

TOWN OF STOW  
PLANNING BOARD

Minutes of the March 8, 2022 Planning Board Meeting

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

Planning Board members absent: Nancy Arsenault

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

**Minutes**

*Karen Kelleher moved to approve the minutes of the February 22, 2022 meeting as amended  
John Colonna-Romano seconded*

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

**Correspondence**

Karen Kelleher asked if correspondence from resident Katie Fisher, regarding a proposal to rezone her property at 1 White Pond Road to be in the Business District, would be discussed at an upcoming meeting. Town Planner Jesse Steadman said he has been discussing the proposal with Katie Fisher and will include it as an item in the March 15 agenda.

Katie Fisher said she is trying to understand options available to her to make the best use of her property. Katie Fisher said she would like Planning Board input on possible impacts from rezoning her property to business, and that she wants to be mindful of the April 1<sup>st</sup> deadline for warrant article submissions for Annual Town Meeting.

**Planning Board Member Updates**

Margaret Costello asked if the Planning Department had received the required fee-in-lieu of sidewalk construction for a project on Walcott Street. Jesse Steadman said the fee-in-lieu is required at the time the applicant applies for a certificate of occupancy.

**Planner's Report**

Jesse Steadman said the owner of 108 Great Road had inquired if he could re-use the existing structure without the need to file for a new Special Permit, having been granted one by the Planning Board for a new building in 2020. Jesse Steadman said he believes a modification of the Special Permit would be required, as the site plan for the existing structure dates back to the 1980's and there have been significant modifications made to the site in the meantime.

Mark Jones said the Planning Board should work towards requiring new businesses in Stow to provide fire cisterns in the Lower Village Business District.

Jesse Steadman said the Planning Department received a proposal for engineering work for an access path to the Kane Land, which included the necessary estimates for surveying, engineering, and construction. Jesse Steadman said he will recommend approval of the proposal to the Town Administrator. Jesse Steadman said the Conservation Commission and Highway Departments will be looped into that project as needed.

Jesse Steadman said he has been discussing with the local Justice, Equity, Diversity, and Inclusion (JEDI) working group to consider a framework for a community engagement plan that will help structure the living plan approach to a Master Plan update. Jesse Steadman said the Planning Department has had previous discussions with public engagement professionals about best practices for a community engagement framework. Karen Kelleher asked when the Planning Board may recommend appointment of a Master Plan committee to the Select Board. Jesse Steadman said he would like to work on developing the living plan model and the community engagement framework with local stakeholders and provide that to a Master Plan committee. Karen Kelleher suggested Jesse Steadman review the Planning Board charter to understand the requirements for developing a master plan. Jesse Steadman noted a requirement to appoint a Master Plan committee two years before a Master Plan is adopted by the Select Board, and that a living plan approach should be adaptable to these timing requirements.

Jesse Steadman said he drafted a letter in response to the draft traffic study for the upcoming Athens Lane Active Adult Neighborhood (AAN) development. Karen Kelleher suggested the letter note that there will be commuter students at the future Masters Academy as well as boarding students.

Jesse Steadman said he has continued to correspond with the developer at Athens Lane regarding overall site concepts, and has provided architectural examples from a cottage dwelling development in Harvard as a model for the developer to follow.

Jesse Steadman said he has reminded the contractor at the under-construction Spring Hill Estates subdivision that they are required to update their National Pollutant Discharge Elimination System (NPDES) permit following updated requirements from the Environmental Protection Agency and the state. Jesse Steadman said the Planning Department will also receive weekly Stormwater Pollution Prevention Plan (SWPPP) updates starting later in the spring.

Jesse Steadman said there will be a pre-application meeting with the developers of the Masters Academy and the Town Administrator next week. Mark Jones said he is hopeful the development agreement required by zoning is written to run with the land, to ensure that any site restrictions remain in place if the site changes ownership. John Colonna-Romano asked what additional protections could be afforded by a covenant as opposed to Special Permit conditions. Mark Jones said a non-profit entity could move into the site and negate the conditions of a Special Permit under Dover amendment protections for non-profit educational uses. Mark Jones said when the Plantation Apartments were permitted, deed restrictions were included that limited uses on the site, and that he would like to see that model continue for a use such as the Masters Academy.

