

SCITUATE PLANNING BOARD MINUTES April 8, 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

- 4/8/21 Planning Board Agenda

ACCEPTANCE OF AGENDA: Chairman Burbine indicated there was a posted agenda. Ms. Lewis 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/Public Shade Tree – 533 Country Way
Assessor's Map/Block/Lot 26-2-5
Applicant/Owner: John O'Keefe, P&J South Street, LLC**

Documents

- PDF 4169 Application for scenic road work
- PDF 4169-SCENIC ROAD-layout 1
- PDF Breen scenic rd. comment
- PDF Scenic Road Act
- Doc Transmittal 533 Country Way
- Doc DRAFT Motion 533 Country Way Sc Rd Motion Form- Continuance
- Doc DRAFT Motion 533 Country Way Sc Rd Motion Form
- Email dated 4.6.21 from Abutter at 526 Country Way

Attendees: Paul Mirabito, Ross Engineering

Ms. Burbine read the legal ad for the record.

Ms. Burbine read a letter from an abutter received on 4.6.21 for the record; abutter from 526 Country Way.

We received the letter regarding the 4/8/21 planning board meeting for 533 Country Way.

Bob and I have serious concerns with removing 27 linear feet of concrete wall, the existing driveway and a 16" Maple tree. The wall acts as a retaining wall that holds soil, plants and trees that helps with water that flows through the property. We are very concerned that removing them will cause water damage to our property, which is directly across the street from the wall. Can you tell us if this wall is within the required distance of the wetlands on our property? Has it been reviewed by Conservation?

We would like assurance that the developer will not be allowed to hook into the storm water pipe that runs through an easement the Town has on our property, 526 Country Way.

We are also concerned that rats or other wildlife have infested the existing building. Has this been looked into by the Department of Public Health? We want to make sure it is exterminated, if need be, before being torn down. We do not want infestation on our property as a result of the tear down.

In the past, other builders have had restrictions on parking on Country Way. Will that be the case with this property, as well?

Please share our concerns with the Planning Board at the 4/8/21 meeting.

We appreciate your consideration and look forward to your feedback.

Thank you.

Tina and Bob Davin

Ms. Burbine opined this hearing should be continued because of the scope of the project; it is unknown what will happen when the wall is taken down and there is a lot of work to be done on this project.

Ms. Joseph indicated the removal of the concrete wall is not subject to the Scenic Road Act; the subject of the hearing is the 16" Maple tree removal. She recommends the Board continue the hearing because the project is in a state of flux; the tree is holding up part of the slope. She noted she did reply to the Davins that the Board of Health requires pest control/asbestos, etc. and all measures are taken as part of any demolition project. The project has been referred to the DPW as the wall is in the DPW layout. She strongly recommends the Board continue the hearing.

Ms. Lambert agreed it should be continued until there is more information available.

Ms. Lewis agreed.

Mr. Pritchard also agreed and indicated the wall issue needs to be taken care of first.

Mr. MacLean agreed.

Mr. Bornstein was also in agreement. He did inquire as to what species of Maple the tree is. The species is unknown.

Ms. Joseph did note that the Tree Warden did provide written comment that it was acceptable to remove the 16" Maple tree.

Mr. Mirabito indicated that the permit application for the Common Driveway was withdrawn; the common driveway has been repositioned and will now use the existing driveway for the common driveway access to the property thus the concrete wall will no longer need to be touched. The common driveway application will be resubmitted.

Ms. Burbine said the applicant needs to consider that there is no access to the proposed lot with the cement wall in place. She said there cannot be a common driveway that does not have access and the lot does not have access as it exists today.

Ms. Joseph suggested the applicant should have an offline meeting to discuss access for the project; the Board still needs to confer with Town Counsel on the plan submitted today.

The Board did not want to discuss access at this time; the hearing is for the scenic road.

No Public comment.

Motion:

Ms. Burbine moved to accept the applicant's request to continue the public hearing for the Scenic Road and Public Shade Tree for property located at 533 Country Way (Parcel 26-2-5) until May 27, 2021 at 6:30 pm and continue the time for action until June 11, 2021.

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 – 60 Country Way
Assessor's Map/Block/Lot 53-4-11AF
Applicant: Charles and Ann Fagan
Owner: First Light Realty, LLC

Documents

- PDF Application 60 CW
- PDF Deed
- PDF FINANR
- PDF GIS Map

- Doc DRAFT Motion Form A 60 Country Way
- Doc Transmittal 60 Country Way - ANR

Attendees: Charles Fagan, Property Owner

Ms. Burbine indicated the application is just moving a lot line.

Ms. Joseph indicated the change is taking a bit of land away from 8 Union Street and adding it to the rear property line at 60 Country Way, it is an internal property line change that does not affect the frontage of the lot and recommends the Board endorse the plan.

There was no further discussion from the Board.

