

TOWN OF STOW
PLANNING BOARD

Minutes of the December 14, 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

Minutes

*Karen Kelleher moved to approve the minutes of the November 9, 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**

*Karen Kelleher moved to approve the minutes of the November 16, 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 said that the Board frequently receives repeated complaint letters from the same group of abutters to Nan's Market. Nancy Arsenault said that the complaints are not related to any open permit that the Planning Board is considering, and that zoning complaints should be addressed to the Zoning Enforcement Officer. Karen Kelleher said the Planning Board cannot prevent letters from being addressed to the Board, but that the Board should consistently reply about the jurisdiction of zoning enforcement. John Colonna-Romano said the information is still helpful for the Board to know, even if no action can be taken. Karen Kelleher said the Board spends a lot of time at meetings on issues over which they have no immediate authority.

Planning Board Member Updates

Karen Kelleher said that the Zoning Board of Appeals is expecting to receive a Special Permit application for a car port already constructed at 92 Great Road.

John Colonna-Romano said the Community Preservation Committee (CPC) has received an application from the Randall Library to apply Community Preservation Act (CPA) towards reconstruction of the historic entrance to the building. John Colonna-Romano said the CPC has also received requests for funding toward the restoration of the old Town Hall and a housing project at a site the Stow Municipal Affordable Housing Trust (SMAHT) controls off Red Acre Road. John Colonna-Romano mentioned SMAHT's goal to bring forward a zoning amendment to allow by-right construction of multifamily

housing at the site. Lori Clark said the Planning Board has previously informed SMAHT that they need to submit a formal proposal to the Planning Board to consider the rezoning proposal.

Mark Jones said he spoke to the Building Commissioner about approving Building Permits on pre-existing, non-conforming lots where no encroachment into setbacks are expected. Mark Jones said that the Building Commissioner is guided by case law which suggests the ZBA will need to approve Special Permits for any expansion of uses on pre-existing non-conforming lots, regardless of whether the proposed expansion complies with current zoning requirements. Mark Jones said the ZBA may soon wish to have a discussion with the Planning Board about modifying zoning to reduce non-conformities.

Lori Clark said Select Board chair Ellen Sturgis reached out to her about coordinating a joint strategy meeting with the Planning Board. Lori Clark said Ellen Sturgis proposed a 30-minute joint meeting on January 25th. Lori Clark said that the Select Board is interested in discussing Board efforts to adapt the Zoning Bylaw to plan for future Active Adult Neighborhood (AAN) developments. Karen Kelleher said the Planning Board should begin those discussions with the Select Board before the Athens Lane AAN public hearing is opened. Lori Clark said that Ellen Sturgis listed numerous potential topics to discuss with the Planning Board.

Karen Kelleher said she got the impression from the previous Select Board meetings that they are not pleased with the Planning Board, and that there may be a belief that the Planning Board is not communicating its workplan with respect to Zoning Warrant Articles. Lori Clark said a joint meeting will be useful for establishing lines of communication with the Select Board now that the liaison system has ended.

The Board agreed to schedule a joint meeting with the Select Board on January 25th.

PUBLIC HEARING CONTINUANCE – 57 Barton Rd Hammerhead Lot Special Permit

Lori Clark reopened the hearing.

The applicant's engineer Seth Donohoe recapped the permit application before the Board. Seth Donohoe recalled the history to date with concerns regarding a Hammerhead Lot across multiple zoning districts. Seth Donohoe said the Building Commissioner agreed with his interpretation of the Zoning Bylaw, that there is nothing requiring the Hammerhead Lot be contained entirely within one district. Seth Donohoe said other concerns raised by the Board and Planning staff have been addressed in subsequent letters and the updated plan.

Jesse Steadman said that staff have agreed with the interpretation of the Zoning Bylaw provided. Jesse Steadman said that issues with flood plain and lot area beyond 10 ft from shore have all been addressed and that he agrees the plan complies with the relevant sections of the Zoning Bylaw.

