

SCITUATE PLANNING BOARD MINUTES April 7, 2016

Members Present: Stephen Pritchard, Chairman; William Limbacher, 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, 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

- 4/7/16 Planning Board Agenda Amended

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

Public Hearing – Accessory Dwelling Special Permit – 330 Gannett Road Assessor's Map/Block/Lot 13-2-43 Applicant/Owner: Adrienne Rowles

Documents

- Application including back up material dated 3/15/16
- Transmittal to departments dated 3/16/16
- Aerials from MapsOnline by PeopleGIS
- Front and rear pictures of the accessory dwelling
- Email from Deputy Fire Chief Alfred Elliott dated 3/17/16
- Memo from the Health Agent dated 3/29/16
- Email from Adrienne Rowles dated 3/29/16
- Fire Department Certificate of Compliance dated 3/21/16
- Email from Laura Harbottle to Board dated 3/29/16 with above materials

Mr. Limbacher and Mr. Vogel recused themselves from the hearing and were seated in the audience. Adrienne Rowles was present as the new owner of 330 Gannett Road. She said the existing apartment on site needs some loving care, but she would like to have it permitted as an accessory dwelling. She said she will live in the house with her pets and she travels for work so would like a renter to care for the property. She indicated the detached garage/barn has the existing studio apartment with two means of egress.

Ms. Harbottle said the garage and house are set back from the street and are adjacent to the business zone in North Scituate. She said the Health Agent has indicated the septic system is in failure now and the house may have more than two bedrooms. She said those items need to be addressed before a certificate of occupancy is granted and recommends that the septic issue be resolved prior to the unit being rented. She said the Fire Department raised some comments, but a satisfactory inspection report was later received.

Ms. Rowles said that Mr. Robinson and his father both lived in the house like it was two different units. She said there were two kitchens. She said she is changing the house back to a traditional cape layout with one bedroom upstairs and one in the basement for occasional guests. She indicated there will be another room in the basement for any foster animals as there is access to outside. She said she has no family and chooses to live alone. She indicated that she has contracted with Greg Morse on March 3 to do a septic system design for three bedrooms and that the application should have been filed with the Board of Health last week. Staff indicated the plan was received by the Board of Health (BOH) today and they have 45 days in which to respond. Ms. Harbottle said that the Health Agent wants to do a walk-through of the house to verify the bedroom count.

Mr. Taylor said the only issue seems to be the septic system which needs BOH approval. Ms. Rowles said she wants to have her renter, which is her carpenter, move in next week as there is much work to do. She said she contracted with Greg Morse as soon as she signed the Purchase and Sales Agreement and doesn't want to lose any more time. She indicated she has done everything on her part and asked that the permit be conditioned so the renter can move in. Chairman Pritchard said the Board has no authority on BOH issues and the need to have the septic system addressed. Mr. Taylor said the BOH signs off on occupancy permits. Ms. Rowles said that the septic issue needs to be tied up within 60 days according to Fannie Mae as she bought the property in foreclosure. Mr. Taylor asked what does the designation of accessory dwelling do for her. She indicated that it makes it legal from the Town for someone to be on the property. She indicated that Mr. Morse said the septic system still works, but needs to be brought up to code. She said that she needs people to oversee her "furry family" and there shouldn't be that much of an impact on the septic system.

