

**SCITUATE PLANNING BOARD    MINUTES    December 21, 2017**

Members Present: Stephen Pritchard, Chairman; Ann Burbine, Vice Chairman; Benjamin Bornstein, Clerk, William Limbacher and alternate member, Patricia Lambert

Others Present: Town Planner, Karen Joseph.

Members absent: Richard Taylor

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

Location of meeting: Scituate Town Library, 85 Branch Street, Community Room in the Lower Level, Scituate.

Chairman Pritchard called the meeting to order at 7:00 P.M. The meeting was being recorded for airing on local cable television.

**Documents**

- 12/21/17 Planning Board Agenda

ACCEPTANCE OF AGENDA: Chairman Pritchard indicated there was a posted agenda. Mr. Limbacher seconded the motion for the posted agenda and the vote was unanimous in favor.

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**Continued Public Hearing - Residential Cluster Special Permit – off Hatherly and Tilden Road Seaside at Scituate)**

**Assessor's Map/Block/Lot 46/10/7F**

**Applicant: Toll MA Land III Limited Partnership, c/o Toll Brothers**

**Owner: Suburban Realty Trust, Benjamin Goulston, Trustee**

**Documents**

- Revised plans including landscape plans, cover sheet, details, signage, overall open space, water plan and visitor parking dated 11/29/17
- Meeting minutes of the Design Review Committee dated 12-12-17
- Review letter from Horsley Witten dated 12/14/17
- PDF of Stone Wall
- PDF of Street light fixtures
- PDF of Units with Carriage style garage doors
- Draft letter of review dated 11/30/17 from Weston & Sampson regarding Water and Sewer Systems

Attorney Jeff DeLisi, Dave Bauer, Dave Buckley and Scott Miccile of Toll Brothers, Environmental Engineer Jim Ash from GPI, Kevin Klein from Stantec, and Erin Furdette from McMahon Associates were present for the applicant.

Mr. Pritchard suggested that the meeting start with follow up issues from the last meeting. The Design Review Committee (DRC) began with their recommendations from their last minutes. Mr. Stokes said that they tried to provide a detailed succinct summary of what has come before them. Mr. Pritchard proceeded with the DRC recommendations and comments referencing document provided.

1. Road Entrance at Hatherly Road – Mr. Pritchard said that road entrance as presented works with the stipulation that the veneer stone wall appear like “real” stone. Mr. Pritchard and Mr. Stokes agreed it is difficult to judge and quantify the look, but several photographs sent to the Board representing other walls Toll Brothers has done looked appropriate. Mr. Pritchard suggested that it be noted for stonewall that it needs to appear as presented. Mr. Bauer said the photographs were from Estates in the Cohasset community. Mr. Pritchard said he was leaving it to DRC recommendation since no real samples have been submitted and there are only images. Mr. Stokes said that based on the images received and discussion that has taken place between Toll Brothers; the DRC felt the veneer stone walls were appropriate for the site as long as the stone looked real like the submitted photographs. Mr. Stokes noted the DRC recommends the present plans of the guardhouse to match the materials used in the home structures.
2. Fence at Hatherly Road entrance– Mr. Stokes said that from memory the fences at the entrance are kind of a post and rail. Fences for the units that provide driveway separation are picket style. The DRC indicated they would like the caps on the posts to be similar so that there would be uniformity of design elements on the site. Mr. Stokes said anything that can be done to create that uniformity should be done and the most obvious place to do that is on the caps. There were no additional questions or comments from the Board.
3. Sign at entrance – Mr. Stokes indicated that the DRC agrees with the one sign design; however, he indicated one DRC member felt there should be two signs instead of the one sign on the southern side of the entrance so that signage is more visible from either driving direction. Mr. Stokes said the one sign presented is eight square feet and if square footage was to be adhered to then the signs would be pretty small at four sq. ft. each. The Board felt that the way the sign is presented and how it hangs on the fence and the wall was fine. Mr. Stokes recommended that if there is a sign at Tilden Road it should match the other sign at Hatherly Road. Mr. Buckley said that will be a temporary sign at Tilden Road. Mr. Bauer said all temporary signs will be the same and will be removed in conformance with the signage ordinance. There will only be one permanent sign at Hatherly Road. The Board agreed that in the future if there is ever to be a permanent sign at Tilden Road, it should be in same vain as Hatherly Road signage.
4. Faux Light House – Mr. Stokes said the DRC is split on the design of the faux light house at the entrance, but it is a matter of taste and that in general they looked fine.
5. Landscaping at Hatherly Road was found agreeable to the DRC and Board.
6. Stone Foundations – Mr. Pritchard questioned the stone foundations. Mr. Stokes said the recommendation from the DRC is that the stone be applied over the building foundation and not the garage foundation as Toll Brothers has proposed. Mr. Stokes said that the elevation shows break by the main building and garage and thinks this lends itself to not using the stone on the garage so there is diversity. He said there is much design diversity throughout Scituate and would suggest doing here as well. Mr. Bauer clarified that the stone on the garage are aprons or wainscoting coming up 3’- 4’ to cover the framing and serve a purpose and he would like to defer to his architects on suggestions from the DRC. He said the current designs reflect the applicant’s history of building these types of homes with customer feedback into what is saleable. Mr. Bauer said he would like to have some discretion to work with their architects as to where to carry out the stone and be given some latitude to do what is right for the homes. Mr. Pritchard asked if there can be discretion with a mixed look. Mr. Bauer said he was concerned that if there is a specified condition that stone will be broken up every couple hundred feet the end product may not look so good. Mr. Pritchard said some discretion is advisable, but he wanted the Board to be assured that Toll Brother designers are taking the recommendations under advisement so the project has

