

**SCITUATE PLANNING BOARD    MINUTES    April 26, 2018**

Members Present: Stephen Pritchard, Chairman; Ann Burbine, Vice Chairman; Benjamin Bornstein, Clerk, William Limbacher, Richard Taylor and Alternate Member Patricia Lambert.

Others Present: Town Planner Karen Joseph, Planning Administrative Assistant Shari Young

Members absent: None

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

Location of meeting: Selectmen's Hearing Room, Town Hall, 600 C J Cushing Highway, Scituate

Chairman Pritchard called the meeting to order at 7:00 P.M. The meeting was being recorded for airing on local cable television.

**Documents**

- 4/26/18 Planning Board Agenda

ACCEPTANCE OF AGENDA: Chairman Pritchard indicated there was a posted agenda. Ms. Burbine seconded the motion for the posted agenda and the vote was unanimous in favor.

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**Continued Public Hearing – Major Site Plan Administrative Review – Restaurant & Bar – 7-9 Marshfield Avenue**

**Assessor's Map/Block/Lot 72-19-3B**

**Applicant: Humarock Seafood LLC (Stephen Leaman) dba Nautical II**

**Owner: Humarock Industrial, LLC**

**Document**

- PDF of site plan dated 4.18.18
- PDF of Design Review Committee (DRC) comments dated 3.22.18
- PDF of letter to the Board from Attorney Steven Guard
- Letter from Traffic Rules and Regulations Committee (TRR) dated 3.27.18
- PDF of SPAR requirements
- Support letter of from Victoria Bruce dated 4.25.18

Attendees: Steven Guard, Attorney; Steve Leaman, Applicant; Rick Grady, Engineer

Mr. Guard acknowledged that there have been multiple meetings on this project. He indicated highlights on the plan from Board recommendations from the last meeting.

- Applicant agrees to DRC recommendations
- Discrepancy with name of applicant on the plan, corrected
- Signature block
- Zoning Table
- Waste disposal on plan – fenced, rear of existing building
  - Commercial barrels, disposed daily
- Gates added to area for waste disposal
- Deck revised - 12' wide versus 16', allow access to gate
  - Further away from property line
- Egress gate from deck
  - Alarmed as emergency exit only with crash bar and audible alarm

- No proposed seating or food service on the deck
- No outside music in deck area
- Composite decking material, railings to match existing stairs per DRC recommendation
- Smoking outside deck only
  - Interior doors will remain closed
  - Deck shortened to minimize risk of improper disposal of cigarettes next to abutting property
- Septic system adequate for the use
  - Tanks in rear of building
  - Leaching field in front and along paved roadway
- Marshfield and Central Avenues noted as public ways
- Plan notes re-pavement area
- One-way traffic proposed with directional arrows
- Sign locations notes and will comply with Scituate Sign bylaw
- 16' parking spots in front – not going into Marshfield Ave., compact cars only
- Striping on parallel spaces
- Snow stock piling
  - If necessary snow to be removed from the site
- No exterior alterations, except deck, any painting to match existing colors
- Lighting - identified on building following DRC recommendation
- No wells within area
- Access doors added to the plan
- Building elevation and landscape following DRC recommendation
- Use narrative
  - Restaurant and bar
  - 28 seats interior
  - Outside deck area
  - Professional chef and wait staff
  - Table and bar service with full food menu
  - Area in need of more eating establishments

Mr. Guard further added:

- BOH agent – confirmed septic adequate
- Septic system design from about 1 year ago
  - Water service line needed to be relocated
  - At time of septic system completion water line was not required on the As-Built plan
    - New rules now require it be noted
  - Amended As-built with water line to be provided to BOH Agent
    - Board condition this requirement
  - Line moves away from the leaching area and under the parking spaces
- Asking for 5 spaces of public parking instead of 3
  - 2 employee spaces behind building – employee parking would not need to access neighbor's property
    - Happy to keep for employees only if board prefers, comply by sq. ft.

- Would be staked parking for employees
  - Comply to square footage of parking spaces
- Ample public parking in the area
- Compact cars only in the front of the building – redesigned parking shows
  - 12.3' aisle
  - Proposed striped pedestrian walkways
    - Control flow of pedestrian traffic from parking lot to front door
- Parking on corner is neighbor's property and has been used in the past
  - Lease with the neighbor for duration of lease for the property
  - Legal right to occupy spaces

Ms. Joseph indicated she had met with applicant to review items required for site plan review on the plan. She said many items are on the plan; however, some items could not be met.

- Can't accommodate shade trees
  - 1 tree per 8 spaces
- Some parking not per the bylaw
  - Dimensionally, 8.5' x 19', 161.5 sq. ft. shown; required 162' sq. ft. per spot
    - Spaces narrow
    - Will be hard to open door with cars parked on both sides
    - Possible compact car spaces will extend into the walkway
      - Handicapped van longer than 13'
  - Technically a 6' strip between road and parking lot required - not there

Mr. Taylor indicated the letter from TRR states a requirement of 28 spaces. Ms. Joseph said the applicant is showing 23 on site and requesting 5 be located off site, part of the public parking spaces alongside Marshfield Ave.

Mr. Guard indicated the applicant is asking for a waiver for the trees in the parking lot.

Mr. Grady addressed the parking space sizes.