Mr. Greene questioned if the system didn't pass the current code for the number of bedrooms. Ms. Harbottle said it was in failure. Ms. Burbine asked if she could move in tomorrow. Ms. Rowles said there is no water as leaks were just discovered and the Town thinks the leaks may be coming from next door. She said she wants to move in on May 1 and has her rental until May 15. Ms. Burbine said there is a 20 day appeal period after the decision is filed with the Town Clerk. Ms. Rowles stated that she signed a form that she knew the septic system failed and would have it fixed within 60 days. Ms. Harbottle said she didn't believe that she could move in with a failed septic system and it was not the Board's responsibility. Ms. Rowles said the system still works. Chairman Pritchard asked if there was an occupancy permit. Ms. Burbine said that if her house failed Title 5, then there is a certain amount of time to fix the problem. She said she had no problem with the accessory dwelling. She said the accessory dwelling could be made contingent on the septic system being installed and inspected. Ms. Harbottle said that could be done, but would encourage the use of the apartment. Ms. Burbine said that everybody would do the right thing. Ms. Harbottle said that she could hang onto the special permit until the septic system was fixed. Ms. Rowles said she has to refinance in 30 days due to Fannie Mae conditions. Chairman Pritchard said the accessory dwelling would be contingent upon the septic system being installed and functioning. He asked if there were modifications to outside. Ms. Rowles said there would be new windows, siding and roofing for the main house. The accessory dwelling and inside the main house would have cosmetic improvements. She indicated that there is power and water and she will have nine months to do a separate water meter or run a line to her meter according to Jim DeBarros.

Mr. Taylor moved to make the following Findings of Fact concerning the accessory dwelling at 330 Gannett Road:

1. According to Town of Scituate Assessor's records, the property at 330 Gannett Road is owned by Cornelius J Robinson s/o Federal National Mortgage. Adrienne Rowles had a

Purchase and Sales Agreement to purchase the property and a closing occurred on March 30, 2016. The property is located in the Residential R-2 Zoning District on a lot of 57,316 sq. ft.

2. On March 15, 2016, Adrienne Rowles applied for a special permit for an accessory dwelling within an existing detached garage on the property at 330 Gannett Road. A studio apartment currently exists on the second floor of the detached garage.
3. Based on a floor plan submitted by the applicant, the interior floor space of the proposed accessory dwelling will be approximately 551 sq. ft. It meets the size requirements of 530.2F of the zoning bylaw for accessory dwellings.
4. A PeopleGIS image shows the dwelling to have a paved driveway and garage. This appears adequate to provide two parking spaces for the accessory dwelling and ample parking for the primary dwelling.
5. The owner has submitted a signed, notarized statement that she will live on the property.
6. There is not a current compliant Title 5 septic system serving the property and there is no approved plan or permit issued by the Board of Health for a septic system to be constructed to serve the property. The septic system must be in compliance with Title 5 prior to the primary unit or accessory unit being occupied by a renter. The applicant indicates a new septic system is under contract for three bedrooms.
7. Exterior stairs to the accessory dwelling are on the rear of the house.
8. The application meets the standards of the Scituate Zoning Bylaw for an Accessory Dwelling Special Permit.

Ms. Burbine seconded the motion. Motion was unanimously approved.

Mr. Taylor moved to approve the Special Permit for an accessory dwelling at 330 Gannett Road with the following conditions and standard conditions for accessory dwellings approved by the Planning Board after a public hearing on 12/17/15:

- 1) Except for any changes necessary to meet these conditions, any construction shall conform to the plans submitted with the application.
- 2) The number of bedrooms in the accessory dwelling is limited to one in the location and size indicated on the floor plan submitted with the application.
- 3) The new approved septic system plan by Morse Engineering shall be approved by the Board of Health prior to releasing this special permit to the applicant. This special permit is not valid without a Board of Health Title 5 approval.
- 4) Fire Department and Building Department inspections are necessary to ensure code violations do not exist. Compliance with these inspections is a condition of this permit.
- 5) The standard conditions for accessory dwellings approved by the Planning Board shall be conditions of this decision and shall be included for recording at the Registry of Deeds.

