

SCITUATE PLANNING BOARD MINUTES January 14, 2016

Members Present: William Limbacher, Vice Chairman; Robert Vogel and Ann Burbine, Alternate member.

Members Absent: Stephen Pritchard, Chairman; Richard Taylor, Clerk 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.

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

Documents

- 1/14/16 Planning Board Agenda

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

Discussion – Stormwater Bylaw

Documents

- Email from Laura Harbottle to the Board dated 1/6/2016 with draft revisions to the Stormwater Bylaw dated 1/6/2016
- Summary, Proposed Changes to Stormwater Bylaw

Ms. Harbottle handed the Board members a summary of the proposed changes to the Stormwater Bylaw. She indicated that the threshold for disturbance has been changed to 18,000 sq. ft. from 15,000 sq. ft. She said the developers would like to see the threshold at 20,000 sq. ft. She said the 18,000 sq. ft. represents a compromise for the developer's needs, for protection of neighbors for protection of flooding and for protection of the Town's stormwater system. She indicated that since 2010 the Planning Office has issued 34 Stormwater permits independent of subdivisions, common driveways etc. She said that if the threshold were 20,000 sq. ft., then 10 reviews would not have occurred and if it were 18,000 sq. ft. 3 reviews would not have occurred. She indicated that there is a feeling in Town Hall to not make it 20,000 sq. ft. and lose more control out of the bylaw.

Ms. Harbottle said that the language has been changed so that if an undeveloped lot has an increase of 25% in runoff or a developed lot changes to an increase of over 25% in impervious area, a stormwater permit would be needed. She said this is fair for 5,000 and 10,000 sq. ft. lots. She said language has been removed that single family homes must comply with the DEP Stormwater Management Policy. She indicated the policy was not designed for single family homes and the Town's consulting engineers agreed the wording should be removed. Ms. Harbottle said that language on coastal storm flowage is added and there will be standards of no adverse impact in the floodplain. She said that the new language will be reviewed by MAPC. She indicated Town staff needs more than 21 days for review, so the time has been changed to 30 days with an application fee and specific submission requirements spelled out. She said enforcement provisions have also been added. She told the Board there had been one constructive approval on 265 Beaver Dam Road. She said the final major change was a clarification of what the Planning Board and Conservation

Commission reviews. She said if a project falls in the 100 foot buffer zone of a wetland, the Conservation Commission will issue the Stormwater Permit. She said this is a clarification to the process that is being used now.

Ms. Harbottle said MAPC should get back to her in a week on the coastal storm flowage language. She said there is a meeting with the Water Resource Commission (WRC) and NSRWA on January 26 to discuss the bylaw. Mr. Limbacher asked if their comments could be in writing. Pat Gallivan, Conservation Agent, said that the WRC and NSRWA may want to consider critical areas like tributaries and wellhead protection zones. Mr. Gallivan asked if there could be flexibility on the 18,000 sq. ft. of disturbance. Ms. Harbottle said the regulations have to be clear and the process is intended to simplify matters. Ms. Burbine asked if it would have made a difference if the ten projects were not reviewed. Ms. Harbottle said she has not done an analysis on the ten projects, but that the office receives frequent inquiries and complaints on stormwater and people need to be assured that stormwater does not leave new development sites.

Ms. Burbine asked if mounded septic systems should be a trigger as there are steep side slopes sometimes without provisions for drainage. Ms. Harbottle said the bylaw has some requirements for slope and a requirement could be added if a slope over 25% is created. Frank Snow indicated that a septic system has a flat top and slopes on the side which account for a small area of the system. He asked if there could be a way to have a non-significant aspect to disturbance between 15,000 and 20,000 sq. ft. Ms. Harbottle said that everyone would say the change is non-significant. She said there needs to be a hard standard that can be defended in court if need be. Mr. Snow indicated there are people who have neglected erosion control who are on small lots. Mr. Vogel said the 25% impervious requirement should cover most of those situations. He asked if the intent is to keep stormwater onsite and not impact others, could there be a no disturbance zone to the property line. Ms. Harbottle said that development that has the potential to increase stormwater off site is reviewed. Ms. Burbine asked about re-landscaping. Ms. Harbottle said there were provisions in the bylaw to account for that with limited grade changes and soil materials.