- Compact car spaces proposed at 16' depth
  - Example, Prius is about 13'
  - Some handicapped vans right at 16', some 18'
- 16 foot spaces are 13' to the edge of the pavement from Marshfield Avenue
  - Actually 29' from the edge of pavement on Marshfield Avenue
  - If a vehicle hangs over the 16' of the space, still 13' to the edge of pavement or 15' to the solid white line
- 162 vs. 161.5
  - Can make 8.6' wide vs. 8.5' to comply
  - Ms. Joseph indicated the Fire Department requires no less than 12'
    - Will be an issue if people don't park correctly
  - 12.3' is shortest dimension in the aisle
    - If 162 sq. ft. critical dimension can go 8.6' instead of 8.5'
    - Still maintains 12' separation per Mr. Grady
      - Reason for doing one-way parking
  - Mr. Grady maintained it is not an unusual parking situation
- Concerns over how tight parking is
- Mr. Guard indicated the proprietor will have to monitor the parking lot

Ms. Joseph indicated the plan showed arrows on the pavement for one way; however, there was not any signage off Marshfield Ave. that would delineate that it is one way. She opined that is a critical element to have circulation going correctly. Mr. Guard said they applicant could add a sign and there is a "Do Not Enter" sign at the other end. Ms. Joseph indicated there is a sign on the fence at the Central Ave. exit. Mr. Grady suggested an "Entrance Only" sign be added.

Additional questions from the Board:

Mr. Limbacher indicated there is a combination off asphalt, concrete and gravel and asked the applicant to point it out on the plans what is where around the building. He asked if the aisle/alley will be restored as pavement, Mr. Grady confirmed yes.

Mr. Pritchard asked if there was a before and after calculation of impervious service. Mr. Grady indicated there is no net gain or loss.

Ms. Joseph indicated there are no existing drainage structures on the site. She said there is a catch basin off site to the west. Mr. Grady said the water runs mostly to Marshfield Ave and Central Avenues with no increase in impervious areas there will be no increase in runoff either.

Mr. Limbacher asked how close they expect cars to parallel park to the fence or the building. Mr. Grady indicated the proposal is 2' off the building, 8.5' wide and 1' off the fence on the other side. Mr. Pritchard asked typically how much clearance is there in a parking space on either side. He said the space is 8.5' wide and a car is 6' - 7' wide, it could be pretty tight.

Mr. Limbacher said he is skeptical it will work. He does not know how the applicant will control the front to keep compact cars only. Mr. Guard indicated there would be signage; the proprietor would have to monitor. Mr. Limbacher indicated it is a matter of public safety. Mr. Guard said the applicant needs to maintain the 12' width and there is another 16' from the back of the spaces to the road.

Ms. Burbine opined the parking is inadequate. She said the restaurant is basically 1,000 sq. ft. with seating for 28 people inside. She asked how many people will be working inside and where will they park. She indicated she drove down to the site and the food truck is still parked in front of the building and it is very difficult to know how much space there is from the front of the building to the street. She said the parking lot is narrow with no one around. She indicated she has concern with this as a public safety issue; there are lots of pedestrians and it is a highly traveled area.

Mr. Taylor said from the TRR letter there were other issues, i.e. the bollards. Ms. Joseph confirmed it is the final letter from TRR with their recommendations for the project.

- Bollards
- Fire system hook up
  - Now labeled and pulled parking space off the connection
  - No physical barrier to prevent people from parking in front of it
    - There is a concrete wall/pad, it is an impediment
    - Applicant said they can put up a bollard
- Applicant needs to identify nearest hydrant, not noted on the plan

Mr. Guard indicated the front spaces will be gravel the side is required to be restored to asphalt that is prior to this application. He said the traveled way will be asphalt; the front spaces will be gravel

and maintains the impervious surface for drainage, etc. Ms. Joseph indicated the information was noted on a previous plan, the front spaces labeled as gravel and have bumper stops, walkway into building under the stairway up to the second floor.

Mr. Taylor indicated there are no changes to the exterior, except for the deck and the lights. He said there was a comment from DRC for more consideration for pedestrian travel. Ms. Joseph said the applicant's response was the addition of a striped walkway. The walkway is inside the 12' travel way, but not inside the 8.5' parking area. Ms. Joseph said it would be striping on the ground to highlight a safer way for pedestrians to traverse the site. Mr. Taylor said that in addition to "Entry Only" sign a "One Way" sign would be good. Mr. Guard said it is easy to install. Mr. Taylor reiterated Ms. Burbine's comment that it is very tight.

Mr. Bornstein asked if there would be any curbing to delineate the front parking or just bumper stops. Mr. Guard confirmed only bumper stops would be used. Mr. Grady suggested they could also put down 4" timbers in the gravel to help delineate. Mr. Bornstein also asked the applicant to speak to the offsite parking scenario - is there ample parking, is it difficult to find spots on a busy Saturday night during the summer. Mr. Leaman indicated most nights there is ample parking. He said his building is under-utilized and he does have ample parking on premise for what is required for the restaurant, 7 spaces, rest of the building used for retail market, just 2 employees. Mr. Guard said they have to design the site for 28 spaces because of the uses that are there, but the restaurant only requires 7 spaces and allocating 5 spaces off-site for the rest of the building. The applicant expects the restaurant patrons to be parking on site all the time, based on what is happening in the building.

Ms. Joseph indicated that within the business district, spaces for office or retail can be allocated off site. She said on this site plan there are 5 spaces that are allocated for office/retail under the bylaw.

Mr. Bornstein said he understands the applicant is trying to maximize parking, but in the summer it is a busy neighborhood and would there be bike storage or stroller storage to encourage pedestrian patronage. Mr. Grady indicated there could be bike storage under the stairs. Ms. Joseph said the proposed position of the bike Mr. Grady pointed out would not work because it is in the way of the access to the restaurant. She indicated that a bike rack is required with 5 parking spaces. Mr. Guard said if Board feels a bike rack is important the applicant would try to accommodate it.