- A. The applicant shall meet all requirements of the Building Department, Board of Health, Department of Public Works, Fire Department, Water Department, Conservation Commission and other town agencies.
- B. The property 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 shall not be increased without prior approval of the Planning Board.
- C. The owner of the property shall reside on the property as long as it contains an accessory dwelling unit.
- D. The Planning Board may require an on-site inspection for conformance to the approved plans and these conditions prior to the issuance of a Certificate of Occupancy for the accessory dwelling.
- E. The Planning Board may require an on-site inspection for conformance to the approved plans and these conditions prior to the issuance of a Certificate of Occupancy for the accessory dwelling.
- F. An Accessory Dwelling Special Permit Certification of Ownership and Occupancy signed by the new owner shall be provided to the Planning Board within seven days of the closing of the sale of the house. It is recommended that this be signed at the closing.
- G. At any time, at the request of the Planning Board the owner shall provide a notarized affidavit indicating that either the primary or accessory unit is owner occupied.
- H. No on-street parking by occupants of the primary or accessory dwelling shall be permitted at any time.
- I. Construction vehicles/equipment shall not idle, be parked, stored, loaded or unloaded in the street.
- J. 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.
- K. 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.
- L. The Planning Board reserves the right to review compliance with this special permit at any time. This Special Permit shall terminate if the use is not in accordance with this decision and its conditions.

Mr. Greene seconded the motion. Motion was unanimously approved.

Public Hearing – Accessory Dwelling Special Permit – 251 Hatherly Road
Assessor's Map/Block/Lot 28-20-2B
Applicant: Antonio Tavares
Owner: Antonio and Maria Tavares

Documents

- Application including back up material dated 3/16/16
- Transmittal to departments dated 3/16/16
- Email from Laura Harbottle to Board dated 4/6/16 with above materials

Antonio Tavares and his daughter in law, Yvette DeSilva were present. Mr. Tavares said he is limited on English and his daughter in law would be speaking. Ms. DeSilva said that there is an existing in law unit in the house and Mr. Tavares wants to legalize it for his children and later live in the unit in his older years.

Ms. Harbottle indicated that the unit exists and is contained within the home. She said it is 757 sq. ft., but less than 40% of the square footage of the house so it meets the size requirement. She said there is parking and the house is tied into town water and sewer. Mr. Taylor asked about the parking. Ms. DeSilva said there is room for four cars to fit in the driveway. Mr. Limbacher, Mr. Greene, Mr. Vogel and Ms. Burbine were good with the application. Chairman Pritchard asked about ingress/egress. Ms. DeSilva said there is a back deck with stairs leading directly to the unit and there is access through the sun room to the main dwelling.

Charles Cawley of 21 Dayton Road said that there is not adequate space for cars for people living in the house. He said two cars are parked on the street tonight and there are always cars parked on the street especially in the summer. He said the police have been called many times. He indicated that emergency vehicles have to go around to the other end of Dayton and Edgar to get down those roads. Mr. Cawley said he has small children and is concerned for them. Ms. Harbottle said that a standard condition for accessory dwellings is there is no parking on the street. Mr. Vogel said the dwelling has two parking spaces for the primary unit and two for the accessory so it meets the requirements. Ms. Harbottle indicated they seem to be talking not about the requirements, but the use which is controlled through the conditions. Chairman Pritchard asked if there are enough parking spaces to accommodate the use and does there need to be more spaces. Ms. Harbottle said she did not drive by the house. Ms. Burbine said that the Planning Board has no control over how many people live in a house, park on the street or visit the house. She said that is a police issue. Mr. Limbacher said the accessory dwelling would give this issue more protection as no parking on the street is a condition. Ms. Burbine asked if they were prepared to abide by the standard condition. Ms. DeSilva said they have five cars now, but she and her husband are moving so there will only be three cars of people who live there as no one else is moving in. Chairman Pritchard asked if they were prepared to make sure the cars park in the driveway. Mr. Tavares indicated affirmatively.

Mr. Taylor moved to make the following Findings of Fact concerning the accessory dwelling at 251 Hatherly Road:

1. According to Town of Scituate Assessor's records, the property at 251 Hatherly Road is owned by Antonio and Maria Tavares. The property is located in the Residential R-3 Zoning Districts on a lot of 10,000 sq. ft.
2. On March 16, 2016, Antonio Tavares applied for a special permit for an accessory dwelling

within a single family home on the property at 251 Hatherly Road.

