

TOWN OF STOW
PLANNING BOARD

Minutes of the August 22, 2017 Planning Board Meeting

Planning Board Members Present: Lori Clark, Ernie Dodd, Margaret Costello, Len Golder,
Karen Kelleher

Voting Associate Member: Mark Jones

Associate Member: John Colonna-Romano

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

Discussion of Meeting Minutes

Minutes of August 8, 2017

Ernie Dodd moved to approve the minutes as amended.

Margaret Costello Seconded.

VOTED: 4-0 Unanimously in favor (Lori Clark, Ernie Dodd, Margaret Costello, Karen Kelleher-Yea).

Public Input

None.

Member Updates

Mark Jones suggested that the Planning Board consider calling upon Town Counsel to discuss Murr v. Wisconsin, the Supreme Court decision on regulatory takings which upheld Wisconsin's lot merger doctrine. Mark Jones raised a concern over the Planning Board's standing when attempting to count past ANRs toward future affordable housing unit requirements.

Ernie Dodd said that he went on a Verizon site walk with an engineer for the installation of the Verizon Wireless facility at 501 Gleasondale Road, and confirmed that Verizon will paint the equipment to match the red brick of the mill structure.

Correspondence

Mark Jones asked about the letter from Attorney General Maura Healey regarding the acceptance of the Planning Board's Annual Town Meeting warrant articles. Jesse Steadman said that two warrant articles have been accepted, and the last article regarding the 18 month Recreational Marijuana Moratorium will be decided by August 29th.

Planner's Report

Zoning Board of Appeals Case Update

Jesse Steadman reported that the Massachusetts Supreme Court will be hearing the Rockport Airfield case on September 6, and a decision will probably not come for a few months after that.

Arbor Glen

Jesse Steadman noted that the Trustees of Arbor Glen have requested the placement of pervious pavers at three of the shared parking locations in Arbor Glen, as well as the gravel driveway leading to the wastewater treatment area. Jesse Steadman further noted that according to the Special Permit Decision the Applicant was able to add more impervious surface area to the site while still staying below the Water Resource Protection District thresholds. However, with pervious pavers such restrictions would not apply. Jesse Steadman recommended the Planning Board discuss whether such a change would be a minor modification to the Special Permit. The Board agreed that specifications of the materials used should be provided and given to the Town's consulting engineer to ensure it wouldn't alter stormwater management calculation, in which case it would be seen as a maintenance consideration rather than a minor modification.

Lower Village

Jesse Steadman reported that they have received three bids for the Lower Village Improvement Project, with one of the bids falling within the contingency estimate provided by Howard Stein-Hudson.

Shopping Center Trees

Jesse Steadman pointed the Board toward correspondence in the packets regarding the removal of trees in the Stow Shopping Center. Although a few of the trees are clearly a hazard, and the Tree Warden has given permission to remove them, another medium aged basswood, in good health, is proposed to be cut in the vicinity of Papa Ginos, due to interference with utility lines. The Tree Warden believes that the tree could be pruned to reduce any issue and does not need to be cut. Findings in the Planning Board's Special Permit discussed the lack of trees and the need for shade in the parking lot. Jesse Steadman recommended the Board discuss whether such a change should be a modification to the Special Permit or a minor modification. Either way, the Board may want to discuss replacement trees or alternative options. The Board agreed that if Linear Retail proposes to take down a tree, either the Special Permit would have to be modified, or a representative would need to discuss a proposal for replacement with the Board.

227 Harvard Road

Jesse Steadman noted that the 227 Harvard Road Approval Not Required Plan had referenced the wrong parcel numbers. Jesse Steadman said he spoke with Scott Hayes and they will be creating a new plan for recording.

Regency at Stow

Jesse Steadman reported that the Conservation Commission has issued an enforcement order against Toll Brothers to start the process of wetland restoration following the breaches of erosion controls. The enforcement order is not indicative of their non-

compliance, said Jesse Steadman, but rather sets timelines and standards by which the work shall take place.

Mixed Use

Jesse Steadman reported that the Economic Development and Industrial Commission will be discussing retail and the benefits of mixed use at their upcoming meeting this Thursday.

