

SCITUATE PLANNING BOARD MINUTES October 13, 2022

Members Present: Patricia Lambert, Chair; Benjamin Bornstein, Vice Chair; Ann Burbine, Clerk; Stephen Pritchard, Rebecca Lewis and Bob MacLean, Alternate

Others Present: Karen Joseph, Town Planner; Shari Young, Administrative Assistant

Members absent:

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

Location of meeting: Select Board Hearing Room, Town Hall, 600 C J Cushing Highway, Scituate.

Chair Lambert called the meeting to order at 6:30 P.M. The meeting was being recorded for airing on local cable television. Mr. Pritchard was remote for the meeting.

Documents

- 10/13/22 Planning Board Amended Agenda

ACCEPTANCE OF AGENDA: Chair Lambert indicated there was a posted agenda. Ms. Burbine seconded the motion for the posted agenda and the vote was unanimously in favor.

A roll call vote was taken, and unanimously in favor.

Ms. Lambert – yes
Mr. Bornstein – yes
Ms. Burbine - yes
Ms. Lewis – yes
Mr. Pritchard – yes
Mr. MacLean - yes

Continued - Public Hearing – Site Plan Administrative Review and Special Permit for A Multi-family Building in the Village Center and Neighborhood District Greenbush Gateway District - Greenbush Gateway Business Subdistrict (VCN-GDG- GWB) and Stormwater Permit – 7 New Driftway
Assessor's Map/Block/Lot 53-05-37F
Owner: Joan Auciello, Tr of Shepard Way Realty Trust
Applicant: Drift-way LLC

Documents

- PDF 7 New Driftway 4th Traffic Review 09.21.22
- PDF 22-150 Landscape Plan – R2022-09-15
- PDF 218-153 Site Plan R5
- PDF 2022-08-31 revised architectural plans 7 New Driftway 18-37
- PDF 2022-09-26 water adequacy for 7 New Driftway 18-37
- PDF ECR-Ch91 Tidelands Memo 8-30-22
- PDF 218-153 Main 15-amentiy calc

- PDF Letter to Joseph - 7 New Driftway 092922
- PDF DRAFT Motion 7 New Driftway VCN 5
- Email dated 9.23.22 with Fire Department Comments
- Email dated 9.29.22 to Karen Joseph
- Doc Development Agreement
- Doc DRAFT Motion 7 New Driftway VCN 5
- Doc Planning Filing Letter
- Email dated 9.19.22 with Fire Department comment
- Doc REV 5
- Doc DRAFT Motion Continuance
- Doc Summary of Issues 10-13-22
- Doc 10-13-22 PB issues
- Doc on Flood Panels handout at meeting

Attendees: Frank Polak, Developer; Walter Sullivan; Attorney; Eric Schoumaker, Engineer; Philippe Thibault; Architect; John Chessia, Town's Consulting Engineer

Mr. Sullivan introduced the team with him and indicated they have received a DRAFT decision and have been working on a Development Agreement with CIL and Town Counsel. There were some last-minute changes to the agreement today, but it should be executed in the next day or so. He said there are four waivers to discuss and the project team is here for any questions.

Mr. Chessia reviewed his final report; there are a few things he has recommended be conditioned, but there are several items the Board needs to opine on.

- Applicant needs special permits under Sections 460 and 470 by the Zoning Board
 - Saltmarsh and Tideland District
 - Flood Plain Watershed District
- Level spreaders and outlets have been modified to provide more protection and dissipation to the top of the bank of the brook
- Recommends soil testing at the location of pervious pavers
- Recommends condition for final building plans to include calculation and sizing of gutters and downspouts
- Recommends condition relative to contact party for construction; Contractor has not yet been selected
- Recommends condition that when the rain garden is flooded it is replaced; it is a growing media and saltwater will get trapped

Additional items that the Board needs to opine on;

- Work in the Water Resource Protection District; Board has been discussed several times, but need to make a final vote and finding
- Handicapped space in the front requires a special permit; the Board should review the landscape plan for screening etc.
- Traffic was deferred to Vanasse & Associates issues with the garage appear to have been satisfied.
 - Loading zone has been modified to have more room
- Board needs to review Low Impact Design Standards
- Board needs to review the amenity space
- All required street trees have been provided in most recent plan

- Determinations needed on what is required relative to the TSS removal
 - Mr. Chessia opines it is okay to have a rain garden in shellfish area even though DEP says it is not really what should be done
 - Not a lot of options and it is better than what is there now

Ms. Joseph also provided a summary.

