

SCITUATE PLANNING BOARD MINUTES December 12, 2019

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

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

Members absent: None.

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, Scituate.

Chairman Burbine called the meeting to order at 7:01 P.M. The meeting was being recorded for airing on local cable television.

Documents

- 12/12/19 Planning Board Agenda

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

Minutes

Documents

- Meeting minutes 11.14.19
- Meeting minutes 11.21.19

Ms. Lambert moved to approve the meeting minutes for November 14, 2019 and November 21, 2019.

Mr. Limbacher seconded the motion; the vote was unanimously in favor. Mr. Pritchard did not vote on meeting minutes for 11.14.19.

Discussion – Historic Preservation Policy

Documents

- Email to Karen Joseph from Doug Smith dated 12.1.19
- Doc DRAFT Motion Planning Board Preservation Policy

The Board had a discussion regarding the public benefit of preserving historic buildings, structures or resources and referenced the house at Curtis Estates. The home that was to be preserved is nothing like it was; Ms. Joseph indicated there is nothing left of the historic Curtis house with the exception of a few boards as the whole second floor was taken off and walls were changed on the first floor. As a result a discussion came about with Doug Smith (Historical Commission), Bob Vogel (Building Inspector) and Karen Joseph and Brad Washburn (Director of Planning & Development). Mr. Vogel opined the condition in the decision was ambiguous and difficult to enforce.

Ms. Joseph read the condition. She indicated that at the time of the public hearing the Historical Commission had provided a letter that Welby Builders had agreed to move and the and

preserve/rehabilitate the house. The Building Commissioner thought the “preserve and rehabilitate” was vague. Mr. Pritchard asked if the builder addressed what/how the house should be preserved with Historical Commission; it is up to the Historical Commission.

There was continued discussion about how the Board should address the issue at Curtis Estates.

Ms. Joseph said that in an effort to prevent this in the future it is recommended that the Planning Board adopt a policy regarding the preservation of historical buildings. The policy would raise the bar to putting a property to the status of the National Register. Ms. Joseph opined the policy should be adopted now and can be modified in the future. The Historic Commission would be required to come to a Planning Board meeting to discuss the public benefit versus just supplying a comment letter when a project is before the Board.

Mr. Pritchard felt the policy as written now does not help to provide any data or means of how to validate the proponents request to provide a public benefit through a historic building, etc. He suggests an evaluation should be done first and presented to the Planning Board if an applicant is going to claim it as a public benefit. Ms. Burbine opined that needs to go through the Historical Commission not the Planning Board; the Historical Commission needs to prove it is a public benefit to preserve a particular structure.

Ms. Joseph indicated that currently the Board utilizes the Mass Cultural Resources Inventory System for properties that are registered with the State. If an applicant has such a building in their project they would then start the process with the Historic Commission and Planning Board to decide if it is an actual public benefit to save. She indicated that some study has already been done if it is on the registry.

The Board decided to put this discussion on the agenda at another time and have Doug Smith from the Historic Commission attend the meeting.

Accounting **Documents**

PO #2005078 (\$675.00), PO #2000510 (\$7,167.20), PO #2005071 (\$1,650.00), PO #2005072 (\$2,925.00), PO #2005073 (\$3,960.00), PO #2004845 (\$3,015.85), PO # (\$125.00), PO #2005334 (\$6,069.35), PO #2005331 (\$918.00), PO # 2005329 (\$1,600.00), PO #2005316 (\$261.72), PO # 2005324 (\$1,600.00) , PO #2005450 (\$450.00), PO # 2005449 (\$825.00)

Ms. Lambert moved to approve the requisition of \$675.00 to Merrill Corporation for peer review of 35 Dreamwold common driveway, for \$7,167.20 to Harriman Associates for consulting services for the Master Plan, for \$1,650.00 to Merrill Corporation for peer review services for 16, 18 and 20 Mann Hill Road, for \$2,925.00 to Merrill Corporation for peer review services for 443-461 CJC Hwy, for \$3,960.00 to Merrill Corporation for peer review services for Benjamin Studley Farm, for \$3,015.85 to North Coast Development LLC for return of stormwater surety for 203 Old Oaken Bucket Road, for \$125.00 Ockers Company for annual typewriter maintenance contract, for \$6,069.35 to Horsley Witten for peer services at Seaside at Scituate, for \$918.00 to Horsley Witten for peer review services at Seaside at Scituate, for \$1,600.00 to Horsley Witten for peer review of One Buckeye Lane and Stockbridge, for \$261.72 to GateHouse Media for legal ads for 355 Hatherly Road and 483 Country Way, for \$1,600.00 to Horsley Witten for peer review services of 14-16 Old

Country Way, for \$450.00 to Merrill Corporation for peer review services for 16, 18-20 Mann Hill Road, for \$825.00 to Merrill Corporation for peer review inspections at 92 Neal Gate Street
Mr. Limbacher seconded the motion; the vote was unanimously in favor.