Mr. Taylor asked how people get to the front door, if all spaces in front are filled. He opined that based on the plan, people would have to walk out into the street to get to the door. Mr. Grady indicated that is incorrect, but the worst case scenario if someone did walk behind the cars there is a 13' space to get to the front door; they would not be out in the street. Mr. Pritchard said to access the door people will have to go around or through the compact parking spaces. Mr. Guard said there would be 2 cars which people would have to walk around to get to the door for access if cars parked too close to the bumper stops.

Ms. Lambert asked what the hours of operation would be and what the lighting plan is in the alley way. The applicant indicated they would be open until midnight and have designed the lighting to be consistent with the DRC recommendations.

- Goose neck light fixtures
- Downcast
- Corners of building have lighting, but applicant can add more

- Corner lighting will give roughly 30' of coverage
- Applicant can provide photometric plan – as a condition

Mr. Guard said the applicant is trying to balance safety with the neighbors. The Board wants to make sure it is a safe place coming out at night for patrons and staff. Mr. Guard proposed more goose neck lights along the travel way of cars, facing down so not to offend the neighbors. He said lights would be placed high enough to illuminate the other side of the fence.

Mr. Pritchard discussed the snow stock pile area as taking away parking spaces. Mr. Grady indicated it is by the fence side and will be removed as needed if spaces are needed, but will always maintain 12' drive through width. He said the stock pile will not encroach into the access.

*Public comments:*

Attorney Jeff DeLisi, representing Steven Medeiros of 6 Marshfield Ave. addressed the Board with comments pertaining to a previous letter submitted on behalf of his client.

He opined the revised plan is the same old plan and the site cannot accommodate the various uses of the property.

- Under section 770.8 D of the bylaw the Board can deny this plan if public safety issue
- Parking
  - Tenant/applicant has provided a lease to the Board for the property
    - Lease section 10.02, page 11
    - Landlord reserves the right to reconfigure the parking spaces/area
    - Tenant can only park up to 8 vehicles
    - Landlord designates employee parking for all tenants, no employee area in front of the building and does not interfere with the warehouse or office operations of the parking
    - Landlord can change the parking, if want to convert to a different use, Board should look at lease.
  - Bylaw section 760.3
    - 162' required for each parking space
    - Entire parking area and driveway required to be paved
    - Unclear where the edge of the pavement is
      - Pavement will not go up to building
      - Limited to area only where septic repair took place
    - Front of building needs to be paved with striping
    - Not a pre-existing parking lot, no parking on site now
    - Should be forced to comply with literal terms of bylaw
    - Planning Board does not have ability to waive requirement for parking for a restaurant. Planning Board can only waive for retail and office space.
- Lane width - concrete wall about 20' length
  - Wall is not on the plan
  - 3' in width from edge of building
  - Takes up 2 parking spaces along the side – he showed photo
    - Applicant noted the wall is to be removed - condition of approval for removal of the concrete wall.
      - Asked be removed during some iteration of the plans

- Width of spaces
  - Are all spaces striped with such a tight space
  - Should require applicant to pave entire area, by law requires it
- Loading/unloading area - rear length of building
  - Retail and warehouse use
  - What happens when trucks loading and unloading – how does that impact public safety issues – plan shows pathway in travel lane and trucks loading and unloading
- Section 760.7 – driveway openings need to be 20' width
  - Applicant showed 21' off Marshfield, 30' off Central Ave
- Lease with neighbor
  - Not in recordable form
  - Require it to be irrevocable
  - Filed in the chain of title with the Grantor
- No data to assess use of off street parking on Marshfield Ave.
- Septic – partially located under the deck – how does it get pumped
- 4' reduction in width of the deck
  - Concern combustibility, reduction not adequate to protect against
  - Uncertainty if deck can have a gate – alcohol on deck
- Landscaping - not just shade trees
  - Bylaw serve safety purpose, direct traffic
  - Create islands and buffers
  - No proposal for any landscaping
    - Site cannot accommodate - then use not appropriate for the site
- Front space
  - No bylaw to allow for compact cars
  - Handicap space is under sized
  - Creating spaces that back into cars turning right to go off the island – public safety issue
  - No traffic data to assess peak traffic
- Order control – venting for the kitchen
- Noise control – outdoor should be restricted and time usage
- Trash – trash barrels for 12,000 sq. ft. building – should be a dumpster

Mr. DeLisi opined this as an enforcement nightmare. He said he does not see how the Board has the ability to grant a waiver or how the criteria is met for zoning regulations. He said the plans have omissions and it cannot be properly conditioned and should be denied.

Mr. Guard indicated his memorandum addresses all the points in Mr. DeLisi's letter. He said the plan adequately reflects the applicant's response to the issues. He did point out the lease with landlord guarantees 8 spaces and they only require 7. He said the Site Plan will be approved with the consent of the landlord to the property. If landlord decides to change the use of the property from a warehouse he will have to come back before the Board. Mr. Guard indicated that things like trees, etc. are for new construction and there is no new construction. He said the site is tight it complies with the traveled way, satisfies Traffic, the Fire Department and the DRC, etc. He said this is a Business district and this is a business proposal.

Mr. Medeiros owner of 6 Marshfield Ave. passed out paperwork to the Board. He spoke to the zoning data he had provided to the Board. Mr. Medeiros opined;

- 50.2 spaces are required for the entire building
- 1<sup>st</sup> floor is 4,600 sq. ft. of retail space no evidence of a warehouse
  - Photos reviewed
- No walls to delineate retail or warehouse
  - People walk throughout premises so all retail space opined by Mr. Medeiros
  - 1,000 sq. ft. for bar room
  - Plan does not show 400 sq. ft. of retail space
  - 23 spots for retail, 7 spots for bar room, needs to have 32 parking spaces
- 2<sup>nd</sup> floor – 6, 000 sq. ft. proposed as warehouse
  - Misrepresented as warehouse space
  - Photos supplied by Mr. Medeiros
    - Office space, conference room, kitchen, cubicles, no elevator
  - 5,000 sq. ft. office space, requires 16.36 spaces
  - 1,000 sq. ft. of storage or warehouse, requires 1.6 parking spots
  - 18.2 spaces need.
- Total project needs 50.2 spaces

Mr. Medeiros opined that Residents would be negatively impacted with proposed outside deck due to smoking, drinking and noise until closing at midnight or 1:00 am and lingering patrons. Mr. Medeiros also said there was exterior work done on the building about a year ago. He said the doors where the proposed deck is going were added with a window. Mr. Medeiros provided the Board area photos of land 2002 – 2015, that shows there was never any black top on the property.

