

TOWN OF STOW
PLANNING BOARD

Minutes of the August 22, 2023, Planning Board Meeting

Planning Board members present: Lori Clark, Nancy Arsenault, John Colonna-Romano, Margaret Costello, Karen Kelleher, Deb Woods (voting associate)

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

Review of Minutes

Karen Kelleher motioned to approve the minutes of July 25, 2023, as amended.

John Colonna-Romano seconded.

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

Karen Kelleher motioned to approve the minutes of August 8, 2023, as amended.

John Colonna-Romano seconded.

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

Joanne Drive Subdivision – Request for Relief from Street Tree Planting Requirements

Tim Black of Kendall Homes submitted a waiver request letter, dated August 22, 2023, seeking relief from street tree planting requirements for the Joanne Drive subdivision. Tim Black and Chuck Black were present at the meeting.

Lori Clark invited Tim Black to update the Board on the status of the subdivision and provide context regarding the submitted letter. Tim Black stated that the subdivision is nearing completion with the roadway portion of the subdivision anticipated to be complete by October 15, 2023. He stated that he submitted the letter to the Planning Department requesting relief of the street tree planting requirements for Phase 1 of the subdivision. He stated that the street trees are close to the existing tree lines, which he believes will not allow the trees to grow and be healthy. Tim Black stated that he met with the Tree Warden regarding the placement of the trees.

Lori Clark asked Tim Black if the trees that the August 22, 2023, waiver is seeking relief from are the same trees from the July 14, 2022, waiver seeking relief from street tree planting. Tim Black clarified that the trees in the August waiver are for Phase 1 of the subdivision, and the trees in the July waiver are for Phase 2. He stated that he would like to withdraw the July waiver and plant the trees identified in that waiver per plan.

Tim Black continued by stating that he was in communication with former Planning Staff Jesse Steadman and Malcom Ragan regarding a waiver from planting street trees in Phase 1. He stated that the former Staff and the Tree Warden agreed that the trees could be waived; however, it was not in writing. Lori Clark responded that Staff cannot grant waivers and asked if Tim Black was aware of that. Tim Black acknowledged that he was aware that the Board is the authority that grants waivers, not Staff.

Valerie Oorthuys shared a site plan with the Board dated August 4, 2017. The plan shows the location of all approved locations of street trees but does not indicate which locations are referenced in the waiver.

John Colonna Romano asked for clarification about which trees are being waived. Tim Black responded that the trees previously requested to be waived in the July, 14, 2022, letter will be planted despite being asked to be waived; street trees from Phase 1 of the subdivision are currently seeking a waiver.

Lori Clark asked Tim Black where on the site plan the street trees subject to the waiver are. Tim Black identified that the first five tree on the west side of Joanne Drive (looking south from the intersection of Joanne Drive and Sudbury Road) are the first fifteen trees on the east side of Joanne Drive (looking south from the intersection of Joanne Drive and Sudbury Road). He stated that a cluster of four trees has been added to meet the number total number of trees required in the plan.

Karen Kelleher asked for clarification on the total number of trees that will not get planted. Tim Black stated that twenty street trees on the site plan will not get planted.

Lori Clark asked if there will be another street tree waiver for Phase 2 of the subdivision. Tim Black stated that the street trees will be planted according to plan as he received help from the Tree Warden. According to Tim Black, alternative areas for trees have been identified on site by the Tree Warden.

Nancy Arsenault asked if the Tree Warden has sent anything to the Boad regarding alternative locations of trees. Tim Black responded that nothing had been submitted. Valerie Oorthuys stated that she has not been in contact with the Tree Warden. Lori Clark asked Valerie Oorthuys for her observation at the site. Valerie Oorthuys stated that the site does have a steep grade where street trees are proposed to be planted. She added that it would be helpful for her to have a marked up plan that indicates exactly which trees are included in the waiver and the alternative locations of trees that were identified by the Tree Warden.

Karen Kelleher asked if any members of the Board remember talking about the street trees in Phase 1. Lori Clark stated that there was discussion about street trees in Phase 2 and that the Board requested alternative locations to be identified.

Karen Kelleher expressed concern as the grades of the area around the trees were known when the plan was approved and relief from street tree planting is being sought when the subdivision is near completion.

Lori Clark believes that requesting a waiver for twenty trees is a large request. She stated that she would like a plan that identifies the trees in the waiver. Tim Black stated that he would like to meet with the Board on site to show the location of the trees. Lori Clark stated that she finds it odd that the waiver request is for Phase 1, the earlier phase, when Phase 2, the later phase, was previously the subject of the waiver request.

