

TOWN OF STOW
PLANNING BOARD

Minutes of the September 21, 2016 Planning Board Meeting

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

Absent: Margaret Costello

Voting Associate Member: Mark Jones

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

Public Input

None.

Member Updates

Len Golder had a question about the next steps with the Eversource transmission lines and Hudson Light and Power, specifically in regard to the plans including overhead and underground lines. Jesse Steadman said that the proposal for the plan including both overhead and underground transmission lines is likely not widely accepted and that the Stow Energy Working Group will issue recommendations to the Board of Selectman for their meeting on October 11th. Eversource will submit their choices to the Energy Facility Siting Board to make a final decision, at which point it will be taken up at the state level.

Discussion of Meeting Minutes

Minutes of September 13, 2016

Ernie Dodd moved to approve the minutes as amended.

Steve Quinn Seconded.

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

Pompositticut Community Center/ Fire Station- Request for Minor Modification

Contractors at the Pompositticut Community Center contacted Craig Martin regarding Section 7.11 of the Pompositticut Community Center decision, the condition that read that red oaks shall not be planted in the fall. Such a condition, originally suggested by the Tree Warden, was also included in the Conservation Commission Order of Conditions. Staff discussed the issue with the Tree Warden and arrived at a list of several tree options that would be appropriate for the site. The landscape architect for the project has since proposed regal oak, which has been deemed an appropriate shade tree for the location.

The Planning Board is being asked to consider approving an amendment to the Decision that would allow for the original pin oaks to be replaced with regal oaks or other trees as identified by the Tree Warden. The Conservation Commission will be issuing an updated order that further modifies the condition to include that any trees that do not survive the warranty period be replaced with preferable species outlined by the Tree Warden.

Lori Clark said that the list of preferable species should be on a minor modification, rather than only on the Order of Conditions.

Mark Jones asked if Plane or Gingko trees are on the approved list of trees, as there could be concerns with large seeds dropping, or the length of time it takes to grow to become an adequate shade tree. Jesse Steadman agreed with concerns with these two trees, adding that it can depend on gender. Jesse Steadman noted that the trees that are on the plans for the community center are drought tolerant and should do well in a hot, dry parking lot.

Jesse Steadman said that he would draft a minor modification for the plans.

433 Taylor Road Covenant Discussion

Present:

Kelli Trainor, Applicant
Anabela Taylor, Owner

Kelli Trainor discussed a restrictive covenant at 433 Taylor Road, stating that she and her husband are hoping the owner will subdivide the current lot so that Kelli and her husband may purchase it and build a home on it, noting that land in Stow does not often become available. Kelli Trainor hopes to lift or modify the covenant in order to put in a third lot, and would like to hear the Board's thoughts. Anabela Taylor added that the original development was in both Boxboro and Stow, so to make the second lot a piece of land was sold so that the entirety is within Stow.

Lori Clark explained that the restrictive covenant was created because in 1979 the Planning Board was not requiring the subdivision road to be built to road standards at the time. Jesse Steadman added that the original subdivision created Lots A and B, or 433 and 435 Taylor Road.

Anabela Taylor said that her understanding is that the whole lot was originally purchased to create 5 units, though only 2 homes were built. Lori Clark added that this allowed the developer to create lots without bringing the road up to current road standards. The covenant acts as a protection, so that if ever more homes were to be built, the road would need to be constructed.

Kelli Trainor said that the covenant was amended in 1998, at which time Anabela Taylor constructed an accessory apartment rather than divide her lot, as the section closer to the road is wetland.

Len Golder asked if the wetland is on the frontage. Ernie Dodd clarified that it is actually a bit to the side of the frontage.

Mark Jones asked if the lot is accessed from Taylor Road or Boxboro Road. Kelli Trainor responded that it is accessed from Taylor Road.

Steve Quinn clarified that the cul-de-sac is a paper road and Kelli Trainor and Anabela Taylor would like to create a hammerhead. Kelli Trainor stated that if they were to divide the lot, she would have just over 4 acres to build on, as Anabela Taylor has around 10 acres total.

Steve Quinn advised Kelli Trainor to reach out to abutters of the parcel, as those residents likely believe the covenant was permanent.

Lori Clark inquired about the legality of reopening and modifying the decision, with holding a public hearing. Jesse Steadman said that a next step would be to find the decision from 1979, so that the intention behind the covenant is clear. Lori Clark stated that typically the Planning Board would be able to reopen or modify the original special permit, in a way that would allow abutters to be notified and a public hearing to be held.

