

SCITUATE PLANNING BOARD MINUTES March 12, 2015

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

Members Absent: None.

Others Present: Ms. Laura Harbottle, Town Planner.

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

Location of meeting: Selectmen's Hearing Room, Town Hall, 600 C J Cushing Highway.

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

Documents

- 3/12/15 Planning Board Agenda

ACCEPTANCE OF AGENDA: Mr. Taylor moved to accept the agenda. Mr. Pritchard seconded the motion and the vote was unanimous in favor.

Public Hearing – Accessory Dwelling – 44 Rebecca Road Assessor's Map/Block/Lot 46-3-14 Applicant/Owner: David & Joanne Ball

Documents

- Application for Accessory Dwelling Special Permit with supporting plans received 2/5/15 and 2/17/15
- Transmittal to Town Departments dated 2/6/15
- Draft motion for approval
- Comment received from Mary Sullivan on 3-12-15

Chairman Limbacher opened the public hearing. Dave Ball was present as applicant. He indicated that his grandson currently lives in the unit that he would like to make into an accessory dwelling by adding a kitchenette so they will be able to rent out the unit once his grandson leaves. He said there would be no exterior changes. He indicated that there is the capacity to park 4 cars in the driveway and plenty on the lawn. Ms. Harbottle said the size of the unit is 420 sq. ft. and everything seemed in order. Mr. Pritchard confirmed that there were two means of access/egress.

Findings of fact: Mr. Taylor moved to make the following Findings of Fact concerning the accessory dwelling at 44 Rebecca Road:

1. According to Town of Scituate Assessor's records, the property at 44 Rebecca Road is owned by David and Joanne Ball. The property is located in the Residential R-3 zoning district and the Flood Plain & Watershed Protection District on a lot of 15,600 sq. ft.
2. On February 5, 2015, David Ball applied for a special permit for an accessory dwelling within a single family house on property at 44 Rebecca Road.
3. According to the application, the floor area of the primary dwelling is 1,776 sq. ft. The floor

area of the accessory dwelling as shown on the enclosed plan is 420 sq. ft. The floor area of the accessory dwelling will be less than 750 sq. ft. It meets the size requirements of 530.2F of the zoning bylaw for accessory dwellings.

4. The accessory dwelling is under 750 sq. ft. in size and has one bedroom. It is subordinate to the primary dwelling.
5. The application indicates there is room to park four (4) cars in the existing driveway and one (1) in front of the porch. This appears adequate to provide two parking spaces for the accessory dwelling and parking for the primary dwelling.
6. The applicants have submitted a signed, notarized statement that they will live on the property. The special permit will be recorded. Any future new owner will need to file an affidavit with the Planning Board that they occupy the property.
7. The property is on town sewer.
8. One accessory dwelling unit is contained on the lot in a single family house. It will be a separate housekeeping unit.
9. There are no new exterior stairs.
10. The application meets the standards of Scituate Zoning Bylaw for an Accessory Dwelling Special Permit.

Mr. Pritchard seconded the motion. The motion was unanimously approved.

Decision: Mr. Taylor moved to approve the Accessory Dwelling Special Permit for 44 Rebecca Road with the following conditions:

1. The applicant shall meet all requirements of the Building Department, Board of Health, Department of Public Works, Fire Department, Water Department and other town agencies.
2. Except for any changes necessary to meet these conditions, any construction shall conform to the plans submitted with the application and filed with the decision in the Town Clerk's office.
3. The property at 44 Rebecca Road shall contain a maximum of two dwelling units, the primary dwelling and the accessory dwelling as proposed. The footprint, number of bedrooms and/or square footage of the accessory dwelling shall not be increased without prior approval of the Planning Board. The number of bedrooms in the accessory dwelling is limited to one, in the location and size indicated on the first floor plan submitted with the application and attached to this decision.
4. The owner of the property shall reside on the property as long as it contains an accessory dwelling unit.
5. The Planning Board will require an on-site inspection for conformance to the approved plans and these conditions prior to a Certificate of Occupancy being issued for the accessory

dwelling.

6. No on-street parking shall be permitted at any time.
7. This Special Permit shall be void if it is not recorded at the Registry of Deeds within 90 days of the date of filing with the Town Clerk. The owner shall provide proof of this recording to the Planning Board.
8. This Special Permit shall lapse within two years from date of its issuance unless substantial use or construction has commenced prior to that time in accordance with MGL Chapter 40A, Section 9.
9. The Planning Board reserves the right to review compliance with this special permit at any time. At the request of the Planning Board, an affidavit shall be provided that either the primary or accessory unit is owner occupied.
10. At each transfer of ownership of the property, a new affidavit that the owner resides on the property shall be provided to the Planning Board within seven days of the closing of the sale of the house.
11. This Special permit shall terminate if the use is not in accordance with this decision and its conditions.