- Finding in the DRAFT Decision regarding the Saltmarsh and Flood Plain that all permits be obtained prior to construction.
- Ms. Joseph has incorporated all Mr. Chessia's recommendations regarding stormwater in the DRAFT Decision.
- Vanasse has opined all parking requirements have been met and everything is satisfied
- Flood Flow Panels – not shown on the architecturals and site plans
 - Mr. Thibault provided a handout to the Board
 - Intention is to install Storm Vent in the place holder areas on the civil plans
 - Four 16"x 8" vents will hang together, two-over-two to create a 16" x 16" area. Five will be installed across the 100' back of the foundation to provide an even flow of water in/out
 - Located 1' above grade
 - Essentially a washout panel
 - Water can flow in/out of the panels
 - At their highest point they will be 2' above the garage floor
 - Maximum amount of flooding in the garage would be 2'
 - Garage door is at elevation 11 and these would be placed at elevation 13 in the foundation.
 - The Panels meet the regulations of FEMA and Stormwater Requirements
 - The garage door will also have panels to match the door and foundation
 - There is no pump system planned in the garage for flooding
 - In a flood situation after the water recedes down below the grade of the building it will then be a matter of cleaning it up.
 - The threshold of the garage is the lowest point
 - Ms. Joseph suggested a condition be added that prior to endorsement the flood flow panels be added to the architectural and site plans the and the O&M be revised to indicated how the garage will be cleaned out.
- Redevelopment, Recharge, TSS Removal
 - Majority of the members agreed that the project is a redevelopment and does not need 100% recharge
 - Some recharge has been done at the level spreaders and the rain garden as well as some TSS removal
 - Finding of Fact states this is a redevelopment project and the applicant has tried to maximize recharge in the Zone A as much as feasible
 - There is less impervious surface which in itself promotes recharge

- Pervious pavers at the patio which also promotes recharge
 - Level spreaders also promote small amount of recharge
 - Mr. Chessia opined they have done what they can
 - The Board agreed
- Public Amenity Space
 - 20% is required
 - Plan provided to show there is 20.9%
 - Does the Board want to condition benches for the patio
 - The patio is 20'x 20', 400 sq. ft.
 - The applicant said there cannot be permanent structures
 - The Board would like to see something
 - Ms. Joseph indicated that during COVID it became apparent that benches should have been provided at 50 Country Way and eventually they were put in
- Waivers
 - 4 Waivers are requested
 - Relief from Section 520.6 #34 and #35 is not in the jurisdiction of the Planning Board; Applicant needs to go to the ZBA
 - Applicant expects to file next week
 - 750.5 A.3b. – building setback and stepback standard
 - Building is 39'11.5" within 25'- 50' of the front property line where 35' is allowed; the front face of the building exceeds the requirement
 - Mr. Thibault explained the 2 front pediments are on the same plane as the front walls so they natural extend higher, the roofs are triangulated
 - The slope roofs meet the requirement further back
 - DRC did not see as detrimental and were in favor of a waiver
 - Mr. Bornstein asked why it could not be made to meet the requirement
 - Mr. Thibault said it could be done, but would take away some of the architectural detail of the building; it was thought it would be more beneficial to have the façade of the building with the detail.

Motion:

Ms. Burbine moved the Board approve the waiver for Section 750.5.A.3.B with the building setback/stepback.

Mr. Prichard seconded the motion; a roll call vote was taken, and was unanimously in favor.

Ms. Lambert – yes
Mr. Bornstein – yes
Ms. Burbine - yes
Ms. Lewis – yes
Mr. Pritchard – yes
Mr. MacLean - yes

- 750.8.D.1 – No parking in the front built-to-zone shall be located at a minimum of 5’ from the front façade of the building.
 - One handicapped parking space is located in the front yard; handicapped spaces are supposed to be the closest spaces. There is also a handicapped space in the garage.
 - The Board previously opined this was acceptable

Motion:

Ms. Burbine moved the Board approve the waiver for Section 750.8.D.1 for no parking to be in the front-built-to zone and to allow handicapped parking to be in the front.