Ms. Harbottle said that she discussed the financial issues of the bylaw with the Town Accountant. She indicated we give the homeowner an estimate for review and then collect the money for the engineering review which is generally around \$1,000. She said the Attorney General said that this is really not the way to operate. She indicated that she would discuss the issue with Town Counsel. Ms. Harbottle said the process will change with the review fee to be part of the filing fee. She said that surety is not really supposed to be obtained either. She said fines will be added to the bylaw. Mr. Vogel said it will be better than what we now have as enforcement is limited.

Steve Bjorklund commented that Ms. Harbottle and the working group have put a lot of time into reworking the bylaw. He said that the Board needs to understand that after the bylaw is changed then the regulations need to follow suit as the storm events designed for need to change. He indicated he spent over \$15,000 on 265 Beaver Dam Road and got a constructive approval. He said if he had constructed the system approved it would have cost over \$25,000. He said he is not allowed to put water on his abutter's property, but they can put it on his. He said the local engineers have a hard time engineering systems for all the storm events. He said a 20,000 sq. ft. of disturbance threshold would be better "to not get people". Mr. Bjorklund commented that mounded septic systems need swales around them per the Board of Health and they can ask for corrections if stormwater goes to another property. He said he has no problem with the fees or extending the time. He said engineering fees can be high and hopefully the changes will bring uniformity to peer review.

He said the burden has to be taken off of a single family dwelling and to help people not direct water onto other sites.

He said the purpose to go to 20,000 sq. ft. of disturbance is for landscaping. He suggested that a landscape requirement be incorporated as people will want to clear away nuisance vegetation. He said the regulations will need to change as plans are being designed for the 2, 10, 25 and 100 year storm events and this is very expensive and the 100 year storm event is not practical for a single family home in the long run. He indicated everybody will get wet in a 100 year storm event and not just sites with stormwater permits. He said he thinks the disturbance level should be 20,000 sq. ft. and is not worried about critical areas as they are covered under the Water Resource Protection District bylaw which the Conservation Commission does not see and the type of pollutants from a single family home is not the same as a larger project.

Form A – 65 & 67 Gilson Road, 2 Bassin Lane

Assessor's Map/Block/Lot 60-1-39A and 60-1-38A & 40

Applicant/Owner: Matthew J. & Tammy T. Downes & John & Kathleen M. Dinand

Documents

- Application, deeds and Plan of Land in Scituate, MA showing a re-division of Parcels 60-1-39A 65 Gilson Road for Matthew J. & Tammy T. Downes & John & Kathleen M. Dinand dated 12/28/15
- Transmittal to departments dated 1/5/16
- Email to the Board from Laura Harbottle dated 1/8/16 with above noted materials

Greg Morse was present for the applicants. He indicated that the Form A is to divide an existing lot, # 65 Gilson Road, into two parcels A and B. He said the existing house has been demolished and the two parcels will be joined to two existing lots to create new Lots 2 and 3. He said the plan is entitled to endorsement as it is not a subdivision.

Ms. Harbottle indicated that the plan is taking two lots and making them conforming as to land area. She indicated the Dinand lot would now be one contiguous area so the frontage would all be combined so they would lose a buildable lot. Mr. Vogel asked if the Dinands are still going to use the right of way to their house at 2 Bassin Road. Mr. Morse said they will likely use the right of way and they also have a sewer connection to Gilson Road which is now captured in their lot area.

Ms. Burbine moved to endorse as approval under the Subdivision Control Law Not Required a Plan of Land in Scituate, MA showing a re-division of parcels 60-1-39A 65 Gilson Road prepared by Morse Engineering Co., Inc. for Matthew J. and Tammy T. Downes and John and Kathleen M. Dinand dated December 28, 2015 as the division of the tract of land shown is not a subdivision because the lots shown on the plan have frontage on the public way of Gilson Road, the property to be divided will be combined with existing lots and no new buildable lots will be created. Mr. Vogel seconded the motion. Motion was unanimously approved.

