

SCITUATE PLANNING BOARD MINUTES January 30, 2014

Members Present: William Limbacher, Chairman; Stephen Pritchard, Vice Chairman; Richard Taylor, Clerk; Robert Vogel, Eric Mercer and Robert Greene, Alternate Member.

Members Absent: Bob Vogel arrived at 8:00 pm.

Others Present: Ms. Laura Harbottle, Town Planner.

See Sign-in List for names of others present at this meeting.

Location of meeting: Selectmen's Hearing Room, Town Hall, Scituate, MA.

Chairman Limbacher called the meeting to order at 7:40 P.M. The meeting was being recorded for airing on the local cable television station.

Documents

- 1/30/14 Planning Board Agenda

ACCEPTANCE OF AGENDA: Mr. Taylor moved to accept the agenda. Mr. Pritchard seconded the motion and the vote was unanimous in favor.

Continued Public Hearing and Scenic Road Public Hearing – 214 Thomas Clapp Road Flexible Open Space Special Permit & Definitive Subdivision Plan & Scenic Road Assessor's Map/Block/Lot 18/1/2 Applicants/Owners: Fern Properties, LLC

Documents

- Environmental Notification Form Decision for 214 Clapp Road dated 1-17-14
- Scenic road draft motion, draft motion form for DSP, draft motion form for Findings of Fact for the FOSD revision 2 dated 1-23-14, draft motion for conditions for the FOSD revision 3 dated 1-23-14.
- Emails 1/27 and 1/28/14 between Laura Harbottle and Matthew Watsky
- 1/30/14 email from Matthew Watsky on NHESP correspondence

Deb Keller, Matthew Watsky, Paul Bourque, Joe Iantosca and Dave Iantosca were present for the applicant. Chairman Limbacher indicated that last time the Board worked through the Findings of Fact and some conditions. He indicated Attorney Watsky and Ms. Harbottle had been working on conditions since the last meeting. Ms. Harbottle indicated there was no issue with the Findings of Fact and the corrections asked for at the last meeting are reflected in the Findings tonight. Chairman Limbacher said that 4 votes were needed to approve the Findings of Fact. Mr. Pritchard moved to approve the Findings of Fact as Amended at the last meeting as indicated below. Mr. Taylor seconded the motion. Motion was unanimously approved with members Limbacher, Pritchard, Taylor and Greene voting.

1. Fern Properties, LLC filed an application for a Special Permit for a Flexible Open Space Development under Scituate Zoning Bylaw Section 550 on July 25, 2013.
2. The property that is the subject of this application is a 17.59 acre parcel at 214 Thomas Clapp Rd. which contains a single family home. The property is in the Residential R-1 Zoning District.

3. The proposed development is within the mapped Priority and Estimated Habitat of the Eastern Box Turtle, designated as a species of "Special Concern" by the Massachusetts Endangered Species Act. They are primarily an upland species but use wetlands for foraging, mating and thermoregulating. A certified vernal pool and buffer areas to two additional certified vernal pools exist on the site. The disturbance of this habitat has been thoroughly reviewed by the state and Conservation Commission and the Planning Board is satisfied that the development will not impact these areas.
4. The applicant submitted an Intersection Sight Distance Memorandum stamped by Deborah W. Keller, P.E. indicating sight distance requirements of 350 feet were met. The applicant provided a plan showing removal of trees and vegetation at the entrance to improve sight distance.
5. The proposed stormwater management system has been reviewed by the Town's consulting engineer, David Johnson of Beals and Thomas, Inc. whose comments indicate his concerns have been satisfactorily addressed.
6. As required by Scituate Zoning Bylaw Section 550.4 D, Special Permit Approval, the Planning Board finds based on evidence and information provided by the applicant and reviewed by the board that the Flexible Open Space Development is superior to a conventional subdivision, with the following specific benefits provided to the town consistent with those in the Purpose section:
 - a. Open Space Parcel D is adjacent to Town Conservation Land and provides a buffer to the wetlands containing a certified vernal pool. The parcel contains 8.92 acres of land that will be transferred to the Town of Scituate as permanently protected open space. This parcel contains 6.13 acres of upland and 2.79 acres of wetland. The upland alone is greater than the minimum open space requirement of 5.29 acres.
 - b. The plan shows public access to the open space parcel from the Bates Lane Preserve by a walking trail connected to the Litchfield Trail which is part of the Carl Pipes Trail System.
7. Scituate Zoning Bylaw Section 550.5, Design Standards, Paragraph A, requires protection of important natural and historic features of the land and minimization of the size of developed areas. The property contains a historic home built in approximately 1850, which is to be preserved.

