

**SCITUATE PLANNING BOARD    MINUTES    October 14, 2021**

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

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

Members absent: Rebecca Lewis, Clerk

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 Burbine called the meeting to order at 6:30 P.M. The meeting was being recorded for airing on local cable television and streamed live on Facebook.

**Documents**

- 10/14/21 Planning Board Agenda

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

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**Continued Public Hearing – Citizen Petition – Zoning Amendment – Marijuana Establishments**

**Documents**

- Doc DRAFT Motion Close of Marijuana Public Hearing

Attendees: Keith Saunders, Proponent; Cindy Amara, Town Counsel

Mr. Saunders indicated that everything will be postponed until the April Town Meeting. The language will be amended on the General Petition Article 10. Article 10 will be referred to for further consideration or study; without Article 10 there is no reason for Article 11. Mr. Saunders said he anticipates working with the Planning Board to figure out specifics as to where cannabis operations facilities might best be located.

Ms. Burbine indicated that the Board is prepared to work with the proponent to come up with a viable bylaw that works.

Mr. Pritchard moved to close the public hearing, Ms. Lambert seconded the motion; the vote was unanimously in favor.

Ms. Burbine read the Planning Board report.

*The changes to the Zoning Bylaw will allow for marijuana establishments to be located in Business District B and some sub-districts of the Village Center and Neighborhood District (VCN). Marijuana establishments would be able to be located where Registered Marijuana Dispensaries are located with the restrictions currently in the zoning bylaw. Definitions relating to marijuana would all be located in the definition section of the zoning bylaw. The Temporary Moratoria and*

*Prohibition of Marijuana Establishments would be removed from the zoning bylaw allowing for marijuana establishments. The Planning Board does not support this article as written. The Board feels that more zoning requirements are necessary for marijuana establishments and would like to see more public input into the zoning than has been allowed by this Citizen's Petition. This article requires a 2/3 vote.*

Ms. Burbine moved to support the letter to not support the Article at Special Town Meeting. Mr. Pritchard seconded the motion; a vote was taken and was unanimously in favor.

Ms. Joseph asked Mr. Saunders to get back to her on a meeting date to begin the bylaw process.

## **Discussion – Lot Shape Bylaw**

### **Documents**

- Excel 7 1 15 Massachusetts Towns lot shape
- Doc Section 600 – proposed (2)

Ms. Joseph indicated she has been working with Judy Barrett and Bob Mitchell, two of the biggest gurus in zoning in Massachusetts, to find a solution and tools to develop a Lot Shape Bylaw. The Board has been provided a spreadsheet of information of how other towns regulate lot shape. She said the proposal is to keep it very simple and amend the language to read, “*no lot created after April 11<sup>th</sup> 2022 maybe less than fifty (50) feet wide at any point except as provided 610.2.a in the zoning bylaw.*” She said this takes care of the most egregious cases. This would get rid of “rattails” because they would have to be 50’ wide; several examples were provided. She said it does not eliminate all funky lots. She said the consultants agree with the proposed change. This does not change the zoning bylaw on 50’ Frontage lots.

Mr. Pritchard questioned how the “width” is defined, how is it measured. Ms. Joseph said any point between two lot lines would not be allowed to be less than 50’. Mr. Pritchard did not think it would work; what happens around a corner, there would be places where it is less than 50’.

There was continued discussion on how the width measurement would be defined. There needs to be a clear definition of how the measurement is being done. This does not eliminate “pork chop” lots, but does ensure 50’ width of property versus 4’ of property. Ms. Joseph said that is what the goal is. The Board needs to have a clear definition of how “width” is measured so there are no other unintended consequences. Ms. Joseph read from the bylaws...” that width shall be measured from the side lot lines parallel to the frontage” with regards to lot area and width requirements; the amendment is saying it cannot be less than 50’ anywhere.