Public Hearing – Definitive Subdivision Plan – 14-16 Old Country Way
Assessor's Map/Block/Lot: 42-2-56 & 57
Applicant/Owner: Robert Proctor, Manager of 14-16 Old Country Way LLC

Documents

- PDF 3711 Ann Burbine Ltr Narrative for Certain Waiver Requests 10-25-19
- PDF 3711 Def Sub Plan for Filing 09-23-19
- PDF 3711 Definitive Subdivision Plan Filing Pkg 09-23-19
- PDF Transmittal to depts.
- PDF ZBA Decision 6-25-19
- Email to Karen Joseph with comments from BOH dated 11.12.19
- Email to Karen Joseph with comments from Becky Malamut, WRC, dated 10.28.19
- PDF 191202_1stPeer Review_DefSubdivision_1416 Old Country Way (002)
- PDF ZBA decision 6-25-18

Attendees: Jeff De Lisi, Attorney; Paul Mirabito, Ross Engineering; Janet Bernardo, Town Consulting Engineer, Horsley Witten

Mr. De Lisi provided some background to the Board on the project and the purpose for the filing.

- Filing is for a Definitive Subdivision Plan Zoning Freeze
- Freeze zoning for 8 years from the date of endorsement
- Freeze gives the land owner the ability to use either current zoning or frozen zoning
 - Owner could use the zoning that was in effect prior to last spring Town Meeting (April 2019)
- Will be filing a project for this property in the near future
 - Plans had been developed for a mixed use concept under the Village Business Overlay District
- 100% certainty that there is no intention to construct the subdivision plan discussed today

Mr. Mirabito discussed the plan.

- Existing conditions plan – 29,000 sq. ft. lot size
 - 2 existing dwellings
 - Rear portion of yard vacant with storage shed
 - Land relatively flat
 - 10' strip of land out to Jenkins Place
 - Vegetation – lawn
- Proposed subdivision
 - Minimum of 2 buildable lots
 - Proposing a cul-de-sac
 - 2 single family house lots that could be built
 - Existing storm drain line
 - Grading less than a foot change

- Slope to the street 1%
- Pervious pavers for driveways
- Roof infiltrators
- Submitted a list of waivers, 12-13 waivers

Ms. Burbine indicated that there have been discussions with Mr. Proctor about his project that he desires to construct; it seems to make a lot of sense. However, she felt this process of the zoning freeze is a waste of time. Mr. De Lisi opined it is not a waste of time, because the project was designed under the Zoning Bylaw that no longer applies to the property unless the zoning bylaw is frozen.

Ms. Joseph indicated that under the old zoning bylaw the property would be under the old Village Business Overlay Districts (VBOD) and the Business district; now the area is the Village Center and Neighborhood (VCN) district. This is why there was a preliminary plan submitted and within seven months a follow up definitive plan which has to be approved and endorsed in order for the zoning freeze to occur. She said it is a mechanism under MA State Law that allows for zoning freezes. She said the plans have been engineer peer reviewed answering the question could this plan be built as presented to the Board with conditions and waivers.

Mr. Pritchard asked what the differences are between the old and new zoning with relation to the property. Mr. De Lisi indicated there are about 70 pages of bylaws that would apply and he provided some examples, additional uses, higher density as of right with new zoning, setbacks reduced, not a bad thing, but the project was conceived under the old bylaws.

Mr. De Lisi provided some additional history on the property. He said that about 2 years ago the property was before the ZBA for a special permit and at the time there were multiple members of the community that were unhappy with the proposed project, so the project did not move forward in the next steps and go before the Planning Board. The property owner met with neighbors and Karen and Ann to come up with a project that would be more agreeable to all. In order to proceed with the revised concept, the applicant would have had to go back to the ZBA, Conservation Commission, and Planning Board; however, at the same time the zoning was proposed to change. Mr. De Lisi indicated that because of that they began the zoning freeze process, by submitting a Preliminary Subdivision Plan. He believes that if the plan that has been worked on with the neighbors, etc. is to be built then a zoning freeze is absolutely necessary. Mr. De Lisi does not know if the new zoning precludes the project being developed, but the older zoning absolutely allows for it.

Ms. Bernardo provided an overview of the peer review comments for the project. She referenced a letter dated December 2, 2019 with the comments and recommendations made as a result of the review. She indicated how they approached the review looking at the Subdivision Control Laws and listing out those requirements that were applicable to the project and if there is compliance. She said there are a number of waivers requested that could be a condition; many of which in their professional opinion they did not object to, i.e. profile of the road. She indicated she defers some of the waivers to the Board, i.e. requirement of a landscape plan. She indicated there was a waiver request for the erosion control plan and opined there could be a condition about the type of erosion controls that maybe necessary. They also asked for a waiver for the observation pits for the roof runoff; she opined that it could be conditioned that an observation pit is done prior to construction or a building permit. She indicated that the only things that were not easy to work out from their point of view were building setbacks; one house was within the setback and would need to be conditioned to be addressed before anything is built; she also noted the applicant is proposing permeable pavers, but

because the property is in a Zone A there needs to be pre-treatment so the pavers are not appropriate for water management within a Zone A; for the existing pipe that runs through the property, an easement may be necessary, it does not appear on the plan. She indicated that with the conditions and the waivers it does appear that the submittal could be built.

Ms. Joseph indicated that she has prepared a draft decision for Board to consider which requires a number of items that were either being waived or conditioned be shown to the Board in a final revised plan set so that all items that were peer reviewed and needed more information would be put on a final revised plan set if the subdivision was to be built.

Mr. Pritchard asked how the stormwater was being managed at the cul-de-sac. Ms. Bernardo indicated it was not shown and was one of their questions. It would be the applicant's responsibility to manage it until/if it became an accepted road. Mr. Pritchard opined that was not very compelling to evidence that this could be built. Ms. Bernardo indicated it is a very flat cul-de-sac that could be directed to a swale, she also noted that there has been a reduction of impervious pavement by over 2,000 sq. ft. which has improved the stormwater management.

