

SCITUATE PLANNING BOARD MINUTES October 24, 2013

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

Members Absent: None.

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.

Chairman Limbacher called the meeting to order at 7:35 P.M. The meeting was being audio recorded. The meeting was being recorded for airing on the local cable television station.

Documents

- 10/24/13 Planning Board Agenda

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

Continued Public Hearing – Accessory Dwelling Special Permit – 37 Otis Road

Assessor's Map/Block/Lot 40/05/19

Applicant/Owner: Charles P. Welch and Jacqueline E. Boudreau

Documents

- Application and supporting materials for the accessory dwelling for 37 Otis Road received 6/14/13
- Proposed Accessory Dwelling 37 Otis Road dated 5/1/13 with floor plans, side elevation and front elevation
- As-Built foundation plan for 37 Otis Road by Morse Engineering dated 2/16/13
- Transmittal to Town Departments dated 6/25/13
- 4 pictures of the site taken by Laura Harbottle on 8/1/13
- Email from Herb Kuendig to Board dated 10-21-13

Chairman Limbacher opened the public meeting and indicated all members are eligible to vote. Charles Welch and Jacqueline Boudreau were present as the applicants. They said they replaced a one car dilapidated garage with a two car garage with space over it for an apartment for their expanded family. They indicated the garage and outside walls are in place so the envelope of the apartment will not change. They said they are using the drawing by their former designer Kuendig Design with his permission, but he is no longer representing them.

Ms. Harbottle indicated that the application said the square footage of the dwelling was 2,480 sq. ft., however, the Assessor's card indicated it was 1,622 sq. ft. and she is not aware of the dwelling having changed. She indicated the maximum square footage of the allowed accessory dwelling would be 750 sq. ft. She said she was unsure of how they reached their determination of the square footage of the accessory unit as she came up with 800 sq. ft. Mr. Pritchard concurred and Chairman Limbacher concurred. Ms. Harbottle suggested that they would need to cut out some area. Mr. Vogel said creating a storage area would solve the issue. Ms. Boudreau questioned what they would need to fix. The Board indicated they may need to take out some living space. Ms. Harbottle

suggested that they review the space with the building commissioner and determine if the all the space is habitable as a first step.

Chairman Limbacher asked if the Board had any other issues. Mr. Vogel said he thought the accessory dwelling was subordinate to the primary dwelling and thinks it would be a positive addition to the neighborhood. Mr. Mercer indicated he didn't think it would impact the neighborhood. The Board indicated the applicants need to resolve the dimensional requirements and submit a sketch show the accessory unit to be less than 750 sq. ft.

Mr. Mercer moved to accept the applicant's request to continue the Accessory Dwelling Special Permit public hearing for 37 Otis Road until December 5, 2013 at 7:30 pm. Mr. Taylor seconded the motion. Motion was unanimously approved.

Minutes

Mr. Taylor moved to approve the meeting minutes of 9/12/13 and 9/26/13. Motion was seconded by Mr. Pritchard. Motion was unanimously approved.

Accounting Documents

- PR # 1402786 (\$9,159.50), PR # 1402563(\$33.68), PR # 1402940 (\$139.40)

Mr. Taylor moved to approve the requisition of \$ 9,159.50 to Beals and Thomas for engineering peer review for 214 Clapp Road, for \$33.68 to WB Mason for office supplies and for \$139.40 to Laura Harbottle for mileage. Mr. Vogel seconded the motion. Motion was unanimously approved.

Public Hearing on Proposed Zoning Article to Expand Village Business Overlay District

To include properties on the south side of the Driftway shown on the plan entitled "Exhibit 1" Prepared by CHA dated August 23, 2013, and identified on the Town of Scituate Assessor's Maps as Parcel ID: 53-5-32-0-R, Parcel ID: 53-5-32-A-R, Parcel ID: 53-5-32-B-R, Parcel ID: 53-3-B-0-R, Parcel ID: 53-3-10-F-R, Parcel ID: 53-3-9-0-R, Parcel ID: 53-3-4-0-R