less of a “cookie cutter” look. Mr. Bauer said that stone is very expensive so breaking it up would be cost effective, but feels that it adds cost value. Mr. Bauer said they will strive to have a broken up look and Toll Brother designers will take it under review.

7. Driveways and Walkways – Mr. Stokes indicated that he DRC finds the asphalt driveways and asphalt sidewalks acceptable. Mr. Pritchard opined there was a lot of asphalt between units and asked if there could be more impervious surface. Mr. Bauer said that between units there would be a flush cobble strip to break up the asphalt and delineate space between driveways and indicated a fence has also been added. Mr. Pritchard asked if the width is representative for each unit and Mr. Bauer confirmed it was. Mr. Bauer said plowing will be a challenge and they are going to keep it tight. He confirmed that anywhere there is not sidewalk there will be grass to the street. Mr. Pritchard commented the DRC supports the change of pavers for unit walkways versus brushed concrete.
8. Roof pitches - Mr. Stokes said that most roof pitches throughout the development are consistent, but one model is shallower than others and this might not be able to be fixed. Mr. Bauer commented that the home styles were designed with the feel and look of the area, but also to accommodate the building height requirement in Scituate and that is the only reason the pitch issue exists. Mr. Stokes said the one roof design they were most concerned with was the Bryn Allen out of the five different designs. Mr. Bauer indicated it was very challenging to make it look like they want with the confines of the height requirements. Mr. Bauer confirmed that individual buyers will choose the style of the unit they desire and that their experience is that buyers do choose based on the exterior elevations.
9. Windows – Mr. Stokes said the DRC was fine with the proposed widow design and the white PVC material.
10. Exterior Lighting fixtures – Mr. Stokes indicated that the DRC recommends the street light of the Domus Series Lumineer 4000K. Mr. Pritchard questioned if 4,000K is that a little too blue and asked if a warmer light should be used. Toll Brothers indicated that 3200K is warmer and 5000K light is daylight and they are looking for a balance in between and picked 4,000K. Mr. Pritchard asked the applicants if that is the level of light they are looking for. Mr. Miccile responded that they did not have a preference and they work with a national light company and are consistent with all their jobs using this color lighting. Mr. Pritchard suggested that the color of lighting be reviewed again as applicant will probably want it warmer. Mr. Miccile agreed.
11. Garages/Garage doors – Mr. Stokes indicated that the DRC reviewed several options for the garage doors and the carriage style is the best option, although they do not endorse the double wide garage door as there are so many of them that they are visually overwhelming. Mr. Bauer commented they looked at making changes to these doors, but they cannot have two individual doors with the framing design. Mr. Bauer said they have added about \$1 million in cost in upgrading the doors, plantings and the fencing to get to where the design is today. Mr. Bauer opined that the return will add value because it looks much better and the collaboration on this is appreciated, but it is not possible to get to the point of having individual doors, side entries or courtyard entries. Mr. Pritchard asked why the garage doors can't change. Mr. Bauer responded that changing the doors would change the width of the garage and that would have a cascading effect on other rooms within the house and they cannot find adequate space within the homes to widen the garage door. Mr. Pritchard asked the width of the door. Mr. Bauer and Mr. Buckley responded that the garage door is 16' wide, but it is about the framing and they cannot find a way to accommodate an increase to the framing without impacting the rest of the structure. Ms. Lambert asked about the color of the doors all being white. Mr. Bauer responded that is their strong preference for the area and that they would not allow any other color than white.

