



TOWN OF
STONEHAM
MASSACHUSETTS

PLANNING BOARD
781-279-2695

STONEHAM PLANNING BOARD MINUTES

(in accordance with provision of M.G.L. c.30A, §§ 18-25)

Wednesday, April 12, 2023

Hearing Room

7:00 PM

Members Present: Chair Frank Vallarelli, Vice Chair Kevin Dolan, Daniel Moynihan, Jr., Terrence Dolan and Marcia Wengen.

Also present at the meeting: Town Clerk Maria Sagarino acting as Planning Board Clerk, Attorney Charles Houghton, petitioner Sara Craven, Attorney Adam Costa, resident Linda Salera and resident Ellen McBride.

The Chair brought the meeting to order at 7:03PM and introduced the members of the Board. Mr. Vallarelli congratulated Mr. Moynihan on his recent re-election.

Mr. Vallarelli began the meeting with approval of the minutes.

Mr. T. Dolan made a motion to approve the minutes from March 15, 2023 which was seconded by Mr. Moynihan. Members present voted in favor 4-0 with Mr. K. Dolan abstaining as he was not present at that meeting.

Attorney Houghton appeared on behalf of his client to ask if the Planning Board would amend their Special Permit decision for 95 Maple Street. The decision had referenced a Board of Appeals decision. Mr. Houghton had to go back before the Board of Appeals for a new decision as time had run out. The new Board of Appeals decision is dated March 24, 2023. Mr. Moynihan made a motion to amend the decision to reflect the new Board of Appeals decision date of March 24, 2023. Mr. T. Dolan seconded the motion. All members present voted in favor 5-0.

Mr. Vallarelli moved on to the first public hearing of the night which had been continued from March 15, 2023. Mr. Vallarelli invited Ms. Craven up to speak. He indicated that she had submitted an updated plan showing a total gross square footage of 709.93 for the accessory unit. Mr. Vallarelli also indicated that a variance had been granted by the Board of Appeals with a decision date of February 17, 2023. He had previously read department comments from DPW, Police, Fire and the Building Commissioner.

Mr. Vallarelli asked the Board members for questions or comments. Mr. Moynihan brought up the architect stamp conversation from the first meeting. He wanted to be clear that this plan before them was not stamped by an architect. Ms. Craven responded that she did not get an architect stamp because it was listed as a requirement in the regulations that she was shown. Mr. Moynihan thinks that the Board needs to clarify this, realizing that Ms. Craven should not be held accountable. Ms. Craven appreciated the consideration. Mr. Moynihan continued to say that he looked at what was up on the web site and felt that the Board needed to reconcile that and he would like to know how to do so. The Board discussed the inconsistencies between the

application itself, a sheet in the application packet and what was written in the regulations incorporated in Chapter 17 of the Town Code. Mr. K. Dolan explained that he sees the land surveyor as measuring the the metes and bounds and the architect as dealing with more of the interior unit plans. Mr. T. Dolan remembered it being brought up two or three years ago when Gus Niewenhaus was on the Board. Ms. Sagarino explained that she had asked Mr. Niewenhaus about it and he mentioned the architect stamp relative to an addition being put on the house and the response wasn't as helpful. Ms. Sagarino added that the Board wanted Cheryl Noble's opinion. When she asked Ms. Noble, her response was that a Professional Land Surveyor, Professional Engineer or an architect could stamp the plans. Ms. Noble believed that the Planning Board's intent was to have that person certify the gross square footage of the accessory unit. She stated that she could even do it, not that she'd want to. Mr. K. Dolan brought up Town Counsel. Ms. Sagarino informed the Board that Mr. Galvin had opined that since the architect stamp is not listed in the regulations in Chapter 17, the Board could put that as a condition if it's important to them, but he cautioned that it would be appealable. He added that going forward the Board needs to be consistent about their requirements on all documents. Mr. Moynihan again asked how that would be done. Ms. Sagarino explained that the rules and regulations can be changed by a vote of the Board at a regular meeting. She added that they could place it on an upcoming agenda. Mr. K. Dolan thought they should do so and maybe look at what other Towns do in the meantime. Moving on to the matter at hand, Mr. K. Dolan asked Ms. Craven if the accessory unit occupant was her mom. Ms. Craven responded that was correct. Mr. K. Dolan continued to explain that the Special Permit would be specific to her mom living in the accessory unit. If she were no longer occupying the accessory dwelling and she should want someone else, Ms. Craven would need to come back before the Board. She understood that to be the case. Mr. Vallarelli asked if there were anything else. Mr. K. Dolan added that it is less than 750 gross square feet. The petitioner understands that it is indigenous to her mother occupying the accessory dwelling and that any decision to grant this would be recorded at the Registry of Deeds. It meets the requirements under 4.2.4.1 a-h and 7.4.3.1.

