

Scituate Planning Board, November 20, 2012
TOWN OF SCITUATE MASSACHUSETTS

SCITUATE PLANNING BOARD

MINUTES

November 20, 2012

Members Present: Daniel Monger, Vice Chairman; Richard Taylor, Clerk; Robert Vogel and Stephen Pritchard, Alternate Member.

Members Absent: Mr. William Limbacher, Chairman; Eric Mercer.

Others Present: Ms. Laura Harbottle, Town Planner.

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

Location of meeting: WPA Building, 7 Henry Turner Bailey Road, Scituate, MA.

Mr. Monger called the meeting to order at 7:30 P.M.

Documents

11/20/12 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.

Discussion – DPW CPC Application for sidewalk from Country Way to First Parish Road

Applicant: Scituate DPW, Al Bangert, Director of Public Works

Documents

Application to the Scituate Community Preservation Committee (CPC) dated 10/17/12 by Albert Bangert, DPW for a sidewalk or path from Country Way to First Parish Road

Mr. Bangert indicated that he was asked by the CPC to meet with Boards to help them understand his project funding request. He indicated the DPW is proposing a multi-purpose trail from Greenbush to First Parish Road along Country Way. He indicated that the Town commissioned a sidewalk study in 2007. The study found the top 25 gaps in Scituate which were prioritized in a list. These are shown on the Map distributed to the Board by Mr. Bangert.

The segments of Country Way sidewalk from First Parish to Hughey Rd. and from Hughey to Old Country Way were the third and 17th priority respectively. The work would be done in two phases with Phase I consisting of a survey and preliminary engineering along the entire route; final design and engineering from the Hughey to First Parish Road section; and bidding and constructing this section. Phase II would consist of bidding and constructing the Hughey to Greenbush section. Phase I funding is being requested now. The path/walk will look like the recently completed walkways on Stockbridge Road and will be similar to Gannett Road, except that there will be granite curb.

Mr. Bangert indicated that Country Way has a 40 foot right of way with a 20 foot paved road. The survey would locate the utility poles, stone walls and large trees. A scenic road hearing would be needed after the survey and design was done.

Mr. Monger indicated he was hesitant to endorse the proposal as the walking pathway seems more like a public safety issue not a recreation issue. Mr. Monger indicated he is worried about using CPC funds for

this as the funding is very limited and he questions how many people would be served by this project. He would like to see priorities set for the CPC and would like to know all the projects first as there will be a bigger demand on the CPC money this year, with new recreation projects available to be funded. Mr. Bangert indicated that he is in charge of improving public safety and making the Town more walkable and there is a lack of connectivity in the Town. He wants a safe route for those who desire to walk. Mr. Monger thinks this is the wrong pot of money in which to seek funding.

Mr. Taylor agreed with Mr. Monger, but indicated that if the train stations in Greenbush and North Scituate were connected by a walk, it would be a very valuable recreation link and should be prioritized as it would serve many people. Mr. Bangert confirmed that there is a sidewalk/path from First Parish to North Scituate along Country Way and the proposed path would accomplish this goal. Mr. Pritchard questioned if a walk along Tilden Road should not be done first. He likes the notion of a more walkable community and he agrees that the CPC has to figure out how to balance all the needs of the Town.

Mr. Vogel indicated he likes a walkable community and CPC funding may be the only possibility. He indicated the Planning Board is not the correct Board to be having a funding discussion. Mr. Monger inquired if the Board should invite the CPC in to talk about prioritizing their funding requests in terms of an overall plan and relating to the Board's master plan. Town Planner, Laura Harbottle indicated that there should be an overall prioritization plan, but there are not many funding sources for walkways. She said Country Way is winding and having a safe place to walk is very valuable for the community.

Mr. Monger indicated his concern that the CPC should not be a safe sidewalk fund and requested the Board invite the CPC in for a discussion. He indicated that the Townspeople voted that the CPC funds should be used for recreational purposes. Mr. Bangert indicated that Country Way is very historic and the path along it would greatly help to increase connection to historic sites of Scituate. It has historic and recreational values. Mr. Pritchard asked about alternate funding sources. Mr. Bangert indicated there really aren't many available. Mr. Bangert thanked the Board for meeting with him. He said even though he didn't like the message, he appreciated receiving it.

Public Meeting – Site Plan Administrative Review – 17 New Driftway

Assessor's Map/Block/Lot 53/5/27

Applicant: Joan Wilson

Owner: Robert J. Burwick

Documents

Application, transmittal, plan and supporting documents for a Take-out Pizza/Pizza Kitchen for JW's Burger Bar received October 20, 2012.

