

SCITUATE PLANNING BOARD MINUTES June 11, 2020

Members Present: Ann Burbine, Chairman; Stephen Pritchard, Vice Chairman; Patricia Lambert, Clerk; Benjamin Bornstein; William Limbacher and alternate member Rebecca Lewis.

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 7:00 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

- 6/11/20 Planning Board Agenda

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

Ms. Burbine began the meeting by thanking Mr. William Limbacher for his service over the past 30 years to the town of Scituate; he did not seeking re-election. Ms. Burbine read a resolution signed by the Board of Selectmen.

RESOLUTION

WHEREAS we are gathered in spirit this evening to recognize and honor the thirty years of volunteer service to the Town of Scituate by,

WILLIAM LIMBACHER

WHEREAS he has served on several Boards and Committees throughout the years, both as an elected official and as an appointee, to which he has worked tirelessly to preserve the beauty, land uses and community of the Town of Scituate. His outlook is for the future to ensure Scituate is prepared to grow smartly with respect for the land uses for the benefit of all the people of Scituate.

WHEREAS his volunteer work extends far beyond the walls of the Town Hall, he has been a volunteer for the Knights of Columbus Scituate Carnival for years, as well as a volunteer at the Scituate Community Christmas

WHEREAS he has served as a member of the Planning Board from 1996 – 2020, serving as Chair for 9 years throughout his tenure on the Board. His voice on the Board has always been one of knowledge, conviction, fairness and reason.

WHEREAS he served as a member of the Advisory Committee from 1990 – 1996

WHEREAS he served as a member of the Zoning Board of Appeals for one year to fill a sudden vacancy

WHEREAS he has served on the Traffic Rules and Regulations Committee as the Planning Board liaison for many years

WHEREAS he has served on the Street Acceptance Committee for many years

WHEREAS he has served on the Senior Center Space Committee 1999

WHEREAS he has served on the Metropolitan Area Planning Council from 2000 – 2001 as the Town of Scituate liaison

THEREFORE, BE IT RESOLVED that William Limbacher accept this Resolution while surrounded in thought by friends, family and supporters. Our Town is a better place for your selfless and considerable volunteer contributions; you are the epitome of a public servant. The Board of Selectmen and the Town of Scituate extend our thanks and sincere gratitude for your professional and personal dedication to the library and all residents of the Town of Scituate.

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

**Continued - Public Hearing – Special Permit – Residential Compound Development & Stormwater Permit – 0 Country Way, 0 Rear Country Way
Assessor's Map/Block/Lot 32-7-21 and 32-7-13-B
Applicant/Owner: Bradford Merritt**

Documents

- PDF 11-14-19
- PDF Declaration of Private Access Road and Easements
- PDF PB Minutes 1.9.20
- Doc DRAFT Motion Res Cmpd Devpt8
- Doc Points of discussion for 5.28.20 meeting

Virtual attendance by Jeff De Lisi, Attorney; Kevin Grady, Grady Consulting

Mr. De Lisi extended his thanks to Mr. Limbacher for his service.

Mr. De Lisi gave an overview of the purpose of the Residential Compound bylaw, general highlights of their project and quick overview of how they meet the bylaw requirements.

- 10 acre tract of land, about 400,000 sq. ft. in the R-2 Zone
 - District requires 20,000 sq. ft. of lot size for a single family home to be built

- Various ways this property could be developed
 - Conventional subdivision, with approximately 8-9 homes, subdivision road with cul-de-sac
 - Definitive Flexible Open Space - same amount of density as a conventional subdivision, but allows houses to be situated on the lots to maximize the open space
 - 40B
 - Residential Compound Development (RCD) – current proposal in front of the Board
- Mr. Merritt's family has owned the property for over a century
- Plan and application contain some features that are not required under the bylaw for an RCD
 - 20' buffer strip along abutting properties that would be restricted and preserved as woodland, also providing a landscape plan with many plantings of trees and vegetation
 - RCD avoids the maxing out of the property
 - Encourages open space
 - Minimizes impervious area
 - Preserves healthy buffer around wetland areas, i.e. vernal pool
 - Provides safe private drive to access the property
- Purpose of the bylaw, Residential Compound Development (RCD)
 - Promote large lot development
 - Reduce construction costs
 - Reduce impacts on abutting properties
 - Eliminate future Town maintenance or costs
 - Preserve the semi-rural character of the Town
- Design standards are to help ensure those purposes of the bylaw are met
 - Ensure the property is a single tract of land in single ownership
 - Each buildable lot is 4x the gross size of any lot in the zoning district
 - Restrictions are in place – a structure can be placed within 50' of the lot line of the tract
 - Ensures common driveway standards are met
- Board is charged with the requirement of finding that - “the proposed development is in harmony with the general purpose and intent of those five purposes, as indicated, and it is designed in such a manner to make it sufficiently advantageous to the town to depart from the requirements of the zoning bylaw otherwise applicable in that zone.”
- Proposal:
 - Tract is a 430,000 sq. ft. lot, creating 5 buildable lots, each lot 80,000 sq. ft., 4x the number of lots and 2x the required lot size of the zoning district
 - Believe their proposed plan meets design requirements
 - Voluntary 20' buffer strip from abutting properties
 - Feedback from the Board is that buffer is not enough – applicant has agreed to increase the voluntary buffer from 20' to 30', hope that would be in lieu of an additional planting/vegetative screening in that portion of the lot, would also be in keeping with more rural feeling of the development
 - Operation & Maintenance plans, SWPPP have been reviewed
 - Site visit conducted with Ann, Karen and Kevin applicant's engineer
 - Fire department and Board of Health have signed off

Ms. Joseph indicated the Board members through individual contact with her have expressed some concerns, which she noted and then turned the discussion back over to the Board.