3. Based on a floor plan submitted by the applicant, the interior floor space of the proposed accessory dwelling will be approximately 757 sq. ft. It meets the size requirements of 530.2F of the zoning bylaw for accessory dwellings as it is less than 40% of the floor area of the primary dwelling.
4. Google earth shows the dwelling to have a paved driveway. This appears adequate to provide two parking spaces for the accessory dwelling and ample parking for the primary dwelling.
5. The owner has submitted a signed, notarized statement that he will live on the property.
6. The property is on town sewer.
7. Exterior stairs to the accessory dwelling are on the side of the house.
8. The application meets the standards of the Scituate Zoning Bylaw for an Accessory Dwelling Special Permit.

Mr. Vogel seconded the motion. Motion was unanimously approved.

Mr. Taylor moved to approve the Special Permit for an accessory dwelling at 251 Hatherly Road with the following conditions and standard conditions for accessory dwellings approved by the Planning Board after a public hearing on 12/17/15:

1. Except for any changes necessary to meet these conditions, any construction shall conform to the plans submitted with the application.
2. The number of bedrooms in the accessory dwelling is limited to one in the location and size indicated on the floor plan submitted with the application.
3. Fire Department and Building Department inspections are necessary to ensure code violations do not exist. Compliance with these inspections is a condition of this permit
4. The standard conditions for accessory dwellings approved by the Planning Board shall be conditions of this decision and shall be included for recording at the Registry of Deeds.
 - A. The applicant shall meet all requirements of the Building Department, Board of Health, Department of Public Works, Fire Department, Water Department, Conservation Commission and other town agencies.
 - B. The property 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 shall not be increased without prior approval of the Planning Board.
 - C. The owner of the property shall reside on the property as long as it contains an accessory dwelling unit.

- D. The Planning Board may require an on-site inspection for conformance to the approved plans and these conditions prior to the issuance of a Certificate of Occupancy for the accessory dwelling.
- E. An Accessory Dwelling Special Permit Certification of Ownership and Occupancy signed by the new owner shall be provided to the Planning Board within seven days of the closing of the sale of the house. It is recommended that this be signed at the closing.
- F. At any time, at the request of the Planning Board the owner shall provide a notarized affidavit indicating that either the primary or accessory unit is owner occupied.
- G. No on-street parking by occupants of the primary or accessory dwelling shall be permitted at any time.**
- H. Construction vehicles/equipment shall not idle, be parked, stored, loaded or unloaded in the street.
- I. 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.
- J. 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.
- K. The Planning Board reserves the right to review compliance with this special permit at any time. This Special Permit shall terminate if the use is not in accordance with this decision and its conditions.

Mr. Limbacher seconded the motion. Motion was unanimously approved. Ms. Burbine suggested if there continues to be a problem on Dayton and Edgar Streets, then the Traffic Rules and Regulations Committee should be contacted to deal with the situation.

Public Hearing – Scenic Road Hearing – 101 Border Street
Assessor's Map/Block/Lot 6-2-7
Applicant: Troy Guinther, Natural Stone Wall Solutions
Owner: Eleonore de Gruyter

Documents

- Application including back up material dated 3/16/16
- Transmittal to departments dated 3/16/16
- Email from Laura Harbottle to Board dated 4/6/16 with above materials and photos of walls

Paul McCarthy and Troy Guinther were present on behalf of the owner Ms. de Gruyter who had returned to her other home to the Netherlands. Mr. McCarthy said that the owner found that the wall was located at a sharp turn and had been hit twice and wanted to have something lasting. He said he apologizes for not knowing about the scenic road and none of the contractors advised him of this in

their bids. He indicated Ms. De Gruyter is remorseful and immediately filed once she was informed of the requirement. Mr. McCarthy said that just a trench exists now as the wall has been removed.