There was discussion about the permeable pavers and if they were considered to be impervious in the applicant's calculations. Mr. Mirabito indicated they were considered as pervious. Ms. Bernardo indicated that would then bring the impervious surface close to being equal to the existing conditions.

There have not been any stormwater calculations done at this time.

Mr. Limbacher asked if it could be built without waivers. Ms. Bernardo said the waivers were for erosion control, landscape plan, easements, index plan, stormwater, HOA, observation pits; the Board could require all things that they have asked waivers for; she opined yes it could be built but more time would need to be spent doing the design. She indicated that the observation pits should be a condition; they have to be done. The site was not looked at as a wet site so there are multiple ways to address the roof runoff and provide separation from ground water.

Ms. Joseph reiterated that the Board may be granting a waiver now, but the information needs to be included in a final revised plan set if the subdivision was to be built.

Mr. Pritchard opined the project would have to be redesigned in order to be buildable; it is not really buildable right now. Ms. Bernardo said yes, but the applicant could do rain gardens or swales to capture the driveway runoff and address some issues. She indicated that if the applicant were to begin building this plan the Board would then require them to provide more specifics.

Ms. Joseph indicate that in order for the applicant to move forward with this Definitive Plan, the applicant would have to provide more information on the final revised plan set as she has put in the conditions for approval.

Public Comment:

Mr. Stephen Monteiro, resident at 9 Jenkins Place, asked about the roof runoff from the property because it affects his property which is somewhat wet. Mr. Mirabito indicated there are infiltrators from the roofs to capture the water and water will seep into the grass, permeable pavers and

landscaping before going to the street. Mr. Pritchard indicated that because there were no observation test pits or ground water level identified the plan may not work as depicted.

There was discussion about some information regarding test pits and stormwater that Mr. Mirabito indicated have been done on this site for the previous project that was before the ZBA, but that information has not been included with this application. The Board expressed their displeasure. Ms. Joseph indicated the Board may want to read the motion starting with the waivers, then move to the findings of fact and then the conditions; the motion was written to freeze the zoning. If the Board decides they want more information on the plans, then they will need to ask for the information.

Mr. De Lisi suggested in order simplifying the process he should work with Karen and at this time request a continuance. He indicated that if the zoning freeze does not happen the applicant would re-design a project that would be compliant, maximize the density and get everything they could out of the existing bylaw as of right because that is what the town theoretically wants to see in the area, a bustling higher density mixed-use project that is closer to the road. He said they have spent a lot of time with the neighbors trying to avoid that because in this community that is not what the neighbors want to see.

Ms. Burbine said she understands Mr. De Lisi's point; she would just like it to be a simpler process. Ms. Joseph indicated this is what is done for every Definitive Subdivision. Mr. Pritchard opined that the Board would not accept something this "thin" for approval. Ms. Joseph said if the Board needs to ask for more than the Board should ask for that tonight.

Mr. Pritchard opined several things should be addressed; the pervious pavement, the correct calculation for impervious versus pervious surface, and how stormwater is being managed. He said 70% of the work is being left for a later time. Ms. Joseph indicated that a full review would be done if they came in to build the plan; the peer review engineer would do a completed full review again.

There was discussion about some of the information the Board is looking for, i.e. size of infiltrators. The Board questioned why information data for observation pits and ground water could not be supplied if it has been done for the property. Mr. Mirabito indicated that the data they have collected is for a different project on the site; it is apples and oranges. Ms. Joseph opined the applicant could easily provide information for observation pits, sizing calculations for infiltrators, provide information for the permeable pavement and 40% total suspended solids removal (TSS). These items might give the Board more confidence that the project could be built.

The Board requested that the hearing be continued in order for the applicant to have the time to provide additional information discussed.

Mr. Limbacher said the expectation is that the applicant will look at all the waivers to see what information can be provided now. Mr. De Lisi indicated they were trying to avoid some costs; they thought they had provided enough information for the Town's Consultant to determine if the project could be built. Ms. Bernardo opined that if the applicant has soil test pits it is a very simple calculation to provide information for infiltration of roof runoff, etc. to prove that they have separation from groundwater; for the driveway they could add a rain garden or something. She does not think it would be very expensive to provide the information.

There was continued discussion about doing the stormwater calculations; Mr. Mirabito indicated they can do the work; it is just time and cost.

Mr. Pritchard indicated the other thing that could be done would be to sign an affidavit from the property owner that this plan will never be built.

Mr. De Lisi indicated that in another town dealing with a zoning freeze the Planning Board conditioned that once the approved the mylar would not be released for recording until after 6 months; after 6 months it is state law that the decision becomes void, the applicant obtained the endorsement even without the recording thus still providing the zoning freeze. Mr. De Lisi indicated that he can get an affidavit from the owner; the plan is not something that they want to build.

Mr. Pritchard said he is trying to remove as many waiver conditions as possible; with a minimal level of effort how many waivers could be taken off the list.

Mr. Limbacher said it is about having better information included that would provide an assuredness it could be built.

Mr. Mirabito asked if the Board would consider a waiver to not pave the cul-de-sac. The Board did not want discuss at this time.

This project will be peer reviewed again when new information is provided.

Motion:

Ms. Burbine moved to accept the applicant's request to continue the public hearing for the Definitive Subdivision Plan until February 13, 2020 at 8:00 pm and to continue the time for action for filing with the Town Clerk until March 1, 2020.