Minutes

Mr. Taylor moved to approve the meeting minutes of 2/26/15. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Accounting

Documents

- PO # 1505875(\$506.52), PO # 1505951(\$65.00), PO # 1505967(\$31.25)

Mr. Taylor moved to approve the requisition of \$ 506.62 to Gatehouse Media MA for legal advertising for 529-531 Country Way Common Driveway Special Permit and for the 2015 Annual Town Meeting Zoning Articles, \$ 65.00 to Laura Harbottle for reimbursement for registration for the CPTC Annual Conference and for \$ 31.25 to Image Resolutions for printing 11" x 17" zoning maps. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Continued Public Hearing – Mixed Use Special Permit in the Village Business Overlay District - 50 Country Way

Assessor's Map/Block/Lot 53-5-3 and 3B

Applicant/Owner: 50 Country Way Trust, C. Christopher Ford Trustee

Documents

- Email 1 from Chris Ford to Laura Harbottle dated 3-4-15 with first batch of renderings including Building A and Morning Glories, Building A, Building B, Building C and Buildings A, B, C

- Email 2 from Chris Ford to Laura Harbottle dated 3-4-15 with second batch of renderings including Buildings from entry, Overhead Country Way, Overhead Stockbridge and Rear from Bridge
- Revised plan set entitled Proposed Mixed-Use Development 50 Country Way by Morse Engineering dated 2-20-15 received 3-5-15, Sheets 1-14
- Emergency Access/Egress Plan dated 2-20-15 received 3-5-15 by Morse Engineering for 50 Country Way, Sheet 1 of 1
- Letter to Board from Morse Engineering dated 2-23-15 received 3-5-15 detailing phasing, construction sequence and fire department access
- Draft Conditions of Approval dated 3-6-15
- Email from Laura Harbottle to the Board with revised draft conditions dated 3-9-15

Mr. Morse indicated that at the last meeting the applicant was left with two homework assignments. He said the first was the secondary egress from the site. He indicated that he and Ms. Harbottle met with Fire Chief Murphy and concluded a secondary egress from the site to Drew Place was needed in case the Fire Department needed to respond to another call while at the site since turning around in the site would be difficult with other emergency vehicles present. He indicated the path would be 10 feet wide pervious pavement with 1 foot gravel shoulders on either side. He indicated the second assignment was to revise the construction sequence and with plans to match. He said two sheets have been added to illustrate where tenant parking will be, the location of the temporary haul road, stockpile locations, temporary fencing and staging. He indicated that Phase I includes up through the moving of the historic part of Building A and includes other items as pavement sweeping that will also be included in the Storm Water Pollution Prevention Plan (SWPPP) for the project.

Ms. Harbottle said that she has spent a great deal of time working with Morse Engineering on the construction sequence, emergency egress and other items. She indicated that Building Commissioner, Neil Duggan, said that the existing tenants would be able to stay during part of construction, but there would need to be fencing and gating around the construction site. She said that Mr. Morse was going to add a few more items to the plans. She said that the fire truck turning radius will require more pavement on either end, that permission from the MBTA must be obtained prior to the preconstruction meeting, the cape cod berm is desired to be changed to sloped granite curb, some additional plantings are needed in the island leading from the parking lot to the emergency egress, several note changes are needed on the plans and the Landscape Plan must be stamped by a registered Landscape Architect. She indicated that the fire lane must be realistic so that when the applicant goes to the MBTA for permission the complete thought will be there. She indicated that the MBTA easement must be plowed in the winter so the condominium/property owner association will be responsible for this. She said there are proposed conditions relating to moving of the historic building. She said there is a lot of work that needs to be done to make sure the affordable units remain affordable and that the Town would help with that. She indicated that John Chessia would be doing construction inspections similar to those of the subdivision regulations and include additional inspections to make sure all sediment is removed from the temporary sedimentation basin.

Richard Taylor asked about Ms. Harbottle's comments about the architectural renderings not matching the elevations and requiring the more specific details. Ms. Harbottle said there are differences and she would like to see the greater detail used. Mr. Ford said that he would like some leeway. Ms. Burbine asked if the units were condominiums or apartments as that would determine if there was a management company or condominium association or property owner association for maintenance. Mr. Ford said that has not been decided at this point, but they are leaning toward

apartments. Ms. Burbine expressed concern that some would be condominiums and some apartments and some of the maintenance would not be done. Attorney Guard said they had not considering splitting it and it would be one type of association. Mr. Ford said he would like to see the wording owner's association. Mr. Pritchard said that any sale has to come with a full set of obligations. Mr. Vogel asked if the 20% green space was met. Mr. Morse said that 27% is proposed.

Mr. Ford said that he wanted the language in condition 6 softened so the permit is not void if the MBTA does not agree to the egress/path in their right of way (ROW). He said that they want to be given the option to come up with an alternative. Mr. Pritchard said that it would need to be fully developed and approved by the Board and the Fire Department. Chick Fagan asked how the fire truck goes to Drew Place. Mr. Morse indicated that it was on the egress/path in the MBTA ROW which will turn down to Drew Place. Mr. Morse said that the parking lots have been designed so that they could connect to the adjacent property if that became an egress option. Mr. Fagan confirmed with the Board that nothing could happen until egress is approved. Mr. Ford asked for a little perspective in that the likelihood of a fire happening is minimal. Mr. Fagan said that is why there are rules that developers have to deal with. Mr. Taylor suggested giving the applicant an option. Mr. Fagan indicated that if an option was available it would be shown. Ms. Harbottle said that the Board will ensure that the condition can be attainable. Mr. Fagan also asked if the units could be converted to condominiums later. Ms. Harbottle said that the deed restricted affordable units must be similar to the other units so once a decision is made it should be final.