Motion:

Ms. Burbine moved to endorse as Approval Not Required an ANR Plan of Land 8 Union Street, 60 Country Way Scituate, MA stamped by Lloyd J. Lowell, P.L.S. of J. Lowell Associates for applicant Charles and Ann J. Fagan and owner First Light Realty, LLC dated March 30, 2021 as the division of the tract of land shown on the accompanying plan is not a subdivision because it shows a proposed conveyance or change in a lot line which does not alter the existing frontage required under the Scituate Zoning Bylaw. The note that "Planning Board endorsement of this plan is not a determination as to conformance with zoning regulations" will be added to the plan.

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

Discussion/Vote – Curtis Estates Subdivision Extension
Applicant/Owner: 90 Ann Vinal, LLC

Documents

- Email dated 3.12.21 from Jeff De Lisi
- Doc DRAFT Motion Form Subdivision Extension

Attendees: Paul Mirabito, Ross Engineering; Paul Sheerin, Manager 90 Ann Vinal LLC

Ms. Burbine said she is very disappointed in this development; the stonewall had rocks fall out of it 2 years ago and they are still not fixed, there was such hope for this development it is was supposed to be lovely, the top of septic system hasn't been seeded, there is rubble and tree limbs and the place is a mess.

Ms. Lambert echoed Ms. Burbine's sentiments; she is deeply disappointed and hopes it gets moving faster.

Ms. Lewis had no comments.

Mr. Pritchard asked if the extension should be for a full three years. Ms. Joseph indicated that is what the Board has done in the past; she does not know how long it will take for the applicants to finish the subdivision. She said it will probably not take three years, but there are always glitches.

Mr. Mirabito said they are in the process of constructing the last two houses and after that they will start working to clean up the road way for final pavement; a contractor is in place to start the sidewalk and curbing on Ann Vinal Road, the plan is to finish up the homes and lots and then apply for street acceptance and that can be a fairly long process. He opined the three years is absolutely warranted and the construction should be done well before that. He believes the developer is looking to put the final pavement down in late summer or early fall once the last two homes are built.

There was discussion if the street is not accepted does the permit expire. Ms. Joseph said from Mr. Mirabito's explanation the applicant hopes to be done within this three-year time frame; if the street is not accepted it remains a private way and the Homeowner's maintain it until there is such a time that it is accepted. Mr. Pritchard does not want the applicant to take three more years to finish. Ms. Joseph said the top coat should not go down until everything is done; if the top coat gets marked up, dented, scratched, etc. until it is accepted by the Town it is the Developer and Homeowner's responsibility. Putting down a top coat too soon can be very risky.

Mr. MacLean had no problem with the extension based off where the last 18 months have been.

Mr. Bornstein did not have issue with the extension, but did say he echoes Ms. Burbine's sentiments that it looks a mess and there should be more oversight; it looks like a moonscape.

Ms. Joseph opined the Board would probably want a schedule for when the septic system will be reseeded and what accommodations will be made for watering because Town water can not be used, when the sidewalk will be done, it cannot interfere with school, when the stonewall will be fixed and the basins all need to be kept up to par.

Mr. Sheerin said it is a construction site there are 7 or 8 houses under construction; they are looking for a contractor now for the sidewalk and will do it sometime in the summer prior to school starting, planning in the next week or two to re-seed the septic system, they do not have a plan for watering, but they will.

Ms. Burbine said she wished they took more pride in what they are doing; the stone wall could have been fixed 2 years ago, she feels very badly for the homeowners at this point in time with what is going on up there.

No additional comments.

Motion:

Ms. Burbine moved to extend the time for completion for the Flexible Open Space Definitive Subdivision for Curtis Estates at 90 Ann Vinal Road for an additional 3 years from the endorsement date of 4/12/18 to 4/12/24, an additional 3 years from 4/12/21, in accordance with the applicant's request and condition 6 of the subdivision Certificate of Action dated 2/20/2018.

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
Ms. Lewis – yes

Mr. Sheerin indicated the houses are all sold and they are building it out, they expect to be pretty much finished in the fall with the exception of one lot in terms of building. He said it will not take three-years they are moving along and will clean it up as quickly as they can.

Discussion – Town Meeting

- Town Meeting Monday April 12th
- Board agenda has been posted for 6:30 pm
- Large consent agenda available on Town website
- Board has statements and the Planning Board Reports ready
 - 2 large graphics with the map for North Scituate
 - 8 copies of paperwork
 - Board decided the Consultant for North Scituate should attend the meeting
 - Consultant available for questions, but no presentation
- 2/3rds vote for North Scituate needed because of the way the article was structured
- Warrant lays out why the Advisory Committee did not agree with the Board on the sign bylaw
 - Committee did not like that signs have to be 10' off a public way or sidewalk
 - Feel it impacts freedom of speech
 - Recommendation is a public health safety and welfare requirement
 - ROW is not to the edge of the street, ROW goes beyond
 - Public ROW ends right around 10'
 - Private signs in a public roadway is a liability
 - Committee also had issue with political signs
 - Signs to be taken down after a primary and they have to put back up again
 - Cannot control content, political signs are content
 - Could amend to make length from 60 days to 70 days, but content cannot be controlled
 - Potential for there to be an amendment on Town Meeting floor

Minutes **Documents**

- Meeting minutes 3.25.21

Ms. Lambert moved to approve the meeting minutes for March 25, 2021.