Troy Guinther said he was contracted to replace the wall with a New England style field stone wall. He said the road has a sharp curve and this wall will be a structural wall and a bit taller. He said it would be a seamless design and would ruin a car bumper. Chairman Pritchard confirmed that it won't be like the old wall and those stones have been removed. Mr. Guinther said he has a patented design and the wall is built in his yard in Concord. He said the wall has a hollow core for the joints concreted in and the rocks are on a shelf. Ms. Harbottle said that none of the walls on Border Street have the "old New England" look. Mr. Guinther said this would be natural round New England fieldstone similar in color to other walls on the street that will not fall apart. Ms. Burbine said it would be keeping with the Bleakie wall. Ms. Harbottle indicated that the wall that was removed was put there in the past few years when Mr. Walsh did his project.

Chairman Pritchard said it is probably okay, but he does not like to address stone wall removal after the fact. He said it leads to haphazard looks and people need to be more cognizant of scenic roads. He said he is tired of people asking for forgiveness after wall removal as it is not what is written in the state law. He asked that that be relayed to the owner. Ms. Harbottle said that there are Scenic Roads all across the state and an owner depends on their contractor to know the laws.

Mr. Taylor moved to close the Scenic Road Act public hearing and to approve the post application removal of 66 linear feet of stone wall at the right-of-way of Border Street and house #101. The stone wall is proposed to be rebuilt by Natural Stone Wall Solutions. New England Fieldstone shall be used. The wall is to be located in its original layout. Notification shall be provided to the Town Planner when the work commences and when the work is complete. Mr. Limbacher seconded the motion. Motion was unanimously approved.

Form A – 96 Stockbridge Road
Assessor's Map/Block/Lot 54/2/28
Applicant/Owner: Stockbridge II Realty Trust

Documents

- Application, deeds and Plan of Land located in Scituate, MA showing a division of parcel 54-2-28 into three lots – 54-2-28-A, 54-2-28-B and 54-2-28-C prepared by Webby Engineering Associates, Inc. for Stockbridge II Realty Trust, Pierre Coll, Trustee revised dated 4/4/16
- Transmittal to departments dated 3/31/16
- Trustees Certificate for Pierre Coll, ZBA Comprehensive Permit dated 1/17/13 and permit extension dated 2/17/16
- Email from Laura Harbottle to Board dated 4/6/16 with above materials

James O'Brien, Dick DeBenedictis, Pierre Coll and Ivo Coll were present for the applicant. Mr. DeBenedictis indicated the plan represents the leftover situation from the 40 B of Stockbridge Landing. He said the "L" shape piece of 2.4 acres abutting Stockbridge Road was not part of the 40 B and they would like to make it a buildable lot as it has adequate frontage. He also said that Ms. Harbottle suggested the drainage basin for the 40 B should be on its own lot; thus, a separate parcel has been created which will be sold to the 40 B developer. Mr. Vogel asked about the 125' of required lot width. Mr. DeBenedictis said it has the lot width. Ms. Burbine asked if the house would be in the Water Resource Protection District. Ms. Harbottle said there is a 100' setback from

the tributary and there is a Zone A. Chairman Pritchard asked where the buildable location is. Ms. Burbine and Mr. Vogel both indicated that buildability is not a Planning Board issue – only frontage and access are. They said ANR's don't guarantee buildability. Pierre Coll said the 40B is going to happen and this is to just officially separate the small lot from the 40B lot. He said Jim O'Brien is working with the new developer. Chairman Pritchard confirmed with Ms. Harbottle that nothing in the 40B approval links to this parcel. Mr. Taylor asked why the land wasn't included in the 40B development. Mr. DeBenedictis said it didn't make sense to include it.

