

## **SCITUATE PLANNING BOARD    MINUTES    March 24, 2016**

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

Members Absent: Robert Vogel and Robert Greene.

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, Scituate.

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

### **Documents**

- 3/24/16 Planning Board Agenda - Amended

ACCEPTANCE OF AGENDA: Mr. Limbacher moved to accept the amended agenda. Ms. Burbine seconded the motion and the vote was unanimous in favor.

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### **7 Blanchard Farms Lane - Lot 8**

#### **Documents**

- Letter dated 3/1/16 from Adam Brodsky of Drohan Tocchio & Morgan, P.C. on Lot 8 Blanchard Farm Lane
- Email to Don Gillespie of Welby Builders from Laura Harbottle dated 3/4/16
- Email to the Board from Laura Harbottle dated 3/4/16 with above noted materials
- Email to the Board from Laura Harbottle dated 3/18/16 with above noted materials

Attorney Adam Brodsky and his clients Tom and Jackie Quinn of 30 Whittier Drive were present. Attorney Brodsky said that his clients would like enforcement as outlined in his March 1, 2016 letter to the Board as his clients are located downslope and have a septic system on their property close to the property line. He indicated Welby Builders is building the house with attached garage at 7 Blanchard Farm Lane with a driveway on the side when the subdivision plan showed the driveway in front. Attorney Brodsky provided the Board with a copy of the Post Development Watershed Plan WS-2 for the subdivision with the Quinn property and the approved driveway highlighted. He indicated that the dotted line is the subcatchment area line and it shows the rear of the house is in a different subcatchment area than the front of the house. He said he recognizes that the Board can't approve driveway locations and house footprints; however, the stormwater permit is for the entire development so the driveway location is relevant. Attorney Brodsky said the house is 4.8' above the design elevation which creates a steeper slope to the rear and concern about increase in runoff toward the Quinn property. He said no changes have been presented to the Board to justify the changes in the field and a modification has not been prepared. He said Section 7.3.1 of the subdivision regulations prohibits additional discharges to abutting lots which is also a requirement of Standard 2 of the DEP Stormwater Regulations which are incorporated in the subdivision regulations. Attorney Brodsky indicated that the lot is in violation of the Certificate of Action and stormwater permit as the driveway is not in the subcatchment area of 1a but in 1b with steeper slopes. He indicated he would have expected it be brought to the Board prior to construction as he expects the peak discharge rate would change. He said he sees two options. The first is that the

builder builds what was approved and the second is that the builder comes in with a modification with revised plans and calculations to meet the subdivision regulations. He said that his clients are frustrated as they asked where the driveway was going to be during the public hearing and the developer indicated that the driveway was going to be in the front of the house. He indicated that changes shouldn't happen at the whim of a builder and compliance with the stormwater standards and regulations is needed. Attorney Brodsky said that the plan Mr. Morse submitted showing the changes does not address the change in the slope and does not address the modification process.

Professional Engineer Greg Morse said there were several changes to Lot 8 from the subdivision plans which he did not feel were fundamentally problematic so they were not brought to the Board. He said the foundation as-built shows a top of foundation at 69.26 which is within 3" of what was designed and is not 4' higher. He said the side entry garage has the subcatchment area as the face of the house and the driveway is all going to the road. He indicated the design point of the project is not the Quinn property; but further north along the back property line of the development. He said a stonewall rises at the property line and water runs down to the north. Mr. Morse indicated that the Quinn property had a new septic system in 2001 and they received a variance for the mounded system which cleared to the property line with a wall. He said water does not flow uphill and the water from the subdivision hits the property stone walls and goes along the wall to the design point.

Mr. Morse indicated that the Town Planner raised concern about the house built on-site and the additional drainage to the rear. He said the interim as-built, as the driveway is not paved yet, shows it will be graded to drain into Blanchard Farm Lane. He said there is a reduction in the area going to the Quinn property by almost 800 sq. ft. which now is directed to the stormwater basin. Mr. Morse said the house is nearly in the same location as the approved plan with a setback approved at 53' and 54.9' built. He said the rear yard grading was designed to be 35' from the property line and 33' was built. He said the definitive plan decision anticipated minor changes which are addressed in condition 41 which requires that prior to an occupancy permit being issued, a registered professional engineer shall inspect the lot and certify to the Building Inspector and Planning Board that any variation in grade is insignificant and does not alter the drainage calculations, the function of the stormwater system or rate or volume of runoff flowing onto abutting properties. He indicated he would sign the certification as less water goes to the Quinn property and more to the basin. Mr. Morse said the architectural plans showed the side entry at the time of the building permit application although the approved septic plan and site plan showed the garage entry at the front. He indicated both the Health Agent and Town planner signed the building permit. Ms. Harbottle concurred and indicated that the side entry garage was found upon inspection of the site.