The proposed development will allow creation of Open Space Parcel D, which contains 8.92 acres. This will minimize the size of the developed area.

This paragraph requires protection of a minimum of 30% of the parcel, or 5.28 acres, as open space. 8.92 acres or 50.7% are proposed to be protected. 70% of the minimum open space area or 3.70 acres must be uplands. 6.13 acres of upland is provided. The plan thus meets the Design Standard of Scituate Zoning Bylaw Section 550.5 A.

8. Scituate Zoning Bylaw Section 550.5 Paragraph B requires that construction and laying out of developed areas respect the natural features of the parcel, applying six guidelines, as follows:
 - a. Guideline 1 encourages site disturbance beyond the paved area of the road to be minimized, and open space maximized. Guideline 2 recommends that open space include buffers to wetlands. These are met by the preservation of open space as indicated in Finding #6 above and by clustering of homes to reduce land clearing.

- b. Guideline 3 recommends preservation of adjacent trees along, or open space adjacent to, existing roads. Some trees are preserved along Clapp Road by Drainage Parcel C. Drainage Parcel B, also adjacent to Clapp Road, will be a constructed wetland with trees and vegetation designed to enhance stormwater treatment and habitat creation in a former grass depression area.
 - c. Guideline 4 recommends locating water and utilities under road pavement. Where possible, water lines were located under roadways and underground utilities will be used throughout.
 - d. Guideline 5 indicates use of Low Impact Development (LID) drainage techniques. LID drainage was provided in use of rain gardens, a stormwater pocket wetland adjacent to the road and reduced land clearing due to clustering of homes.
 - e. Guideline 6 states curb cuts should be minimized and conflicts with existing traffic should be avoided. One existing curb cut will be used for the development.
9. Scituate Zoning Bylaw Section 550.5 C requires provision satisfactory to the Planning Board for protection and maintenance of common land and common facilities. The open space in this development will be owned by the Town. A Homeowners' Association will own and maintain the stormwater areas of the site including the rain garden in the center of the cul-de-sac island and the additional rain gardens on site.
10. Scituate Zoning Bylaw Section 550.6, Minimum Requirements, states that the maximum number of lots in a Flexible Open Space Development special permit must not exceed the number which could be created through conventional development of the site. A Conventional Density Sketch Plan for Benjamin Studley Farms dated March 20, 2013 with revisions through 6/5/13 showed that the parcel could be subdivided into nine lots in a manner which complies with the Zoning Bylaw and the standards of the Subdivision Rules and Regulations. This Conventional Density Sketch Plan was approved by the Planning Board on November 26, 2013. This number of buildable lots was shown on the Flexible Open Space Development Definitive Plan dated March 20, 2013 with revisions through 6/5/13 submitted with the application.
11. Scituate Zoning Bylaw Sections 550.6 A., Lot Area and Width and B., Frontage requires the lot area, width and frontage for each lot to be sufficient to support the dwelling, its accessory structures, septic system and access. Based on information provided by the applicant's engineer, each lot is of sufficient size and width to do so.
12. Scituate Zoning Bylaw Section 550.6 C. requires 15' front, side and rear setbacks in a Flexible Open Space Development, with setbacks from the perimeter of the development equal to those of the underlying zoning (30' rear setbacks required in R-1.) Building envelopes shown on Sheet 5 show setbacks for Lots 1 – 9 which meet the requirements of 550.6 C.
13. Scituate Zoning Bylaw Section 550.6 D requires no more than one single- or two-family dwelling and accessory structures on each lot. No more homes can be built on any lot because Scituate Zoning Bylaw prohibits construction of more than one single- or two-family home on a residential lot (see Section 430.1.)
14. Scituate Zoning Bylaw Section 550.6 E requires open space to be conveyed to the Town, a conservation trust, or protected through a deed restriction accepted by the Massachusetts Office of Energy and Environmental Affairs. The open space shown on the plan will be conveyed to the Town of Scituate.

15. Scituate Zoning Bylaw Section 550.6 F requires restriction of further subdivision of the lots shown on the plan with a note so stating added to the plan. The special permit will include a condition that prior to the start of construction, a deed restriction shall be recorded stating that no lot in the Flexible Open Space Development may be further divided or subdivided into additional building lots, and a note shall be added to the plan to reference this condition.
16. Scituate Zoning Bylaw Section 550.6 G permits the Planning Board to specify roadway, drainage and utility design requirements deemed necessary to ensure adequate access, lessen congestion, provide proper drainage, protect public safety or provide for water, sewage, utilities or other municipal services.
17. Based on these findings, the Flexible Open Space Development is superior to a conventional subdivision and meets the requirements for a Flexible Open Space Development, Section 550 of the Zoning Bylaw.

