

SCITUATE PLANNING BOARD MINUTES December 9, 2021

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

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

Members absent: Stephen Pritchard, Mr. Bornstein was late to the meeting at 6:18 p.m.

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

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

Chair Burbine called the meeting to order at 6:15 P.M. The meeting was being recorded for airing on local cable television and live on Facebook.

Documents

- 12/9/21 Planning Board Agenda

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

Form A – 0 Laurelwood Drive

Assessor's Map/Block/Lot 30-1-6 and 30-2-22-F

Applicant/Owner: Mary E. MacKay and Patrick O'Brien, Trs. Of the David MacKay Revocable Trust

Documents

- PDF 4065-FMA-3-11-23-21
- PDF Assessor's Cards
- PDF Form A Application
- PDF GIS Map
- Doc Transmittal Laurelwood Drive and FP
- Email dated 12.1.21 authorization from Patrick O'Brien
- Email dated 5.20.21 authorization from Mary E. MacKay
- Water Department comment dated 12.6.21
- Water Department comment dated 12.7.21
- DPW Director comment dated 12.7.21
- Comment from the Water Resources Committee dated 12.8.21

Attendees: Bill Ohrenberger, Attorney; Paul Mirabito, Ross Engineering, Mary MacKay, Property Owner.

Mr. Ohrenberger explained the ANR Plan.

- Land is being divided into 4 lots
- A second ANR Plan will be forth coming for Lot 1
- Lot 1 will have an easement established on it
- All lots have access and frontage

Ms. Joseph recommends endorsement for access and frontage, there will be another ANR coming for the project; it is a complicated project. She said the comments received thus far related to water are not relevant for this part of the process, but will be for the project coming down the pike.

Motion:

Ms. Burbine moved to endorse as Approval Not Required the Plan of Land in the Town of Scituate, Massachusetts, Laurelwood Drive stamped by Paul Mirabito of Ross Engineering Co. Inc. dated November 23, 2021 for applicant/owners Mary E. MacKay and Patrick H. O'Brien, Trustees of the David R. MacKay Revocable Trust as the division of the tract of land shown on the accompanying plan is not a subdivision because every lot on the plan has frontage of at least the distance presently required on a way shown on a plan therefore approved and endorsed in accordance with the Subdivision control Law, namely Laurelwood Drive on 7-16-98. Planning Board endorsement of the plan is not a determination as to conformance with zoning regulations.

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

Discussion/Vote – Re-appointment Design Review Committee Member – Craig Mutter

Documents

- Doc Motion Form

Ms. Joseph indicated that Mr. Mutter's term is ending in the new year and he would like to continue on as a member of the Committee. Ms. Joseph said the DRC is currently made up of three practicing architects and they all work very well together and seem to have expertise in complimentary areas.

Motion:

Ms. Burbine moved to re-appoint Craig Mutter to a three-year term on the Design Review Committee for a term running from January 11, 2022 to January 11, 2025.

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

Liaison Reports:

Marijuana Bylaw – reported by Ms. Lambert:

- Been working very hard and almost ready for review
- There will be multiple warrant articles
 - Revision to medical marijuana to correspond with correct terminology used by the Cannabis Control Commission
 - Revision of recreational marijuana
 - Repeal of the general bylaw
 - Repeal of the moratorium
 - Financial article for the funds
 - Planning Board will be presenting at Town Meeting with Consultant if needed
- Planning Board will be sponsoring a Lot Shape article
- Planning Board will sponsor a correction to Section 440.5 to add VCN

- ZBA will sponsor proposed amendments to Sections 810/830
- Proposal to change the side setback for R-3 district from 8' to 15'
 - Other districts are 15' side setback already
 - This might help with Lot Coverage
 - Chair of ZBA thought change in setback was a good way to try and work on that issue
 - Board decided to work on this and put in for a warrant article for Annual Town Meeting 2022

Continued - Public Hearing - Stormwater & Site Plan Review Common Driveway – 533 Country Way

Assessor's Map/Block/Lot 26-2-5

Applicant/Owner: Marvell Homes, LLC

Documents

- PDF 4169 swp1.1
- PDF 4169 swp1.2
- PDF 4169 swp1.3
- PDF 4169 swp1.4
- PDF 4169 -CD SWP BOH 11-2-21-CD DET
- PDF 4169 – CD SWP BOH 11-2-21-CD
- PDF 4169 – CD SWP BOH 11-2-21-SWP DET I
- PDF 4169 - CD SWP BOH 11-2-21-SWP DET II
- PDF 4169 – CD SWP BOH 11-2-21-SWP EROS PLAN
- PDF 4169 – CD SWP BOH 11-2-21 – SWP EROS DET
- PDF 4169 – CD SWP BOH 11-2-21 – SWP EX COND
- PDF 4169 – CD SWP BOH 11-2-21 - SWP Layout Plan
- PDF 4169 – CD SWP BOH 11-2-21 – SWP SITE PLAN
- PDF 4169 – CD SWP BOH 11-2-21 – WS PRE
- PDF 4169 – CD SWP BOH 11-2-21 – WS PST
- Doc Motion Form 4th Continuance

Attendees: Steve Bjorklund, Consultant; Paul Mirabito, Ross Engineering; John Chessia, Town's Consulting Engineer

Mr. Mirabito indicated that comments have been received from John Chessia, Town's Consultant and they are still working on their response, but the discussion continued so the applicant could get some direction from the Board on how to proceed on some issues based of the most recent review comments.