Karen Kelleher asked for further clarification for the two waiver requests. Tim Black stated that he would like to withdraw the July 14, 2022, waiver, and submit a new waiver, dated August 2, 2023.

Lori Clark asked for a marked up site plan that will identify which trees will not get planted and new locations of street trees; once the plan is received, a site visit can be scheduled.

Tim Black stated that he offered a site visit to the Board at a past meeting, but the Board did not schedule a site visit. Lori Clark stated that the site visit was not in regard to the trees subject to the waiver, and that the Board had asked for a revised site plan to show alternative locations of tree placements before attending a site visit. Tim Black stated that he has identified alternative locations and has begun planting trees in those locations. Lori Clark responded that the Board was waiting for a plan that identified the alternative location of street trees so that the waiver could be closed out.

Lori Clark asked Tim Black to submit a plan for the street trees. Tim Black responded that a revised plan is something he can provide. John Colonna-Romano agreed that a revised plan will be helpful. Lori Clark asked that trees that are not to be planted should be x'ed out and alternative locations be drawn on. Tim Black said he would prefer to present plans on site instead of submitting them to the Board. Lori Clark asked again for the plans to be sent over to show what was originally proposed and what is currently being proposed.

Tim Black stated that the alternative locations of trees were approved by previous Planning Staff. Lori Clark reminded Tim Black that Staff do not have the authority to approve modifications unless specifically granted the authority by the Board. She stated that taking direction from Staff is done at the discretion of the applicant.

Margaret Costello believes that requesting a waiver for twenty trees is a large request. She agrees with Karen Kelleher's remark that the grades of the site were known when the plan was approved and during construction. She stated that she does not think that the grade of the site is a reason to waive tree planting. She stated she is not inclined to grant a waiver as there were a number of pre-existing trees removed from the site during construction. Lori Clark continued that asking for a waiver is surprising to the Board given that the subdivision is near completion.

Chuck Black stated that it was a goal at the beginning of the subdivision construction to preserve trees. He acknowledged that the waiver is late and stated that a marked-up plan will be provided to the Board. He encouraged the Board to visit the site.

Chuck Black stated that 19 street trees will be planted on August 23, 2023. He reiterated Tim Black's comment that the subdivision is anticipated to be completed by October 15, 2023. He stated that Kendall Homes has worked well with the Town in protecting the natural environment, and that it was intended to not plant some of the trees on the east side of Joanne Drive. Lori Clark responded that this is not a discussion about the work of Kendall Homes, rather that the Board had asked for a plan that shows alternative locations of trees a year ago for Phase 2. She reiterated that the Board is surprised that no such plan had been submitted and now a waiver for the original phase is being requested.

Chuck Black asked for the procedure for scheduling a site walk. Lori Clark stated that staff will coordinate dates and times for a site visit. Valerie Oorthuys stated that a marked-up site plan will need to be submitted prior to scheduling a site visit. Tim Black stated he will submit a plan to the Board by the end of the week.

The Board quickly discussed what was in previous Minutes regarding street trees on Joanne Drive. The Board acknowledged that they had been waiting for a marked-up plan. Karen Kelleher asked Valerie Oorthuys to get information from Bruce Fletcher regarding conversation about the street trees on Joanne Drive.

Subdivision Approval Not Required (ANR) Plan review and Endorsement – Lot 3, Packard Road, Assessor’s Map R-17 Parcel 20D

Scott Hayes, on behalf of the Applicant, presented an ANR plan to the Board for Lot 3, Packard Road. John Colonna-Romano asked for a quick history of the lot. Scott Hayes stated that a larger lot was subdivided in 2020, and Lot 3 and Lot D1 on the plan were shown as one lot. He stated that Lot 3 was shown on a 1965 plan as a separate lot from Lot D1, and at the time was a conforming lot. Scott Hayes stated that the Zoning Board of Appeals granted the lot to be a nonconforming lot, but had a condition that an ANR plan be filed with the Board.

John Colonna Romano stated that the frontage is less than 200 feet, and asked if the Zoning Board of Appeals would allow that. Scott Hayes stated that the Zoning Board of Appeals did not find that separating the parcel into two lots would increase the nonconformity of the lot.

Margaret Costello asked why the lot is being subdivided as the subdivision would make Lot D1 have no frontage. Scott Hayes stated that it the applicant’s intention to keep Lot D1 undeveloped.

Karen Kelleher motioned to approve “Plan of Land on Packard Road in Stow, MA” dated July 30, 2023, as presented, and to authorize Valerie Oorthuys to endorse the plan on behalf of the Board.

