

SCITUATE PLANNING BOARD MINUTES December 10, 2015

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

Members Absent: Stephen Pritchard, Chairman.

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.

Vice Chairman Limbacher called the meeting to order at 7:30 P.M. The meeting was being recorded for airing on local cable television. Mr. Vogel arrived at 7:40 P.M.

Documents

- 12/10/15 Planning Board Agenda

ACCEPTANCE OF AGENDA: Mr. Limbacher indicated that the Form A for Elm Park would be taken first as a discussion on the Water Conservation Plan has been postponed. Mr. Taylor moved to accept the agenda. Ms. Burbine seconded the motion and the vote was unanimous in favor.

**Form A – 7 and 11 Elm Park
Assessor's Map/Block/Lot 54-1-25-0 and 25-B
Applicant/Owner: Lund A. Jensen, Trustee**

Documents

- Application, deeds and Plan of Land 11 Elm Park Scituate, MA prepared for Lund A. Jensen revised dated 11/20/15
- Transmittal to departments dated 11/23/15
- Estate Plan for Elm Park
- Memorandums on Elm Park Right of Way from 2000
- Photo of road

Attorney Mike Hayes was present representing the applicant, Lund Jensen. Mr. Hayes indicated that the plan divides the property to create two 50 foot frontage lots both having double the required lot area. He indicated the house with its barn and cottage with an approved accessory dwelling will remain on one lot. Mr. Hayes said that the ZBA granted approval of the two 50 foot frontage lots and asked for the Board to endorse the plan.

Ms. Harbottle said that the property is beautiful. She questioned if Elm Park is public or private as she said that DPW determined the road is not public and will not do any repairs to it. She indicated some material in the Board's files suggests the road is public. She recommended that the Board take a step back and let the applicant sort out if the road is public or private to avoid any problems with owners in the future. She provided a picture to the board of the 10 to 16 foot wide gravel road. She indicated that there has been no response from the Fire Department on the Form A.

Mr. Hayes indicated that the Board has previously endorsed an ANR on the road in response to a question from Mr. Limbacher. He said he has done a title search and he is convinced that Elm Park

is part of the Greenfield Lane layout. He said Elm Park is not listed as a public or private way in the Town. He indicated that the ZBA decision reflects that the frontage for Elm Park is on a public way. Ms. Harbottle said she is not making a judgement on whether the road is public or private, but suggests the Board may want to investigate further. Mr. Hayes said that the people who abut Elm Park had it regraded last summer and they have it plowed in the winter. He said the residents like the gravel road. He indicated there is a closing on the house on Tuesday which depends on the plan being signed and respectfully asked the Board to endorse the plan.

Mr. Taylor asked about the layout of Greenfield Lane. Mr. Hayes said the deeds on the Elm Park side say they are bounded by Greenfield Lane. He said the Town maintains the park by mowing the 60 to 70 foot wide grass area. Ms. Burbine inquired if the applicant's address was Elm Park. Mr. Hayes said it was. Ms. Harbottle indicated that Elm Park is not on the official street listing for Scituate and if a road is public it is supposed to be on the list. Ms. Harbottle indicated that the frontage was not illusory, but does the road meet the requirements for a road under the subdivision control law. Ms. Burbine asked if the 50 foot frontage lots are satisfactory for the road. Ms. Harbottle said it depended on what the Board says about the quality of the road for access. Mr. Hayes indicated that the Board endorsed an ANR for the road ten years ago. Mr. Vogel arrived at 7:40 p.m. Ms. Harbottle provided the Board with a copy of the Assessor's Map so they could see that it is shown as a dashed line. Mr. Hayes also indicated that Mr. Jensen fell two weeks ago and the ambulance had no trouble gaining access to the house.

Ms. Burbine indicated the house was old and the road was probably an old cart path. She and Mr. Limbacher said they didn't have a problem with the ANR. Mr. Taylor asked if the Board approves the ANR, are they saying it is a public way. Ms. Harbottle indicated they were saying it has frontage and access. Ms. Burbine said the road is accessible and she doesn't like 50 foot frontage lots, but if the Zoning Board has approved them then she is okay. Mr. Hayes said the decision was filed. Ms. Harbottle indicated Planning was told the decision has not been filed. Mr. Hayes said he was told it was filed the day before Thanksgiving, but he does not have a copy. Ms. Burbine said that a Form A only means it has frontage and access and doesn't guarantee buildability. Mr. Vogel said he has no problem with the plan, but isn't thrilled with the rattach. Mr. Greene asked about the purpose of the rattach. Mr. Hayes said it is to separate the two 50 foot frontage lots so that a common driveway is not needed since both are being approved at the same time. Mr. Bjorklund said if the bylaw was changed, rattails couldn't occur.