Mr. Mirabito and Mr. Bjorklund went through the Review letter page by page;

- Project for common driveway and stormwater
 - Applicant believes comments regarding the septic system and test pits is not required because it is not part of the regulations of a common driveway
 - Septic system plans have been submitted to the Board of Health (BOH), no comments have been received

- Property on the opposite side of the street had a septic system approved by BOH and Conservation with wetland lines
 - There is 1 Wetland flag at the front of the street that falls within the 100' buffer zone
 - Filed for NOI with Conservation in August, but have yet to have a public hearing
 - Stormwater issues would be addressed by the Planning Board not Conservation
 - Does the applicant need to show the entire wetland associated with the single-family home on the opposite side of the street on the plan?
 - There is a drainage easement for the Town in the wetland area, everything from the street and the hillside drains into the basins and to the wetlands.
 - The applicant does not believe they need to comply with anything for Conservation and the Wetlands Protection Act on a common driveway plan.

Mr. Bjorklund indicated that additional Wetland information was provided on sheet one of seven in the stormwater plans. He said they cannot access the lot across the street and can only use their wetland lines shown on the septic plan for that property. Ms. Joseph opined it was reasonable to use the wetland line from the abutter's septic plan in this case, but enough needs to be shown so the Board can see it. She opined the information should be on the common driveway plan; Mr. Bjorklund said it would not be legible.

Mr. Chessia was fine with the discussion for the wetlands and plans.

- Sheet 1 a septic easement was added for the repair and maintenance of the second leaching field.
- Ms. Joseph indicated all the grading should be shown for the septic plan; it is important because it impacts the stormwater permit.
- Locus of map to show the common driveway
 - Purpose of the map is to show location of the area and the relationship to the surrounding streets, impossible to show the driveway due to the scale of the map

Mr. Chessia opined the comment regarding the locus was does the Board want to see the entire site for the common driveway plan. The Board agreed it is sufficient as is since there is a plan of the whole site.

- Soils and Resource Conservation Services
 - Test pits shown, 17 test pits
 - Additional information requested for perk test pits for the septic system
 - Applicant does not believe they need to do anything with test pit for septic system; it is just more information on the map that does not have anything to do with the Planning Board.

Mr. Chessia said the benefit of the septic test pits is that it confirms the soil type used in the runoff analysis; testing was done and it is information that is useful for the stormwater analysis yet it has not been shared. The information does not have to go on the plan it can be shared in a report; the information has already been collected. Septic systems have to be shown on stormwater plans because of separation from ground water.

The Board agreed it was a reasonable request to have the information. Mr. Bjorklund said the information is on the Septic Plans already provided.

Ms. Joseph asked for an electronic copy of the septic plans and she will pass them to Mr. Chessia.

- 14' wide common driveway
 - Driveway has been revised to 16'
 - Deputy Fire Chief requiring 16'
 - Comment is addressed
- Wetland lines – all parties in agreement on which plans to use
- All parties in agreement on dates of application to be used, no new application to be submitted
- Pavement has been modified to 16'
 - Plan provided shows easements, etc., however the plan is to be revised to tie the easement into the property lines in some areas
- Deed and covenant for the common driveway
 - Shown on the plan that driveway can never be considered for a public way
 - Deeds will say they are subject to the common driveway agreement
 - Common drive agreement and plans say it can never be accepted as a Town way
 - Common driveway agreement needs to be acceptable to the Board and will have maintenance plan of the common driveway
 - Ms. Joseph to send out to Town Counsel
- Sidewalk grading not on site, applicant will be working with DPW
 - DPW will decide if a crosswalk is needed
 - Mr. Chessia opines the details need to be on the plan and should be provided to the Board, but it is for the Board to decide
 - Wall shows on the plan, but grading, etc. will be under the direction of the DPW
 - Ms. Joseph opined the information should be shown on this plan as well
- Scenic Road Comments from Mr. Chessia's review
 - Tree removal, already have scenic road approval
 - Mr. Chessia commented it is not the street trees, but the general site trees that are being impacted. Common drives are supposed to minimize site disturbance. The Board needs to look at the design and decide if they are okay with the design.
 - Mr. Bjorklund said most of the tree removal is because it is within the layout or because of stormwater issues

Mr. Bornstein said he commented on this the last meeting; it was indicated the site would be clear cut for the grading. He does not think that is the ideal use of the bylaw. He opined it is not great and is not convinced that the common driveway is superior to some other sort of potential land use.

