

Scituate Planning Board, November 8, 2012

TOWN OF SCITUATE MASSACHUSETTS

SCITUATE PLANNING BOARD

MINUTES

November 8, 2012

Members Present: Mr. William Limbacher, Chairman; Daniel Monger, Vice Chairman; Richard Taylor, Clerk; Eric Mercer, Robert Vogel 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

Mr. 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 taped for airing on the local cable television channel.

Documents

11/8/12 Planning Board Agenda

ACCEPTANCE OF AGENDA: Chairman Limbacher wanted to add a brief discussion on the Water Resource Protection District (WRPD) article under old business. Mr. Vogel moved to accept the amended agenda. Mr. Taylor seconded the motion and the vote was unanimous in favor.

Informal Discussion of Flexible Open Space Subdivision – 305 Country Way

Proposed four lot subdivision on four acres

Assessor's Map/Block/Lot 37-2-2 and 38-8-13-R

Applicant: Douglas Sheerin Engineer: Morse Engineering Co., Inc.

Documents

Email from Jeff Hassett of Morse Engineering Co with Conventional Yield Plan and Flexible Open Space Plan for 305 Country Way draft plans dated 10/29/12.

Doug Sherrin was present along with his engineers Greg Morse and Jeff Hassett. Mr. Morse indicated that the proposal is for a four lot subdivision on six acres. This is a preliminary meeting for a Flexible Open Space Development as required under Section 550 of the Zoning Bylaw. He indicated he would review the site, a conventional yield sketch and the flexible open space plan.

Mr. Morse indicated the wetlands on the site are tributary to the reservoir. The wetlands have been flagged and are being reviewed by the Conservation Commission. There is 200 feet of frontage along Country Way. The front portion of the site is in the R-2 zoning district and the rear is the R-1 zoning district. The 8 ½ acre site slopes from Country Way to the rear. Soil testing has been completed and witnessed by the Board of Health. The percolation tests are good and all the spots tested passed.

Mr. Morse indicated under the flexible open space option 160,000 sq. ft. of land is needed for lot development. In the conventional plan it is 180,000 sq. ft. In the conventional plan, the road is 220 feet long and there are four lots proposed and they all comply with zoning. In the flexible open space plan, the open space is approximately 272,000 sq. ft. with reduced road and right of way width and the road length of 190

feet long. Lot 1 has the existing house remaining although its condition makes it not certain it will remain. There could be four new houses. Access will be through the existing driveway. The flexible plan uses swales providing TSS removal and overflows to a recharge catch basin at the rear of the site. There is an open space buffer along Country Way and the perimeter of the site.

Town Planner, Laura Harbottle indicated that the purpose of the bylaw is to preserve natural and cultural resources. She indicated that the existing house was built in 1710 and the flexible plan option could preserve the house and more open space and is a good choice for this site. Ms. Harbottle inquired if more land could be preserved along the south property line and planted as a buffer as the lot is near the abutting property.

Mr. Taylor asked about preserving the old house. Mr. Morse indicated that it complies with setbacks, but may not be possible due to the condition of the house; however, the septic system can be preserved as it is new. Mr. Taylor asked about a community component for the project, possibly trails or a sidewalk. Mr. Morse indicated they were open to putting a trail through the open space.

Mr. Monger indicated that he would like to see public access preserved at the end of the cul-de-sac or hammerhead. He would like to see an aerial photograph filed to see the back land behind the property. He was glad to see the road and septic systems out of the 100 foot wetlands buffer and wants to see the drainage design well planned.

Mr. Vogel would like to see an aerial as well as he would like to see neighboring houses and their backyards. He thinks it is a good plan and good use of the property. He agreed the existing house is in tough shape. Mr. Morse indicated that a three lot subdivision was approved in 1989 and not constructed. He indicated that there is less impervious area in the flexible plan and less grass area resulting in less fertilizer used. Mr. Vogel indicated that if a common driveway was used for Lots 2 and 3 then there may want to be an island between the drives. Mr. Morse indicated there was not a common drive, but he may look into it to reduce the amount of asphalt needed.