Karen Kelleher asked if the Board received correspondence from the Highway Department. Jesse Steadman said that the Highway Superintendent did provide comments and said that staff will include a requirement for a performance guarantee to repair the edge of Barton Road in a decision.

Margaret Costello asked for clarification about the location of the flood plain. Seth Donohoe recounted that the Army Corps of Engineers (ACOE) survey that partially defines the Flood Plain Overlay District

lists elevations for the flood profile in addition to the lines drawn on the map. Seth Donohoe mentioned that the FEMA and ACOE surveys use different mean sea levels and different datums, resulting in an elevation difference of less than a foot. Seth Donohoe said the Zoning Bylaw states that the flood plain is ultimately defined by elevations and not the boundaries shown in Town maps.

Resident Bill Byron asked if there are locations of the buildings shown on the Plan or access locations. Seth Donohoe said no building plans have been formalized but that the applicant has applied for Stow Board of Health approvals for a septic system for the proposed Lot 2. Seth Donohoe confirmed that access to the proposed new Lot 2 would be in the same location as it is currently.

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**

Karen Kelleher said the Planning Board should address the fact that Hammerhead Lots can be permitted across multiple zoning districts. Karen Kelleher said there could be a case where most of a potential Hammerhead Lot is within a non-residential lot. Karen Kelleher said the minimum lot area should be entirely within the residential district, and suggested a simple Zoning Bylaw amendment to change this requirement.

Planner's Report

Jesse Steadman said that he will coordinate a site visit with himself and other staff to take a walk around the Athens Lane property to take note of conservation resources. Jesse Steadman said that when the Planning Board receives an application, there will be some assurance that the most important areas for conservation have already been identified. Jesse Steadman said he expect a site walk with the Planning Board once the Special Permit application is submitted.

Jesse Steadman said a meeting between multiple Town officials and the developers behind the proposed Masters Academy at the former Bose campus has been scheduled. Jesse Steadman said the meeting is intended to get a clear picture of the permitting timelines and allow town officials to raise any questions or concerns early.

Jesse Steadman said he has reviewed the initial Local Initiative Program (LIP) application for the Stow Acres development. Jesse Steadman said he will reach out to MetroWest Collaborative Development for comments and include those alongside initial Town comments. Jesse Steadman said during the development of the Regency at Stow the Planning Board had provided a letter of recommendation for the LIP application, and that he would like to do the same for the Stow Acres project. Jesse Steadman said he will request the Board send a letter of support to the Department of Housing and Community Development (DHCD).

John Colonna-Romano asked about the role of the Planning Board within the Stow Acres project. Jesse Steadman said that role is currently up in the air, and that the Board has no present regulatory role in the project, as the application will go to the ZBA. Jesse Steadman said that Planning Board support on the LIP application will be useful to move the project forward. Karen Kelleher said this is a major project and

the Planning Board should still be able to look at plans and offer comments to the ZBA during the Comprehensive Permit process. Jesse Steadman said he plans to be more closely involved with the ZBA than a usual Comprehensive Permit application. Jesse Steadman said he is determined to keep the project following generally in line with the guiding principles that the Town agreed upon at the previous two Town Meetings.

Jesse Steadman said the various water and land issues will be administratively challenging, and that the Town will connect Municipal Vulnerability Preparedness (MVP) planning efforts to the project to secure other necessary funding to move the whole project forward.

Jesse Steadman said he met with Jordan Mackey, owner of Nan's Market, and that they will come to the Planning Board in January with a proposed Special Permit modification to move outdoor seating closer to the Great Road side of the building, which will also include a new proposal to locate an earlier proposed drink cart.

Lori Clark brought up seating that has been on site lately. Jesse Steadman said tables out front had been used for staging for a Thanksgiving event and that Jordan Mackey has no intention to use those tables as seating. Lori Clark noted that the fence screening from the Eastern abutter has been installed. Jesse Steadman said that abutters have been sending previous correspondence and that he did not include those old items in the agenda or meeting packets.

Jesse Steadman said he will reach out to Linear Retail about a Stop Sign at an entrance that has not been replaced. Jesse Steadman said there have been complaints received by the Traffic Safety Advisory Committee (TSAC).