Zoning Reform

Jesse Steadman reported that he has looked over the two most recent Zoning Reform bills from the house and senate and will be providing a memo describing the differences between the two and how the Board may be able to provide input regarding any improvements as a final bill moves through conferences, potentially this fall.

Len Golder arrived.

Schedule

Jesse Steadman said that the Joanne Drive Planned Conservation Development and Definitive Subdivision application was submitted on August 11. Jesse Steadman noted that at each Planning Board meeting in September, there will be one member absence. Karen Kelleher suggested asking the applicant for an extension, so that the deadline for the decision follows the requirements of the Special Permit filing, rather than the Definitive Subdivision filing.

Building Reuse Report

Jesse Steadman reported that the Town Building Space Use Feasibility Study Committee has issued their final report to the Board of Selectmen and the Committee will be discussing the issue this evening with the Board.

Hallock Point Approval Not Required Concept Plan

Present:

Paul Alphen, Esq.- *Alphen & Santos, P.C.*

Sarah Bailin- *Land owner*

Jeffrey Brem- *Meisner Brem Corporation*

Paul Alphen described a concept plan for Hallock Point Road which would create 7 single family house lots. Paul Alphen said that he is looking for a determination from the Planning Board to proceed with an Approval Not Required (ANR) plan, rather than a subdivision plan. Paul Alphen described access to public ways, and said that Hallock Point Road could be improved if the Board finds there are deficiencies in the roadway.

Jeffrey Brem said that the 7 lots are residentially zoned and meet frontage and acreage requirements. There is a limit of resource protection around the northwestern side of the property, along Lots 1 and 2. Jeffrey Brem pointed to Parcel X on the northeastern side of

the plan, noting that it is not buildable as the plan is laid out, though it could have a future public benefit, such as parking.

Lori Clark asked if the applicant is aware of the requirements for the inclusion of affordable housing. Paul Alphen responded that they are evaluating options.

Ernie Dodd stated his concern for Lake Boon and stormwater management, and noted that adding 7 homes could create a pollution problem. Ernie Dodd said that roadway improvements, such as paving, would likely be needed.

Paul Alphen said that this plan would be akin to an ANR off of dirt roads, and that Hallock Point is not a common driveway.

Lori Clark said that one of the tools the Planning Board has to judge whether the current access is deemed adequate is the Board's Rules and Regulations.

Len Golder said that adding the traffic that 7 homes would create to Hallock Point would be difficult, as the road would need improvement.

Paul Alphen said that the applicant is willing to make improvements, and suggested that the Planning Board would not need to make a finding that the property meets Planning Board criteria. Lori Clark said that stormwater management, fire cisterns, and truck turnouts are all things that the Board would want to consider when adding 7 housing lots to this road.

Karen Kelleher said that the road does not appear to be adequate without making improvements, which would need to be done through a subdivision process. Lori Clark added that the subdivision process gives the Board engineering oversight, to support the Board in ensuring improvements. Lori Clark said that if changes to the road need oversight, then it would be hard to make a determination that the road is adequate.

Len Golder asked why it would be difficult for the applicant to submit a subdivision plan. Paul Alphen responded that there are 3 land owners on Hallock Point Road, who own to the centerline, who may not sign. Lori Clark said that part of the Planning Board's charge is to protect land owners, so it may be problematic if the purpose of avoiding a subdivision is to do so without their input or knowledge. Paul Alphen said that the subdivision application needs to be signed by all members with a real interest in the property, and that he is unsure if that can be accomplished.

Lori Clark said that the challenge with the ANR is that there will need to be significant improvements to the roadway for it to be adequate, and the Board would want oversight and controls over the project.

Jeffery Brem said that subdivision plans include a review and inspection, per M.G.L. Chapter 44, Section 53G. Jeffery Brem asked if a separate agreement could be produced. Paul

Alphen added that another way forward would be if the Planning Board waived the requirement of attaining the signature of every property owner.

Lori Clark said that in considering waivers, the Planning Board considers the benefit to the Town. Lori Clark said that she believes there is not a benefit to the Town in this situation. Paul Alphen asked if the Board would accept a subdivision application without the property owners' signatures, as this is not a state statute but a local regulation. Lori Clark said that they may apply for any waivers, though the benefit is not clear.

Len Golder asked if the applicant has had any communication with the 3 other land owners. Paul Alphen said that they have not, as the plan is still in concept.