Chairman Limbacher asked if the applicant was committing to making Building A "weather-tight" before renting out Building B units as indicated in the letter on page 3 dated 2/23/15 (3/4/15) from Mr. Morse. Mr. Pritchard said he would like it "weather-tight" too. Mr. Morse said that Building A would have a permanently completed exterior. Mr. Pritchard confirmed that this means all the services will be stubbed out. This was confirmed.

Mr. Taylor moved to approve conditions 1-14. Mr. Pritchard moved to approve conditions 15-20.

General Requirements

1. All construction work shall be done in accordance with the plans submitted by Morse Engineering Company, Inc. entitled Proposed Mixed Use Development, 50 Country Way (Assessor's Parcels: 53-5-3 & 53-5-3B) Scituate, Massachusetts, dated October 13, 2014, as revised through February 20, 2015, with any additional revisions needed to conform to the conditions contained herein (the "Mixed Use Special Permit"), the renderings provided by e-mail of 3/5/15 with respect to the buildings, and with the Site Plan/Roof Plan (Sheet A101), Level 1, 2 and 3 Area Plans (Sheets A102, A103 and A104), and A, B and C Building Elevations (Sheets A105, A106 and A107) by Dr. Paul Ford, PhD in architecture. Where the renderings do not agree with the elevations, the developer shall provide the more detailed building treatment. For example, shutters shall be installed as shown on the Elevations. Landscaping shall be as shown on the plans by Morse Engineering. *(The Board agreed that the final elevations should be approved by the Board prior to the preconstruction conference.)*
2. Where this Mixed Use Special Permit 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 (the "Planning Board" or the "Board") approval of this Mixed Use Special Permit, including but not limited to the Board of Selectmen's approval of

work in the public right-of-way of Country Way. All necessary permits and approvals must be received prior to construction.

3. Construction shall meet all requirements of the Scituate Zoning Bylaw. All conditions of approval shall be inscribed on the Mixed Use Special Permit plan.
4. The applicant shall mean the current applicant and all its successors in interest (the "Applicant"). This special permit shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under General Laws Chapter 40A, Section 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or, in the case of a special permit for construction, if construction has not begun by such date except for good cause. The Planning Board may extend said period, for good cause shown, upon receiving a written request from the Applicant prior to the expiration of said period, which request shall provide a detailed description of the good cause necessitating an extension.
5. The total number of residential dwelling units on the site shall not exceed thirty (30). The housing mix shall be 16 one (1) bedroom units and 14 two (2) bedroom units. The total number of bedrooms shall not exceed 44 using the definition of a bedroom by Title V.
6. A critical component of emergency access to the project is emergency egress/public access path within the MBTA ROW adjacent to the property. If the MBTA does not agree to the emergency access/egress path, this special permit is void. *(The Board agreed that a public hearing would be required for any changes.)*

Utilities, Parking and Traffic

7. Unless and until a Property Owners Association/ Condominium Association is formed, maintenance and repair of the driveway, parking areas, stormwater management system, retaining walls, emergency egress/public access path, lighting, landscaping and emergency access shall be the responsibility of the owner/applicant. *(The Board wanted snow removal added.)*
8. No new underground irrigation systems shall be allowed to connect to the Town's water distribution system or in any manner use municipal water in accordance with the policy made effective by the Board of Selectmen on October 8, 2014. All irrigation systems installed in accordance with the policy must be supplied by on-site sources at the expense of the property owner.
9. All parking will be constructed as shown on the Plan, as shown in the Table on the Site Layout Plan (Sheet 3 of the Proposed Mixed Use Development Plan.) Marketing material advertising the sale of the residential units shall include the parking limitations noted in this Table.
10. All buildings, parking, walkways, paths and required signage shall meet all requirements of the ADA and Scituate Commission on Disabilities.
11. Traffic from the site shall be monitored from 6 months to 2 years after occupancy to verify traffic is in accordance with the projections for the site. The Planning Board's consulting traffic engineer's analysis of the impact of the project on existing Town roads was based on the project's generation of 270 additional vehicle trips on an average weekday, with 25 additional trips during the weekday morning peak hour and 52 additional trips during the weekday evening peak hour (VAI letter to John Chessia of February 18, 2014.) No uses shall be established which increase the project's total trip generation above these amounts.

12. Trash removal operations shall be monitored from 6 months to 2 years after occupancy to verify that there are no safety issues with trash removal as significant back up distances are proposed. Trash removal operations shall be reworked if safety is found to be an issue. [Recommended by Traffic Study]
13. All electrical, telephone, cable and similar utilities shall be located underground.
14. The applicant shall obtain the approval of the Planning Board through the Town Planner if minor changes from the plan and/or details are needed for lighting, signage or landscaping.