Documents

- Map Proposed VBOD Zoning Change by CHA Exhibit 1 dated 8/23/13 black and white and color handed out by Mr. Brodsky at meeting
- Copy of Legal ad for Special Town Meeting
- Aerial view of zoning change area handed out by Mr. Brodsky at meeting

Chairman Limbacher read the posted agenda with identified parcels and Mr. Taylor read the legal notice. Adam Brodsky was present for the Citizen's Petition proponent, Paul Donovan of South Shore Auto Parts, who owns two of the parcels subject to the zoning change. He indicated that the proposed article seeks to change the zoning map and Village Business Overlay District (VBOD). He said that it is not a new concept and some discussion occurred back when the original article was presented to Town Meeting. He indicated the proponent did not want to bite off too much at this time, thus there are 8 parcels proposed. He handed out a colored map of the proposed overlay change and an aerial photo with the properties identified. Mr. Brodsky described the parcels on the south side of Driftway going from east to west. He said there is a medical building, then South Shore Auto Parts, behind that the Rousseau Property, going west there is Dunkin Donuts and behind that is the Drew property and further west the shopping mall property. Mr. Brodsky indicated that there are several underutilized parcels in the area that would lend themselves to mixed use

redevelopment. He indicated the Riverway property already has residential and approval for mixed use.

Mr. Brodsky indicated that he talked with Ms. Harbottle about including the MBTA property and the Scituate Concrete Pipe property on the north side of New Driftway; however, he indicated dealing with the MBTA is unique and beyond his client's capability. He indicated that the Auto Parts property shows the greatest potential for redevelopment due to its location and proximity to the MBTA. The motivation for the change is to create a market for business with smart growth. He indicated it would be a great village setting as it is really the gateway to the harbor and aesthetic considerations would be needed. Mr. Brodsky indicated that no project is planned, but the proponent would like the ability to redevelop in the future. He presented a conceptual sketch for a mixed use with retail on the first floor and residential on the second floor that would create a village gateway and be subject to special permit requirements of the Town.

Mr. Brodsky indicated they did a rudimentary economic analysis and presented to the Economic Development Commission who voted to support the zoning expansion. By adding additional retail space, Mr. Brodsky indicated that the zoning change could broaden the business base and expand the property tax for approximately 8 times the current revenue at his client's property. He indicated that the property currently generates \$11,000 in property taxes; and with redevelopment there could be 16 residential units with revenue of \$4,175 each for approximately \$66,000 and 4 retail units of 3,000 sq. ft. for revenue of \$3,500 each for a total of \$14,000. This could generate approximately \$80,000 of revenue. He indicated that the proponent has presented to the Selectmen and Advisory Committee who gave favorable comments, but are waiting for the Planning Board's feedback. They are asking for a favorable recommendation from the Planning Board.

Ms. Harbottle provided a brief history of the VBOD. She said it was developed by a consultant in 2005 with a grant prior to the train arrival. There was a question if there would be an economic boom with the train and demand for people to live nearby. The Planning Board wanted to manage this growth by providing zoning which would allow higher residential density with mixed use, with design guidelines. The Planning Board also saw zoning as a way to obtain affordable housing. The outcome was the Village Business Overlay District (VBOD) with mixed use components of retail and housing at a density of 16 to 20 units per acre. As a point of reference, the Harborside Village condominiums are at a much higher density of 55 units per acre. The VBOD would provide a less dense option in the selected town village locations. The design criteria included having buildings close to the street with parking behind to encourage pedestrian movement and other smart growth principles. She said the density is similar to that required for MGL Ch 40 R, but 40R is by right and not adopted in Scituate. She indicated that the Board has reviewed a couple of proposals under the VBOD zoning and there is currently an application for 50 Country Way with a mixed use component of retail and 30 residential units.

Ms. Harbottle indicated Greenbush was a bit of a conundrum to the consultants, but she believes the proposed location for the Village Business Overlay District is good because it has more traffic and less impact to the reservoir than locations on Country Way. She said this location is good as it is close to the train and will also provide water views. She opined that there may be a few changes necessary to the VBOD bylaw as there may be some places where just residential or mixed is suitable.

