

## **SCITUATE PLANNING BOARD    MINUTES    October 22, 2015**

Members Present: Stephen Pritchard, Chairman; William Limbacher, Vice Chairman; Richard Taylor, Clerk; Robert Vogel and Ann Burbine, Alternate member.

Members Absent: Robert Greene.

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, 600 C J Cushing Highway.

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

### **Documents**

- 10/22/15 Planning Board Agenda

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

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### **Public Hearing – Zoning Article for Special Town Meeting – Microbrewery**

#### **Documents**

- Email from Laura Harbottle to the Board dated 10/ /15 with petitioned article and an overview of the microbrewery project dated 9/22/15

Chairman Pritchard read the public hearing notice for the citizen petitioned article and opened the public hearing. Ross Elder of 21 Sedgewick Drive in Scituate indicated he was interested in amending the bylaw to allow microbreweries so that his son can return to Scituate and open a microbrewery. Mr. Elder indicated his son is a proficient microbrewer out in Seattle. He indicated the small microbrewery would be located in Greenbush and would fit into the diverse environment there.

Mr. Elder indicated three minor changes are necessary for the bylaw. The first is a definition of a microbrewery must be added. The second is adding microbreweries to the list of regulated uses in districts. The third is to allow outdoor seating to be an accessory use as is allowed at restaurants and hotels. He indicated a microbrewery would be subject to a special permit if the bylaw change is passed. Mr. Elder said the Economic Development Commission (EDC), Selectmen and Advisory Committee are supportive of the bylaw change as are the 175 signers of the citizen petition. He indicated that a microbrewery could be a vital unique business with "Scituate's own labels" and offer new jobs, new tax dollars and the ability to attract tourists.

Ms. Harbottle offered that she was at the EDC meeting and agrees they were supportive. She said that at the informal discussion with the Board two weeks ago, odor was expressed as a possible issue. She indicated she spoke to the Plymouth planner about the Mayflower Brewery in Plymouth who indicated there have been no complaints of odor or any other problems associated with that microbrewery.

There was no public comment. Mr. Taylor said he was supportive of the change as it would bring economic development and the proposed use was in a good location. Mr. Limbacher indicated the zoning change makes sense. Mr. Vogel said it would be a great branding opportunity for the Town and was enthusiastic for the change. Ms. Burbine offered her full support for an exciting new venture and feels the proponent has done his homework. Chairman Pritchard expressed his full support and indicated the microbrewery would help put Scituate on the map. He clarified that the proposed zoning change would make the bylaw available to anyone.

Ms. Burbine read the draft Planning Board Report to Town Meeting. Mr. Taylor moved to close the public hearing and vote the Town Meeting report on the proposed zoning article to be delivered at the 2015 Special Town Meeting as written. Mr. Limbacher seconded the motion. Motion was unanimously approved.

### **Accounting**

#### **Documents**

- PO # 1602952 (\$10.00), PO # 1602953 (\$1,505.00)

Mr. Taylor moved to approve the requisition of \$10.00 to RJB Development Corp. for return of unexpended funds from the Planning Board Guarantee Account for 33 Dreamwold Stormwater Permit and \$ 1,505.00 to The Susan A. Phippen Trust for return of unexpended funds from the Planning Board Guarantee Account for 35 Dreamwold Common Driveway Special Permit – Permitting. Ms. Burbine seconded the motion. Motion was unanimously approved.

### **Minutes**

Mr. Taylor moved to approve the meeting minutes of 10/8/15. Mr. Limbacher seconded the motion. Motion was unanimously approved with Ms. Burbine and Mr. Vogel abstaining as they were not present at the meeting.

### **Liaison Reports**

Mr. Taylor said that Chronicle did a nice job on Scituate recently. Chairman Pritchard and Mr. Limbacher agreed. Ms. Harbottle said the EDC is interested in taking the footage and the article from the boating magazine to the boat show in February.