Jesse Steadman said public safety departments have raised issues with traffic circulation at the western most entrance of the Shaw's Plaza. Jesse Steadman said that circulation is governed by the Special Permit, and there may be a letter regarding that issue coming to the Board soon.

Jesse Steadman said the applicant to install a backup diesel generator for the AT&T wireless equipment at the Gleasondale Mill has requested to present an alternative plan to the Board at their January 4th meeting. Jesse Steadman said that Stow House of Pizza will also be coming to the Board in January for a Special Permit modification. Lori Clark noted that Stow House of Pizza has added new tables since they last appeared before the Planning Board, in violation of the current Special Permit. Karen Kelleher suggested the Board raise the issue with the Building Commissioner. Lori Clark said the Planning Board's decision has apparently not been followed.

Mark Jones noted that the most recent Nan's Market Permit decision conditioned no parking or loading along Great Road. Mark Jones said that the condition is difficult to enforce and suggested instead that the Planning Board recommend amendment to the Town Traffic Rules and Orders to allow no parking along the length of Great Road between Crescent St and Town Center. Jesse Steadman said the topic has been discussed at previous TSAC meetings.

Mark Jones said that the required development agreement between the Town and the Masters Academy should run with the land and require any school uses be only for-profit. Mark Jones suggested raising the feasibility of such an approach with Town Counsel.

Jesse Steadman said he is working on a draft letter with the Town Administrator to be sent to Wedgewood Pines Country Club to discuss flooding issues raised by abutters.

Jesse Steadman said he will soon provide a memo regarding tank demonstrations at the Collings Foundation. Jesse Steadman said the Board previously raised concerns that more demonstrations are taking place than allowed for in the settlement agreement. Jesse Steadman said he will provide an update soon regarding the discovery phase of litigation between the Town and Howard Stein Hudson regarding engineering work for Lower Village.

Jesse Steadman said he will attend the Green Advisory Committee (GAC) meeting on Thursday night to discuss climate resiliency planning. Jesse Steadman said the discussion will be around how the GAC's scope and charge may overlap with the Planning Board. John Colonna-Romano said the GAC wants to speak with the developers at Athens Lane, and that he hopes the guidance between different discussions are consistent. Jesse Steadman said he will coordinate with the developer to keep the Planning Board in the loop about any discussions around energy efficiency measures. Jesse Steadman said if the GAC wants to provide specific recommendations for the development, it would be good for the Planning Board to have those in writing.

Jesse Steadman said he will draft a follow up letter to continue Master Plan discussions with the Select Board. Lori Clark said the Planning Board should prepare for a meeting with the Select Board at an upcoming meeting.

Mark Jones said recent amendments to the AAN zoning bylaw and rules & regulations could be applied to the sections governing Planned Conservation Developments, which could have additional benefits for energy efficiency in new development.

Wireless Communication Facility Site Plan Approval – 501 Gleasondale Road

The applicant was not present for the meeting, having informed the Board that an updated site plan will be provided for the January 4th meeting. Nancy Arsenault said she visited a comparable backup generator in Bolton and found that she could not hear the unit until she was about 20 feet away. Nancy Arsenault said she could still hear someone talk when standing right next to the unit. Nancy Arsenault described the noise as a low hum.

Margaret Costello said she does not understand why the generator has been located where shown on the plan. Margaret Costello asked why the generator is being placed next to the building when the panel is on the other side of the tower. Margaret Costello questioned the location proposed and recalled the AT&T comment about the location being preferred by the landlord. Karen Kelleher recalled from the site visit the owner saying that the other side of the building is still an active loading dock.

Karen Kelleher asked why the applicant requested to continue to a following meeting. Jesse Steadman said they are taking time to create a plan to propose some screening but may not be prepared to discuss the choice of location for the generator. Lori Clark suggested putting out some of these questions and concerns regarding location to the owner of the site as well as AT&T. Margaret Costello said that she has not seen evidence to suggest that the proposed location is the only suitable place for the generator, given the location of the panel it will be feeding. Jesse Steadman suggested the Board reach out to the applicant

to explain the chosen location given the need to run conduit anyhow. Jesse Steadman said he will draft a letter to the applicant listing the Board's questions and concerns.