Mr. Vallarelli opened it up to the public. Seeing no comment from the public, Mr. K. Dolan made a motion to close the public hearing which was seconded by Ms. Wengen. All members present voted in favor 5-0 to close the public hearing.

Mr. K. Dolan made a motion to approve the petition. As he said earlier, it complies with 4.2.4.1 and 7.4.3.1. Ms. Wengen seconded the motion. A roll call vote was taken. All members present voted in favor 5-0. Mr. Vallarelli explained to Ms. Craven that she would now wait for the decision to be filed and the appeal period to run out. At this time Ms. Craven asked if she could share her experience from March with the Board. Mr. Vallarelli allows her the opportunity. She stated that she had moved her eighty year old mother in with her in December because she wasn't doing well alone in a condo. She realized that her mother needed her own space with her own kitchen and bathroom so after seeking a variance from the Board of Appeals, she came before the Planning Board for the accessory dwelling. She appreciates the yes vote tonight, but the experience she had at the March meeting was nothing less than disappointing. She felt that sharing her experience would help moving forward because she thinks accessory dwellings will be a trend moving forward for our elderly. She acknowledged that her original plan did not have the total gross square footage listed on the plan, but she continued to say that was easy enough to get. She stated that when she appeared in March she was forcefully told that she needed an architect stamp which in fact is not a requirement in your regulations. She was also aware that the couple that was heard after her on March 15, 2023, got an approval with plans that did not

have an architect stamp. She wanted to know if she was treated fairly. It's been 28 days since the last meeting and it will be another twenty days once the decision is filed. She explained that in March she asked the Board to grant the Special Permit with two conditions. Confirmation that an architect stamp was required and that she would get a plan that was labelled with the total gross square footage of the accessory unit. She continued to describe the behavior of one Board member making the entire room feel uncomfortable. She felt that was unacceptable. Mr. Vallarelli asked that she refrain from any personal attacks. Ms. Craven continued to explain that she was unaware that having four out of five members present didn't work in her favor. She continued to say that if she got a no vote it would have been about three years for her to come back before the Board. Mr. Vallarelli added that was why they encouraged her to ask for a continuance. Ms. Craven didn't feel that the Board was flexible or acted sensitively on March 15th. Mr. Vallarelli added that the application wasn't complete. Ms. Craven stated that she did not need the architect stamp. Mr. Vallarelli indicated that the total square footage of the accessory unit was not shown on the plan. Ms. Craven asked to continue. She implored them as a Board to review how they operate. She thanked them for their time and left.

Mr. Vallarelli recused himself from 62 High Street and turned the meeting over to Vice Chairman K. Dolan. Mr. Houghton appeared to ask for another continuance. He let the Board know that he felt that they were making progress. A rebuttal for the peer review comments was due to be submitted tomorrow for Stormwater. He asked that the Board to continue the hearing until May 17, 2023 at 7PM waiving all time standards. Mr. Moynihan made the motion to continue which was seconded by Mr. T. Dolan. The Board members voted 4-0 in favor of continuing to May 17, 2023 at 7PM.