The Planning Board then discussed the proposed conditions for the Flexible Open Space Special Permit. The Board concurred that conditions 1-10 were acceptable. The Board discussed #11. The applicant wants it removed because he feels it is asking for a greater percent of the land to be preserved and there could now be three sets of bounds which could be confusing. Ms. Keller indicated that she reviewed the drainage calculations and if the area in the backyards that is in question were to be lawn, it would not impact the stormwater management facilities and would have no impact on stormwater. Attorney Watsky said his client wants to keep the trees, but with no permanent restriction. After discussion, the Board agreed to remove condition 11. The Board also agreed to remove condition 13a. as it would be hard to enforce use of organic fertilizer only. Ms. Harbottle suggested that the Board be provided a receipt for the purchasers being provided the Homeowner's Association Agreement in condition 13d. The Board and applicant concurred.

Attorney Watsky wanted to change the wording on condition 14 so that consultation with the Selectmen occurs before endorsement. He was concerned that the subdivision should exist first prior to the conveyance of the open space. The Board concurred. Condition 17 was agreed to be changed to reflect the limit of **clearing** be marked or flagged in the field. Attorney Watsky wanted condition 18 to be worded so that construction ceases no later than 7pm or dusk. It was agreed that sunset was a defined time and that sunset would be used instead of dusk. Attorney Watsky wanted the 45 days in condition 23 changed as there is no condition in state law to require 45 days. Ms. Harbottle said that the Special Permit and Definitive Plan decisions should be recorded at the same time and further ahead than the preconstruction meeting. Mr. Watsky said that the plans need to be recorded prior to any construction or action. He said the permit is not valid until it is recorded. He believes it puts the permit in risk of expiring as the applicant does not know how long it will take for the Conservation and Management Permit (CMP) to be issued. Mr. Watsky said they were not planning on taking any actions until the CMP has been issued. He indicated that he would like all permits in place prior to anything being recorded. Ms. Harbottle expressed concern that there should be some type of recording deadline as the owner could sell the land and permits leaving the Town exposed. The Board and applicant agreed to 90 days with additional language of "or such extension of time granted by the Planning Board".

Ms. Harbottle indicated that she would like to add a condition about which plans are recorded. She said that the grading, landscaping and utilities are essential along with the cover, layout and conditions sheet. The Board and applicant started listing the sheets to record as 1, 2, 5, 6, 7, 8, 9, 9A, 11-17. Mr. Pritchard thought that the details should be recorded for a Homeowner's Association

to understand what is required for maintenance. Attorney Mike Hayes said he believes all the plans should be recorded. Mr. Joe Iantosca said that they would record all of the plans. Mr. Pritchard asked about what is going to be represented to a buyer in terms of the road being put up for acceptance. Ms. Harbottle indicated that is covered under condition 13 of the Definitive Plan decision.

Mr. Pritchard moved to approve the Flexible Open Space Development Special Permit for Benjamin Studley Farm with the conditions as modified. Mr. Taylor seconded the motion. Motion was unanimously approved with members Limbacher, Pritchard, Vogel, Taylor and Greene voting in favor. The conditions as presented to the Board and applicant at the meeting on 1/30/14 are indicated below:

1. All construction shall be according to a plan by McKenzie Engineering Group, Inc. titled Benjamin Studley Farm, A Definitive Flexible Open Space Development Plan, dated July 25, 2013, with revisions through November 19, 2013, with any additional revisions needed to conform to these conditions.
2. Construction shall meet all requirements of the DPW, Fire Department, Building Department, Board of Health, Conservation Commission, MEPA, the Natural Heritage and Endangered Species Program, the State Building Code and all applicable federal, state and local laws and regulations.
3. All replacement of or connection to Town drainage and installation of all water mains and appurtenances shall be performed according to the specifications of the Scituate DPW.
4. The total number of residential dwelling units on the site shall not exceed nine. There shall be no further division or subdivision of any lot shown on the plan for the purpose of construction of an additional dwelling.
5. Access to all lots shall be over the proposed subdivision road. There shall be no further extensions of the road or attachments of any other roads or Common Driveways to the proposed subdivision road.
6. The drainage system shall be maintained according to the Long Term Best Management Practices Operation & Maintenance Plan and Pollution Prevention Plan, which shall be included in the Homeowners' Association Agreement.
7. All electrical, telephone, cable and similar utilities shall be located underground.
8. Lighting shall be installed as shown on the plan, subject to the approval of the Board of Selectmen. Light fixtures shall not exceed 14'6" in height.
9. Prior to installation of an entrance sign, a sketch showing dimensions, location, materials and color shall be provided to the Town Planner.

