

TOWN OF STOW
PLANNING BOARD

Minutes of the July 24, 2018 Planning Board Meeting

Planning Board Members Present: Lori Clark, Margaret Costello, Karen Kelleher

Voting Associate Member: Megan Birch-McMichael

Associate Member: Mark Jones

Absent: John Colonna-Romano, Len Golder

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

Discussion of Meeting Minutes

Minutes of July 10, 2018

Karen Kelleher moved to approve the minutes as amended.

Margaret Costello seconded.

VOTED: 3-0 Unanimously in favor (Lori Clark, Margaret Costello, Karen Kelleher-Yea).

Public Input

None.

Member Updates

None.

Planner's Report

Complete Streets Award

Jesse Steadman said that Stow was awarded \$265,134 from MassDOT's Complete Streets Program. Of the projects applied for, MassDOT selected three projects to fund, including the extension of bike lanes from Lower Village to Town Center, improvements to the pedestrian crossing over 117 at Harvard Road, and intersection improvements at Old Bolton Road.

Lower Village Traffic Improvement Project

Jesse Steadman said that the contractors are making progress on installing the drainage trunk line, having moved past a few obstacles by Pompositticut Street. Jesse Steadman said that they are currently working west along the north side of Great Road. Jesse Steadman reported that the project's unused MassWorks FY18 funding was carried over into FY19.

Jillian's Lane

Jesse Steadman said that the site held up well with last week's rain, and that suggestions from Todd King, an erosion control specialist at Environmental Stormwater Solutions LLC, on retaining water at the top of the hill worked well.

Regency at Stow

Jesse Steadman said that the site has had a few erosion control problems, though they have been providing the Planning Department with daily Stormwater Pollution Prevention Plan reports and are making good progress.

Spring Hill Estates

Jesse Steadman reported that work at the Spring Hill Estates subdivision has stalled. Jesse Steadman said that the contractors have agreed to install erosion control measures, as there is an environmental hazard, though they have not been paid. Jesse Steadman said that typical bonds are tied to road work and infrastructure, though the lots haven't been released so there is no bond.

Massachusetts Downtown Initiative Grant

Jesse Steadman said that assessment materials have been provided to FinePoint Associates to aid in creating a survey of residents' and business owners' experience of Lower Village as part of the Market Analysis and Business District Assessment.

Endorsement of Decision for Special Permit and Site Plan Approval for an Accessory Apartment, 44A Hudson Road

The decision was approved at the Planning Board's meeting of July 10, 2018 after the Public Hearing of July 10, 2018.

The Planning Board endorsed the decision for the Special Permit for an Accessory Apartment.

Public Hearing

Erosion Control Special Permit- Town Center Park, 323 Great Road

Present:

Kathy Sferra, Conservation Coordinator
Stuart Weinreb, Landscape Architect

Karen Kelleher moved to waive the reading of the Public Hearing notice.

Len Golder Seconded.

VOTED: 4-0 Unanimously in favor (Lori Clark, Margaret Costello, Karen Kelleher, Megan Birch-McMichael (Voting Associate Member)- Yea).

Lori Clark read through the public hearing guidelines.

Kathy Sferra said that the Conservation and Recreation Departments are seeking an Erosion Control Special Permit, after having received an Order of Conditions from the Conservation Commission for work within the 100 foot buffer and a Variance through the Zoning Board of Appeals. Kathy Sferra said that the site is approximately 4 acres and is an abandoned residential site that is rather overgrown. Kathy Sferra said that the site is proposed to remain pervious aside from a gazebo to be installed. Kathy Sferra said that the plans for clearing, grading, and landscaping are associated with creating an accessible trail to Minister's Pond. Kathy Sferra said that the sitework is a balanced cut and fill. Kathy Sferra noted that erosion controls are proposed toward the north and east sides of the site.

Stuart Weinreb, a landscape architect, said that the design for Town Center Park includes areas to congregate, with an outdoor classroom, a nature play space, and handicapped-accessible trails. Stuart Weinreb said that the developed portion of the site will need to be cleared of vegetation to do the grading for the trails. Stuart Weinreb noted the areas on the plan where erosion control measures will be put in place, including straw waddles and siltation fencing along the edge of the pond and the north side of the site.