Affordability

15. All affordable units shall meet the requirements for inclusion in the Subsidized Housing Inventory through the state's Local Initiatives Program (LIP).
16. According to Section 560.7 D, the number of one and two bedroom affordable units shall be in the same proportion as the market rate units. Two affordable units shall contain one bedroom and two shall contain two bedrooms.
17. The affordable units shall be constructed so that the first is completed and available for occupancy before the seventh market rate unit, the second, before the fourteenth market rate unit, the third, before the twentieth market rate unit, and the last, before the twenty-sixth market rate unit.
18. The applicant or their representative shall be responsible for preparation of a LIP Local Action Units application for the affordable units to be submitted to DHCD by the municipality (chief elected official). Forms and assistance will be available from the Planning Department.

Phasing and Public Benefits

19. The phasing of the project shall be according to the applicant's proposed phasing schedule attached to this approval.

An emergency egress and public walkway shall be required. Both shall connect from Country Way through the site to an improved emergency egress/public access path from the site to Drew Place. The Property Owners Association/ Condominium Master Deed documents shall include a statement that the emergency access and public walkway must be maintained by the Association.

20. Construction of the path shall include additional related improvements as follows:
 - a. Within the site, emergency access/egress shall be over the driveway and the island in the parking area at the rear of the site. The island shall be improved with pervious pavement capable of supporting a fire truck along the access route and 4" loam and seed throughout, with moveable pilons along the front side to discourage parking. The cape cod berm shall be replaced with sloped granite curb. A No Parking – Fire & Emergency Access sign shall be installed at the front of the island.
 - b. The public walkway on the site shall be constructed of concrete and brick as shown on the plans within the site except within the island at the rear of the parking lot (see above).
 - i. Permanent easements shall be recorded granting the public access over the walkway.
 - ii. An informational sign indicating "public access path" or similar shall be installed of a style coordinated with other public wayfinding signs in Town

- indicating the path is public (or funding to cover the cost of same, at the discretion of the Planning Board) and identifying some possible destination(s).
- iii. A vertical granite curb of a minimum 6" in height shall be used along the walk to maintain vertical separation from the parking area.
- iv. Fencing shall be used to separate the path from the multi-unit buildings. (*The Board agreed that it would be fencing as shown on the plans*).
- v. Bike racks shall be provided at each building as per Scituate Zoning Bylaw Section 760.7 E.
- c. The following improvements and related items are required for the emergency egress/public access path in the MBTA right of way:
 - i. The surface of this portion of the emergency egress/public access path shall be improved with pervious pavement 10' wide with 1' gravel shoulders on each side.
 - ii. The Condominium or Property Owners Association shall be required to maintain this portion of the path, including snow plowing, and the Master Deed or Owners Agreement shall include a description of this maintenance, documentation that the MBTA will allow it, and indicate who will provide it.
 - iii. The plan must show all area required in or adjacent to the proposed emergency access, required to be travelled by a fire truck as shown by the area under the wheels and within the expected travel path as per the plan, as part of the path. This path shall be improved with hardening and/or other material as needed to support and provide access for a fire truck as specified by the Fire Dept.
 - iv. Existing trees in the MBTA ROW that must be removed to construct the emergency egress shall be replaced in the ROW or on the site, with new trees of a minimum of 3" caliper dbh. These shall be in addition to the new trees shown on the Landscaping Plan.
 - v. Lighting, including seven fixtures to match those along the MBTA path, located along the path on the MBTA property and the site. The applicant must provide all necessary electrical connections for the lighting. (*add shall be before located*).

Required Prior to Release of Special Permit to Applicant for Recording

- 21. The plans shall be updated as discussed with Greg Morse on March 9, 2015.
- 22. Funds shall be provided for review of a Property Owners Association Agreement or Condominium Master Deed by Town Counsel.

Required Prior to Scheduling the Pre-Construction Conference

- 23. The final building plans, stamped by a registered architect, shall be provided to the Planning Department for review for consistency with the elevations and renderings described in Condition 1. If the plans appear inconsistent, approval by the Planning Board will be required. The applicant shall provide proof that the Special Permit was recorded to the Planning Board along with the plans.

24. Documentation shall be provided to the Planning Board in the form of a written agreement signed by both the owners of 50 and 52 Country Way that the owners of 52 Country Way (presently occupied by Morning Glories bakery) agree to:
 - a. The Applicant's installation of proposed sidewalk and curb within the Access and Utility Easement near the bakery and on their property.
 - b. Striping the driveway, and
 - c. The on-going and perpetual maintenance of a manhole and two leaching catch basins in the access and utility easement on their property, initially by the Applicant and ultimately by the Condominium Association or Property Owners' Association of 50 Country Way.
25. The applicant's plans show the existing 1856 George Wetherbee House will be preserved by moving it to the front of the lot and incorporating it within Building A. The developer shall engage a licensed structural engineer to assess the condition of the house, its suitability for re-use, the feasibility of completing renovations as required by the State Building Code while maintaining the exterior facades and porches of the building, and of moving these and successfully incorporating them within a new structure as shown. He/she shall prepare a stamped, written report for the Planning Board on these items with a plan to address significant structural, heating, electrical, plumbing or other system issues or required upgrades. He/she may consult an architect or historic preservation professional as needed.

