

TOWN OF STOW
PLANNING BOARD

Minutes of the November 15, 2016 Planning Board Meeting

Planning Board Members Present: Lori Clark, Steve Quinn, Ernie Dodd, Len Golder

Voting Associate Member: Mark Jones

Absent: Margaret Costello

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

Discussion of Meeting Minutes

Minutes of November 1, 2016

Ernie Dodd moved to approve the minutes as amended.

Steve Quinn Seconded.

VOTED: 3-0 Unanimously in favor (Lori Clark, Ernie Dodd, Steve Quinn -Yea).

Public Input

None.

Member Updates

None.

Planner's Report

Lower Village

Jesse Steadman noted that a letter has been sent to Howard Stein/Hudson to initiate the update to the contract and call out the aspects of work that still need to be completed.

Edge Community Commission

Jesse Steadman directed the Board to an updated letter to the Edge Community Commission, a vote of which is on the evening's agenda.

Highgrove

Jesse Steadman reported that James Fenton stopped into the office to note that they will be going forward with completion of the final units at Highgrove and wanted to double check that the 4th occupancy permit was tied to the completion of the sidewalk or donation to the sidewalk fund as described in the Decision.

Delaney Street Solar

Jesse Steadman noted that ASE Distributed Energy has notified the Town that the holder of the Escrow funds, Cambridge Appleton Trust, will no longer be the administrator of the security agreement. Town Counsel has also confirmed that the Special Permit has expired, although it could be relatively simple to approve a new Special Permit. Jesse Steadman noted that there have been a few proposed changes to the Escrow Agreement, namely that the bank holding the funds is proposed to be in Colorado, which is in violation of the Special Permit.

Regency at Stow Land Donation

Jesse Steadman reported he has drafted a letter to the Board of Selectmen detailing the findings that were made regarding the offer to donate a strip of land along Boxboro Road in conjunction with the Regency at Stow Special Permit. Jesse Steadman said he will include the letter in the December 6th packets to finalize prior to sending to the Selectmen.

Smoke Shop

Jesse Steadman reported that he has had conversations with a potential tenant at 118 Great Road to open a vape shop. Jesse Steadman added that he instructed the future tenant to be in touch with the Board of Health and that there are currently no zoning restrictions on such a retail use in the Business zone. Jesse Steadman said he spoke with the property owner at the site, who noted that the tenant has several such stores and is likely positioning themselves for sale of recreational marijuana when that becomes available in 2018.

Recreational Marijuana

Jesse Steadman noted that the passage of question 4 has many planners reviewing the language of the ballot measure. It appears that Towns can regulate retail establishments much like registered marijuana dispensaries. It also allows Towns to tie the number of establishments to fewer than 20% of the number of liquor licenses in the community, fewer than the number of medical marijuana treatment centers in the community or allows an outright ban, all by Town Meeting vote. It does not appear that any sales will be able to take place in the state until 2018.

Regency at Stow

Jesse Steadman noted that Britton Bradford of Toll Brothers has asked whether the company can clear and grade an area shown on the plan for the construction trailer. Jesse Steadman said he initially understands language in the Decision to prohibit commencement of construction until the plan has been endorsed and the required legal documents have been submitted and approved by the Planning Board.

The Board agreed that after the appeal period, it would be alright to place a trailer on the lot if Toll Brothers submitted documentation of the scope of clearing and grading for the trailer.

433 Taylor Road Restrictive Covenant Discussion

Jesse Steadman said that owners at 433 and 435 Taylor Road have inquired into the possibility of amending a Covenant related to the lots, served by a paper road. The original subdivision was approved by the Planning Board in 1979, with conditions listed in a Certificate of Action, subject to a covenant. Jesse Steadman provided both the Certificate of Action and the covenant to the Board.

Mark Jones asked about the expiry of the covenant. Jesse Steadman said that staff should check in with Town Counsel to see if the covenant has expired. Mark Jones and the Board noted that regardless of its expiry, the Certificate of Action states that “there will be no further subdividing of land to create additional building lots”.

The Board agreed that the intent behind the decision is clear, and should the applicant decide to further divide the lots, a new subdivision plan would need to be submitted, inclusive of plans to construct the road.

Public Hearing

Jillian’s Lane Subdivision Modification, 113 Walcott St

Ernie Dodd moved to waive the reading of the Public Hearing notice.

Steve Quinn seconded.

VOTED: 4-0 Unanimously in favor (Lori Clark, Ernie Dodd, Steve Quinn, Len Golder-Yea).