Stuart Weinreb said that there will be 11 parking spaces on a gravel parking lot, accessed through an easement provided by Highrock Church.

Stuart Weinreb said that additional landscaped buffering will be added along the western edge of the property.

Stuart Weinreb said that the site slopes dramatically to the north and the trails will be located to work with the natural slopes.

Stuart Weinreb said that the siltation controls will remain in place for the duration of construction and that the Conservation Commission will monitor the site.

Mark Jones asked about the ability to preserve trees on site. Kathy Sferra noted two large oaks along the western property line that will be preserved, but noted that some trees along the pond will need to be removed, pointing to beaver damage.

Margaret Costello said that the proposed play court area is within close proximity to the parking lot and asked what buffers will be provided to encourage people to use the path to the southwest. Stuart Weinreb said that there is a buffer of spruce trees, which would provide an obscured view. Stuart Weinreb said that the Conservation or Recreation Departments could wait to see how the park is being used and add additional plantings later.

Margaret Costello noted that a path leads to the First Parish Church property. Kathy Sferra said that this was requested by the Church during their planning process.

Margaret Costello said that there is a fire road on the east side of the pond and asked if there was the intention to connect this to the trails. Kathy Sferra said that the access to the fire pond is part of a parcel owned by the Conservation Commission, though the connection would require around 10 property owners to grant easements, so a connection is not planned at this point.

Margaret Costello asked if it is permissible to leave the septic system from the abandoned home in place. Kathy Sferra said that she followed up with the Board of Health, which agreed it may stay.

The Board agreed to grant the waiver requests, including the waiver for the application fee and for stamped plans.

Lori Clark noted guidance from Places Associates regarding waiving the requirement for drainage calculations, given that there is so little impervious surface. The Board agreed to this waiver, with the understanding that the parking lot and walkways would not be paved without the submittal of drainage calculations.

Jesse Steadman asked if there were any other erosion control measures that could be included on the plans around the mouth of the borrow pit or higher up on the property to keep water and sediment at the top of the hill. Jesse Steadman noted that the construction of the park will go through a public bidding process, so it would be useful to ensure that erosion control measures and notes are clearly placed on the plan. Stuart Weinreb acknowledged that additional erosion control notes may be required to be included on the plan.

Karen Kelleher moved to close the public hearing.

Margaret Costello seconded.

VOTED: 4-0 Unanimously in favor (Lori Clark, Margaret Costello, Karen Kelleher, Megan Birch-McMichael (Voting Associate Member) - Yea).

Memo to Board of Selectmen on Recreational Marijuana Recommendation

Jesse Steadman presented a draft memo, to be sent to the Board of Selectmen, regarding the intention of presenting a Zoning Bylaw regulating Recreational Marijuana based on the 2016 ballot results, survey results, and process considerations.

Karen Kelleher said that she feels that each of the 7 types of marijuana establishments defined by Ch. 94G can be regulated through an overlay district with design guidelines.

Lori Clark noted that the preliminary survey results indicate that residents have concerns about safety and proximity to schools. Lori Clark noted that most survey respondents are in favor of having a civil penalty and are in favor of receiving a tax of up to 3%.

Deb Seith, 11 Hale Road, asked what percentage of the Town took the survey. Lori Clark said that so far, 330 people had participated. Deb Seith indicated that this may be a low percentage, and noted that Question 4 was passed by 53% in Stow. Deb Seith asked what the downside may be of holding an election to prohibit commercial marijuana establishments before the October 1st Special Town Meeting. Mark Jones noted that 2016 was a presidential election, and therefore likely a representative ballot year, regarding the 53% approval. Lori Clark said that while the survey results aren't scientific, it is possible to confirm a statistical level of confidence.

Lori Clark noted that the preliminary survey results indicate that retail and manufacturing establishments received the fewest votes to either allow or allow through a Special Permit, though both received just over 55% .