Ms. Kate Sheenan said she is a lifelong resident of Humarock. She opined that Mr. Leaman is adding to the community by occupying a space within a building that has already been there. She indicated it is a family restaurant, not a bar room. She indicated she is confused about the parking as people park along Marshfield Avenue daily; why can't a customer park there. She said you are not backing up, but actually pulling out, you park where you can. She said at night when people are off the beach why not use the spots on Marshfield Ave. She indicated the building has been there for a long time and the resources available should be used; it is time to do something positive; she would like to see more restaurants in Humarock. She indicated her family owns the Bridgeway and they support this, they need more establishments in Humarock; parking may be a concern, but there are other issues to worry about.

Mr. Rich Torsney owns property at 10 Marshfield Ave. directly across the street. He opined that a late night bar across from his family oriented business will decimate his business. He thinks a late night spot will irrepealably harm Humarock. He said the proposed project fails to comply with the bylaws relating to,

- Traffic safety and intersections
- Safe and functional pedestrian bike access
- Fire trucks cannot easily access alley way
- Parking not delineated
- Property access plugged - when deliveries made
- Parking in front of building – is risk for accident a major accident
  - Traffic study should have been done to mitigate danger
- Disruption of the quiet for 6 immediate abutters



Ms. Stacy Clark of 10 Marshfield Ave., indicated she is an Environmental Geologist and has conducted over 200 scientific studies on commercial properties throughout MA. She said she had conducted research on the sub-surface condition of the property being discussed.

Ms. Clark stated,

- Requirement that the project protect adjacent premises against detrimental or offensive methods of using the site - concern
- 7-9 Marshfield Ave. has been used as a gas station and yacht yard
- 1969 - 3 tanks removed
  - Soil contamination was identified, no documentation that soil was properly removed or remediated
- 1986 – 5,000 gallon gas tank removed – no testing performed
- 1995 – 3 gas tanks were removed – no testing performed
- March 2016 – accidental discovery of 750 gallon diesel fuel tank removed - no testing done

Ms. Clark indicated that there is no way to assess if the site poses a threat to human health or the environment. She opined a bar room deck will attract outside smokers and drinkers on a property where there has been contamination reported. She said smoking in particular poses a risk to the occupants and neighbors. She said the Fire Department records indicated a gas tank is located 20'-30' away underground on the marina property. She said the misguided disposal of a cigarette could cause an explosion; narrow alley way could be an issue for emergency access. She opined that a peer review should have been done on the site, without it risks cannot be quantified. She also said there should be air quality monitoring done as well. She feels the use of the site as a bar room/restaurant is inconsistent with community desire to keep Humarock a safe and secure village.

Ms. Joseph indicated that the DEP website states the site has been closed under the DEP Hazardous Waste reporting.

Mr. Guard wanted to clarify the photos presented of the 2<sup>nd</sup> floor are old and it is an open warehouse storage space, there are not separations. So they stand with their original determination of parking spaces. He said the 1<sup>st</sup> floor photo is accurate.

Ms. Burbine indicated that nothing on the plan shows where deliveries are going to be made. Mr. Guard said the intent is that the loading dock for the warehouse also services the restaurant and there is a door in the back of the restaurant for access. Ms. Burbine said that is not on the plan. Ms. Burbine referenced a picture of the staircase and there is no room for bike racks. She opined the access is inadequate for a restaurant; parking is inadequate because it is difficult to get out of the car. She indicated that six months ago the Board was told the cement wall would be removed, that the food truck would be removed yet they are still there. She said this is a public safety issue, it is too small, too constricted, and inadequate and she cannot support it.

Mr. Limbacher indicated he has come to the same conclusion. He supports business, but doesn't sense it works for public safety. He is a no vote and the applicant may want the opportunity to withdraw.

Mr. Taylor asked if the edge of pavement on plan, the travel way, is correct. Mr. Grady said about 1' of the area is gravel. Mr. Taylor said as a patron he would assume the car should be on the pavement, which would put the car into the 12.3' space, and in the pedestrian walkway, not a

properly delineated parking space. Mr. Guard opined people would be more inclined to park inside the lines. Mr. Taylor said he also supports businesses in the Town, but there are concerns over public safety; he would be a no vote at this point.

Mr. Bornstein also indicated he is all for supporting business, but he is not comfortable with a waiver of 5 spots off site. He said he is for walkable communities, but is concerned with the public safety of the onsite parking and not sure how the offsite parking would work at this time.

Ms. Lambert indicated she would like to see it work, but it is not the right place, it is too small.

Ms. Burbine indicated she is a business owner in town, is on the Economic Development Commission and the town needs to have more businesses; this is just too small. She said this is a public safety issue first and foremost.

Mr. Pritchard agrees with the rest of the Board members. He said it has always been a difficult fit. He has issues with the parking spaces; access to the facility is untenable. He agrees the layout just not going to work.

Mr. Guard said the applicant has come a long way and would like the Board to consider Mr. Limbacher's option to withdraw without prejudice. Mr. Pritchard opined he thought a lot work was done and the applicant tried to address the issues; but there are fundamental issues to make this happen. He indicated he would be open to a withdrawal.