Mr. Pritchard indicated he would like to see more open space at the southeast corner of the development. He also agreed with Mr. Vogel on the side by side drives that an island would be good. He indicated he would like to see driveways removed from the 100 foot wetland buffer.

Mr. Mercer would like the applicant to verify that the hammerhead is suitable for the fire department needs. Mr. Morse indicated he would do that and the hammerhead is very similar to what was approved for Dreamwold. The Board indicated they would like to see mature trees saved along the front and buffers maintained. Chairman Limbacher indicated he would like to see the existing buffer along the southeast maintained not just a 15 foot swath. He agreed with his associates that a common driveway for two of the lots would be better. He also would like sight distance, location of hydrants and the size of the stormwater basin carefully considered.

Mr. Morse indicated the project will be filed with the Board in the near future after the Conservation Commission has approved the wetlands line.

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

Chairman Limbacher opened the public hearing at 8:00 pm. John Townsend of Sandcastle Group was present with his customer, Maria Marcelino. He indicated the proposal is for an accessory dwelling. He has made changes at the suggestion of the Board and neighborhood resulting in an attached accessory dwelling. The size is 746 sq. ft. with a 52 sq. ft. deck. The primary dwelling is 1090 sq. ft. Existing parking will remain on the right. New parking to the left of the accessory dwelling will be 55 feet long by 12 feet wide and hold up to 4 cars. The existing house has 3 bedrooms and 1 bath. The proposed will have 2 bedrooms. Ms. Marcelino will occupy one of the dwellings in accordance with the bylaw. Mr. Townsend indicated that the project has been reviewed by the DPW, Board of Health and Building Commissioner and it meets the criteria of Section 530.1 and 2 and all dimensional setbacks. He believes the amended plan and layout addressed the concerns of the former application which was withdrawn.

He indicated that he sent letters to people at the initial meeting inviting them to his office to see the plans and no one took advantage of his offer.

Town Planner, Laura Harbottle indicated this was a reapplication as the initial application was withdrawn in August due to discussion of how the structure worked with the bylaw. She indicated that some of the bylaw is subjective. The bylaw requires the accessory dwelling be designed so that the appearance of the building remains unchanged as much as feasibly possible. This is attempted with some of the windows being in the same plane as the existing house. She indicated that the accessory dwelling must be subordinate to the primary dwelling. Ms. Harbottle indicated that the Board must use its judgment in determining this. She indicated that the primary and accessory are nearly the same size presenting a challenge. She also said that the Water Department would like the service upgraded.

Mr. Mercer questioned the size of the accessory dwelling and believed it should be incorporated in a more pleasing manner.

Mr. Vogel inquired if there was going to be work on the existing building. Mr. Townsend confirmed that the existing tenants have been notified to find other housing and once the accessory dwelling is complete, Ms. Marcelino will move in there and then renovate the primary dwelling. Mr. Vogel indicated that the front of the accessory dwelling looks stark and larger windows would look better. He inquired about access for both dwellings. Mr. Townsend indicated the primary door for the accessory unit will be in through the living room. The primary door for the primary unit will be the existing front door. Secondary access for both dwellings will be through the connector.

Mr. Monger indicated the accessory dwelling is supposed to be subordinate. He thought it looked like an attached garage and would like to see more landscaping and changes in the connector. He questioned if the accessory portion should not be set back more to make it subordinate and concurred that the size of the accessory dwelling makes it hard to disappear.

Mr. Townsend said that the design change here was to get away from the look of two small cottages on two lots. There is a connection as the Board previously recommended. He said the existing home is small so it creates a challenge with the accessory dwelling bylaw.

Discussion occurred among the Board members about pushing the accessory dwelling back, rotating the connector and making the window in the bathroom the same size as the kitchen and that it is not desirable to have two gable ends facing the street. Mr. Taylor questioned access to a bedroom in the accessory dwelling through the breezeway. Ms. Harbottle reiterated that the bylaw is subjective and the Board needs to decide what that means and if the project meets the bylaw.