Brian Burke, 125 Birch Hill Road, asked that the memo explain that the survey was voluntarily taken. Brian Burke asked if the survey described the types of items a marijuana retailer can sell. Jesse Steadman said that the survey used the legal definitions, with the assumption that the respondents understood a baseline amount around marijuana products.

Jesse Steadman said that regarding the sequence of events, it would be possible to sway the outcome by having a vote first, without debate. Jesse Steadman said that the Planning Department tried to gather as much data as possible through the forum and survey, and because of those results it may not be defensible to sway the vote towards prohibiting commercial marijuana establishments by holding a vote first. Lori Clark said that more information can be gathered at the required public hearing for the Zoning Bylaw amendments before Town Meeting.

Ernie Dodd, of 341 Sudbury Road, said that his preference would be to have the ballot vote first and include on it questions per type of Marijuana Establishment, rather than a blanket ban. Jesse Steadman noted that the downside of having a ballot vote first is that there is no opportunity for debate.

Kate Clark, of 10 Heights Street, said that because the 2016 election and survey results point to allowing commercial marijuana in Stow, she would like to hear the Town's approach from the perspective of allowing the use.

Deb Seith said that she feels that if only zoning articles allowing marijuana establishments through regulation are on the Town Meeting warrant, then the Planning Board and Board of Selectmen would be taking away residents' ability to not have commercial marijuana in Stow.

Brian Burke asked how other towns are responding to commercial recreational marijuana. Jesse Steadman said that the majority of 'yes' communities in the area either are still under a temporary moratorium or have presented zoning articles regulating commercial marijuana at Town Meetings without also presenting prohibiting articles. Jesse Steadman said that aside from Sudbury, adjacent towns are yes communities. Jesse Steadman said that Milford and Acton, 'yes' communities, chose to ballot votes before Town Meeting.

Milford held a second Town Meeting as the ballot vote and first Town Meeting vote did not match. Jesse Steadman said that Concord, a 'yes' community, banned commercial use of marijuana through their General Bylaws at Town Meeting and a ballot vote. Brian Burke said that he would like to see a written memo to the Board of Selectmen regarding this information.

Brian Burke asked if would be beneficial to vote only on zoning articles prohibiting marijuana establishments at Special Town Meeting, then have a ballot vote on the prohibition, and then have a second Town Meeting to pass zoning articles regulating marijuana establishments if needed. Karen Kelleher said that if zoning articles regulating marijuana establishments aren't presented at the same time as prohibiting articles, voters won't understand the nuance of the votes because there will be no opportunity to understand what the votes mean and have a discussion.

Don Hawkes, of 8 Dawes Road, said that with Question 4 having been passed with 53% of the vote, he would feel more comfortable if voters were given the chance to explicitly ban commercial sales in town.

Mark Jones said that he feels that a December Special Town Meeting should be scheduled, in case votes at the October Special Town Meeting and the November ballot conflict and marijuana is allowed by-right.

Lori Clark said that she feels that if regulating articles are not presented at the same time as prohibiting articles, voters will not be informed. Lori Clark said that she feels the approach should be to have the articles that regulate paired with prohibition articles for each of the 7 types of Marijuana Establishments.

Mark Jones expressed concern that residents in favor of prohibiting commercial sales may not vote for zoning articles that regulate the industry, leaving the potential for both regulating and prohibiting articles to fail, meaning that the Town is left with only Host Community Agreements and State level control over the industry.

Kate Clark said that she is worried that the impact of potential tax revenue has been left out of this discussion, and feels the Town should move forward with the information collected. Kate Clark said that she feels that if the Town does not act to either allow or regulate, the benefit of the industry will go to surrounding towns.

Bob Collings, of 137 Barton Road, said that he feels that if 53% of residents approved Question 4, the town should hold a detailed vote to confirm what residents want to see in town. Bob Collings noted that a 2/3 majority is still needed for zoning articles.

Lori Clark said that based on this discussion, it is clear that the most fair thing to do is to allow residents to vote on regulating zoning measures alongside prohibiting zoning measures. Lori Clark said that it may be that when Stow voted yes on Question 4, voters assumed this was on personal use only, rather than allowing marijuana in Stow commercially. Lori Clark said that discussing the options at Town Meeting will help

educate voters and allow for debate, otherwise residents may not understand what they're voting on.

