

TOWN OF STOW  
PLANNING BOARD

Minutes of the April 26, 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

**Correspondence**

Board members discussed the updated affordable housing income limits provided by Metro West Collaborative Development. The Board noted that the new numbers would be used to calculate affordable housing contributions for in-progress housing developments.

**Planning Board Member Updates**

Chair Lori Clark said she would like to set some clear guidelines for public input during Planning Board meetings and allow more time for the Board to deliberate on agenda items before receiving public comments. Lori Clark said that she would like public comment to be more open than only allowing input at the start of a meeting, but that the Board could use more time for focused discussions to formulate its own positions on certain topics.

Board members said they are in favor of setting clearer expectations for public input on agenda items. Karen Kelleher said any policy that is developed to formalize new guidelines should make it clear that the Planning Board will not make final decisions and take motions or votes without allowing time for public discussion and input, unless a Public Hearing has already been closed.

Karen Kelleher said she has been concerned about accommodations toward the public during Planning Board deliberations on Special Permit decisions, after the requisite Public Hearing has been closed. Lori Clark said that permit deliberations are an example of an agenda item that should be marked as a working agenda topic and not be accepting public input during discussions. Margaret Costello said that the policy should include similar limitations for project applicants during permit deliberations. Lori Clark said that the Board should still have the option to ask the applicant clarifying questions.

Mark Jones said that it is safest to have no interaction with the applicant or the public in the course of a contentious permit deliberation if the Public Hearing has been closed. Nancy Arsenault said that the Board should be very clear with attendees that they will be muted during sections where their input is not legally allowed. John Colonna-Romano said that the Board could limit input during working topics to the start and beginning of the discussion. Lori Clark said that she is worried the Board will never arrive to their discussion if comment is taken at the top of a major topic. John Colonna-Romano said that collecting a broader sense of input could be useful to the Planning Board. Lori Clark maintained that the Board could still have discussions at the beginning and allow other opportunities for public input.

Jesse Steadman said that such a policy would help staff make it clear to people that the best way to interact with the Board is to provide written correspondence.

## **Joint Boards Discussion with Select Board – MBTA Communities Zoning Requirements**

Assistant Planner Malcolm Ragan provided a presentation to the Select Board and Planning Board regarding new multifamily zoning requirements for MBTA communities. Malcolm Ragan explained that Stow is required to develop a new zoning district to allow multifamily housing by right at a gross density of 15 units/acre by the end of 2024 to remain eligible for several state grants, with several interim steps to maintain compliance and remain eligible for that grant funding.

Select Board member Cortni Frecha asked if the Lower Village business district is large enough to be rezoned to allow the multi-family housing and meet Stow's zoning obligations, and if zoning for mixed use is allowed under the new requirements. Planning Staff said theoretically Lower Village is large enough to meet state requirements, and that mixed-use zoning is allowable. Select Board chair Ellen Sturgis asked where the district would have to be located. Planning Board chair Lori Clark said that because no part of Stow is within ½ mile of the South Acton MBTA station, there is greater flexibility afforded for the location.

Cortni Frecha asked if the district can be drawn to include existing developments. Lori Clark said that existing developments can be included in a new district as long as the underlying zoning requirements are met. Cortni Frecha wondered if the forthcoming Stow Acres development could be a suitable location.

Select Board member Jim Salvie said he is frustrated by these new zoning requirements. Jesse Steadman said that Stow has made real efforts at meeting housing production targets in the past several years, and that it is frustrating to have the goal posts suddenly moved by the state. Jim Salvie said that it does not appear that the benefits of a by-right multifamily district are worth the costs of non-compliance. Jim Salvie said that the Planning Board is likely to receive major pushback from whichever neighborhood the district is proposed in. Lori Clark said that state requirements appear to be disregarding small town concerns and limitations.

Ellen Sturgis asked if the Select Board should reach out to the local state legislative delegation to voice concerns. Cortni Frecha asked if the unit density requirements would be required to adhere to local height regulations. Planning Staff said that height limits can be maintained as long as the requisite density of 15 units/acre is met.