Ms. Lambert said please make sure that trees that are replanted will flourish; trees are to be replanted as part the scenic road conditions.

Ms. Joseph indicated a landscape plan is required; it was previously requested and has not been provided.

Mr. Bjorklund said they will be trying to fit the trees required from the scenic road conditions on the site at the direction of the Planning Board.

Mr. Bornstein opined that wholesale clearing of a lot is not always a bad idea, but it can be made better in certain instances. He said a thoughtful landscape plan could be a lot better in years to come if maintained than what is there now.

The applicant has marked on the plan trees around the perimeter that they are hoping to save.

- Common driveway being moved to center of the lot because that is what makes sense
- Mr. Bjorklund said the Fire Department signed off on the common driveway portion
 - The driveway will be the required 16'
 - A revised plan is to be submitted showing the 16'
- Utilities not sure if it will be gas or oil
 - Water is in the common driveway with an easement provided
 - Utility companies decide where the utilities go
 - Discussion about underground vs. above
 - Electric lines are on the correct side of the road and are a short distance, hoping to keep above ground
 - Underground work adds lots of expense
 - Board to take under advisement and review at next meeting
- Swales along the driveway and the hammerhead will be addressed with in the drainage
 - Swales are now shorter
- Grade of the driveway
 - Reviewed with the Deputy Fire Chief and he has approved
 - Grade is just over 10%
- Only component in the Common Driveway easement is a force main, no other major components under the paved portion of the driveway for the septic
- Hammer head approved by the Deputy Fire Chief
- Screening
 - The driveway is centered between the two lots, developer to decide if screening necessary
 - Driveway is not up against and abutting property
 - Should be part of the landscape plan
- Sight Distance Data
 - Measurement point is 14.5' from Country Way
 - ASHTO requires 15' in Subdivision regulations, regulations do not address common driveways
 - Received street opening permit for Traffic Rules & Regulations (TRRC)

Mr. Chessia's comment is that Country Way is a major road and they need to be in the 85th percentile speed and the Board should decide if it is required or not required. Ms. Joseph indicated she does not have any comments from TRRC on any approvals and suggested they have a curb cut permit, but is not aware of the permit.

- Plan does not indicate lot width
 - Width being measure parallel to the driveway
 - Lots have 100' width from the street to the first part of the dwelling
 - Shown on the Form A
 - Plot plan will need to be submitted to the Building Department showing the lot and the structure
- Zoning table – is more information needed
 - Setbacks are listed
 - Board wants to see where outside lighting is going to be, etc., lighting needs be all down lighting
 - It was determined the information provided is sufficient

There was discussion if the Board has all the information, i.e. the ANR Plan, etc. A copy of the ANR Plan will be physically filed with the Common Driveway plan so all the information is one place.

- Full extend of elevations and contours of the properties that are within 50' of the site applicant does not feel necessary
 - Mr. Chessia opined it is a regulation
 - On the street side they have enough information
 - But septic systems of abutting lots should be on the plans
 - Need to prove they are far enough away
 - The purpose of the 50' is to see where water flows, is there a structure or feature near by that would be of concern.
 - Mr. Bornstein said it is in good practice and a requirement to show septic, etc. for buffers, it gives a better visual for stormwater and for things that do have regulations for certain setbacks.
 - The Board asked the applicant to locate a leaching field, building if it is within 50'
 - If no septic systems, etc. located within the 50' add a note to plan.
- Applicant to provide cleaned up plan, so text is more legible
- Applicant to provide landscape plan
- Applicant to provide size of footprint on the plan for impervious data
 - Label the square footage on the plan of the homes proposed
- No parking along the common driveway and the turn around
- Applicant to show entrance of the houses on the plan, Board will figure out the front door
- Pipe in the patio to be figured out with further drainage discussion
- Applicant to show handicapped ramps in the layout of the driveway if required by DPW
- House numbers do not need to be on the plan
- Lighting to be down lighting
- Projects exceeds 15% impervious area, but does propose recharge and runoff, Section 520.F.1
 - Board needs to decide if the applicant is doing enough even though they are exceeding the 15%
 - Mr. Bjorklund said there is less water leaving the site when it is complete
 - Ms. Joseph indicated there needs to be a certification that the water quality is not impaired; a stamped certification.
 - Certification will have to reflect revisions discussed

There was discussion about the septic system and the Board of Health (BOH); BOH has all information.

There was discussion about the use of tree box filters as BMP for the project. Mr. Bornstein opined they would need to be inspected annually and has rarely seen them in residential use. The Board did not feel that a homeowner would maintain a tree box filter and did not feel it was a suitable solution and would like to see an alternative.

The applicant will be addressing comments from the review regarding drainage, but there was no real discussion at this time.

There was discussion about snow removal; it will likely be at the end of the driveway in the hammerhead. Ms. Joseph indicated it cannot go in the swales on the side of the driveway; it can be conditioned in the Operation & Maintenance Plan.