Mr. Vallarelli reentered the meeting. Before moving on to the warrant articles for Town Meeting, Mr. Moynihan asked about the architect stamp. He would like to address that at the next meeting. The Board agreed that it needed to be discussed in May. Ms. Sagarino explained that they will just need to decide what they want for requirements and have them listed consistently in the rules and regulations and application packet referring to the regulations. Mr. K. Dolan indicates that his thought is to see an architect when you are dealing with the inside unit. Mr. Moynihan wanted it put on the next agenda. Ms. Wengen asked that they are given all relevant pieces of paper. Ms. Sagarino explained that would be in their packet. She again mentioned that Cheryl Noble seemed to think the Planning Board required a land surveyor stamp on a plot plan to show adequate parking and that the other stamp was on the plans for the interior because that person was certifying the total gross square footage of the unit for the Board. Mr. Moynihan asked about the other stamp and Ms. Sagarino repeated her conversation with Ms. Noble. The Building Commissioner indicated that you could have a surveyor, a PE or an architect calculate the gross square footage. Ms. Noble indicated that she or I could calculate it for them. We are all capable but those other people, the Land Surveyor, PE and Architect all have stamps to make it more official. Ms. Noble indicated that she does not require an architect stamp for the building permit and only commented on it as she believed that's what the Planning Board preferred. Mr. T. Dolan asked if Attorney Houghton would be aware that an architect stamp was necessary in Stoneham. He responded that he'd be aware but in his opinion, a professional land surveyor could calculate the square footage. Mr. T. Dolan said, not a PE and Mr. Houghton agreed. Mr. Vallarelli added that they themselves could calculate the square footage and add everything up. Mr. Vallarelli said the discussion would continue next month.

Mr. Vallarelli moved on to the warrant articles for the Annual Town Meeting. He introduced Article 5 which would allow for an Associate Planning Board member. This article had previously been discussed when the Board decided to sponsor the article.

Mr. Vallarelli read the article language as follows:

“Article 5. To see if the Town will vote to amend the Stoneham Town Code, Chapter 15 Zoning Bylaw, to add a new section 7.4.1 “Planning Board Associate Member” as follows:

7.4.1 Planning Board Associate Member. Pursuant to Section 9, Chapter 40A, Massachusetts General Laws, the Stoneham Planning Board, acting as the Special Permit granting authority, shall have up to one associate member, who shall sit on the Board when there are less than five members sitting, for the purposes of acting on a Special Permit application. This position of associate member will be filled by joint appointment of the Select Board and the Planning Board and the term shall be fixed for three years. If provision for the associate member has been made, the Chair of the Planning Board shall designate the associate member to sit on the board for the purpose of acting on a Special Permit application, in the case of absence, inability to act, or conflict of interest, on the part of any member of the Planning Board or in the event of a vacancy on the Board.

And further, that the Town Clerk be authorized to make clerical, editorial or other adjustments related to incorporating or referencing this change in the Town Code, or do anything in relation thereto.”

Mr. Moynihan asked if the Board had previously discussed the joint appointment by the Planning Board and the Select Board. Mr. Vallarelli indicated that they had not. Ms. Sagarino explained that language was added because as an elected board when there is a vacancy, that is how it is filled under Mass General Law. Ms. Sagarino mentioned that Attorney Galvin had looked the article over and added the editorial language at the end. He thought it looked good. Ms. Wengen added that the Finance Board questioned the three year term. They wanted to know why it wasn't five. Mr. Vallarelli thought they were questioning the five year term in general. The Board believed three was fine.

There were no members of the public present for comment. Ms. Wengen made a motion to close the public hearing which was seconded by K. Dolan. All members present voted in favor 5-0.

Mr. Moynihan made a motion to make favorable recommendation at Town Meeting. Ms. Wengen seconded. All members present voted in favor 5-0.

Moving on to Article 6, Mr. Vallarelli read the article into the record as follows:

“Article 6. To see if the Town will vote to amend the Stoneham Town Code, Chapter 15, Zoning Bylaw, Section 3.2 Location of Districts by deleting the map date of “October 15, 2018” and substituting in place thereof the date “May 1, 2023”, so that it will read as follows:

3.2 LOCATION OF DISTRICTS:

Said districts are hereby established as shown on a map entitled “Stoneham, Massachusetts Official Zoning Map,” dated May 1, 2023. A true copy of which is on file in the office of the Town Clerk. Said map, together with all explanatory information thereon, is hereby incorporated into and made a part of this bylaw. Or do anything in relation thereto.”

An explanation is given as to why the map is being accepted at this Town Meeting when we would normally do so every ten years. In summary, when the Official Zoning Map was last accepted at the Special Town Meeting on October 15, 2018, the map presented to Town Meeting had some incorrectly colored parcels on Dale Court and Franklin Street which inadvertently rezoned them. As it wasn't our intention, we are accepting the map again to correct those specific mistakes.