### **Town Planner Report**

Ms. Harbottle indicated that she is working on the Hazard Mitigation Plan which is a foundation for all FEMA grants and also a Climate Action Plan with Duxbury. She indicated that the MA Cultural Council is poised to give Scituate Harbor a district designation and the EDC is working on wayfinding signs and hopes to make a presentation to the Selectmen in the next month. She said the Design Review Committee is interested in signage too. Mr. Taylor noted that some of the road signs have changed. Ms. Harbottle said DPW is coordinating that so all signs will conform to Federal Highway Standards. Ms. Harbottle asked the Board about their second meeting in December. The Board said they preferred to meet on December 17 instead of December 22.

### **Discussion - Stormwater Bylaw**

**Documents**

- Email from Laura Harbottle to the Board dated 10/5 /15
- Letter from Grady Consulting dated 10/21/15 and notes from Greg Tansey on Stormwater Bylaw issues

Chairman Pritchard thanked the audience on input for both the Stormwater Bylaw and Regulations. He said sometimes items look good on paper, but in all practicality don't work as intended. He said the bylaw and regulations were developed by a number of stakeholders and the input tonight will be taken as a first step to improve the bylaw and regulations.

Steve Bjorklund indicated he has worked in Scituate for 30 years doing subdivisions and reconstructions. He said he is now doing single family development and hired Ross Engineering to do a Stormwater Permit for a half acre lot. He said it is virtually impossible to meet the bylaw due to the size of the lot. He indicated all of the trees would need to be cleared to raise the site by three to four feet to be above groundwater and to create stormwater facilities to meet the regulations. He said he wouldn't be able to sell a house and is interested in trying to find regulations that are going to work better for owners, developers and engineers. He said some lot owners are spending \$50,000 to meet the bylaw and that is an unfair burden on an individual lot owner. He indicated that the Conservation Commission issues some of the permits and others are issued by the Planning Board or Town Planner so he is not sure how many have been issued in the seven years since the bylaw has been enacted. Mr. Bjorklund said that Cohasset has reworked their bylaw which was passed around the same time as Scituate's. He said Ms. Harbottle, Mr. Gallivan, Greg Morse, Greg Tansey and he have met to discuss how to change the bylaw in a timely manner so there is something for the spring 2016 Town Meeting that the Planning Board could sponsor.

Mr. Bjorklund said they will push for changes that will be fair to developers, homeowners and also so that people are not flooded out. He said he was aware that some of the bylaw interacts with the CRS Program and he believes changes can be made that won't effect that. He indicated some single family projects are permitted that can't meet the conditions put on them, but no one has time to check them all out. Mr. Bjorklund said that three engineers who do work in Scituate gave him feedback and all three had very similar ideas where the problems lie. He said he had no problem with the Town's consulting engineers looking at the information and believes there is room for a workable bylaw. He said addressing the 100 year storm on site is onerous. He said one lot on First Parish will need 156 infiltrators which is excessive. He said larger lots have more room to disperse the water where half acre lots require all the trees to be cut in order to have room for stormwater measures. He said abutters will like corrections to the bylaw.

Ms. Harbottle said the bylaw was developed to help protect the surface waters and the drinking water supply for Scituate. She said stormwater impacts surface and groundwater and infiltration allows the groundwater to be recharged. She indicated the bylaw helps prevent flooding and controls contamination of drinking water and was written by the regional planning agency for Cohasset, Marshfield and Scituate and supported by the North and South River Watershed Association. She said the Planning Office use to get calls weekly on flooding complaints. Ms. Harbottle indicated that Scituate soils are tight, groundwater is high and there is potential for stomwater impacts to adjacent lots from developing lots. She indicated there is a cost associated with development and a cost associated with peer review engineers to review new development. She indicated the Town's consulting engineers have offered some of their time to help develop a solution that is fair for all parties and protects the Town's resources. She said they think the 100 year storm is a problem too. She said anyone who reviews development can be part of the solution including

the DPW and Building Department. Ms. Harbottle said that many Towns in Massachusetts have stormwater bylaws with Belmont's being very similar to Scituate.