Ms. Harbottle indicated that the Economic Development Commission (EDC) is doing a market study and the draft will be available in a few weeks. She encouraged the Board to wait for the market

study before making any recommendations as the study is supposed to address this area as well as business in Scituate. She indicated that a real analysis is happening and it is frustrating from a planning point of view that a proposal for change came in at this time. She said the petition is a zoning article and a 2/3 vote of Town Meeting will be required. She indicated the proponent has not indicated why the zoning change is needed now and why it couldn't wait until the annual town meeting when the benefit of the study will be known. She encouraged the Board to seek this information from the proponent.

Mr. Taylor indicated he liked the transit oriented development and feels it would be a good addition to this location as it is village oriented. He said he supports the concept and understands Ms. Harbottle's position on waiting for the study. He opined that he supports the zoning expansion now, but would like to know the proponent's rationale for the timing. Mr. Brodsky indicated his client has been waiting for 7 years since the VBOD zoning was passed. There have been no changes to the zoning and his client wants to move forward with changes. He said they support broadening of the district further; however there are issues with the MBTA and Scituate Concrete Pipe and his client desires to move forward. He indicated that there has not been much use of the bylaw and this may provide a better opportunity. Mr. Brodsky thought that if his client waited until spring, he could potentially lose 2 years construction time and not start building until 2015 as it would take time for design and permitting of such a development.

Mr. Taylor pointed out that there are no overhead utilities shown in the conceptual rendering. He said he favors underground utilities and supports the proposal as it is the right area for development. Mr. Mercer said he liked what he was hearing and questioned where he would obtain auto parts. Mr. Donovan said that the auto parts store would relocate. Mr. Mercer indicated he likes the idea of things being done right the first time and coherently, but he wants to make sure this proposal won't impact other sites and leave anyone behind. Mr. Vogel concurred and supports the concept, but asked if the Board approved this now would it hurt or help chances of future expansion to the area. Ms. Harbottle indicated that the overlay district should not be too big or too spread out. Mr. Mercer said there should be a confined synergy. Ms. Harbottle said that the MBTA has contacted several offices in Town about appraising the parking lot on the north side of Driftway toward the harbor as they want to cut off a piece of the parking lot and auction it. She has heard nothing recently, but said it seems logical that that portion of the MBTA land should be included in a zoning expansion. She said that it is almost November and April is not that far away and construction would not commence during the winter so it may be wiser to wait. She thought it may not be too hard to obtain a building permit after a town meeting approval at the owner's risk while waiting for the Attorney General to approve a map change.

Mr. Brodsky said that the EDC supports this proposal unanimously as it is consistent with their goals. He said that with respect to the MBTA, getting them on board could take a long time as well as with Scituate Concrete Pipe. He believes those properties could complicate the map and he would like to see development commence in a reasonable amount of time. He indicated that if this is postponed construction would not commence until 2015 as design and permitting would need to be done pushing construction out until after winter. He indicated that someone needs to go first in order to expand the district further. Mr. Vogel said that a market study needs to be done first and the Board should be mindful of 3A in Cohasset. He said the new strip mall by the MBTA parking lot had trouble obtaining tenants. Mr. Brodsky said the model is Scituate Harbor and there is opportunity in the near term. Mr. Vogel indicated that he is in favor of a delay and can't see a huge disadvantage in waiting with the market study coming in soon. He sees that as an increase in the likelihood of success. Mr. Pritchard said he is generally in favor of increased economic

development and believes this is a good location. He said he liked the concept, but worries about small scale development being spread out. He would like a livable mixed use component with retail. He wants to see cohesive synergy and wants to broaden the thought process to include walks, bikeways and good architectural design. He would like to see an appealing district.