The Select Board asked to be provided copies of a letter sent by the Mass Municipal Lawyers Association detailing concerns and feedback on the draft compliance guidelines, as well as the comment to the Department of Housing & Community Development (DHCD) sent by the Planning Board back in March.

Nancy Arsenault asked how much the Town has utilized MassWorks grant funding in the past. Jesse Steadman said the program has been the primary source of infrastructure money for the last several years. Malcolm Ragan noted that access to the MassWorks program will be cut off on December 31, 2024, if Stow does not meet the new zoning requirements.

## **Planner's Report**

Jesse Steadman said he has been in touch with the attorney for Jon Handel, the original developer of the under-construction Spring Hill Estates subdivision. Jesse Steadman said that the Town has a very limited

role in an ongoing dispute over responsibilities to implement a Stormwater Pollution Prevention Plan (SWPPP) at the development. Jesse Steadman said a good way forward would be a letter from the Town to Jon Handel, restating his obligations to maintain the subdivision in compliance with stormwater permitting. Jesse Steadman said he is concerned that a major thunderstorm could cause a blowout at the site and there would be finger pointing between the interested parties. Jesse Steadman said the town should re-affirm that Jon Handel is required to meet the requirements of the development agreement. Jesse Steadman said he will be requesting guidance from Town Counsel going forward.

Jesse Steadman updated the Board that the fee-in-lieu of affordable housing construction for the 7-lot Joanne Drive subdivision should be received soon.

Jesse Steadman said that he should have some updates on the status of the proposed Masters Academy available for the Board at an upcoming meeting. Mark Jones asked if the suggestion that a covenant run with the land has been provided to the Select Board for their negotiations of a development agreement. Jesse Steadman said that the Select Board did receive that suggestion.

### **Stow Acres MVP Application Letter of Support**

Jesse Steadman explained how the application for grant funds from the Municipal Vulnerability Preparedness (MVP) would fit in with the broader Stow Acres open space, housing, and recreation project.

*Karen Kelleher motioned to send a letter of support for the Stow Acres Municipal Vulnerability Preparedness Grant Application*  
*John Colonna-Romano seconded*

John Colonna-Romano said he is unsure how applicable the Stow Acres project is for funding through the MVP program. Jesse Steadman said that ecological restoration and possibility to create new flood storage areas fits within the scope of the MVP program, and the entire project could be looked at from smart growth and recreation goals in mind that would be applicable to furthering local resiliency. Jesse Steadman said it is a shame Stow does not have access to updated flood risk data that would make a clearer case for additional storm surge storage.

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

### **Collings Foundation – Settlement Agreement Review**

Karen Kelleher noted that she is an abutter to the Collings Foundation/American Heritage Museum and recused herself from the discussion.

John Colonna-Romano said the root of disagreement is which paragraph of the settlement agreement governs restrictions for noise generating events. John Colonna-Romano said the definitions in the agreement clearly state that such events are governed by par. A.3.

John Colonna-Romano said the Planning Board could ask if the Collings Foundation can identify demonstration activities that are occurring and how they relate to noise generating activities. Margaret

Costello asked if the Planning Board already asked for event reporting. Staff reported that such a request was already made.

Margaret Costello asked if it would be reasonable to require ongoing event reporting and if the Town has the necessary authority to make such requests. Assistant Planner Malcolm Ragan said that the settlement agreement does not appear to provide the Town with authority to require reporting for events other than those defined as “major events”. Lori Clark said that Town Counsel could be asked to review the terms of the agreement and give the Board guidance on how to require monitoring.

Lori Clark asked if the Collings Foundation is complying with the reporting requirements to the Select Board and public safety for “major events”. Jesse Steadman said it appears they have been complying with those terms. Robert Collings asked for more information about the nature of the complaints received and said it would help them to understand what events are causing issues for abutters. Rob Collings said that some of the events causing complaints may be the major events, and that demonstrations/exhibitions typically occur only monthly and during the summer.