Lower Village Revitalization Subcommittee Member Appointments

Jesse Steadman said that the Board of Selectmen voted to recommend Jim Salvie and the Planning Board had previously voted to recommend Megan Birch-McMichael to the Lower Village Revitalization Subcommittee. Jesse Steadman said that Jonathan Bransfield of Bransfield Tree Company has also provided a letter of interest.

Margaret Costello moved to appoint Megan Birch-McMichael to the Lower Village Revitalization Subcommittee.

Karen Kelleher seconded.

VOTED: 3-0 Unanimously in favor (Lori Clark, Margaret Costello, Karen Kelleher - Yea).

Margaret Costello moved to appoint Jonathan Bransfield to the Lower Village Revitalization Subcommittee.

Karen Kelleher seconded.

VOTED: 3-0 Unanimously in favor (Lori Clark, Margaret Costello, Karen Kelleher - Yea).

Margaret Costello moved to appoint Jim Salvie to the Lower Village Revitalization Subcommittee.

Karen Kelleher seconded.

VOTED: 3-0 Unanimously in favor (Lori Clark, Margaret Costello, Karen Kelleher - Yea).

Collings Foundation Site Plan Update

Karen Kelleher recused herself as an abutter to the Collings Foundation.

Jesse Steadman said that upon a typical annual review of satellite imagery, a parcel belonging to the Collings Foundation was found to include what appeared to be a large amount of clearing and removal of materials. Jesse Steadman said that he visited the site after a site visit by Sue Carter of Places Associates and Kathy Sferra, Conservation Coordinator. Jesse Steadman said that he reviewed the site plan that was referenced in the settlement agreement to figure out if the work was intended and covered by the agreement. Jesse Steadman said that he reviewed the permits and approvals that would have been required to remove earth at that location, and compiled those into a list of violations for the Board.

Jesse Steadman said that based on his discussions with Places Associates, he felt strongly that a Cease and Desist on the quarry activities could be recommend to the Building Inspector to issue. Jesse Steadman said that he put together some aerial imagery and Sue Carter of Places Associates took measurements to understand scale a bit better. Jesse

Steadman said that the Board's packets include the site plan for a denied 2014 Earth Removal permit through the Selectmen overlaid with the aerial imagery of the site to show how closely the two areas match up. Jesse Steadman said that at issue tonight is to have a discussion about the site conditions, hear from the owner, and to discuss whether there were violations and what next steps the Board would like to take.

Bob Collings asked why he was not contacted earlier. Jesse Steadman said that he felt this was the best approach, based on correspondence from Places Associates and a site visit. Lori Clark noted that she had spoken with Jesse prior to the request for the Building Inspector to issue a Cease and Desist.

Bob Collings said that the Settlement Agreement defines the site as consisting of approximately 90 acres of land, inclusive of the area up for discussion tonight. Bob Collings said that he feels the original plan does not have a lot of detail as far as material movement on the site.

Lori Clark asked if earth has been removed from any part of the site that was included in the overall Site Plan referenced in the Settlement Agreement. Bob Collings said that his interpretation of the Earth Removal bylaw is that he can remove from the property an amount of material equal to that which would have been removed to excavate the museum foundation.

Bob Collings said that material excavated to make room for the foundation of the museum was taken off site, though the material from R-25 13 has stayed on site and has been used for dioramas and for museum infill. Bob Collings said that he feels he has been in compliance with the Earth Removal bylaws, and that the Building Inspector is frequently on site to inspect work.

Mark Jones said that the Earth Removal from R-25 13 was not on the site plan the Board reviewed. Lori Clark agreed that the original application included a site plan detailing where work would happen and the nature of that work. Lori Clark said that the Board is not arguing whether the area was included in the original site plan application, as it did include that parcel. Lori Clark said that the Board is concerned that the original site plan application which the Settlement Agreement was based on did not include this work. Lori Clark asked if Bob Collings feels that the parcel's inclusion on the plan allows any work to be done there. Bob Collings said that the original site plan included the 90 acres to build the museum and that material was moved in order to end up with the final configuration shown on the plans.