Mr. Brodsky said there are standards in the bylaw. He said the medical building to the east is not going to change nor Dunkin Donuts. He said he is focused on this area. Mr. Pritchard indicated that that is why across the street is important as some things may not change. He asked if the marshes and new flood plain maps had been considered and thought that if there is one shot to have a change it must be strategic. Mr. Taylor said that in the software industry small incremental changes are done regularly with success as a 2 to 3 year wait window would be devastating. Mr. Pritchard indicated that real estate tends to stay longer. Mr. Taylor said he understood Mr. Pritchard's concern, but he does not see this area as not being included in the future recommendations from the EDC market study. He said he does not want to miss the market and questioned how difficult a second change would be at Town Meeting. Mr. Brodsky said this was a citizen petition. Mr. Mercer said that is his concern as it is being driven by interested citizens for their interest. He is concerned about leaving property across the street out. Mr. Pritchard concurred. Ms. Harbottle thought it may be possible that the EDC Study could come up with slightly different recommendations as they will be considering environmental issues. Chairman Limbacher concurred saying the study may suggest changing the base zone as not all the parcels in the area are zoned business. Mr. Brodsky indicated they would have to comply with the environmental laws as Wetlands Protection Act and the State Building Code so he is not sure how this would impact zoning or properties identified in the district.

Mr. Greene indicated this area is prime for development in a way that makes sense. He thought it may take a little time to make sure the other side of Driftway is included and perhaps the medical building that is in the residential zone too. Chairman Limbacher concurred that that was logical. Mr. Taylor indicated this area being the gateway is a key issue. Mr. Pritchard thought that this property would be the most affected now as other adjacent properties are already revenue producing. He said traffic calming would need to be addressed which is a reason to wait for the EDC study. Mr. Vogel asked if the report would be done by Town Meeting. Ms. Harbottle indicated that it may be in draft form. Mr. Vogel asked if the Board could say they support the proposal with a preference for it to be in the annual town meeting in its entirety. Ms. Harbottle indicated the Board needs to decide as it shouldn't support a concept and then not support the article. She said the process should include a public portion so people know about it before they arrive at town meeting. Mr. Brodsky said he has given interviews on WATD and to the Ledger and Globe. He said it is the next logical step in the incremental process and it is not that dramatic. Chairman Limbacher said that conceptually he agrees with the proposal, but is concerned that there may only be one opportunity at town meeting. He indicated he hopes the EDC Study will address the gateway issue and he said he does not see the urgency for this fall town meeting and doesn't believe waiting for the study will cause an onerous delay.

Jeff Burns from the Advisory Committee said that the Advisory Committee was largely in favor, but had a few questions and wanted to hear the Planning Board's opinion. He indicated he spoke with Chris McConaughy from the EDC who said the study will be presented at the November 13 EDC meeting. He said the Advisory Committee was concerned that this could be spot zoning and was concerned how the proposal fit in the area and what it represented. Mr. Mercer said he was not prepared to address spot zoning. Mr. Brodsky said spot zoning is singling out one property for zoning relief without receiving disparate treatment. He said the petition is proposed so spot zoning is being avoided. Mr. Mercer noted the concern of spot zoning has been raised. Mr. Brodsky said

that the proposal was designed to avoid the appearance of spot zoning. Mr. Burns asked if there was an offer on the property. Mr. Donovan said there was no offer. Ann Burbine, member of the EDC, said that the EDC voted to support the petition. They were concerned, but thought progress needed to start somewhere and small portions is what is tenable. She said the EDC hopes for more mixed use development. She said that part of this is part of smart growth. Ms. Burbine indicated she was also a member of the South Shore Coalition who believes the economy is changing for the better.

Mr. Brodsky asked the Board if there was a desire to come forward with a map change in the spring. Mr. Mercer responded that the Board needs to make sure the timing is right and they don't want to delay the property owners. Ms. Harbottle said that the Board procedurally needed to vote or continue the hearing until the town meeting night. She said she expects the EDC report to have concrete recommendations for change. Mr. Brodsky said he thought that the report wouldn't address zoning. Mr. Pritchard said that if there is more than one shot at this, he supports a sequential district. He said the district needs to be thought about holistically as building shouldn't be started that might defeat the purpose of building the overlay district out.