Mrs. Lewis seconded the motion; a roll call vote was taken, and was unanimously in favor.

Ms. Lambert – yes
Mr. Bornstein – yes
Ms. Burbine - yes
Ms. Lewis – yes
Mr. Pritchard – yes
Mr. MacLean - yes

- 750.8.D.2 – Street screen be required where private parking is visible from a public street or sidewalk including
 - The handicapped space in the front does not have any screening; there is screening where the main parking is.
 - Mr. Bornstein opined there does not need to be a formal screen, but there could be some level to extend the planting bed or soften the parking space so it is not just lawn up to the parking space. Mr. Bornstein referenced the rendering showing a similar approach along the concrete ramp. He would suggest modifying the bed to be continuous along the walkway and the handicapped space to soften the area.
 - Ms. Joseph will add it to the conditions

Motion:

Ms. Burbine moved the Board approve the waiver for Section 750.8.D.2 for street screening to a public street or sidewalk for the handicapped spot with additional planting required.

Mr. Bornstein seconded the motion; a roll call vote was taken, and was unanimously in favor.

Ms. Lambert – yes
Mr. Bornstein – yes
Ms. Burbine - yes
Ms. Lewis – yes
Mr. Pritchard – yes
Mr. MacLean - yes

- 751.3 – the treatment of front yards for the front yard to include 35% impervious surfaces where 25% is allowed due to the handicapped accessible walkway and parking space.
 - Ramp is lengthy to meet ADA requirements and some parking in the front yard

Motion:

Ms. Burbine moved the Board approve the waiver for Section 751.3 for front yards.

Ms. Lewis seconded the motion; a roll call vote was taken, and was unanimously in favor.

Ms. Lambert – yes
Mr. Bornstein – yes
Ms. Burbine - yes
Ms. Lewis – yes
Mr. Pritchard – yes
Mr. MacLean - yes

Ms. Joseph discussed the density bonus and traffic mitigation; \$70,000 has been conditioned for the density bonus for pier maintenance at Driftway Conservation Park which is identified in the 2018 Open Space and Recreation Plan. She indicated the applicant has proposed to gift \$60,000 in a letter to the Board; several Board members expressed they would like \$70,000.

Ms. Lambert said she came up with the \$70,000 based on \$17,500/unit; this is the gateway. She said it maybe a little high, but not as high as what was originally asked for \$100,000. There is an additional \$10,000 for traffic mitigation. She opined it is fair.

Mr. Pritchard asked what the cost would be to have the pier fixed. Ms. Joseph indicated a cost estimate has not yet been done; it is unknown how much of the repair the \$70K would cover. Ms. Joseph said it depends on the status of the supports; it is believed that this money and some additional monies that are coming in would be capable of covering the cost for replacement of the planking. Construction documents have not been done yet. Ms. Joseph said the Board has an opinion from Town Counsel that money can go toward an identified use. Mr. Pritchard said if this gets a repair project done it is fine with him; otherwise the he fears the money would just sit there.

Ms. Joseph said the issue has been discussed with the Conservation Commission and it really needs to be done, there is potential the pier will have to be closed because it is a hazard.

Ms. Burbine said there may be other options down the road for additional money; it is considered to be recreation and this would be a good start toward rehabilitating an important recreational aspect of the Town. She said while \$70K may not be completely sufficient there are other avenues for the Town to pursue for additional funding.

Mr. Bornstein opined it is fair; the Board does not have a standard for determining contributions. Ms. Lambert said it is \$17.5K/unit. Ms. Joseph said there are four units for the density bonus not counting the affordable units. Ms. Lambert opined it is a good deal, because in reality there are 9 units.

The Board agreed with proposed \$70K for density bonus.

Ms. Joseph discussed the affordability aspect of the project; progress has been made. A meeting was held with all parties involved in the Development Agreement, Attorney Sullivan, Mr. Polak, CIL Attorney, Town Counsel, Steve Irish Chair of AHT, Ms. Joseph, Ms. Lambert and Ms. Young. Town Counsel has opined there should be a signed Development Agreement prior to doing a vote. Next week the Affordable Housing Trust is meeting and the hope is a vote will be taken for the Development Agreement and to sell the land and documents would be signed. Ms. Joseph proposed in two weeks' time, the next Planning Board meeting the Findings of Fact and Conditions would be reviewed for the 7 New Driftway Project.