*Motion:*

Ms. Burbine moved to accept the applicant's request to withdraw without prejudice the Major Site Plan Administrative Review for 7-9 Marshfield Avenue. Mr. Limbacher seconded the motion; the vote was unanimous in favor.

**Public Hearing – Accessory Dwelling Special Permit – 7 Elm Park  
Assessor's Map/Block/Lot: 54-1-25-B & 54-1-23-0  
Applicant/Owner: Michael and Tara Reynolds**

**Document**

- PDF 7 Elm Park subcatchment area plan dated 4.25.18
- PDF 81-X recording receipt dated 4.25.18
- PDF Hydrocad Accessory lot - No Swales dated 4.25.18
- PDF Hydrocad Entire Site – No Swales dated 4.25.18
- PDF response letter from Cavanaro Consulting dated 4.25.18
- PDF response letter from Cavanaro Consulting dated 4.19.18
- Email to the Karen Joseph from Abutter Ms. Fagan dated 4.2.18
- PDF Accessory Dwelling/Primary Dwelling comparison dated 4.20.18
- PDF letter to the Board from attorney Galvin & Galvin dated 3.26.18
- Email to Applicant from Conservation Agent dated 3.29.18
- PDF Hydrocad dated 4.19.18
- PDF of letter to Board from Attorney Drohan Tocchio & Morgan, P.C. dated 3.26.18
- PDF Massing Comparison dated 4.20.18
- PDF Front view drawing dated 3.27.18
- View up the driveway dated 4.26.18
- View of road way 4.26.18

Attendees: Brendan Sullivan, Cavanaro Consulting; Mike Reynolds, Applicant; Jon Tiriyaki, Architect

Mr. Sullivan addressed several outstanding issues from the last meeting.

- Recorded 81X plan
- House moved 12' to the west – 61' from side setback
- House massing diagram - accessory dwelling and primary, pergola view up the driveway
- Drainage calculations submitted
  - Decreased rate and volume of runoff in post construction
    - Inclusive of Accessory dwelling and main dwelling entire build out
- Additional items discussed with Town Planner – can be condition items, not currently on the plan.
  - Stone sump at bottom of driveway to contain runoff onto Elm Park
  - Add stone check dams in swale during construction
  - Spot grades to the swale on west side, extended 30' south
- Planting screen to Fagan property –potential Evergreens
- Revised drainage calculations to be submitted to Conservation – revision to their plan as well
- Filled between accessory dwelling and main dwelling
  - Pipe has been extended under the drive way

Ms. Joseph gave a summary of work that had been done in the last couple of weeks.

- April 19 package – clarification of drainage calculations and new site plan needed
  - Requested calculations to show what was approved originally for the site with the accessory dwelling, rate and volume
- Stormwater permit originally from Conservation Commission
  - Original dwelling had disturbance in the 50' buffer
  - Exempt from getting another stormwater permit, but need to show changes to Conservation Commission and show no change to drainage characteristics with the new work proposed
  - Memo dated 4/25/18 provides certification that there is no change to drainage characteristics – no increase in rate or volume
  - Board can ask to see drainage
    - New calculations reviewed with Engineering Department
  - Sheet flow originally, now channelized
    - Sump would be helpful to applicant now and during construction
      - Conservation is okay with sump
    - Evaluate sump after construction – could become decorative, i.e. raingarden.
    - Suggesting this be a condition

Ms. Joseph indicated they are reducing the rate and volume of runoff from pre-existing to now.

Mr. Sullivan said even with no swales there is still decreased flows and volume.

Ms. Joseph said the Certification is important because the Conservation Commission was the permitting authority of the stormwater permit. She noted that it was recommended by Town Counsel to have the certification and it be filed with both the Planning Board and Conservation Commission.

Ms. Joseph also indicated the applicant would commit to collar ties less than 7' high in attic space, deed restriction for 2 bedrooms as the den per Title 5 is considered a bedroom, and the porch will never be heated. Mr. Sullivan said the septic will be reduced to a 2 bedroom system and will also be deed restricted as required by the Board of Health.

Mr. Pritchard asked what the 1650 sq. ft. reserve area is? Mr. Sullivan indicated it is for a septic field and that is required to have if primary fails on any new construction.

Mr. Limbacher questioned the easement. Ms. Joseph said she spoke with Town Counsel and the easement does not restrict the Board's ability to act on what is before them and the easement is a private land use dispute matter that should be resolved privately. Mr. Pritchard said this is dispute over the rights and not for Planning Board to decide. Ms. Joseph indicated that part of Town Counsel's logic is there is property not being used for the accessory dwelling and the total use of the land is not being denied. The easement is not within the Boards jurisdiction and is a private matter.

Mr. Michael Nisbet resident of 27 Cedar Hill indicated that the applicant's engineer found the ideal location for the building and the septic and there is notoriously high ground water. He opined that if Town Counsel is basing the Board's ability to act on that type of information that it was not very clear. Mr. Pritchard said the Board cannot adjudicate easements between properties. Mr. Nisbet said he did not grasp what the reasoning was. He further asked if Town Counsel had cases like this he would like to know what those are. Ms. Joseph indicated Town Counsel did not provide anything written. She said she provided all the correspondence from Mr. Nisbet and from Attorney Brodsky that had been provided by the applicant - letters, deeds, etc. Town Counsel did not provide citations, but she has seen things on both sides, and advised this does not limit the Board's ability to act.

Ms. Joan Reynolds mother of the applicant said to the Board she and her husband are looking for single floor living to stay in Scituate. Mr. Pritchard said he understands and there is no argument with reasons for the primary dwelling, but the Board's issue is about the dwelling meeting all the requirements.