Chairman Limbacher read the draft motion to move close the public hearing and to not support this article because it will extend the Village Business District along Driftway without the benefit of the Market Study that the Economic Development Commission commissioned which will be forthcoming later this fall. A change like this should be widely publicized and discussed before it is brought to Town Meeting. The study should drive zoning changes in this area rather than an individual property owner. This proposal could be refined per the study and brought to the Annual town meeting. Mr. Taylor wanted to add in an expedient manner at the end. Ms. Harbottle said the motion supports the idea. Mr. Brodsky said he didn't hear that. Mr. Mercer said his only objection is that it is premature. Mr. Taylor asked Ms. Burbine if the EDC thought that the concept could come to town meeting multiple times. Ms. Burbine indicated she supports the idea and agrees with much of what the Planning Board is saying; however the EDC did vote to support the petition. Mr. Taylor said he is convinced to wait. Mr. Pritchard asked that the piece on the individual property owner be stricken.

Chairman Limbacher moved to close the public hearing and to not support this article because it will extend the Village Business District along Driftway without the benefit of the Market Study that the Economic Development Commission commissioned which will be forthcoming later this fall. A change like this should be widely publicized and discussed before it is brought to Town Meeting. The study should drive zoning changes in this area. This proposal could be refined per the study and brought to the Annual town meeting in an expedient manner. Mr. Mercer seconded the motion. Motion was unanimously approved.

**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

- Clapp Road previous habitat study by Dan Wells 2007
- Memo from Mike Breen dated 10/17/13 on Scenic Road Plan
- Email from Matthew Watsky to Laura Harbottle dated 10/17/13
- Memo on Landscape Plan dated 10/21/13 to Laura Harbottle from Karen Joseph
- Email from Martin & Angela Noenicky, 228 Clapp Road

- Conceptual trail plan forwarded to Laura Harbottle from Maxwell Trust

Matthew Watsky, Deb Keller, Paul Bourque and Joe Iantosca were present for the applicant. Mr. Taylor read the legal notice for the Scenic Road hearing for the additional two trees, a 6" black cherry and 12" cedar, that are proposed to be removed in Clapp Road right of way. Mr. Watsky indicated that all of the hearings are now open. He said initially he thought they would have the letter from Steve Ivas, consultant to the Conservation Commission, on the turtle habitat but it is not available yet so that aspect of the project will have to be discussed at the next meeting. He indicated they would like to respond to comments on the Landscape Plan and Scenic Road. He said they would add a note on the Landscape Plan addressing Mike Breen's request for replacement trees as part of the Scenic Road hearing.

Ms. Keller reviewed comments on the Landscape Plan. She said a note on the branch height of the sycamore tree will be added. She said there would be notes on the landscape plan and grading plan for trees selected to remain. She explained that on individual lots, at this time it is not known what specimen trees will remain as no house designs exist yet. She indicated they are willing to add Red Oaks along the street so there is a mix of street trees. Ms. Keller indicated they will add more trees on the west side of the road for additional screening. She reviewed the plantings on the south slope of proposed stormwater basin 2. She said the screening will be at the toe of the slope so it will not undermine the slope. She indicated they can add some more vegetation to have a thicker screen in response to comments received.

Ms. Keller indicated that the footpath in the subdivision on the north side of stormwater basin 2 will be private and connect into a proposed public trail on the open space property which ties in to the Litchfield Trail on Town property. She said the open space is surrounded by stone walls so it is well defined. Mr. Watsky indicated that the applicant has not received a directive from the Conservation Commission on how to handle the open space ownership. He indicated the applicant is willing to donate it in fee to the Commission, but they are awaiting input from Town Counsel. Mr. Vogel asked about ownership of the surrounding open space. The Board indicated it was the Town and they would want the same for this piece. Mr. Pritchard indicated that the private path was an amenity for the homeowners and asked how it would be differentiated from the public path. Mr. Watsky indicated there would be signage similar to the Trustees of Reservations properties. He indicated there would be an access easement from the private to the public path.

Ms. Harbottle said there should be more screening at the proposed stormwater basin 2. She asked if there was an alternative for location of the path at the basin. Ms. Keller said the basin has a 15' wide grassed area around it for access per DEP requirements. Mr. Watsky indicated they are taking advantage of something that will be there anyways. Ms. Harbottle indicated the street trees have been addressed and she was glad that they are considering deeding the open space to the Town. She said she liked the trail locations and received a copy of the plan from the Maxwell Trust. She indicated information on the bus stop will need to be obtained from the school. She indicated the Stormwater Pollution Prevention Plan and the Operations and Maintenance Plan will need to be submitted. Mr. Watsky indicated they will be submitted prior to construction.

