

Scituate Planning Board, August 23, 2012

SCITUATE PLANNING BOARD

MINUTES

August 23, 2012

Members Present: Mr. William Limbacher, Chairman; Dan Monger, Vice Chairman; Richard Taylor, Clerk; and Robert Vogel. Mr. Mercer arrived at 7:35 pm.

Members Absent: Alternate member seat vacant.

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

Mr. Limbacher called the meeting to order at 7:30PM. He announced the meeting was being audio recorded and asked if there were any other recordings being taken. The meeting was being recorded for viewing on the local cable television station.

Documents

8/23/12 Planning Board Agenda

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

Site Plan Waiver – 99 Front Street – Get in Shape for Women

Assessor's Map/Block/Lot

Applicant: Patricia Daly, DBA PGD Fitness, Inc.

Owners:

Documents

Application and Transmittal to departments for a Site Plan Waiver for Patricia Daly/PGD Fitness, Inc. for Get in Shape for Women dated August 7, 2012

Comment from Gordon Price OD supporting the Site Plan Waiver for Patricia Daly/PGD Fitness, Inc.

Comment from the Public Health Director dated August 8, 2012

Patricia Daly indicated she would like to open a Get in Shape for Women, a personal training studio, at the vacant location at 99 Front Street. She currently has another location in Marshfield and has been requested by her clients to open a location in Scituate. Get in Shape for Women is a national franchise. It is a personal training studio that has 4 women and 2 staff every half hour. There is an existing bracket for the sign and there would be sign decals on the windows. The awning color will most likely not change. Mrs. Daly said there will likely be privacy blinds on the windows.

Town Planner, Laura Harbottle indicated that the former use was a toy store. It is 1,400 sq. ft. There were 7 required parking spaces for the toy store. This parking demand would not increase as there would be 6 people every half hour. The application includes a sign.

Mr. Mercer arrived at 7:35 pm. Mrs. Daly indicated that a new bathroom has to be built to be handicap accessible. Mr. Monger inquired when the business would open. Mrs. Daly indicated this fall. It should take 4 to 6 weeks after the building permit. All agreed that this was a great use for the harbor.

Mr. Monger moved to approve the Site Plan Waiver for 99 Front St., with improvements to be according to

the plans entitled "Renovations to 99 Front St., Scituate, MA," for Get in Shape Franchise, Inc., Needham, MA by studio:pandya architects, Needham MA, dated 7-27-12 and the attached rendering of signage. Mr. Vogel seconded the motion. Motion was approved unanimously.

Town Planner Report

Town Planner, Laura Harbottle, indicated that the Board needs to talk about the Walnut Hill Settlement agreement and zoning articles. Mr. Taylor asked if the Riverways project was on the agenda soon. It will be on the agenda on September 27, 2012.

Walnut Tree Hill Settlement Agreement

Documents

Letter dated 8/21/12 from Brandon Moss of Murphy, Hesse, Toomey & Lehane, LLP containing the Tripartite Completion and Settlement Agreement for the Walnut Tree Hill Subdivision

Mr. Monger recused himself and left the room for the discussion on the Walnut Tree Hill Settlement agreement. Ms. Harbottle gave a brief history of the project. It was approved in 1997 and in 2000 Modern Continental bought the development and built it out. She indicated that problems developed with major frost heaves after a year after the project was paved and there was erosion in the water easement. The Town wanted these items fixed. The first idea was to work with the developer, but that did not work. The Board went after the bond of \$2.6 million. We have a Settlement Agreement for the bonding company's (Travelers) contractor to do the work for a lump sum of \$820,640.25. All the questions of scope, oversight and how it will be constructed have been resolved. The Selectmen signed the agreement on August 21. Mr. Vogel inquired that assuming the work is done correctly, will the neighborhood association be asking the Town to take the roads over. Chairman Limbacher indicated that the association has already applied for street acceptance and the Town is plowing in anticipation of acceptance. The last issue that was resolved was that the Town Planner will review the payment as a representative of the Board with consultation from John Chessia and Chairman Limbacher.