There will be white trims, white garage doors and then lighter tones of whites and grays on the siding. Mr. Pritchard said he does not like the double garage door; Mr. Stokes agreed that DRC does not like the double door either. Mr. Stokes suggested maybe there could be some single car bays. Mr. Bauer indicated that people would not buy a home with a single bay as it is not what the market wants. He said people like the double door for the functionality and the space and residents do not want to have to try and squeeze into a single bay garage.

12. Curbing – Mr. Stokes said the DRC is finds the proposed Belgian Block acceptable as it will be used throughout the development.
13. Clustering Residences – Mr. Pritchard confirmed with the applicant that the type of units in a cluster would be determined by the buyers. He asked if there could be four homes of the same type in a row. Mr. Bauer responded that there are certain units that are always exterior units and units that are always interior units, but there would never be four of the same in a row. Mr. Buckley commented that the most there could be in a row would be two units that looked the same.
14. Tree Planting Plan – Mr. Stokes said they are okay with the current renderings, but asked if there will be other plans with more species specific information. Mr. Buckley said that landscape plans with specie specific information have been submitted.

Additional questions/comments from Board members:

Ms. Burbine commented that she does not care for the double wide garage doors, but that she will have to learn to live it. Ms. Lambert agreed with Ms. Burbine and said she would prefer that the parking be in the back, but that it is not going to happen so she is okay.

Mr. Pritchard opened the comments/questions to the public:

*Landscaping: Resident 288 Kent Street*

Jeff Kalla from 28 Kent Street requested clarification from a previous meeting about the water usage with regards to the landscaping. He said he thought that town water resources would not be used for the landscaping. Mr. Pritchard confirmed that. Mr. Kalla asked if that applied not only to the original landscape installations, but once the owners are in the houses. Mr. Pritchard responded that will be a condition of the permit and confirmed that no town water will be used at any time.

*Storm Water Management: Report from Ms. Bernardo from Horsley Witten*

Mr. Pritchard asked Ms. Bernardo to address issues from her report dated December 14, 2017. Ms. Bernardo indicated that she combined all remaining issues and noted by box the require action by either the applicant or the town. Ms. Bernardo commented that her biggest concern is flooding and drainage at Sixth Ave & Hatherly. She said the applicant will need to work with the DPW to reduce the flow to Sixth Ave. She indicated that two proposed houses on the corner of Sixth Ave still have more flow under proposed conditions than on existing conditions. She said the remainder of the development reduces flow because of the stormwater management measures taken. Ms. Bernardo's recommendation is that those two houses be built last and to make sure DPW is satisfied that flooding has been taken care before they are built. Ms. Bernardo said the Storm Water Management may take care of the flooding issue; but it will be difficult to determine until work is complete. Mr. DeLisi commented that the two house lots in question have been removed from the special permit development and that they will be reviewed under the Storm Water Bylaw and believes they would be exempt based upon the square footage of the disturbance.

Mr. Pritchard was concerned if the two lots are dealt with differently, then it could create a bigger problem and that is issue that is trying to be addressed. Ms. Bernardo responded yes and it is just lots #151 and #152 that she sees as a potential issue and concern under the Stormwater Bylaw. The applicant agreed they will work with DPW.

Ms. Bernardo asked if it is that much of hardship to hold the two lots in question. Ms. Joseph commented that she had highlighted the issues to DPW today 12/21/17 and needed feedback on water, sewer, drainage and that DPW is aware they will have to provide comments back within the next month. The Weston & Sampson report is not yet finalized and has been highlighted to DPW. Mr. Pritchard asked Ms. Bernardo if there is anything the applicant could do to minimize the drainage for the rest of the subdivision if those two lots are left out? Ms. Bernardo said she believes the applicant has minimized it as much as they can. The applicant has included a significant amount of stormwater management, but because of the ground water and the issues that have been discussed from the beginning they are removing 4 cubic feet/sec which is significant, but the two houses add two more cubic feet/sec of flow. Under the existing conditions the two houses have approximately .5 cf/sec of flow and under the new proposed conditions they have approximately 2 cf/sec of flow. Not a large number, but bigger proportionally to the size of the property. She said Sixth Ave already has flooding issues and does not know if the pipes can handle more drainage. She said the pipes in the street are not being redone, but applicant going to assess the situation with DPW and see what can be done. Ms. Bernardo does feel like the applicant has done a very good job on the main parcel on the storm water between Tilden and Hatherly Roads.

Mr. Pritchard moved the discussion to action items from the report. Ms. Bernardo said that action items from the applicant includes small edits on the drawings - details that have been discussed and the applicant is in agreement of changes to the operations and maintenance plan and minor edits that can be done when the revision is made. A new set of plans will be submitted in January with everything updated. Ms. Bernardo said there are a handful of items remaining.