Ms. Burbine move to endorse as approval under the Subdivision Control Law Not Required a Plan of Land 11 Elm Park - Scituate, MA showing a division of parcels 54-1-25 and 25 A prepared by Cavanaro Consulting for Lund A. Jensen revised dated 11/20/15 as the division of the tract of land shown is not a subdivision because every lot shown on the plan has frontage of at least the distance presently required by the Scituate Zoning Bylaw on the public way of Elm Park (Greenfield Lane) when the 50 foot frontage special permit approved by the ZBA is recorded. The plan shall be held in escrow by the Town Planner until proof of the recording of the ZBA special permit is furnished. Mr. Greene seconded the motion. The motion was unanimously approved. There was discussion if the Board was conditioning the Form A Plan which Steve Bjorklund said is not allowed. Ms. Harbottle said the release of the plan was being conditioned not the plan itself. Ms. Harbottle said she would discuss the issue with Town Counsel on 50 foot lots next time she talks to him. Mr. Hayes said he wanted the deed for the new lot to reference the Form A plan and have it recorded right away for the closing on Tuesday. He said he was not aware the plan would be held in escrow. Mr. Limbacher said the Board has been doing this with 50 foot frontage lots and it has not been a problem. The vote was unanimous in favor of this motion.

Vote – Hire Consulting Engineer to Review Incomplete Construction in Kimberly Estates Subdivision

Kevin Kenny was present for the discussion. He indicated that he was waiting for the Board to take action as he has spoken to the residents and they want to move forward with getting the street accepted along with the walkways being repaired. He said he understood the Board would contact the builder who still owns two undevelopable lots on the road. Ms. Harbottle said there appears to be some conflicting information on what remains to be done as there is some uncertainty about a top coat. She said the work involved will likely be more than the surety being held for road acceptance so a betterment will likely be needed. She said the Board can get an assessment of the current road condition. Mr. Kenny asked if the Board was going to ask the builder to finish the road. Ms. Harbottle said the base may not be correct and it may have to be redone according to a brief discussion with DPW. Mr. Kenny asked if it was not the builder's responsibility to finish the road. Ms. Harbottle said that the surety held will not cover the cost to do all work to bring the road up for acceptance. Mr. Kenny asked if the engineer is going to do a plan to see how much it will cost to finish the road and then the Planning Board presses the developer to do it. Ms. Harbottle said the Town ideally should not pay for the assessment and it can't initially come from the surety held. She said \$69,000 is being held and the DPW Director thought that would not be enough. Mr. Limbacher asked what incentive there is for the developer to finish the road since he has not done any maintenance. Ms. Harbottle said the Board has to go through the motions to find that the road construction is deficient and provide an estimate for the work. Mr. Kenny asked if this includes the walk. Ms. Harbottle said yes.

Mr. Taylor moved to approve \$1600 for Amory Engineers, P.C. to prepare an estimate of the cost to complete construction of Kimberly Estates and provide the estimate to the Board *and DPW*. This work includes review of the Planning Board files, a site visit and possible coring of the roadway and walks to determine whether binder and wearing courses have been installed. The Planning Board will seek first to have the developer provide the funds or take funds from the remaining surety. Ms. Burbine seconded the motion. Mr. Kenny asked if the estimate will be based on the current specifications. Ms. Harbottle said it will be to the old specifications that were in place when the subdivision was approved. Mr. Kenny asked if the engineer can estimate what it would cost to bring the road to standards for acceptance. Ms. Harbottle said she can ask for that, but there is no requirement that a developer have a subdivision road accepted and it is not the job of the Board to ensure roads be accepted. Mr. Limbacher said the developer is obligated to bring the road to the standards when the subdivision was approved. He said then it can go to the Street Acceptance Committee for a determination of what is required to bring the road to standards for acceptance. Mr. Limbacher asked for the motion to be modified to include DPW getting the estimate and to include an estimate to bring the road to the current standards as well as previous standards. Ms. Harbottle said she is not sure public funds can be used for that. She said the residents would need to pay the difference between the surety held and what it costs to bring to standards for acceptance plus some engineering costs. Ms. Burbine seconded the motion. Motion was unanimously approved. Mr. Kenny asked to be notified when the engineer comes to do the estimate. Ms. Harbottle said something will be worked out as the engineers like to do the work without a lot of questions.

Update on Stormwater Bylaw

Ms. Harbottle indicated that the Stormwater Working Group of Steve Bjorklund, Mark Winchester, Josh Bows, Greg Morse, Patrick Gallivan and herself have met a couple of times and are nearly in

agreement on the changes to the Stormwater bylaw. She indicated the Town Administrator has provided some comments on the draft and those need to be incorporated prior to sending the draft out for review to the Board, NSRWA, Water Resource Committee and the other two consulting engineers. She said she believes this is still on track for the spring Town Meeting and has asked for space on the warrant for the bylaw and non-criminal disposition. She indicated regulation changes will also be necessary.