Lori Clark asked if it is legal to create 3 hammerheads with a common drive. Jesse Steadman said that it is a permitted number of units to share a driveway.

Jesse Steadman asked the Board to delineate the threshold where this would not be feasible. Lori Clark said that Stow's zoning bylaw states that a shared driveway can be shared by no more than 3 homes on one common driveway. Jesse Steadman clarified that the 4th home built would trigger other issues and the zoning bylaw would not allow it.

Mark Jones asked if it would be desirable to continue the covenant in case the lots get combined again by a future purchase. Lori Clark said that if both lots are purchased and the new owner intends to build a new configuration, the road would first need to be built to standards. Lori Clark said that from the abutters' standpoint, the current restrictive covenant does not preclude this from happening. Steve Quinn said that an abutter could be under the impression that there would be no other houses built in the lot, from what is said in the covenant, so the applicant would want to speak with abutters prior to holding a public hearing.

Mark Jones asked why the covenant has not expired after 30 years. Lori Clark said that comments from Town Counsel regarding covenant expiry would be appreciated. Ernie

Dodd asked if the 1998 revision would renew the covenant. Mark Jones responded that renewal options of covenants would need to be reviewed.

Kelli Trainor said that she is looking at modular homes, so abutters wouldn't have to deal with construction. Lori Clark said that the abutters are also likely thinking about how their view may change. Steve Quinn said other abutter concerns may include increased traffic and wells going dry. Kelli Trainor said that it is a risk they are willing to take, if the Planning Board is willing to open it up for a public hearing.

Anabela Taylor asked if, in order to fulfill the covenant, the road would need to be built all the way to the house, or up to the cul-de-sac. Jesse Steadman responded that it would only need to be built up to the cul-de-sac.

Jesse Steadman said that next steps will include looking at the 1979 decision, and speaking with Kathy Sferra at the Conservation Commission to look at the Certificate of Compliance and Order of Conditions. Anabela Taylor said that she would look at the deed to clarify concerns around building near the wetland.

Lori Clark stated that this situation may be able to be handled with a modification. The owner would apply for the modification, a public hearing would be held, and then the owner would apply for a hammerhead special permit to divide the lot. Jesse Steadman noted that both the subdivision plan and the hammerhead lot plan would need to be amended.

Planner's Report

Stiles Farm

Len Golder recused himself as an abutter to Stiles Farm.

Jesse Steadman said that Town Counsel had two questions regarding the decision at Stiles Farm. Did the clause in Condition 8.13(d) refer to ensuring emergency access or ensuring access for the future owner of Lot 2?

Regarding Condition 8.15, was it the Board's intention to be given a separate turnout easement plan or is the easement shown on the existing plan enough?

Mark Jones noted that it should be clear enough so that folks can understand it 50 years down the line. Jesse Steadman said that it is labeled on the plan.

Steve Quinn asked if anyone could build the road without coming to the Planning Board first. Jesse Steadman said that they would need to go to the Planning Board.

Ernie Dodd said that this could be done through a covenant, as Chapter 61 does not provide a permanent restriction. Jesse Steadman asked if the intention of the applicant is to restrict 5 acres to agricultural use, is it sufficient to restrict use through a covenant. Lori Clark said that the covenant will exist because the road is not being built, and that the Board is allowing the plot to be buildable so that he can use the land and acquire a restriction. . Ernie Dodd said that Chapter 61 is not permanent, so that is not sufficient. Mark Jones agreed that the land needs to be a buildable house lot in order to get the restriction, and that the owner needs to be reminded that it is a buildable lot, which is the intention when an APR is given.

Jesse Steadman said that Stiles Farm would be revisited during the next Planning Board meeting, on October 4th, at which point more information should be available.

Gleasondale

Jesse Steadman reported that the Worcester District 3 is about to select a design consultant for the survey work for Gleasondale Bridge. It would be prudent for the Town to begin thinking about how this survey work could be turned into a design project that could then be linked to the Gleasondale Bridge Transportation Improvement Program (TIP) funding. TIP funding is not always something that is long term. Right now an I-95 project came in 12 million dollars under budget that can now be allocated to other projects. This kind of thing is fairly common and it helps to have projects that are shovel-ready.

Mark Jones asked about the schedule that TIP is on. Jesse Steadman responded that they are on the fiscal year, so the calendar will begin in October.

Ernie Dodd asked if Stow were to receive TIP funds, would there be any additional standards that would need to be met. Jesse Steadman said that it would require easements, similar to the ones required for the current Complete Streets plan for the Lower Village.