Ms. Burbine said Ms. Joseph had made a suggestion to move the garage doors to the front versus the side and she wanted to raise the recommendation. Mr. Reynolds said his parents spent time with an architect and this is the design they decided on. Ms. Joseph indicated she asked the question if it had ever been considered because the Board had asked for a perspective from the street in which the doors appear very large and the applicant indicated they were seeking a Nantucket style campus feel. Mr. Reynolds said this was their vision.

Mr. Tiriyaki indicated that the rendering shows a vast foreground that is completely open in order to show the two buildings together. He indicated the garage doors don't really face the street that they are 60' from property line. He said they are about 220' away from Elm Park. He opined that it actually enhances the village feel. He said the doors are tucked away behind the other property.

Mr. Taylor indicated that on the rendering there are 2 pergolas and on the site plan there is only 1. Mr. Tiriyaki said there will be 1 per the site plan, one free standing structure between the two

buildings to imply a breezeway; the pergola will be the length of the 2 together shown on the renderings.

Mr. Reynolds said the shutters will be the same on both, they will match. Mr. Taylor said the Board is just making sure there is cohesive design and it is subordinate to the main house.

Mr. Bornstein said it is big, the bylaw is met, but it is big. He indicated the applicant is amenable to collar ties in the attic space and not heating the porch space, but if at any point they change to usable space they would be in violation of the bylaw. He said for the future it would be nice to get buildings that make sense with the bylaw, rather than having to condition things to be unusable. Mr. Reynolds said that is why they have agreed to the conditions and are trying to give the Board the assurances they will not be changed. Mr. Sullivan said there are deed restrictions on the property as well, if any changes were to be made in the future there would have to be a special permit.

Mr. Tiriyaki said the Board should also review in the context of property size as well, relying on the size of the property.

Ms. Joseph indicated that this will be the largest accessory dwelling permitted if approved.

Mr. Limbacher agreed with Mr. Bornstein's comments.

*Public comments:*

Ms. Mary Fagan resident of 3 Elm Park indicated that the new swales helped tremendously. She said she still is concerned with the size of the accessory dwelling and it is a great use of land for an accessory dwelling, but even if the property size can accommodate the dwelling it is still butted up to one section of the property. She said although it might meet all the bylaw standards she opined it is setting precedent for the Town. Mr. Taylor indicated the Board was concerned as well about criteria for accessory dwellings and went before town meeting with changes which were voted down.

*Motion:*

Ms. Burbine moved to make the following Findings of Fact:

1. On January 18, 2018, Michael and Tara Reynolds applied for a special permit for an accessory dwelling in a detached structure on the property at 7 Elm Park.
2. Based on a floor plan submitted by the applicant, the interior floor space of the proposed accessory dwelling will be approximately 1,617 sq. ft. This includes one bedroom and a den. The attic space, garage space or enclosed unheated porch are not counted as living space. This is 39.95 % of the total square footage of the primary dwelling which is 4,048 sq. ft. and meets the size requirements of 530.2F of the zoning bylaw for accessory dwellings.
3. The appearance of the accessory dwelling is similar in appearance to the primary dwelling.
4. The Site Plan to Accompany Special Permit 7 Elm Park revised dated 4/19/18 shows a two car garage and space for two cars outside the accessory dwelling in the gravel driveway. This appears adequate to provide two parking spaces for the accessory dwelling and ample parking for the primary dwelling as the primary dwelling has its own three car garage and parking area.

5. The owners have submitted a signed, notarized statement that they will live in the primary dwelling.
6. An 81X plan has been recorded at the Plymouth County Registry of Deeds as Plan 00000197 in Book 62 Page 217. The lot is approximately 146,000 sq. ft. and 3.3 acres +/- in size. The accessory dwelling unit is a separate housekeeping unit and there is only one accessory unit on the lot.
7. The accessory dwelling unit is a separate housekeeping unit and there is only one accessory unit on the lot.

*Comments: #7 to be removed stated in #6.*

8. The detached accessory dwelling unit complies with all required setback, building height and yard requirements for a primary structure.
9. The main dwelling is serviced by its own septic system. The accessory dwelling will be serviced by its own septic system to be approved by the Board of Health.
10. The deed indicates an easement exists on part of the property formerly known as Lot 4 for the purpose of maintaining and repairing a leaching bed for the premises and dwelling house situated on Lot 4. The deed indicates a driveway easement for the benefit of Lot 1 (11 Elm Park) exists on a portion of 50 foot frontage.
11. The roof drainage for the detached accessory dwelling will be handled through an underground infiltration system. A swale system will direct water away from the accessory dwelling into the driveway swale which has adequate capacity and does not increase the rate or volume of the runoff for the developed areas from existing conditions to post-development conditions from the site to Elm Park and a certification of this has been received from the engineer.
12. The application meets the standards of the Scituate Zoning Bylaw for an Accessory Dwelling Special Permit.

Mr. Taylor seconded the motion; the vote was unanimously in favor.

Ms. Burbine moved to approve the Special Permit for a detached accessory dwelling at 7 Elm Park with the following conditions in addition to the standard conditions for accessory dwellings approved by the Planning Board after a public hearing on 12/17/15:

1. Except for any changes necessary to meet these conditions, any construction shall conform to the plans entitled Site Plan to accompany Special Permit 7 Elm Park Scituate, MA by Cavanaro Consulting dated 1/12/18 with revisions through 4/19/18; Reynolds – Accessory Dwelling 7 Elm Park Scituate, MA Planning Board Review Set dated 1/3/2018 by Tiriyaki Architectural Design, LLC consisting of drawings A0.0, AE1.1, AE1.2, A1.1, A1.2, A2.1 and A2.2 and the drainage calculations revised dated 4/25/2018 by Cavanaro Consulting. .
2. The number of bedrooms in the accessory dwelling is limited to one (plus the den considered a bedroom for Title 5 purposes) in the location and size indicated on the floor plan submitted

with the application. Any changes to the floor plan must be approved by the Planning Board.