Jesse Steadman said the Planning Department began receiving complaints during the previous summer and have received complaints of ongoing noise since. Rob Collings said that if he can correlate the complaints with summer demonstration events he can better understand when issues are arising. Lori Clark said the Board is interested in knowing which of the events governed under par. A.1 of the settlement agreement involve the running of tank engines.

The Board viewed a draft letter verifying their acceptance of the Collings Foundation as-built plans, which have been modified to include a note detailing the conditions of one of the stormwater detention basins.

*John Colonna-Romano motioned send the letter verifying the Planning Board’s vote to accept as-built plans for the American Heritage Museum*  
*Margaret Costello seconded*

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

### **Sign Bylaw Discussion**

Chair Lori Clark said that the Board has not had a chance to discuss important concepts around sign regulations and should have a clear idea of goals and approach before getting into the weeds on a draft bylaw revision. The Planning Board discussed several topics related to the current sign regulations and what could be improved.

The Planning Board was asked if they believe the current signage regulations are outdated or deficient. Several Board members stated that the current regulations are not enforced tightly enough or are legally difficult to enforce. Karen Kelleher said the main issues identified to the Board have been allowances for internally illuminated signage, which were revised in October 2021, and limited allowances for businesses located within the residential zoning district. Nancy Arsenault said that the existing bylaw still seems workable, and that it could benefit from revisions to adapt to current case law and provide greater clarity on temporary signs. Lori Clark agreed that the temporary sign restrictions are due for revision.

The Board was asked what they believe a successful sign bylaw looks like. Lori Clark said that a sign bylaw must include very specific language to remove any ambiguity from regulations, which may include some standard legal language, but that the Board can also provide more easily intelligible information about the bylaw to businesses and the public outside of the bylaw itself. Karen Kelleher agreed that something like an FAQ document should be made available alongside the bylaw. Nancy Arsenault said that a successful bylaw must strive for maximum clarity, including on enforcement timelines and procedures.

John Colonna-Romano said that the Board should strive for regulations that are abundantly clear and unambiguous on basic limitations such as location and number of signs, but also offer some opportunity for flexibility for the Board in unusual circumstances. Lori Clark said that if the Board has the authority to offer some flexibility, there is a risk of applicants pressuring the Board to approve something they may not be comfortable with. Margaret Costello agreed that the Board should exercise caution in allowing flexibility in sign regulations.

The Board discussed the option to afford some additional dimensional allowances in the event attractive design criteria are met or if the sign is permitted as part of a broader site plan review.

Mark Jones noted that it would be challenging to preserve the current allowances for off-site signage for local orchards without allowing any business to place off-site signage around town, while remaining in compliance with federal case law. Malcolm Ragan said there have been recent developments in signage case law that appears to allow regulation of off-site signage depending on the zoning district the business is physically located within.

The Board discussed the need to provide reasonable limitations to the number of signs that are appearing in residential areas. The Board also discussed the special importance of Town Center as a location for wayfinding off-site signage.

The Board discussed the options for acknowledging existing non-conforming business uses and discussed the need to allow them to replace their signage. Planning staff suggested that the Board undertake an in-depth of review of the current sign bylaw in light of discussions had at this meeting.

Economic Development & Industrial Commission member Bob Collings said that after the previous discussion, he believes the Planning Board and the EDIC are aligned on many goals for sign bylaw revisions. Bob Collings said that everyone is concerned with businesses that characterize Stow and providing them the clearest possible guidance for sign regulations. Bob Collings said that constitutional free speech protections should be preserved to the greatest degree possible in sign regulations, and that content-based restrictions on signage are not permitted according to recent case law. Bob Collings agreed with the idea to provide FAQs or other similar guidance to businesses before they need to read the actual text of the sign bylaw. Bob Collings said that applications for sign permits could be handled online through the Building Department.

*Karen Kelleher motioned to adjourn*  
*John Colonna-Romano seconded*

Respectfully submitted,  
Malcolm Ragan