Pat Gallivan, Conservation Agent, indicated that all of the scope for the turtle habitat study has been completed and it will be addressed at the Conservation Commission meeting on October 14. Ms. Harbottle indicated she has read the report and there might be some conditions that come out of it. She said she is waiting for the Conservation Commission to review the material. Mr. Pritchard indicated the letter from abutter Niland should be addressed. Chairman Limbacher thought that

discussion should stay out of the public hearing. Mr. Watsky said it is a private matter and is external to the permit.

There was no public comment. Chairman Limbacher indicated the Board is waiting for acceptance of the Conservation Commission report. He said after that is done the Board could confirm the Conventional Density Plan and then decide on the permit. All agreed that a continuance to November 26 was in order. At that meeting draft conditions could be discussed after the conservation study is discussed. Mr. Watsky asked if draft conditions could be provided to him after the Board sees them. 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 Benjamin Studley Farm at 214 Clapp Road until November 26, 2013 at 7:30 pm. Motion was seconded by Mr. Pritchard. Motion was unanimously approved.

Form A Plan – 40 Curtis Street
Assessor's Map/Block/Lot 26-1-4, 5, 6B, 7, 9R, 9S, 9T, 60
Applicant: Blanchard Farms, LLC
Owner: Eleanor M. Blanchard Revocable Trust

Documents

- Transmittal to Town Departments dated 10/17/13
- Application for Form A with deed and Purchase and Sales Agreement for 40 Curtis Street
- Plan of Land 40 Curtis Street/Land off Country Way showing a division of parcels 26-1-4, 5, 6B, 7, 9R, 9S, 9T, 60 dated 10/15/13

Greg Morse and John Tedeschi were present for the applicant. Mr. Morse indicated that the applicant is seeking approval of a Form A 50 foot frontage lot that the Zoning Board voted to issue a special permit on last week.

Mr. Taylor moved to endorse as approval under the Subdivision Control Law not required a plan of land at 40 Curtis Street/land off Country Way, Scituate, MA prepared by Morse Engineering Co., Inc. for applicant Blanchard Farms, LLC dated 10-15-13 as the division of land is not a subdivision because each lot shown on the plan has access and frontage on public ways as required by the zoning bylaw with the 50 foot frontage Special Permit voted by the Scituate Zoning Board of Appeals on October 17, 2013 for Lot A. Motion was seconded by Mr. Mercer. Motion was unanimously approved.

Town Planner Report

Ms. Harbottle distributed her report and reviewed it with the Board.

50 Country Way **Request to Submit Plans without Architect's Stamp**

The Board discussed 50 Country Way. They indicated they wanted a consulting traffic engineer. They discussed the issue of no stamp on the architectural plans. Mr. Vogel said the plans were not for construction or for a building permit so he believes a stamp is not necessary. Mr. Mercer indicated a stamp provides a type of warranty. Mr. Vogel said the plans are not detailed at his point in the design. Mr. Pritchard asked why the requirement was there. Ms. Harbottle said that construction plans come out of the approval plans and what gets approved should be largely what is

built. She indicated the applicant's son, who has a PhD in architecture and is working with a registered architect, designed the buildings. Mr. Vogel said that a stamp is usually not required until plans are ready to go to bid as it is a matter of legal exposure. The Board saw that the site plans had been stamped by a registered engineer and decided the architecturals did not need a stamp at this point in the design process and a waiver vote was not necessary.

Old Business and New Business

Documents

- Town Planner recommendations for 10/24/13 meeting dated 10/18/13
- Consultant memo dated 10/17/13
- Email from Brandon Moss to Laura Harbottle on SJC-11401 Order setting Reserve Argument date

These items were distributed to the Board electronically.

Mr. Vogel moved to adjourn the meeting at 10:22 p.m. Mr. Mercer seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph
Planning Board Secretary

Richard Taylor, Clerk

11/14/13
Date Approved