Susan Elias of 40 Garden Road believes that the accessory dwelling looks less subordinate and bigger since it has been rotated. She believes they have not met the criteria of the building remaining unchanged as much as feasibly possible as the proposal is a drastic change. She questioned the new exterior stairs at the side, rear and breezeway in front. Ms. Marcelino indicated there are stairs to the mudroom now in the

rear. Ms. Elias indicated that the breezeway is outside the accessory dwelling and the square footage puts it over 750 sq. ft. and she is concerned that it leads to a bedroom.

Chairman Limbacher said the connector can be done as a matter of right and it is not included in the accessory dwelling square footage. Mr. Vogel indicated that two building permits will be required.

Ms. Elias indicated that the width of the new dwelling is wider and it measures bigger and subordinate still troubles her.

Nancy Larkham of 38 Garden Road indicated that she looked through the files in the Planning Office on Accessory Dwellings and then drove around the town viewing them and did not see anything comparable to this proposal. She believes the proposal looks like a duplex with two buildings on two lots and she does not like the addition. On her drive she observed accessory units attached via walls not breezeways and doesn't think the suggestions from August were incorporated in this new proposal. She indicated there are eight double lots on the street that could potentially do the same thing. She is also concerned about traffic.

Barbara McFadden of 35 Garden Road expressed concern that this was still two houses on a lot and last time Mr. Monger said that two houses on a lot was not allowed. She indicated that the neighborhood does not want to see two single family dwellings on one lot. She said she did not see anything like this in any of the approvals that the Board has previously granted.

Jeanne Brouillette of 38 Garden Road brought in pictures of two accessory dwellings at 24 and 25 Fay Road that the Board approved in 2005 and 2006. The pictures show accessory dwellings with shared walls and these better fit into the surrounding neighborhood in her opinion. She indicated that a breezeway pushes the dwelling out where a common wall makes it smaller.

Susan Elias indicated that at the last public hearing the neighbors said they expected the revision to be something more like the Fay Street dwellings with a shared wall. The proposal doesn't look like what the neighbors expected.

Ms. Larkham indicated that there are not as many neighbors here as last time as many houses have no power and the power has gone off two nights in a row. She expressed her concern about Ms. Marcelino actually occupying one of the units. The Board indicated it would be a violation of the Special Permit if she does not occupy one of the units and there could be a zoning enforcement action if the permit is violated. They said the Zoning Enforcement Officer can remove the Certificate of Occupancy if not occupied per the permit. Ms. Larkham indicated she supports a condition like 5 Third Avenue that a yearly certification of living there is required. She indicated she supports the bylaw, but not this application. Ms. Larkham questioned if Ms. Marcelino ever lived at 33 Garden Road.

Ms. Marcelino indicated she lived there five years ago. She moved in with her parents so she could finish her degree. She said she was a divorced single mother trying to make things happen.

Mr. Pritchard asked Ms. Marcelino if she will live there. Ms. Marcelino confirmed that and said she met with Mr. Duggan, the Building Inspector, who indicated she can do an accessory dwelling and renovate the existing home.

Ms. Elias asked if this application fits under the purpose of the bylaw. Mr. Monger indicated that it is easy to fulfill the purpose. The Board confirmed the neighbor's inquiry that the accessory unit, if approved, is recorded on the deed to the property.

Ms. McFadden reiterated her concern that eight other homeowners could add a breezeway and another house to effectively have two houses on one lot. She believes the density of the neighborhood will increase and that Ms. Marcelino intends to rent the units.

Chairman Limbacher indicated that the applicant was previously sent to revise their proposal. He thought he was going to see something more like Fay Road with a common wall not two houses connected by a

non-utilitarian functioning breezeway. He questioned if there could be a common roof structure. Mr. Taylor believes that if the accessory unit is shifted back there could be a common roof alignment. The neighbors believe the unit is too big. Mr. Vogel doesn't think a breezeway is needed.