Discussion – Open Space Parcels

Documents

- Email to the Board from Laura Harbottle dated 1/12/16 with information on Cowings Cove open space parcel in Norwell

- Email to the Board from Laura Harbottle dated 1/12/16 with information on some Maxwell Trust properties off Bates Lane, Scituate

Frank Snow indicated that there are two parcels of land owned by the Maxwell Trust off Bates Lane that are in front of the Community Preservation Committee (CPC) to consider purchasing at the 2016 annual town meeting and he is looking for Planning Board endorsement of this land purchase. Cynde Robbins of the Maxwell Trust said that the Cowings Cove and Noonan property requests have been withdrawn from the CPC request. She indicated that the two parcels of land off Bates Lane were originally part of the five Moncy properties that the Town purchased three of but didn't have the funds for all five so the Maxwell Trust took out a loan and purchased the remaining two. She said it was the first CPC purchase and the Moncy family said it was an all or nothing purchase. She indicated Maxwell Trust is asking the Town to purchase these now and complete the Bates Lane conservation area. She said they have not asked until now as they did not want to compete with other land owner projects.

Ms. Burbine indicated there was a contentious discussion about this at the CPC meeting on January 11. She said that the CPC will get an appraisal of the land after Town Meeting if the proposal is voted forward. Mr. Snow said the CPC discussed the pros and cons of the purchase. He indicated that land can't be purchased for more than its appraised value with CPC money. He indicated it is complicated to get an appraisal beforehand as it goes hand in hand with the survey. He said if it passes Town Meeting then an appraisal and survey would be done. Ms. Burbine indicated there were questions if the lots were buildable. She said the one that abuts Cohasset is not buildable and the other parcel is on a way that has been adjudicated to be an unimproved private way. Mr. Snow indicated that both parcels may possibly be developed in some fashion. Mr. Vogel asked if the land was surveyed when purchased twelve years ago. Mrs. Robbins said that the piece bordering Cohasset was and that there are Conservation Restrictions on the pieces the Town bought 12 years ago which would indicate they were surveyed. She indicated the two pieces were appraised 12 years ago and that is the price that was paid then. Mr. Snow clarified that if the Town votes to purchase the land, the appraisal and survey are then done and the cost would be the appraised price. He said a Town Meeting vote would have to be a not to exceed purchase price. Mr. Vogel said the purchase seems worthwhile to him. Mr. Limbacher asked for the arguments on the negative side. Mr. Snow said that a lot of money has been spent to acquire open space in the west end. He said the Conway School has done a study for the Conservation Commission of how to use open space in the west end. He said the additional land would provide a large unfragmented area which would be good for habitat and diversity and recreation. He said the Crosbie and Damon pieces are across from Bates Lane. Mr. Snow said that the Maxwell Trust has tried unsuccessfully to purchase open space in other parts of Town, but people have not been receptive.

Lisa Fenton of 25 Crescent Ave. said that the CPC Board has changed in the past year. She said that originally land was purchased for open space for passive recreation. She said now that recreation is a qualifying use of CPC funds, the onus seems to be on acquiring land that is not just suitable for open space, but fields and other reasons too. She said that people are noticing the tree removal for the Public Safety Complex and perhaps some of them are thinking about preservation of open space now. She said the two parcels are important for the larger area and it would be sad if the town couldn't purchase them now that the Maxwell Trust needs to sell them. She said she supports the Town purchasing the land to preserve open space. Mr. Limbacher asked why the Town should buy something that is already protected. Ms. Fenton said it needs to be sold and does not have a conservation restriction on it. Phyllis Karlberg of 26 Hewes Road said that it seems like the Maxwell Trust stepped in to help the Town. She said the application has open space and passive

recreation merits and the CPC Board is trying to make the money go for affordable housing and ballfields. She said that was not the original intent and thinks that the deal of 12 years ago should be honored.

Mr. Snow said that Bates Lane is narrow and not a good location for affordable housing. He said that 10% of the yearly CPC funds are for open space. He indicated that the Town has allocated ballfield money, but it has been hard to find the land and some projects have been postponed due to the school project. He said the Cushing Field proposal before the CPC proposes reuse of fields for minimal new clearing. He said if the Ellis property was used for affordable housing, a ballfield or the public safety complex, the result would be the same. Wayne Robbins said the area by Bates Lane was supposed to be a greenbelt to be protected for perpetuity for walking, watershed protection, and wildlife. He said if it has a conservation restriction it will be protected forever.

