

SCITUATE PLANNING BOARD MINUTES April 22, 2021

Members Present: Ann Burbine, Chairman; Benjamin Bornstein, Vice Chairman; Patricia Lambert, Clerk; Stephen Pritchard, Rebecca Lewis and Bob MacLean, Alternate.

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

Members absent:

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 Burbine called the meeting to order at 6:30 P.M. The meeting was conducted in compliance with the Governor's executive order modifying the Open Meeting Law regulations for remote participation during the COVID-19 health pandemic. The meeting was being recorded for airing on local cable television.

Documents

- 4/22/21 Planning Board Agenda

ACCEPTANCE OF AGENDA: Chairman Burbine indicated there was a posted agenda. Mr. Bornstein seconded the motion for the posted agenda and the vote was unanimously in favor.

Roll Call to call the meeting to order:

A roll call vote was taken to open the meeting.

Ms. Burbine - yes
Mr. Pritchard – yes
Ms. Lambert – yes
Mr. Bornstein - yes
Ms. Lewis – yes
Mr. MacLean - yes

Public Hearing – Scenic Road/Shade Tree – 141 Driftway
Assessor's Map/Block/Lot 64-10-12
Applicant: Paul Sheerin
Owner: John Tedeschi

Documents

- PDF 20-375 – Scenic Road Application
- PDF 20-375 – Scenic Road Plan
- DOC 141 Driftway Sc Rd Motion Form
- PDF TD filed posting – Scenic Road 141 Driftway
- DOC Transmittal 141 Driftway
- Email with comment from Tree Warden dated 4.16.21
- Doc DRAFT Motion

Attendees: Jeff Hassett, Morse Engineering

Ms. Burbine read the posted legal ad for the project.

In accordance with MGL Ch. 40 Section 15C, the Scenic Road Act and MGL Chapter 87, Sec 3, Public Shade Trees, the Planning Board in conjunction with the Tree Warden will hold a Public Hearing on Thursday, April 22, 2021 at 6:30 P.M. in the Select Board Hearing Room, 600 Chief Justice Cushing Highway, Scituate, MA. The subject of the hearing is the removal of a 6" pine tree in the public right of way of Driftway for a proposed driveway for a newly created lot for a single-family home at 141 Driftway for applicant Paul Sheerin and Owner John Tedeschi. Work is located on Assessor's Map 64-10-12. Plans are available for review in the Planning Board Office, Town Hall, 600 Chief Justice Cushing Highway, Scituate by appointment only. Participation in the Public Hearing for Abutters and other interested parties will be via REMOTE ACCESS ONLY.

Mr. Hassett presented the project to the Board.

- 2 new driveways off of Driftway
- Scenic Road permit needed because of the removal of one 6" evergreen within the layout of the road
- No additional trees will be removed within the layout
- No stone walls will be removed within the layout

Ms. Joseph indicated it was advertised that one 6" pine would be removed, she opined it is really a cedar tree along the frontage of the right of way for the proposed driveway. She said the acting Tree Warden has opined it is okay to remove the tree. She recommends the Board vote to remove the tree with conditions.

Mr. Borstein asked if after the removal of the tree if a similar tree in species would be installed after the driveways are put in.

The Board added to motion a replacement tree would be required; there was discussion about where the tree should be located and the size. The Board decided on a height requirement instead of a caliber requirement for the tree replacement. The Board opined when ready the Town Planner can place the tree in the field.

Motion:

Ms. Burbine moved to close the Scenic Road Act public hearing and approve the removal of a 6" pine (Cedar) tree along the frontage of the property for future access for a proposed driveway for a single-family dwelling. The applicant will notify the Town Planner 48 hours before tree removal. This approval is contingent upon all federal, state and local permits being obtained and is only for the single pine (Cedar) tree removal. No trees or their roots in the Driftway right of way shall be disturbed for installation of utilities or for grading. A replacement Cedar of 6'-8' shall be located and approved by the Town Planner.

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

Ms. Burbine - yes

Mr. Pritchard – yes

Ms. Lambert – yes

Mr. Bornstein – yes

Ms. Lewis – yes

Form A – ANR Plan – 67 Collier Road

Assessor's Map/Block/Lot

Applicant/Owner:

Documents

- PDF 4246-ANR filing pkg 4-14-21
- PDF 4246-FMA
- PDF Assessor's Card
- PDF GIS Map
- Doc Transmittal 67 Collier Road – ANR
- Email from Sewer Depart dated 4.20.21
- Email from Conservation Commission dated 4.20.21

Attendees: Jeff De Lisi, Attorney; Paul Mirabito, Ross Engineering; Ken Conway, Applicant

Mr. De Lisi shared his screen and discussed the plan.

