesse Steadman said the Town of Stow should not be penalized and excluded from state grant funding pools for developing affordable housing without use of a by-right multifamily housing district. Jesse Steadman said the Town of Stow has made significant progress toward its affordable housing goals through other zoning techniques. Jesse Steadman said he raised the issue with State Representative Kate Hogan and State Senator Jamie Eldridge, and that they are awaiting a full letter on the matter.

Jesse Steadman said staff have started research into possible zoning amendments for Annual Town Meeting in Spring 2022. Jesse Steadman provided an update on paving work in front of Town Building. Jesse Steadman said some vehicle count tubes have been placed across Great Road/Route 117 in several locations approaching Town Center, which will provide data to engineers who are assessing the best location for a new pedestrian crossing beacon between Town Building and the old Town Hall.

Jesse Steadman said he has reached out to an abutter of the 118 Great Road property in Lower Village for feedback on the owner's plan to plug a gap in screening at the rear of the lot, but that the abutter has not yet responded. Jesse Steadman said he will continue to update the Board and the property owner.

Malcolm Ragan reminded the Planning Board of a Site Plan Review for a proposed installation of a backup diesel generator for AT&T Wireless Equipment at the Gleasondale Mill, scheduled for Tuesday, November 9th.

Mark Jones said some Special Permits for solar power installation may be expiring soon. Jesse Steadman said he will investigate the status of those Special Permits.

Lori Clark asked about the status of Stow House of Pizza's compliance with their Special Permit. Jesse Steadman said the applicant is concerned about complying with the conditions of that permit and has requested a meeting with the Planning Board in November. Jesse Steadman said the applicant has ideas for a possible modification request, but wants to have an informal discussion with the Board before making such a request.

Joanne Drive Pavement Extension

Lori Clark said the Board received a request from developer Chuck Black to allow paving beyond the cutoff date of November 15th specified in the Rules and Regulations for Subdivisions. Karen Kelleher said this is not an unusual request, and in the past the Board has delegated to their consulting engineer to determine if weather conditions are suitable for paving work. Jesse Steadman said that consulting engineer Sue Carter is required to inspect the surface as it is laid down, since it will be a public way. Jesse Steadman said Sue Carter will monitor the conditions to ensure the conditions are suitable for paving. Margaret Costello asked who is paying for Sue Carter's inspections. Karen Kelleher said the developer covers the costs of the consulting engineer's inspections. Margaret Costello said she wants to make sure the engineering work is paid for given timelines are being extended.

Karen Kelleher moved to grant an extension to allow paving at Joanne Drive until November 24th, weather permitting, and subject to approval by the Board's consulting engineer
John Colonna-Romano seconded

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

The Planning Board agreed to schedule meetings for December 14th and 21st.

PUBLIC HEARING – Zoning Bylaw Amendments for October 30th Special Town Meeting

- 1. Signage, section 6.3 (Warrant Article 6)**
- 2. Registered Marijuana Overlay District, sections 3.10, 5.5, and 10 (Article 7)**
- 3. Special Permit Sidewalk Requirements, section 1.3 and 9.2.7.14 (Article 9)**
- 4. Active Adult Neighborhood Overlay District, sections 1.3, 5.4.9.4, and 7.3 (Article 10)**

Chair Lori Clark opened the public hearing at 7:30pm.

Karen Kelleher moved to waive reading of the public hearing notice

John Colonna-Romano seconded

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

Planning Board and staff introduced themselves.

Lori Clark said the Planning Board will give some context and intro for each section and then ask for public input. Lori Clark asked that questions be addressed to the Board as a whole.

Town Planner Jesse Steadman said that this public hearing will only address articles 6,7,9, and 10 as published in the Special Town Meeting warrant, and that a Public Hearing to discuss article 8, proposed amendments to the Industrial District, will be held next week October 26th.

1. Signage – Section 6.3

Assistant Planner Malcolm Ragan introduced the proposed amendment to the zoning bylaw for signage. Malcolm Ragan said that a complete prohibition on internally illuminated signage had been included in a 1985 draft of the sign bylaw, but that prohibition had been rarely enforced. Malcolm Ragan said that several Stow Businesses had received enforcement letters for internally illuminated signage in 2020, which began a conversation with the Economic Development & Industrial Commission (EDIC) and the Planning Board to request a short term zoning amendment that would at least allow business to keep their open signs. Malcolm Ragan said the Planning Board has recognized that much of the existing sign bylaw does not comply with the Supreme Court ruling of *Reed v. Town of Gilbert*, which restricts how content of signage may be regulated. Malcolm Ragan said the Planning Board is proposing a simple amendment to allow a single, maximum 3 square feet internally illuminated sign in the Business, Commercial, and Industrial District, and will begin work on a more thorough update of the sign bylaw later. Jesse Steadman added that the EDIC recently wrote a letter to the Planning Board requesting that provision allowing a 3 square foot internally illuminated sign be extended to the Residential District, so that a handful of businesses in that district would not be excluded.