Mr. Pritchard seconded the motion; a roll call vote was taken; the vote was unanimously in favor.
Ms. Burbine - yes
Mr. Pritchard – yes

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

Accounting
Documents

PO #2108155(\$72.00), PO #2108288 (\$1,667.00)

Ms. Lambert moved to approve the requisition of \$72.00 to Image Resolutions for printing of North Scituate Zoning Map for Town Meeting, for \$1,667.00 to Horsley Witten for peer review for Seaside at Scituate Phase 2.

Mr. Bornstein 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:

Master Plan – Mr. Bornstein:

- Reminder to get all comments in by April 26th

Water Resource Committee (WRC) – Mr. Bornstein:

- WRC has a General Bylaw amendment, Section 30660, Water Conservation Bylaw
 - Raise level of fines for offenders of water bans
 - More rigid water conservation practices
- WRC moving on to next phase of Water Offsets Program
 - Developments of certain size would have to buy into Offsets Program
 - Program to help deal with constraints of the town's water capacity issues
- Citizens' Petition for Town Meeting - not from the WRC, but water related
 - Article 30
 - Water Conservation Mandated and Rebate program
 - Water conservation and/or efficient plumbing fixtures be installed in all town multi-family and commercial properties on or before January 1, 2030
 - Also a rebate program for single family residences beginning January 1, 2022

Ms. Burbine discussed Article 20 being sponsored by the Select Board.

- Purchase of land on CJC Hwy – 443 CJC Hwy
 - Parcel was denied a permit by the Board
- Ms. Burbine had suggested the Town should buy the parcels – application was turned into CPC and CPC was ready to purchase the land
- Select Board now proposing to purchase the land with potential for a future home of water treatment plant

- Ms. Burbine not in favor may ask that it be amended to revert to Conservation if a water treatment plant is not put on the property
- Ms. Lambert said the land has been for sale for 15 years because it cannot be developed.
- There is a high-water table on the property and it is all glacial till
 - How can a water treatment plant go there when 90% of it is underground?
- Article is to purchase the land for municipal use – the use has not been determined
- Water treatment plant is antiquated and needs to be replaced
 - Land next door to it was intended to be where it would be replaced, currently a baseball field
 - Need to sacrifice a ball field for water
 - Location at CJC top of the hill would allow the water treatment plant to be built long versus on top of one another
 - Advisory voted 8-1 in support of the article
- There was discussion the ball field could be moved

Mr. MacLean asked why Scituate has not considered tying in the NWRA. He said Hingham is on their Sewer and piping water from the Quabbin might save exploration costs and well costs down the road. Mr. Pritchard thought the Quabbin might be too far away, how much infrastructure would have to be built through how many towns to get it to Scituate, may also be an issue with DEP because of inner basin transfers. Not sure if anyone has ever reviewed it. Ms. Burbine mentioned there is an article on the capital plan to pursue the Dolan well site.

Planning and Development – reported by Ms. Joseph:

- Seaside at Scituate moving along with development
- Sent Board the Project Eligibility Application letter for Cottages at Old Oaken Bucket
- MassHousing having site walk next week for both sites
 - Bartlett Fields
 - Cottages at Old Oaken Bucket
- Lights at Senior Center
 - OPM Steve Kirby meet with Police Department to review concerns of the lights and building security and timing sequence for exterior lights
 - Exterior lights off after 9pm the security cameras cannot clearly record activity
 - Test period to be done with various combinations of lighting on the building and light poles to determine the optimal lighting solution.
 - 1st test – leave building lights, wall sconces and porch recessed on from 6pm to 6am for 1-2 weeks; light poles will remain on current operating schedule 6pm – 9pm, similar to the library. Neighbors to be notified of testing.
 - LED bulbs in the wall sconces were replaced on April 1st
 - Board opined testing is the right thing to do

Public Comment – caller did not identify themselves and had no comments.

Documents

- Email to the Board from Karen Joseph dated 4.1.21 with meeting materials for 533 Country Way and 60 Country Way

- Email to the Board from Shari Young dated 4.2.21 with meeting agenda for 4.8.21
- Email to the Board from Karen Joseph dated 4.6.21 with meeting materials for 533 Country Way and meeting minutes from 3.25.21

These items were distributed to the Board electronically.

Mr. Pritchard moved to adjourn the meeting at 7:18 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

Respectfully submitted,

Shari Young

Planning Board Administrative Assistant

Ann Burbine, Chair

Date Approved: May 13, 2021