Steve Bjorklund said that the deal sold to the Town 12 years ago should be honored. He said the Maxwell Trust was supposed to put a conservation restriction on it which wasn't done. He urged a background check be done before the vote goes through. Mark Fenton said this is a great opportunity for the Planning Board to do what is required as to long term planning. He said that the CPC now has adequate funds to purchase the parcels that the Maxwell Trust bought and this would protect a large contiguous open space with watershed and wildlife benefits as the Masterplan described. He indicated that unconstrained low density development can be most costly to a community in terms of services provided compared to revenue generated and believes the Planning Board should be advocating and endorsing protection of this open space. Mr. Limbacher said there is no argument that the land should be purchased; however, he was interested in Mr. Bjorklund's point about have all the conditions been met. Mr. Snow said that the Maxwell Trust is selling the land for what they paid and not adding any administration fees. He said if CPC funds are used and a conservation restriction added then the future use is clear. Mr. Limbacher said there were a lot of historical discussions about the Moncy property. He said he believes there was a commitment to the Trust to purchase the property from them from the original Town Meeting. Mr. Bjorklund said he differs from that interpretation.

Mr. Snow said that properties which owners never want developed are developed now. He said it makes sense for the town to acquire this land when there is the chance. Mr. Limbacher asked if the Trust wanted the Board to vote. Ms. Harbottle said she was unsure what the 1998 Town Meeting actually said. She said the asking price is above the assessed value and a lot of open space has been purchased in the west end. She said it is questionable if either lot can be built upon. She indicated she was not a resident and the residents will need to decide.

Mr. Vogel said he was in favor of preservation and doing a conservation restriction if that what it takes assuming the cost is not totally outrageous. Ms. Burbine said the area needs to be finished as the appearance of Route 3A will change when there are 250 more units on it. Mr. Snow said Mr. Livingstone was approached in the past few years.

Ms. Burbine moved to support the CPC article regarding the purchase of the two Maxwell Trust parcels on Bates Lane by the Town. Mr. Vogel seconded the motion. Motion was unanimously approved.

Lisa Fenton added that there have been years of requests to get conservation restrictions through, but there were always bottlenecks through Town Counsel or the Town Administrator. Mr. Snow said

that Town Counsel changed in the process and now the Conservation Commission is working with a larger land trust along with Maxwell.

Minutes

Ms. Burbine moved to approve the meeting minutes of 12/17/15. Mr. Vogel seconded the motion. Motion was unanimously approved.

Accounting

Documents

- PO # 1604490 (\$485.00), PO # 1604576 (\$585.00), PO # 1604575 (\$104.52), PO # 1604778 (\$93.75), PO # 1604858 (\$258.75), PO # 1604903 (\$480.00)

Ms. Burbine moved to approve the requisition of \$485.00 to American Planning Association for dues for Laura Harbottle for 2016, \$585.00 to Merrill Corporation for construction inspections for 35 Dreamwold Road Common Driveway, for \$104.52 to Gatehouse Media MA for legal advertising for the standard conditions for accessory dwellings and common driveways public hearing, for \$93.75 to Amory Engineers, P.C. for engineering peer review for Aquinnah Path, for \$258.75 to Image Resolutions for printing of the zoning bylaw and for \$480.00 to Horsley Witten Group, Inc. for engineering review for Toll Brothers. Mr. Limbacher seconded the motion. Motion was unanimously approved.

Old Business and New Business

Documents

- Email to Board dated 12/29 /15 from Laura Harbottle with preliminary catchment areas for Seaside at Scituate
- Email to Board dated 1/5/16 from Laura Harbottle with FY 17 Planning Budget
- Email to Board dated 1/7/16 from Karen Joseph with agenda for 1/14/16 and meeting minutes from 12/17/15

These items were distributed to the Board electronically.

Mr. Vogel moved to adjourn the meeting at 9:08 p.m. Ms. Burbine seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph
Planning Board Secretary

Richard Taylor, Clerk
1-28-2016
Date Approved