Ms. Joseph added several other comments:

- Erosion control limit of work is confusing
 - Erosion controls need to be inspected before work can be started and be addressed on site if needed
 - Items need to be clearly labeled on the plan
- Construction plan did not show siltation sumps that are to be used
- Water needs to be on site during construction and after construction

Public Comment:

No public comment

Motion:

Ms. Burbine moved to accept the applicants request to continue the public hearing for the Stormwater Permit and the public meeting for the Site Plan Administrative Review for a Common Driveway at 533 Country Way until February 10, 2021 at 6:30 pm and to continue the time for action for filing with the Town Clerk until March 15, 2022.

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

Discussion – Proposed Zoning Amendment – Section 810 and Section 830 – Bob Vogel

Documents

- Doc 810.11.17
- Photos

Attendees: Robert Vogel, Building Commissioner/Zoning Enforcement Officer

Mr. Vogel indicated tonight's discussion is on how to solve the problem in town of abandoned and unused properties that have been allowed to deteriorate and become blights on the neighborhood, unsafe, etc. many have been abandoned for decades. Mr. Vogel had photos of properties for examples.

The proposal is to change/amend Section 810 to incorporate Section 830; Section 830 addresses non-residential structures there does not seem to be any reason to differentiate between residential and non-residential structures. He said the issue with the current Bylaw is about the period of time for which one is allowed to fix a property if it is in a non-conforming situation.

Mr. Vogel used property at 81 Surfside Road as an example; the lot is 7,000 sq. ft. so it does not meet the requirement for today's zoning. If the structure was taken down now, well after the allotted time period for when the damage had occurred, nothing could be done with the lot unless the land was sold to a neighbor to extend their property. The lot is essentially worth \$0. Town Counsel has opined that if it were ever to go to court the Town would likely lose because it represents an uncompensated taking; the Town has made the property worthless by means of the zoning bylaw.

Mr. Vogel said the 2-year time limit is a state minimum time limit, he is proposing to extend the time period to a 4-year period. Many things would be helped, probate, divorce, etc. He is also proposing that if needed beyond the 4-years, the ZBA could allow a repair or reconstruction through a special permit or finding of a property at any time after it has been damaged with a restriction that the property would have to lawfully exist in whole or substantial part as of the effective date of the bylaw change. This would prevent the rebuilding of properties for example on the Town Way that were wiped out in 1978. He said this is really to address blighted properties that are currently existing on the ground within the town.

He indicated there is also a provision that a non-conforming structure not restored within 4years can only be restored to a conforming use, i.e. Egypt garage could be restored as a residential property so long as it meets the residential zoning. And, "no non-conforming use of change to a conforming use shall revert to a non-conforming use" this language already exists in the bylaw today.

He said he would like to include all non-conforming structures in the boundaries of this proposed bylaw. He said section 810.2 sections A and B would apply to a structure not just single-family or two-family dwellings. He explained that Section 810.3 would get incorporated into Section 810.2.

This provides a route for property owners, banks etc, through the ZBA to give sufficient value to these properties to make them attractive for redevelopment, resale or some other situation.

Mr. Vogel said he has reviewed this with Ms. Joseph, Ms. Burbine and the Chair of the ZBA and the ZBA will be sponsoring this amendment at Town Meeting; everyone agreed that this is a needed change and a proper way to go about it.

Mr. Bornstein agreed and thought the proposal made sense.

Ms. Lewis opined this is tighter than the last time the issue was proposed and seems to close up any loop holes.

Mr. MacLean suggested that what constitutes as "good cause" should be identified prior to the vote or approval of the ZBA.

Ms. Burbine discussed a "new blighted ordinance" that was just passed in Braintree and written up in the paper.

Ms. Joseph opined something like this needs to pass and the Board should be thinking about this as we head into public workshops and hearings; if there are any questions get them to the her or Mr. Vogel.

Discussion/Vote – Extension of Stormwater Permit – 8 Bayberry Lane

Documents

- PDF 1633-Cover Letter – 11-11-21
- PDF 1633- SWP- Sht 1-Rev – 11-11-21
- Doc Motion form permit extension

Attendees: Joe Joyce, Trustee

Ms. Lewis recused herself from the meeting and was not present for the discussion.

Mr. Joyce explained the reason for requesting an extension of the stormwater permit; he said he could get some of the stormwater work done now, but could not do some of the infiltration, etc. because of the impending winter season and it is not a good time of year to do it, nor is there a house under construction.

Mr. Joyce explained he is proposing to make a change in the height of the retaining wall, and has shown it on the plan and with his Engineers letter that it will not impact the stormwater.

Ms. Joseph recommended the permit be extended citing the building permit was appealed causing some of the delay and agreed with the change in season not everything could or should be done this time of year. Ms. Joseph agreed that the change in the height of the retaining wall would not impact the overall stormwater design.

Motion:

Ms. Burbine move to accept Joseph P. Joyce's request as Trustee of 5212 Bayberry Road Realty Trust to extend the Stormwater Permit for 8 Bayberry Road for one year until February 12, 2023 and to approve the modification of the Stormwater Site Plan revised dated 11-11-21 to lower the height of the proposed retaining wall on the south side of the Lot from Elevation 17.5 to Elevation 16.5 as the requested revision has no impact to the stormwater design.

