

## **SCITUATE PLANNING BOARD    MINUTES    February 23, 2023**

Members Present: Patricia Lambert, Chair; Ann Burbine, Clerk; and Stephen Pritchard.

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

Members absent: Benjamin Bornstein, Vice Chair; Bob MacLean, Alternate; Rebecca Lewis

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 Lambert called the meeting to order at 6:30 P.M. The meeting was being recorded for airing on local cable television and streaming live on Facebook with in-person and remote access available.

### **Documents**

- 2/23/23 Planning Board Agenda

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

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**Continued - Public Hearing – Stormwater – Laurelwood Drive Lots 3 (#5), 4 (#7), and 5 (#9)  
Assessor's Map/Block/Lot 30-2-22C and 30-1-6C for Lot 3, 30-2-22D and 30-1-6D for Lot 4,  
30-2-22E and 30-1-6E for Lot 5**

**Applicant: Mary E. MacKay**

**Owner: Mary E. MacKay et. al., Trustees**

### **Documents**

- PDF Cover Letter
- PDF Lot 4-WS-Stamped
- PDF Lot 4 Site Plan-stamped
- PDF Lot 4 Stormwater Report
- PDF Response to T1241.04-Peer Review #2
- PDF T1241.04-Peer Review #3
- PDF 4065-SWA-Lot 30-WS
- PDF Cover Letter
- PDF Lot 3 Site Plan-Stamped
- PDF Lot 3 Stormwater Report
- PDF T1241.03-Peer Review #2
- PDF T1241.03-Peer Review #3
- PDF 4065-SWA-Lot 5 -recover-WS(POST)
- PDF 4065-SWA-Lot 5 – recover-WS(PRE)
- PDF Cover Letter
- PDF Lot 5 Site Plan
- PDF Lot 5 Stormwater Report
- PDF Response to T1241.05\_Peer Review #2

- PDF T1241.05-Peer Review #3
- PDF 20230217094912330
- DOC Draft Motion Form

Attendees: Bill Ohrenberger, Attorney; Gabriel Padilla, Engineer; Peter Ellison, TEC, Town's Consulting Engineer

Mr. Padilla gave an update on the project from the last meeting; he indicated there was a meeting with Mr. Ellison and Ms. Joseph where all pending comments were discussed. He said today he sent another submittal for 2 out of the 3 lots and will be sending the last lot tomorrow for further peer review. He indicated more BMP's were added to the system; there is now an infiltration basin that complies with recharge and water quality requirements and there is a wet swale that will pick up the runoff from the small amount of pavement that the sand filters do not pick up. There have been no changes to the sand filters, they are still impermeable and water will not seep out without treatment. He said those are the only changes they have had and are working to get the final documents in.

Mr. Ellison indicated the comments across all three lots are similar in nature; TEC just complete the third review of the site plan and stormwater report. He said they are focused on the State standards and the Town of Scituate local stormwater regulations for conformance. He said there have been 39 comments to date and since the last meeting with the Board the scope of the improvements being proposed on all three lots have generally increased in size to try and meet the requirements of the bylaw. He opined the applicant has gotten progressively closer to being in conformance with the regulations and he agrees with Mr. Padilla's summary; there was a constructive meeting earlier this week where they addressed all the comments one by one to make sure everyone was on the same page. He opined the applicant is on the right track to having the comments addressed moving forward.

Ms. Joseph indicated that three reviews have already been done and that is what was contracted for; in order to have another review additional funds will need to be provided and reviews will not begin until there is additional money. Mr. Ohrenberger said they are aware.

There was discussion about when the hearing could be continued to.

Ms. Joseph advised the Board that the water line is being installed in the road in Laurelwood Drive now; it is coming from Norwell. She opined that the addition of the waterline is a modification to the Subdivision and has reached out to Town Counsel and is awaiting a response. She said she knows it is not part of the Stormwater Permit, but it still might require a modification to the Subdivision plans and she is just informing the Board. Mr. Ohrenberger got argumentative. Ms. Joseph indicated that she found out about the water line going in after several calls from residents in the neighborhood.

*Public Comment:*

Mr. Buckley resident at 50 Vernon Road indicated he had sent in some questions to Ms. Joseph and realized afterwards he didn't follow protocol and hoped some could maybe be answered tonight. He asked about the different grades of soils in the stormwater report, he said on both lots 3 and 5 on the eastern side there are wetlands, but when he looks at the report all of the land is categorized as "C" and asked if it correct to be categorized that way and what impact does that have on the calculations.