The Board discussed several examples of different lot shapes, i.e. triangular lot shapes, trapezoid, etc. Ms. Joseph said under this amendment she does not think a triangle shape would be allowed.

Mr. Bornstein opined for the vast majority this would be fine.

Ms. Joseph said she would forward off to Town Counsel to opine, but this is the exact language that is used in many other Towns.

The Board discussed that there would be a good amount of lots that would become non-conforming lots and perhaps there would be more people going to ZBA when there is proposed redevelopment on some of those lots. Ms. Joseph did not think that would be the case, but opined some of the lots may be re-divided with new Form A plans, she gave the example of the land on Chief Justice Cushing Highway near the town hall.

Mr. MacLean suggested a way to define the measurement; there would need to a 50' width between any two directional changes, he opined that would take care of the pizza shaped lot. The Board discussed several examples to demonstrate directional changes and how the 50' width would work to eliminate rattails. Ms. Joseph provided the example of Mann Lot/Creelman which had multiple directional changes that where less than 50' wide.

Ms. Joseph to touch base with the Consultants on the language and questions regarding "width measurement".

The Board opined there is more work to be done.

### **Discussion – Holly Crest Road - Margaret Pierce**

#### **Documents**

- PDF 1956 Application
- PDF Affidavit
- PDF GIS Map
- Jpeg Holly Crest 1
- Jpeg Holly Crest 2
- Jpeg Holly Crest 3
- Jpeg Holly Crest 4
- Jpeg Holly Crest 5
- Jpeg Holly Crest 6
- PDF Legal Ad and Posting 1957
- PDF Lot 8 PB Vote to release
- PDF Memo on Open Space Parking Projects
- PDF PB Meeting Minutes
- PDF Plan 1956
- PDF Plan 1957
- PDF Signatures 1953
- PDF Subdivision Approval Letter
- PDF West End Trails
- Handout from Mr. De Lisi provided to the Board at the meeting 10.14.21, Land Court Plan and print out from MassGIS

Attendees: Jeff De Lisi, Attorney, Margaret Pierce, Property Owner; Ted Coyle, Property Owner

Mr. De Lisi provided and overview.

- Applicants are owners of 42 Holly Crest Road
- Holly Crest Road was a subdivision approved in 1957
- Lot 4 shown on the plan is the lot in question, 42 Holly Crest Road

- Building permit has been issued for Lot 4
- Affidavit in the title to the property
  - Imposed a “no build” restriction until the Planning Board releases the lot.
  - Mr. De Lisi opined the land use restriction has expired, there is a 30-year limitation on restrictions
    - But, being prudent asking for the Board to release the lot
- 8 total lots in the subdivision
  - 3 lots have been built on with single family homes
  - 3 lots have been conveyed to the Town for Conservation purposes
- Town purchased the lots and extended the road and installed a parking lot as a trail head
- Homeowner’s have spoken with the Fire Chief who says there is no issue with the plan access, there will be a turn around on the property and existing placement of the hydrant and size of the water pipe being proposed

Mr. De Lisi said there is a construction loan closing in 2 weeks and would like to ask the Board to consider releasing the lot.

Ms. Joseph indicated that she had a conversation with DPW today and provided some pictures of where the hydrant is located. She said DPW would like water extended using either a 6” or 8” line, whatever is out there now and no reducers are allowed to be used. She indicated that in the 1956 regulations a 6” pipe was required and a hydrant should be put after the driveway.

Ms. Joseph said that her discussion with Al Elliot is that Fire is okay with the turnaround being in the driveway, but the radii need to account for turning of the fire truck. There is no way to turn around in the parking lot because there is a gate.

Ms. Joseph recommended the Board get something in writing from the applicant; that the water line be extended with the proper requirements from the DPW and the driveway radii will accommodate a fire truck turning around.