John Colonna-Romano seconded.

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

Review of Minutes, Continued

John Colonna-Romano motioned to approve the minutes of August 15, 2023, as amended.

Nancy Arsenault seconded.

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

Review of Correspondence

John Colonna-Romano asked if the updates to the MBTA Communities Guidelines affects Stow. Lori Clark responded that mixed use is permitted in Stow, but the Town does not meet all the conditions in the guidelines. She stated that the Board would no longer have the authority to use the special permit process, and commercial uses will only be allowed on the first floor.

Margaret Costello, regarding previous correspondence from Mark Jones, asked the Board to consider adding an item to the Planning Board Work Plan to draft a template for homeowners association policies. She stated that there are several upcoming developments and she views the draft to be important. Lori Clark asked for clarification. John Colonna-Romano suggested a guidance document instead of a template. Lori Clark responded that a checklist could be provided for items to be considered. Lori Clark asked Valerie Oorthuys to add that to the Work Plan and for a later discussion about its priorities.

Planning Board Members’ Updates

There were no Planning Board Member updates.

Planning Director’s Report

Citizen/s Petition

Valerie Oorthuys stated that a Citizen's Petition was filed with the Town Clerk for the Board to draft zoning for regulating firearm manufacturing. She stated that the warrant does not contain any zoning language, and Town Counsel believes a Public Hearing is required.

Lori Clark asked for clarification from Valerie Oorthuys that the petition was submitted with the intention to be an article for Town Meeting. Valerie Oorthuys stated that Lori Clark is correct. She stated that a Public Hearing would likely need to be the night of Town Meeting. Lori Clark asked what would happen if the Hearing does not close. Valerie Oorthuys stated that the Hearing would need to close before Town Meeting.

Karen Kelleher asked what a Public Hearing would be if there is no proposed Zoning. Valerie Oorthuys agreed that it is confusing and that she will ask Town Counsel for more guidance and advice on the Public Hearing.

Lori Clark asked what a vote in support would mean at Town Meeting. Valerie Oorthuys stated that it was recommended from Town Counsel to not support the Citizen's Petition as it is not clear what the implications are. Lori Clark expressed concern that not supporting the article could get misinterpreted by the public that the Board would not want to consider regulations about firearms.

John Colonna-Romano stated that this petition would have been better to understand the viewpoints of the public rather than a Town Meeting Warrant Article.

Lori Clark expressed concern that holding a Public Hearing the night of Town meeting may not give everyone attending the opportunity to speak. Nancy Arsenault expressed concern that the timing of the Public Hearing would be inconvenient to those attending Town Meeting. Karen Kelleher expressed concern that the Board will have difficulty asking questions at the Hearing if there is no language being considered amending.

Valerie Oorthuys read the warrant article to the Board. Lori Clark emphasized that the article states for a section to be added to the Zoning Bylaw; she stated that the Board cannot add a section at Town Meeting. She stated that the Board will have no choice but to not support the article.

Valerie Oorthuys stated that she will get further clarification from Town Counsel.

Lori Clark asked if there are any other times the Board could hold a Public Hearing besides the night of Town Meeting. Based on posting requirements, Valerie Oorthuys stated that the earliest the Board could do is Monday, September 11, 2023. She suggested September 12, 2023.

The Board further discussed the timing of the Hearing. It was agreed that a Hearing would be held on September 12 or September 18 at 3pm via Zoom Web Conferencing.

Lori Clark asked for further clarification from Town Counsel on what happens if the citizen petition is approved at Town meeting. She also asked Valerie Oorthuys to provide contact information for the citizen who submitted the application.

63-65 White Pond Road

Valerie Oorthuys will send out an email regarding a site visit to 63-65 White Pond Road.

Kane Land Access Path

Weather delays have continued to delay the construction of the access trail. There are approximately 5 days left of construction.

Public Input

Katie Fisher, 1 White Pond Road, asked for confirmation that a Zoning Bylaw amendment cannot be retroactive to a Special Permit. Lori Clark confirmed.

Lot Release – 68 Dunster Drive (Lot 23 Derby Woods)

Valerie Oorthuys submitted a lot release letter to the Board to release Lot 23 of the Derby Woods development. She believes that it was likely forgotten to be released twenty years ago. She stated that the owner of the property is looking to sell their property.

Karen Kelleher motioned to release Lot 23 of the Derby woods subdivision.

John Colonna-Romano seconded.

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

Adjournment

Margaret Costello motioned to adjourn.

Karen Kelleher seconded.

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

Respectfully Submitted,
Michael Slagle