REQUIRED PRIOR TO ENDORSEMENT OF THE DEFINITIVE PLAN:

10. The walking trail easement shall be removed from the Subdivision and Easement Plan. The following language shall be added as Notes 2. and 3. on this Plan:
 - An easement shall be granted to allow a Homeowner's Association or its designee access to inspect, maintain and repair the stormwater management system, and to allow the

Town access in case of an emergency. This shall include an easement a minimum width of 20' which shall allow access from the subdivision road to the detention basin over Lots 2 and 3.

- An easement shall be granted to the Town of Scituate allowing the right to construct, repair, replace, extend, operate, use and maintain all streets, water mains, and all surface and subsurface stormwater drains in, through or under the streets and easements, should the Town vote to accept the subdivision road as a public street. The above shall not be construed to relieve the applicant, and his successors in title, to the ownership of a portion of the land or any street within the subdivision, nor diminish in any way, his responsibility to complete all construction as required by the applicant's agreements with the Town and to thereafter maintain all streets and utilities in satisfactory condition until they are accepted by the Town.

11. The Non-Disturbance Buffer shown on the Grading and Drainage plan provides habitat and a buffer to abutters. This Non-Disturbance Buffer shall be delineated on the ground and the Landscape Plan shall be revised to include this delineation as follows:

Concrete bounds shall be shown at the intersection of the buffer and individual lot lines, and at a distance of no more than 50' along the buffer. The bounds shall extend 4" above grade. Clumps of three to four evergreen shrubs shall be added to between the bounds along the no-disturb boundary.

12. A copy of the revised Definitive Flexible Open Space Development Plan shall be provided to the Planning Board a minimum of five business days prior to expected endorsement of the Definitive Plan.
13. A Homeowners' Association Agreement including the following items shall be provided to the Planning Board no less than eight business days prior to endorsement of the Definitive Plan:
 - a. A requirement that from the time the developer has ceased maintenance, a Homeowner's Association shall maintain and repair all components of the stormwater management system, roadways (until such time as the road may be accepted by the Town,) the bus waiting area, landscaping in the road layout, and bounds in Condition 11 above.
 - b. A requirement that the Association maintain an account always containing a minimum of one year's costs for this maintenance. A contractor's estimate of this maintenance and proof of the available funds in this account shall be provided to the Planning Board with the Agreement and annually on the first of the year.
 - c. A description of the non-disturb areas and their restrictions and a plan showing their location.
 - d. A requirement that the developer notify contractors, builders and real estate agents that membership in a Homeowners' Association is required to be disclosed to all prospective buyers, and shall make copies of the Homeowner's Association Agreement available to be provided to all prospective purchasers of lots in the development.
 - e. The Town Planner shall be added to the Town of Scituate contact information on page 1 of the Construction Phase Best Management practices.

- f. A requirement that the Homeowner's Association notify the Planning Board of the name, address, phone no. and e-mail of the trustees within seven days of their election, and to provide an annual report of their maintenance activities to the Planning Board by January 1 of each year.
14. This approval is subject to the applicant consulting with the Board of Selectmen regarding their desire to accept the permanently protected open space shown on the plan in the care and custody of the Conservation Commission for extension of the Bates Lane Preserve.

REQUIRED PRIOR TO PRE-CONSTRUCTION CONFERENCE

15. Prior to the pre-construction conference, the following must be provided to the Planning Board:
 - Copies of the NPDES Permit, Stormwater Pollution Prevention Plan and Conservation and Management Permit.
 - A check to cover the cost of inspections by the Town's consulting engineer.
 - A copy of a recorded deed restriction stating that no lot in the Flexible Open Space Development may be further divided or subdivided into additional building lots.
 - Construction schedule including approximate dates for items in Subdivision Rules and Regulations 9.1.3.
16. A pre-construction conference shall be held with the applicants, their representatives, their engineer, the site contractor(s), the Town Planner, the Planning Board's consulting engineer, Conservation Agent and other representatives of the Town as the Board feels are necessary. A preconstruction conference will not be scheduled until all items required under Condition 16 have been submitted. A list of all contractor contacts, including names and telephone numbers, shall be provided to the Planning Board and DPW. At least one telephone contact shall be available 24 hours per day in the event of an emergency.