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

**Public Hearing – Definitive Subdivision Plan – One Buckeye Lane and # 261, 253, 251
And 225 Stockbridge Road**

Assessor's Map/Block/Lot: 53-2-1, 1B, 4, 6, 7, and 9

**Applicant/Owner: First Buckeye Corp.; Richard W. & William E. Hoffman, Trs., SWET
Brothers Trust; Richard W. & William E. Hoffman, JT; and Wilson H. & John R. Brown**

Documents

- PDF 2965 DSP 10-12-19
- PDF 4027 Ann Burbine Ltr Narrative for Certain Waiver Requests 10-25-19
- PDF 4027 Def Sub Filing Pkg Compressed 10-24-19
- Doc Transmittal to Depts 10-29-19 Buckeye DSP
- PDF 191127_1st_Peer Review_DefSubdivision_Buckeye Lane
- Email to Karen Joseph with comments from BOH dated 10.28.19
- Email to Karen Joseph with comments from BOH dated 11.1.19

Attendees: Jeff De Lisi, Attorney; Paul Mirabito, Ross Engineerig

Mr. De Lisi agreed to handle this application in the same manner as the previous application. He did provide some information pertinent to this site.

- Currently the site is the home of Scituate Concrete Pipe
- Industrial use, now a commercial zone

Mr. De Lisi said at the time of the Preliminary Subdivision application, the Board asked that the applicant go back and analyzes the new zoning bylaw. He indicated that the new bylaw may expand on some of the uses for the site, i.e. a hotel, but the site is complicated based on its present industrial use and neither he nor his client is in the position to conceive of a concept or even know if a permit to develop the property would ever be sought. The applicant would need to move his current business out of Scituate to develop the site. At this time it has not been determined what is feasible under the new zoning and thus they are asking for the zoning freeze on this property.

Mr. De Lisi indicated that there is no test pit data; no significant work has been done. He is not sure how much data they would be able to provide to the Board as discussed for 14 & 16 Old Country Way.

Mr. De Lisi said he is happy to request a continuance.

Ms. Bernardo discussed her findings from peer review.

- Property looked complicated but much easier than the other property
- Existing stormwater feature - plan is to tie into the already existing feature
 - Stormwater already being managed
- Plan is adding one structure
 - One single family house being added
 - Recharge of water into an observation pit
- Not in a zone A

Ms. Bernardo indicated the applicant is still asking for a number of waivers for the Board to consider, i.e. index plan, landscape, etc., the plan should show the erosion controls. She indicated this plan had a lot more information.

Motion:

Ms. Burbine moved to accept the applicant's request to continue the public hearing for the Definitive Subdivision Plan until February 13, 2020 at 8:00 pm and to continue the time for action for filing with the Town Clerk until March 1, 2020.

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

Public Hearing – Definitive Subdivision Plan – 7 MacDonald Terrace
Assessor's Map/Block/Lot: 53-5-19 and 20A
Applicant/Owner: SAOIRSE, LLC

Documents

- PDF Definitive Application
- PDF Definitive Subdivision Plans
- DOC Transmittal to Depts 10-29-19 7 MacDonald Terrace

- Doc DRAFT Motion

Attendees: Jeff De Lisi, Attorney

Motion:

Ms. Lambert moved to accept the applicant's request to continue the public hearing for the Definitive Subdivision Plan in Scituate, MA Showing a Division of Parcels 53-5-19 & 53-5-20A located at 7 MacDonald Terrace until sixty (60) days from today, December 12, 2019 for the applicant to provide engineering peer review funds and proof that all taxes are current and up to date. The public hearing will be continued until March 12, 2020 at 7:00 pm, thus allowing time to complete the engineering peer review and continue the time for action for filing with the Town Clerk until April 1, 2020.

Ms. Lewis seconded the motion; the vote was unanimously in favor.

Discussion – Surety Reduction – Deer Common

Documents

- PDF Bond Reduction Deer Common 11.12.19
- PDF 18213 Deer Common, Request for Bond Reduction, 12.4.19
- PDF Detention basin planting
- Doc DRAFT motion form surety reduction

Attendees: Mark McSharry, Manager Deer Common II LLC

Mr. McSharry indicated that he is seeking a surety reduction for Deer Common. He said they asked for a reduction which would leave \$15,000 in surety, but noted that the Towns' Peer Review Engineer, Merrill, increased the amount to \$27,000 and they agree to that number.

Ms. Joseph indicated that there are several things that still need to be completed.

- Drainage improvements at the corner of lot 12
- Handicapped rumble strip to be installed
- File all as-builts and legal fees

Ms. Joseph indicated that there are some plantings on the top of the berm that have twice been eaten by the deer; that applicant is asking that they be allowed to use a substitute variety of a more deer resistant plant, possibly bayberry and still provide screening. She recommended to the Board that they accept the change. The Board agreed to the change. Mr. McSharry indicated they have changed the plantings once, but opined that anything they put out there will be eaten by the deer; but he agreed to change out the ones that are in bad shape if that is what the Boards want.

Ms. Joseph recommended that the Board allow some flexibility to work with the developer to determine which plants need to be replaced. She also recommends that the Board hold extra surety to make sure things get completed; the intent is to come for street acceptance at some time in the future. This will ensure that everyone comes to some mutual agreement between the HOA, Developer and the Town. She recommends that surety be reduced to \$27,560 in accordance with peer review comments.