- Mr. De Lisi's client is purchasing Lot A which has an existing dwelling
- Mr. Conway selling the property
- Land behind the existing dwelling is being divided
 - Parcel A – non-buildable lot, only 900 sq. ft. of upland, to be combined with Lot A
 - Parcel B – will remain in Mr. Conway's entity and be combined with the remaining land
- Note 9 on the plan – Parcel A is not a buildable lot and is to be combined with Lot A; Parcel B is not a buildable lot and is to be combined with the remaining land under Mr. Conway's entity.
- Frontage is on Collier Road
- There is an existing retaining wall
 - West side of the wall is all upland
 - East side of the wall is all wet

Ms. Joseph indicated there have been comments from the Water, Sewer and Conservation Commission; the wetlands have not been delineated.

Ms. Joseph said that in the future all Surveyor's will need to have the wetlands delineated from Conservation; it is part of the regulations. Plans need to go Conservation first to get the wetlands and resource areas delineated.

Ms. Joseph opined it is not a fatal flaw with this plan, there is frontage and access and the plan is endorsable, but it does not meet the Board's rules and regulations under the Subdivision Rules and Regulations for an ANR plan.

The comments from the Town Departments are just alerting the applicant there will be fees to connect to water and sewer. The Conservation Commission commented that wetlands have not been delineated.

There was discussion about what was being combined and what was being shown. Mr. Mirabito explained that Parcel A will be combined with Lot A and will be a single lot all the way back; he also referred to the Note #9 on the plan. Ms. Joseph indicated there is 10,000 sq. ft. of upland in Lot A. The same happens with remaining land and Parcel B; they are combined to make one single lot.

There was discussion about the title owner of the remaining property; title owner is Mooncusser Acquisitions LLC and Moon and Stars LLC. The second entity should have been added to Note 9 on the plan. Mr. De Lisi said that is just a typographical error and they would be happy to write it in on the plan with a sharpie. The applicant agreed to let Ms. Joseph write in Moon and Stars LLC.

Ms. Burbine asked about the addresses on the lots; both lots are being called 67 Collier Road. Mr. De Lisi said the dwelling will typically retain the house number when dividing a parcel with a house on it and the other piece of land would be assigned a new tax identification number; Mr. De Lisi opined it is a Police, DPW, Fire issue to determine if a new address needs to be assigned.

Mr. De Lisi gave his opinion on the earlier comment regarding wetlands being shown on the plans. He said the Planning Boards' focus on an ANR plan is vital access which is part of the frontage; he opined the only need for purposes of an ANR plan that wetland delineation happen before an ANR endorsement occurs would be if there was any question that a wet area would make the frontage illusory, it would be unable to access the buildable portion of the lot. His opinion is it that there should be some flexibility with the provision. He does not understand why it would be a requirement in a subdivision regulation in an ANR situation to have to have the delineation before the land is divided unless there is possibility the wet area prevents access such that the frontage does not exist.

Ms. Joseph said she appreciates his thoughts; the subdivision rules and regulations have been in effect since 2003 and last modified in 2010. She said the Planning Board has been very lenient on this issue and it is time to start taking a hard stand. Mr. Pritchard said the Board is only seeing a piece of paper and need to take that as what is true on the ground; if the wetlands have not been delineated there is no way for the Board to know if there is illusory access. He said if it is required that the wetlands are delineated there is no doubt.

Ms. Joseph said she took pictures and, in this case, she does agree with what is shown on the plan; the concrete wall delineates the edge of the salt marsh. Perhaps the applicants will submit pictures of their sites in the future.

Motion:

Ms. Burbine moved to endorse as Approval Not Required a Plan of Land in the Town of Scituate, MA 67 Collier Road stamped by Paul J. Mirabito, Registered Land Surveyor of Ross Engineering Co., Inc. for applicant/owner Mooncusser Acquisitions LLC and Moon and Stars LLC as the division of the tract of land shown on the accompanying plan is not a subdivision because every lot shown on the plan has frontage of at least the distance presently required by the Scituate Zoning Bylaw on the public way of Collier Road. Planning Board endorsement of this plan is not a determination of as to the conformance with zoning regulations.

Mr. Pritchard seconded the motion; there was continued discussion.