Present: *Greg Roy, P.E.- Ducharme and Dillis Civil Design Group, Inc.*

Greg Roy provided an overview of the history of the subdivision, stating that the legal documents for the original permit are still being finalized, and the applicant is proceeding with a modification of the original decision. Greg Roy said that last winter a preliminary subdivision plan was filed to create 3 lots, including the existing house and barn, and to create frontage for the two new lots by way of a new road. In the spring the definitive subdivision process started, which concluded in the middle of the summer. Subsequently, the applicant has advanced plans for the new homes and has chosen to relocate the road. Greg Roy said that in the original plans, the homes had driveway access off of Jillian’s Lane, just north of the existing house, headed west. Due to the desire to preserve land in the middle of the lot, the applicant asked to redesign the site to locate the driveway at the northern edge of the property.

Greg Roy stated that what hasn’t changed in this modification is the layout of the new subdivision road, the location of the drainage basin, and the lot lines. Greg Roy said that the changes focused on revising to coordinate the new driveway location, which required additional grading, relocating the swale, and changes to erosion control and the drainage report. The plan was updated based on foundation plans from the developer. Greg Roy

said that future improvements of Walcott Street are still in the plans though it will be done at a future time, as was proposed originally. Greg Roy added that in most situations, the driveway location isn't shown on plans, yet this one is shown because it is a shared driveway.

Greg Roy acknowledged the Places Associates, Inc. comment letter, stating that he would respond to those concerns through a letter shortly.

Public Comment

Bill Chiarchiaro of 79 Edgehill Road asked about the contours of the driveway, specifically wondering what controls are in place to mitigate runoff that would come off the driveway headed towards Walcott Street. Greg Roy said that the driveway is a super elevated drive that drains and pitches towards the swale to the west. Greg Roy also noted that the stone wall along the eastern property line will remain.

Bill Chiarchiaro asked for erosion control and water management to be addressed, especially around requirements for ongoing inspection and maintenance. Bill Chiarchiaro noted that the plans show numerous stormwater management features and asked who will be responsible for inspection and maintenance, thinking to the future when these proposed lots will have future successive owners. Bill Chiarchiaro stated concern over seasonal damage and wondered about enforcement mechanisms and asked that it be stated in the covenants and decision conditions that infrastructure requires ongoing maintenance and protection, which could also be recorded in the deed and bound to any lots that may be subdivided in the future.

Greg Roy noted that the erosion control plan and the Stormwater Pollution Prevention plan (SWPPP) are required and have been provided. These insure that the site is in compliance, requiring long term planning and maintenance to be prepared and submitted, and this document also tells homeowners how to maintain their systems- what failure indicators to look for, what signs of erosion are, etc. Bill Chiarchiaro asked that this document be referred to by some condition in the deed to ensure long term understanding of the stormwater system in place.

Len Golder asked about the slope of the road and driveway. Greg Roy stated that it is the same as before- 12%. Ernie Dodd asked for further comparison to the former plan, as it appears there are more disturbances with a longer road, which seems as though this would create more of a problem with stormwater management. Greg Roy said that the northern edge is unchanged from the original plan, and that there was some juggling with the septic system, though the applicant has a desire to preserve. The modification included recalculating watershed areas, land cover, and ensuring the capacity of the drainage system.

Ernie Dodd asked about the limit of clearing. Greg Roy said that this can be added to the plan, but the limit essentially follows the contours around the drive- all will be cleared inside the lot.

Lori Clark asked how the subdivision will alter abutters' views. Greg Roy said that the trees along the property lines to the north and east will remain.

Lori Clark asked for clarification of the impetus for the modification. Greg Roy said it was to preserve the open space in the center of the lot and to move the driveway east, as it previously divided the land.

Steve Quinn asked what the difference is in the length and slope of the driveway. Greg Roy stated it would be about 50 or so feet longer, yet still with a 12% slope with swale and rip rap, a super elevated drive, with 4' shoulders and a 12' width.

Ernie Dodd asked for more description of the turnarounds. Greg Roy said that the T-turns did not change.

Steve Quinn mentioned that the length and drainage of the driveway was a primary concern for the original subdivision plan, and wondered if the Fire Chief has reviewed the modification. Jesse Steadman said this was discussed at a staff meeting, and a written comment can be requested.

Lori Clark asked that the comment from Places Associates, Inc. regarding procuring an easement from the abutter on the southerly side of Walcott Street to install a pipe for a culvert at the stone wall be addressed. Greg Roy said that they would work to get an easement from the abutter.

Mark Jones asked how shallow the water table is there, and what the impact may be on the septic fields. Greg Roy said that the depth is about 28" there, so the septic fields are raised, which will be approved by the Board of Health.

