

SCITUATE PLANNING BOARD MINUTES July 24, 2014

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

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, Scituate, MA.

Chairman Limbacher called the meeting to order at 7:30.M. The meeting was being recorded for airing on the local cable television station.

Documents

- 7/24/14 Planning Board Agenda

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

Public Hearing – Accessory Dwelling Special Permit – 113 Arborway Drive Assessor's Map/Block/Lot 25-6-2 Applicant/Owner: Russell E. Williams

Documents

- Application and supporting documents for accessory dwelling special permit including deed, letter from Mr. Williams, Building Permit 89-471, aerial photo, Assessor's card, notarized statement that owner will live on the property, description of floor areas, 11-15-92 Mortgage Inspection Plan, Proposed Addition and Disposal System 113 Arborway Drive Scituate, MA by CCR Associates, 49 Pleasant Street, So. Weymouth, MA dated 2/28/1989, Addition to the Mailhot Residence, 113 Arborway Drive Scituate, Ma by Douglas Laughlin, 118 Dorchester Ave South Boston, MA dated 2/5/1989
- Memorandum dated 6/26/14 from Jennifer Sullivan, Board of Health
- Memorandum dated 7/23/14 from Jennifer Keefe, Director of Public Health
- Letter dated 7/10/14 from abutter Pam Mullin
- Email dated 7/24/14 from abutter Rich McDonald
- Email dated 7/24/14 from Laura Harbottle to Russell Williams
- Email from Michael Hayes requesting a continuance to August 28, 2014 at 8:30 pm

Chairman Limbacher indicated that a request to continue the hearing was received late this afternoon. No evidence or testimony was taken.

Mr. Vogel moved to accept the applicant's request to continue the Accessory Dwelling Special Permit public hearing for 113 Arborway Drive until August 28, 2014 at 8:30 pm. Motion was seconded by Mr. Pritchard. Motion was unanimously approved.

Form A – 31 Mann Hill Road Assessor's Map/Block/Lot: 27/6/39-39A Applicant: James Brennan

Owner: James & Linda Brennan

Documents

- Form A application and a Land Court Plan of Land on Mann Hill Road in Scituate, MA, Assessors' Lot 27-6-39 & 39A Land Court Certificate 114607 and plan number 12766A prepared by Outback Engineering, Inc.

Mr. Brennan said that the Board approved the ANR in March and now the Land Court mylar has come back for the Board to sign. Ms. Harbottle said that access is off of Mann Hill Road for Lot 1 and the existing house has access from the dirt road.

Mr. Taylor moved to endorse as approval under the Subdivision Control Law Not Required a Land Court Plan of Land on Mann Hill Road in Scituate, MA, Assessors' Lot 27-6-39 & 39A Land Court Certificate 114607 and plan number 12766A prepared by Outback Engineering, Inc. for applicant James and Linda Brennan dated 7-9-14 as the division of land is not a subdivision because it shows a change in lot line which does not alter the existing frontage as required under the Scituate Zoning Bylaw. Frontage is provided on Mann Hill Road and an unnamed way shown on a Land Court Plan dated May 7, 1928. The Board makes no finding as to the existence of the way on the ground prior to the adoption of the Subdivision Control Law in the Town of Scituate or to the adequate, width, grade or construction of the unnamed way, as required for creation of additional buildable lots or changes in frontage. The Planning Board endorsed a plan for the registered land on 3-31-14. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Accounting

Documents

- PO # 1500309 (\$84.00), PO # 1500467 (\$43.71)

Mr. Taylor moved to approve the requisition of \$84.00 to Image Resolutions for printing a Zoning map for the Planning Office and for \$43.71 to WB Mason for office supplies. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Minutes – There were no meeting minutes to approve.

Liaison Reports

Mr. Vogel reported that he went to the Public Facilities Master Plan meeting where they chose the architect for the library expansion. He indicated that the firm of Oudens Ello Architects was chosen. He said he expected changes from the original design as this firm is different from the preliminary design firm. He said that he expected the lines of the existing library and some of the existing architectural elements in the area would be included in the new design so the addition will look sympathetic to the existing environment. Mr. Vogel said that construction documents should be ready early next year. He said that if the Board wanted a presentation that late September or early October would be a good time in the design process. Mr. Greene said that he attended the Recreation Commission meeting. He said the camps are going well. He said that two lifeguards have been commended. He indicated the skate park design was done and there is talk of ball fields going on the land at the Ellis Estate.