Comment from the Director of Public Health dated 11/5/12

Comment from the Water Department dated 11/15/12

Meeting minutes from the Design Review Committee dated 11/19/12

Town Planner, Laura Harbottle indicated that the applicant wants to convert a small building on this site used for storage to a pizza take-out business. It will be strictly take-out for customers and provide another menu option for Burger Bar patrons. Parking appears adequate, although it is hard to delineate some of the existing spaces since much of the parking lot is gravel. The Board may want to ask for demarcation of the spaces. Water service to the building will need to be upgraded. She indicated that there were a few recommendations from the Design Review Committee (DRC) that should be incorporated in the plans. The Site Plan Administrative Review standards under Section 770.6 of the bylaw can be met with conditions and the DRC recommendations.

Joan Wilson and Jim Burke were present for the applicant. They indicated that the 550 sq. ft. building will have a wood fired oven, refrigeration unit, counters, sinks and an employee bathroom.

Pizza pick-up will be in the shed area of the building which will be enhanced with decorative pavers as requested by the DRC. Mr. Taylor indicated that he was at the DRC meeting and the DRC also wanted the lighting and awning and plantings to match the Burger Bar.

Mr. Pritchard questioned the parking and access. He was concerned about the one way circulation, parking for the pizza takeout and if the amount of parking on site is adequate. He doesn't want people parking in the traffic loop. Mr. Burke indicated there would be designated spaces adjacent to the take-out building for pizza pick up. Ultimately, they would like to do pizza delivery which would reduce parking demand. Ms. Harbottle indicated the number of parking spaces required is the same as previously permitted; but, that it will help to verify the parking space count if the spaces were marked in the field. Mr. Vogel indicated that if the parking meets zoning, then signage may be required to direct the flow of traffic and parking and he believes the locations should be subject to the Board's approval. Ms. Wilson indicated that she would provide signage. Mr. Taylor indicated that the peak times for the icehouse are not the peak times of a pizza business and he thought the parking on site was ample and signage would help the traffic flow.

Greg Chaisson spoke on behalf of himself, his wife Kathy and son who are abutters. He indicated he moved to Ford Place in 1968 and is familiar with all the proprietors in the area. He supports JW's Burgers and said they are good neighbors. They have a lighted area and a quiet clientele and he has every confidence the pizza business would be run well. He is concerned about the nature of the business. He believes it is not an extension of the Burger Bar and that the clientele may not be as gentle as the Burger Bar. He said there was an incident a few weeks ago with a motorcycle gang being very loud and rude. He indicated his concern is not with the operators, but with the nature of the business. He believes a pizza place may encourage a different crowd.

Luke Chaisson said he lives in an upstairs apartment adjacent to the site. He said the exhaust fan from the abutting pizza business faces his street and he smells pizza exhaust from 4 to 10 pm. He indicated he is a proponent of new business, but is concerned about the odors and noise. Mr. Monger indicated he understands the concerns, but the Board can't address what kind of business it is as a restaurant is an allowed use. He asked the applicant where the exhaust fan will be located. Mr. Burke indicated the pizza oven will be wood fired with an odor just like a fireplace or wood stove. There will be no exhaust fan. Mr. Monger confirmed with the applicant that the lighting would be down lighting and not harmful to the Chaisson's property.

Mr. Vogel asked if the required screening was completed. Mr. Burwick indicated there is a fence instead of the evergreens shown on the plan as Mr. Chaisson thought that a fence would better screen his property. The Board asked that the shrubs behind the proposed pizza take-out building be enhanced to screen the building more effectively from the abutter.

The applicant indicated that the hours of pizza service would generally be 3 to 9 or 10 pm Wednesday through Friday and Saturday/Sunday 12 to 10 pm. Hours would be the same as the Burger Bar which is empty by 11 pm, thus helping to minimize noise. Trash/Garbage removal was confirmed to be the same as currently exists.

Mr. Monger indicated that he felt the applicant needed to include the DRC recommendations and signage, lighting, venting and parking in a plan. The Board thought that was reasonable. Lighting and noise was further discussed. The Board requested that the applicant relocate the air conditioning condenser to the side of the building away from the Chaisson's property.

Ms. Harbottle will draft a decision for the Board's review. Mr. Taylor moved to continue the public meeting for the Site Plan Review until December 6 at 9:00 pm. Mr. Vogel seconded the motion. Motion was unanimously approved.

Continued Public Hearing – Accessory Dwelling Special Permit – 33 Garden Road
Assessor's Map/Block/Lot 34/26/3
Applicant: John Townsend, Sandcastle Group
Owner: Maria Marcelino

Documents

Application and supporting documents for an Accessory Dwelling Special Permit dated October 11, 2012.