Ms. Burbine said this is something new and this is not setting a precedent. She asked if these units will appear on the affordable list since it is confidential.

Ms. Joseph explained a Group Home is eligible for inclusion on the Subsidized Housing inventory, the Town will not know that aspect. Some form of an agreement is being looked at so the Applicant or CIL can provide the Board with draft papers for proof of submission to the State. She said it also has to be licensed by the appropriate entity, DDS or DMR, it is unknown which one at this time. She said something will be included either in the Development Agreement or the conditions. She explained that the Subsidized Housing list currently has 18 units of DDS Group Home and the location is confidential; Town Counsel feels that by having the licensing and some modifications in the conditions all is moving along appropriately.

Mr. Pritchard asked if the Board will know that the land transfer has happened within the next two weeks. Ms. Joseph explained there will be a signed Development Agreement and the sale of the land is proposed to happen after the approval by the Planning Board and the after the appeal period.

Mr. Sullivan agreed that is how it will happen and the security for the town is no Occupancy permit can be issued for the Driftway property until there is an Occupancy permit for the other property and until it has been accepted by the State to be included on the Town's SHI.

No public comment.

Ms. Joseph said a DRAFT decision has been circulated if there are any comments please submit them individually to be incorporated for the next meeting.

Motion:

Ms. Burbine moved to accept the applicants request to continue the public hearing for Site Plan Administrative Review and Special Permit for a Multi-family Building in the Village Center and Neighborhood District – Greenbush Gateway District -Greenbush Gateway Business Subdistrict (VCN-GDG-GWB) until October 27,2022 at 6:30 pm and to continue the time for action for filing with the Town Clerk until November 30, 2022.

Mr. Bornstein seconded the motion; a roll call vote was taken, and unanimously in favor.

Ms. Lambert – yes

Mr. Bornstein – yes

Ms. Burbine - yes
Ms. Lewis – yes
Mr. Pritchard – yes

Minutes
Documents

- Meeting Minutes 9.22.22

Ms. Burbine moves to approve the meeting minutes for September 22, 2022.

Mr. Bornstein seconded the motion; the roll call vote was taken and was unanimously in favor. Mr. Pritchard did not vote, he was not present at the meeting.

Ms. Lambert – yes
Mr. Bornstein – yes
Ms. Burbine - yes
Ms. Lewis – yes

Accounting
Documents

PO #2313246 (\$77.82), PO #2313129 (\$2,362.20), PO #2313130 (\$877.50), PO #2313128 (\$135.00), PO #2312930 (\$350.00)

Ms. Burbine moved to approve the requisition of \$77.82 to WB Mason for office supplies, for \$2,362.20 to Chessia Consulting for peer review services for 61 New Driftway, for \$877.50 to Chessia Consulting for peer review services for 7 New Driftway, for \$135.00 to Chessia Consulting for peer review services for 3 Poplar Ave., for \$350.00 to Merrill Corp for peer review services for 20 Mann Hill Road

Mr. Bornstein seconded the motion; the roll call vote was taken and was unanimously in favor.

Ms. Lambert – yes
Mr. Bornstein – yes
Ms. Burbine - yes
Ms. Lewis – yes
Mr. Pritchard – yes

Liaison Reports:

Conservation Commission – reported by Ms. Lambert:

- 20 Mann Hill – issued Order of Conditions
- Toll Brothers looking for bond reduction for \$90,000 for the Wetlands Replication
 - Site is still very dirty
 - Replication is okay, but the Chair had questions about the vernal pool
 - No vote was taken

ZBA – reported by Ms. Lambert:

- Meeting for Old Oaken Bucket continued to 11.1.22
- No new plans have been submitted

CPC – reported by Ms. Burbine:

- 12 New applications have come in for next round of funding
- Discussion over CPC presenting at Special Town Meeting
 - One member of the Select Board does not feel CPC should be at that meeting and should only be addressed at Annual Town Meeting
 - Another Select Board member pointed out the process for reviewing applications takes so long, that splitting them up is the best practice and will continue

TRRC – reported by Ms. Burbine:

- Discussion if Mordecai Lincoln should become One-Way
- Booth Hill Road resident request for 25-mile speed limit

Ms. Lambert reminded the Board members to please be attentive and stay informed with the committees, etc. that you are a liaison too, there is a lot happening in Town that the Board does not want be unaware of.