Mr. McSharry indicated that some things on the list of outstanding items to be done have been completed, i.e. the drainage, painted the fire hydrants, handicap ramp will be done, plans will be dropped off on Monday. Ms. Joseph indicated the Town's consulting engineer has not inspected the drainage nor confirmed that the list of items is complete.

Ms. Lambert asked who is taking care of snow plowing; the homeowners.

Mr. Bornstein asked if the Red Cedars that are noted on the plan were ever installed. Mr. McSharry indicated no they were changed out with a letter on record with the Board's approval to change to Arborvitae. There was discussion about the soils in the area of the basin; it is manmade with a flat top of berm. Conceptually the plantings were to help screen the telephone poles. Mr. Bornstein said that they should consider replanting with the Red Cedars as on the original plan; deer tolerant, native species that can exist in dry soils after establishment.

Public Comment:

Mr. Gerry Hickey, resident at 16 Deer Common Drive, indicated that the homeowners thought they would be on the spring meeting for street acceptance; they are not. They see that things have been done and are now looking forward to being on the fall town meeting; things have not yet been inspected by the town. This is why they are all here; people have been living there 2-3 yrs., he questioned if there is a procedure for snow plowing and sanding because the street is done, the sidewalks are done, the hydrants are done yet the homeowner's are still responsible.

Ms. Joseph indicated that she has provided Mr. Hickey and the developer with the requirements for street acceptance. She indicated part of acceptance is a petition where 75% of the people need to sign; no petition has been submitted. She said she spoke with the Town Administrator and there is no policy that if the street is done there can be plowing, etc. before there is a vote at Town meeting; everything has to be complete and get the vote of the Street Acceptance Committee, Board of Selectmen and Planning Board prior to the town doing any plowing. The Planning Board does not have control over the street acceptance at this point; the Board needs to close out the subdivision. She indicated the residents could file the petition for street acceptance and go through the process and see how much gets done prior to the April, Annual Town Meeting.

Ms. Burbine indicated the petition would need to be filed by Tuesday December 17th, to get on the warrant, but the residents will not get plowed this winter. 75% of the signatures are needed on the petition; that begins the process.

Ms. Karen Nutter, resident at 28 Deer Common Drive spoke about a lack of urgency from the developers; their concern now is who will manage the builders to complete the subdivision in the appropriate time necessary. She indicated the few items on the list to be done have been there for months until this past week after a meeting with Ms. Joseph. She expressed that as tax payers they do not feel they should be managing it to get it done and get on the warrant for April. She indicated they were not aware there was a petition to be signed. She said they are looking for assistance to help get this done. She said paying for snow plowing, street cleaning, etc. on top of taxes is not a burden any of the residents thought they would have 2-3 years in.

Ms. Nutter indicated the homeowner's would be happy to have the trees taken out in the back because the homeowners would be responsible for the upkeep of them. She said they don't screen,

they are too far apart, they don't look healthy and she is not sure anything would survive back there because of the animals.

There was discussion if there is anything the Board can do to help expedite this for the homeowners. Ms. Joseph indicated that the homeowner's can't be stopped from applying for street acceptance; the petition needs to be turned in by Tuesday.

There was discussion about what is left to be done on the punch list in order to close out the subdivision. The Board and Mr. McSharry was in disagreement with what is to be done. Ms. Joseph indicated that the list attached to the surety reduction is the list of items to be completed. Mr. Pritchard said one thing the Board can do to motivate someone to do all the things needed is to not release surety bond.

Mr. McSharry listed the items he perceived to be complete; swale, hydrants, shrubs, road cleaning should be done in the spring and plans are coming to the Planning Board office.

Mr. Steve Bjorklund, local developer, commented if the residences are looking for street acceptance and it is not done it can be postponed to the next town meeting; but opined they should just get the petition in.

Mr. McSharry indicated that the swale is done, it has been surveyed by Ross Engineering and put on the plan; the Towns consultant can come out and look it.

Mr. Bornstein said there is more to a swale then grading and having it put on as-built; it is a piece of green infrastructure . Mr. McSharry indicated on the first lot there is some water coming out of the hill, they moved the swale over 6" to capture the water as it moves down the hill and drain towards the basin. Mr. Bornstein again said it is a piece of green infrastructure that conveys water from one place to another; not only do the grades need to be re-surveyed but it needs to be functioning as designed. The Town's engineer needs to say that it is functioning as designed; it is more than just re-shooting the grades for the as-builts. Ms. Joseph indicated it also needs to tie into the catch basin and this was the first she has been made aware that is complete. It needs to be inspected.

There was discussion if everything that needs to be done could be done in a week, by the 19th meeting. Ms. Joseph indicated no, she does not feel the requirements can be met per the subdivision control law. She provided a list of items that are needed; certificate of compliance signed by the applicant, copies of all the requisite numbers inspections, as-builts, certification from Planning Boards Engineer, certification from the Board of Health, certification from Conservation Commission, and copies of reference to necessary instruments.

Mr. McSharry indicated that they have letters from the Board of Health; they are going to the Conservation for their Certificate of Completion, he does not think Merrill needs to go out and inspect the drainage; only things to do are the handicap ramp and shrubs in his estimation; they may have to clean the roads and the basins in the spring.

There was discussion about the process of street acceptance and it was determined there is 2 months' time to get everything done on the punch list. The Board advised the developer should get everything done in less time, 1 month.

Mr. McSharry said the biggest question is the shrubs.