Existing and Proposed Floor Plans and Elevations Sheets 1 through 8 for 33 Garden Road prepared by Sandcastle Group for the Marcelino Addition dated 10/10/12. Certified Plot Plan Showing Proposed Addition for 33 Garden Road prepared by A. S. Elliott Associates dated 9/24/12
10/27/12 Neighborhood letter to Chairman Limbacher and members of the Planning Board
7/16/12 Comments from abutters
Comment from the Water Department received on 11/1/12
Faye Street Accessory Dwellings approved in 2005 and 2006
Revision Proposal 1 Marcelino Addition 33 Garden Road by Sandcastle Group dated 11/13/12 consisting of 3 front perspectives and 1 rear perspective numbered sheet A, A.1, A.2 and A.3 respectively
Email from Karen Joseph to John Townsend dated 11/14/12 with Certificate of Action filed w/town Clerk for the continued public hearing. Description of what board wanted in Certificate.
Email from John Townsend to Karen Joseph/Laura Harbottle dated 11/14/12 with comments on Revision 1 design
Email from John Townsend to Karen Joseph dated 11/20/12 requesting to continue the public hearing until 12/6/12

Mr. Monger indicated that the applicant requested that the public hearing for 33 Garden Road Accessory Dwelling Special Permit be continued until December 6. Mr. Taylor moved to accept the applicant's request to continue the public hearing until Thursday, December 6, 2012 at 8:15 pm in the Selectmen's Hearing Room at Town Hall. Mr. Vogel seconded the motion. Motion was unanimously approved.

Review/Approve Modification to Stormwater Permit, 246-248 Old Oaken Bucket Road

Documents

Letter dated November 16, 2012 from Cavanaro Consulting detailing the changes from the approved Stormwater Permit of 4/28/2011
Proposed Dwelling 248 Old Oaken Bucket Road revised 11/8/12 prepared by Cavanaro Consulting for Welby Builders

Brendan Sullivan was present for the applicant. He said Welby Builders bought the property at 248 Old Oaken Bucket from the Wilson's. He indicated the proposed changes to the plan include a smaller house, no sports court and no turnaround driveway, and the driveway is relocated to the left of the house with the garage under. The impervious surface has been reduced from 5,560 sq. ft. to 2,392 sq. ft. resulting in the infiltration system being decreased in size. There will be less grading on the site. A written statement was provided to this effect.

Town Planner, Laura Harbottle, indicated that there will be less impact than the previous application and there will be less storm water runoff from the site.

Mr. Taylor moved to approve the revised Stormwater Permit for 248 Old Oaken Bucket Road as it meets the objectives of the Town of Scituate Stormwater Bylaw and Stormwater Regulations with the following conditions:

Construction shall comply with the plan entitled Proposed Dwelling 248 Old Oaken Bucket Road Scituate, MA for Welby Builders by Cavanaro Consulting revised dated 11/8/2012 and a letter to Laura Harbottle, Town Planner dated 11/16/2012 detailing that the impervious area of the site has been reduced from 5,560 sq. ft. to 2,392 sq. ft.

The applicant shall meet all the requirements of the Building Dept., Board of Health, Conservation Commission, DPW, Water Resources Committee, Fire Dept. and other town agencies as well as all state and federal regulations.

The Low Impact Development (LID) measures of the crushed stone drive and infiltration field with three cultec C-125 units shall be maintained according to the previously submitted Operations and Maintenance Plan.

The new driveway is proposed as partially paved and partially crushed stone. Any change from the proposed materials shall require a permit modification by the Planning Board. Any and all property owners shall be advised of this condition.

A copy of the Operations and Maintenance Plan for the stormwater management system will be provided to the first occupant of the home at the time of purchase. The Stormwater Management System shall be maintained in good condition in accordance with the approved plans and the Town of Scituate Stormwater Regulations.

Construction shall be supervised by a registered Professional Engineer. Prior to issuance of the Planning Board's Certificate of Completion or issuance of an occupancy permit, this engineer shall provide the Planning Board with a written report describing installation, any unusual situations encountered and including certification of compliance with the approved plan(s), supporting application documents and construction specifications. Any variations from the plans shall be noted.

Submittal of as-built plans depicting the construction conditions of the stormwater management system and grading on site are required.

A crushed stone construction entrance shall be required and installed prior to any work on the site. It shall be a minimum of 10 feet long and 15 feet wide and 8 inches deep. It shall be maintained throughout construction to prevent sediment from reaching the road.

Mr. Vogel seconded the motion. Motion was unanimously approved.

