

Scituate Planning Board, March 14, 2013

TOWN OF SCITUATE MASSACHUSETTS

SCITUATE PLANNING BOARD

MINUTES

March 14, 2013

Members Present: William Limbacher, Chairman; Daniel Monger, Vice Chairman; Richard Taylor, Clerk; Robert Vogel, Eric Mercer and Stephen Pritchard, 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 7:30 P.M. He announced the meeting was being audio recorded and asked if there were any other recordings being taken. The meeting was being recorded for airing on the local cable television station.

Documents

- 3/14/13 Planning Board Agenda

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

Public Meeting – Site Plan Waiver – Scituate Lobster Pound

Applicant: Craig R. Keefe

Assessor's Map/Block/Lot 53/2/8A

Documents

- Transmittal to Town Depts. on Scituate Lobster Pound
- Application and supporting materials for Scituate Lobster Pound
- 3/14/13 Letter from Jeffrey DeLisi of Ohrenberger Associates

Craig Keefe and his attorney Steve Carsaro were present. Mr. Keefe indicated he would like to install a retail store. Attorney Carsaro indicated that Mr. Keefe would like to open a fish market. There would be no processing or any dining on the site. It will be similar to Mullaney's except there will be no processing of fish so there will be no odor. Attorney Carsaro indicated that the ZBA determined in 1973 to change the pre-existing non-conforming use from repair to sale of merchandise. He said Mr. Keefe is going from sale of carpet to sale of fish in a fish market. He indicated it was not a change in use, but change in sale of merchandise.

Chairman Limbacher inquired as to the current utilization of the building. Attorney Carsaro indicated it is used for sales of carpets and remnants. It is sales of merchandise as indicated in the 1973 decision. He indicated that the Green Connection has an office upstairs. Town Planner, Laura Harbottle indicated that the applicant also told her there was going to be sale of prepackaged meats and take out lobster rolls. Mr. Keefe indicated that he does propose to have prepackaged meats and there will be no dine in facilities. Attorney Carsaro reiterated there would be no preparation of food on the site. He indicated that the fish and meat would be packaged elsewhere and delivered to the site.

Ms. Harbottle indicated that the property is located in the Residence R-2 zoning district and there was a

determination in 1973 by the ZBA that retail items can be sold. She indicated she has questions about the applicability of the determination as there appears to be an addition on the right side of the building and a shed dormer that were not there when the determination was made. She indicated the site is unusual as there is no parking on the site. Parking is in the road layout for Stockbridge Road. She said a bay window is also in the roadway layout. She indicated that the applicant should have some type of agreement with DPW and the Selectmen on what is allowed in the roadway layout. She indicated she was not aware that grandfathering on town land was allowed and believes the Selectmen will need to vote on use of land in the Town layout.

Ms. Harbottle indicated that parking for the building was on its right side, but was transferred to a different owner leaving no parking on site and no permission to use the Town right of way for parking. She indicated that the building extending into the right of way is a correctable issue. She indicated that since a site plan waiver was applied for, not all departments were copied and the Traffic Rules Committee has not seen the plan. Ms. Harbottle recommended that the applicant withdraw the waiver application, look at the issues, talk to the DPW about the road layout issues, and talk to the Building Commissioner to see if zoning relief is required, then come back to the Planning Board for a full Site Plan Review.

Mr. Taylor asked Ms. Harbottle if it is likely that the Selectmen will grant permission to park in the right of way. Attorney Carsaro indicated that he talked with the Zoning Enforcement Officer who indicated that parking in the front of the building is similar to parking in the harbor along Front Street. Attorney Carsaro indicated that the parking on 261 Stockbridge has been for the 4 apartment units. He said the site plans show 8 spaces and it is possible to have a couple more which is sufficient for the site's needs. Ms. Harbottle indicated she is a proponent of shared parking. She indicated that the Selectmen previously determined that Cole Parkway would be public and is not sure the situation is the same here.

Attorney Carsaro indicated that the ZBA had to consider the parking back in 1973 when it made its determination for sale of merchandise. He indicated the parking had not changed and the applicant has not done a study for parking. Chairman Limbacher indicated the site was a parcel back in 1973. Attorney Carsaro indicated that there was a variance for the 4 unit building so there had to be parking and that 261 Stockbridge has not been the predominant source of parking for 259 Stockbridge. Mr. Keefe indicated there used to be gas pumps at the site.

Mr. Taylor indicated it was a complicated intersection especially with the parking. He indicated he supports new business and would like to see the parking details worked out. He asked if the applicant was going to use the entire building for the retail use. Mr. Keefe indicated he was not. He said there is the rug business in the other part of the building, but they will be moving out and there are no plans for the space at the moment. Mr. Keefe indicated that in Weymouth, they do not consider his cooked lobster or shrimp take out. Mr. Pritchard asked if there was going to be a salt water tank. Attorney Carsaro confirmed there will be a display case for live lobsters. Mr. Keefe indicated it will have a closed system for the water.

