

Ms. Harbottle indicated that the plans are ready for endorsement. The Planning Board has received a covenant dated June 19, 2014 to secure the construction of the way and installation of municipal services, and an executed Homeowners' Association Trust. Other conditions required prior to endorsement of the plan have been met. Mr. Taylor moved that the Planning Board approve and

sign Covenant and Homeowners' Association Trust, and endorse the Definitive Subdivision Plan Modification for Colonel Mansfield Estates at 55 Colonel Mansfield Drive. Mr. Vogel seconded the motion. Motion was unanimously approved.

**Form A – Surfside Road west**

**Assessor's Map/Block/Lot 15-3-9-A-R**

**Applicant: Stephen Corsaro, Esq.**

**Owner: Robert F. Cotter, Trustee, Surfside Road Realty Trust**

**Documents**

- Form A application, supporting materials and Plan of Land being a Subdivision of Lot 3 on L.C. Plan 25103B Surfside Road Scituate, MA prepared by Cavanaro Consulting dated 2/3/14.
- Transmittal to departments dated 6/19/14

Brendan Sullivan and Stephen Corsaro were present for the applicant. They indicated that they were submitting the Land Court Plan for approval. Ms. Harbottle said that there is frontage on Surfside Road so the plan can be endorsed.

Mr. Taylor moved to endorse as approval under the Subdivision Control Law not required a Plan of Land being a subdivision of Lot 3 as shown on Land Court Plan 25103B Surfside Road, Scituate, MA stamped by Brendan P. Sullivan, Professional Land Surveyor of Cavanaro Consulting for applicant Stephen F. Corsaro, Esq. and owner Robert F. Cotter, Trustee dated February 3, 2014 as the division of land is not a subdivision because every lot shown on the plan has access and frontage as required by the Scituate Zoning Bylaw on the public way of Surfside Road. Mr. Vogel seconded the motion. Motion was unanimously approved.

**Accounting**

**Documents**

- PO # 1408078 (\$984.19), PO #1408076 (\$2,300.00), PO # 1408075 (\$2,157.50), PO # 1408068 (\$227.86), PO #1408219(\$112.00), PO # 1408294 (\$460.20), PO#1408299 (\$450.00)

Mr. Taylor moved to approve the requisition of \$984.19 to Beals and Thomas Inc. for engineer peer review of the Deer Common drainage basin drain down bypass, for \$2,300.00 to Chessia Consulting Services, LLC for engineering peer review for 50 Country Way Definitive Subdivision Plan, for \$2,157.50 to Chessia Consulting Services, LLC for engineering peer review for 50 Country Way Mixed Use Special Permit, to Laura Harbottle for reimbursement for hotel expenses for attending the MAPD Conference, for \$112.00 for mileage and fare reimbursement to Laura Harbottle for conferences in June, for \$460.20 to Westongraphics for printing of new zoning maps and for \$450 to Amory Engineers, P.C. for zoning map updating. Mr. Greene seconded the motion. Motion was unanimously approved.

**Minutes**

Mr. Taylor moved to approve the meeting minutes of 6/12/14. Mr. Vogel seconded the motion. Motion was unanimously approved.

## **Town Planner Report**

Ms. Harbottle indicated that preconstruction conferences had been held for Blanchard Farm and for 214 Clapp Road. She said that the silt fence is up and a turtle sweep has been done at Clapp Road. She said that a preconstruction conference for The Glen will be in the next couple of weeks. She told the Board that she has been involved in the interviews for the Coastal Resource Officer. She said the person has not yet been hired and they will be located downstairs in Town Hall. Ms. Harbottle indicated that the Sea Level Rise conference that she attended was very good and she is in the process of doing a summary that will be distributed. She said that she received a rendering of the proposal for the MBTA parcel that she would distribute to the Board. She thought the price paid was around \$ 2 million and approximately \$18 per square foot. She indicated that the developer is not restricted to mixed use; however that would be the most lucrative. Ms. Harbottle said that an important topic of discussion at the MAPD conference was how open space is important to climate change as trees effect air quality etc. She said that some Scituate case law was also discussed.

## **Liaison Reports**

Mr. Taylor said he attended the South Shore Coalition (SSC) meeting. He said other towns are working on Floor Area Ratio and updating masterplans. He said that an effort is being made to revive train service to Greenbush on weekends and ferry service to the airport and Boston has been restored from Hingham. He said the SSC is talking about marketing the south shore region as a whole. Chairman Limbacher said he attended the Water Resource Committee meeting where 50 Country Way was discussed. He indicated that John Clarkeson was to summarize the meeting and send it to the Board. Mr. Greene said the Recreation Commission will meet on July 15. Mr. Vogel moved to recess for 15 minutes. Mr. Greene seconded the motion. Motion was unanimously approved

## **Old Business and New Business**

### **Documents**

- Staff report for 6/26/14

These items were distributed to the Board electronically.