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

**Public Meeting - Site Plan Administrative Review - 131 Front Street
Assessor's Map/Block/Lot 50-3-22
Owner/Applicant: 131 Front Street, LLC, Blayne Curtis**

Documents

- PDF 131 Front Application
- PDF Site Plan 131 Front Street
- Email from Fire Department dated 11.16.21
- Email from Sewer Department dated 11.16.21

- Email from Blayne Curtis dated 11.16.21 with
- Email from Sewer Department dated 11.17.21
- Email from the Water Department dated 11.16.21
- Doc Transmittal Letter
- Doc Motion form 1st continuance
- Email comment from Bob Warner abutter dated 12.7.21

Attendees: Blayne Curtis, Property Owner; Shannon Ewer, Vine Bar; Jennifer Knowles, Vine Bar; Elise McGregor, Harborside Nutrition Juice Bar

Mr. Curtis gave a brief overview of the project.

- Purpose of the site plan review is for change in use of the building
- Bought building in 2020
- Have done renovation on the exterior of the building, interior is an open shell
- 2 tenants for the building
 - Juice Bar - Harborside Nutrition
 - Vine Bar – wine bar/restaurant
- No change to the building envelope, entrances remain the same
- Added and made improvements to the building
 - Added ADA ramp access on the north side by the gas station
 - Only change to the impervious or drainage
- Tenants
 - Complementary businesses
 - Different hours of operation
- Second floor proposing three residential units
 - 2 two-bedroom units
 - 1 one-bedroom unit
 - Requires 5 parking spaces, one spot/bedroom
- Previous use of the building
 - Second floor – multi tenant office space
 - First floor – retail, Sylvia's by the Sea
- Change of use should reduce parking by 9 spaces
 - Tried to increase the parking area, had no marked spots
 - Designating as 7 spots and an ADA handicapped spot
- Improved the fire system with sprinklers and alarms
- Sewer inspected today
- New water line

Mr. Curtis said he knows that parking is an issue in the area, but tried to maximize what they have.

Ms. Joseph indicated that a comment has been received from the Sewer Department that the line has been inspected and passed, comments also received from the Water Department and a comment letter from Mr. Warner.

Ms. Burbine said summarized Mr. Warner's letter saying he is very concerned about the parking. She referenced a parking study that was done years ago, parking spaces were lost and the area has been reconfigured; there have been a lot of changes and there is no good viable solution. She discussed a proposal from years ago about the property behind the Shell station turning into a 3-tiered garage. Something does need to be done for that end of the harbor for parking.

Mr. Warner, owner of Welch Company, Mill Wharf, Scituate Harbor Development, opined the letter is self-explanatory; the proposal by Mr. Curtis is to have condos which require 5 spaces that leaves 2 parking spaces one that is handicapped for a 66-seat restaurant and 17 seat juice bar. He said he has tenants in his building that complain to him all the time that people accessing the businesses have nowhere to park because people living in the area park there all night/all weekend long and it creates a hardship for the businesses. He opined there is other opportunity besides the property behind the Shell station, i.e. Murphy Carty Insurance and buildings behind T.K.O'Malleys. When the town did the repaving, re-draining of Front Street in 1989, Front St. lost 20 spaces it really hurt the northern end of the harbor and the Planning Board at the time said they were going to find parking off street to make up for the loss. He said his lot at some point may have to be restricted as it has been in the past; he does not want it to come to that point.

There was additional discussion about the available parking at Cole Parkway with the permitted sections.

Ms. Burbine said in terms of the parking at Mr. Curtis's property the parking needs to be marked "resident parking only and violators will be towed at their expense". Mr. Curtis said the spaces will be numbered.

The Board told Mr. Curtis that he cannot have parking space #1 as noted on the site plan, because of the trash. Mr. Curtis said he would agree to that; he was just trying to show that the area will be used for loading/unloading and there is a pathway. He also noted that unit 2 can access any deliveries through the back of the building.

The Board required that the loading space be striped out as it is with all other projects.

Ms. Joseph asked where deliveries are actually going to occur. Mr. Curtis explained that space #1 would be for loading/unloading there is a concrete pad directly in front where there would be a fence and bins would be stored there for trash and recyclables with a path to get through.

Gas meters are along the wall, but are being raised up so they will not be hit by anyone and will not be covered in snow.