REQUIRED PRIOR TO THE START OF CONSTRUCTION

17. The boundary of the non-disturbance area shall be staked in the field under direction of a surveyor, and notification given to the Town Planner a minimum of three business days prior to the start of construction.

REQUIRED DURING CONSTRUCTION

18. Construction work shall not begin prior to 7 AM weekdays and 8 AM on Saturdays, and shall cease no later than 5PM. No construction shall take place on Sundays and legal holidays.
19. All earth moving operations shall only occur while erosion and sedimentation control measures approved by the Town Planner after consultation with the Conservation Agent are in place. Such control measures shall remain in place until the Board's consulting engineer determines, after consultation with the Town Planner, that the danger of erosion or sedimentation no longer exists.

REQUIRED PRIOR TO ISSUANCE OF THE FIRST BUILDING PERMIT

20. Prior to application for building permits, septic system grading will be reviewed with the Board of Health, to assure septic systems will not interfere with drainage either within the development or onto abutting properties.

21. A copy of a deed conveying Open Space Parcel D to the Town of Scituate for the care and custody of the Conservation Commission shall be provided to the Planning Board prior to the issuance of a building permit on any lot.

ADMINISTRATION

22. All time periods referenced in this document for completion of conditions shall be tolled in case any appeals are taken.
23. This Special Permit shall be void if it is not recorded at the Registry of Deeds within 45 days of expiration of the appeal period following approval of this Special Permit. The Applicant shall provide proof that the Special Permit was recorded to the Planning Board.
24. Within three months of the date of recording, copies of the approved Definitive Flexible Open Space Development Plan, the special permit, the Homeowners' Association Agreement shall be provided to the Planning Board.
25. This Special Permit shall lapse within two years from the date of its issuance unless substantial use or construction has commenced prior to that time in accordance with MGL Chapter 40A, Section 9.

The Board moved to the Scenic Road/Public Shade Tree hearing decision. Mr. Pritchard moved that the Planning Board vote to approve the removal of the following trees in connection with the construction of a proposed Flexible Open Space Definitive Subdivision consisting of 9 lots in the public right of way of 214 Clapp Road: 12 deciduous trees - one 20" Ash; one 3", 4", 6" cluster Black Cherry; one 12" Black Cherry; one 12" Elm; one 10" Black Cherry; one 8" Elm, three 6" Black Cherries; two 4" Black Cherry; one 4" Elm and brush smaller than 3" in diameter. No stonewalls are proposed to be removed. All trees are to be replaced with a minimum 2.5" caliper native trees. The Scituate Highway and Public Grounds Department, with input from the Town Planner, will determine placement so as to not obscure sight distance requirements for the development. The Town will plant the trees. Mr. Taylor seconded the motion. Motion was unanimously approved with members Limbacher, Pritchard, Taylor, Greene and Vogel voting in favor.

The Board then moved on to the Definitive Subdivision Plan decision. Mr. Pritchard moved that the Planning Board approve the plan titled Benjamin Studley Farm Definitive Flexible Open Space Development Plan at 214 Clapp Road in Scituate, Massachusetts by McKenzie Engineering Group, Inc., dated July 25, 2013, with revisions through November 19, 2013 (the Definitive Plan), and as to be revised to include conditions of the Flexible Open Space Development Special Permit approved by the Planning Board, subject to the following conditions:

1. All construction shall be according to a plan by McKenzie Engineering Group, Inc. titled Benjamin Studley Farm Definitive Flexible Open Space Development Plan, dated July 25, 2013, with revisions through November 19, 2013, with any additional revisions needed to conform to these conditions or those of the Flexible Open Space Development Special Permit.
2. Where a Definitive Plan requires approval, permitting or licensing from any local, state or federal agency, this approval, permitting or licensing will be deemed a condition of the Planning Board's approval, including the Planning Board's approval of work in the layout of Clapp Road, a Scenic Road.