Mr. Morse said the driveway does not affect the Quinn property as there is less tributary area. He said the time of concentration (Tc) for the slope is about the same with no retaining walls. He also indicated that the Tc is measured with the longest flow path and that does not run across Lot 8. He said that a bituminous berm will be added to the driveway to direct water to the street and evergreen landscaping will be added to screen any headlights. He said the subdivision plans show generic houses and layouts which were addressed in the decision under condition 41 as changes were anticipated once actual homes and buyers were brought into the picture. He said everything built conforms generally to the original drainage submittal. Attorney Brodsky provided a picture of the rear slope from the Quinn property. He said he got the 4' difference from the septic plan. Mr. Morse said that was existing versus proposed grade. Attorney Brodsky said it was outside at the rear corner of the garage that showed 62 and is now 67.8 with the side entry garage. Mr. Quinn said that the structure built has less flat area behind the garage so the slope is closer to his property. He said the corner is raised and the slope is steeper and it is closer to his septic system. He indicated every

driveway on the subdivision plan is shown as a single width and broadens to double at the garage and they are all built to double width and the addition of the side driveway also shows more impervious area. He indicated that both Mr. Tedeschi and Mr. Barry indicated that the driveways would be in the front of the house and slope to the street. He said that the property has drainage issues and when the property was raised by 4.8 feet creating a hill, the flow path of water was decreased and nuisance headlights will also shine into his property. Attorney Brodsky again requested that the Board require a formal modification. Mr. Quinn reiterated that the site plan submitted with the building permit application shows the driveway in front.

Ms. Harbottle indicated that Mr. Quinn came in in January and expressed his concerns about the driveway. She indicated she spoke to Mr. Morse about the situation and he said there was no significant change in the drainage. She also indicated she spoke with the Board's consulting engineer, Pat Brennan of Amory Engineers, who went to the site and analyzed the situation and did not think there was a significant change in the drainage. Ms. Harbottle said that she sees the issues as stormwater, headlights and aesthetics with a big slope moved 20' closer to the Whittier property. She said the house looms up because of the grade difference which is an aesthetic issue that the Board may not have a lot to say with. She said there is a smaller area draining to the Quinn property with the same grade change and the proposed berm will direct the driveway water to Blanchard Farm Lane.

Pat Brennan of Amory Engineers said he looked at the property from the stormwater point of view and agrees with Mr. Morse on the drainage. He said the side driveway pushes the slope back, but the driveway will drain to the street. When he reviewed the interim as-built, he said he suggested that a berm be placed on the right side of the driveway to direct the water to the street. He said the steepness of the slope will not affect the stormwater on that small an area and the flow will not be noticeable to the abutters.

Chairman Pritchard asked if the additional stormwater flowing to the street would change the performance of the system and if there is less flat area in back of the house with a steeper slope. Mr. Brennan said that an increase of 800 sq. ft. of impervious material is immaterial and despite there being less flat area and the slope is closer to the abutters, the slope is within a couple of degrees of the design. Chairman Pritchard confirmed with Mr. Brennan that the stormwater in the street goes to the basin and is discharged in the rear corner at the basin outfall. Mr. Brennan said the final point of discharge all goes to the same spot. Mr. Taylor asked if there would be less infiltration from the area behind the house. Mr. Brennan said that in the calculations it doesn't matter and there is still 30' at the toe of the slope and water will flow along the wall to the design point.

Attorney Brodsky said there are no plans. He said he would like to be able to give plans and calculations to his engineer to validate Mr. Morse and Mr. Brennan's statements. Mr. Quinn said there is additional water on his property next to his septic system. Several photographs were reviewed with the Board, the Quinns and Greg Morse. Ms. Burbine said she looked at the slope earlier in the afternoon and it is not yet landscaped so there could be puddles. She opined that headlights are the issue and that arborvitae at the top will help, but the matter can be dealt with in a reasonable manner. She said the slope might not have been as steep if the driveway was in front, but the raw land has not been finished. Attorney Brodsky said there is construction related erosion that needs to be addressed and they should be following their Storm Water Pollution Prevention Plan. Mr. Morse said they have shown plantings up top and are open to landscaping to prevent impacts from headlights. Attorney Brodsky said it has not been communicated that the builder will do more.

Ms. Burbine suggested the builder do terracing and landscaping. Mr. Quinn said he would like the driveway in the front of the house.