Mr. Vallarelli opened the hearing up to the public. Attorney Adam Costa appears on behalf of his client Linda Salera of 3 Dale Court. He explained that in reviewing the map, he and his client noticed that her parcel and the adjacent parcel at 5 Dale Court were incorrectly zoned as Recreation/Open Space instead of Residence A. At first it was believed to be a simple mistake in maintenance of the map that could just be corrected. In further researching it was found to be shown that way on the map when it was last accepted at Town Meeting on October 15, 2018. So the only way to fix it is to adopt the map at Town Meeting with the corrections to those parcels. Mr. Costa stated that he and his client support this article. They thank the Board for their consideration.

With no other members of the public present for comment, Ms. Wengen made a motion to close the public hearing which was seconded by Mr. Moynihan. All members present voted in favor 5-0.

Mr. Moynihan made a motion to make favorable recommendation at Town Meeting which was seconded by Mr. T. Dolan. All members present voted in favor 5-0.

Mr. Vallarelli continued on to Article 7 reading the article into the record as follows:

“ **Article 7.** To see if the Town will vote to amend the Stoneham Town Code, Chapter 15, Zoning By-law by amending the Zoning Map of the Town of Stoneham to add to the Recreation/Open Space District the following described property at 5 Dale Court, Stoneham, Massachusetts.

The land in Stoneham, Middlesex County, Massachusetts, known and numbered as 5 Dale Court and shown on a plan of land entitled “Plan of Land 5 & 7 & 15 Dale Court Stoneham, Mass.,” dated November 20, 2019, drawn by Benchmark Survey, more particularly bounded and described as follows:

NORTHERLY: by land shown as Tax Map 284 Parcel 13-56 on said plan, fifty-five and fifty hundredths (55.50) feet

EASTERLY: by land shown as Tax Map 284 Parcel 13-56 on said plan, fifty-one and sixty hundredths (51.60) feet;

SOUTHERLY: by land shown as Tax Map 284 Parcel 13-58 N/F Linda A. Salera, fifty-nine and twenty-seven hundredths (59.27) feet;

WESTERLY: by Dale Court fifty-one and fifty-eight hundredths (51.58) feet
Containing 2,938 square feet, more or less. “

Attorney Houghton appeared before the Board to speak on behalf of this article that he submitted for Town Meeting. He explained that this was in reaction to article 6. After the map is accepted and 5 Dale Court is put back in to the Residence A District, as it appears that it should have been, this article

is asking for it to be rezoned to Recreation/Open Space. The Boys & Girls Club had purchased the house a few years ago believing it to already be in the Recreation/Open Space District. In fact, their bank loan was based on it being in Recreation/Open Space.

Mr. Costa again appeared before the Board on behalf of his client Linda Salera of 3 Dale Court to say that they have some concerns. His client's property is bounded on each side by single family homes. What is proposed would presume that there would then be Recreation/Open Space on one side. There is no grandfathering protection. They are concerned about the Boys & Girls Club, 15 Dale Court incorporating 5 Dale Court and encompassing a larger area around her home. Mr. K. Dolan asked if they are planning on opposing this at Town Meeting. Linda Salera, 3 Dale Court responded. She explained to the Board how close her home is to 5 Dale Court. She talked about her privacy fence and how balls come over and hitting her house and cars. She had asked at one time if they could put a higher fence on their side. They currently have a ten foot fence. She doesn't want to oppose the rezoning. She just wants consideration in the future should a Special Permit be required. She knows that they are planning on a new Boys & Girls Club building at some point. She thinks the mission of the Boys & Girls Club is great but she needs to protect her property rights. The balls coming over the fence and the noise when they are outside. Mr. K. Dolan asked her to explain the fences that exist on the properties and she gives a brief description. Adam Rogers responds on behalf of the Boys & Girls Club. When they purchased the property at 5 Dale Court they did their due diligence and the zoning showed it to be Recreation/Open Space. At this time, they plan on using 5 Dale Court as an office. In the future plans they do not plan to demolish the house. Mr. Rogers discussed the fencing with Ms. Salera.

Seeing no further comment, Ms. Wengen made a motion to close the public hearing which was seconded by T. Dolan. All members voted in favor 5-0.

Mr. Moynihan made a motion to make favorable recommendation at Town Meeting which was seconded by Ms. Wengen. All members present voted in favor 5-0.