3. Construction shall meet all requirements of the Scituate Subdivision Rules and Regulations dated August 13, 2010 except as specifically waived by the Planning Board or otherwise conditioned in the Special Permit for the Flexible Open Space Development. All conditions of approval and waivers granted shall be inscribed on the plan prior to endorsement.
4. The total number of residential dwelling units on the site shall not exceed nine (9). No lot in the Flexible Open Space Definitive Subdivision may be further divided or subdivided into additional building lots.
5. The applicant shall obtain the endorsement of the Planning Board upon the Definitive Plan within 180 days of the date of approval or termination of the appeal period of the Special Permit. Failure to obtain such endorsement shall result in the automatic rescission of the approval of such plan.
6. The applicant shall complete the construction of all ways and municipal services within three years of the date of endorsement of the Definitive Plan. Failure to so complete shall result in the automatic rescission of the approval of such plan, unless the Board extends said period, for good cause shown, after the written request of the applicant prior to the expiration of said period.
7. A Covenant or other form of surety as provided in MG.L. c. 41, s. 81U to guarantee construction of the road, drainage improvements and any additional on or off site improvements agreed to by the applicant, shall be provided to the Planning Board prior to endorsement of the Definitive Plan by the owners of record of the land in the subdivision. This Covenant shall run with the land and be binding upon the owner(s) and their successors in interest. Upon approval of the covenant by the Planning Board, reference thereto shall be inscribed upon the plan and it shall be recorded with the covenant at the expense of the applicant. The Town Planner or her designee shall accompany the applicant to the registry of deeds to ensure documents are recorded and the town is provided recorded copies of decisions, drawings and covenants.
8. In addition to the Covenant normally required to secure the construction of ways and installation of municipal services, the Planning Board shall require, prior to the endorsement of the Definitive Plan, a supplemental covenant containing those conditions of approval that are intended to survive the release of the Statutory Covenant. Such covenant shall be approved as to form by the Planning Board Legal Counsel. Such covenant shall be executed and duly recorded by the owner(s) of record, and shall run with the land. The covenant shall be referenced on the Definitive Plan prior to recordation in the Registry of Deeds. The subdivider shall promptly, after recording, send a copy of the covenant, showing book and page number, to the Board.
9. The applicant shall agree to construct streets and complete all other work specified on the Definitive Plan or required under these Rules and Regulations, meet all relevant provisions of the Scituate Zoning By-Laws and other By-Laws, including installation of all required utilities in such subdivision, and all work incidental thereto, such as grading of lots to provide drainage, construction of walkways, retaining walls and other details, as outlined in Section 7.0 of these Rules and Regulations and as specifically required by the Planning Board, within three years of the date of endorsement of the Definitive Plan.
10. An easement shall be provided allowing a Homeowner's Association access to drainage and stormwater management systems which will be privately maintained to allow inspection, maintenance and repair, and allowing the town access in case of an emergency, or to test water quality if this is deemed in the public interest.

The applicant shall also grant to the Town of Scituate, a right and easement to construct, repair, replace, extend, operate, use and forever maintain all streets, water mains, sewer mains, and all surface and subsurface storm water drains in, through or under the streets and easements as indicated on the Definitive Plan. The above shall not be construed to relieve the applicant, and his successors in title, to the ownership of a portion of the land or any street within the subdivision, nor diminish in any way, his responsibility to complete all construction as required by the applicant's agreements with the Town and to thereafter maintain all streets and utilities in satisfactory condition until they are accepted by the Town.

11. The applicant shall consent to allow members and employees of the Planning Board and other persons acting under the authority of the Planning Board as its agents, to enter upon any lands and carry out such surveys and inspections as may be deemed necessary, and place and maintain monuments and marks. As a condition of subdivision approval by the Planning Board, the applicant shall cooperate with the Planning Board and Town officials and assist them in their efforts to verify that the layout, design and construction work in his subdivision are satisfactory and conform to the Town specifications and the requirements of the Planning Board.

12. The applicant shall maintain all streets and utilities within the subdivision, with the exception of water service until such time as maintenance is performed by the Homeowner's Association. The Town may assess betterments for any work needed to make such streets conform to Town standards prior to acceptance thereof as Town ways.

Street acceptance by the Town shall generally be limited, as to drainage, to the storm drainage system within the street layout. Until a street within a subdivision is accepted by Town Meeting as a public way, all streets, those portions of drainage systems within the street layout, and other improvements within the street layout shall be operated and maintained by the developer or a Homeowner's Association made up of the residents of the subdivision or their representatives.

After a street is accepted by the town, components of the drainage and stormwater management system outside the street layout such as detention/retention devices and their outfalls, drainage swales, and other similar facilities for stormwater management outside the street layout shall continue to be maintained by the Homeowner's Association. The developer shall inform the Planning Board within seven (7) days of the date that his/her maintenance responsibilities are assumed by the Homeowner's Association.