Ms. Joseph indicate the Board needs to go through the following:

- Protection of adjoining premises against detrimental and offensive methods of using the site
 - The applicant is showing proposed fencing adjacent to the Shell station and the trash area will be fenced
- Traffic safety and ease of access to the street, exits, sight distance
 - Appears acceptable, but a new striping plan is required
- Safety of driveway layout, pedestrian safety, off-street parking, loading, adequacy of access for service
 - Striping the loading area will address this
 - Handicapped parking on the side
 - ADA for the Vine Bar is on the side
- Adequacy of sewage, waste disposal, trash
 - Fees to be paid to tie into Sewer
 - Adding grease traps
 - Will have an enclosed dumpster

- Adequacy of drainage
 - No changes proposed to drainage, no structures on site
- Snow storage
 - Snow will have to be removed if it cannot be stored on site
- Deputy Fire Chief approves of the fire department connections and the will accept the striping for the handicapped space as clear access to the fire protection service connection.
- Property is not in the Water Resource Protection District
- No cut and fill
- No real scenic views from publicly accessible locations
- Parking not buffered and shaded, but not sure there is room for a tree.
 - Planters are on site, planting would be good
- Sidewalks go from Front Street to Cole Parkway
 - There is safe path to parking

Ms. Joseph indicated she and Mr. Curtis differ on the required number of parking spaces and seating; Vine Bar 67 seats with 14 standing seats, 81 seats, divided by 4 is 20.5, 5 residential parking spaces plus 1 for a total of 6, there are 4 spaces need for the juice bar, the total comes to 29 spaces. She said all parking will be in Cole Parkway or on Front Street. She said if the existing use based of the square footage of office and retail required 35 spaces then this is not an increase in demand therefore, under the zoning bylaw it should be allowed. The building was there January 1, 1988 and the change in uses are not increasing the demand.

Ms. Burbine commented that the seating in the Vine Bar looks tight.

Ms. Ewer and Ms. Knowles operators of the Vine Bar addressed her concerns. Ms. Ewer's said there is enough space to be ADA accessible which is why the drink rail is standing only. The plans are done by an architect/builder that does restaurants. Ms. Knowles said they walked the floor with tape to make ensure there is enough access.

Ms. Lambert asked about the building code for fire. Mr. Vogel, Building Commissioner, said that in the building code there is a square foot allocation for each use and for each person, restaurants are concerned "assembly use" he calculated the net space as 1,667 net sq. ft for both uses combined, 854 sq. ft. for the wine and 813 sq. ft. for the juice, code assumes all people sitting to use 15 sq. ft/person which gives a capacity of 111 for both units combined; it could be more if people are standing.

Mr. Curtis said the juice bar is mostly takeout; there is distinctly different uses.

Ms. Burbine asked how the residents get into the building; building has been reconfigured to have a separate door on Allen Street with a lobby for the residents with a separate stairwell. Mr. Curtis said the second means of egress is out back down a hallway through the same door. He said he worked with Mr. Vogel on the egress.

There was some further discussion about properties that may be available for additional parking.

Mr. Warner commented that the issue of deliveries, etc. has not been addressed. As owner of a restaurant he gets trailer truck deliveries; he opined when he went through the Board to get approval he had go through three meetings and discuss times of when deliveries could be made on a private

lot and the Board needs to consider where these delivery trucks are going to go on Front Street during the summer when it is busy.

Ms. Burbine did question where a “beer truck” would go and that Allen Place is very narrow and a tractor trailer would not fit.

Mr. Curtis said there is space behind the parking spots, it is wider than it looks. It is challenging and there will be trucks no matter what goes in, but they are doing their best to get it off Front Street and use Allen Place and the space provided. Mr. Curtis said he spoke with Mr. Warner and they are aligned to fix parking; he used Cohasset as an example.

Ms. Knowles said she has had much experience with creating timing windows for deliveries and it can be managed she provided several examples of places where she has opened restaurants, Washington, D.C., San Francisco.

Mr. Warner said this is Scituate Harbor and they will show up when they want to show up and many of the trucks won’t turn up Allen Place. Ms. Knowles said they would turn away deliveries if they did not adhere to the schedule communicated.

There was discussion if the Board was ready to approve this proposal tonight.

Ms. Joseph said the Board needs to tell the applicant what information needs to be submitted for a decision to be made.

Ms. Burbine said the applicant should provide information on how deliveries will be setup.

Ms. McGregor, Juice Bar, asked if it is possible to review the uses separately; understanding all the concerns about parking, deliveries, etc. She said the Juice Bar has received tentative signoff from the Building Inspector and the BOH, they are just waiting on the Planning Board.

Ms. Joseph asked about deliveries for the Juice Bar. Ms. McGregor said they do not get any kind of 18 wheelers, they use a lot of fresh fruit which they go and get every couple of days, protein powders which come in regular FedEx trucks that would deliver to your home. They don’t do any kind of hot foot, just smoothies and tea.

Mr. Curtis said he had discussed this with Ms. Joseph and it was agreed to do it as one package, but this is what he was worried about. He does not want to have one of the three uses hold up the other.

The tenants each discussed when they desire to be up and running. Juice bar as soon as possible, not a big burden on the community in terms of trucks, etc. most of clientele is on foot, they have a few other locations in places where there is tight or no parking. Mr. Curtis said in terms of the Vine Bar there is an extensive build out, being open for the summer it is a hustle.