Pat Gallivan, Scituate Conservation Agent and Natural Resource Officer, said he was glad the bylaw was in place and is looking forward to improving the bylaw without gutting the whole thing. He said he has seen the bylaw work well for some lots in Scituate. Town Administrator Patricia Vinchesi said the bylaw needs to be reviewed to see what is working and what needs improvement. She said this needs to be done with reasonable impacts to developers, with respect to development offices and those who protect groundwater and the Water Resource Protection District.

Greg Tansey from Ross Engineering said he has been a professional engineer since 1993 and has been performing runoff analysis and engineering since the 1980's. He said the bylaw incorporates DEP Stormwater Management standards which were meant for subdivisions. He said meeting the volume for a 100 year storm from pre to post conditions is onerous. He said a 20,000 sq. ft. lot cannot support the necessary infrastructure. Mr. Tansey said that in order to have recharge pretreatment is necessary. He said that requires a 50 foot buffer strip which on a residential lot may not be feasible. He said that recharge devices require a four foot separation to seasonal high groundwater (shgw) when much of the depth to shgw in Scituate is two to three feet. He said the bottom of an infiltration device has to be raised four to five feet resulting in a very expensive system.

Chairman Pritchard asked what the alternate solution is. Mr. Tansey said there is no need for the 100 year storm for volume in the bylaw. He said pre and post conditions for volume of runoff should be eliminated. He said there should be language for the design parameters with uniform standards for soil. He said TR 55 has worked well and it is fair. Mr. Tansey said that different review engineers use different criteria resulting in cost differentials of \$2,000 to \$9,500 for a stormwater design. Mark Winchester added that his design bill was \$13,000 with \$2,000 for peer review for 265 Beaver Dam Road. Mr. Tansey said that the permit for a Form A lot can cost \$1,000 to \$7,500 and that was not the intent of the bylaw. He said mitigating for the 100 year storm has no environmental value as it will not protect an aquifer. He said that DEP uses ½ inch or one inch of runoff multiplied by the impervious area for recharge and that standard applies to all storms. He said most runoff is clean and with the larger storms the runoff is more dilute. He said the smaller storms cause more pollution and thinks that language can be added that will guide engineers.

Chairman Pritchard said that single family homes are the issue. Mr. Tansey said that small commercial projects could have slightly more rigorous standards and projects in Zone 2 or Outstanding Resource Waters could go back to the DEP standards. He said the changes could give everybody the opportunity to protect the Town and not "break the bank". He suggested the USGS standards for infiltration rates have been used for 30 years and should be used. Mr. Bjorklund said that his project on Beaver Dam Road has soil issues with a lens of bad material. He said they did percolation tests in the C layer and the consultant disagreed with the soil classification. He said the soils in the pits were different than in the books and believes that rates of infiltration should be clarified for definitive criteria. He said when a professional engineer puts their stamp on a report it means it should work. Mr. Bjorklund said there is a difference between perc rate versus permeability studies and groundwater mounding studies are not needed for single family lots.

Paul Mirabito commented that he understands the purpose of the stormwater bylaw, but it is not needed as the design engineer can go to five or six other places to find design criteria for a storm and the same is true today. He said there is case law that a design cannot have an adverse impact to an abutting property. He said every site is different and it is desirable to do a perc for the soils onsite.

He said the cost of stormwater permitting raises the antennae of his clients as most have never heard of it. Mr. Mirabito said roof and driveway runoff from a single family lot is generally clean. He said when the groundwater separation requirement needs to be met, mounds are introduced which are expensive. He said changes can be accomplished that are good for the environment and taxpayer. He said drainage design is subjective and the design engineer puts their engineering stamp on the design so they are liable if there is a problem. Mark Winchester reaffirmed that there are unintended design consequences of the bylaw resulting in whole lots needing to be cleared to contain the 100 year storm. Bob Burwick indicated he would like to see the consulting peer review end as the professional engineer should be competent to design the stormwater plan without the additional expense and various interpretations.