Jesse Steadman said there will be a site visit at the Stow Acres site next week with representatives of the Dept of Housing and Community Development (DHCD). Jesse Steadman said there will also be a site visit to 57 Barton Road to settle expectations for a performance guarantee needed to ensure the safe condition of the road where a new house lot is being created.

Jesse Steadman said he has been in contact with Johnathan Bransfield of Bransfield Tree Co. on developing a landscaping plan for the Lower Village. Jesse Steadman said Johnathan Bransfield is also a member of the Lower Village Revitalization Subcommittee, which Jesse Steadman said should be reconvened to discuss a landscaping plan.

Jesse Steadman said the Planning Department is also working on some zoning projects in the lead up to Town Meeting, including some amendments to Wireless Service Facility permitting requirements and standards for Hammerhead Lots. Jesse Steadman said staff have also been developing a comprehensive revision of the signage bylaw. Jesse Steadman suggested that the Planning Board review a draft revision in concert with the Economic Development & Industrial Commission. Jesse Steadman said the EDIC has requested staff assistance drafting a Request for Proposals (RFP) for a consultant to draft a revision to the sign bylaw. Jesse Steadman said he feels that there is ample staff capacity to draft the bylaw in-house, and that a consultant could assist with a review of the draft. Jesse Steadman said the EDIC is considering asking Annual Town Meeting for funding for the consultant bylaw work.

Lori Clark asked if the PB will have an opportunity to review the draft before the RFP from the EDIC is issued. Jesse Steadman said a meeting with the EDIC can review the draft revision and decide to what degree outside assistance is needed. Karen Kelleher said she would prefer the Board have the opportunity to review even an early draft before a joint meeting with the EDIC. Lori Clark said the EDIC should make it clear what problem they want to solve by hiring a consultant.

Jesse Steadman said he will provide a draft Lower Village Zoning Bylaw to the Board to review at their next meeting.

Mark Jones asked if the Town's phased growth bylaw, which has resulted in Stow being excluded from certain state grant funding in the past, should be revisited in light of new state zoning requirements for multi-family housing. Jesse Steadman said the two forthcoming housing projects are both exempted from the requirements of the phased growth bylaw, and that any revisions are not a current priority for the department.

## **PUBLIC HEARING – Nan's Market Outdoor Dining Special Permit Modification – 271 Great Rd**

Lori Clark called the hearing to order at 7:30pm.

*Karen Kelleher moved to waive the reading of the public hearing notice*  
*John Colonna-Romano seconded*

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

Planning Board members and staff introduced themselves. Lori Clark asked that members of the public state their name and address when making comments or asking questions.

Applicant Jordan Mackey said he is returning to the Planning Board for a modification to the Special Permit for Nan's Market after many conversations with staff, and that he believes he has a site plan that addresses the concerns previously raised by abutters.

Karen Kelleher asked Jordan Mackey to confirm that the scope of the site plan covers placement of outdoor seating, commencing use of a seasonal non-alcoholic drinks trailer, and installation of an additional storage shed at the rear of the existing building.

Margaret Costello noted that there are already some picnic tables located at the rear of the site. Jordan Mackey said the existing tables are not currently in use and are stored the rear of the site. John Colonna-Romano noted that the narrative attached to the site plan referenced some changes to lighting, and asked Jordan Mackey to detail those proposed changes. Jordan Mackey said ground-mounted lighting will be installed along walkways to ensure safety for employees who work into the evening. John Colonna-Romano asked if seating will all be located at the front of the property adjacent to route 117. Jordan Mackey said that is correct, but one table will be placed at the rear of the property for employee use.

Karen Kelleher asked if the proposed shed is to replace a previous storage tent. Jordan Mackey said the previous storage tent collapsed under weight of snow, requiring the addition of a storage shed to replace the lost storage. Jordan Mackey said the structure can be moved, and he would like Planning Board approval for the location. Margaret Costello asked if the storage shed located at the rear of the property is located at its proposed final location. Jordan Mackey confirmed.

Margaret Costello asked if the rear storage area would be restricted to employees. Jordan Mackey said he will install signage making it clear that it is an employee only area. Margaret Costello asked why a fence along the property line was not extended along the full length of the rear property line, to include screening of the activities at the rear of the building.