Discussion/Vote – Curtis Estates – Stormwater/Impervious Surface – Lot 8, 15 Carriage House - Harry Banks

Documents

- Email date 9.30.22 from Harry Banks
- Jpeg Banks Landscape

Attendees: Harry Banks, Homeowner; CJ McCarthy, Landscaper

Ms. Joseph indicated that Mr. Banks installed a patio in his backyard at Lot #8, 15 Carriage House at Curtis Estates, there has been a lot of correspondence between them and she opined it would be better to have Mr. Banks come and explain what he did and where he wants to go and what input the Board wants.

Mr. Banks explained a patio was added to his backyard, 532 sq. ft; they are aware there are permeability concerns in the neighborhood and discussed with the Builder the best way to go about this and make sure there is good water flow so their house is not negatively impacted and the neighborhood works as it is supposed to. He said the patio was designed with crushed stone underneath the patio and approximately 10” of height of the crushed stone and a 1” base layer of sand. He said they tried to make it as permeable as possible; they did other things to negate the patio by putting both gutter drains underground, approximately 1,200 sq. ft. of the back of the house on both sides of the rear of the house and the bulk of the roof. He says they have added a net of 700 sq. ft. of additional permeable layer; the gutters are going into drywells that will be 150 cubic feet which they calculated to being the required allowance to properly drain the roof runoff. He said they also added crushed stone behind the house because the basement did flood. He said they have been dealing with water issues in house since moving in and also landscape issues. He referenced a previous meeting where a pool and landscape issues, i.e. no one has grass, were discussed and that there is some danger to kids in the development. He said they believe they have added 700 sq. ft. of

additional permeable surface through the gutters and feels there is precedent through this meeting; he said this is not a pool it is a patio so there are different thresholds.

Mr. Banks discussed the proposed landscaping for the property, they are near the big basin in the back and they want to separate themselves from the basin. He said there is a very steep pitch from his backyard to the basin area and they want to raise the backyard and add trees along the back side and along the side of the house near the dedicated easement. He said the bushes will go to the left side if looking at the house from the backyard, they are for added privacy from the road. He said the ground needs to be raised. They intend to place approximately 2' tall landscape boulders on the back so they can raise the ground appropriately.

Mr. McCarthy, landscaper, said in situations like this whether it is permeability or extra drainage they use "landscape boulders" approximately 18" to 2' tall, it is not a formal mortared wall where water cannot run through, it is dry stack and will not be locking water in. He said they are irregular pieces of rock, water will seep right through it. He said they do it for aesthetics, but there are areas in town when they have been used for the purpose to allow water to flow.

Ms. Lewis asked for some further clarification. Mr. McCarthy said they are "landscape boulders" that are machine set 2'tall and 18" wide single stacked next to each other; they are trying to bring the yard up 18" to 2' and something is needed to retain the dirt from flowing into the basin. He said it will not be a massive wall in the yard, it is in the dirt.

Ms. Burbine asked if there could be interlocking bricks put up. Mr. McCarthy said he would not recommend something like that, first for aesthetics and they are trying to avoid putting up a block retaining wall in the backyard; he opined that would be less effective. He explained the area would be trenched out, crush stone would be put down and single stack the rocks so that water flows and then trees would be placed in front of it. He said they are doing it to help raise up the yard and level it off. There would be plantings alongside the inside of the wall they don't just want grass.

Ms. Joseph said the property line is at the basin, the side slope of the basin is there and the basin side slopes have not been maintained at all. Anything that happens on Mr. Banks property cannot undermine the pitch of the drainage basin.

Mr. Pritchard said there cannot be any kind of concentrated flows that come out and erode the slopes; that might be the biggest issue.

Mr. Bornstein opined as a landscape professional the boulder wall and impervious surface is immaterial, he would be more cognizant of the cross pitch; it will need to be determined how to feather the grade in to the side of the property. He worries about how water is going to move and channelize particularly on unstabilized top soil or fill. He asked if there is any indication how that water is going to move.

Mr. McCarthy said vertically the pitch will be kept down or be slightly less, but horizontally the pitch should not change. It will be level to what is there right now.

