

TOWN OF STOW
PLANNING BOARD

Minutes of the April 19, 2022 Planning Board Meeting

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

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

*Karen Kelleher Motioned to approve the minutes of March 22, 2022 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 Motioned to approve the minutes of April 5, 2022 as amended
Nancy Arsenault seconded*

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

Public Input

Matt Kobelski, an attorney representing a buyer at the under-construction Spring Hill Estates subdivision, inquired about whose responsibility it is to ensure compliance with federal Environmental Protection Agency (EPA) stormwater permitting at the development. Matt Kobelski asked if it is not standard practice to require a performance bond from subdivision developers for stormwater inspections. Town Planner Jesse Steadman said that a performance guarantee is in place for paving of the common driveway and to cover the costs of engineering inspections. Jesse Steadman said an earlier development agreement, signed by the original developer and the Planning Board, was executed to cover ongoing compliance with the EPA NPDES permits and the Stormwater Pollution Prevention Plan (SWPPP) inspections. Matt Kobelski said, in his opinion, that the performance guarantee should have covered all site inspections. Lori Clark said that performance guarantees have typically been required for construction work.

Karen Kelleher asked if the EPA NPDES reports are filed with the Town or the State. Jesse Steadman said that NPDES permits are filed with the federal EPA and the Town then receives weekly SWPPP reports. Jesse Steadman said that the SWPPP reports are a basic developer responsibility, and the Planning Department has not required performance guarantees for such inspections previously.

Tom Bergeron, builder of Pennie Lane, said he is getting work done behind the scenes to move forward on required site inspections and getting the NPDES permits in place. Tom Bergeron said that the responsibility to pay for the stormwater inspections lays with John Handel as the original party to the development agreement. Jesse Steadman agreed that the department is in possession of the executed development agreement that makes it clear that John Handel is responsible for funding inspections. Matt Kobelski and Tom Bergeron said that the Planning Department is holding up the development of the

houses and creating delays and problems for the wrong people. Tom Bergeron insisted there are no outstanding issues with the stormwater reports.

Karen Kelleher said that the Planning Board cannot and should not waive a federal EPA requirement that a proper SWPPP be in place for the subdivision. Lori Clark said that land use conditions run with the land and it is not relevant who currently owns the house lots. Tom Bergeron said that lot owners were not made aware of additional requirements for paying for stormwater reports. Matt Kobelski said that the builder's attorney needs to be made aware of these discussions to know how to allow Building Permits to be issued and stormwater requirements to be met.

Alex Cekala (20 Pennie Lane) said that he is roughly 6 weeks from requesting an occupancy permit for his house in the development. Alex Cekala asked if funding an updated NPDES permit and weekly inspections for his single lot would allow him to receive an occupancy permit. Jesse Steadman said that he will continue to reach out to counsel and understand the options available to the Town, the developer, and homeowners at the subdivision.

Mark Jones asked if the Homeowners Association was meant to be an intermediary for this kind of situation. Jesse Steadman said that homeowners do not believe they are required to pay for stormwater inspections and the responsibility appears to still rest with original developer John Handel. Lori Clark said that the Planning Board should consider lessons to learn to prevent an outcome like this in the future.

Planning Board Member Updates

Nancy Arsenault asked about traffic calming devices on Hudson Road that have been placed within the road shoulder near Edson Road. Jesse Steadman said the markers are intended to slow turning vehicles at high traffic intersections, and that he will provide feedback about their location to the Traffic Safety Advisory Committee.

John Colonna-Romano said there are ongoing efforts at the state and local levels to incentivize and require non-fossil fuel housing construction, and that there are promising signs from discussions with project managers of anticipated developments to build electrified housing. John Colonna-Romano said that Arnie Epstein of Sustainable Stow is working on making the case to developers that the state is developing new stretch energy codes, and that near-future developments are an opportunity to build knowledge on efficient housing construction before those new requirements are put in place. John Colonna-Romano noted that the economics of electrified housing are more favorable in a place like Stow with very low electric rates.

Review Zoning Workplan Memo to Select Board

Lori Clark said the Planning Board should prepare some additional information for the Select Board regarding new multifamily zoning requirements for MBTA communities. Assistant Planner Malcolm Ragan said staff are working on preparing a presentation to the Select Board that is required to maintain compliance with the new zoning requirements in 2022.

The Board reviewed the draft memo and made revisions to make clear the status of current zoning amendments being worked on. Lori Clark requested that the memo not assume any knowledge of previous planning efforts, especially regarding Lower Village, and that the least technical language as

possible be used. Nancy Arsenault suggested that the language around Lower Village zoning amendments speak to the potential benefits to current and future business owners.

Dorothy Granat (9 White Pond Rd) said that one of the goals stated said meeting the desires of residents and asked what work that is based on. Lori Clark said that those desires are summarized from previous planning and outreach done over many years for Lower Village.

Planner's Report

Jesse Steadman said staff have met with the owner of Stow House of Pizza to discuss a course of action to remediate the site and likely request a modification to the Special Permit. Jesse Steadman said there is no timeline currently established. Lori Clark said that the Planning Board needs to express some urgency to get the site permitted and the site cleaned up after over 2 years of inaction. Lori Clark said that the Planning Board needs to make it clear that there needs to be a schedule of submissions and permit compliance.

Jesse Steadman said the developer of the Joanne Drive subdivision still has not provided the required fee-in-lieu of affordable housing construction, and the area median income statistic, on which that fee is calculated, have recently changed. Jesse Steadman recalled to the Board that the developer is required to submit the fee-in-lieu before they can receive the 4th building permit for the development. Jesse Steadman said there will be a site visit with an engineer contracted by the Town for Kane Land Access Path design.

Jesse Steadman said on April 26 there will be a joint-boards discussion with the Select Board regarding new multifamily zoning requirement for MBTA communities. Jesse Steadman said there will be another joint-boards discussion on April 28 with the Economic Development & Industrial Commission to meet with Linear Retail, owners of the Stow Shopping Plaza.

Jesse Steadman said the Planning Board will hold a Public Hearing on May 17 in response to a zoning petition from the owners of D&D Farms on Hudson Road, even though the petition will not be on the Warrant for Annual Town Meeting. Jesse Steadman said the Public Hearing is required by General Laws Chapter 40A even though it is unclear exactly when the zoning amendment will be considered by Town Meeting.

Jesse Steadman said he provided a presentation to the Stow Conservation Commission about the funded Water Feasibility study for Lower Village, which outlined some on-the-ground implications of potentially using conservation parcels for well water.

Nan's Market Special Permit Modification – Deliberations

Lori Clark reminded attendees that the Public Hearing is closed, and the Board cannot accept additional input.

The Board reviewed the changes made since the last meeting and made several additional amendments to the draft decision. The Board determined an appropriate definition of “special events” to be allowed on the site.

*Karen Kelleher motioned to approve the Nan's Market Special Permit and Site Plan Approval Modification #4 as drafted and amended
Nancy Arsenault seconded*

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

Karen Kelleher motioned that the Board go into executive session under G.L. c.30A, §21(a)(3) to discuss strategy with respect to litigation known as Black Oak Builders, LLC v. Town of Stow Planning Board, Middlesex Superior Court Docket No. 2181CV05777, because the Chair has declared that discussing the matter in open session may have a detrimental effect on the litigating position of the Board and with the Board to not return to open session.

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 motioned to adjourn
John Colonna-Romano seconded*

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

Respectfully submitted,

Malcolm Ragan