Form A Plan – 73 Kane Drive
Assessor's Map/Block/Lot 44/4/5
Applicant/Owner: Patricia Mullen

Documents

Transmittal, Application and Plan of Land in the Town of Scituate, MA located at 73 Kane Drive prepared by mr Surveying, Inc. for applicant Patricia Mullen dated 11/4/2012

Comment from the Water department dated 11/15/12

Jason Scott was present from mr Surveying. He indicated that Parcel A was taken out of Lot 44/4/5 leaving 21,000 sq. ft. Ms. Harbottle indicated that Parcel A was being transferred from one lot to another. No new building lots are created and it doesn't change the frontage of the lots so the plan can be endorsed. There was some discussion by the board about where the frontage was for the lot receiving Parcel A, but it was concluded it is not part of this Form A.

Mr. Taylor moved to endorse, as approval under the Subdivision Control Law not required a plan of land in the Town of Scituate located at 73 Kane Drive prepared mr Surveying, Inc. for applicant/owner Patricia W. Mullen dated November 4, 2012 as the division of the tract of land shown on the plan is not a subdivision because it shows a proposed change in a lot line which does not alter the existing frontage as required under the Scituate Zoning Bylaw. Mr. Vogel seconded the motion. Motion was unanimously approved.

Form A Plan – Hillcrest Road
Assessor's Map/Block/Lot 45/9/1 & 6F
Applicant: Antonio V. Marinilli
Owner: Patrick J. Shields

Documents

Transmittal, Application, Purchase and Sales Agreement and Plan of Land "Parcel A" Hillcrest Road (Assessor's Parcels: 45/9/1 and 45/9/6F) Scituate, MA prepared by Morse Engineering Co., Inc. for applicant Antonio V. Marinilli dated 11/16/2012

Email from Laura Harbottle to Fire Chief Judge dated 11/19/12 with two pictures taken of the site access

Email from Deputy Chief John P. Murphy, Scituate Fire Department dated 11/20/12

Greg Morse and Tony Marinilli were present for the applicant. Mr. Morse indicated that the plan is to confirm the lot has frontage in accordance with MGL Ch.41 s. 81L. He said the proposed lot is 75,000 sq. ft. with 23,000 sq. ft. of upland. The lot is bordered by Georges Road and Seamore Road, both unconstructed paper streets. Hillcrest Road is constructed so the plan complies with the frontage. Mr. Morse further indicated that Hillcrest Road is a private gravel road 14.5 feet wide with 0-5% slope in a 35 foot right of way.

He summarized the three types of ways where a Planning Board can approve frontage for a new lot according to 81L.

Mr. Morse indicated that an argument for endorsement of this plan can be made as one single family house is proposed and Board endorsed a plan across the street in January, 2011. Mr. Morse indicated that the Board said Hillcrest Road was adequate then and the Fire Department also said there was adequate access. He indicated that the Board previously endorsed a plan for Tichnor Place which is a private gravel way 8 feet wide with a 16 foot right of way. Mr. Morse indicated there were no new lot lines shown on the submitted plan.

Mr. Monger asked where the gravel is currently located for Hillcrest Road. Mr. Morse showed him on the plan. Town Planner, Laura Harbottle, indicated that the Planning Board did approve a Form A located on the other side of Hillcrest Road; however it had a turning easement required for a fire truck turn around. She indicated that the subdivision control law allows emergency access to be considered in Form A applications. She provided pictures to the Board of the existing way. Mr. Morse indicated that since the other Form A was approved another layer of gravel has been placed. He indicated that the 1911 Land Court Plan shows Hillcrest Road as a way, although a plan was not provided for the Board.

Ms. Harbottle indicated the way must be on the ground now. Mr. Morse said it was probably cleared 60 years ago and three houses on Hillcrest predate the subdivision control law. He said this plan is for one proposed lot. Ms. Harbottle indicated the Fire Chief wants the turnaround constructed for fire vehicles. It needs to be constructed and existing according to case law.

Mr. Monger inquired if this plan should be a subdivision as Hillcrest Road construction appears questionable. Mr. Morse said for it to be a subdivision that would mean a new right of way. He said there is an existing right of way so it is not a subdivision and Hillcrest Road is constructed up to the site. He also indicated there is a single family home on the road and there is 80 feet of frontage to the lot which can't support more than one house. Mr. Taylor inquired if the gravel as shown was there in 1947? Ms. Harbottle indicated that is up to the engineer to prove. Mr. Morse indicated he provided the dates of the previous land court plan and approvals. Ms. Harbottle indicated that this Board is not bound by what a former Board did.