Town Planner Report

Ms. Harbottle indicated that two new firms for consulting engineering review – Merrill Engineering and Environmental Partners have been chosen along with our 2 existing firms. She indicated that she and Bob Vogel went to the neighborhood meeting for the Toll Brothers future development at the former Proving Grounds. She said that there will be about 90 homes on 12,000 to 20,000 sq. ft. lots. She said it will be a Definitive Subdivision and expected they would be submitting to have the wetlands line confirmed in the next few weeks. Ms. Harbottle said there was a big discussion on sewer. The site will be connected to the sewer with Toll Brothers doing their own connections. They will pay the sewer connection fees which should enable some work to be done which will expand sewer capacity by finding and sealing leaks. She said people questioned if others who have been waiting for sewer will be bumped due to this development. Ms. Harbottle said that Toll Brothers has done some environmental investigation, but they were not specific. She said that not all the reaction was negative. She indicated that one person said it could be worse with a 40B. She said that there was discussion about impacts to the schools and if a recreation area would be part of the project. She said the build out will occur over several years.

Ms. Harbottle said that there was a preconstruction conference for The Glen. They are building the 5 duplexes approved in 2009. She said that a turtle sweep has been done on the property as well as at 214 Clapp Road with Studley Farm which is progressing. Ms. Harbottle said that 305 Country Way was supposed to have a preconstruction conference, but it was cancelled at the last minute. She indicated that Mr. Sheerin has applied for a building permit for Lot 3, but there are issues with the stormwater basin, the entire driveway is not shown and the road is not built so there is no lot release. She indicated that Blanchard Farms is progressing as well. Ms. Harbottle said that Stockbridge Woods 40B is dealing with tributary and stormwater basin issues. The Board asked that the owner of The Riverway Development be summoned to a Planning Board meeting as the commercial component of the development is still not complete.

Scenic Road Hearing – Lot 1 Country Way between 483 -495

Assessor's Map/Block/Lot 32-7-15 &21

Applicant: K & E Construction

Owner: Bradford A. Merritt

Documents

- Application, Site Plan and 4 photos of driveway entrance area

Kevin Grady and Bradford Merritt were present for the applicant. Mr. Grady indicated that this is a scenic road application for a driveway for a single family dwelling. He said access is proposed across the frontage through a remnant stone wall. He indicated the wall is overgrown and they are not proposing to replace or add stone wall. Ms. Harbottle concurred there was not much stonewall present. Mr. Taylor asked if they would consider building a wall. Mr. Merritt said there was no semblance of a stone wall and he was not sure if there is enough fieldstone to reclaim to create a wall. Mr. Grady said that there is a Stormwater Permit before the Board for the property and a grass infiltration area will be behind the wall. He said 483 Country Way has no wall. Mr. Merritt said that 493 has a stone wall, but it is not a fieldstone wall. Ms. Harbottle suggested that a wall with the basin might add to the curb appeal. Mr. Grady said he would suggest it to the owner and developer.

Mr. Taylor moved to close the Scenic Road Act public hearing and to approve the application for removal of approximately 16 linear feet of remnant stonewall in connection with the construction of a proposed 12 feet wide driveway for a new single family home on Country Way between 483 and 495, Assessor's Parcel 32-007-015 & 21, for applicant K & E Construction. No new stonewall is

proposed and no trees over 3" caliper in the scenic roadway right of way will be removed as shown on the Scenic Road Plan 483 – 495 Country Way dated June 12, 2014 prepared by Grady Consulting, L.L.C. The applicant will notify the Planning Board when construction commences and when the driveway is fully completed. No additional stonewall shall be disturbed for utility installation unless approved by the Town Planner. This approval is conditional on all federal, state and local permits being obtained. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Standards for Consulting Engineers

Ms. Harbottle said there should be standards for the consulting engineers so that the reports prepared contain the same general content and detail. She handed a draft of the items to be reviewed by the consulting engineers to the Board for discussion. The Board asked that erosion control be added back into the subdivision sections. She indicated that she could do parking and zoning. Chairman Limbacher said there needs to be an agreement for what sections staff does and the consulting engineer does. Mr. Pritchard suggested some type of checklist that be done for every application.