*Comments: New language regarding the den/bedroom and Title 5 purposes. Ms. Joseph will review language with the BOH Agent. Mr. Pritchard wants it to be clear that it is a 1 bedroom accessory dwelling.*

3. No further expansion of the accessory dwelling floor area is allowed as the size limit is at the maximum allowed. The attic space or garage space cannot be converted to additional living space. The attic space shall have collar ties less than or equal to 7 feet high or a truss system with the result that the attic space is not considered legal habitable space per the building code definition. The enclosed porch cannot be a three season room or ever have any heating devices installed. A perpetual deed restriction shall be recorded by the applicant with a copy to the Town Planner stating that the accessory dwelling may not be expanded in size from 1617 sq. ft. as shown on the plan as it is at the maximum allowed by the zoning bylaw and any changes to the floorplan must be approved by the Planning Board.

*Comments: new language regarding the 3 season porch – cannot be used as a year round room*

4. The Applicant has indicated he will provide a deed restriction for two bedrooms for the house.
5. An evergreen and deciduous screen consisting of no less than twelve plants shall be placed between the swale and the northeast property line of the accessory dwelling. The screen plantings shall be submitted to the Town Planner for review prior to planting.
6. The drainage swales for the property must be installed and maintained per the plan and drainage calculations with no increase in rate or volume of runoff. The swale to the rear of the accessory dwelling must be revised to add additional spot grades and extent further south prior to the permit being released for recording. A stone lined sump shall be installed at the end of the driveway to help keep runoff on site until the site is stabilized and prevent erosion and sedimentation from going into Elm Park. It may be necessary to install stone check dams in the drainage swales along the driveway to slow runoff down.

*Comments: New language for both Planning Board and Conservation. Ms. Joseph to consult with Conservation.*

7. A siltation barrier is to be provided along the north side of the property. Stormwater must be maintained on-site during and after construction. Siltation sumps and other erosion control methods may be necessary to contain construction runoff and for dewatering contents.
8. The stormwater calculations revised dated 4/25/2018 and the revised site plan must be submitted to the Conservation Agent for inclusion as part of the Stormwater Permit for the site prior to the special permit being released for recording.
9. The accessory dwelling shall conform to all applicable standards in the building, plumbing, electrical, mechanical, fire and health codes and bylaws.
10. The standard conditions for accessory dwellings approved by the Planning Board shall be conditions of this decision and shall be included for recording at the Registry of Deeds.

Mr. Limbacher seconded the motion; Mr. Pritchard opened it for discussion.

Ms. Burbine moved as amended, Mr. Taylor seconded the motion; the motion was unanimously in favor.

Ms. Joseph informed Mr. Nisbet that there are 20 days to file an appeal after the decision has been filed. She said a letter will be sent to the abutters letting them know the date the decision was filed and the date to which an appeal can be filed.

### **Untold Brewing Parking – Informal Discussion:**

#### **Document**

- Aerial images of site and proposed parking

Attendees: Matt Elder, owner of Untold

Mr. Pritchard indicated the Board would like to understand more about the nature of the parking issues and what some solutions might be. He said the Board is trying to learn and hoping for some education to assist in the future. He said the Board thought there had been a thorough review of the parking during the permitting process, but there must be some gaps in their knowledge or ability to understand how things like this will play out.

Mr. Elder indicated to the Board business has been very good;

- Parking met business plan- exceeding expectations
- Great environment – unexpected
  - Tap room has been big hit
  - Thought would be doing more beer to go
- People traveling from long distances
  - Beer tourism - circuit
- Almost at capacity for making beer, but can get larger tanks, not space issue
- Open 6 and 1/2 months - looking ahead to summer
- Original expectation 1,000 barrel for the year, hopefully exceed by 25%
  - Hit projections would be 85% of capacity
- Parking issues
  - Encourage people to car pool
  - Parking at Greenbush there is a mental hurdle
  - Working with neighbors – Anderson Fuel – viable option
  - Staff is instructed to tell people where they cannot park
  - Social media is encouraging parking at Greenbush

Ms. Burbine opined Old Country Way should be made one way with parking on one side and signage.

Mr. Elder indicated that at peak time and with collaborations on Saturday 2-8, parking could be more than double. He said if they had double the lot he is sure they could fill it.



Mr. Limbacher opined he would like to see options considered before making the street one way, because he is not sure it would make it better. Ms. Burbine disagreed with Mr. Limbacher. She said there is too much going on and there are bad sight distances. Mr. Limbacher opined if parking was eliminated on the street and all parking goes to Fitts Mill it would be clean and could be more than double the parking of what there is now. Mr. Pritchard opined it would be an enforcement issue if there was no parking on the street.

Mr. Elder said they would use gravel for parking in the proposed new location.

Ms. Joseph said the Board needs to think carefully how it is permitted to make fair for all.

Mr. Pritchard indicated one of his primary concerns is the Board was off by so much and did not anticipate this level of parking.

Ms. Joseph opined outdoor seating was not really considered; the patio is very successful.

Mr. Pritchard asked if the bylaw adequately reflected proposed parking. Ms. Joseph opined that the Board used the number of employees and the number of tables/seating inside to determine the number of parking spaces. Mr. Pritchard said the projections were off, something in the equation did not work.

Mr. Taylor opined that people are lingering more than anticipated; originally thought it would be more a take-out place. Mr. Limbacher said there are food trucks which was not part of the original discussion. He said it is not a problem, just something that the Board did not consider. Ms. Joseph indicated the applicant needed to get all required approvals including the Board of Health before serving any food on site in the decision.