The Planning Board shall have this report reviewed by a qualified structural engineer, architect and/or historic preservation specialist who shall serve as their consultant at the applicant's expense. If in the opinion of the Planning Board's consultant, these upgrades or issues cannot be addressed, or the house cannot be moved without significant damage, an alternative design for Building A shall be submitted to the Planning Board. This design shall include a façade similar to that of the Wetherbee House. This alternative design shall be reviewed by a historic preservation consultant at the applicant's expense who shall report to the Planning Board on the appropriateness of the proposed façade relative to the size, design, character and historic period of the building it was intended to replace. The new façade shall be approved by the Planning Board prior to the pre-construction conference.

26. The development shall obtain all necessary approvals for the use of Town sewer prior to scheduling a pre-construction conference.
27. A determination of the adequacy of the existing water service for the proposed use shall be provided to the DPW for their approval prior to scheduling a pre-construction conference. Installation of all water mains and appurtenances shall be performed according to the specifications of the DPW Water Division. Any required upgrades, modifications or connections shall be at the Owner's expense.
28. The applicant shall furnish written proof from the MBTA of their approval of all work relating to installing the proposed emergency egress and public access path over MBTA property including grade changes, tree removal and replacement and placement of pervious pavement and gravel shoulders, and that any easements required by the MBTA for these uses have been obtained prior to scheduling the pre-construction conference.
29. Prior to scheduling the pre-construction conference, the developer shall contact Janice Lesniak of the Massachusetts Dept of Housing and Community Development (617-573-1327) to determine the purchase price(s) or rent(s) of affordable units based on LIP Guidelines and discuss other requirements for the affordable units as described in Condition 42 below.

30. Prior to scheduling the pre-construction conference, the Applicant shall provide to the Planning Board:
- a. Copies of the recorded special permit and plans.
 - b. Copies of the NPDES Permit including its Stormwater Pollution Prevention Plan.
 - c. A check to cover cost of inspections by the Town's consulting engineer. These shall include, at a minimum, inspections of Subdivision Rules and Regulations Section 9.2, for the driveway, parking areas and stormwater management systems, and in addition, inspection of applicable items in the Construction Sequencing Narrative, the existing drainage system in the driveway, new curbing and retaining walls. The specific amount shall be provided by the Planning Dept. based on the consulting engineer's estimate, shall be subject to amendment from time to time and shall be supplemented by the applicant as requested by the Planning Dept.
 - d. A construction schedule including approximate dates for installation of erosion control and other site protection/stabilization, construction of Buildings A, B and C, all applicable items in Subdivision Rules and Regulations 9.1.3; and
 - e. a Performance Bond to cover the cost of parking, landscaping, walkways, and other amenities including the emergency egress/public access path. The amount shall be based on the applicant's contractors' estimates of the costs of these items and shall be approved by the Planning Board prior to the pre-construction conference.
31. The Applicant shall provide a draft Condominium Master Deed or Owners Agreement to include the owner(s) of the retail, office units and residential units. The Condominium Master Deed or Owners Agreement shall include:
- a. A statement that the driveway, drainage system, sewer, public and private pedestrian access through the site, landscaping and other common areas shall be owned by a Condominium Association or Property Owners' Association and shall not be maintained by the Town. The driveway, drainage system, public and private pedestrian access through the site, landscaping, lighting, tree box filters, stormwater leaching system within the Zone A on the bakery property and other common areas shall be inspected, maintained and repaired by a legally constituted association of the Property Owners or a Condominium Association. This shall also be stated in a note on the plan.
 - b. A requirement that maintenance of the drainage system, pedestrian walks, parking, driveways, emergency egress and landscaping shall be in accordance with the Operation and Maintenance Plan approved by the Planning Board's consulting engineer; provisions for snow removal and maintenance of safe conditions through the winter of all vehicle and pedestrian ways; and a description of annual maintenance of the driveway, parking areas, emergency egress/public access path, landscaping, lighting and other common amenities.
 - c. A requirement that the Association maintain an account always containing a minimum of one year's costs for this maintenance. A contractor's estimate of this maintenance and proof of the available funds in this account shall be provided to the Planning Board with the Agreement and annually on the first of the year.

- d. A requirement that the developer notify contractors, builders and real estate agents that membership in a Property Owners Association or Condominium Association and a table showing the available parking for each unit are required to be disclosed to all prospective buyers. The developer shall make copies of the Condominium Master Deed or Property Owners Association Agreement available to be provided to all prospective purchasers of units in the development.
- e. The Town Planner shall be added to the Town of Scituate contact information on page 1 of the Construction Phase Best Management practices.
- f. A requirement that the Property Owners Association or Condominium Association notify the Planning Board of the name, address, phone no. and e-mail of the trustees within seven days of their election, and to provide an annual report of their maintenance activities to the Planning Board by January 1 of each year.
- g. A table of the number and general location of parking spaces assigned to each unit.

Required Prior to the Start of Construction

- 32. A pre-construction conference shall be held with the Applicant, their representatives, their engineer, the site contractor(s), the Town Planner, the Planning Board's consulting engineer and other representatives of the Town as the Board feels are necessary. A list of all contractor contacts, including names and telephone numbers, shall be provided to the Planning Board and the DPW. At least one telephone contact shall be available 24 hours per day in the event of an emergency.
- 33. The property line between #50 and #52 Country Way and boundary of the limit of clearing shall be marked or flagged in the field under the direction of a surveyor and notification given to the Town Planner and Consulting Engineer a minimum of three business days prior to the start of construction.
- 34. A stabilized construction entrance as shown on the Sedimentation & Erosion Control Plan (Sheet 5 of the Proposed Mixed Use Development Plan) must be installed prior to any earth disturbing activities on site including but not limited to clearing and grubbing. Construction access must be clearly identified on the site with signage approved by the Town Planner.
- 35. The developer shall request a permit to demolish the existing historic barn and consult with the Historic Commission to determine whether a demolition delay will be required. A pre-moving survey shall be completed a minimum of thirty days prior to application for permits to move the Wetherbee House.