Resident Karen Fleming (151 Crescent St) said that previous Special Permits had conditioned the installation of a latticed fences to screen activities at the rear of the building and said that it is unfair that other abutters have been screened from the uses at Nan's Market while she is still able to see site activities from her property. Property Owner Wes Fisher said the lattice fence had been required only in the event that the rear patio was used for outdoor dining, which has not been proposed. Karen Kelleher asked if the lattice fence would obstruct activities at the rear of the building. Jordan Mackey said that the lattice would obstruct the rear entrance and limit loading of materials into the rear basement door, requiring removal of the lattice fencing each time anyone accessed the basement doors. Margaret Costello said that there are significant activities at the rear and that she believes the area should be screened.

Mark Jones asked for further details about the ground-mounted, solar-powered walkway lighting, and asked if those lights would be switched off at the end of the business day. Jordan Mackey said the lights are only for illuminating walkways and would be limited to 6 inches in height and are not connected to any switch that would allow them to all be turned off at 10pm.

Resident Sarah Cleary (159 Crescent St) said that she does not object to the new proposed location for the outdoor seating but is concerned what that means for the future of lawn area that was previously proposed for seating. Sarah Cleary said customers have brought picnic blankets to the lawn/garden area in the past and expressed concerns that customers would continue to use the location. Sarah Cleary asked for further clarification on where outdoor seating is proposed. Jordan Mackey said that all seating will be located at the southwest of the property, adjacent to Great Road, and that no customer seating is proposed for the existing garden/lawn area.

Jesse Steadman said the previous Special Permit permitted seating in three possible locations: the existing lawn area, the rear patio, and inside the building. Jesse Steadman said the applicant has made it clear that they only propose customer seating at a new location, on the other side of the property, and that it may be necessary to remove the allowance for seating in previously allowed locations. Lori Clark noted that the seating limitations are a function of the Public Water Supply capacity, and separately established by the Department of Environmental Protection (DEP).

Sarah Cleary said that the previous Special Permit relied on self-monitoring of activities on the site, and that the applicant has not monitored activities to the degree required in the decision. Lori Clark said the Planning Board will consider how to ensure conditions are complied with as part of any Special Permit modification.

Jordan Mackey said that the site is limited by the 24 parking spaces available, and that it would be infeasible to host more customers than is allowed by the DEP capacity limitations.

Margaret Costello asked if the Planning Board is expected to assume that there will never be indoor seating at the site. Jordan Mackey said that he does not have any plans to offer indoor seating but may revisit having indoor seating at a later date. Margaret Costello expressed concern that the Planning Board will have to revisit the Special Permit every time Nan's Market wished to reconfigure their seating. Lori Clark said that any applicant may request a modification of any Special Permit, and that the Board wrote the previous decision to allow seating in multiple locations as long as an overall cap was not exceeded. Jordan Mackey said he is aware he would need to reduce the amount of outdoor seating provided if he offered indoor seating at some time in the future.

Karen Fleming (151 Crescent St) said that the hearing opened sooner than the 35 days after a Special Permit application was received as required in the Planning Board's rules and regulations. Karen Martinsen said that she was out of the country and did not receive the Public Hearing notice by certified mail. Karen Fleming said that the previous Special Permit decision required a year-end retrospective on operations from the applicant, which was never submitted. Karen Fleming asked why the process has been allowed to move forward for an applicant that has allowed a litany of abutter concerns to go unaddressed. Karen Martinsen said the town is enabling poor behavior from Nan's Market by allowing them to request Special Permit modifications when there are outstanding conditions of previous permits. Karen Fleming said abutters have been unable to get relief from impacts of the business and have not received satisfactory answers from the Zoning Enforcement Officer when they have requested enforcement of the existing Special Permit conditions. Karen Fleming said Jordan Mackey is Stow's Vladimir Putin, and said that he will push for more and more site activities when given any leniency. Karen Fleming said she does not believe Jordan Mackey will comply with the conditions of any Special Permit modification.

Lori Clark said that she understands the comment about enforceability of permit conditions but asked that hearing attendees please remain respectful and refrain from drawing comparisons between Nan's Market and the war in Ukraine.

Karen Kelleher said that the hearing was scheduled 29 days after receipt of the Special Permit application, and that the Planning Board has heard extensively from abutters who wanted to have the public hearing as soon as possible. Karen Kelleher said that the Planning Board also needed to consider timelines of other projects.

Resident Dave Batsford (159 Crescent St) said that Nan's Market was allowed by what he considers spot zoning, and that the use has caused significant hardships for abutters. Dave Batsford said the use is not well suited to the site and would be better located in the Lower Village Business District.