Mr. Bornstein asked if there is ratio of local versus out of town traveling patrons; he asked if incentives could be offered to not drive and promote pedestrian traffic.

Mr. Limbacher said his impression;

- People parking on both sides
- Emergency vehicles can't get through
  - Do parking on just on side
- Need to know what is happening with the Fitts Mill
  - Would not want to make Old Country Way one way and change it back
- Keep a record of what people are doing - parking on both sides, etc.
  - Police what are they ticketing for
  - Chief of Police has been to Planning Office several times, issues need to be addressed before summer season.

Limit parking to east side of building, 4-5 spaces, does not solve the parking problem, but does preserve the emergency vehicle access.

Mr. Elder indicated they have looked into a lot of parking options, but currently the most viable is the use of parking at Fitts Mill.'

- Discussion still in work with Scott Anderson
- Can get a few spaces – communication from social media people would use the lot
- Brewery visible from the area

Mr. Pritchard questioned if the Town owns any nearby property. Mr. Chick Fagan said yes. Mr. Fagan indicated that if the proposed one way went south and made a 90 degree entry onto Country Way at the end of the gravel driveway is Town owned land. He said because there is less than a 40 degree angle there have been many accidents in that location. He said if it was viable to make it one way going south and making 90 degree with parking on one side it would make it a safer area.

- Fitts Mill if developed will create even bigger problem
- Need to look at situation for the future as well

Discussion points:

- Public parking spaces
- Take the triangle and lease from the Town to use as parking
- Stream culvert to pond
- Triangle is Town land – between corner and Mr. Danehey's lot
- Nice day - Saturday – get 100 of people - good problem to have
- Keep Planning Board in the loop on game plan – potentially viable solution
- Parking one side
- Investigate getting lease from Anderson
  - Option the Brewery is ready to move forward with
- Town land - good option to look into
  - Straighten out the road and make it better
  - Public parking
  - Make right angle, 90 degrees
- No Parking signs on opposite side of the street
  - Discuss with DPW signage who is responsible
  - Use of saw horses

Ms. Joseph indicated if there is a lease at Fitts Mill the bylaw says it needs to be paved unless the Planning Board decides the intensity of use does not merit paving.

- Board needs to determine what type of permitting is required
  - Minimum would need Site Plan Waiver
  - Trial period - “temporary”

## **Minutes**

### **Documents**

- Meeting minutes from April 12, 2018
- Meeting minutes from November 21, 2017
- Meeting minutes from November 9, 2017

Mr. Bornstein moved to approve the meeting minutes from April 12, 2018, November 21, 2017, and November 9, 2017. Mr. Limbacher seconded the motion; the vote was unanimously approved.

### **Accounting**

### **Documents**

- PO # 1809814 (\$140.49), PO # 1809815 (\$104.49)

Mr. Bornstein moved to approve the requisition of \$104.49 to MAPD for conference for Massachusetts Association of Planning Directors Conference for Karen Joseph, for \$104.49 to MAPD for conference for Massachusetts Association of Planning Directors Conference for Brad Washburn. Ms. Burbine seconded the motion; the vote was unanimously in favor.

## **Liaison Reports**

### **EDC: Ms. Burbine reported**

- Working with Chamber on sign on 3A

### **Planning/Development Report**

Upcoming projects:

- 2 mixed use special permits
- 2 accessory dwellings
- Site plan review Roach field
- Stormwater Regulations
- Stormwater complaints and issuance of permits
- Oil spill at Goulston property
  - DEP was on the scene
  - Underground tank in the existing house
- Stockbridge Landing –under construction, sold out of 1 Bedroom units.
- 50 Country Way – agreement with Selectmen to help pay for portion of sewer line
  - Applicant projected occupancy June, July, August
    - June optimistic – lots of work to be done
    - Documents still needed from the State
  - Emergency assess
  - Rental agreement
  - Site work continues

May 10<sup>Th</sup> is next meeting. Toll Brothers decision on the agenda.

Master Plan – when does it get started

- Money available July 1<sup>st</sup>
- Board would like to know process

Dog Park – bids

- Short \$100K, bids much higher

## **Old/New Business**

### **Documents**

- Email to the Board from Karen Joseph dated 3.26.18, TRR comments 7-9 Marshfield, DRC comments 7-9 Marshfield, Attorney letter for 7 Elm Park
- Email to the Board from Karen Joseph Attorney letter for 7 Elm Park
- Email to the Board from Shari Young dated 4.20.18 with Agenda for 4.26.18

- Email to the Board from Karen Joseph dated 4.20.18 with meeting materials for 7-9 Marshfield; Site Plan dated 4.18.18, Attorney letter dated 4.18.18, SPAR requirements, DRC comments dated 3.22.18, TRRC comments
- Email to the Board from Karen Joseph dated 4.23.18 with meeting materials for 7 Elm Park.
- Email to the Board from Shari Young dated 4.23.18 with meeting minutes from 11.9.17
- Email to the Board from Shari Young dated 4.24.18 with meeting materials for Micro Brewery parking discussion
- Email to the Board from Shari Young dated 4.25.18 with updated meeting materials for 7 Elm Park.
- Email to the Board from Shari Young dated 4.26.18 with images for 7 Elm Park
- Email to the Board from Shari Young dated 4.26.18 with support letter for 7-9 Marshfield Ave.

These items were distributed to the Board electronically.

Mr. Limbacher moved to adjourn the meeting at 10:19 p.m. Ms. Burbine seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Shari Moak-Young  
Planning Board Administrative Assistant

Benjamin S. Bornstein, Clerk

Date Approved 5/10/18