Chairman Pritchard said that stormwater is required by the permit and he would like a reanalysis of the stormwater conditions and the water on the Quinn property to be evaluated. Mr. Morse said he would look at the erosion control and affirmed that the grades have not changed within 20' of the lot line. The Quinns indicated that brush had been removed to the lot line, but the trees remain. Chairman Pritchard asked where the additional water comes from. Mr. Morse said the development derived from a barren field. Mr. Quinn maintained that water was not there before. Mr. Morse said that water has always been an issue at 30 Whittier with groundwater 22" deep and his calculations show there should not be an increase there. Mr. Quinn asked if the property next door was having water issues. Ms. Harbottle said that there was some water at the foundation level for the accessory dwelling next door, but believes it was construction related.

Mr. Limbacher asked where the berm would be located and what would it do. Mr. Morse said it will be along the driveway so that water flows into the street. Mr. Quinn asked about the snow and the plow piles that will come toward his property. Mr. Morse said there will be meltwater and if the driveway was in front, snow melt would likely be in the tributary area too. Mr. Quinn said if there was the snow that was last year there would be a problem. Ms. Burbine offered that everyone had problems last year. Mr. Morse indicated the slope of the garage moved back 24'. He said the grades at the back of the stone wall were not touched. Mr. Limbacher asked how big the increase in impervious area was and how big a deal it would be to redo the stormwater calculations. Mr. Morse said the increase is about 400 sq. ft. and it would be a couple of hours to redo the calculations as it would involve the entire subdivision. He said all the houses are slightly different and he would have had to redo the calculations for every lot. He said the road was designed for full subdivision compliance and then waived down so extra impervious area is in the calculations. Mr. Morse said he has been keeping track of the differences.

Chairman Pritchard said he would like to see the calculations redone. Attorney Brodsky said he would like to see accurate topography too. Mr. Morse said they will need to resurvey the entire subdivision. Attorney Brodsky said that the actual contours at the rear of the property are not represented. Mr. Morse said it would be the existing contours as there was no disturbance. Attorney Brodsky asked if there were spot grades to verify there are no changes. Mr. Morse said the tree line is actual for Lot 8 as the plan was prepared in February. Mr. Limbacher asked what problem is being solved – water there that wasn't before and screening. Mr. Quinn said a violation of the subdivision. Mr. Morse said he will look at where the water came from. Attorney Brodsky said there needs to be a stormwater analysis. Chairman Pritchard asked if there could be a differential analysis for this lot including what it was supposed to do versus what it does now. Mr. Morse asked where he wanted the design point as if it is the design point for the subdivision there will be no change. He said he could do a microanalysis at the Quinn property and there will be less impervious and less land area and he will look into the stormwater in the photo to try to determine if the water existed prior to the project. Chairman Pritchard said that peak flows can be calculated at the bounds of the lot before and after the changes. He said there appears to be a path for the water to get beyond the berm. He indicated Amory Engineers would then need to review the calculations.

Attorney Brodsky said he also wants to see full planting information. Mr. Morse asked if 6' tall arborvitae would be acceptable. Chairman Pritchard said an evaluation of where the water is coming from will be necessary along with the drainage calculations. He asked Mr. Morse if the groundwater could have changed. Mr. Morse said he likes to think not and is not sure if the drywells are installed

yet. Mr. Taylor remarked that there is no vegetation yet and once the grass is in there will be a huge difference. Mr. Morse agreed that the runoff on dirt is greater than on grass and more flow will happen during construction. Attorney Brodsky said it should not happen. Chairman Pritchard said it needs to be verified that erosion control is in place. Mr. Morse said he would be ready to check in in about 2 weeks. Mr. Taylor asked if Amory Associates rerun the drainage calculations. Mr. Brennan said they just check the calculations. Ms. Harbottle said there will need to be a cash flow to pay Amory for rechecking the calculations. Attorney Brodsky gave extra pictures to Ms. Harbottle.