Mr. Pritchard noted the condition on the permit about stock piling materials 100' outside of the buffer. Ms. Bernardo said the Conservation Commission will typically add as a condition no stock piles in the 100' buffer zone. Mr. Pritchard asked if this should be something that should be changed on the drawings. Ms. Bernardo said that the applicant could change the drawings. Mr. Miccile confirmed the applicant would change the documentation.

Mr. DeLisi commented with regards to the Sixth Ave & Hatherly two lots, to have engineers review with DPW and get back to Ms. Bernardo as to any solution that can be devised. Mr. Pritchard said that we prefer to understand what the solution could be. Ms. Bernardo said she was happy to be involved in any meetings. Ms. Joseph commented that Planning and HW would also like to participate. Mr. DeLisi said that they are in agreement with all items discussed with regards to Storm Water Management.

No public comments on Storm Water Management.

#### *Infrastructure: Water System*

Mr. Pritchard noted the draft letter from Weston & Sampson and has several questions, but primary is what is the DPW point of view and has there been any feedback. Ms. Joseph responded that she has asked DPW for comments, but have not yet received it.

Mr. Pritchard made comments regarding the Weston & Sampson letter, noting that comments are still pending from DPW.

1. Flow test of three hydrants dated 11/7/17 – Mr. Pritchard asked if the results reported are of the actual day or corrected to some other day. Mr. Miccile confirmed he believes they are from that day 11/7/17.
2. Mr. Pritchard indicated they modeled fire and pressure flow at four points and asked why those were chosen and what are the points outside the development, as well as control points. He said there is no mention of what happened to existing neighborhood pressures; it does not show any impact to other existing neighborhoods.
3. Mr. Pritchard commented the report says it does not represent “true” peak demand based on fixture count and would like clarification on what that means. He questioned what where the model parameters for the analysis.

Mr. DeLisi asked if Mr. Pritchard was looking for Weston & Sampson to respond to his inquiries, Mr. Pritchard yes and DPW. Ms. Joseph indicated that Weston & Sampson is hired by the town and the Water Department is working on the Weston & Sampson draft. She also said there is a Sewer analysis, but it has not come yet.

Ms. Joseph to copy Mr. DeLisi on questions sent over to Weston & Sampson from Mr. Pritchard.

*Zoning By Laws:*

Ms. Bernardo addressed the Board with a question on previous Planning Board actions and whether the Development meets basic principles. Mr. Pritchard commented that they are complying answers on everything before a determination if they are being met.

Ms. Bernardo indicated her understanding that the applicant has submitted a Master Deed and Declaration of Trust and Town Legal Council will review. Ms. Joseph said they have been reviewed and there are few comments. Ms. Joseph will release comments once fully vetted.

Ms. Bernardo acknowledged that detail on pavement depth needs to change and has not been addressed from the prior hearing. Mr. Pritchard asked the applicant to ensure those details are updated.

*Traffic:*

Ms. Bernardo indicated two items outstanding.

1. Rectangular rapid flash beacon – this will be a condition.
2. Width of the roadway - width of roadway was acceptable at both the 20' width and the 22' width as shown on the drawings.

Ms. Joseph said that she has asked Traffic Rules and Regulations committee for final recommendation and hopes to have them for next meeting.

*Environmental:*

Ms. Bernardo indicated there are two items remaining that the Board would want to set as conditions on any decision that is made.

- 1.) The recommendation is to re-test one to two wells in each remediation area to confirm the contaminants are gone. Mr. Ash responded that there has not been any concentration of reportable contaminants in the ground water, CHA last tested ground water in 2014. Mr. Ash

opined it is necessary to re-test wells after remediation is complete, since there is nothing being done to disturb the ground water. Mr. Ash also said that the wells that would be sampled would be destroyed after remediation. Re-testing would add two more levels of field work by drilling and reinstalling wells, sampling and then removing them.

Mr. Pritchard asked why the wells couldn't be capped. Mr. Ash indicated that the DEP recommends monitoring wells be destroyed once their functioning use is ended. Once sampled standard practice is to remove them from the site and that is the intent here. Four areas will be excavated, only one area is excavated below the water table, the rest are between 2' - 4' deep and do not intersect the ground water table. There is one well on the Hatherly side that won't be impacted, this one well could be preserved, but it is still not going to affect the ground water.

Ms. Bernardo asked if wells could be re-tested before remediation. Mr. Ash said they can be sampled before remediation, but in the last 3 years nothing has been done to affect the ground water. It can be done, but Mr. Ash opined it is not necessary

Ms. Burbine expressed the concern of the neighborhood with regards to contamination and that it would behoove the applicant to have one more round of tests to help abutters reach a comfort level of satisfaction. Mr. Pritchard agrees with Ms. Burbine and would like to hear from Ms. Bernardo's experts on the issue. The issue will remain open.