Mr. Bornstein discussed the existing dwelling on Lot A and the lot lines 194 and 195. Mr. Mirabito indicated those are lots on a 1906 plan. Mr. Bornstein asked if this plan is making the existing dwelling a non-conforming lot with the side yard setback. Mr. De Lisi said no; Lot A is a merged parcel of 194 and 195, lots currently shown on a record 1901 plan on Third Cliff. The dwelling at 67 has a side yard setback of 8' in this zoning district and the house has 12' setback so there is no non-conformity being created. The deck and the stairway are not considered encroachment, if they were covered they would be. The stairs will need to be addressed with the new owners and either be removed or an easement will need to be granted, it is not a setback requirement.

There was additional discussion about where the 8' setback goes through the house; but the division of the land is not creating that setback non-conformity. The dwelling at 67 Collier is a pre-existing non-conforming dwelling.

A roll call vote was taken and was unanimously in favor.

Ms. Burbine - yes
Mr. Pritchard – yes
Ms. Lambert – yes
Mr. Bornstein – yes
Ms. Lewis – yes

Discussion/Vote – Surety – 18 Ford Place

Documents

- PDF EST0088
- PDF Ford Pl Drainage Prop
- Doc memo 4-14-21
- Doc DRAFT motion

Attendees: Don McGill, Applicant; John Chessia, Town's Consulting Engineer

Ms. Burbine indicated the Board has Mr. McGill's estimate and an estimate from the Town's Consulting Engineer. She said the Board is looking for surety in the amount of \$100,000.00.

Ms. Joseph indicated Mr. McGill provided an estimate and Mr. Chessia reviewed and added a few items that weren't included and a contingency.

Mr. McGill does not feel the Board can require a surety for this project; it is unenforceable by the Board and the Town, it is private property and the Town would not be able to come on the property to complete the work and that is what the surety is for. He opined there is no reason for it. He asked what parameters his project met that his project should have surety and other projects in the area did not.

Ms. Joseph said that special permits under the Village Business Overlay District and the VCN require surety. Site Plan approval indicates that the Board can impose a surety and during the public hearings the Board opined they wanted a surety.

Mr. McGill asked the same question, why his project and why not the one right next his.

Mr. Pritchard said the special permit has this condition; we are only talking about this project not the neighbors.

Mr. McGill disagreed, but is accepting the surety requirement. He said that the first \$50K for the drainage will be completed in the first month of the project, the landscaping will not take place until next spring when it is planting season, he asked if after Mr. Chessia completes his review if he could do a partial release of the bond. Mr. Pritchard said the applicant can always come back and ask for partial release, but there needs to be no possibility of any erosion or drainage that would affect the stormwater system; control measures will have to be in place to make sure that doesn't happen.

There was discussion about the amount of the surety; the Board discussed the amount and reduced the amount by \$3,000. Mr. McGill said there was an error with the excavating number Mr. Chessia used, it should be \$46,900 not \$49,600.

Motion:

Ms. Burbine moved that the surety for 18 Ford Place for the Site Plan Administrative Review and Special Permit for Density be set at \$97,000.00 based on the applicants' estimate for construction costs reviewed by the Town's consulting engineer John Chessia who added additional items and a contingency.

Ms. Lambert seconded the motion; a roll call vote was taken and was unanimously in favor.

Ms. Burbine - yes
Mr. Pritchard – yes
Ms. Lambert – yes
Mr. Bornstein – yes
Ms. Lewis - yes

**Continued - Public Hearing – Special Permit Accessory Dwelling – 129 Stockbridge Road
Assessor's Map/Block/Lot 54-1-41
Applicant/Owner: Kyle & Eunice Zarycki**

Documents

- PDF Zarycki Scituate
- PDF Zarycki, 129 Stockbridge Road Scituate, MA 02066 4.16.21
- Email from Tracy Sharkey dated 4.14.21
- Email from Karen Joseph dated 4.16.21
- PDF 12Zarycki, Tracy 129 Stockbridge rd Scituate, MA 02066
- Email from Tracy Sharkey dated 4.22.21 requesting immediate continuance
- Doc DRAFT Motion

- PDF 12Zarycki, Tracy 129 Stockbridge rd Scituate, MA 02066
- Doc DRAFT Motion

Attendees: No attendees

Motion:

Ms. Burbine moved to accept the applicant's request for a continuance of the accessory dwelling public hearing for 129 Stockbridge Road until May 13, 2021 at 6:45 pm.

Ms. Lewis seconded the motion; a roll call vote was taken and was unanimously in favor.

Ms. Burbine - yes
Mr. Pritchard – yes
Ms. Lambert – yes
Mr. Bornstein – yes
Mr. MacLean - yes
Ms. Lewis – did not vote

Minutes
Documents

No minutes voted.