Mr. Monger thought that it was a good use of the space, but he questioned the parking. He thinks the Board should talk to the Building Inspector on sale of merchandise use and believes a major Site Plan Review is required. Attorney Carsaro indicated that sale of merchandise fits in with the UCC code and said his conversation with the Zoning Enforcement Officer (ZEO) revealed that the ZEO saw the parking as analogous to downtown. Attorney Carsaro said this parking is safer than downtown as there is room to turn when backing out even if the spaces are occupied. Mr. Monger indicated there should be some input from the Traffic Rules Committee. Ms. Harbottle said she talked to DPW and they were concerned about the parking and if a full Site Plan Review is done, then input is sought from all Town Departments. She said a waiver needs to have insignificant impacts.

Attorney Carsaro said there has been a business at the site for at least 50 years and he is not aware of incidents with cars. Ms. Harbottle indicated that this use is potentially more popular and quite different than what is there. Mr. Monger expressed concern over the sale of merchandise and what will happen in the other part of the building. Mr. Vogel would like to have input from the Building Inspector, Traffic Committee and DPW. He is concerned about the abutter's hesitation as indicated in the letter from Ohrenberger

Associates, but likes the concept.

Mr. Monger suggested the Board could deny the waiver or the applicant could withdraw the application. Attorney Carsaro indicated it would be best to withdraw the application. Chairman Limbacher indicated that he didn't have a problem with the sale of merchandise, but he is concerned by the parking, dumpster and building in the right of way. He said the Planning Board does not have permission to say that parking can be in the right of way. This issue needs to be addressed. Chairman Limbacher was also concerned with the unassigned vacant building. Attorney Carsaro indicated they would withdraw the waiver. He said the dumpster and the boat will be removed. He said there is room on the right side of the building for a dumpster.

Attorney Jeffrey DeLisi indicated he represents the Hoffman's who own land on both sides of this building. He indicated he would not reiterate his whole letter that was submitted to the Board earlier in the day. He said the applicant's lot is in a residential area and his client owns houses on both sides. He said the whole site raises traffic safety concerns. He indicated from 1972 to 2012 the business uses were using parking on his client's property. The sale of the 4 family dwelling adjacent to the proposed building to his client left the site with no parking except in the public layout. Attorney DeLisi would like to see all of the uses on the property shown so that the amount of parking required can be determined. He suggested an analysis from the zoning perspective as his client indicated that there are 3 offices upstairs and patrons would use his client's property to park. A concrete walk was used for access to the building as shown on the site plan. He indicated the parking is all at grade and there is no curb cut. He believes that this project will have an impact and it is not minor or insignificant for the purposes of a waiver. He is concerned about safety problems.

Attorney DeLisi expressed concern regarding the proposed use as well. He questioned that the sale of lobster is sale of merchandise and indicated that the Assessor's Office lists the property use as warehouse. The property has been used for storage of carpet and flooring. Attorney DeLisi believes fish sales will have more traffic and trip generation will be an issue. He is also concerned about the dumpster. He said it was previously on his client's property. He thought it would be great if it went away and great if there would be no spoiled fish in it.

Mr. Monger asked the applicant what he would like to do. Attorney Carsaro indicated they will withdraw they waiver request. Mr. Monger moved to accept the applicant's withdrawal of an application for a Site Plan Waiver for Scituate Lobster Pound at 259 Stockbridge Road without prejudice. Mr. Vogel seconded the motion. Motion was approved unanimously. Chairman Limbacher indicated that the application should be refilled as a full Site Plan Review.

Bylaw/Annual Town Meeting Discussion

Documents

- Scituate Historical Commission Demolition Review Bylaw Draft 4
- Accessory Dwelling Bylaw after public hearing final version
- 3/13/13 Attorney General Approval of Burlington Medical Marijuana Moratorium
- 3/13/13 Attorney General Disapproval of Wakefield Ban on Medical Marijuana Treatment facilities

Chairman Limbacher indicated that the Selectmen supported 3 out of the 4 articles that the Planning Board is proposing for Town Meeting. They voted not to support the Accessory Dwelling article. Chairman Limbacher indicated that Mike Hayes, Ann Burbine and Mr. Joyce expressed their concerns to the Selectmen about the verification process, the size change for accessory dwellings and the affordability language being taken out. Chairman Limbacher indicated the Bylaw Committee supported the zoning articles. Chairman Limbacher indicated that all the articles will appear on the warrant for Town meeting. He thought that the Advisory Committee was scheduled to vote on Monday. Mr. Monger indicated he would be able to attend the Advisory meeting on Monday. Mr. Monger indicated that he hopes Town Meeting will see that the Planning Board enforces this section of the bylaw and the proposed changes resulted from

feedback from the Board and residents from public hearings. Mr. Pritchard inquired about the question on the process of verification. Chairman Limbacher indicated it has to do with the legality of the proposed transfer process. Complaints were that it will be onerous. Mr. Monger indicated that a provision was put in that a proposed owner could apply for the special permit prior to the transfer taking place.