Mr. Taylor moved to endorse as approval under the Subdivision Control Law Not Required a Plan of Land in Scituate MA showing a division of parcel 54-2-28 into three lots – 54-2-28-A, 54-2-28-B and 54-2-28-C prepared by Webby Engineering Associates, Inc. for Stockbridge II Realty Trust, Pierre Coll, Trustee revised dated 4/4/16 as the division of the tract of land shown is not a subdivision because lot 54-2-28-B as shown on the plan has frontage of at least the distance presently required by the Scituate Zoning Bylaw on the public way of Stockbridge Road, Lot 54-2-28-A is a lot where a 40B Comprehensive Permit has been approved by the Zoning Board of Appeals and is not required to have the required frontage and Lot 54-2-28-C is not a buildable lot in its current configuration and is so noted on the plan. Mr. Limbacher seconded the motion. Motion was unanimously approved.

Discussion of Stormwater bylaw wording correction and handouts for Town Meeting

Documents

- Email to the Board from Laura Harbottle dated 4/6/16 with minor wording corrections to the Stormwater Bylaw
- Stormwater Bylaw handout for Town Meeting, Non-Criminal Disposition handout for Town meeting and brief write up of process to change Stormwater Bylaw

Ms. Harbottle indicated that she went to the Moderator's meeting. She said that the Stormwater Bylaw will be moved as printed in the Town Meeting handout due to a minor omission of words. Ms. Burbine clarified that the clean copy handout will have the correct wording and it is really just a wordsmithing issue. Ms. Harbottle indicated that was correct. She said that the Stormwater Bylaw handout for Town Meeting will be printed on light blue paper and the Non-Criminal Disposition bylaw will be printed on orange paper. Ms. Harbottle indicated that Chairman Pritchard will make the motion at Town Meeting and he will read a statement about the process that occurred to come up with the changes. Chairman Pritchard said he would like to make a few changes to the statement to include that the Water Resource Committee and the NSRWA reviewed the bylaw changes and the Town Planner led the working group. Ms. Harbottle indicated that she talked with Lieutenant Thompson of the Police Department and warning tickets can be issued under the non-criminal disposition bylaw. Chairman Pritchard said there is no means of enforcement now and court is a last resort.

Ms. Harbottle said that the office received a complaint today about the "rattail" lots on Mann Lot Road and Creelman Drive. She said the person who complained wondered how the Board could approve lots in unusual shapes. She said the "rattails" do contribute to the total lot area. She indicated that other towns do regulate lot shape by requiring a circle in a square or a formula with perimeter and area as in Barnstable. She said if the Board wanted to make changes it would be a bylaw change. Mr. Vogel said he would like to see the Barnstable wording. Ms. Burbine said she

would like to see the allowance of “rattails” removed from the bylaw. The Board suggested that the unhappy people could come to a Planning Board meeting.

Minutes

Mr. Taylor moved to approve the meeting minutes of 3/24/16. Mr. Limbacher seconded the motion. Motion was unanimously approved with Mr. Vogel and Mr. Greene abstaining as they were not present.

Liaison Reports

Ms. Burbine indicated that she expects discussion at Town Meeting on the CPC article for the Maxwell Trust land purchase. She said the funds for the cupola at Central Park will be taken out of non-discretionary funds as it is a restoration. She indicated that there is a South Shore Coalition and MAPC legislative breakfast tomorrow that she will be attending. Ms. Burbine said the EDC will meet on Wednesday night and she will report on her discussion with District 5 on signage on Route 3 and 3A.

Old Business and New Business

Documents

- Email to Board dated 4/1/16 from Karen Joseph with agenda for 4/7/16
- Email to Board dated 4/4/16 from Karen Joseph with 3/24/16 meeting minutes
- Email to the Board with minor wording corrections to the Stormwater Bylaw

These items were distributed to the Board electronically.

Mr. Vogel moved to adjourn the meeting at 9:18 p.m. Mr. Limbacher seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph
Planning Board Secretary

Richard Taylor, Clerk
5/12/16
Date Approved