Mr. Taylor asked if the next step is for the Town's peer review engineers to review the material to help the Board understand the issues. Ms. Harbottle said that she would distribute the letters received around Town Hall and to the consulting engineers and start going through the bylaw section by section and bringing it back to the Board. Chairman Pritchard said he wants a cross section of stakeholders in the room to participate as well as hearing from the Water Resource Committee and the Town Managers. He said he also wants to know what DEP has to say so that changes can be focused. Mr. Taylor said the Board is experienced with subdivisions but not single family lots as most go to the Town Planner for Administrative Review. He said he is in favor of review with a balance for the Town, environment and homeowner. Mr. Limbacher said that the Board took stormwater information from the state and used it on small properties without a lot of experience. He agrees that more stakeholders than the engineer, Board and property owner need to be involved for meaningful change. Mr. Vogel said that as town sewer spreads, fewer lots are precluded from development due to separation to groundwater and soil permeability. He said it may be that some land is undesirable and unfeasible to develop unless it works. He said there is room for improvement and gives peer review credibility. He said crafting new language is a group effort involving developers, engineers, Conservation members, the North and South River Watershed Association, the Town Planner and the Building Department, but it should be based on solid engineering principles. Ms. Burbine offered that she thinks the bylaw should be less onerous and the 100 year storm should be eliminated and lot size for applicability changed to 40,000 sq. ft. She said the bylaw is almost unenforceable. Mr. Vogel said that the bylaw needs to minimize damage to abutting lots as larger homes are being constructed on small lots. Ms. Burbine offered that the Board has previously talked about size of structures on a lot, but that went nowhere.

Chairman Pritchard said a balance needs to be struck and neighbors may not see compliance with the bylaw as a burden. He said surface waters need to be protected, but the 100 year storm may be too much. He said he appreciated the problems being brought to the Board and wants to see what other Towns in the state are doing for a single family house and best management practices. Mr. Bjorklund said that a watershed masterplan which is part of the CRS regulations would put the burden of stormwater on everybody in Scituate not just new development. He said that erosion and sedimentation controls need to meet NPDES standards and water quality regulations. He said he would like the Board to read the CRS Manual as it highlights what development is in the program and point values assigned to it. He said a half acre of disturbance with 5,000 sq. ft. of impervious is reasonable and wouldn't change the CRS rating much. Mr. Bjorklund said he wanted to be part of the stakeholder group. Chairman Pritchard said the discussion has reached its conclusion tonight and Ms. Harbottle will put together a draft group with key questions and get it to the Board. Mr. Vogel asked what changes Cohasset made and if they are working. Mr. Tansey said that the plans are reviewed in house taking away any subjectivity. Chairman Pritchard asked if they took out the 100 year storm and pretreatment. Mr. Tansey indicated they did not. Mr. Taylor asked if a list of

properties can be provided with the cost of structures installed added. Ms. Harbottle said she could provide a couple and conservation could provide feedback on the ones that worked well. Mr. Gallivan commented that procedurally, there are items that can be corrected. Chairman Pritchard said that may be a couple of items can be prioritized to handle 90% of the problem if the goal is to have something for the spring town meeting. Mr. Bjorklund agreed and says he doesn't have a problem with a fee being added for the permit. Ms. Harbottle said she wants to hear from the Town's consulting engineers as they find items on every review that need to change. She said the Town needs to be protected and the peer review helps with that. Mr. Limbacher said that engineering peer review results in better projects and he offered to participate on behalf of the Board in the stakeholder group.

### **Old Business and New Business**

#### **Documents**

- Email to Board dated 10/20/15 from Laura Harbottle with draft Planning Board report on Microbreweries and Stormwater Bylaw concerns

These items were distributed to the Board electronically.

Mr. Vogel moved to adjourn the meeting at 9:25 p.m. Ms. Burbine seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph  
Planning Board Secretary

Richard Taylor, Clerk  
11-12-15  
Date Approved