Mark Jones asked if the recorded plan of the right of way for the original subdivision of land has been found. Paul Alphen said that he has tried to locate the plan.

Lori Clark said that this Board has never had agreements attached to ANR plans. Paul Alphen said that this is done in towns such as Littleton. Lori Clark said that the Board would consult Town Counsel with the feasibility of approving an ANR with attached agreements.

Plantation Apartments II Comprehensive Permit- Requested Zoning Exceptions

Karen Kelleher recused herself as a board member of Stow Elderly Housing Corporation.

The Planning Board reviewed a draft memo to the Zoning Board of Appeals regarding recommendations on the Stow Elderly Housing Corporation's requested zoning exceptions.

Regarding the requested exception to Section 7.7.4.1 of the Zoning Bylaw, the Board agreed that landscaping plans should be part of a peer review.

Regarding the requested exception to Signage, Section 6.3., the Board agreed that signage should be part of the design plans submitted to the ZBA. The Board recommended that the ZBA ensure that signage is not internally lit and is in keeping with the character of the Town.

Mark Jones noted that the ZBA does not have purview to waive general bylaws, and suggested the memo state this.

Public Input

Katie Fisher, *1 White Pond Road*

Mark Forgues, *9 White Pond Road*

Chris Alphen, Esq.- *Blatman, Bobrowski and Haverty, LLC*

Katie Fisher said that while she had been a proponent of the Lower Village road improvements, she is concerned that the temporary easement requested of her is larger

than the square footage of her home, and that she had thought the project would add green space to her front yard.

Mark Forgues detailed his concerns about the property lines shown on past and current plans for the project. Mark Forgues said that he first believed there is a discrepancy because of a disagreement with a neighbor over the placement of a fence which caused him to consider the property lines. Mark Forgues said that he believes the final plan for Lower Village shows that a sidewalk will be installed between a utility pole and a fence on 1 White Pond Road, requiring a permanent easement.

Mark Forgues stated concern that eliminating the island at the intersection of White Pond Road and Great Road would make the two driveways to 1 White Pond Road become a turnaround for lost cars, as one driveway will be located on Great Road, and the other on White Pond Road, as they are currently. Mark Forgues said that he believes the driveway on White Pond Road will be angled and therefore awkward to navigate and unsightly.

Mark Forgues said that the final plans don't reflect the corrections he feels they should, and said that he and Katie Fisher hired an engineer to survey the parcels.

Mark Forgues said that he is concerned about the placement of the catch basin on the Town-owned green space adjacent to their front yard. Jesse Steadman said that catch basin drains a low point, and sends the runoff to the mainline of the drainage system. Jesse Steadman said that to eliminate that single catch basin, additional catch basins would need to be placed in alternate locations. Jesse Steadman described the appearance of the planned catch basin, saying it will be located at the bottom of a grassy swale, a depression in the ground, with a cement foundation.

Mark Forgues asked why the catch basin can't be redesigned to be a part of the sidewalk, so that the swale can be eliminated. Jesse Steadman said that there would still be a low point in the landscaped buffer between the sidewalk and the front yard, so the grade of the roadway would have to be altered somehow to eliminate this need. Mark Forgues said that the road is currently flat, and that he believes the catch basin in the road catches runoff now, and that the future placement of the sidewalk might block runoff from entering the landscaped buffer.

Mark Forgues said that he and Katie Fisher would like to enter into an agreement with the Town to maintain the green space and to garden it.

Katie Fisher stated concern that the limit of work would encroach on the septic system for 1 White Pond Road.

Lori Clark said that the concerns stated with the project appear to be the location of the property lines, the aesthetics of the swale, and the location of the catch basin, and the location of the septic system.

Katie Fisher stated that she would like her engineer and the Town's engineer to hold a site walk to come to an understanding on the property lines.

Lori Clark said that this is also something the Board would like, though it needs to be scheduled at a convenient time, so it's only a matter of when.

Mark Forgues said that he is concerned their properties will appear to be in the business district, as bike path signs, and the existing signs for White Pond Road businesses will be near adjacent to the properties. Mark Forgues said that he felt the contractor would make decisions based on cost and not on the design or safety. Mark Forgues said that they are looking for amendments or alterations to the plan in writing.