## **Public Hearing – Accessory Dwelling Special Permit – 345 Hatherly Road**

**Assessor's Map/Block/Lot 28-23-1-0-R**

**Applicant: Mike Ahern General Contracting**

**Owner: Michael and Kristen Ahern**

### **Documents**

- Accessory Dwelling Special Permit application and supporting documents
- Existing Dwelling Floor Plans for 345 Hatherly Road
- Accessory Dwelling Floor Plans for 345 Hatherly Road with photograph of proposed dwelling
- Transmittal to departments dated 5/20/14
- Comment letter from Board of Health dated 6/3/14

Chairman Limbacher resumed the meeting and opened the public hearing for 345 Hatherly Road Accessory Dwelling Special Permit. Mike and Kristen Ahern were present. Mr. Ahern said he

submitted plans to erect a secondary dwelling with less than 40% of the area of the main dwelling which is within all the guidelines for an accessory dwelling. Chairman Limbacher told Mr. Ahern that with only 4 members present a 4/4 vote for the special permit would be needed or a 4/5 if all the members were present. Chairman Limbacher asked if Mr. Ahern would like to wait until a full Board was present. Mr. Ahern said he was aware of the voting situation and wanted to proceed. He said the property was zoned for two units, but they would need to be connected so he decided to go for an unconnected accessory dwelling instead.

Ms. Harbottle said that the main house is substantial so the proposed accessory dwelling is too. She said at over 1500 sq. ft. it is the size of a small house, but that is how the bylaw reads. She said her main concern is that the property is for sale. Mr. Ahern said that it is only for sale if he does not obtain the accessory dwelling. He said he can't use the big house anymore and he does not want to rent the house out anymore if he is not on site as he is doing the maintenance work for the house. He said he wants to live in the accessory dwelling and has plenty of people who would rent the big house. He said that he has had no interest in the sale of the house except for one that the deal fell apart. He said the bonus room above the proposed garage will be used for storage. He said he has a big house in the city that is too big and wants to be on this property in the accessory dwelling which is allowed within the bylaw.

Mr. Taylor asked the applicant under which provision of the bylaw the project fell. Mr. Ahern said that he would be providing rental housing. Mr. Taylor asked if it was moderate income housing. Mr. Ahern indicated that it was not required to be. Mr. Taylor said that he thought the proposed accessory dwelling met the requirements, but was not sure it met the bylaw intent. Mr. Ahern said he thinks he has met the intent as it is a large lot with rental that will provide income so he is able to stay on the lot. He said he was involved with getting the bylaw implemented and believes the intent is met and it will be a very good looking house that he will build. Mr. Taylor said it is really a single family house, but it is subordinate as it is smaller than the main house. Mr. Vogel asked how this proposal would differ from a duplex. Mr. Ahern said a duplex could be the same size as the existing house, but be connected such as through the garages. He said he wants to live in a smaller house. He said he doesn't want to live in the main house on the property or at his large home in the city either. He said he wanted to downsize. Mr. Vogel said he liked that the owner would live in the accessory dwelling and rent out the house. He said he thought it met the bylaw and the accessory dwelling does not have to be financially driven. He said he had no problem with the proposal.

Mr. Greene said he thought accessory dwellings were designed for this as someone will be on the property to maintain it and be responsible. Chairman Limbacher said he thought it was two houses on one lot. Mr. Taylor said he was on the fence. He thought the letter of the law was met and that it was good that the owner would be there to maintain the property, but he was not sure that the bylaw was meant for this. He said the Board may need to rework the bylaw. He said he would be inclined to approve it. Chairman Limbacher said a purpose of the bylaw is to provide an opportunity for homeowners to remain in a house they might be otherwise forced to leave. He said that is not the case here. Chairman Limbacher read the purpose statement A. Mr. Ahern said he was abiding by the bylaw because if he can't keep his home he will be forced to leave so he meets the purpose. Chairman Limbacher said he thinks the purpose needs to be met first, then the conditions and disagreed with Mr. Ahern. He also said he had a hurdle with the second purpose to make housing units available to moderate income households who might otherwise have difficulty finding homes in town. He said he was not sure about if the variety of housing and stability of the neighborhood provisions were met. Chairman Limbacher said it did not fit the spirit of the bylaw with respect to A & B. Mr. Ahern disagreed. Mr. Vogel said he didn't think it would crowd the neighborhood and

would have more of a problem if it were not on a lot twice the size as required in the zoning district. Mr. Taylor said he thought that the accessory dwelling would provide variety and stability to the neighborhood. Mr. Ahern said he is looking to downsize and the bylaw is not up for interpretation. Chairman Limbacher said that a special permit is discretionary. Mr. Ahern said it has to be fair and equitable for all. He said he is trying to financially stabilize the property. He said the only chance he has is with an accessory dwelling which would give him and a renter of the main house an opportunity to stay in Scituate. He said he want to control his property.