Mr. Padilla said in this case the wetland areas are not being affected at all; the soil around the wetlands are "C" soils, test pits were done around the lots that show the soil is consistent with "C" soils. Mr. Buckley said they are putting in lawn that will have greater runoff; Mr. Padilla said the surface does not affect the underlying soils. There will be more runoff and that is why they have put in the controls of the sand filter and infiltration basin, not only to comply with water quality treatment and recharge, but also to hold back the additional runoff. Mr. Padilla said as part of the standards they need to make sure that no additional runoff will go beyond the design. He said in this case every lot has a design point at the roadway and where the water the goes. When they analyze it, they look at the post condition and apply different types of mitigation systems.

Mr. Pritchard said he assumes there is no increase in volume or velocity over the pre-development conditions. Mr. Padilla said that was one of the comments in this round of peer review. He said in the new response it has been controlled by increasing the size of the infiltration basins and adjusting the grading so there is more water going into different parts of the lot. Mr. Ellison said that is a comment that is still open at this time and has not been resolved, but is in the new submittal. Mr. Ellison asked if the abutter's concern is at the Laurelwood roadway or is it off the back of the lots.

Mr. Buckley said he abuts the back of the lots. Mr. Ellison said toward the rear of the properties the calculations show the applicant is reducing the total square footages toward the back of the lots, they are able to do it because the driveway is pitched and the rooftop runoff from the house goes out towards Laurelwood Dr. away from the back area. He said the calculations as they are prepared now show a reduction in peak rate and a reduction in total volume of runoff toward the back-property lines.

Mr. Buckley opined maintenance of these mitigations is very important, he asked what insures that is done. Mr. Pritchard said there is a requirement in the decision that it needs to be reported on annually and submitted to the Planning Board. Mr. Buckley asked what the recourse is if it is not done. Ms. Burbine said that is enforcement, letters are send and if a situation is not rectified fines can be levied.

Mr. Buckley commented on Lot 5; that it is partly wetland and also within the setback for septic, he understands the septic is not within the septic setback, but says the stream that comes from the setback goes down to the first Herring Brook and then everyone knows where it goes from there. He questioned if a house really needs to be squeezed in just so someone can make a few extra bucks.

Mr. Buckley indicated that at the last meeting he thought it had been asked that there be one plan showing where all the divides are. Ms. Lambert said the Board did ask for that, but it has not been provided. Mr. Ohrenberger argued that had not been asked for; Ms. Burbine said she asked for an overall plan, showing everything. Ms. Joseph indicated it was asked for and she had provided Mr. Padilla with meeting minutes from 12.15.22. Mr. Ohrenberger said it is not in the scope of the stormwater permit and said the commentary is not appropriate and is anecdotal.

Mr. Buckley said he is asking questions and checking off the boxes, if it is anecdotal so be it, but it is up to the Town and he wanted to make his concerns known.

Ms. Lambert said his concerns are noted.

*Motion:*

Ms. Burbine moved to accept the applicants request to continue the public hearing for the Stormwater Permit for Laurelwood Drive Lot 3 (#5), Laurelwood Drive Lot 4 (#7) and Laurelwood Drive Lot 5 (#9) until March 23, 2023 at 8:45 pm and to continue the time for action for filing with the Town Clerk until April 14, 2023.

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

### **Vote – Extension of time for Endorsement and Recording of Plans – 7 New Driftway**

#### **Documents**

- PDF Letter to Joseph – 7 New Driftway-polak 020123
- DOC Draft Motion Form

Attendees: Frank Polak, Applicant

Ms. Joseph indicated the project was supposed to go the ZBA last week, but the application was not correct. She said in terms of the Planning Board the project is supposed to have endorsement 90 days after the appeal period ends which is March 8<sup>th</sup> the applicant is not going to meet that deadline. There has been one round of peer review comments on the endorsement which has been given to the applicant; Ms. Joseph is recommending the Board extend the time frame out to April 28<sup>th</sup> for recording and endorsement.

Ms. Joseph indicated a letter was received today from the applicant and they are asking to not have to comply with some of the conditions that are required prior to endorsement and/or prior to a building permit, but would like them to be part of the as-built. She opined the conditions are the conditions they have the conditions and why should the Board agree to waive them?

The Board did not think there was any reason to not hold the applicant to the conditions and requirements. Ms. Joseph said many things need to be done prior to construction to ensure things are sized correctly. The Board opined the applicant needs to conform with the conditions.

#### ***Motion:***

Ms. Burbine moved to extend the time of endorsement for the Site Plan Administrative Review, Special Permit for a Multi-family Building and Stormwater Permit for the Proposed Residential Development at 7 New Driftway in Scituate, MA revised dated January 27, 2023 by McKenzie Engineering Group consisting of at least 19 sheets until April 28, 2023.

Ms. Burbine moved to extend the time of recording of the Site Plan Administrative Review, Special Permit for a Multi-family Building and Stormwater Permit for the Proposed Residential Development at 7 New Driftway in Scituate, MA from 120 days after expiration of the appeal period through April 28, 2023.