Accounting
Documents

PO #2108611(\$11.02), PO # 2108497 (\$40.00), PO #2100510(\$307.00), PO # 2108391(\$131.04), PO # 2108364 (\$131.04)

Ms. Lambert move to approve the requisition of \$11.02 to WB Mason for office supplies, for \$307.00 to Harriman Associates for consultation on the Master Plan, for \$131.04 to GateHouse Media for legal ad for 129 Stockbridge Road, for \$131.04 to GateHouse Media for legal ad for 63 Scituate Ave., for \$40.00 to Rockland Trust for payment of training Webinar for Kyle Boyd and Karen Joseph

Ms. Lambert seconded the motion; a roll call vote was taken and was unanimously in favor.

Ms. Burbine - yes
Mr. Pritchard – yes
Ms. Lambert – yes
Mr. Bornstein – yes
Ms. Lewis – yes

Liaison Reports:

Traffic Rules and Regulations – reported by Ms. Burbine:

- Approved curb cut for 115 Grove Street
 - Note that the trees the Board conditioned will be provided
- Curb cut at 166 Branch Street for a circular driveway

CPC – reported by Ms. Burbine:

- Application for 11 Pineview Drive
 - Proponent says land worth \$200K
 - Land was denied a Section 6 from ZBA in September
 - Not sure of value to the Town will be coming back in May

Planning and Development – reported by Ms. Joseph:

- Well 17A going very well
 - Approved staking for landscaping of tree locations
 - Will be going back out next week when materials arrive to make sure placement is good
- Toll Brothers
 - Test pits in basins to determine extend of contamination
 - 3 basins going to be repaired in spring
 - Started drainage work on Hatherly Road
- Curtis Estates continued problems with Occupancy Permits
- Endorsement material in for Gas Backwards, 48-52 New Driftway
- Major Site Plan for Inly School
 - Converting a single-family home into a toddler facility
 - Hearing will likely be May 27th.
- Widows Walk discussion from December
 - No increase in the parking, but intend to revamp the paving and adding some drainage
 - Board opined changes are under Conservation jurisdiction; no need for Planning Board
- Town submitting comments by May 1st for two MassHousing projects
 - Projects have not been granted project eligibility yet
 - Still in comment period
 - Town submits comments, Department Heads
 - MassHousing will review applications then issue project eligibility letter and then projects can be filed with the Zoning Board of Appeals
 - Bartlett Fields – 268 unit off CJC Highway
 - Rental units
 - Cottages at Old Oaken Bucket – 34 duplex and single family
 - Ownership – only 9 units would count towards Subsidized Housing Inventory
 - Town Planner submitted comments to the Town Administrator
 - Commented on water, density, walkability of Old Oaken Bucket
 - After Site walks with MassHousing sense is both projects will get eligibility letters; town is under required 10% of Subsidized Housing Inventory
 - Criteria for MassHousing to approve
 - Does the owner have site control; is it a certain entity; is the project reasonable for the area; will it supply a housing need, etc.
 - Mr. Pritchard opined it is difficult to assume that the town has the infrastructure capacity to support 268 units plus

- He feels the comments need to be very strong against that assumption
 - Comments need to be very direct and very firm regarding capacity, etc.
- Ms. Joseph said the comments from the Water Department were very strong that the Town does not have the peak capacity
- Once an eligibility letter is issued ZBA has 30 days to open a hearing and 180 days to review, etc., the Town will hire a Peer Review Engineer paid for by the applicant.
- Ms. Joseph and Ms. Burbine attended a 40B Webinar - was very good
 - Information passed along to ZBA for their information
- The Town needs to strategize and hire an attorney
- The Planning Board will make comments to the ZBA if the projects get that far

Documents

- Email to the Board from Shari Young dated 4.16.21 with meeting agenda 4.22.21
- Email to the Board from Karen Joseph dated 4.16.21 with meeting materials for 141 Driftway, 18 Ford Place, 67 Collier Road and 129 Stockbridge.
- Email to the Board from Karen Joseph dated 4.20.21 with meeting materials for 141 Driftway, 18 Ford Place, 67 Collier road and 129 Stockbridge.
- Email to the Board from Karen Joseph dated 4.22.21 with meeting materials for 129 Stockbridge Road

These items were distributed to the Board electronically.

Mr. Bornstein moved to adjourn the meeting at 7:28 p.m. Ms. Lewis seconded the motion; the vote was unanimously in favor.

Ms. Burbine - yes
Mr. Pritchard – yes
Ms. Lambert – yes
Mr. Bornstein – yes
Ms. Lewis -yes
Mr. MacLean - yes

Respectfully submitted,

Shari Young
Planning Board Administrative Assistant

Ann Burbine, Chair

Date Approved: May 13, 2021