Chairman Limbacher said it looks like a 3-1 vote and a motion could be made to see where the Board is. Mr. Taylor asked if the applicant could come back. Ms. Harbottle said the proposal would need to change or wait a couple of years. She said she would check Mass General Law. Mr. Vogel said that the applicant could ask for a continuance until a full Board is present and see if he can get a 4/5 vote. Mr. Taylor asked Chairman Limbacher what the applicant would need to convince him that this proposal was good. Chairman Limbacher said he didn't think an accessory dwelling was a 3 bedroom house. Mr. Ahern asked for the definition of an accessory dwelling. Chairman Limbacher said the bylaw has accessory use and affordable accessory dwelling and added that he does not feel the proposed dwelling is subordinate. Mr. Ahern asked how it wasn't subordinate when it is less than 40% of the main house, has 3 bedrooms versus 5 in the main house and is smaller in size making it subordinate. Chairman Limbacher said it is larger in size than he is used to and he expected hardship situations. Mr. Ahern asked the Board for facts as he has given in his application. He said he was a builder and knows his material and the bylaw and the Board is wasting his time. He said he would like an explanation with facts.

Chairman Limbacher asked Mr. Ahern to calm down. He said he didn't believe the purpose in A and B were met, he doesn't think it's creating a rentable house and he doesn't feel a 3 bedroom 1500 sq. ft. house is subordinate. Mr. Taylor said the Board tried changing the bylaw, but the town did not support it. He said the Board has a responsibility to uphold the bylaw as written, not necessarily the spirit. He said he thinks they have met the bylaw. Mr. Ahern reiterated that he has provided the facts as to why the proposal meets the bylaw and other projects similar to his have been approved. Ms. Harbottle said he should provide examples and she would look into that as well. Ms. Harbottle said she was not sure that the first purpose criteria has been met. She said when the bylaw was first put together in the late 80's house sizes were not as big as they are today. She said 750 square feet and 40% of the main dwelling was reasonable. She said this proposal may meet the bylaw technically, but it does not meet the spirit of the bylaw and the Board gets to decide about the spirit.

Mr. Ahern said that he heard tonight it is 40% maximum of the floor area and now the Board is saying it is too big. He said he was given the bylaw in the office and it is not open to interpretation. He said the accessory dwelling was clearly subordinate and the Board was making judgments. He said his plan is not going to change and he would like a continuance. He would like the Board to give him facts why his proposal does not meet the bylaw. Chairman Limbacher said the purpose of A and B are not met in his opinion. Mr. Ahern said he would like to continue so all the members will be present. Mr. Taylor moved to accept the applicant's request to continue the Accessory Dwelling Special Permit public hearing for 345 Hatherly Road until July 24, 2014 at 9:30 pm. Mr. Vogel seconded the motion. Motion was unanimously approved.

Chairman Limbacher asked for a 15 minute recess as the Board cannot open the continued public hearing until the appointed time after the other hearing ended at 9:15 pm.

**Continued Public Hearing – Definitive Subdivision Plan – 50 Country Way**

**Assessor's Map/Block/Lot 53-5-3 and 3B**

**Applicant/Owner: 50 Country Way Trust, C. Christopher Ford Trustee**

**Documents**

- Letter from Town Counsel dated 4/30/14
- Stormwater Report and Calculations for Greenbush Park Definitive Subdivision Plan dated 5/8/14
- Greenbush Park Definitive Subdivision Plan Sheets 1-10 dated 5/8/14
- 6/3/14 Engineering Peer Review from Chessia Consulting Services LLC

**Continued Public Hearing – Mixed Use Special Permit in the Village Business Overlay District - 50 Country Way**

**Assessor's Map/Block/Lot 53-5-3 and 3B**

**Applicant/Owner: 50 Country Way Trust, C. Christopher Ford Trustee**

**Documents**

- 6/12/14 4-17-14 letter from Planning Board to Chris Ford

Chairman Limbacher opened the joint public hearings of the Definitive Subdivision Plan and the Mixed Use Special Permit for 50 Country Way. He indicated that the Board would like to primarily discuss the Definitive Plan. Chris Ford and Greg Morse were present for the applicant. Mr. Morse indicated that the proposed 2 lot subdivision with a full drainage analysis has been filed and since the last meeting John Chessia's comments have been received. He indicated that the applicant would like to have resolution this evening to determine if Homeowner's Association documents are necessary, if they need to depict full lot build outs, determination of roadway extensions and the right of way and roadway widths.