- 2.) Recommendation that while clearing is happening on the site the Town will have the opportunity to visit the areas and confirm there are not additional visible contaminated soils. Mr. Ash agreed that when he schedules his inspection to give the Town adequate notice so inspections can be done simultaneously.

Mr. DeLisi would like to propose the route for hauling to Ms. Bernardo and Board will also review. Mr. Pritchard noted it has already been discussed as routes to avoid.

*Construction sequencing/phasing:*

Mr. Pritchard asked what infrastructure is being built in Phase I. Mr. Miccile said that the intent is that Phase I would include everything that is required to get the roads done, etc. Mr. Pritchard questioned Phase II having an additional 1860 linear feet of road that would need to be constructed and wouldn't that need to be done at the same time. Mr. Miccile answered they will do everything that is necessary to get Phase I done and how quickly they move into Phase II will be driven by the market. He said the phasing documentation is not intended to say they will stop building for any time; but it is a fluid document and how quickly the units sell will determine how quickly the roads are constructed. Mr. Bauer added that best practice in their business is to phase investment so they can do a stand-alone section and based on sales move into the next phase so they are not over extending. Mr. Pritchard summarized the applicant is hedging their bets and if market goes south they could wait a year or two to complete the development. He asked what the plan looks like if there is a wait for Phase II. Mr. Miccile showed a document that identified the majority of fill is in Phase I. Phase II would remain wooded based on market trend. Mr. Bauer believes this to be a frequent and best practice. Mr. Pritchard is worried about what happens if Phase II does not happen, water lines and sewer lines, etc. Mr. Bauer ended by saying all homes in Phase I will be eligible for a Certificate of Occupancy with utilities fully installed. It would be a self-contained area.

Mr. Miccile highlighted what would be done in Phase I - all major infrastructure, sewer, all storm water basins, loam and hydro seeding, roads paved, each home site would be graded and utility stubs would be under ground. Mr. Pritchard inquired if all the stormwater basins would be in and operating correctly. Mr. Miccile indicated stormwater basins as act as sediment basins during construction and once sites are stabilized the basin is converted to the permanent situation. He said the side slopes, outlet structures and pipes are in their permanent configuration. Phase I will operate independently and can be viewed as a stand-alone project. Phase I will be completed with all infrastructure. Ms. Joseph questioned if the Fire Department is aware of the Phase I and that there is appropriate access throughout. Ms. Joseph also commented that the detention basins are being used as temporary sediment sumps and asked Ms. Bernardo if there are any concerns. Ms. Bernardo commented it is almost impossible to avoid using the basins and the sediment will have to be excavated out completely and this is a common practice. Ms. Joseph indicated she has concerns about compaction, but Ms. Bernardo said they will excavate from the top and may want to have a condition that there will not be heavy equipment used in the basin.

*Noise/Crushing:*

Mr. Pritchard asked how the applicant will manage the concrete crushing as he is worried about the sound control. Mr. Miccile indicated the hired site contractor will want to crush everything in the beginning and is required to have a water source to spray the crusher to control the dust. The work hours are typical work hours, 7:00am-3:30pm or 5:00pm, and estimates three weeks of crushing. Mr. Miccile believes the crusher will be set up somewhere where the buildings are now. Mr. Pritchard said they would like it as far away from the site bounds as possible to attenuate the noise.

*Questions from the Public:*

Mr. McCormack of 29 Marion Ext., said the extend of the phasing and clear cutting is not obvious to the abutters and the clearing looks like it goes much further back than what is needed for the construction. He asked what the timeline and the Board's position and inquired if the 60' setback shouldn't be clear cut at all.

Mr. Miccile said the site would be cut in phases. He said that Phase I site gets cut and will be cleared for import of fill. Due to significant grade changes there is substantial amount of fill for the storm water system. He said other than wetland areas and buffer zones identified, he balance will be cut. There will not be much in way of tree safe areas. Within the plans submitted there is a limit of clearing line on the Erosion Control Plans that would be the demarcation as to where the tree clearing would be.

Mr. DeLisi said on the 60' set back, the bylaw Section 520.4 E requires the buffer "to be kept in its natural or landscape position". Mr. Miccile indicated it will be a mix of both, natural and landscaped, and there will be replanting in the 60' set back. He said replanting could be done in this calendar year 2018 if construction started in the spring. Ms. Bernardo re-stated that the 60' set back from the abutters property could be replanted in 2018, not the buffers to the wetlands. Mr. Pritchard asked about stabilization. Mr. Miccile said they would loam and hydro-seed if areas were going to be bare for a while.