Lori Clark said that Howard Stein Hudson is looking to quickly address the CAD overlay problem, which is why some of the building placements are incorrect. Lori Clark said that as a next step, the property lines and boundaries would need to be reconciled, and recommended that the engineer hired by Mark Forgues and Katie Fisher and the Town's engineer speak by phone to exchange information prior to conducting a site visit.

Lori Clark asked if there is a document the Town's engineer could look at to better understand the other methodology used. Mark Forgues offered the plot plan by Foresite previously shown to Howard Stein Hudson. Jesse Steadman suggested that Mark Forgues and Katie Fisher ask their engineer to provide a written report of this methodology. Jesse Steadman said that for the Lower Village project, A Plus Construction Services completed the surveying and Howard Stein Hudson did the CAD work. Jesse Steadman said that HSH has identified that the structures overlaid onto the plans through CAD appear to be incorrect, and will be corrected shortly. Lori Clark said that both Howard Stein Hudson and Foresite should exchange information so that the plan references and methodologies can be discussed.

Katie Fisher said that she would like to be present at a site meeting, as she has felt left out of the conversation.

Jesse Steadman said that the surveyor at Foresite said that he had referenced the deed rather than the county layout, so what needs to be reconciled is how the radius is compiled.

Chris Alphen agreed that the first step to resolution is getting the engineers to work together to see if they can get to a common boundary. Chris Alphen said that depending on the result of that conversation, the next step could be filing in land court to see where the lot lines are.

Lori Clark reiterated that to have the most effective on-site meeting, the two firms should discuss methods and references over the phone prior to meeting.

Mark Forgues said that the disagreement of the lot lines could end if his other stated concerns could be reconciled, such as the swale and the signage. Mark Forgues said that his

bottom line is that if some terms can be agreed upon, then the lot lines aren't as big of a concern.

Lori Clark asked if Mark Forgues intends to seek resolution to the additional concerns in parallel with looking to resolve the lot line issues. Mark Forgues said that he would move forward in looking into the lot line issues, and said that he would need something in writing to confirm solutions to other concerns he and Katie Fisher have raised.

Habitat for Humanity- Pine Point Road Comprehensive Permit- Requested Zoning Exceptions

The Planning Board reviewed a draft memo to the Zoning Board of Appeals regarding recommendations on Habitat for Humanity's requested zoning exceptions for the Pine Point Road Comprehensive Permit.

Regarding drainage and erosion control, the Board agreed that language should be added to reference the topography of the site. The Board also recommended that Stormwater Management, Section 7.9 of the Subdivision Rules and Regulations, is not waived due to reliance on stormwater standards.

Regarding fencing, the Board agreed that the design of the fence must be stamped by a structural engineer, and that if the retaining wall is over 4 feet high, a fence is required.

Regarding Site Plan Approval, the Board agreed that language should be added to clarify that the Board's recommendation is stated as such to protect the ZBA, the Town, and the abutting land owners.

227 Harvard Road- Endorsement of Approval Not Required Plan

Ernie Dodd moved to approve the endorsement of the Approval Not Required plan of Stow, Massachusetts Lot 39 1-AA and Lot 39 1-BB and to authorize Jesse Steadman or Karen Kelleher to endorse the plan.

Margaret Costello Seconded.

VOTED: 5-0 Unanimously in favor (Lori Clark, Ernie Dodd, Margaret Costello, Len Golder, Karen Kelleher-Yea).

Delaney Solar Escrow Agreement Approval

Jesse Steadman said that Delaney Solar added the address of an in-state Key Bank location, which would be used should any litigation happen in Massachusetts.

Karen Kelleher moved to approve the Delaney Solar Escrow Agreement and to authorize Ernie Dodd to endorse.

Len Golder Seconded.

VOTED: 5-0 Unanimously in favor (Lori Clark, Ernie Dodd, Margaret Costello, Len Golder, Karen Kelleher-Yea).

Lower Village Traffic Safety Improvement Project

Jesse Steadman provided a brief update on the status of the easement negotiations, stating that all but a few easements have been finalized. Jesse Steadman said that he is continuing conversations with the landowner at 128 Great Road, who is concerned with the visibility of his signage.

Meeting Adjourned.

Respectfully Submitted,

Valerie Oorthuys