**Public Safety Complex – Reconsider vote on Amending Condition 7 re. dimmable lighting in public parking**

**Assessor's Map/Block/Lot 12-3-1-0**

**Applicant/Owner: Town of Scituate**

**Documents**

- Email dated 3/22/16 from Laura Harbottle to the Board with an Open Meeting Law complaint for the Planning Board review of a lighting change at the Public Safety Complex
- Email from Dore and Whittier to Laura Harbottle on 3/16/16 with meeting minutes from 3/9/16 Public Safety Complex meeting
- Email from Laura Harbottle to the Board with amended agenda for 3-24-16 and Open Meeting Law complaint

Chairman Pritchard said that the Board was going to discuss the public safety complex vote from March 10 as a violation of the Open meeting Law was received. Patricia Lambert was present and she indicated she filed the violation. Chairman Pritchard said he had a brief statement to read. He indicated that it was brought to the attention of the Board through a complaint that the discussion and vote of the public safety complex's amendment to the Site Plan Administrative Review on 3/10/16 may not have been in strict conformance with the public meeting law requirements. He indicated that the Planning Board tries to ensure that the process is fair, objective and available to the public and this regrettable departure from the process occurred. He indicated that the Town is the proponent of the project and requested on the morning of 3/10/16 to have a discussion on the Board's meeting that night of the condition on dimming and control of the exterior site lighting as the issue was time sensitive to the ongoing construction.

Chairman Pritchard said it was subsequently realized that a revised agenda should have been posted; and due to the nature of the discussion, there may have needed to be provisions for abutter notification and a public hearing notice. He indicated it is not the Board's usual practice to modify the agenda within 48 hours of a meeting, but the Board was trying to be responsive to the Town for a reported construction timing issue. He indicated the Board was alerted to a deviation by a complaint filed and the Board is taking steps to correct the oversight and ensure the situation does not happen again. He said the Board apologizes for the confusion. He indicated that the Board would take a vote to rescind the vote of 3/10/16. He also indicated that the Town has withdrawn its request to remove the condition. Chairman Pritchard also indicated that the Town has asked that the record be set straight on their original request. He said the Town relayed to the Planning Board that its original request was not only based on saving money, but also on operational concerns of the Police and Fire Chiefs. The operational concerns included concerns that limiting the lighting levels for a building that operates 24/7, is a public safety building with staff coming and going at all hours of the night, providing adequate visibility to respond to medical assistance and emergencies and for adequate lighting for people exiting the building after community meetings in the EOC – Emergency

Operations Center. He said that the Town reported the cost of \$14,880 for the dimmable lighting and wanted to set the record straight.

Chairman Pritchard said the Board wants to correct the situation and rescind the vote. Mr. Taylor clarified that the Town has withdrawn the request and will do the dimmable lighting. Chairman Pritchard said that once the Board votes the Town will be obligated to follow the condition and that the lights will be wired for dimmable technology. Mr. Taylor further clarified that there is nothing to limit the hours of dimming the lights. Chairman Pritchard said the Board required the capability so that if it is possible the Town can do it. He said the Board did not want to require it if it was never going to be used. Chairman Pritchard said he guessed that the Town would have opportunity to use the technology and the Town has withdrawn its request to eliminate the condition.

Mr. Taylor moved to rescind the vote of March 10, 2016 to remove the condition from the Public Safety Complex Site Plan Administrative Review decision dated 9/30/15 reading "The lighting in the public parking lot shall be programmable as to on-off and intensity" as the applicant is withdrawing its request to change the condition. Mr. Limbacher seconded the motion. Motion was unanimously approved.

Chairman Pritchard said that under the Open Meeting Law the Board is obligated to send a report to the Attorney General reporting on the issue. He asked Ms. Harbottle to prepare the report and circulate it to the Board for review. He believes the issue was addressed and stated "emphatically that it was not an attempt to circumvent any open meeting laws;" but an attempt to address a time sensitive issue and an amended agenda was neglected to be filed. He indicated he wanted to "hold the line" on the 48 hours unless there is a real emergency that would require the Board to act faster and have that as the policy. Mr. Limbacher said it has pretty much been the policy. Chairman Pritchard said the Open Meeting Law does allow for agendas to be amended within 48 hours of a meeting in case of emergency with a broad definition of emergency. He said he saw no reason that the Board would need it for what it does.

Ms. Lambert indicated that the violation notice never went to the Attorney General as she has 30 days from tonight's meeting to get the complaint to the Attorney General if her concerns were not satisfactorily addressed. Chairman Pritchard said that as the Open Meeting Law specifies, the complainant first files with the Planning Board and the Board has 30 days to respond and is obligated to report to the Attorney General. James Hunt of Mann Lot Road asked that as an abutter an former law enforcement person, does the dimmable lighting work for the police. Lt. Mark Thompson said that the fact that the lights have the ability to be programmable and dimmable is fine; however, if the public safety concerns indicate the lights should not be dimmed then they won't be. Mr. Hunt asked if having the ability of the lights to be programmable and dimmable solves the problem. Lt. Thompson said he is not a lighting engineer and assumes that the architects and engineers designed the plan for the correct lumens as to what should be present to be safe. Chairman Pritchard indicated the system was designed to provide the correct lumens. He said when they do not need the full level of lighting, then the lights may be dimmed. He said the decisions can be made when the system is being programmed and that will be up to the fire and police chiefs. Mr. Hunt said that if the need for security and safety dictates the need for the light level, he wants it to be there; however doesn't want unnecessary light. Chairman Pritchard said the Board is not charged with designing the system and assumes the architect and engineer designed the light levels for a public safety facility and its functions.