Mark Jones said that a previous Earth Removal Special Permit for this parcel was denied by the Board of Selectmen. Bob Collings said that the denial had to do with wetlands crossings and floodplain boundaries.

Megan Birch-McMichael asked if the earth removal was done in the same location as proposed in the denied permit application. Bob Collings said that some of it was the same area, and that he felt the scope of the work was different in magnitude, as he feels only 8-

10,000 cubic yards was removed. Bob Collings said that the 'safety zone' previously considered in the Earth Removal application extended into the floodplain, and the current quarry activities are 25 feet from the floodplain area, as they hoped to stay out of the jurisdiction of the Conservation Commission.

Lori Clark said that it is concerning that the area was not included in the original site plan, as there appears to be enough site disturbance that drainage and erosion controls should have been taken into consideration. Lori Clark said that there was no indication on the site plan that this area would have been excavated. Bob Collings said that any violations with the Conservation Commission would be dealt with and that the excavation wasn't called out on a site plan because it was part of construction. Mark Jones said that there was no description of this in the original application the Settlement Agreement is predicated on, and that this should've come under the purview of the Planning Board, as the threshold for an Erosion Control Special Permit is 32,000 square feet. Bob Collings said that he feels this is only part of a large project.

Lori Clark said that the Planning Board takes a holistic approach to site plan review, considering things such as erosion control measures and safety. Lori Clark said that the quarry activities raise concern in part because the Board did not have the opportunity to take a holistic view of site activity into account.

Margaret Costello asked if any of the soil from the earth removal on parcel R25-13 left the property. Bob Colling stated that almost none of it did, though Ben Poulson removed a few truckloads of sand and gravel. Bob Collings said that was the only exception and that he did not get any revenue from those truck loads.

Margaret Costello stated that she feels the area is deliberately hidden. Bob Collings said that the construction on the museum required material, and that he felt it could be used without coming under the jurisdiction of the Conservation Commission, which is why the area was selected. Bob Collings said that R-25 16B and A were substantially modified in the museum construction process.

Margaret Costello asked why material from the museum foundation was not used as in fill or for the dioramas. Bob Collings said that to get to the end result that is shown on the site plan, soil had to be taken from the top of the hill.

Lori Clark asked what the end state will be, as this was not on the site plan. Bob Collings said that they plan to go through the Conservation Commission to get any required permitting and then will use more of the material for the museum.

Mark Jones asked if the quantity taken off site was 8-10,000 cubic yards. Jesse Steadman said that the area is roughly 66,000 square feet and over 8-10 feet in depth. Mark Jones guessed that could be 400 large dump trucks. Mark Jones said that quantity seems like a lot of gravel to need in the area of the museum, and that he has a hard time believing it, considering the site plan didn't show that a lot of extra grading and fill would be necessary. Bob Collings said that he feels the Earth Removal bylaw allows soil to be removed, and that

it was necessary to get the site to mimic the site plan. Mark Jones asked if it was understood at the time of applying whether the soil would need to be removed. Bob Collings said it was not known.

Jesse Steadman said he feels the Planning Board would not have allowed this in the Water Resource Protection District, and that this work should've been included in an Erosion Control Special Permit.

Lori Clark said that she feels that in order to determine next steps, the Board would need to review the original site plan and hear from the Conservation Commission.

Ernie Dodd, 341 Sudbury Road, noted that the Board of Selectmen previously denied an Earth Removal Special Permit at this location. Lori Clark said that the Board could review that application and decision as well.

Mark Jones said that he feels the Cease and Desist should remain in place until further information is found.

Margaret Costello said that she feels that what has been done on the site is dishonorable, and expressed her surprise that this was done in light of the way the settlement agreement was approached and agreed to.

The Planning Board agreed that before further discussion they would like to review the 2014 Earth Removal Special Permit application and denial, as well as the original site plan approval application. The Board also noted that they would like to hear the Conservation Commission's assessment of the situation and their plan of action.

Meeting Adjourned.

Respectfully Submitted,
Valerie Oorthuys