The tenant fit up for the Vine Bar is at least 12 weeks. and they are hoping to be open by April 1st. There was discussion about the Vine Bar getting a liquor license. The Juice Bar is hopeful it would take only 8 weeks. if everything comes in time, but there are industry delays.

The next meeting is January 13th if tonight’s decision is delayed. There was discussion about delaying the projects until then so the Board had more time to think about issues. The applicants said if they have a start date they can plan better and start to work any delays into the schedule.

Ms. Ewers said they use mostly specialty purveyors so they should not be dealing with big box trucks, they are serving small bites and craft beer and wine, it is a lot of smaller sized trucks.

Ms. Lambert opined that this is something that needs to be brought back to TRRC and the merchants in the harbor.; there should be another open discussion about what to do with Cole Parkway and the restrictions imposed.

Mr. Bornstein opined that as a Board and as a Town the problem of municipal parking in the harbor area needs to be solved. He said this project checks the boxes for what the Board wants for economic development; it brings more vibrant neighborhood fabric to the harbor, it brings new business and entrepreneurial spirit to the harbor. He said for him getting into the detail of the operational plan of deliveries would be a burden to these people to figure out at this time. He said he lives in the harbor he is there all the time and has never had an issue with pedestrian safety or driving where he has felt delivery trucks have caused concern that the police should be called. He is fine with a wait and see approach and suggested maybe a narrative maybe helpful for the Board.

Mr. Curtis said they had all the same questions with Hibernian Tavern and he has not been made aware of any issues.

Ms. Lambert said she does not want to make her decision based on the lack of parking; it is a problem that needs to be considered at a higher level, not at this meeting. The long-range goal is the parking needs to be fixed and every project just adds to it.

Mr. Curtis said he and many other owners are willing to be part of the solution.

Ms. Joseph said she will discuss parking at the next internal development meeting.

Ms. Burbine will bring to the TRRC again.

Mr. Bjorklund opined if the town is willing to spend millions of dollars to save a field, they should be able to find money to buy some of these properties to put in a parking garage.

Mr. Warner asked about the requirement for an elevator for the residence on behalf of Joby Norton. Mr. Vogel said that he needed to confirm, but because it is only three units it may not require an elevator. Mr. Curtis said it is based on the number of units from his work with Mr. Vogel.

Ms. Lewis asked where there was property to be bought. Mr. Warner said there is no available property now, but as Mr. Bjorklund said the Town needs to spend some money to find it. He opined when the building was constructed there was parking on Front Street and the Town took it away. Ms. Burbine said the Federal Government required the changes made to Front Street.

Ms. Joseph said that in 1986 when the building was built there were no parking requirements; the building was approved without parking.

Mr. MacLean is with Mr. Bornstein; if the Board has done what it needs to do in terms of Site Plan Review it should not be delayed.

Ms. Lambert agreed.

Motion:

Ms. Burbine moved based on a Proposed Site Plan for 131-139 Front Street (Assessor's Parcel 50-3-22) Scituate, MA dated 8/5/2020 with revisions through 12/1/21 by Morse Engineering Co., Inc.; floor plans for proposed restaurants for Harborside Nutrition and Vine Bar and supporting information of signage, hours of operation, and elevations; the application package for Site Plan Review from Blayne Curtis received November 15, 2021 and testimony provided during the public meeting on 12-9-21, the Planning Board opines that the requirements of the Town of Scituate Zoning Bylaw Section 770.6, Site Plan Standards of Review have been met to a degree consistent with the use of the site for the purpose permitted in the regulations of the district in which the land is located and to approve the Site Plan Administrative Review for the Harborside Nutrition- Vine Bar and residential uses with the following conditions:

1. All site work shall be in substantial conformance with a Proposed Site Plan for 131-139 Front Street (Assessor's Parcel 50-3-22) Scituate, MA dated 8/5/2021 with revisions through 12/1/2021 floor plans for proposed restaurants of the Harborside Nutrition and Vine Bar submitted with the application and attached hereto except as may be modified to meet the conditions below.
2. Approval is contingent upon all local approvals being obtained from the Town of Scituate. Materials and details of construction shall meet all the requirements of the DPW, Board of Health, Fire Department and Building Department. Where this Site Plan Administrative Review requires approval, permitting or licensing from any local, state or federal agency, such required approval, permitting or licensing is deemed a condition of the Town of Scituate Planning Board's approval of the site plan.
3. Any required upgrades on site for sewer or water shall be at the owner's expense.
4. A commercial water meter is required for the businesses and a separate water meter is required for each residential unit.
5. Suitable external grease facilities shall be provided. Proof of provision shall be submitted to the DPW Sewer Division, Board of Health and Town Planner. A utility site plan shall be provided. A schedule for maintenance and pump outs shall be provided. An estimate for water use for the restaurant and bar locations shall be provided prior to building permits for tenant fit up.

Comment: Mr. Curtis does have the estimate for proposed water use and will submit it. There also needs to be a utility plan submitted so that it is current.