Required During Construction

- 36. Construction work shall not begin prior to 7:00 AM weekdays and 8:00 AM on Saturday 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.
- 37. All earth moving/disturbance operations shall only occur while erosion and sedimentation control measures as shown on the Sedimentation & Erosion Control Plan (Sheet 5 of the Mixed Use Development Plan) and approved by the Town Planner are in place. Such control measures shall remain in place until the Board's consulting engineer determines after consultation with the Town Planner, that the danger of erosion or sedimentation no longer exists.

38. No parking or unloading on Country Way shall be permitted during construction. Construction vehicles shall use the designated construction access. They are not permitted to use the existing access and utility easement during peak morning bakery hours of 7:00 to 9:00 a.m. **Access to Morning Glories' driveway, parking area, building and property must be maintained at all times.**
39. The Applicant shall notify the owner of Morning Glories (52 Country Way) a minimum of three business days prior to the installation of the curb to be placed within the Access and Utility Easement. This curb installation work shall not occur before 9:00 a.m. or up to three days prior to Easter, Valentine's Day, Thanksgiving or Christmas Day or any other four holidays defined by the owner of Morning Glories.
40. Inspections and observations made according to the Stormwater Pollution Prevention Plan (SWPPP) shall be submitted to the Board within 48 hours after the inspections. The Board reserves the right to require the consulting engineer to visit the site weekly during times when required construction inspections are further than one week apart.
41. Construction of the proposed parking and site drainage system shall be supervised by a registered professional engineer who shall certify in writing to the Planning Board at the completion of the project that the parking and drainage system were constructed in accordance with the approved plan. This certification shall be accompanied by as-built plans, showing all site utilities and grading, signed and stamped by a professional land surveyor and the supervising professional engineer.

Required Prior to Application for Building Permits

42. Prior to applying for a building permit, the applicant shall provide:
 - a. A copy of an executed regulatory agreement between the developer, municipality and DHCD to insure long-term affordability.
 - b. The proposed rental or sales price of the affordable units, and estimated condominium fee if applicable;
 - c. A draft deed restriction to restrict the rental or subsequent price if a condominium, to 80% of the area median income according to the Department of Housing and Community Development (DHCD), in perpetuity. The draft deed restriction shall be approved by Town Counsel and proof of recording provided to the Planning Board prior to the issuance of the first Occupancy Permit for an affordable unit;
 - d. A plan showing the location of the affordable units for the Building and Planning Departments;
 - e. The name and contact information for agencies, companies or individuals who will conduct marketing, hold the lottery and perform monitoring;
 - f. A draft affirmative marketing plan meeting the guidelines for approval of DHCD. The Marketing Plan must affirmatively provide outreach to area minority communities to notify them about availability of the unit(s) and must demonstrate the need for local preference as well as insure that there will be no discriminatory impacts as a result of using local preference criteria. A maximum of up to 70% of the units may be local preference units for those who have a connection to the community as defined by the state under Section III.C of the Comprehensive Permit Guidelines. If in the opinion of the Planning Dept. the plan does not meet the current requirements of DHCD for inclusion of the affordable units on the

Subsidized Housing Inventory, revisions shall be required prior to application for the second building permit.

- g. Any changes to the affordability documents must be approved by the Town Planner per Condition 18.
- 43. The retaining wall behind Building C shall be designed by a structural/ geotechnical engineer. The Planning Board must be provided a copy of the stamped approved plans prior to any application for a foundation or building permit for any unit.
- 44. Detail of proposed retaining wall with wooden guardrail adjacent to the MBTA right-of-way must be submitted to the Town Planner for approval prior to any foundation or building permits being obtained for the site.

Required Prior to Issuance of Occupancy Permits

- 45. Following review and approval by the Planning Board, the Condominium Master Deed or Owners Agreement shall be recorded at the Registry of Deeds prior to the Building Department's issuance of an occupancy permit. Proof of recording of the Property Owners Association Agreement or Condominium Master Deed must be provided to the Planning Board.
- 46. Prior to issuance of an occupancy permit for Building A, a deed restriction shall be recorded requiring the façade of Building A to be preserved for a minimum of thirty years.
- 47. The emergency egress/public access path must be constructed prior to occupancy of any building on site.

Administration

- 48. All time periods referenced in this document for completion of conditions shall be tolled in case any appeals are taken.
- 49. This Special Permit shall be void if it is not recorded at the Registry of Deeds within 90 days of expiration of the appeal period or such extension of that time period granted by the Planning Board following approval of this Special Permit.
- 50. Building A shall be completed within five years of the date of recording of this special permit.
- 51. This Special Permit shall lapse within two years from the date of its issuance unless substantial use or construction has commenced prior to that time in accordance with MGL Chapter 40A, Section 9.
- 52. All plan sheets of the Mixed Use Development Special Permit Plan shall be recorded at the Registry of Deeds.