Ms. Joseph indicated the biggest question is if the drainage improvement is working; DPW will want to review in the spring and over the winter to make sure the puddle in the road is not there.

Ms. Burbine suggested there should be a meeting with the homeowners, Mr. McSharry and Ms. Joseph regarding the trees/shrubs in the back. She opined that the homeowner's really don't want the trees. She asked if it is possible to have a field change. Mr. Joseph suggested the Board see pictures first. Mr. Pritchard said the Board would want to make sure there was consensus among the homeowners.

The Board discussed putting this back on the agenda for next week to discuss the plantings.

Mr. William Brundige, resident at 27 Deer Common asked if signatures would be acceptable regarding the trees/shrubs. The Board said yes.

Motion:

Ms. Burbine moved to postpone the surety decision until December 19th, 2020 at 8:30 pm, at the public safety center.

Mr. Pritchard seconded the motion; the vote was unanimously approved.

**Continued - Public Hearing – Special Permit Accessory Dwelling – 355 Hatherly Road
Assessor's Map/Block/Lot: 22-11-9
Applicant/Owner: Deborah A. Risi**

Documents

- PDF Revised Plans 12.2.19
- Doc DRAFT Motion 355 Hatherly mtg

Attendees: Deborah A. Risi, Property Owner; Chris Alexander, Builder

Ms. Risi indicated that she has re-submitted the drawings for the accessory dwelling at 355 Hatherly Road with per the Boards request showing the second means of egress.

Mr. Pritchard commented that lights outside should be shining down so as not to disturb the neighbors; the applicant confirmed lights will be down lights.

Motion:

Ms. Burbine moved to make the following Findings of Fact:

1. On August 20, 2019 with the request to have the public hearing as soon after November 17, 2019 as possible due to the applicant's extensive travel schedule, Deborah A. Risi applied for a special permit for a detached accessory dwelling on the property at 355 Hatherly Road.
2. According to the Town of Scituate Assessor's records, the property at 355 Hatherly Road is owned by Deborah A. Risi.
3. Based on a floor plan submitted by the applicant, the floor area of the proposed accessory dwelling will be approximately 650 gross sq. ft. (600 net sq. ft.) of living area. This is

13.64% of the total square footage of the primary dwelling which is 4,400 sq. ft. according to the Assessor's card. This meets the size requirements of 530.2F of the zoning bylaw for accessory dwellings as the bylaw allows 750 sq. ft. or 40% of the total square footage of the primary dwelling, whichever is greater. The accessory dwelling is subordinate to the existing single family home.

4. The Accessory dwelling unit will be a complete separate housekeeping unit and there will be only one accessory dwelling on the lot.
5. The property is in the Residential R-2 zoning district. The proposed detached accessory dwelling structure meets all the required setbacks, building height and yard requirements for a primary dwelling.
6. The proposed accessory dwelling is located on the northwest side of the primary dwelling above the detached two car garage. Access/egress will be via an internal staircase leading from the two car garage and the secondary means of egress is via an external staircase.

Comments: language added

7. The appearance of the accessory dwelling will be in keeping with the appearance of the primary dwelling.
8. The Plot Plan of Land in Scituate, MA showing 355 Hatherly Road shows an existing bituminous concrete driveway for the existing dwelling and a 2 car garage. This appears adequate to provide two parking spaces for the primary dwelling and two spaces for the accessory dwelling. Ample parking appears to be provided.
9. The owner has submitted a signed, notarized statement that she will be occupying 355 Hatherly Road as her primary residence.
10. The accessory dwelling will be serviced by Town water and municipal sewer. DPW requirements for water and sewer connections will be met.
11. The application meets the standards of the Scituate Zoning Bylaw for an Accessory Dwelling Special Permit.

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

Ms. Lewis moved to approve the Special Permit for an accessory dwelling at 355 Hatherly Road with the following conditions in addition to the standard conditions for accessory dwellings approved by the Planning Board after a public hearing on 12/17/15:

1. Except for any changes necessary to meet these conditions, any construction shall substantially conform to Foundation As-Built Plan for Detached Garage 355 Hatherly Road Assessor's Parcel 22-11-9 Scituate MA prepared for Deborah A. Risi. dated July 31, 2019 by Morse Engineering Co., Inc. and architectural plans by Mann Lot Architecture LLC, R. B. Vogel consisting of 10 sheets including, Risi 355 Hatherly Road Accessory Dwelling, First Floor Plan DWG 1 of 8, East Elevation DWG. 2 of 8, West Elevation DWG 3 of 8, North Elevation South Elevation DWG. 4 of 8, Foundation Plan DWG. 5 of 8, Loft Floor Plan Framing DWG. 6 of 8, Roof Framing Plan DWG. 7 of 8, Construction Detail Section 4 Specifications DWG. 8 of 8, Risi Residence Carriage House Revisions dated 7/20/19 with revisions through 11/25/19.
2. The number of bedrooms in the accessory dwelling is limited to one in the location and size indicated on the floor plan submitted with the application.