Mark Jones asked if the Planning Board should discuss the next Town Meeting and budgeting for engineering work. Jesse Steadman said that there is \$28,000 in the account, and that he hopes some of those funds go toward Lower Village design guideline consulting. Jesse Steadman noted that at the next Town Meeting, the Planning Department will need to ask for \$50,000 in reimbursable funds for the Complete Streets Priority Plan.

Old Bolton Road

Jesse Steadman said they received an inquiry into whether property on both sides of 117 near Old Bolton Road, which is in common ownership, can be combined to meet minimum lot size requirements. After hearing back from the Massplanners listserv and looking over the bylaw, it has been confirmed that such a strategy would be not be legal.

Regency

Mark Jones recused himself as an abutter to the Regency at Stow project.

Jesse Steadman reported that the Applicant has requested to continue the closing of the Order of Conditions with the Conservation Commission until the Planning Board has issued its Decision.

Jesse Steadman added that he has spoken with Shawn Nuckolls in regard to Section 7.36 of the original Decision, which states that documentation showing affordable unit compliance with DHCD shall be received prior to issuance of a Building Permit. Jesse Steadman said that Toll Brothers has submitted a letter to the Planning Board from DHCD stating that as long as the LIP Application is properly met, the units will count toward the SHI. Jesse Steadman asked whether the Board believes that would meet the intent of the original 2007 Decision language. Lori Clark pointed to Section 5.4.9(k) of the zoning bylaw, which states that no certificate of occupancy shall be issued for any market rate unit in a development until there have been issued certificates of occupancy for low or moderate income units in an amount equal to the percentage of low or moderate income units. Lori Clark said that the condition should read that the first occupancy permit is given to an affordable unit, in proportion to the amount of total affordable units, and that there should be a statement on every decision going forward that refers to abiding by what is stated in the Town's zoning bylaw.

Jesse Steadman said that it is the middle income units that need to be in the decision explicitly, as the decision currently states that four units shall be constructed, without including the middle income units, and that these would need to be supplied in perpetuity. Ernie Dodd said that 7 units need to be on site, with a penalty of 150% for off site construction, and that 5% of housing needs to be in the median income range. Steve Quinn clarified that 15% need to be affordable, with 3-4 units available to middle income households. Lori Clark said that the option for offsite construction is with the affordable units, not the middle income units. Ernie Dodd said that the Zoning Board of Appeals requires middle incomes, but not in perpetuity.

Lori Clark said that if there needs to be a change, then it should be tied it to the first occupancy permit.

SBA Minor Modification

SBA is looking to install a generator at the Wheeler Road wireless tower site. Jesse Steadman explained 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. Jesse Steadman said that in November of 2015, the Board may recall approval of replacing wireless antenna within the housing of the tower and adding an ice bridge at the base to protect equipment. Jesse Steadman said this request regards the installation of a power generator at the base of the tower. He added that he has instructed the Applicant to submit information similar to a Special Permit modification, as directed in the 2015 request.

Mark Jones asked for the wattage of the auxiliary power unit. Steve Quinn said that it is 7500 watts, based on the information provided by SBA.

Ernie Dodd said that to help mitigate sound, stone or cement walls could be built. Ernie Dodd said that a wall was built at the Pompositticut Community Center to mitigate sound. Jesse Steadman said that it will be important to know if this is an emergency generator. Lori Clark agreed that the concern with the generator is noise, and similar to the Pompositticut building, there should be protection to lessen the sound.

Orchard Tour

Staff will be attending an Orchard Tour of Shelburne Farm and Carver Hill Orchard with Kate Hogan and others to hear some of the news, issues and concerns from area orchards.

Discussion of Edge Community Commission Letter

Jesse Steadman explained that the 495 / MetroWest Suburban Edge Community Commission's goal is to study development challenges experienced by edge communities, including transportation, water, cellular and energy infrastructure, transit services, residential development, reuse of former industrial facilities and historic mills, brownfields reclamation, downtown redevelopment, and other such constraints. The Baker-Polito administration has outlined 5 strategic goals to meet these challenges, and planning staff will draft a letter to the Commission regarding nuanced, Stow-specific strategies.

Steve Quinn said that the assistance with mill redevelopment is intriguing, as mills are very expensive to redevelop; a tax incentive would be greatly useful. Lori Clark and the Board agreed that this letter is a good opportunity to call out challenges in Stow.

Jesse Steadman said that planning staff can put together a draft memo for the commission.

Meeting Adjourned.

Respectfully Submitted,

Valerie Oorthuys