13. Approval of the Definitive Plan does not constitute the laying out or acceptance by the Town of streets shown on the Plan.
14. Any modification of this Definitive Plan, other than as authorized by G.L. c. 41, s. 810, shall require modification by the Planning Board in accordance with G.L. c. 41, s. 81W. Failure to comply with this requirement shall result in rescission of the Planning Board's approval.
15. Construction of the proposed subdivision road and proposed drainage system shall be supervised by a registered professional engineer who shall certify in writing to the Planning Board and DPW at completion that the proposed subdivision roads and drainage system were constructed in accordance with the approved plans.
16. This certification shall be accompanied by as-built plans, signed and stamped by a professional land surveyor and the supervising professional engineer. Prior to issuance of an occupancy permit, a registered professional engineer shall inspect the lot and certify to the

Planning Board and Building Commissioner that the grading conforms to that shown on the approved plan.

17. Prior to a request for street acceptance, the Planning Board shall request its engineer to make an inspection of the street to determine whether or not it should recommend to the Board of Selectmen, the laying out of said street as a public way. If the recommendation is in the affirmative, the Planning Board shall so advise the Selectmen forthwith.

18. These conditions shall be inscribed upon the approved definitive plan prior to endorsement.

Mr. Taylor seconded the motion. Motion was unanimously approved with members Limbacher, Pritchard, Taylor, Greene and Vogel voting in favor.

Mr. Pritchard moved to close the public hearings for the Definitive Subdivision Plan, Flexible Open Space Special Permit and Scenic Road/Public Shade Tree Hearing for Benjamin Studley Farm at 214 Clapp Road. Mr. Taylor seconded the motion. Motion was unanimously approved with members Limbacher, Pritchard, Taylor, Greene and Vogel voting in favor.

Mr. Taylor thanked the applicants for responding to the Boards comments, their flexibility and their detailed presentations.

Finalize legal ad for zoning for 2014 Annual Town Meeting

Documents

- Proposed Water Resource Protection District Map 8/7/12
- New WRPD Bylaw dated 1/28/14
- Proposed changes to the Zoning Bylaw for VBOD dated 1/14/14
- Map of Proposed VBOD Extension dated 1/14/14
- Revised Medical Marijuana bylaw dated 1/28/14
- Revised WRPD Bylaw dated 1/30/14
- Revised VBOD Bylaw dated 1/30/14

Ms. Harbottle said the language of the zoning bylaws should be almost finalized prior to the legal ad going in the paper. She gave the Board copies of the latest medical marijuana bylaw draft dated 1/28/14. She indicated that it takes out the medical marijuana moratorium, add definitions and provides for a 500 foot setback in the commercial district. After discussion, it was agreed that hours of operation would be added as a condition of a special permit should one be sought and there would be no other changes to the bylaw.

Ms. Harbottle distributed a revised copy of the Water Resource District Protection bylaw dated 1/30/14. She indicated that a DEP disclaimer for the 2 layers from GIS has been added to the zoning map; definitions have been added including hazardous waste, discharge (to specify type) and impervious surface which was taken from the Stormwater Regulations. The Board agreed that the impervious surface definition should be consistent with the existing stormwater definition. Ms. Harbottle said that a variance in Zone A and Zone II is not allowed. She said the Table helps clarify uses for Zone A, II and overlapping zones. She said that John Clarkeson has requested language be incorporated for electronic files and field verification of all boundaries with the decision of DEP being final in case of disputes. Ms. Harbottle said that field verification is triggered by an application and does not prevent other map changes from being made. Mr. Pritchard questioned if there was any other way to change the map other than a vote of Town Meeting. Ms. Harbottle responded no, but there may be a working map for field verified property that will be brought to

Town Meeting every few years. The Board indicated there was little difference between items 35 and 36. Ms. Harbottle said the language is straight from DEP.

Attorney Michael Hayes questioned if it had been resolved if a portion of a property is in Zone A, does the 20% affect the whole parcel or just the portion in the Zone A. Ms. Harbottle said Mr. Clarkeson was going to verify that with DEP.