3. No further expansion of the accessory dwelling floor area is allowed without further review by the Planning Board.
4. Upon occupancy of the accessory dwelling, the applicant shall provide a notarized affidavit that she is living in one of the dwelling units. A yearly certification that the owner occupies one of the dwelling units must be provided by March 1 yearly.
5. All requirements of the Board of Health, Building Department, Department of Public Works, Fire Department and other Town agencies must be met prior to occupancy of the accessory dwelling.
6. The accessory dwelling shall conform to all applicable standards in the building, plumbing, electrical, mechanical, fire and health codes and bylaws.
7. Water connection must meet all requirements of the DPW Water Division for the accessory dwelling.
8. Sewer connections must meet all requirements of the DPW Sewer Division for accessory dwellings.
9. Any lighting installed shall be down lighting to not shed light on abutting properties.
10. Construction work shall not begin prior to 7:00 am weekdays and 8:00 am on Saturdays and shall cease no later than 7:00 pm or sunset whichever is earlier. No construction shall take place on Sundays or legal/federal holidays. Construction includes idling of vehicles, delivery of materials to the site and all other construction activities.
11. Runoff from the proposed accessory dwelling shall not be increased from the property.
12. Erosion and sedimentation control devices shall be installed to prevent any erosion or sedimentation from leaving the site during construction. Silt sock shall be used as necessary

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

**Discussion – Zoning – Section 830 – Repair and Restoration of Nonconforming Structures
And Uses – Bob Vogel**

Documents

- DOC REDLINE Version 2- 830d
- DOC REDLINE 810
- PDF Existing Section 810.1
- PDF Existing Section 830
- DOC Memorandum dated 12.4.19

Attendees: Bob Vogel, Scituate Building Commissioner/Zoning Enforcement Officer

Mr. Vogel indicated he has a placeholder in for the warrant for December 17th, but the language is still to be finalized. He discussed the reasoning behind the change to the bylaw and referenced his memorandum dated 12.4.19 that was provided to the Board. He said the Building department receives many complaints/calls about abandon structures; they are a blight to the neighborhood and a danger.

The Board and Mr. Vogel discussed the current language in Section 830 and 810.k focusing on the fact that after 3 yrs. properties become dead properties if non-conforming and can't be rehabilitated

Mr. Vogel provided an example of property on Surfside Road that has been abandoned for at least 20 yrs., taxes are being paid by a holding company so it can't be taken for tax title, but it has no value – it can't be taken down and if it could be, nothing can be done with the lot. He indicated that if the Town could go in and take it down, etc. the town would do that but at that town's expense with no way to recover the costs. He said he is trying to address this issue with the proposed change. He indicated that Mr. Boudreau generally thinks it is a good idea.

He further explained the change would be to take the residential use structures out of the situation where they are not allowed to be rehabilitated; this would allow a period of time between damage and destruction to not be limited; structures would retain value and allow someone to come in and repair and existing property or take down a property and rebuild. He said most would be on lots that are not non-conforming so it is not a question of use; it is a question of dimensional bound conformity.

Mr. Vogel indicated he would like to have the Boards concurrence that this is a good idea and continue to work through the language to avoid any unintended consequences.

There was discussion about the nature of the complaints; Mr. Vogel indicated they are mostly about the length of time something has been sitting, he is aware of 3 properties – Holly Road, Surfside Road(81) and Pleasant Street, but suspects there could be more.

Currently under the 3yrs. to rebuild a property needs to be conforming and follow all existing zoning. Proposed change would allow one to re-build under the existing non-conformity and not make any more non-conforming; all ZBA regulations would still be in place.

Ms. Lewis said if the 3 yr. period goes away, the flip side would be why re-build if it could be done at any time. Mr. Pritchard said he would be concerned about people delaying and delaying. They discussed if the proposal could be written to include an incentive to rebuild and rebuild early.

There was discussion about the 3 properties Mr. Vogel spoke about, they are not being lived in and all taxes are being paid.

Ms. Lewis asked if there could be a way to grant an exception for some properties that currently could not re-build and with the new proposal now be able to re-build.

The Board discussed the possibility of a Derelict property provision to allow a special permit in certain non-conforming instances; it would have to be an existing property. The Board discussed putting a time frame on the permit of 3 yrs. and creating an out provision to extend the time, but only with a special permit. This would leave the 3 yrs. to help motivate people to get done in 3 yrs.

Mr. Vogel indicated that what the town has now is not working and needs to be changed.

Public Comments:

Mr. Steve Bjorklund commented about the property at Holly Hill Road that had a fire; the property owner was not well and used the money elsewhere and got stuck because now there is no avenue to do something with the property.

Mr. Vogel indicated that he would also like to include derelict houses in the change of the bylaw; a property that is no longer fit for habitation, i.e. Driftway home.

The Board opined there should be a placeholder put in while the wording continues to get massaged.

Mr. Limbacher indicated he would like to see a matrix with where we are and what we can do. Mr. Vogel agreed to provide one.

Form A-ANR – 115 Grove Street

Assessor's Map/Block/Lot: 36-2-2 and 4R and 5R

Applicant: Henry Holmes

Owner: Carlo A. Moonigian

Documents

- PDF11-25-19 115 Grove Street ANR
- PDF 18-147 115 Grove ANR Submittal
- PDF 1976 Variance
- PDF Revised ANR form – owner permission
- Doc Transmittal 115 Grove
- Doc DRAFT Motion Form A 115 Grove

Ms. Joseph indicated the plan shows a division of land and every lot has frontage and access on First Parish Road or Grove Street; the plan should be endorsed.

There was discussion why a proponent for the applicant is not here. Ms. Joseph indicated that the Board could accept Mr. Bjorklund as the advocate for the applicant/owner, but the Board does not have written proof that Mr. Bjorklund can speak on behalf of Mr. Holmes.