Mr. Pritchard seconded the motion for discussion.

Mr. Polak joined the meeting; Ms. Joseph let Mr. Polak know the Board has made a motion to extend the time for endorsement and recording to April 28<sup>th</sup>, 2023. Mr. Polak had no issue.

Ms. Joseph said the Board discussed the letter sent by Attorney Sullivan and the Board is not willing to waive any of the conditions, what is conditioned has to be done and most needs to be done during the design phase to make sure things are sized right.

Mr. Polak said ok, but said the issue with the sewer line makes no sense to do because if it is done before construction it will get messed up, unless the Sewer Department wants it done prior to. Ms. Joseph said the Sewer Department wants it done prior to construction so they know what is out there. Mr. Polak said okay. Ms. Joseph also said the Board is not willing to waive the additional screening, it needs to be on the plans, Mr. Polak also said they will put a plan in place for the cleaning. Ms. Joseph reiterated that some of the stuff needs to be done prior to endorsement.

Mr. Polak asked how the camera work should be done prior to the endorsement. Ms. Joseph said she will re-read the decision, but said it was never intended to have the camera work done before endorsement, but it should be done at the beginning of construction.

Ms. Joseph said the planting needs to be done prior to endorsement and the revised architectural, site plans and revised O&M are to be done prior to endorsement.

*Motion continued:*

Mr. Pritchard seconded the motion as read, vote was taken and was unanimously in favor.

Ms. Joseph advised Mr. Polak to speak with the Treasurer/Collector; plans cannot be endorsed unless the taxes are up to date.

### **Vote – Extension of time for Recording of Permit/Signing of Plans – Common Driveway – 111 & 115 Elm Street**

#### **Documents**

- PDF Letter to Planning Board RE Request for Agenda Item 2.2.23
- PDF Planning Board Common Driveway and Storm Water Permit RE 115 111 Elm Street
- DOC Draft Motion Form extend time to record

Attendees: Steve Guard, Attorney

Ms. Joseph indicated Attorney Guard said his client did not realize the plans/permit needed to be recorded within 90 days. Ms. Joseph recommends the Board change the endorsement time and sign.

Mr. Guard indicated he is asking for some help for 111& 115 Elm Street, the Board had issued a special permit for a common driveway for Mr. Richardson, but it was not recorded within the 90-day time frame. He said they are asking the Board for an extension of 10 days; Ms. Joseph indicated she put the date of March 3<sup>rd</sup>, 2023 in the motion and the plans also need to be endorsed.

Ms. Lambert commented that to anyone coming before the Planning Board please make sure that they are reading the decision and following the procedures.

Mr. Guard acknowledged that this should not have happened, that 90 days is plenty of time, it just slipped through the cracks.

Ms. Joseph said she does have the common driveway agreement and everything else that is needed and will also have to be recorded.

Mr. Guard did disclose the agreement was not turned in within 2-weeks, but Ms. Joseph did accept it. Ms. Joseph said in the future that should be rectified if the Common Driveway Bylaw passes at Town Meeting, because the agreement will need to be submitted with the application.

*Motion:*

Ms. Burbine moved to endorse the Common Driveway Site Plan Administrative Review and Stormwater Permit Plans for 115 Elm Street Lot 1 and 111 Elm Street Lot 2 revised dated August 22, 2022 by Morse Engineering Co., Inc. consisting of two sheets.

Ms. Burbine moved to extend the time of recording of the Common Driveway Site Plan Review and Stormwater Permit from 90 days after expiration of the appeal period which was October 12, 2022 through March 3, 2023 as the applicant did not realize recording had to take place in a timely manner.

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

**Vote- Extension of time for Recording of Permit/Signing of Plans – Common Driveway – 93 & 95 Elm Street**

**Documents**

- PDF 93-95 Elm Street Letter to K. Joseph
- DOC Draft Motion Form

Ms. Joseph indicated this is the same situation; it was not recorded in a timely manner. She indicated she has the common driveway agreement and all other information necessary; she asked the Board do the same thing.

*Motion:*

Ms. Burbine moved to endorse the Common Driveway Site Plan Administrative Review and Stormwater Permit Plans for 93 elm Street Lot 6 and 95 Elm Street Lot 5 revised dated July 5, 2022 by Morse Engineering Co., Inc. consisting of two sheets.

Ms. Burbine moved to extend the time of recording of the Common Driveway Site Plan Review and Stormwater Permit from 90 days after expiration of the appeal period which was September 1, 2022 through March 3, 2023 as the applicant did not realize recording had to take place in a timely manner.