Mr. Townsend was concerned that that his client is being punished because the accessory dwelling appears too large because of the small lot size. He believes the application is in keeping with the criteria and standards of the bylaw.

Mr. Monger indicated that the accessory dwelling can meet the dimensional requirements of the bylaw, but it still may not be subordinate to the primary dwelling. It is a matter of placement. Chairman Limbacher indicated a common wall would help. Mr. Taylor asked if there was a technical reason why the breezeway couldn't be eliminated and the building pushed back. Mr. Townsend said the breezeway is for access to the basement through the bulkhead as well as a pass through and secondary access to the rear yard. Mr. Mercer indicated it is a small room with four doors. The Board thought that setting back the proposed accessory dwelling, shortening the front elevation of the breezeway and making the roof lines join to the primary dwelling would help the accessory unit be more subordinate. Mr. Vogel indicated that a hip roof on the accessory dwelling would make it more subordinate and decrease the bulk of the building.

The Board thought there was room to make some changes to the design. Chairman Limbacher asked the applicant if he would like to continue the public hearing for an opportunity to make some changes. If the changes are submitted right away the hearing could be continued until November 20 at 8:30 pm at the WPA Building. At this time, it is expected that the applicant will present a redesigned accessory dwelling meeting the above requirements. The Board inquired if the neighbors would support the proposal if changes were made to look more like Fay Road.

Ms. Elias indicated she wanted to see something more like Fay Road. Ms. Larkham asked Mr. Townsend for several confirmations including that there is a full basement to the accessory dwelling, that the existing dwelling will be renovated and that no new letter was sent to the neighbors. Mr. Townsend confirmed this. Ms. Elias asked the Board if they thought the accessory building will be subordinate with the proposed changes. Mr. Vogel confirmed that was the goal as well as the importance of the entire composition looking like one building.

Mr. Monger moved to accept the applicant's request to continue the public hearing until Tuesday, November 20, 2012 at 8:30 pm at the WPA Building on Henry Turner Baily Road. Mr. Vogel seconded the motion. Motion was approved unanimously. The Board thanked everyone for being willing to try to work together.

Endorse Additional Mylar for Registration – 2 Bailey's Island

Endorsed July 26, 2012

Assessor's Map/Block/Lot 4/01/9/0-R

Applicant/Owner: Elinor P. Nichols

Documents

Letter from Attorney Richard Henderson dated 11/2/12 and new mylar of a Plan of Land in the Town of Scituate located at 2 Bailey's Island prepared by Cavanaro Consulting dated July 31, 2012.

Attorney Richard Henderson indicated that the plan is identical in every aspect to the plan endorsed on July 26, 2012 except for land court markers, the addition of the Chapter 91 approved existing dock and some overhead wires have been added. More details for some bounds have been added as requested by the Land Court.

Town Planner, Laura Harbottle indicated there were some changes in the areas of the lots. Planning Board Assistant, Karen Joseph, reviewed the differences in lot areas with the Board. The differences seemed like they were a result of adding geometry to the centerline of the way and are minor.

Mr. Taylor moved to endorse as approval under the Subdivision Control Law Not Required a plan of land in the Town of Scituate, MA located at 2 Bailey's Island prepared by Cavanaro Consulting for applicant Elinor P. Nichols dated July 31, 2012 as the Planning Board endorsed a similar plan on July 26, 2012 (plan date 9/22/11) and this plan is conceptually the same except for the required information for recording in Land Court has been added. This information includes additional drill holes and bounds set resulting in the square footage of Lot 3, Lot 4 and Parcel 5 having minor changes. Mr. Monger seconded the motion. Motion was unanimously approved.

Discussion – Request to release Lot 1 – Dreamwold Estates

Documents

Letter to Laura Harbottle from Jeffrey DeLisi with Permit Extension Act deadline based on recorded June 15, 2009 Certificate of Action to Town Clerk to extend deadlines until August 17, 2011.

October 26, 2006 Covenant recorded at Book 33715, Pages 62-65.