Chairman Limbacher indicated that the Bylaw Review Committee suggested adding the word reasonable to proposed wording for the Flexible Open Space Bylaw. The Board's general consensus on that was that it was alright, but not really necessary.

Chairman Limbacher asked if the Board had any comments on the Demolition Review Bylaw. Mr. Monger indicated it is supposed to allow time for options to be explored in the event demolition of a historic building is requested. Ms. Harbottle indicated there has been a groundswell of interest in a bylaw and it is not coming from any particular project. Mr. Pritchard indicated that the building proposed for demolition must be found to be historically significant. Mr. Monger indicated there is broad discretion given to the Historical Commission and it can delay a project for up to a year. Chairman Limbacher indicated he believes it walks a fine line for perspective property owner rights. Mr. Pritchard was concerned about owner's being put in a liability position for people coming on their property. Chairman Limbacher indicated he would like to ask the Historical Commission if this article has been vetted through the Advisory Committee and Board of Selectmen. Mr. Monger believes that the bylaw will apply mostly to residential dwellings. Mr. Taylor indicated he is supportive of the bylaw as it is reasonable and a good idea. Mr. Monger is concerned with the broad definition of demolition. Chairman Limbacher asked Ms. Harbottle if she could have the Historical Commission come to the Board's next meeting to explain the article. Ms. Harbottle indicated it has likely been vetted with the Massachusetts Historical Commission and other towns likely have similar language.

Accounting

Documents

•P.O. # 13005717(\$1,200.00), P.R. # 13005911(\$1,206.50)

Mr. Taylor moved to transfer approve the requisition of \$1,200.00 to Amory Engineers, P.C. for their January invoice for professional services for the peer review of the Stormwater Permit for 568 First Parish Road Lot 1. Mr. Monger seconded the motion. Motion was unanimously approved. Mr. Taylor moved to approve the requisition for \$1,206.50 to Beals and Thomas for their February invoice of professional services for the peer review of construction of Dreamwold Estates. Mr. Monger seconded the motion. Motion was unanimously approved. Ms. Harbottle indicated that in the future, detailed bills will be asked of all the consulting engineers for the services they performed for the Town.

Minutes

There were no meeting minutes to approve.

Liaison Reports

Chairman Limbacher indicated that the Advisory Committee has not yet voted on the CPC articles. He indicated that the Selectmen supported all but two of the CPC articles – 1) Storm windows for the Union Mission Chapel and 2) Scenic Road signs. Chairman Limbacher said that the Selectmen indicated that scenic road signs should come out of the DPW budget and they are looking to reduce the number of road signs in the future. He indicated they were supportive of the Harborwalk and the sidewalk from Country way to Ronnie Shone's store. Mr. Monger indicated that the Advisory Board was fully supportive of the meal's tax.

Town Planner Report

Town Planner, Laura Harbottle, indicated that she has talked with the Town Treasurer and there is approximately \$ 10,400 in the Laurelwood Pedestrian fund that can be used by the Planning Board without further approvals. Ms. Harbottle indicated that she will contact the Cecil Group to see if they would recommend improvements that the Town could focus on in the Harborwalk. Ms. Harbottle will coordinate with the Harbormaster. She also indicated that she attended the initial scoping meeting for the 3A Corridor Study. She indicated that 90% of the conversation focused on Cohasset, but she did provide information on the desire of the Town to have more business at the Cohasset/Scituate Town line and concern about the Henry Turner Bailey intersection. She indicated that Cohasset want to narrow the road by Starbucks as a traffic calming measure as there are many accidents there. Mr. Vogel indicated he thought the turning lane located there was part of the improvements required for the supermarket.

Old Business and New Business

Documents

- Background and staff recommendations dated 3/14/13 for the meeting on 3/14/13
- 3-4-13 letter to Building Inspector on Dreamwold Estates
- 2-27-13 letter to McKenna on supplemental drainage information 562 First Parish Road
- 2-12-13 letter from Mass Historic Commission on Men of Kent Cemetery
- 2/12/13 letter form Building Inspector on 259 Stockbridge Road
- 3/4/13 SJC Grant of further review Doherty vs. Planning Board of Scituate

These items were distributed to the Board electronically.

Mr. Vogel moved to adjourn the meeting at 8:45 pm. Mr. Monger seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph
Planning Board Secretary

Richard Taylor, Clerk