Ms. Harbottle said they group has been working on spelling out plan requirements and indicated the plans need to be prepared by a professional engineer. She said they are still discussing storm events and how they will be analyzed. She indicated discharge volume and rate will be regulated. She indicated that the working group was supposed to meet on Monday again, but she may have to postpone it to include the Town Administrators comments into the draft. Mr. Bjorklund said he hopes the Board can see it soon as their feedback is vital.

Accounting

Documents

- PO # 1603580 (\$216.00), PO # 1603566 (\$187.50), PO # 1603565 (\$250.00), PO # 1603564 (\$125.00), PO # 1603563 (\$196.46), PO # 1603562 (\$1,002.50), PO # 1603561 (\$593.75), PO # 1603539 (\$498.65), PO # 1603560 (\$258.96), PO # 1603559 (\$167.45), PO # 1603542 (\$500.00), PO # 1603541 (\$31.25), PO # 1603540 (\$437.50), PO # 1603620 (\$218.75), PO # 1603621 (\$93.75), PO # 1603622 (\$53.54), PO # 1603623 (\$300.00), PO # 1603673 (\$151.80), PO # 1603994 (\$125.00)

Mr. Taylor moved to approve the requisition of \$216.00 to Westongraphics for copying FIRM Maps, \$187.50 and \$250.00 to Amory Engineers for zoning map updates, for \$125.00 to Amory Engineers for flood map updates, for \$196.48 to Amory Engineers for construction inspection of 53 Colonel Mansfield Drive, for \$1,002.50 and \$593.75 for engineering peer review for 13 Ford Place, for \$498.65 for construction inspections for White Ash Farm, for \$258.96 for engineering peer review for Aquinnah Path, for \$167.45 for construction inspection for 61 Border Street, for \$500.00 for engineering peer review for 15 Lynda Lane, for \$31.25 for construction inspection for Studley Farm, \$437.50 to Amory Engineers for engineering peer review for 46 Tilden Road, for \$218.75 to John Tedeschi as return of unexpended funds for 46 Tilden Road, for \$93.75 to Statewide General Remodeling as return of unexpended funds for 15 Lynda Lane, for \$53.54 to Craig Hoffman as return of unexpended funds for 53 Colonel Mansfield Drive, \$300.00 to Country Way Real Estate Trust as return of unexpended application fee due to application withdrawal, for \$151.80 to WB Mason for office supplies and for \$125.00 to Ockers Company for a typewriter maintenance contract. Ms. Burbine seconded the motion. Motion was unanimously approved.

Minutes

Mr. Vogel moved to approve the meeting minutes of 11/12/15. Mr. Greene seconded the motion. Motion was unanimously approved.

Town Planner Report and Liaison Reports

Ms. Harbottle indicated that she submitted the budget for FY 17 and asked for an assistant planner/conservation enforcement officer. She indicated that there is some hope for this position, but it may be in a different form. Ms. Burbine indicated more help is needed. She said time is

money and the Board is looking to do 40 R, zoning and the Masterplan needs to be re-written. She said staff is needed to oversee construction projects. Ms. Harbottle said that the Economic Development Commission (EDC) presented the way finding signs to the Selectmen which were well received. Mr. Vogel said he likes the idea, but cautioned that too much uniformity can be a problem too. Ms. Burbine said that they are trying to put Scituate on the map and make it a destination place. She said that it is sometimes better to be eclectic, but you have to start somewhere. Ms. Burbine said she is now chair of the EDC and thinks working with Mark Favermann on the wayfinding signs has been dynamic. She said there are always going to be diverse opinions in Town about keeping the Town as is or making progressive changes. Ms. Harbottle said that at the Selectmen's meeting it was reported that the GATRA bus had 5,000 riders in the first six months. She also indicated that there was an open house in Marshfield last week on the new FEMA Flood Maps. She said several department heads were present to try to explain changes to residents. She said the Woods Hole Group did a great job with the presentation. Mr. Vogel said that residents can go on the Town website and obtain the information for their parcel.

Old Business and New Business

Documents

- Email to Board dated 12/7/15 from Karen Joseph with 2016 Board of Selectmen Schedule, Stormwater Permit for 179 Edward Foster Road dated 11/25/15 and Stormwater Permit for 4 Moorland Road dated 11-12-15.
- Email to Board dated 12/8/15 from Laura Harbottle with Conservation Plan, cost estimate for Kimberly Estates and materials on Elm Park

These items were distributed to the Board electronically.

Mr. Vogel moved to adjourn the meeting at 8:55 p.m. Ms. Burbine seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph
Planning Board Secretary

Richard Taylor, Clerk
12-17-15
Date Approved