Special Permit – Flexible Open Space Development – Dreamwold Estates recorded at Book 33715, Pages 66-69.

Certificate of Action - Definitive Subdivision Plan – Dreamwold Estates recorded at Book 33715, Pages 70-72.

Dreamwold Estates Flexible Open Space Plan

Letter from Attorney Richard Henderson dated 11/2/12

Richard Henderson and John Tedeschi were present. Mr. Henderson indicated that in the course of title inspection, he realized Mr. Hogan's house is in the subdivision. It is pre-existing with separate access and utilities. Mr. Hogan is selling to Mr. Tedeschi and doesn't want his home to be part of the subdivision now. Mr. Tedeschi has agreed not to interfere with Mr. Hogan's access.

Mr. Tedeschi indicated that he has been working on constructing the road 7 days a week 12 hours a day. The subdivision was a flexible open space subdivision. Mr. Hogan has Lou Gherig's disease and construction will be done to minimize disruption to Mr. Hogan. Mr. Tedeschi said it was such a small project that it was ridiculous to pull a bond when construction could be complete in two months. Town Planner, Laura Harbottle, showed pictures of the construction that she had taken earlier in the day. Mr. Tedeschi reviewed the existing conditions and said he felt that the subdivision is really more of a common driveway.

Ms. Harbottle indicated that this project is on the fast track. Mr. Hogan still owns the property and he gave permission for Mr. Tedeschi to do the work. He will not sell the land to Mr. Tedeschi unless his house is out of the subdivision. Mr. Monger said he did not see an issue as Mr. Hogan has access and utilities off of Dreamwold.

Ms. Harbottle informed the Board that Gerry Preble of Beals & Thomas is the consulting engineer providing inspection services. Mr. Taylor indicated that he was a neighbor of Mr. Tedeschi's, and would recuse himself from the vote if the Board thought a conflict of interest was present. Mr. Monger opined that he did not believe being a neighbor to the developer constitutes a conflict.

Mr. Taylor moved to release Lot 1 from the Dreamwold Estates Covenant dated October 26, 2006 and recorded in the Plymouth County Registry of Deeds in Book 33715 pages 62-65 signed in connection with the Dreamwold Estates Definitive Subdivision approved by the Planning Board on June 23, 2005. Mr. Monger seconded the motion. Motion was unanimously approved.

Letter of support to CPC for scenic road signs

Documents

CPC Application for scenic road signs

Town Planner, Laura Harbottle indicated that she put an application into the CPC for scenic road signs to better demarcate the Town's scenic roads. DPW is willing to provide the hardware and poles for the signs.

The money requested is just for the road signs themselves.

Mr. Taylor moved to support the CPC application for scenic road signs and send a letter of support to the CPC. Mr. Monger seconded the motion. Motion was unanimously approved.

CPC sidewalk discussion Country Way to First Parish Road

Chairman Limbacher indicated that Al Bangert will come and speak on this at the next meeting. He will be bringing a map. He indicated that the Board could support the proposal, but recommends the Board rank the order in which it preferred funds allocated after all the projects are in to the CPC.

Potential recommendation on Mann Lot Road as a scenic road

Mr. Vogel raised the issue of making Mann Lot Road a scenic road as it meets the criteria of being a historic road with its nice stone walls, winding nature and is bordered by some historic sites including a cemetery and the Ellis Estate. Mr. Monger indicated it would give the road protection. Chairman Limbacher indicated it could be an article and he and Mr. Monger inquired if there are additional roads that should be designated at the same time. The Board decided that they should ask the Historical Commission for their input and asked the Chair to send a letter.

Minutes

Mr. Taylor moved to approve the September 27, 2012 and October 11, 2012 meeting minutes. Mr. Monger seconded the motion. Motion was unanimously approved.