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

**Form A – ANR Plan – 334 Chief Justice Highway  
Assessor's Map/Block/Lot 48-3-A**

**Applicant/Owner: 334 CJC Highway LLC**

**Documents**

- PDF 02-2022-071 ANR-REVISED – 2-10-2023
- PDF 334 CJC Tax Bill
- PDF 2023-02-10 signed ANR application
- PDF Locus Deed
- DOC Draft Motion Form
- DOC Transmittal

Ms. Joseph indicated the applicant had gone in to get a permit building or something and the lot width of Lot 1 did not comply with zoning, so a sliver of Lot 2 needs to be taken and given to Lot 1 so it will be in conformance with zoning. The Planning Board does not check for conformance with all zoning on a Form- A. She said the deed was given for the entire property, but she knows Lot 1 has been sold and was able to get the correct deed. She recommends the Board endorse the plan.

The existing house needs to meet the 175' lot width; it is administrative approval.

*Motion:*

Ms. Burbine moved to endorse as approval under the Subdivision Control Law Not Required a Plan of Land 334 Chief Justice Cushing Highway in Scituate (Plymouth County) MA 02066 prepared by PMP Associates for applicant/owner 334 CJC Highway LLC dated February 10, 2023 as each lot shown on the plan has frontage of at least the distance presently required under the Scituate Zoning Bylaw on the public way of Chief Justice Cushing Highway.

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

**Minutes**

**Documents**

- Meeting Minutes 2.9.23

Ms. Burbine moved to approve the meeting minutes for February 9, 2023.

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

**Accounting**

**Documents**

PO #2317090 (\$1,824.00), PO #23170658 (\$2,100.00), PO #2317062 (\$252.20)

Ms. Burbine moved to approve the requisition of \$252.20 to Gate House Media for legal ads for 18 Hatchet Rock Road and 4 Merritt Lane, for \$2,100.00 to Merrill Corporation for peer review of 31 Allen Place, for \$1,824.00 to Horsley Witten for peer review services at Seaside at Scituate.

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

**Liaison Reports:**

**School Building Meeting for Hatherly and Cushing – reported by Ms. Lambert:**

- No conversation about rebuilding Cushing
- Plan to take Cushing down
- Move everyone to Hatherly
- New school can be built on land at Hatherly while kids in school
- Community button on the Scituate Public Schools website
  - Very transparent about the plans

**Pier 44 – reported by Ms. Lambert:**

- Meeting next Tuesday 3/7 - one at 11am and one at 7pm
- Public meeting anyone can go
- Survey has been re-opened
- Design accounts for flooding
- Ms. Lambert recommended that everyone take the survey

**Traffic Rules and Regulations Committee – reported by Ms. Burbine:**

- If TRRC has issue with 33 New Driftway and 61 New Driftway they need to write comments
- TRRC is advisory
- Planning Board traffic study is still being discussed and will come from the Planning Board.

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

- Received project today for 55 units in North Scituate

The Board discussed an article that was in the Boston Globe about MBTA Communities, Brookline and Waltham mentioned in the article. Article did talk about mixed-use development and that it should be included.

Ms. Joseph indicated she has sent a meeting request to the Town's Congressional Representatives to discuss some of the issues with the legislation with regards to Scituate. Mr. Pritchard asked how other Towns in the district are dealing with the legislation; Ms. Joseph said she has not talked to Cohasset, she has spoken with Kingston and they are looking for a waiver, but did turn in an action plan as we did to be in compliance. She said Kingston has talked with their Representatives and it does not go very far. Hopefully as more articles come out about mixed-use some thing will be done about it. Mr. Pritchard opined if you don't ask then nothing can happen and if enough cities and towns talk about it something can be adjusted.

Ms. Joseph said most communities have to do some type of zoning change and it is up to Town Meeting to pass; what happens if town meetings don't pass them is unknown.

The Board discussed the issue of affordability. Ms. Joseph said the Board could think about having a lower % of AMI rather than the 80% for some of the projects coming up. She also indicated that the Local Action Units in Scituate all use the same monitoring agent Metro West Collaborative and that is a good thing.



**Documents**

- Email to the Board from Shari Young dated 2.17.23 with agenda for 2.23.23 and DRAFT minutes 2.9.23
- Email to the Board from Karen Joseph dated 2.17.23 with meeting materials for Laurelwood, 93 & 95 Elm Street, 115 & 111 Elm Street, 7 New Driftway and 334 Chief Justice Cushing Highway.

These items were distributed to the Board electronically.

Ms. Burbine moved to adjourn the meeting at 7:28 p.m. Mr. Pritchard seconded the motion; a vote was taken, and unanimously in favor.

Respectfully submitted,

Shari Young  
Planning Board Administrative Assistant

Ann Burbine, Clerk  
Date Approved: March 9, 2023