Ms. Joseph indicated the plan stands by itself without discussion from Mr. Bjorklund. The Board invited Mr. Bjorklund to the podium to speak on Mr. Holmes behalf.

Mr. Pritchard asked why they are doing the Form A.

Mr. Bjorklund indicated they want to create a new lot via access of a common driveway.

- Re-dividing lot 1 and lot 2 as on the current Assessor's map
- Lot 1 will have 40,000 sq. ft. of upland
- Lot 2 - purchased land from Mr. Moonigian to make lot 40,000 sq. ft. of upland
 - Adding Parcel A to lot 2
 - Parcel 3 not being reduced to be non-conforming

- Will be additional development for the lots before the Board - Common Driveway

Motion:

Ms. Burbine moved to endorse as Approval Not Required a Plan of Land in Scituate, MA Showing a Division of Assessor's Parcels 36-2-2, 36-2-5R & 36-2-4R 115 Grove Street & 577R First Parish Road prepared by Morse Engineering Co., Inc. for applicant Henry Holmes and property owner Carl A. Moonigian dated 11-15-19 as the division of land shown on the accompanying plan is not a subdivision because it shows every lot on the plan has frontage of at least the distance presently required under the Scituate Zoning Bylaw on the public way of Grove Street or First Parish Road.

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

Liaison Reports:

Master Plan – reported by Mr. Bornstein:

- 3rd public workshop
- 4th and final workshop coming – later in January 28th need to get more people out
 - TBD time and location

Shellfish - reported Mr. Bornstein:

- Rules and Regulations for aquaculture approved by the BOS
- Next steps will be to determine how shellfish permits/grants will be issued

Mr. Bornstein noted that DPW will be having the water update meeting next week on the 18th.

Community Preservation Committee – reported by Ms. Burbine:

- Seeking appraisals for Mordecai Lincoln Road property
 - Questions as to who will be responsible for running it and maintaining it
- Skate park - In - line skate Park – 25 years old – CPC will fund
 - Issues is maintenance
 - Friends of Scituate Recreation will allocated \$10,000 into a fund for maintenance - as continue to fund raise will continue to put money into the fund
- Fire truck rehab - \$135,000 historical – questions about who will own it, where it will live, who will maintain it

Ms. Lewis discussed a proposal from the Sewer Department to require lateral pipes be inspected from individual homes when homes are being sold; several instances in Scituate where homes were sold and then there was a crack in the pipes that was not known and sewage backed up into people's new homes. The pipes are not always inspected during a home inspection. Ms. Lewis expressed concern on how the department will let people know this a requirement; how do you educate people. She also noted it would not apply to people around the light house, because their system is already being fixed, but it is tricky.

Planning and Development – reported by Ms. Joseph:

- This week in-house meeting with Drew Company – contractor/architect – meeting department heads

- 3 place holders for town meeting – Mr. Vogel, North Scituate, Signs
 - North Scituate – similar to Greenbush – MAPC working on have had a couple public meetings
- 50 Country Way – waiting for shutters and balcony support still to be done, walk through on punch list
- Mr. Hallin email – didn't do garage doors, missed December 1st deadline
 - How does the Board want to handle – can fine him
 - Has occupancy of the building, does not have an accessory dwelling special permit
- Seaside at Scituate – first occupancy permits end of January
 - Meeting with town departments to review what is needed prior to getting COO
 - Master deed to be recorded prior to end of the year
 - Small change for some of the walkways – going with permeable pavers vs. concrete
- ZBA has proposal for three 50' frontage lots – at Laurelwood Drive – part in Scituate part in Norwell
 - Providing a letter from Planning Board with comments
 - Planning Board still holding Surety
 - Will likely come to Planning Board to endorse the Form A and do a common driveway
 - Subdivision goes back to 1998
 - Reach and Apply lawsuit was filed – status unknown
 - Is unfinished with the Town of Scituate, taxes have not been paid – Treasure Collector has potentially but a lean on the property.
 - Proposed land for frontage lots was not part of the subdivision – land traded to get the road
 - Abutter asking for the 50' frontage lots – not the subdivision

Documents

- Email to the Board from Karen Joseph dated 12.2.19 with meeting materials for Historic Preservation discussion
- Email to the Board from Shari Young dated 12.6.19 with meeting agenda and meeting minutes from 11.14.19 and 11.21.19
- Email to the Board from Karen Joseph dated 12.6.19 with meeting materials for Zoning Bylaw 830 and 810.1 and 7 MacDonald Terrace
- Email to the Board from Karen Joseph dated 12.6.19 with meeting materials for 355 Hatherly Road, 115 Grove Street, and Deer Common
- Email to the Board from Karen Joseph dated 12.6.19 with meeting materials for One Buckeye Lane and Stockbridge Road
- Email to the Board from Karen Joseph dated 12.6.19 with meeting materials for 14-16 Old Country Way.
- Email to the Board from Karen Joseph dated 12.9.19 with meeting materials for 14-16 Old Country Way and One Buckeye Lane and Stockbridge Road.
- Email to the Board from Karen Joseph dated 12.11.19 with meeting materials for Zoning Section 810 and 830

These items were distributed to the Board electronically.

Mr. Limbacher moved to adjourn the meeting at 10:04 p.m. Mr. Pritchard seconded the motion; the vote was unanimously in favor.

Respectfully submitted,

Shari Young
Planning Board Administrative Assistant

Patricia A. Lambert, Clerk

Date Approved: January 9, 2020