D&D Farms Zoning Amendment Request – Site Visit Follow-up

Lori Clark said several Board members had visited and observed the site in response to the request to rezone the site to the Commercial Zoning District. Lori Clark asked for Board comments on the proposal.

John Colonna-Romano said he visited the site and observed that the property is very long towards the back and recalled that the applicant said activity would not be visible from Hudson Road. John Colonna-Romano said that abutting residences can view the activity on the back side of the site. John Colonna-Romano said that there are accessory activities to the current use occurring on site.

Karen Kelleher said the Planning Board cannot assume any particular use allowed in the Commercial District will begin after a rezoning, and that a future owner could reconfigure the site to remove screening to Hudson Rd. Nancy Arsenault said the use is low impact now and the specific proposed commercial use would only be a marginal increase, but she is concerned about possible future uses. Nancy Arsenault raised concern about wood cutting activities being near current residences.

Jesse Steadman clarified the primary agricultural use provisions. Jesse Steadman said the current use is considered primarily agricultural and the proposed use would move agriculture to an accessory use.

Margaret Costello said she is concerned about the proximity to the stream and is concerned that a higher intensity commercial use could have negative impacts on the stream. Margaret Costello said she is concerned with impacts to nearby abutters.

Property owner Daniel Taranto said he wishes he had the opportunity to walk the site with the Board. Daniel Taranto said the firewood operation is considered agricultural use and is not the primary use at the site. Daniel Taranto said that two landscapers are interested in running equipment from the site while also operating the greenhouses. Daniel Taranto said that the landscapers would not be making any more noise than his previous business made at the site for the past 50 years. Daniel Taranto said his use was minimally impactful to the neighborhood, and that the proposed contractors will only run equipment out of the site.

Lori Clark said the Planning Board would have to change the site to Commercial District to allow the use proposed, and that could have unintended consequences for the site use in the future. Daniel Taranto said he would like to pursue some permit that would allow the proposed use without changing the zoning district. Lori Clark said there is no way to allow the proposed contractor use without changing the zoning district at the site. Jesse Steadman said the Board could amend the Residential District zoning to allow the use by Special Permit. Jesse Steadman said the Planning Board could alternatively create an overlay district with a narrower set of allowed uses than the Commercial District.

Karen Kelleher said that an overlay district for the neighborhood could be feasible given the diverse mix of uses in the area. Jesse Steadman said D&D operated for many years because it was considered primarily an agricultural use under the existing zoning.

Mark Jones said that the site is large enough to accommodate roughly 6 houses. Daniel Taranto said that he only has enough frontage for two house lots. Karen Kelleher said that he could further subdivide the lot and build a new street for needed frontage. Daniel Taranto said he has not been able to find a buyer for the site besides the proposed contractor yard uses.

Jesse Steadman added that these issues have come up at Marble Hill Farm Stand where it is unclear about the intensity of existing agricultural uses. John Colonna-Romano added that this has previously been an issue at a site on Crescent St as well.

Lori Clark summarized that the overlay district option seems most feasible. Lori Clark said that the Board could discuss the possibility at a future meeting.

The Board discussed a possible overlay district and stressed the need to potentially allow some landscaping yard use while not allowing other uses that would negatively impact residential abutters.

Joanne Drive Subdivision – Request for Partial Release from Performance Guarantee

Jesse Steadman summarized the process to request verification from consulting engineer Sue Carter. Jesse Steadman said that Sue Carter disagreed about some of the proposed reductions in the performance guarantee and had proposed slightly lower amounts to be released at this time.