Brian Martinson (43 Pompositticut Street) said he is happy the Town now has a zoning enforcement officer who actually enforces the sign bylaw in the Lower Village district. Brian Martinson asked if the affected business just want to avoid fines or if they have made a case that these signs are necessary. Brian Martinson said he believes few businesses in Lower Village could possibly require internally illuminated signage, and that he believes those signs should be eliminated from the district altogether.

Jesse Steadman said that when enforcement letters went out, several businesses communicated to the Planning Board and the EDIC that they require internally illuminated signs to make it clear to pedestrian traffic that they are open for business. Jesse Steadman said the EDIC had posed the question of what harm is occurring by allowing open signs. Brian Martinson said he does not believe a change to the sign regulations should happen quickly, and that any amendments should only be undertaken as part of a broader update. Brian Martinson said that the internally illuminated signs often remain left on overnight. Brian Martinson said he sees no legitimate reasons to allow internally illuminated signs, and that several Towns that should serve as a model for Stow do not allow any such signs.

Andrew Bluestein (owner of Emma's Café, not a Stow resident) said that he and many other businesses in the Stow Shopping Plaza employ internally illuminated signs. Andrew Bluestein said that he spoke with other business owners and they agree the signs are necessary to show they are open following the widespread closures at the height of the Coronavirus pandemic. Andrew Bluestein said that it is vital to businesses to communicate to residents that they may actually enter their business. Andrew said that no one has alleged any harm being caused by these open signs, and that these signs provide a clear benefit to residents by communicating that the business is open. Andrew Bluestein said it is unfortunate the Planning Board does not want to allow businesses in the Residential District to be allowed such internally illuminated signage.

Mark Forgues (9 White Pond Road) said he agrees with Brian Martinson and is concerned that the proposed amendment does not specifically allow only open signs. Lori Clark said that the Board cannot regulate content of signage, following the ruling in *Reed v. Gilbert*. Mark Forgues said that is why he believes the Board should hold off on the proposed amendment.

Brian Buscemi (liquor store) said the open signs are necessary to communicate to motorists that they are open. Brian Buscemi said his business is set back from the road, and it is vital for traffic to be able to tell if he is open or not. Brian Buscemi said that much of his business comes from motorists who may live in other towns, who will not be aware of a local bylaw prohibiting internally illuminated signage.

Mark Dexter (259 Great Road) said that the Planning Board spoke about reducing light pollution at a past meeting, so he is surprised they would propose a zoning amendment to create more nighttime light pollution. Mark Dexter said that most people can find out whether a business is open via the internet, and so he doesn't believe internally illuminated signage is necessary to communicate that information. Mark Dexter said the Planning Board cannot require the internally illuminated sign be specifically an open sign, and that the sign could contain whatever the business would like.

Dorothy Granat (11 White Pond Rd) said that she requested sign bylaw enforcement in 2017 at a property in Lower Village and was dissatisfied by the building inspector's refusal to enforce the sign bylaw in the past. Dorothy Granat said that in her requests she also mentioned some internally illuminated signs at the shopping plaza. Dorothy Granat said that internally illuminated signs are not appropriate for the Lower Village area, but that she recognizes that they could be useful in some cases. Dorothy Granat said that there are other ways businesses can attract traffic without internally illuminated signage. Dorothy Granat said that the Lower Village area is already cluttered with excessive signage and allowing internally illuminated signage would only add to the clutter. Dorothy Granat said that the signs use too much electricity and is disappointed how behind the curve Stow is on many environmental issues. Dorothy said that the Board should still work on reasonable sign regulations but that she does not support the internally illuminated signs.

Brian Martinson said that the existing bylaw allows non illuminated signs and that indirect lighting can adequately illuminate business signage.

Mark Jones addressed the letter from the EDIC, which requested the zoning amendment be expanded to allow a single 3 square foot internally illuminated sign in the Residential District as well. Mark Jones said the amendment would allow signs for all uses in the residential district, and not just for pre-existing businesses. Karen Kelleher expressed concern that the proposed change would allow internally illuminated signs for home occupations and other uses in the Residential District and said that allowing those signs in the Residential District could have unintended consequences. Margaret Costello agreed.