Ms. Canfield, Selectman liaison, asked about water testing and will there be new wells installed for the irrigation. Mr. DeLisi indicated they will be filing applications for new wells. Ms. Canfield inquired if the wells could be a source for testing the water after construction to make abutters feel comfortable that nothing has changed. Mr. Klein, representative from Stantec, indicated the irrigation wells will be deep, well below the water table and won't get the water quality that is



needed. Mr. Bornstein asked if there is any activity of use limitations for drilling ground water wells to use for irrigation. Mr. Ash confirmed there are not any limitations on the property. Mr. Pritchard asked how many wells are planned to be drilled and the capacity. Mr. Buckley said is too early to say and the irrigation is not fully designed yet and the yield will drive the number of wells. Mr. Bauer indicated they have not yet worked with their engineer to determine the wells needed. Mr. Pritchard said he would like to see the water need. Mr. Bauer said they can provide an estimate on the water need, but it will not determine the number of wells. Mr. Bauer said they would include something in the Condominium Documents that residents are not allowed to hook their own sprinkler to the hose bibs in the house. He said there is already a stipulation in the documents that home owners cannot hook up to their private irrigation systems to any common public works system. This will be enforced through the Board of Trustees.

Mr. Piotrowski of 119 Hatherly Road inquired if the truck routes have been defined. Mr. Pritchard responded the applicant has offered to provide a map and it has been agreed that minor and feeder roads would not be used. Ms. Burbine indicated that at the last meeting it had been discussed the trucks would come down 3A, down Henry Turner Bailey Road to Gannet Road turn right on to Hatherly Road and they would go back the same way. They would not be able to use Tilden Road at all because too narrow. They would not use Booth Hill or Mann Lot or any other side roads.

*Water Conversation Plan: Fixtures*

Mr. DeLisi indicated a plan had been submitted and discussed at the last meeting. Ms. Burbine confirmed the Board had discussed the low flow fixtures. Mr. Buckley said what has been submitted are the standard base faucets, toilets, fixtures are all water conservation low flow and all have EPA Certifications of low flow and most items are in the Kohler line. Ms. Joseph requested a set of the documents for fixtures.

Ms. Joseph also requested one set of the Erosion Plan documents.

*Additional comments from Board:*

Mr. Bornstein requested that on Overall Open Space plan dated November 29, the actual breakout number percentages of overall open space area was not noted and asked for it to be noted on the plan. The applicant agreed to put percentages on the engineering plan. Ms. Joseph indicated the power point presentations from the applicant should be available on the WEB, under current applications.

*Public Comments:*

Mr. Piotrowski of 119 Hatherly Road asked how the noise will be monitored because his home is within 100' of current buildings which is the proposed location of the crusher. Mr. Pritchard indicated that the state or DEP noise ordinance will be used as guidance; there is no town ordinance for noise. The Board has not yet articulated how this will be monitored, but will have monitoring for the whole construction process.

Mr. DeLisi commented that we may be at the point where we can start to narrow down issues and begin coming to some unanimous decisions. Mr. Pritchard said he would leave that to Ms. Joseph's discretion to begin working on that document. Ms. Joseph agreed we can begin that process and would include Mr. DeLisi in the process.

*Subdivision Waivers:*

Mr. DeLisi recommended that the Board and applicants go through the list from document dated November 28 as there are eight items on list and wants to make sure everyone is on the same page. Mr. Pritchard said the Board is not ready to pass judgement, but can walk through items on the list and he asked to put these items on the agenda for next meeting.

*Motion:*

Ms. Lambert moved to accept the applicant's request to continue the public hearing for the Residential Cluster Special Permit for Seaside at Scituate by Toll MA Land III Limited Partnership, c/o Toll Brothers, Inc. off of Hatherly and Tilden Roads until January 25, 2018 at 7:00 pm and to continue the time for action to file a decision with the Town Clerk until February 28, 2018. Ms. Burbine seconded the motion. Motion was unanimously approved.

**Public Meeting - Site Plan Waiver**

**Assessor's Map/Block/Lot 50-7-102**

**Applicant: Sarah and Jennifer Jensen of Be Well Studios**

**Owner: Star Properties, LLC - Adrian Clapp**

**Documents**

- PDF Application 3 Mill Wharf N11
- PDF Site Plan Administrative Review Decision Be Well Studios 4-29-13
- Word document – Transmittal Letter – Be Well Studio
- Word document – Transmittal Letter to Abutters Be Well Studio
- Abutter Comments: Letters from Costello, Hunter 20171219, Nicolai, McManus, Parsons, Loughlin, Grefe, Oswal, Dincmen

Attendance: Sarah and Jennifer Jensen – Co-owners Be Well Studio, David Lyons attorney representing abutters.