Mr. Taylor moved to execute the Settlement Agreement with Travelers Insurance Company for the lump sum of \$820,640.25 based on the scope of work as defined in the letter dated August 21, 2012. Mr. Mercer seconded the motion. Motion was unanimously approved.

Mr. Monger returned to the meeting.

Accounting

Documents

P.O. # 13000945 (\$13.50)

Mr. Taylor moved to approve the requisition for \$13.50 to Westongraphics for 2 Bailey's Island printing. Mr. Monger seconded the motion. Motion was approved unanimously.

Minutes – None

Liaison Updates – None

Alternate Member Interview Process

Documents

Draft Questions for Planning Board Candidates

Town Planner, Laura Harbottle, passed around a list of eight questions for the Board to consider for interviewing the alternate member candidates. She indicated that the Board has had three responses of interest. One was a Canadian citizen and thus wouldn't be eligible to vote or run for election. The other two

candidates look very interesting.

Mr. Vogel wanted to strike the second part of question 3 as it would be very hard for a candidate to answer. He indicated question 5 could be hard to answer as well. Interviews will be scheduled for September 13 in anticipation of a joint meeting with the Board of Selectmen on September 18. Several members suggested adding a question on preserving the character/environment and promoting economic development and possibly a question on the ongoing facility planning process in relationship to long term capital needs. Another question considered was asking if the potential candidate had reviewed the Master Plan on the website and what priorities they saw. All of the members agreed that the questions should be shared with the candidates prior to their arrival for the interview.

Mr. Mercer asked about adding a question that if the candidate was not selected for the Planning Board would they accept an alternate assignment. The Board asked that the request for candidates be put back on the website and that the Board be forwarded the revised list of questions.

Water Resources Protection District Proposed Zoning Change

Documents

8/22/12 proposed changes to Water Resource Protection District (WRPD) (Sec 520 of the zoning bylaw)

New WRPD Map dated August 7, 2012

DEP Matrix of Regulations Zone II and Zone A dated 2007

Town Planner, Laura Harbottle indicated that the reason for the changes to the WRPD is that DEP has requested the Town change its language. The changes are tied to the renewal of the Town's water withdrawal permit. The current WRPD bylaw was adopted in 1987. Consultants including hydro-geologists Horsley Witten Group worked on the original bylaw and mapping of the district. DEP wants to include area within the Zone A's, consisting of buffers to tributaries feeding the surface water supply, that are not now included in the district. There are some areas included in the district that DEP doesn't require to be regulated, but the original consultants thought should be included to protect the water supply.

Some of the proposed changes are regulatory, others deal with restrictions. The old bylaw was aimed at protecting the surface water supply. DEP now requires public drinking water wells to be included. This results in changes in the district boundaries and regulatory verbiage. Specifically new paragraphs regulating Zone A's and Zone II's would be added to protect the surface tributaries and the areas that the wells draw from.

The proposed draft has no real changes to regulation on the other parts of the district. The only exception to that is that the old bylaw had language about no swimming or boating in Old Oaken Bucket Pond. The Building Commissioner does not like language as it is difficult to enforce as it is a 24 hour a day job. Mr. Vogel inquired if there were signs saying no swimming. If this was posted as such, the Police Department could enforce it. Ms. Harbottle will find out if there are signs.

The Special Permit for the Planning Board is now only applicable in parts of the Water Resource Protection District outside the Zone A's and Zone II's. DEP did not want this process continued within the most strictly protected areas. In the section on Violations, the Building Commissioner will notify the DPW Director who will notify the proper entity in the DPW. This conforms with DPW's emergency management policy. Rick Mosca, Chief Operator of the Water Treatment Plant and John Clarkeson, Chairman of the Water Resource Committee were present. Mr. Mosca indicated the bylaw is well done and clear. The Water Department agrees with the Zone A and Zone II language changes and hopes the bylaw will pass as it is needed for the Town to maintain its Water Withdrawal Permit from DEP.