Mr. Morse said the proposed 267' long road ends in a cul de sac with 2 lots and a drainage parcel in the business zone. He said the road is 24 feet wide with granite curbing and a closed drainage system flows from catchbasins to a stormceptor to a swale to the drainage basin. He said that the front catchbasins will be retrofitted with a stormceptor. He indicated that the water will be looped internally and the site is on sewer.

Ms. Harbottle said that an assumption was made that the lots would be developed residentially. She said the 100 foot lot width would be problematic and the infiltration basin needs to be all on its own lot including the drainage easement shown on Lot 2. She said the lots need to be reconfigured for zoning purposes and defers to John Chessia for the drainage.

Mr. Chessia said that he is unclear of what type of road it is as it is in the business zone. He said that his major concerns are the reuse of the existing leaching pits in the Zone A, that the infiltration basin is not all on its own lot and that there needs to be a full list of waivers as this could be a real project. The Board discussed the road. Mr. Chessia said that a Type IV road would not be appropriate. Mr. Morse said it was designed as a 24' wide road with a 42' right of way with a walk to the cul de sac throat and not around it as there was no need to connect to the walk in back as no public benefit is needed. He said the cul de sac is 100' of pavement with a 110' right of way.

Mr. Morse said it is a challenge to connect the drainage from Country Way to the back because of cover over the pipe issues. He said he maintained the same flow pre and post development going to Country Way. He said subcatchment area 1 flows unrestricted to Country Way and area 2 flows to

the leaching basins and overflows to Country Way. Chairman Limbacher asked if there was adequate separation for leaching. Mr. Morse said the front part of the project is considered redevelopment and has been designed to the maximum extent practicable as required by DEP. He said that by putting in a deep sump catch basin and particle separator and using the existing catch basin amounts to better water quality going to the 2 leaching pits. He said the whole site cannot be regraded and that proximity to the water table is an issue. Mr. Chessia said that under the town regulations there is no provision for redevelopment. He said that the subdivision regulations refer to the DEP regulations, but this would be under the stormwater bylaw. He suggested a waiver may be necessary.

Mr. Morse said that the waiver list will go up, but there are 3 waivers now including the centerline offset of the road from Stockbridge Road. 250' is required, but 160' is provided as it is physically impossible to provide more. The second waiver will be for the curb radii at the road and Country Way. 40' is required, but that would extend into the Morning Glories and Reynolds properties. The third waiver is for the use of class V RCP pipe in lieu of 2.5' of cover. Mr. Morse said the Board can waive anything in the subdivision regulations as well as the stormwater bylaw since the Board is the authority. Chairman Limbacher said that maybe the Board will need to waive the local regulations in favor of the state regulations as this is a redevelopment project. The Board agreed that they would waive the Homeowner's Association documents until prior to a preconstruction meeting. They also agreed that they did not want to see any road extensions to the neighboring properties. The Board agreed that the street can be designed as a residential minor street with the dimensions provided and the applicant should provide full lot build outs for the revised plans.

The Board discussed that this Definitive Plan has been filed for grandfathering purposes. Ms. Harbottle said there is a process freeze i.e. the zoning is frozen during the approval process. She said that the 8 year freeze comes when the plan is officially approved and endorsed. Mr. Vogel said that he would like to vote on the Definitive Plan for an official record. Chairman Limbacher said Mr. Chessia and Ms. Harbottle's concerns should be addressed with a waiver list prior to a vote.

The Board briefly talked about the mixed use special permit. Chairman Limbacher said a new set of plans was submitted, but peer review is in process so no discussion of those plans will occur until a later date. He said that the Water Resource Committee is reviewing the plans and a memo will be forthcoming. He said that the preservation of the building is an issue. Ms. Harbottle said she will provide names for a preservation consultant.

The Board agreed that a continuation until August 14 would provide for the mixed use special permit review, the Definitive Plan to be revised, architectural feasibility assessment and Water Resources Committee comment.

Mr. Taylor moved to accept the applicant's request to continue the public hearing for the for the Mixed Use Special Permit in the Village Business Overlay District at 50 Country Way and the Definitive Subdivision Plan for Greenbush Park at 50 Country Way until August 14, 2014 at 7:30 pm. Mr. Vogel seconded the motion. Motion was unanimously approved.

Mr. Vogel moved to adjourn the meeting at 10:12 p.m. Mr. Taylor seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph  
Planning Board Secretary

Richard Taylor, Clerk  
7-10-14  
Date Approved