Chairman Limbacher moved that the Board take a recess and reconvene at 9:30 pm. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Continued 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

Chairman Limbacher reconvened the meeting and public hearing at 9:30 pm. He indicated that since the last meeting, Stephen Pritchard completed a Mullin Rule Certification so he would be able to participate and vote on the accessory dwelling special permit. He also indicated that the end of the last meeting became a little heated and he would call a recess if the meeting became heated again. Mr. Ahern indicated that he would like to erect an accessory dwelling in accordance with the bylaw. He said he has met all of the conditions as to how the bylaw was written. He indicated this is in line with accessory dwellings already approved and the lot has more area than the others. He indicated that his proposed plans and square footage have not changed since the last meeting.

Ms. Harbottle said that last time the Board discussed the size of the accessory dwelling and that it was below the 40% size, but it was 1,500 sq. ft. She said the Board has the right to determine what an accessory dwelling is. She said that the definition of accessory is something that contributes in a minor way and subsidiary to another house. She said the definition in the bylaw doesn't really address what is accessory. She said the size proposed here makes it a tough call. Mr. Ahern pointed out that he is using the definition that the Town says is an accessory dwelling. He handed out the definition from the website and a chart of some of the accessory dwellings approved to date. He said that it is his understanding that the bylaw was approved by the Attorney General with the criteria in it. Mr. Ahern stated that he doesn't understand how the bylaw criteria can change. He said he has met all the requirements. Mr. Taylor said that he thinks there is interpretation because of

the words accessory and subordinate. Mr. Ahern agreed and said that is why the square footage below 40% is subordinate. He said if he had 42% he would have walked out. He said that a lot of large accessory dwellings have been approved on smaller lots. He said he doesn't want to abut the buildings together. Mr. Taylor said this would be the largest one and larger than Mordecai Lincoln. Mr. Ahern said on Mordecai the garage was converted to an accessory dwelling. Mr. Taylor said that he thinks he has met the bylaw and would be inclined to approve the project as it meets the current bylaw wording.

Mr. Pritchard asked about the elevations. Mr. Ahern said he supplied them. Mr. Vogel said that the language in the bylaw is not ambiguous. He said it has a number of 750 sq. ft. and a percentage of 40% so he would have to vote in favor of the project. He said that a bylaw cannot be written and then not allow someone who has met the criteria to go forward. Mr. Greene concurred with Mr. Taylor and Mr. Vogel. He said the guidelines have been met and given the current bylaw he would approve the project. He said that if the Board needs to change the bylaw they should.

Mr. Pritchard said the plans say the house is 1523 sq. ft. and with the garage it is 1690 sq. ft. Mr. Ahern said that the garage is not habitable space and the bonus room over the garage is storage and never to be developed. Mr. Pritchard said that it is a beautiful house, but not an accessory dwellings as it doesn't conform to what the bylaw means. He said it is not clearly subordinate to him. Mr. Ahern said that it is less than 40% and it is subordinate in size. He said subordinate is less than and it is less than 40%. Mr. Pritchard said he did not agree with that interpretation of the bylaw. Mr. Ahern asked what is subordinate. He said it shouldn't have to deal with lot size. He said the only way to be subordinate is 750 sq. ft. or 75%. He said that less than 50% is subordinate. Mr. Pritchard said that the bylaw gives the opportunity to look at the square footage of the accessory dwelling and the massing in the location the accessory dwelling is proposed. Mr. Ahern said that he can construct a 2 family house as a right as he has double the lot area. He said he doesn't want to connect the two houses and he is looking to downsize and not build a 4,000 sq. ft. house. He said he wants to be able to keep the property, rent out the house and live in the accessory dwelling. He said the Board hasn't been able to tell him what the definition of subordinate is and they are just interpreting it their way. He said the conversion on Mordecai was from a 3 car garage, it is 120 sq. ft. smaller than his and it is on a smaller lot than his. Mr. Pritchard asked Ms. Harbottle if she looked at lot coverage for accessory dwellings. She said she did not. Mr. Ahern said he did lot coverage calculations and if he had an additional 10 feet of frontage he would have two lots. He said the floor area ratio would skew the numbers higher.