There was discussion about the slope and what the drop would be once the wall is up; the drop would be 2' to 18" and that is why the interior is being lined with plants, trees, etc. Mr. Banks said right now it drops right into the basin and is very dangerous.

Ms. Joseph said she is concerned because she does not know how much earth is coming in; she noted that landscaping for a single-family home that involves the addition or removal of fewer than 100 cubic feet of soil material or alteration of less than 2' of elevation with maintenance of existing drainage characteristics is exempt from a stormwater permit, but she does not know if that is the case. The Board needs to know that information. She said she is concerned about how many cubic yards are being brought in and it can't be more than 2' in height.

Mr. Banks agreed that it will be less than 2'. Mr. McCarthy said a ballpark is 50-60 cubic yards.

Ms. Lambert commented that it is not a very large back yard.

Ms. Burbine opined Mr. Banks is doing the best he can with a very difficult situation; she applauds them for coming in and talking to the Board and is willing to work with Board. She said she does not have a problem with what Mr. Banks wants to do; it does not require a Stormwater Permit and they are keeping the Board informed and the Board has the right to come and take a look at it once it is complete.

Ms. Joseph said she would like some kind of proof of cubic yards and less than 2' because there are multiple other instances where patios have been put in and everyone needs to be held to the same standard. She agreed that Mr. Banks is trying to do a good job and is being very up front. She said it is more than two people who have put in patios, it is more like three or four and the Board will be doing this again and again. She wants everyone to be on the same wavelength. She said she does not believe that Mr. Banks will be altering drainage characteristics.

Ms. Lambert said the Board would like Mr. Banks to bring in proof of what is being brought in to the site.

There was discussion about a pine tree that was to be planted; Mr. Banks approved of where the pine has been placed near his yard.

The Board said Mr. Banks was okay to proceed, but it can not go over 2' in elevation and information needs to be supplied about how many cubic yards are being brought in.

The Board appreciates both Mr. Banks and Mr. Fagone coming in to discuss their plans.

Mr. Bornstein said the Board does not want to be doing this, they have not interest in landscaping a single-family home; this goes back to how the development was presented by Attorney's, etc.

Ms. Joseph indicated the O&M has been recorded and she was told it has been provided to everyone.

Planning and Development – reported by Ms. Joseph:

- Board has been provided meeting schedule for 2023
- 6 MacDonald Terrace is under construction
 - A riprap slope was put in where there was supposed to be a graded slope
 - Ms. Joseph questions the Board if they see this as a modification; the Board also sees it as a modification
 - Ms. Joseph will inform the developer the Board needs to review a modification

- 48-52 New Driftway – Gas Station
 - Temporary CO given today
 - Stripping in Driftway has been done
 - As-builts provided
 - Somethings are not in yet - bike racks, benches, electric vehicle charging station, but everything that effects health, safety and welfare is in
 - Given until May 15, 2023 for temporary CO
 - Trees need to be planted in the spring
 - Tanker got in with no problem and can only do deliveries between 6pm-6am
- Sidewalks at Curtis Estates supposed be done next week
 - Compaction testing today
 - Street trees are in
 - Buffer of pines in the back are in
- Potential appeal of 20 Mann Hill Stormwater Permit
- Consultant reviewing potential surety reduction for Seaside at Scituate
- Residential Compound additional trees in the buffer going in soon
- Attending another seminar in MBTA Communities
 - Compliance model is not available until November 1
- AG approved the articles from the Spring Town meeting
 - General Bylaw regarding camping at Cole Parkway was not approved

Documents

- Email to the Board from Shari Young dated 10.7.22 with the agenda for 10.13.22 and DRAFT Minutes 9.22.22
- Email to the Board from Karen Joseph dated 10.7.22 with meeting materials for 7 New Driftway and 15 Carriage House Lot 8(Curtis Estates)
- Email to the Board from Karen Joseph dated 10.13.22 with meeting materials for 7 New Driftway.

These items were distributed to the Board electronically.

Ms. Burbine moved to adjourn the meeting at 8:04p.m. Ms. Lewis seconded the motion; the vote was unanimously in favor.

Respectfully submitted,

Shari Young
Planning Board Administrative Assistant

Ann Burbine, Clerk
Date Approved: October 27, 2022