Robert Flynn (West Acton Road) said he is supportive of the direct abutters to Nan's Market and said that the use does not belong at the current site. Robert Flynn said the use would be better located in the business district.

Dorothy Granat (11 White Pond Road) said the Planning Board has demonstrated a concern for impacts to abutters, and she hopes that any decision issued takes those impacts into consideration.

Mark Forgues (9 White Pond Road) said that Nan's Market should install additional fencing to prohibit any encroachments onto abutter's properties and said that the business could just as easily sell juices from inside the building and should not require the proposed juice cart. Mark Forgues said that the proposed seasonal juice cart is a gimmick to get motorists to stop at the business.

Owner Wes Fisher said his intent with renovating the property as a mixed use was intended to create an aesthetic asset for the Town of Stow. Wes Fisher said the property is in stark contrast with several ugly properties along Great Road. Wes Fisher said the intent of renovating the property to preserve a historic structure. Wes Fisher said that the responsibility to install fencing at the property lies with him as the owner and said that Jordan Mackey has operated the business in good faith.

Matt Trombley (135 Crescent) said he directly abuts the property to the rear and has not experienced any of the issues raised by other abutters. Matt Trombley said the impacts of noise from roadway is greater than any impacts he has experienced from Nan's Market.

Ray Bakshi (155 Crescent) said he and his family moved into their home in November. Ray Bakshi said he researched the property and became aware of the issues raised by abutters. Ray Bakshi said although he has not observed the level of site activity in warmer months, he believes most of the issues raised have been addressed and that the uses at Nan's Market should be allowed to continue.

Mark Dexter (259 Great Rd) said he moved to the property next door knowing full well he was moving in next to an existing restaurant. Mark Dexter said there were many delays in constructing the required fencing along his property line, and that there are still gaps in the fence. Mark Dexter said he did not agree to live next to a business that constantly flouted rules and conditions of its permits. Mark Dexter said he does not believe the previous Special Permit conditions were sufficient to prevent encroachments by outdoor dining patrons into setback areas. Mark Dexter said that Jordan Mackey was not honest about the site being able to host more people than are allowed by DEP limitations, and that restaurant patronage is expected to increase in 2022, causing greater impacts to him and other abutters.

Sarah Cleary said that Nan's Market frequently advertised events to be hosted on their lawn area. Sarah Cleary said one of the events planned for later in 2022 is "Cow Bingo". Jordan Mackey explained that this involves allowing a young calf to defecate on a bingo board chalked into the grass, which will be used to determine recipients for a charity benefit at Nan's Market. Sarah Cleary objected to the impacts this would have on abutters.

Jordan Mackey requested that the public hearing remain on the topic of the proposed seating, juice trailer, and shed installation. Lori Clark said the Planning Board may discuss and receive comments relating to previous Special Permit conditions in response to a request for a modification.

Dave Batsford said the juice cart is an expansion of the existing business use. Dave Batsford said a traffic study is required by the Planning Board Rules and Regulations and he believes it is necessary in light of the proposed expansion.

Katie Fisher asked if the proposed juice cart is subject to approval by the Board of Health. Jordan Mackey said it would fall under Board of Health jurisdiction and that Nan's Market will secure any necessary licensing and approvals before beginning any service from the proposed cart.

Karen Kelleher asked if the Board has any documentation on past pop-up events. Jordan Mackey clarified that the "pop up" events observed by abutters were customers picking up pre-ordered meals for Thanksgiving and Christmas. Jordan Mackey said that there have been third parties on site twice.

Karen Kelleher asked about other events that have happened in the past. Jordan said they originally had high hopes for events on site but have scaled back plans in light of abutter concerns. Wes Fisher said he was not aware of concerns previously raised by Mark Dexter about the fence being incomplete.

Sarah Cleary said the impacts to abutters have increased from when the site was a bed and breakfast.

Katie Fisher asked plans for the rear of the property and asked how areas reserved for employee use are delineated from customer areas. Lori Clark recalled that Jordan Mackey suggested installing some signage for this purpose.

Margaret Costello said she does not believe the business plan matches the site, and it would be better suited to the shopping plaza. Margaret Costello said she does not support the juice cart use. Margaret Costello said that the fence should be extended to screen all abutters to the site. Margaret Costello said current and proposed activities are not appropriate for the site.