2. Registered Marijuana Overlay District, sections 3.10, 5.5, and 10

Town Planner Jesse Steadman provided an overview of how the overlay zoning district was created in 2018 and recounted that both a Town Meeting vote and a town-wide ballot were needed to create the district and determine its allowable uses. Jesse Steadman said that the language for the overlay district was never updated to reflect the outcome of the ballot, and that this amendment merely clarifies which uses are allowable in the district. Jesse Steadman said that allowable uses in the overlay district include marijuana testing labs, marijuana testing facilities, and marijuana product manufacturers.

Katie Fisher (1 White Pond) asked if there is a copy of the map available. Jesse Steadman said that it is available on Town Website. Katie Fisher asked if the amendments would affect medical marijuana businesses. Jesse Steadman said that medical marijuana retailers are regulated by state statute and cannot be excluded as an allowable use by the Town. Jesse Steadman said that recreational retail businesses are not allowed in the overlay district, and that these zoning amendments do not change that fact.

3. Special Permit Sidewalk Requirements, section 1.3 and 9.2.7.14

Town Planner Jesse Steadman summarized that the intent of the amendment is to allow greater flexibility for complete streets improvements along frontage of lots subject to Special Permits.

Mark Forgues (9 White Pond Rd) said that the Board would decide based on favoritism if construction would be required, or a fee-in-lieu could be allowed for sidewalks. Lori Clark said the Planning Board already has a system in place to decide if sidewalk construction or fee-in-lieu is more appropriate, and that this amendment allows more flexibility in the kind of improvements that can meet this requirement. Margaret Costello said that the Planning Board has discussed the need for greater flexibility regarding sidewalk requirements on projects over the past 6-7 years.

Margaret Costello asked if there is a timeframe required for the sidewalk construction or the payment in lieu to be submitted to the Planning Board. Lori Clark said that in the past the Planning Board has tied that timeline to project milestones for permitting. Margaret Costello said she would prefer that the bylaw include a clear requirement for a timeframe.

Mark Jones asked a question regarding a section allowing the petitioner to design pathways and expressed concern that the Board could become responsible for managing a sidewalk design process. Karen Kelleher said this amendment would apply to discretionary permits and the Planning Board would be able to manage the new requirements on a case-by-case basis.

4. Active Adult Neighborhood Overlay District, sections 1.3, 5.4.9.4, and 7.3

Jesse Steadman said that the significant amendment to the Active Adult Neighborhood Overlay District passed at the May Annual Town Meeting used inconsistent definitions of “floor area” when specifying size requirements for cottage-style housing, and that this amendment is meant to address that inconsistency. Jesse Steadman said the proposed amendment would also exempt the AAN district from the schedule of minimum parking, with a recognition that parking needs may be different for such developments.

Mark Forgues (9 White Pond Rd) asked how this might impact assessed value of properties at a new AAN development. Lori Clark said that the assessors do not consider the zoning bylaw in their calculations.

Katie Fisher asked about the age restriction for units developed under the AAN bylaw. Jesse Steadman said in the 2 existing developments one person must be over 55, and that there is no formal age restriction included in the bylaw updated passed in May. Katie Fisher expressed concern that age discrimination laws are not being adhered to. Lori Clark said the Planning Board was made aware during deliberations for the previous amendment that the bylaw cannot prohibit children and still have the units count toward Stow’s subsidized housing inventory.

Margaret Costello said she is very unsettled by the proposed amendment, as it came about in response to a concern from the developer that they would need to develop basements less than 6 feet tall under the existing floor area definitions. Margaret Costello said that basements in an existing AAN development are often developed as living space. Margaret Costello said that allowing more potential living space is counterproductive to the Planning Board’s goals of trying to create smaller housing units.

Mark Jones said the developer will build the basements no matter what, and the Board should amend the bylaw to at least allow those basements to be useful. Mark Jones said that the requirement for 30% of housing to be less than 1800 square feet could have been written to require 5% be less than some smaller square footage.

Karen Kelleher said that suggestion would be beyond the scope of the public hearing notice. Lori Clark said that the discussion would have to be moved to another public hearing. Karen Kelleher said the Attorney General could reject such an amendment if the Board brought it to Town Meeting without being properly noticed. John Colonna-Romano said that he supports Mark Jones’ suggesting but agreed that the Planning Board would need to make those changes at another time. Margaret Costello said that the Planning Board should not move forward with the amendment because they have no other opportunity to incentivize smaller units and a diversity of sizes. John Colonna-Romano said the existing inconsistency will provide worse outcomes than inaction. Lori Clark said that 30% under 1800 square feet is still a better outcome than the large housing units that might be otherwise developed Margaret Costello said people live in small cottages on the Cape and should be able to do the same in Stow.