Accounting

Documents

P.O. # 13002495(\$36.00), P.O. #13002648(\$440.00), P.O. # 13002839(\$75.00), P.R. # 13003298 (\$193.12)

Mr. Taylor moved to approve the requisitions of \$36.00 to Westongraphics for master plan maps, for \$440.00 to the American Planning Association for 2013 Membership dues, for \$75.00 to the Massachusetts Association of Planning Directors for 2012-2013 annual dues and for \$ \$193.12 to Westongraphics for color copies/copying of the Wind Turbine reports for the Board of Selectmen and mounting of the Watershed Protection District Map for Town Meeting. Mr. Monger seconded the motion. Motion was unanimously approved.

Town Meeting Reports

Documents

Article 11 Town meeting Report

Chairman Limbacher indicated that the WRPD bylaw had language in it that no variances were allowed on the 20% impervious surface. A number of properties would be affected by this change. Many are single family homes. Chairman Limbacher suggested indefinitely postponing the article so that the proposed language could be studied more thoroughly as to its effects on property owners. Grandfathering provisions need to be reviewed. The Board inquired if the Water Withdrawal Permit would be in jeopardy. Town Planner, Laura Harbottle, indicated that the article could wait until spring. Chairman Limbacher indicated that there needs to be time to resolve the issue. The Board agreed as long as the water withdrawal permit is not in jeopardy.

Mr. Monger moved to indefinitely postpone the proposed changes to the Water Resource Protection District and Town of Scituate Zoning Map at the upcoming Special Town Meeting on November 13, 2012. Mr. Vogel seconded the motion. Motion was approved unanimously.

Schedule Economic Development Commission Update

Mr. Monger indicated that the EDC recently met with the Board of Selectmen to discuss the results of their survey. He recommends we have the group in soon. The Board will send them a letter to see if they can come to the December 6, 2012 meeting.

Town Planner Report

Town Planner, Laura Harbottle, indicated that she would like some discussion of the Board's priorities for the Master Plan and Long Range Visioning as budget time for FY 14 is fast approaching. The budget needs to include requests for funding that the Board seeks. The Board discussed putting the update to the Master Plan on a slower track while favoring studies for economic development. Mr. Monger indicated that the EDC study showed that people support development on Route 3A. Mr. Vogel indicated that development would be limited because of wetland and Town owned land. Mr. Pritchard indicated that new revenue is going to be needed for funding facilities under the public facilities master plan. Mr. Vogel suggested that the \$40,000 that the EDC needs could come out of the \$375,000 already approved for the Gates school study as a component of how to pay for the project needs to be considered.

Liaison Reports

Mr. Taylor indicated that he went to the MAPC's South Shore Coalition meeting on Transit oriented development. They talked about ideas for what a Planning Board could do to enhance development around a transportation center and how Planning Board's help create zoning for towns. He indicated that they said Scituate is characterized as a mature developed town. Mr. Taylor indicated that the presenters would be happy to come to the town to do a presentation. He also said that the November 19 MAPC meeting will be about expanding South Station.

Mr. Taylor asked if Mr. Pritchard would like to take over as liaison to the Historical Commission as the South Shore Coalition meetings conflict with the Historical meetings. Mr. Pritchard agreed. The Board discussed trying to have the Historical Commission come to a meeting to talk about scenic roads and other ideas. The Board will send a letter to them.

The Board discussed potentially having a master plan for Community Preservation Committee (CPC) projects. With changes to the CPC regulations, many new recreation projects could be funded. Some type of hierarchy with respect to recreation/historical/affordable housing would be helpful.

Mr. Monger raised the issue that the Board may want to consider zoning for the newly approved medicinal marijuana dispensaries that the recent election approved. He indicated that if the Town does nothing, these dispensaries could go in retail locations. The state will put some key location restrictions in the regulations i.e. not allowed within 1500 feet of a residential district, schools, child care facilities or a business that serves alcohol. This is something that could be regulated similar to Adult Entertainment Districts. Scituate does not have adult entertainment districts in their bylaws.

Mr. Vogel moved to adjourn the meeting at 10:20 pm. Mr. Monger seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph
Planning Board Secretary

Richard Taylor, Clerk