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

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

### **57 Barton Road Hammerhead Lot – Road Condition Performance Guarantee**

Jesse Steadman said a visit to the site had to be rescheduled and he does not have an update to give the Board at this time.

### **Old County Road Preliminary Subdivision – Hudson**

Jesse Steadman said the Town of Hudson has received a preliminary subdivision plan for a site directly across from Hallocks Point on Lake Boon. Jesse Steadman said there had previously been a proposal for a Open Space Residential Development/Cluster Development at the site, with the proposed housing all

lined along the lakeshore. Jesse Steadman said the Stow Conservation Commission has already drafted a letter to the Hudson Planning Board to identify concerns with the proposed subdivision, including recommendations to ensure that the development is minimally disruptive to the lake and its ecosystems. Jesse Steadman asked the Planning Board if they would like to sign onto the drafted letter or if they would prefer to make their own comments.

John Colonna-Romano said with all the efforts the towns of Stow and Hudson have made on the Lake Boon initiative, it seems a shame to allow so much development on the remaining lake front. John Colonna-Romano said the Hudson Planning Board should take steps to preserve as much of the undeveloped property as possible. Jesse Steadman said the Lake Boon commission will also be asked to provide comment on the subdivision plans. Margaret Costello said the development proposal breaks her heart and that the developer is acting greedily to develop one of the last remaining portions of undisturbed lakeshore. Margaret Costello said she supports the concerns raised by the Stow Conservation Commission in their letter and wishes there was something the towns of Stow and Hudson could do to halt the proposed development. Lori Clark said Stow was able to preserve a great deal of Hallocks Point, as the land was enrolled in the Chapter 61 tax assessment program, which afforded the town a right of first refusal to purchase the property when it went up for sale. Lori Clark asked if Hudson will have a right of first refusal at the proposed subdivision site. Jesse Steadman said the land was not enrolled in Chapter 61, and so Hudson holds no such right.

The Board noted that the proposed plan would require a waiver from the Town of Hudson's regulation limiting dead end roads to 500'. The Board said the developer should either revise the plan to reduce the length of the dead-end roads, or the Hudson Planning Board should consider requiring additional open space preservation in exchange for the waiver.

Karen Kelleher said the town of Hudson should consider applying Community Preservation Act (CPA) funds toward purchasing and preserving portions of the land that are most valuable for conservation purposes.

Jesse Steadman said he will draft a letter to the Hudson Planning Board reflecting the Stow Planning Board's discussions.

*Karen Kelleher motioned to draft a letter to the Hudson Planning Board and delegate chair Lori Clark to review and approve the final draft*  
*John Colonna-Romano seconded*

Margaret Costello asked if any due diligence has been done to understand the impacts to area aquifers. Lori Clark said Hudson has a municipal water supply, and that they are likely more concerned about stormwater drainage and septic considerations.

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

### **Collings Foundation As-Built Plan Acceptance**

Karen Kelleher said she is a direct abutter to the site and recused herself from the discussion.



John Colonna-Romano said the outcome appears acceptable, given the letter from the site engineer explaining that the stormwater detention basin is expected to function normally and the affirming letter from the Board's consulting engineer. John Colonna-Romano asked how the Board can document the reasoning for acceptance of the as-built plan as provided by the Board's engineer. Jesse Steadman explained said the Board could issue a minor modification to the Special Permit for the site that notes the engineering correspondence, but that he does not believe it necessary in this case. Jesse Steadman said it is not uncommon for as-built plans to differ in small ways from definitive construction plans.

John Colonna-Romano said that going through a minor modification would be excessive given the minor change shown on the as-built plans. Jesse Steadman said he will suggest providing a letter to the applicant explaining that the acceptance of the as-builts do not denote an approval of any other Permit or legal settlement conditions.

The Board agreed to require a note on the as-built plan that the spillway on one of the stormwater detention basins was not built according to specifications.

*John Colonna-Romano motioned to draft a letter indicating acceptance of the as-built plans pending addition of a note stating the deviation from approved design specifications*  
*Margaret Costello seconded*

**Roll Call Vote:** Lori Clark **-Yea**; Karen Kelleher **-Abstain**; John Colonna-Romano **-Yea**;  
Margaret Costello **-Yea**; Mark Jones **-Yea**

*Karen Kelleher motioned to adjourn*  
*Margaret Costello seconded*

Respectfully submitted,  
Malcolm Ragan