Mr. Pritchard asked Mr. Ahern about the rest of the neighborhood and where the houses are located on their lots. Mr. Ahern said that there is a road to the left going to the church behind and there are many large houses in the area. Chairman Limbacher asked if the property was still for sale. Mr. Ahern said the sale fell through and if he gets the accessory dwelling he is staying in Scituate as he has been here for 16 years. He indicated that he has thought about the cost. He said new land is expensive and this property is close to the beach, on a hill and not in a floodplain. He said no one will be near the accessory dwelling. In response to a question, Mr. Ahern said that he has double the lot area so he could build two units without the frontage for two. He said he does not want to connect them that is why he wants to do an accessory dwelling that will be much smaller than a second unit he could build.

Chairman Limbacher said he is still where he was before. He said the issue is subordinate. He said even if it fits the size, it doesn't look subordinate. Mr. Ahern said that the Board approved an accessory dwelling in a carriage house despite it being a separate building. He said he would have

changed his plans to be more like a carriage house if that is the criteria. Chairman Limbacher said the issue is still being subordinate. Mr. Ahern questioned what does subordinate mean. He said that the published and approved terminology must be defined and interpreted the same for all people. Chairman Limbacher said it is the relationship between the house and the carriage house that already existed. Mr. Ahern said that that is an opinion. Mr. Taylor said that the materials of the proposed accessory dwelling would be similar to the primary dwelling, so it would look like a smaller version with the same materials and look like a care taker house. He indicated that subordination is attempting to be achieved by keeping the same materials. Mr. Ahern said the two properties are supposed to blend. Mr. Vogel said that if it was a barn and two years later he came back and asked for an accessory dwelling, the Board would be inclined to approve it as they have previously done that.

Mr. Pritchard said the accessory dwelling was a house with a garage and inquired if the “bonus” room could be removed to make it more subordinate and that deleting the dormer would change the look of the house. Mr. Ahern said that he will label it on the building permit set as storage. He said it is 52 feet from the primary dwelling and 350 feet from the road. Mr. Vogel said that it is set back and behind the main house and not really visible from the road making it subordinate. Mr. Pritchard said that that worked in its favor. He asked if there was a way to structure the accessory dwelling so it is more subordinate like with a garage and an apartment overhead. Mr. Ahern said it is very similar to Mordecai Lincoln. Mr. Pritchard asked if the accessory dwelling could be moved back. Mr. Ahern said it could be moved back, but not closer to the right as a 5200 sq. ft. house was being constructed.

Mr. Taylor said this situation is different than Moorland as the accessory dwelling is smaller in comparison to the residential neighborhood. Chairman Limbacher said that it will not be very visible from the street. Mr. Pritchard said if it were more like a carriage house versus a house, it could meet the clearly subordinate condition. He asked if any of the neighbors had been consulted. Mr. Ahern said the woman building the 5200 sq. ft. house had no concerns and he does not speak to his other neighbor. Mr. Ahern said that the driveway will be a natural material and not bituminous. The Board discussed possibilities of how to make the dwelling more subordinate and accessory by making it look like a carriage house. One suggestion was to change the dormer and lower the ridge line to make the “bonus” room not habitable space. Another suggestion was to put trusses close together in the “bonus” room. Mr. Ahern said that it will be the mechanical room as the house will have no basement only a 4 foot crawl space. He said he would put a deed restriction so that the space would only be used for storage and mechanical equipment. He said he could also make the ceiling 6’-8” in height so it would be non-habitable space. Mr. Pritchard said he would support the application if there was a way to appropriately condition it so that the “bonus” room does not become habitable space.

Mr. Taylor moved to accept the applicant’s request to continue the Accessory Dwelling Special Permit public hearing for 345 Hatherly Road until August 14, 2014 at 9:00 pm. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Old Business and New Business

Documents

- Staff report for 7/24/14
- 7/17/14 letter to Speaker DeLeo

These items were distributed to the Board electronically.

Mr. Vogel moved to adjourn the meeting at 10:35 p.m. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph
Planning Board Secretary

Richard Taylor, Clerk

8-28-14
Date Approved