Be Well Studio co-owners are looking to expand the wellness facility to add personal training into the adjacent space currently occupied by Every Girl. The applicants' state the additional space would be used solely for personal training of clients and the necessary equipment. The co-owners are requesting to add a doorway in wall is west of facility; there are no other changes planned to the footprint of the space. The applicant would be placing rubber flooring into the space. The applicants do not have knowledge of sound proofing in the current space, but stated there have not been complaints of noise since business has occupied its current space. The Jensens opined this new space will be quieter space than their current space. Ms. Joseph confirmed there have been no noise complaints from neighbors to the Building Department. The applicants indicated there would be no sound system in this new space; all clients would use their personal devices. Additionally, the co-owners said they have a common wall between Every Girl and Be Well Studio and there has been no issue with noise. They said sometimes they can hear vacuuming or construction going on from neighbors above the studio.

Be Well owners' said there would be minimal construction; one day of electrical work and approximately two days for the framing of the door and finishing work, set up and delivery of equipment would be done in the same day. There are no changes being done to the existing rooms of the studio.

*Public Comments:*

David Lyons attorney representing upstairs neighbors Ms. McManus and Ms. Parsons both residents at Mill Wharf Plaza said Ms. McManus lives directly about the current Be Well studio and Ms. Parson lives directly under the current space of Every Girl. Mr. Lyons indicated both residents were surprised and concerned when they received notice of the plans to change the store to studio space. He said that Ms. McManus and the Studio have had a good neighborly relationship. He said there have been some complaints to the Studio, no complaints were made to the Building Department and concerns were quickly resolved by the studio Owners. Mr. Lyons stated the residents are concerned with the new space and the noise from weights and vibrations from treadmills.

Mr. Lyons stated that there should be a waiver for change in business as it is not currently zoned for this type of business based on what he has read in the bylaws. He indicated that in the zoning district health clubs are not permitted and in 2012 the space was permitted under non-conforming use, this would be an expansion of that non-conforming use and does not fall under a Site Plan Waiver. Ms. Burbine indicated that prior to Every Girl the space was used as a gym, Curves. Every Girl has kid's birthday parties every weekend; she opined it is an applicable use of the space. The building was set up as a mixed space with retail, residential and business. Ms. Burbine presumes that some sound proofing was put in place. Ms. Burbine does not have issue with the expanded use.

Mr. Lyons referenced Bylaw page 15.

Ms. Clapp, oft 21 Beaver Dam Road and current owner of Every Girl stated Be Well is not a health club; it is a personal training spot for individual use with one on one attention. Ms. Burbine indicated she does not consider this a health club; this is a private type of enterprise with a few pieces of equipment. She would consider a health club to be Planet Fitness or Bay State. Mr. Lyons contests that this is still a change in use for the space. Ms. Burbine stated she does not see a difference in the business here; it is still service to service. Mr. Limbacher submitted that it may have been thought the space was for retail use, but has never been designated as such so there would be no change in use. Ms. Clapp said the business model for Every Girl was to be a service business with birthday parties and retail was an additional means of supporting the business.

Co-owners said they have defined hours of operation approved from the previous site waiver and have been operating within those guidelines.

Mr. Lyons also said his clients were caught off guard with this expansion and did not believe notification was sent to his clients. Ms. Jensen noted there was an email for the Condominium Association Management Company as well as from the Jensen's to the neighbors. Ms. Joseph noted that she sent out notices to all abutters. Ms. McManus said that she did receive emails. Mr. Lyons indicated the issues his clients are concerned with are noise, vibrations, and property values. Mr. Pritchard opined it is a mixed use area. Mr. Lyons said that sounding proofing the ceiling would be beneficial. Co-owners stated they will keep windows shut and locked, so there should be no noise from in those regards.

*Flooring condition:*

Mr. Pritchard asked about flooring and if it can handle the heavy equipment. The Jensen's believe the flooring is concrete and they plan to lay rubber flooring on top of it. Mr. Pritchard opined if flooring is concrete it should be fine even with floating floor on top of there should be no issue with vibrations. The Jensen's should confirm the flooring material is concrete to Ms. Joseph.

No additional questions/comments from the public or Board.

Mr. Pritchard reiterated this is a mixed use building and does not think that there is a vibration issue, not likely a sound issue and if it becomes a problem it will need to be addressed. He said the applicants should be prepared to have a condition that if noise becomes an issue it will be addressed. There are current Condominium Association rules that also govern the noise output.