## **Accounting**

### **Documents**

- PO # 1606292 (\$731.30), PO # 1606327 (\$65.00)

Mr. Taylor moved to approve the requisition of \$731.30 to Chessia Consulting Services, LLC for paving inspection for The Glen and for \$65.00 to CPTC for Laura Harbottle's attendance at their annual conference. Mr. Limbacher seconded the motion. Motion was unanimously approved.

### **Minutes**

Mr. Taylor moved to approve the meeting minutes of 3/10/16. Mr. Limbacher seconded the motion. Motion was unanimously approved.

### **Liaison Reports**

Ms. Burbine reported that the EDC is going forward with directional and locational signage from 3A to the lighthouse. It will be Phase I of the EDC signage plan. Ms. Harbottle said the signs will be from Town Hall to the lighthouse along First Parish Road. She said they will be black metal with the sign attached. Ms. Burbine said she has a call into Representative Cantwell's office about signage on Route 3 for Scituate. She indicated that she was at a transportation meeting in Cohasset along with Maura Curran and Kevin Cafferty where transportation improvements to Route 3A were discussed. She indicated that Phase I was to be Sohier Street to Henry Turner Bailey Road with bike paths and reconfiguration of Beechwood Street as part of the plan. She said the plans are not yet at the 25% design stage and doesn't expect anything for a minimum of 5 – 7 years or even much longer. She indicated it only took 20 years to fix the North River Bridge.

Chairman Pritchard said he heard the pricing came in high for the Country Way Trail. Ms. Burbine said the trail is supposed to go to Hughey Road in Phase I and the CPC has been told that the rest of the money to complete to Country Way will be applied for next year. She said that the money for the sailboats is not coming from the CPC, but Free Cash. She also indicated that the Advisory Committee voted down the Maxwell Trust land purchase.

### **Town Planner Report**

Ms. Harbottle indicated that the Town has applied for \$207,000 for 14 variable drive frequency motors in Green Communities Grants. She said they would be used at the Water Treatment Plant, wells 19 and 22 and five for the air handlers in the Jenkins School. She said she was contacted by the Advisory Committee on the Stormwater Bylaw which they supported. She also indicated that the Hazard Mitigation Plan has gone to MEMA.

Ms. Burbine said an item for discussion at the South Shore Coalition was the MBTA towers for the railways. Ms. Harbottle said there are five proposed in Scituate. She said they are 65' tall with 9' antennas and they will be used for wireless communication and to remotely stop trains. She said the Town hired a historic preservation consultant to review the towers. She indicated only one of the five had very little impact with the one in North Scituate being in a hot spot by Bound Brook. She said the one in Greenbush is in back of Chris Ford's building. Ms. Harbottle said that the towers are a national mandate.

Ms. Burbine said that the South Shore Coalition was going to write a letter against Marshfield wanting to pull out of it. She said the south shore is like a poor relative as we don't get money for improvements as there is no representation for the MPO or TIP. Mr. Pritchard said the sewer meeting with Kevin Cafferty was missed due to the snow and asked for it to be rescheduled. He asked to stress the importance of having it before Toll Brothers comes in because the Board is concerned about sewer allocations. He said the Board has been told they can't do a 40 R district because there cannot be a sewer impact.

Ms. Harbottle said that 7 New Driftway would like to be in the business district. Chairman Pritchard said that is an issue because of the entry way into Scituate and guidelines for access. Ms. Harbottle said an EDC visioning session of Greenbush is needed as they just had one for North Scituate. Mr. Taylor said parking needs to be considered as there are parking issues with the Rivershed and CP Pizza.

### **Old Business and New Business**

#### **Documents**

- Email to Board dated 3/18/16 from Karen Joseph with agenda for 3/24/16
- Email to Board dated 3/23/16 from Karen Joseph with 3/10/16 meeting minutes

These items were distributed to the Board electronically.

Mr. Limbacher moved to adjourn the meeting at 9:13 p.m. Ms. Burbine seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph  
Planning Board Secretary

Richard Taylor, Clerk  
4/7/16  
Date Approved