6. The building uses require 29 parking spaces – 5 for the three residential units, 4 spaces for Harborside Nutrition and 17 spaces for the 20 spaces for the Vine Bar. 6 parking spaces are to be striped on-site according to the revised Proposed Site Plan dated 12/1/21 which includes one accessible parking space. Parking is available in Cole Parkway and Front Street for the two restaurants. The Applicant maintains that the proposed usage parking demand of 26 total spaces is less than the existing demand of 35 spaces by a reduction of 9 spaces for the new uses. Sidewalks are available connecting all parking to the building. Staff parking will be off-site ~~a minimum~~. A bike rack shall be provided. Construction shall be an interior buildout only as the exterior has already been modified. No further exterior modifications shall be allowed *without appropriate permits* except for painting, minor masonry work, signage, lighting installation and fencing and walkways.

7. Indoor seating is limited to a maximum of 17 seats for the Harborside Nutrition and 67 seats for the Vine Bar *and 14 standing room spaces for the Vine Bar*. No outdoor seating is shown, proposed or allowed.
8. Hours of operation for Harborside Nutrition are limited to 7 am to 5 pm Monday – Friday and 8:00 am to 2:00 pm Saturday and Sunday. Hours of operation for Vine Bar are limited to Wednesday through Friday 4:00 pm to 10:00 pm, Saturday 2:00 pm to 10:00 pm and Sunday 2:00 pm to 9:00 pm with closures on Monday and Tuesday.
9. Loading and deliveries shall be maintained in a manner so *deliver or trucks will* ~~will~~ *shall* not block access in/out of the parking area or *passage on streets*. The loading, service, delivery area shall not be striped as a parking space and is to *be striped and* remain free from parking. There was discussion if there could be parking after a certain hour. The Board did not grant that option.

10. Snow shall be trucked legally off-site if there is not room for snow storage on-site.

11. 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 state and/or federal holidays.
12. Signage shall be as proposed as shown in the application with down lighting. Any changes to the sign design shall be reviewed and approved by the Town Planner before application to the building department for a sign permit. No signs shall be affixed to the interior or exterior window surface.
13. *Residential parking is to be clearly marked and violators will be towed.*
14. The project shall comply with applicable ADA and Massachusetts Architectural Access Board (MAAB) requirements.
15. Solid waste is to be trucked off site and stored in covered dumpsters as located on the plan. Trash shall be emptied at least once a week or more frequently if necessary, or as otherwise directed by the Board of Health. The dumpster area shall be enclosed on four sides.
16. The Town Planner is to be notified upon completion of construction

Mr. Bornstein suggested a condition about delivery schedules, etc. The condition was not added as it has not been imposed on any another facility.

Mr. MacLean seconded the motion as amended; a vote was taken and was unanimously in favor.

Liaison Reports:

Planning and Development - continued – reported by Ms. Joseph:

- Drew project going to be called Skysail at Driftway
 - LLC not changing
- Roadway safety evaluation for the rotary completed on 12/2
 - There is a short comment period
 - Based on the report the Board will be able to assign mitigation for projects coming in
 - Pedestrian and Bike access biggest concern
 - Accident data – Tuesdays and Thursdays, 12-2 and 4-9 in the month of May
 - Latest accident date shows no fatalities

- Received award for the Master Plan
 - Link of award presentation send to the Board

Design Review Committee (DRC) – reported by Mr. Bornstein:

- 7 New Driftway was on the agenda
 - DRC wants to see changes to the building
 - Meeting again in next few weeks

The Board also discussed the project at 18 Ford Place and said that it is not as bad as they thought it would be and it does seem to fit into the neighborhood, the scale is not as overwhelming as it was thought to be. DRC was however, very firm on the design of the roof line.

There was also discussion about the proximity of the Gas Station to the road and the Drew project; it is what the bylaw allows. Ms. Joseph indicated there is a range in the bylaw and the Board may want to consider that for other projects coming in the range of setbacks is considered, but both projects are per the zoning.

Documents

- Email to the Board from Shari Young dated 12.3.21 with meeting agenda 12.9.21 and DRAFT meeting minutes for 10.28.21 and 11.4.21
- Email to the Board from Karen Joseph dated 12.3.21 with meeting materials for Laurelwood, 533 Country Way, 8 Bayberry, 131 Front Street, Section 810/830, Design Review Committee vote for Craig Mutter.
- Email to the Board from Shari Young dated 12.6.21 with meeting materials for Laurelwood Drive.
- Email to the Board from Shari Young dated 12.7.21 with meeting materials for Laurelwood Drive and 131 Front Street.
- Email to the Board from Shari Young dated 12.8.21 with meeting materials for Laurelwood Drive.

These items were distributed to the Board electronically.

Mr. Bornstein moved to adjourn the meeting at 9:15 p.m. Ms. Lewis seconded the motion; the vote was unanimously in favor.

Respectfully submitted,

Shari Young
Planning Board Administrative Assistant

Rebecca Lewis, Clerk

Date Approved: 1/13/2022