*Motion:*

Ms. Burbine moved that the Planning Board finds that the proposed interior building renovation work is minor in nature because one business use is being replaced with another business use allowed in the district and there appears to be adequate parking in the adjacent public lot, to approve a site plan waiver for the Be Well Studios at 3 Mill Wharf Plaza Unit N12, with the following conditions:

1. Construction shall comply with the improvements shown on plans accompanying the application and attached herein.
2. Hours of operation are limited to Monday – Friday 5:30 am to 8:30 pm, Saturday 8:00 am to 5:00 pm and Sunday 10:00 am to 4:00 pm. Prior to 7:00 a.m. the number of participants using the gym area may not exceed ten at a time. This should minimize exterior noise and interior noise transmission.
3. No music system built into or attached to the walls or ceiling is permitted. No table top external music device is permitted. Hand held music devices with earphones are allowed by individual participants.
4. No machines with pulley devices are allowed so clanking of weights will be minimized.
5. Only rubber ended free weights may be used. A rubber matting floor will be provided.
6. The applicant shall encourage customers to park at a distance from the building to minimize exterior noise.
7. A soft-close mechanism shall be added to the exterior door used by the studio.
8. The applicant shall not make, permit or suffer any disturbing noises or vibrations by means of a radio, phonograph, stereo, television, piano, or other musical instrument or other form of technology of any description, by himself, his family, guests, agents, servants, or employees, nor do, permit, or suffer anything by such persons that will unreasonably interfere with the rights, comforts or conveniences of other unit owners or occupants. No radio, phonograph, stereo, television or other device shall incorporate outside terrace or deck speakers. For purposes of this section, any noise or vibration from within a unit which can be heard or ascertained within another unit shall be deemed a disturbing noise or vibration.
9. Use of the facility is only allowed for clients of Be Well Studios.
10. This approval is subject to confirmation that the floor is concrete.

Mr. Limbacher seconded the motion; vote was unanimously in favor.

**Form A – 372 & 374 First Parish Road**

**Assessor's Map/Block/Lot 34-4-17**

**Applicant/Owner: First Road Realty Trust, Wayne Sawchuk TR**

**Documents**

- PDF 81 L exemption
- 372 374 First Parish Form A Plan
- ANR 372-374 FPR application

Brendan Sullivan presented 81 L Plan, 2 structures on the lot subdividing the existing lot into two lots, lots 1 and 2. Structures predate zoning they are from 1928 and 1938. Drive easements to share common drive. Ms. Joseph advised relief from the Zoning Board will probably be required and neither lot is a conforming lot. Planning Board has to approve ANR because there are 2 structures on the lot.

Ms. Burbine moved to endorse as Approval Not Required a Plan of Land 372 & 374 First Parish Rd Scituate, MA 02066 prepared by Cavanaro Consulting for applicant Wayne Sawchuk and owner First Parish Scituate Realty Trust, Wayne Sawchuk TR dated 12-12-17 as the division of land shown on the accompanying plan is not a subdivision because two or more structures were standing on the property prior to August 3, 1947, the date the Subdivision Control Law went into effect in the Town of Scituate, and one such buildings remains standing on each of the proposed lots. Mr. Limbacher seconded the motion. Motion was unanimously approved

**Accounting**

**Documents**

- PO # 1806121 (\$77.00), PO # 1806123 (\$48,713.98), PO # 1806280 (\$3,016.36)

Mr. Bornstein moved to approve the following requisitions approved under the Municipal Modernization Act: \$77.00 to Plymouth County Registry of Deeds for recording Planning Board member signatures, \$48,713.98 to Blanchard Farms LLC for partial return of surety and for \$3,016.36 to Stephen and Cheryl Stelljes for return of a Stormwater Bond for 1 Boardman Avenue. Ms. Burbine seconded the motion. Motion was unanimously approved.

**Liaison Reports**

**Water Resources Committee- Mr. Bornstein reported:**

- The Town will be doing a full water analysis
  - Town Water structure
  - Town Sewer structure
  - Fully funded in fiscal year 2018. RFP's will be going out imminently, Mr.Pritchard has a standing request to review RFP's once available.
- Water Offset program is still in planning stages
- Ms.Burbine discussed 50 Country Way and the sewer pipe that needs to be replaced, approximately \$240,000.00 and who is going to pay.

- Discussion on hold and will be negotiated at next Selectman's meeting.

**Old Business and New Business**

- Herring Brook Meadow documents send to Board members as requested.
  - Will be on 1/25/18 ZBA agenda.
- 14-16 Old Country Way will continue to 1/18/18 ZBA agenda.

These items were distributed to the Board electronically.

Mr.Limbacher motioned to adjourn the meeting, Ms.Burbine seconded the motion. Motion unanimously approved.

Meeting adjourned 10:05pm

Respectfully submitted,

Shari Moak Young  
Planning Board Secretary

Benjamin S. Bornstein, Clerk

Date Approved 4/12/18