Karen Kelleher moved to close the public hearing
John Colonna-Romano seconded

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

Lori Clark said the Planning Board will vote to support the amendments at its following meeting.

Stow Acres Warrant Article Support

Lori Clark asked for comments from the Planning Board on the warrant article to acquire the North Course of Stow Acres. Karen Kelleher said the Planning Board held off on voting to support the article at their last meeting so that members could attend a forum on the topic first. Karen Kelleher said she was impressed with the forum and is in favor of voting to support the article. John Colonna-Romano said the project is an example of a good outcome that no one expected for the site. Margaret Costello said she is excited by the proposal, and happy to support the warrant article.

Karen Kelleher moved to support the Stow Acres Warrant Article for Special Town Meeting
Margaret Costello seconded

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

John Colonna-Romano said that the Community Preservation funds for the acquisition may limit other projects in the near future but added that the Community Preservation Committee unanimously supported the project. Margaret Costello commented that some of the new housing on the North Course will pay into the CPC fund.

Overview of Industrial District Amendments

Jesse Steadman reminded the Board and attendees that this presentation is primarily for the Board's benefit, and that proper public hearing for the proposed amendment will be held at the next meeting. Jesse Steadman provided a brief overview of the permitting history of the site and the timeline for Bose's sale. Jesse Steadman said staff have reached out to the 495 Partnership about the economic outlook of similar properties and were told that the market for office campuses is in sharp contraction. Jesse Steadman said many corporations have had a difficult time hiring and retaining employees for similar office parks. Jesse Steadman said there is area development pressures for distribution warehouses and 40B developments in industrial districts near I-495.

Jesse Steadman summarized the sorts of industrial uses that are allowable at the site now and provided some examples of proposals brought to the Planning Department. Jesse Steadman also showed what Bose was once approved for, a more than doubling the building floor space area. Jesse Steadman said some of the proposed industrial uses proposed to develop approximately what had been permitted for Bose.

Jesse Steadman said that information about the site plan and the proposed academy is now available on the Planning Board website. Lori Clark said she does not believe the building could accommodate 700 students, Malcolm Ragan said that they only believe there is enough space to accommodate 350 students. Lori Clark noted that the Masters Academy had only offered to maintain the Town Fields and was not proposing taking them over. Lori Clark also noted that the Masters Academy may be able to negotiate an

arrangement for Stow residents to use their facilities after school hours. Karen Kelleher said that could be a great benefit to residents.

Lori Clark emphasized that the development is proposed as a for-profit school.

Jesse Steadman said the proposed amendment would allow the Masters Academy to apply for a Special Permit, and would allow for accessory uses to the school to locate at the site. Jesse Steadman said the proposed amendment includes a provision that requires a development agreement be entered into with the Stow Select Board before a Special Permit can be granted. John Colonna-Romano asked if the development agreement could include something like a traffic light at Hudson Road. Jesse Steadman said that is possible.

Lori Clark asked what tools the town has to restrict the drone use on site given the zoning, Special Permit requirement, and development agreement. Jesse Steadman said the Board should ask the applicant explicitly what their plans are and place conditions accordingly in a Special Permit. Margaret Costello asked how the Planning Board can guarantee that the school will not become non-profit. Jesse Steadman said that development agreement with the Select Board can provide some protection against that outcome. Mark Jones said that a covenant could restrict Dover-amendment-eligible projects from the site. Mark Jones cautioned that the impact to taxes is not straightforward and based on a multi-faceted calculation.

John Colonna-Romano asked what the post-graduate activities mentioned in the Masters Academy presentation might include. Nancy Arsenault said that this is additional coaching for graduated students going to sports activities later. John Colonna-Romano said people may wish to know traffic impact compared to previous or otherwise allowed uses. Lori Clark recalled the intensity of past Bose use and permitted buildout. John Colonna-Romano said the Planning Board should remind residents that a traffic study will be required as part of the Special Permit process.

Karen Kelleher asked if a representative of the Masters Academy will be at Special Town Meeting. Malcolm Ragan said they will not be at Special Town Meeting, but Jesse Steadman said they are welcome to attend the Public Hearing on the 26th.

Karen Kelleher moved to adjourn
John Colonna-Romano seconded

Respectfully submitted,
Malcolm Ragan