Karen Kelleher moved to release \$96,102 from the Joanne Drive Phase I performance guarantee leaving an ending balance of \$60,117, and to release \$421,842.60 from phase II performance guarantee for an ending balance of \$105,786 based on a report from Places Associates, Inc., received 12.13.2021 but dated in error as 2.15.2021

John Colonna-Romano seconded

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

Eversource Transmission Infrastructure – Letter to Select Board

The Board reviewed minutes of the Select Board from 2016, noting the vote to refuse to endorse any plans for Eversource transmission lines that are not located underground. Karen Kelleher confirmed that the issued permit is for only underground transmission lines. Jesse Steadman said that is the expectation from the Energy Facility Siting Board (EFSB), DOER, DCR, and the Stow Conservation Commission. Jesse Steadman said the EFSB has approved a permit since the referenced minutes for only an underground project. Lori Clark asked if the Board thinks there is a need to issue additional statements. Karen Kelleher said she does not believe it is necessary, given that a change in the plan will provide notice to the Planning Board and other Town committees.

Margaret Costello expressed concern that if Eversource finds PFAS while excavating the transmission trenching, they may elect to switch to overhead lines. Lori Clark reiterated that if they change those plans, they will still need to come to the town to modify their permitting. The Board discussed the sections of the transmission lines that will be underground within abutting towns.

Final Active Adult Neighborhood Rules and Regulations Amendments

Jesse Steadman said the amendment before the Board only deals with performance guarantees. Jesse Steadman said the Board previously agreed to have a restrictive covenant and performance guarantees for AAN developments, and that these changes reflect those discussions. Jesse Steadman said a performance guarantee will now be required *in addition to* a restrictive covenant.

Mark Jones recalled a previous Board member, Ernie Dodd, including a requirement for performance bonds to be through companies incorporated in Massachusetts. Jesse Steadman noted that the requirement is present in the drafted regulations. Mark Jones noted that if the requirement cannot be met, the Board can waive the requirement in the face of applicant hardship.

Karen Kelleher moved to approve final amendments to the Active Adult Neighborhood Overlay District Rules and Regulations as drafted and amended
John Colonna-Romano seconded

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

FY2023 Budget Priorities

Town Planner Jesse Steadman presented a preliminary budget proposal to the Planning Board. Jesse Steadman said there are three budget categories that have remained the same. Office Budget, Engineering consultant/Master Plan/Special Articles.

Jesse Steadman provided an overview of current account balances and financial outlook for the next fiscal year.

Jesse Steadman proposed several capital funding items:

- Complete streets, closing sidewalk gap near Pilot Grove Apartments - \$35k
- Other Complete Streets projects – \$50k
- Continued Gleasondale Streetscape Planning - \$60k

Jesse Steadman reviewed some anticipated warrant articles for possible co-sponsor by the Planning Board:

Traffic Safety Advisory Committee – \$100k for Hudson Rd/Rte 117 intersection for design and engineering of signalization

EDIC – \$30k for a Lower Village water feasibility study

Complete Streets Committee - \$35k for Crescent St sidewalk design

Nancy Arsenault asked how the water feasibility study is different than those proposed previously. Jesse Steadman clarified that the proposed feasibility study is not concerned with who will own and manage a system but is only interested in understanding possible costs. Jesse Steadman said some clarification is still needed about the process of the EDIC sponsoring an article with the Planning Board.

Mark Jones asked about the funding process for the Complete Streets Committee compared to the previous sidewalk committee. Jesse Steadman and Karen Kelleher said that the Complete Streets Committee's state approved prioritization plan makes it more effective for seeking funds for sidewalk improvements.

Nancy Arsenault asked if the Board is expecting deposit of any sidewalk funding soon. Jesse Steadman said the sidewalk account should be seeing a deposit of \$8k soon from a development project on Edgehill Rd. Margaret Costello asked if those funds could be applied to surveying for Kane Land access. Jesse Steadman said that CPC has allocated \$30k for the project which will fund engineering and construction.

Mark Jones said that the Planning Board should continue to work with the Select Board to initiate the Master Planning process.

Karen Kelleher said the Board should schedule an executive session to strategize legal defense for the recently filed appeal of the Erosion Control Special Permit issued for 137 Harvard Rd.

Respectfully submitted,
Malcolm Ragan