Mr. Monger indicated he was not inclined to approve the plan at this meeting. He believes the applicant should withdraw and resubmit with more proof that Hillcrest Road was a way in existence. Mr. Morse indicated that Conservation Commission approval has been received for one house and it will be deed recorded. He is asking for one lot similar to what the Board approved across the street. Ms. Harbottle indicated that the turnaround needs to be constructed prior to Form A approval. Mr. Morse said he is willing to construct the turnaround for access over the existing road. Mr. Monger indicated he was concerned about setting precedent. Mr. Pritchard expressed concern about was the way there in 1947. Mr. Morse indicated that there is a hydrant within 500 feet and there will be a 2 inch water service coming to the lot. If it were to be a subdivision, it would need many waivers. The Board reiterated their concern that more evidence needs to be presented.

Tony Marinilli indicated he thought the turnaround was taken care of. He indicated there was another home off Ridgefield Rd. that was built and there is plenty of other precedent. He said this will be a large lot with one house. Mr. Monger indicated he is concerned about what is on the ground now as the application needs to meet the Form A requirements for the Board to endorse it.

Mr. Vogel indicated that this seems like Wood Island Road. Mr. Taylor questioned if the Board was holding this applicant to a different standard as they approved the lot across the street in 2011. Mr. Monger indicated that he wants to be consistent, but reserves the right for the Board to be correct. Mr. Marinilli asked why the Board couldn't use precedent and didn't see why this case is different. Mr. Monger indicated that the Board is not trying to be obstructionist, but it needs to make sure it's not repeating past errors. He inquired if the applicant would like to withdraw the application.

Ms. Harbottle indicated that this house could be constructed imminently so there is a need for access to be available now. The applicant indicated that they would like to withdraw without prejudice and re-file for December 6. Mr. Vogel moved to accept the applicant's withdrawal dated 11/20/12 without prejudice of a Form A Application filed by Antonio Marinilli for Parcel A Hillcrest Road Assessor's Map 45/9/1 & 6F. Mr. Taylor seconded the motion. Motion was unanimously approved.

Planning Department Goals/FY 14 Budget

Documents

Department FY 14

Budget Templates FY 14

Ms. Harbottle indicated that the Board received draft copies on the projected goals for 2014 and she would like the Board's input. She indicated that CPC funds cannot be used for landscaping parking lots. The Board expressed desire to see a CPC Master Plan. Ms. Harbottle indicated she would look into the matter and see if the Board can put some money in their budget to coordinate an integrated plan with others. Ms. Harbottle indicated that she will continue working with the Economic Development Commission for a livable communities grant.

She asked about the zoning issues the Board would like to pursue. She asked about accessory dwellings. The Board wants to continue to review them on a case by case basis. Parking requirements were discussed. Mr. Vogel would like to see all commercial development parking paved in some fashion. Permeable pavers would be acceptable to him. Ms. Harbottle indicated that additionally all parking spaces need demarcation. Ms. Harbottle indicated she would like to discuss the goals and budget again on December 6.

Planning Board Application Deadlines

Ms. Harbottle indicated that there needs to be a deadline for submission of materials prior to a meeting. Most towns have a deadline to help provide for staff and Board review of material prior to a meeting. The Board determined that it would try seven days prior to a meeting.

Minutes

There were no meeting minutes to approve.

Accounting

Documents

P.O. # 13003066(\$422.10), P.O. #13003065(\$108.54), P.O. # 13003109(\$1,057.50)

Mr. Taylor moved to approve the requisitions of \$422.10 to Community Newspaper Co. for the legal ad for the zoning articles for the Fall Town Meeting, for \$108.54 to Community Newspaper Co. for the legal ad for 33 Garden Road Accessory Dwelling Special Permit and for \$1,057.50 to Beals & Thomas for peer review services for Dreamwold Estates, Coby's Run subdivision. Mr. Vogel seconded the motion. Motion was unanimously approved.

Liaison Reports

Mr. Taylor indicated that MAPC/South Shore Coalition will be having a transportation discussion at 8:30 am on December 5. He indicated he went to the meeting on South Station expansion and expressed concern about frequency of service and weekend service to Scituate.

Old Business

Documents

Background and staff recommendations 11-20-12
Inspection report 2 for Dreamwold Estates from Beals & Thomas
Comment from Lance Van Lenten dated 11/15/12 relating to 305 Country Way
Walnut Tree Hill 11/15/12 Chessia Report

These items were distributed to the Board electronically and not discussed.

Mr. Vogel moved to adjourn the meeting at 10:45 pm. Mr. Taylor seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph
Planning Board Secretary

Richard Taylor, Clerk