Len Golder asked how much of the driveway is at or above 10% slope in the modification, and if the slope could be lessened if the drive were moved at all west. Greg Roy said that the drive needs to be located where it is shown because of the slope, and that a greater percentage of the drive in the modified plan is at or above 10% slope- the slope is at around 12% for the entire northern section, after the cul-de-sac tee.

The Board agreed that comments from the Fire Chief need to be received and the letter from Places Associates, Inc. needs to be addressed prior to closing the Public Hearing.

Ernie Dodd moved to continue the Public Hearing for a Definitive Subdivision Modification and Erosion Control Special Permit on December 6th at 7:30.

Steve Quinn seconded.

VOTED: 5-0 Unanimously in favor (Lori Clark, Ernie Dodd, Steve Quinn, Len Golder, Mark Jones (Voting Associate Member)- Yea).

Jillian's Lane Subdivision Legal Documents

Present: *Randy Carpenter and Robert Visco of 30 Old Stow Road*

Randy Carpenter asked about finding a way forward with the legal documents, suggesting that perhaps there is a way to hire Town Counsel to prepare those documents. Randy Carpenter said that a primary concern is the inclusion of the owner of Lot 1 in the Homeowners Association, as he does not want that owner to have any financial obligation for ongoing maintenance.

The Board agreed that the owner of Lot 1 would not need to be financially liable, yet they would still need to be included in the Homeowners Association documents and in the Declaration of Restrictive Covenants.

The Board noted that there were additional concerns with the legal documents, including the Common Driveway Easement and Agreement and the Access Easement.

The Board discussed a path towards finalizing the documents, agreeing that Town Counsel's comments were made clear. Randy Carpenter stated that he will look to have them finalized by the Planning Board meeting on December 6th.

T-Mobile Wireless Facility Minor Modification

Jesse Steadman said that SBA Communications, on behalf of T-Mobile Northeast, is looking to install a 7.5 kw propane based emergency backup generator at the Wheeler Road wireless tower site. The generator would run twice a year for 20 minutes each time. They would also install a 120 gallon vertical propane storage tank located at the corner of the lot, within the leased area and fenced in, to power the generator. Lastly, they would need to install a 98' underground gas line to connect the propane to the generator.

Jesse Steadman stated that this project is governed by a court judgement rather than a Special Permit, which permits the Board to make minor modifications to the installation without the need for a Public Hearing.

Ernie Dodd stated that he would be concerned with noise, however this would be operated twice a year, placed in a compound, and appears buffered by trees.

Lori Clark noted that most emergency generators in residential neighborhoods run once a week- this testing is considerably less intrusive, and there should be a finding in the decision stating as such.

The Board discussed the inclusion of a finding in the decision stating that the generator is to operate only in emergency circumstances, and will only exercise twice a year, in 20 minute increments for a total of 40 minutes per year.

Ernie Dodd moved to approve the decision of Modification to Telecommunication Facility in Accordance with MA District Court Judgement Civil Action No, 01-10762 PBS, Section IV (C), as amended at this meeting.

Steve Quinn seconded.

VOTED: 4-0 Unanimously in favor (Lori Clark, Ernie Dodd, Steve Quinn, Len Golder-yea).

Stowaway Inn Modification Determination

Present:

Greg Roy, P.E.- Ducharme and Dillis Civil Design Group, Inc.

Wes Fischer and Shirley Birchfield- Applicants

Lori Clark stated that this discussion is intended to determine whether the alterations to the plans at Stowaway Inn necessitate a minor or major modification.

Greg Roy provided updated information regarding the site plan for 271 Great Road, stating that some features of the building and site layout would be reduced. Greg Roy said that there would be a retaining wall around the patio, which will be reduced in size and shifted in towards the building. There is no longer a full two story addition on the barn, rather a proposed overhand to cover the front handicap accessible entrance. Lastly, the entrance at Great Road has been widened to 30 feet from 24 feet on the original plan. The widening is achieved through shifting the existing retaining wall to smooth out the western side of the entrance, improving sight lines.

Steve Quinn asked about the reduction of the proposed building addition towards the rear of the building. Wes Fischer said this is a small bump out for the café space, to allow for more room in the kitchen, and added that the Historical Commission did not find any issue with the modifications.

Lori Clark asked about the number of handicapped accessible parking spaces. Greg Roy responded that there will be one, as required.

Len Golder asked about the material for the roadway itself. Greg Roy said that the plan is still to pave it, but that may first be gravel, and then updated later. Greg Roy said that the drainage plans were created for pavement, the most burdensome scenario.