Ms. Joseph further explained this was all started in 1953 and approved in 1957 and in 1969 Lot 8 was released. She indicated all this happened before the Wetlands Protection Act and this is a sensitive environmental area that has a lot of wetlands. She opined there would be more damage doing anything beyond what is already out there; no more improvements should be made to the road. The extension of the waterline and turnaround of the driveway will provide for fire protection and access.

Ms. Burbine asked if a stormwater permit will be required; at this point the plan calls for just under the required square footage of disturbance of 14,500 sq. ft. the requirement is 15,00 sq. ft. Ms. Joseph said there should also be some type of acknowledgement that disturbance of the lot will not be more than 14,500 sq. ft. if it becomes more than 15,000 sq. ft. then a stormwater permit will be required.

Mr. De Lisi said the applicant will quantify that the disturbance will be no more than 14,500 sq. ft.

Ms. Joseph indicated it is not within and buffer zones, so the applicant does not need to deal with Conservation.

Applicant to come back on October 28<sup>th</sup>. Ms. Joseph will work with Mr. De Lisi to come up with wording to release the lot.

**Minutes**  
**Documents**

- Meeting minutes 9.16.21

Ms. Lambert moved to approve the meeting minutes for September 16, 2021.

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

**Accounting**  
**Documents**

PO #2203037 (\$3,280.04), PO #2203297 (\$730.00), PO #2203296 (\$390.00), PO #2203298 (\$1,430.00), PO #2203299 (\$132.40), PO #2203281 (\$139.44), PO #2203280 (\$126.00), PO #2203266 (\$975.00), PO # 2202706 (\$1,950.00), PO #2202707 (\$900.00), PO #2202708 (\$1,650.00)

Ms. Lambert moved to approve the requisition of \$1,650.00 to Merrill Corporation for peer review services at Curtis Estates, for \$900.00 to Merrill Corporation for peer review services at The Residence at Driftway Place/Drew Company, for \$1,950.00 to Merrill Corporation for peer review services for 16 Mann Hill Road, for \$975.00 to Merrill Corporation for peer review services at The Residences at Driftway Place/Drew Company, for \$126.00 to GateHouse Media for legal ad for 137 Gilson Road, for \$139.44 to GateHouse Media for legal ad for 533 Country Way, for \$132.40 to Chessia Consulting for peer review services at 485 Country Way/Residential Compound, for \$1,430.00 to Chessia Consulting for peer review of 7 New Driftway, for \$390.00 to Chessia Consulting for peer review services at 533 Country Way, for \$730.00 to Chessia Consulting for peer review services at 48-52 New Driftway/Gasbackwards, for \$3,280.04 to Horsley Witten for peer review services at Seaside at Scituate.

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

**Liaison Reports:**

**CPC – reported by Ms. Burbine:**

- 7 to 2 voted to endorse the purchase of Border Street field for \$2.15M
- \$75K to baseball field for a plan
  - Location still to be determined
  - Will need to come to the Planning Board to review plans
- Number of things coming in for April Town Meeting
  - Property behind the Purple Dinosaur coming up for sale
    - Assessed value is \$40K, property is land locked

**Select Board Meeting – report by Ms. Burbine:**

- Potential Developer of Border Street made presentation
  - Offered Scituate Little League \$50K, calling it mitigation, but not mitigation

**Planning and Development – reported by Ms. Joseph:**

- Town Meeting October 26<sup>th</sup>
  - Post meeting for Planning Board 6:30 on the 26<sup>th</sup>
- Schedule – December 23<sup>rd</sup> meeting canceling
- Country Way Residential Compound development
  - Plans are not what the Board approved
    - Homes are 8-10% larger
    - Some driveways shorter some longer
    - Homes are all in line with each other
    - Some driveways are touching each other
  - Working to get binder down this fall
  - Applied for Building Permits, not signing off on building permits several things needed
    - Interim as-builts needed
    - Verification of retention areas 3' above ground water
    - No water released into retention areas until they are stabilized
  - Schedule developer for November 4<sup>th</sup> meeting to determine if changes are significant
- Seaside continuing
- Drew continuing
- Gas station continuing
- 6 MacDonald Pre-construction meeting next week
- Discussed next meeting schedule for October 28<sup>th</sup>