Mr. Vallarelli moved on to the final public hearing for Article 8 and read the article into the record as follows:

“Article 8. To see if the Town will vote to amend the Stoneham Town Code, Chapter 15, Zoning By-law by amending the Zoning Map of the Town of Stoneham to add to the Residence B District the following described property at 0 Rockville Park, 5 Rockville Park, and Rockville Park, Stoneham, Massachusetts

0 Rockville Park

A certain parcel of land with the buildings thereon situated on Rockville Park in Stoneham, Middlesex County, Massachusetts, and being shown as Lot No. 139 on a plan entitled, “Fellsway Park Terrace, Stoneham, Mass., owned by H. W. Eaton, October 14, 1914, Ernest W. Branch, Civil Engineer,” and recorded with Middlesex South District Registry of Deeds in Plan Book 228, Plan 1.

Said premises are further bounded and described as follows:

SOUTHERLY: by Lot No. 140 on said plan, 62.6 feet;

SOUTHWESTERLY: by said Rockville Park, 53.66 feet;

NORTHWESTERLY: by Lot No. 138 on said plan, 164.44 feet;

NORTHEASTERLY: by a portion of Lot No. 130 and Lot No. 129 on said plan, 58.59 feet; and

EASTERLY: by land of owners unknown, 199.80 feet.

Said premises contain 14,600 square feet of land, more or less, according to said plan.

5 Rockville Park

The land in said Stoneham, being Lots numbered 137 and 138 as shown on plan of lots at Fellsway Park Terrace belonging to J.W. Wilbur Co., Inc. dated October 14, 1914, and recorded with Middlesex South District Deeds Book of Plans 228, Plan No. 1, together bounded:

NORTHERLY: by Lots 134, 135, and 136, as shown on said Plan;

NORTHEASTERLY: by Lots 131, 132 and 133 on said Plan;

SOUTHERLY: by Lot 139 and said Plan, and

WESTERLY: by Rockville Park as shown on said Plan.

Together containing 16,014 square feet of land, more or less, according to said Plan.

Rockville Park

A certain parcel of land, known as Rockville Park described as follows:

NORTHERLY: by 5 Rockville Park, sixty-two and forty-one hundredths (62.41) feet, and fifty-one and six hundredths (51.06) feet;

NORTHEASTERLY: by 0 Rockville Park, fifty-three and sixty-six hundredths (53.66) feet;

SOUTHEASTERLY: By land of Sanco Builders, LLC eighty-one and eighty-two hundredths (81.82) feet;

SOUTHERLY: By land of Sanco Builders, LLC twenty-one and thirty-five hundredths (21.35) feet;

SOUTHEASTERLY by land Sanco Builders, LLC, fifty-one and thirty-four hundredths (51.34)

SOUTHWESTERLY: by Rockville Park forty feet (40.00)”

Attorney Houghton appeared to speak on this article that he submitted to Town Meeting. He reminded the Board of the history of this property and the earlier rezoning that was done. At this point he has been to Town Meeting, before the Board of Appeals, Planning Board for Special Permit,

Conservation and the DCR. The original 16 units proposed no longer work economically. His client is now looking to build one building instead of 16 townhomes. There would be 42 units in the building. Mr. T. Dolan asked if they had spoken to the neighbors. Mr. Houghton stated that they had but also mentioned that this new proposal would be further away from Mauriello Drive. Mr. Houghton talked about shortening the cul de sac and rezoning a bit more to Residence B. He outlined a little further how they see the project moving forward.

Seeing no further comment, Mr. Moynihan made a motion to close the public hearing which was seconded by T. Dolan. All members present voted in favor 5-0.

Ms. Wengen made a motion to make favorable recommendation which was seconded by Mr. T. Dolan. Four members voted in favor with Mr. K. Dolan abstaining 4-0-1.

Motion to adjourn made by Mr. K. Dolan and seconded by Mr. T. Dolan.

Meeting adjourned at 8:21PM

Respectfully submitted:

Maria Sagarino
Town Clerk

Documents and other exhibits used by the Planning Board during this meeting to be made part of the official record but not attached to these minutes:

A Plan by Williams & Sparages, entitled "Locus Plan Berrywood Estates Stoneham, MA," dated August 22, 2022.

A plot plan of 434 William Street by Edward J. Farrell, Professional Land Surveyor dated January 5, 2023 and floor plans and elevations by Richard J. Testa Professional Engineer.

Complete text of the zoning articles being presented at the May 1, 2023 Annual Town Meeting including the Official Zoning Map of the Town of Stoneham dated October 15, 2018