Ms. Harbottle asked if the Board wanted a public hearing on condition 6. Mr. Pritchard said abutters would want to know. Chairman Limbacher said that it would be the most transparent to have a public hearing.

Mr. Ford asked about the consequences on condition 11. Ms. Harbottle indicated that someone would need to bring it to the attention of the Building Commissioner if they thought that the traffic counts exceeded the projections. Mr. Fagan asked what would happen if the projections were exceeded. Ms. Harbottle said the applicant /owner would need to check in with the Town.

Mr. Ford asked Mr. Morse to address condition 20. Mr. Morse said that the curbing has always been proposed as precast concrete curb. He said that the Board has never raised an issue nor has the DPW. He indicated that adding vertical granite curb would cost between \$15,000 and \$20,000 dollars. Ms. Burbine indicated that the MBTA access would have sloped granite curb. Ms. Harbottle said that granite is more durable, wears well and doesn't chip real easily. Mr. Vogel said that the driveway will not be accepted by the Town and said it doesn't seem like a Town issue. Mr. Ford indicated that other sites use concrete curb. Ms. Harbottle said that this comes under the Town's purview as the Town reviews commercial development. Mr. Morse indicated that the curb along the sidewalk is cast in place concrete. Mr. Ford said he does not want the liability of having different levels if the granite curb heaves. Ms. Harbottle said that several iterations ago the plans showed granite. A compromise was reached by the Board and the applicant that the entryway curbing on both sides of the driveway would be vertical granite curbing and the curbing along the walk would be the cast in place curbing or precast concrete curb as shown on the drawings.

The Board only discussed conditions 1-20 as the hearing time ran out. Mr. Taylor moved to accept the applicant's request to continue the public hearing for the for the Mixed Use Special Permit in the Village Business Overlay District for 50 Country Way until March 26, 2015 at 9:15 p.m. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Informal Discussion – MBTA Parcel – Adam Brodsky

Documents

- Current Village Business Overlay District Bylaw printed 6-4-14
- Conroy proposal to MBTA
- MBTA Invitation to Bid dated 5-28-14
- Existing Condition Plan of Land Greenbush Parking Lot dated 10-7-14
- Email to the Board with a link to the Conroy Development website
- Site Development Plan for Conroy Development received 3-12-15 at the meeting

Adam Brodsky was present along with Terry Conroy Sr. and Joe Lynch of Conroy Development and Don Nagle, an attorney advising on the project. Attorney Brodsky indicated that this would be the second project under the Village Business Overlay District in Scituate for a mixed use project for the redevelopment of a portion of the MBTA parking lot. He said that they had several questions relating to the bylaw and wanted to get a sense of the Board if they thought the conceptual design would be acceptable. Attorney Brodsky said the site was 2.5 acres with access on Old Driftway and New Driftway. He said they would like to build 54 residential rental units with a mix of 1, 2 and 3 bedrooms. He indicated 15% or 8 would be affordable. He said the number includes bonus density units as there will be a significant public benefit. He said the underlying zoning is commercial.

Attorney Brodsky indicated they would like a green design. He said they prefer two buildings close together. The front building would have 9,000 of retail on the first floor and there would be a connection on the second floor as the site slopes from front to back. He said both buildings would be 3 stories and the same height. He indicated the green space in the center of the buildings could be public. Attorney Brodsky said that they hoped to have all the parking for the retail, 115 spaces in front of the building and this upgraded front with public open space would provide an attractive connection to the Greenbush Station providing a public benefit.

Attorney Brodsky said that Section 560.8 of the Zoning Bylaw says that the Board shall consider the extent to which the application satisfies the general standards and thus he interprets that as the Board

has some flexibility in the design standard requirements. He indicated that the first issue is front setbacks. He said that the bylaw has a minimum/maximum setback to Driftway, but Driftway is not defined in the bylaw so is it Old or New Driftway. He indicated that the bylaw intent is to create a village, but there is no existing village setting. He said it is not economically viable for the project to put the building up front as retail wants parking in front to attract and maintain customers and tenants. He indicated the building is proposed to be setback 80 feet and there are no existing structures. Mr. Pritchard asked if there would be dedicated residential spaces. Attorney Brodsky said there could be and he believes the Board has flexibility to accommodate the project creating separate retail and residential parking areas. He indicated the second issue is parking in the setback. He said the bylaw requires no parking in the front setback on Driftway. He asked again if it is the Old or New Driftway. He indicated the third issue is 560.8 F – building length. No building is longer than 120 feet measured where it faces the street. He indicated that to have meaningful retail they would be proposing that the façade have a bump out of 120 feet with articulation. He said the last issue was with Section 560.4 D. The section deals with net floor area of the first floor. He said they want to make sure that the retail on the entire bottom floor of the first building will meet the criteria as it must be 50% minimum but there would be residential connectors on the second and third floors. Attorney Brodsky said that they would be moving onto final design as the next step in their process prior to submitting an application.