Len Golder asked about the location of the patio. Wes Fischer stated that it will be smaller, and less visible to abutters.

Ernie Dodd asked about plantings and landscaping, as they were not clear on the plans. Wes Fischer stated that landscaping has not changed on the modification. Greg Roy added that a lattice screen is still planned for the patio area, as was conditioned in the original decision.

The Board agreed that modifications shown qualify as a minor modification to the decision.

Edge Community Commission Letter

Jesse Steadman said that the Edge Community Commission is gathering information to learn from communities that are in between being classified as rural and suburban in the 495 region. At the conclusion of their research, the commission will report back to MA legislature and the Baker-Polito Administration and provide a series of recommendations. Jesse Steadman said that the Conservation Commission would also review the letter.

Ernie Dodd moved in favor of sending this letter to the Edge Community Commission.

Len Golder seconded.

VOTED: 4-0 Unanimously in favor (Lori Clark, Ernie Dodd, Steve Quinn, Len Golder-yea).

Lot 7 Goshen Lane Concept Discussion

Present:

Greg Roy, P.E.- Ducharme and Dillis Civil Design Group, Inc.

Mark Bobrowski- Blatman, Bobrowski, Mead & Talerman, LLC

Matt Jackson- Applicant

Greg Roy explained that the owner of Lot 7 would like to create access to the parcel in order to create 3 homes. Greg Roy showed on a map three ways of accessing Lot 7: through frontage on Maple Street, through an easement via Goshen Lane, and through Athens Lane to the west.

Mark Bobrowski shared the language of the easement, granting accesses via Goshen Lane, saying that it gives the owner of Parcel 7 “the right to pass and re-pass, by foot and vehicular traffic, over said lane, a perpetual easement over ‘Goshen (Private) Lane,’” including a widening of the path, as stated in Book 31626, Page 230.

Mark Bobrowski noted the wetlands crossing, and asked if Athens Lane is maintained by the Town. Jesse Steadman responded that neither Goshen nor Athens is plowed.

Ernie Dodd asked about the extent of the wetlands. Matt Jackson said that it is extensive and that they have done some flagging. Greg Roy pointed out that the map shows some area of open water. Mark Bobrowski said that it looks like a cart path, with a walkable crossing.

Len Golder asked about the extent of the wetlands on Athens Lane. Mark Bobrowski said that it is dry and that there is the possibility of obtaining an easement so that the road can be widened to 20 feet, per fire regulations. Mark Bobrowski said that currently, there is a dirt cul-de-sac, that there is some industrial land, and added that the Goshen entrance is brambled, yet not wet.

Len Golder asked about alternatives, wondering if Athens is the better entrance. Mark Bobrowski said that there are some access questions with Athens Lane, as it is a long dead-end road. Len Golder mentioned the concern about adverse possession regarding the easement, and asked whether the easement has been utilized in the past 20 years. Mark Bobrowski stated that he is not concerned with adverse possession.

Ernie Dodd asked for clarification over the wetlands and access through Maple Street. Greg Roy showed on a map the locations on the north east of the property, stating that it is more than 5,000 square feet, which is a trigger point allowed by the army corps under the Wetland Protection Act.

Lori Clark asked for more detail with the access challenge at Athens Lane. Mark Bobrowski stated that Athens Lane meets the 20 foot fire standards, and Goshen does not. Mark Bobrowski said that a neighbor would be able to give enough of an easement for access, and they would need waivers for a minor road, and field drainage rather than detention ponds.

Ernie Dodd mentioned that the Board has not seen documentation showing that Athens Lane is a road, though others have tried to build on the land. Mark Bobrowski stated that he has argued a way in existence to provide frontage for an Approval Not Required (ANR) plan, and that he does not doubt that Goshen and Athens are ways, and mentioned the appeals court case Stefanick vs Uxbridge.

Ernie Dodd mentioned that in the past the Conservation Commission had concerns with widening Athens Lane. Greg Roy said that the Conservation Commission had concern with the area where the wetland hits the Quirk property, though this has since been resolved. Greg Roy said that Athens Lane has 20' of clearance.

Mark Bobrowski said that if the applicant were to proceed with a definitive subdivision plan, the ownership of Athens Lane may still not be clarified. Mark Bobrowski stated that a

way forward could be to do an ANR through the frontage on Maple Street and to establish an escrow account with Town Counsel for the road to be built to Town standards.

Lori Clark and the Board agreed that they would need to ask Town Counsel. Mark Bobrowski agreed to prepare a document providing detail of his applicant's pursuit for Town Counsel.

Meeting Adjourned.

Respectfully Submitted,

Valerie Oorthuys