**Continued Public Hearing – Stormwater Permit – 16 Mann Hill Road  
Assessor's Map/Block/Lot Portion of 27-7-9A  
Applicant/Owner: Susan Stone**

**Documents**

- PDF 4273 BOH SWP 10-8-21 SWP Site Plan
- PDF 4273 BOH WP 10-8-21 WS
- PDF 4273 Cvr Ltr 10-9-21
- PDF 4273 Stormwater RPT 10-8-21 RED
- PDF Cutoff Report
- PDF 21-278 PB Review Report, 16 Mann Hill Road, 10-07-21
- PDF 21-278 PB Review Report, 16 Mann Hill Road, 10-13-21
- Doc Easement – Grading on Lot 5v2
- Email from abutter Jason Schumacher dated 9.27.21
- PDF 4273 cvr ltr 10-12-21
- PDF 4273 Stormwater Permit Application
- PDF 4273 SWP Site Plan 10-13-21 RED
- Revised plans submitted at hearing

Attendees: Greg Tansey, Ross Engineering; Jeff De Lisi, Attorney; Chet Stone

Mr. Tansey indicated there were some revisions done to the plan after the last meeting and peer review. He said he provided a revised permit application, minor revisions on the plan, cover letter

and corrected number of cubic yards not feet for cut and fill numbers provided. Mr. Tansey provided a new submittal at the meeting.

Ms. Joseph indicated there were still some issues with the numbers on the plans and the application for the amount of impervious area. Mr. Tansey indicated that has been corrected and the amount is 4,818 sq. ft. of impervious area and all numbers are now correctly reflected in the documents provided this evening.

There was discussion about the timing of submittals and deadlines that were not met to ensure adequate time could be made for review and preparation for the meeting. The Board nor Ms. Joseph were prepared to make a decision because the material had been submitted on the day of the meeting; the Board did not have time to review.

Ms. Burbine said this is unfortunate, but the Board needs to make sure that the stormwater permit meets the necessary criteria. There was further discussion about the timing of submittals.

Mr. Tansey opined they did the work as fast possible in response to peer review, etc. to move the process along. He said there were a lot of issues with the application that stemmed around permeable pavement. He opined the Board did not look favorably on it, although he believes it to be an excellent LID, low impact development, design feature. He did change that design feature because of the condition that the Board would have placed on the homeowner for maintenance; they came up with a favorable alternative and there are some minor tweaks which typically occur during the review process; he said it is viable and it works.

Ms. Burbine said the issue is this permit needs to be as tight as it can; it is the first of two more and one leads into another and another. The Board wants to be really sure what is on this property stays on this property.

Ms. Joseph said she will look at the plans and have the Peer Reviewer look at them. She said if all the issues have been addressed the only issue that will remain is the test pit. The test pit has not been done in the bio-retention area; it will be conditioned that the test pit is to be done within 15 days of approval of the stormwater permit. The test pit needs to be witnessed by the Planning Board's Peer Review Engineer.

Ms. Joseph indicated a decision could be made within two weeks, pending review of the newest plans and circulation of a draft motion to the Board.

Ms. Joseph asked Mr. Tansey to review the erosion control plan again for the Board. She indicated there are multiple lines of erosion control that she is not sure are necessary. The plan was discussed and Mr. Tansey confirmed that he intentionally placed the multiple layers of erosion control. Mr. Tansey said if it is not needed it can be eliminated in the field.

Ms. Joseph indicated there will also be a condition that a landscape plan be submitted later in the process for the buffer in the back.

There was discussion that no work can be started before the information for the test pit has been received and reviewed.