John Clarkeson from the Water Resources Committee indicated that Ms. Harbottle and Chairman Limbacher will be attending their meeting on August 28. He agrees there needs to be signage for swimming and boating. He offered a small change in the wording to Sec 520.2D to emphasize the Town as a whole is affected by water quality, including business owners and not just the residents..

Mr. Mercer indicated that the water here is Scituate is a great treasure. He wants to have the bylaw passed.

Ms. Harbottle indicated that the Board should take a vote to submit the article to the Selectmen to place on the warrant for the fall town meeting. Mr. Taylor moved to submit to the Board of Selectmen for approval and placing on the town meeting warrant the articles with the condition that there may be minor changes based on the meeting with the Water Resources Committee. Mr. Vogel seconded the motion. Motion was approved unanimously.

Form A Plan – 655 Chief Justice Cushing Highway

Assessor's Map/Block/Lot 31-1-48

Applicants/Owners: Thomas P. Jalkut & Josephine Schneider, Trs of Leonard Kaplan 1998 Revocable Indenture of Trust

Documents

Application and Approval Not Required Plan of Land in Scituate, MA showing a division of Parcel 38-1-48 at 655 Chief Justice Cushing Highway. Plan prepared by William M. McGovern PLS Morse Engineering for applicants/owners Thomas P. Jalkut & Josephine Schneider, Trustees of the Leonard Kaplan 1998 Revocable Indenture of Trust dated August 15, 2012.

Greg Morse, Registered Professional Engineer indicated he represents the Trustees. The property is located almost exactly across the street from Town Hall. It is a 13.3 acre piece that has one house on it. The owners want to divide the lot into two lots with the house lot being less than 10 acres so that a mortgage can be obtained by the potential buyers. Mr. Morse indicated that both lots have area and frontage.

Town Planner, Laura Harbottle indicated that when she was first told of this Form A, she was told about the 10 acre mortgage requirement and she thought Lot 2 was going to have a note that it was not buildable. She questions the access for Lot 2 as there are wetlands along the entire frontage and there is a guardrail that is also not shown on the plan. Access and frontage are the two key components of a Form A.

Mr. Morse indicated that a permit could be obtained to cross the wetlands under a limited project or access could be obtained through a common driveway. Mr. Morse said these are not requirements of Form A's. Mr. Monger indicated that the access needs to be ready access. It needs to exist on the ground. He indicated that you can't create a problem and ask for a waiver from it later.

Attorney Greg Bradford, also representing the Trustees, indicated that he did not see Mr. Monger's references in the language of the requirements. Ms. Harbottle indicated it is from case law on Approval Not Required Plans.

Chairman Limbacher asked what would be needed to have access. It was agreed at a minimum an easement would be needed. Mr. Morse, Attorney Bradford and real estate agent Mrs. Bongarzone conferred in the hallway. They inquired if that if they added a note to the plan indicating it was not a buildable lot without further zoning relief, could the plan be endorsed tonight. Ms. Harbottle indicated it would need further planning relief for frontage too. It was agreed that a note would be added to the plan and the Chair could endorse after the note was added.

Mr. Taylor moved to endorse, as approval under the Subdivision Control Law not required a Plan of Land in Scituate, MA showing a division of Parcel 38-1-48 655 Chief Justice Cushing Highway with a note added to Lot 2 that it is not a buildable lot without zoning and planning relief. Plan prepared by William J. McGovern, PLS Morse Engineering Co., Inc. for applicants/owners Thomas P. Jalkut & Josephine Schneider, Trustees of the Leonard Kaplan 1998 Revocable Indenture of Trust dated August 15, 2012. Mr. Vogel seconded the motion. Motion was unanimously approved.

Mr. Vogel moved to adjourn the meeting at 8:40 pm. Mr. Monger seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph
Planning Board Secretary

Richard W. Taylor
Clerk