Ms. Harbottle said that the street list does not distinguish between the Old and New Driftway and the bylaw was meant for both roads. Ms. Burbine defined where Old and New Driftway were with the concurrence of the Board. Ms. Harbottle reaffirmed that Driftway includes both roads. Ms. Harbottle indicated that the bylaw was developed with consultants and extensive work. She said that the idea was to have retail to the street to create a village atmosphere with rooflines and façade treatments to help make new construction blend and be compatible with existing surroundings. Ms. Harbottle introduced Ted Brovitz, a consultant for the Economic Development Commission (EDC), who has worked with many towns to help provide economic capacity and thought he could provide perspective on parking and setbacks from his experience.

Ted Brovitz said that he has been helping the EDC on initiatives and what business want/need in Scituate. He said that he has written zoning for village centers. He indicated whether it is new development or redevelopment it comes down to the placement of buildings and parking and the relationship to other buildings, streets and open spaces. He indicated that if the objective is for a walkable village setting, then the Board should stick to the standards and have parking at the side and rear. He said if the objective is just to provide mixed use and investments, there could be some flexibility. He said that he has seen a lot of infill and strip developments being redeveloped with minimal parking on site as in West Concord. He said on Linden Street in Wellesley there is infill development right up to the street in front of an existing supermarket creating an extension of the village center with no new parking added. He said the Board needs to decide what the vision is for the Driftway.

Ms. Burbine said that she was a proponent of having retail close to the street. She indicated that if people want the retail they will come. She said she disliked the parking in the front here and fears that the retail building won't be seen from the street due to the elevation change on the site which can be used to the site's advantage. She said the site should be walkable to the train and have parking to the side and rear. She said the Animal Hospital and Celtic Paws both have parking on the site and the building close to the street. She indicated the site could be fantastic is the building location and parking were tweaked. Mr. Taylor said he agreed with Ms. Burbine and is reminded of the Village in Cohasset next to the train lot. He said the parking is all in front and it is not walkable.

He said that he would like to see a walkable area as a gateway to the harbor and thinks the parking in front is not the best for the site. Mr. Pritchard echoed his colleague's sentiments and thinks that with 84 new units in the area including 50 Country Way the area needs to be walkable. He agreed that the building 80 feet back might not have much visibility and thinks the parking can be reworked.

Attorney Brodsky said that business reasons are driving the parking in front. He said they are not confident that tenants would come without front parking as the tenants don't want to deal with residents and residents don't want to deal with commercial traffic. He indicated it won't be a village center like North Scituate, but there would be a direct walkable connection to the Greenbush line. Mr. Taylor said in his opinion one doesn't not go to a business if they can't park right in front. Ms. Burbine said that store owners usually park in front of their stores and people will come to a destination. Attorney Brodsky said there needs to be latitude on the 5 foot minimum and 15 foot maximum building setbacks to accommodate handicap parking and parking in the front setback. Mr. Pritchard said the Board can consider some latitude. Mr. Brovitz said that a single row of parallel spaces in front with a sidewalk behind it then the building provides a "streetscape" on private property. He said there are ways to accommodate the building close to the street.

Mr. Vogel said that on street parking does provide a sense of desirability to be there. He said significant gestures could be made with lighting, signage and window displays to increase walkability. He said he would like the building close to the street so there is a connection to the MBTA parking lot. Mr. Greene said he likes on street parking and parking to the side and the plaza in front of the building. Mr. Pritchard asked if part of the problem is that the front of the site is too steep. Ms. Burbine and Mr. Taylor said that the back of the site was steep. The Board expressed the sentiment that the green space between the buildings did not seem like it would be an appealing public space. Ms. Harbottle said that there must be a significant public benefit for the increased density and suggested that it could be a significant road/site relationship with amenities. Chairman Limbacher said he did not want to see parking in front and making the building beautiful is not a public benefit. Attorney Brodsky said they were proposing a streetscape with lights, plantings and a plaza. Chairman Limbacher said that the mid space between the 2 buildings is green space for the buildings not the site. He said he would treat it as two separate buildings with concurrence from Mr. Pritchard and Ms. Burbine. He said he would like to see what increasing the length with bump outs would really look like.

Mr. Pritchard asked if there were any residential views to the river. The applicant indicated they were not overwhelming as the main residential entrance is from Driftway. Ms. Harbottle asked if there had been any discussion about pedestrian connections within their site to the MBTA parking lot. Attorney Brodsky said there is a crosswalk. Mr. Dean Vance, a local resident who has been working to open a restaurant in town, indicated that the easier parking is the more the business will succeed. He said people are taking a chance that Greenbush will be walkable. He said this will not happen in the near future as a village has not been created. He said he doesn't think the Hingham Shipyard works with parking behind and doesn't think a village feeling will ever occur with a concrete plant and a dump behind the property.

Mr. Taylor asked Attorney Brodsky if they had looked at the EDC website and market study. Attorney Brodsky said he would review them. Mr. Taylor said a long term vision is needed.

Old Business and New Business

Documents

- Staff report for 3/12/15
- Email to Board dated 3-4-15 with training and Conroy Development website

These items were distributed to the Board electronically.

Mr. Vogel moved to adjourn the meeting at 10:08 p.m. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph
Planning Board Secretary

Richard Taylor, Clerk
3-26-15
Date Approved