Mr. Pritchard questioned what happens when the temporary easement expires; the easement is to achieve and maintain stormwater compliance, after the issuance of the certificate of compliance, how does it affect what is happening over there. Why is it temporary not permanent?

Mr. Tansey said it will not affect the stormwater design; the abutter will fill up to the level of fill that is on his property; they will not need to fill over the over common property line to 16 Mann Hill. The easement is needed to maintain the grades at the property and there would be no reason for the property owner of 18 Mann Hill to touch it. The owner of 18 Mann Hill will only have to fill up to that property, they will not need to grade over that property that has already been filled. Mr. Pritchard argued that the owner of 18 Mann Hill could do whatever they wanted after the easement expires; he does not understand the “temporary easement”.

Ms. Joseph said the design of lot 18 is predicated on having the fill, so there is only fill being done once and grading over onto the lot. Mr. Pritchard questioned why the easement is “temporary” and why it isn’t left alone. Mr. Pritchard said 18 Mann Hill has been modified in order to facilitate the building on 16 Mann Hill; at some date and time certain 18 Mann Hill will be able to do whatever they want; Mr. Pritchard questions why the easement is not a permanent easement.

Mr. Tansey said it is only temporary because lot 18 is not built out. Mr. Tansey said that when 18 is built out the fill that is placed on the lot in the temporary easement will be buried under new fill for the development of lot 18; the entire site is a fill site and always has been. Lot 18 will grade into lot 16 but not over the property line. The grade is not the finished grade; Mr. Tansey said the finished grade was shown on one of the original plans when the proposal was for all three lots back in 2019.

There was continued discussion about the changes that could be made on lot 18 and how that would impact the flow of water on lot 16. Mr. Tansey said lot 16 will not be impacted by lot 18, the water will continue to run as it is shown on the plan; there is a swale and the water will be contained on lot 16. When lot 18 is built out it can only be built up against the fill it cannot be changed, but the water on that lot will be contained on lot 18. Mr. Tansey said it is not necessary to encumber lot 18 with a permanent easement.

Ms. Joseph indicated that Town Counsel has reviewed the temporary easement and had no issues.

Discussion continued and Mr. Tansey said there is no flow going from lot 16 to lot 18; there is no runoff on lot 16 going over the lot line it is all being contained and brought around to the stormwater control point. Anything on lot 18 remains on lot 18 and will be part of the pre and post analysis.

Mr. Bornstein asked a limit of clearing be placed on the plan for lot 18 where the grading is going to take place or flagged and delineated in the field.

Lot 16 is being cleared except for the buffer strip in the back, not the entire site. Where the house, septic system and stormwater controls are will be cleared, fill needs to be placed in order to meet the stormwater control laws.

*Motion:*

Ms. Burbine moved to accept the applicant’s request to continue the public hearing for the Stormwater Permit for 16 Mann Hill Road until October 28, 2021 at 7:00 pm and to continue the time for action for filing with the Town Clerk until November 12, 2021.



Ms. Lambert seconded the motion; a vote was taken and was unanimously in favor.

**Documents**

- Email to the Board from Shari Young dated 10.8.21 with agenda 10.14.21 and DRAFT Meeting minutes 9.16.21
- Email to the Board from Karen Joseph dated 10.8.21 with meeting materials for Citizen Petition Marijuana, Lot Shape, Holly Crest Road and 16 Mann Hill Road
- Email to the Board from Karen Joseph dated 10.13.21 with meeting materials for 16 Mann Hill Road and Holly Crest Road
- Email to the Board from Karen Joseph dated 10.14.21 with meeting materials for 16 Mann Hill Road

These items were distributed to the Board electronically.

Mr. Pritchard moved to adjourn the meeting at 8:00 p.m. Mr. MacLean seconded the motion; the vote was unanimously in favor.

Respectfully submitted,

Shari Young  
Planning Board Administrative Assistant

Rebecca Lewis, Clerk

Date Approved: October 28, 2021