**Continued Public Hearing and Scenic Road Public Hearing – 305 Country Way
Flexible Open Space Special Permit & Definitive Subdivision Plan & Scenic Road
Assessor's Map/Block/Lot 37-2-2 & 37-8-13R
Applicants/Owners: Douglas Sheerin/Kristen DeGaravilla**

Documents

- Letter to DEP Mark Bartow dated 1/20/14 by Krusell/Van Lenten.
- Email from Lance Van Lenten dated 1/24/14
- Request for continuance dated 1/30/14

Chairman Limbacher indicated there was a letter from the applicant asking for a continuance of the public hearing until March 13, 2014. Mr. Taylor asked about the continuance. Ms. Harbottle indicated that the Board is awaiting a letter from DEP agreeing or disagreeing with the appeal of the abutter on the tributary location which could impact the decision the Board makes. The abutter could appeal to DEP Dispute Resolution if they do not concur with the decision DEP will hopefully make in the next few weeks. Chairman Limbacher said that if DEP concurs with the line, then the Board will go ahead; if it is appealed then a course of action will be determined at a later date.

No evidence or testimony was taken besides the explanation for continuance above. Attorney Mike Hayes was present for the applicant.

Mr. Taylor moved to accept the applicant's request to continue the public hearings for the Definitive Subdivision Plan, Flexible Open Space Special Permit and Scenic Road/Public Shade Tree Hearing for White Ash Farm Lane at 305 Country Way until March 13, 2014 at 8:30 pm. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Finalize legal ad for zoning for 2014 Annual Town Meeting

The Board continued their discussion on the Village Business Overlay District (VBOD) with Ms. Harbottle distributing a revised bylaw dated 1-30-14. She indicated that there will be sketches for the bylaw standards for Town Meeting which can hopefully be incorporated in the bylaw at a later date. She said the language was clarified for the mixed use portion and the number of buildings where the mixed use should occur. She said minimum frontage was also clarified as 20' or an amount sufficient in the opinion of the Planning Board to support the proposed use. Ms. Harbottle said there should be a dimension provided and she did discuss the matter with the Building Commissioner. The Board concurred that the language should say that there can be no less than 20' of frontage provided. Ms. Harbottle reviewed the map boundaries of the proposed VBOD. She said it includes everything in the petition except the parcel that extends in to the salt marsh and also includes 2 MBTA parking lots. The Board agreed that the changes were good.

Mr. Pritchard moved to accept the language for all three zoning bylaws with modifications and changes as discussed tonight. Mr. Greene seconded the motion. Motion was unanimously approved.

Accounting

Documents

- PO # 1404760(\$27.04)

Mr. Taylor moved to approve the requisition of \$27.04 to WB Mason for office supplies. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Minutes - There were no minutes to approve.

Town Planner Report

Ms. Harbottle indicated that the FY 15 budget has funds for a Coastal Resource Officer that will be administering FEMA Grants, the CRS program and some other coastal affairs and they will be located in the Planning Office. She said that there was money for an assistant building commissioner who will help with the enforcement of special permit conditions.

Walnut Tree Hill

Documents

- Proposed work scope schedule dated 6-14-12 by Chessia Consulting
- Letter from Town Counsel dated 12/19/13
- Letter from Hinshaw + Culbertson LLP dated 1/16/14 to Town Counsel on Walnut Tree Hill
- Walnut Tree Hill Settlement Agreement and Final Release
- Email from Brandon Moss dated 1/30/14 with clean final release

Ms. Harbottle said the Board received correspondence from Town Counsel about their obligation under the bond and settlement agreement. She said the Town had the opportunity to go after the bond and now all the work is completed and our consulting engineer has signed off. She said that the regrinding/repaving work that is being requested by the Street Acceptance Committee is really a matter of routine maintenance. She indicated there was also a letter from Traveler's attorney that they feel they have done the work agreed to as part of the Settlement Agreement. Mr. Pritchard said that he and Chairman Limbacher went to the Street Acceptance Committee meeting and heard there was nothing else wrong with the street now except that it needs to be reground and repaved prior to street acceptance. Chairman Limbacher said there a few minor items the Town is willing to do.

Mr. Pritchard moved to execute the final release from the Settlement Agreement with Travelers Insurance to complete the work at Walnut Tree Hill based on the report that everything is now complete. Mr. Taylor seconded the motion. Motion was unanimously approved and the Board signed two copies of the release.

As far as a report to Town meeting on street acceptance, the Board said they cannot do it at this point in time.

Old Business and New Business

Documents

- Staff report for 1/30/14

- Information on parking summit on 4/8/14

These items were distributed to the Board electronically.

Mr. Mercer indicated that this was probably his last meeting and he will be submitting his resignation soon. He said he has enjoyed being on the Board, but another commitment with meetings at the same time prevents his further continuation.

Mr. Vogel moved to adjourn the meeting at 9:40 p.m. Mr. Taylor seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph
Planning Board Secretary

Richard Taylor, Clerk

2/13/14
Date Approved