- Stormwater basin and swale are within 50' of the lot line to 483 Country Way
 - Originally filed 483 Country Way was included in the scope of the project
 - Basin was not moved when 483 was taken out of the development
 - Driveway for Lot 1 is within 50' of the perimeter lot line
- Density
- No trees in the area of developed are being preserved due to fill requirements
- Concerns over the buffer to Aberdeen Road – 20' is not enough and there might not be suitable screening trees in the 20' buffer
- View from Aberdeen homes into the new development
- Reserve septic areas are not shown on the plan
- Concerns for 100 year storm control on site during construction
- Wetlands continuous along the frontage with the exception of the 50' access area
- Details for entry basin and sewer piping

Mr. Pritchard started by addressing the limit of development in the 50' perimeter from the lot line; the swale and the road are within the 50' perimeter. Mr. De Lisi said the zoning bylaw does not define what a structure is. He said you can put the road in the 50' strip as an acceptable structure otherwise there would be no reason for the bylaw to exist because then there would be no access to any of the properties. He opined the intention is that the roadway not be considered as a structure as it would otherwise not be permitted in the 50' perimeter setback. He said with respect to the swale there is a precedent that would allow the swale to be within the 50'; the precedent being the 2015 Planning Board decision of the Residential Compound on Hatherly Road, the plan shows a portion of the building within the 30' perimeter along with swales and drainage structures. Ms. Joseph indicated that Mr. De Lisi was incorrect; she said there is a swale with a headwall within the 30' of the development, but none of the drainage basins are within the 30' perimeter which is required in that zoning district. She did indicate that there was a mistake made where a building is within the 30' buffer. Mr. De Lisi indicated they are not proposing a building within the buffer, but they had looked at the plan for Hatherly Road and deduced that it was permitted so they designed their project showing drainage structures within the perimeter set back. He also indicated that he had discussed with Mr. Neil Duggan the definition of a "structure" within the zoning bylaws and currently there is not one thus one would revert to the definition set within the Building Code, noted in Section 210. The definition within the State building code is "anything constructed". Mr. De Lisi said they discussed that the definition of a "structure" would be anything that related to buildings and the building code does not have any jurisdiction over site issues or issues that are not part of the safety aspect of any actual building.

Mr. Grady indicated that the drainage swale on this property and the Hatherly Road property are needed to convey water away from the abutting properties; the watersheds need to be collected and diverted to their drainage and infiltration structures. He opined that is why the system goes all the way around the property at Hatherly Road. He indicated their project is within a Water Resource Protection District that requires a water quality swale and it is required by the bylaw; that is the only reason they have swale.

Ms. Burbine opined that part of this issue is that at the beginning, 483 Country Way was part of the project and it was removed because there were too many lots and the basin was not moved when 483

was taken out of project. Mr. Grady said 483 was never part of the project. He said they never intended 483 to be part of the division; the purpose originally was for abutter notification only. He said the same is true for 489 that was included for abutter notification as well. He said the only thing they wanted to do with 489 was to alleviate that single family dwelling from an infiltration basin, a depression in the front yard, so that the yard could be extended to provide a place for their children to play. He said they knew there would be a large infiltration basin and an opportunity to convey and treat the water prior to it getting to the wetlands and beyond; those are the only reasons the lots were ever included, it was always intended to be a 5 lot division. Ms. Joseph indicated when the project was filed there were 7 lots included and that 483 and 489 were included, all map/block/lot were listed and the lot line for 483 needed to be changed; she said that the Board was not going to accept the application because it was not one tract in one ownership, several months went by and it was changed to be one tract of land in one ownership with 5 lots and lots 483 and 489 were then taken out. Mr. Grady said he was concerned about abutter notification if lots 483 and 489 had not been included; he included them only for abutter notification. Ms. Joseph indicated that the lot line for 483 changed with an ANR to correct the issue. Mr. De Lisi said he was not sure that it was necessary to do an ANR because they were able to demonstrate title ownership, but the Board requested it so they did it. Mr. Grady showed a single tract on the special permit plan and thought it to be sufficient because once approved by the Planning Board it is a single tract; it changed as requested to clear up any confusion and do it the right way.

Mr. Pritchard said he does not agree with how "structure" is being defined nor is the Board trying to set precedent with how things should be done; projects are reviewed on a project by project basis. He opined he and the Board are not trying to set precedent with operating procedures for Residential Compounds. He asked the applicant to address the semi-rural character and if the project meets the intent and impact of the development on abutting properties.

Mr. De Lisi opined with respect to the semi-rural character the design standards are there to serve the purpose of the bylaw; the bylaw requires 4x the minimize size of lots in the zoning district. Mr. Pritchard said that addresses the large lot development, but wanted more input as to how they are preserving the semi-rural character of the town. Mr. De Lisi said the buffer zone that they are volunteering is preserved woodland and will remain that way in perpetuity and half the size of the tract of land will not be disturbed at all. He further said there are areas of town that are not rural at all and there are areas that are rural but have pre-existing non-conforming lots that are smaller, by having larger lots they are preserving trails and the pond and opined that with the landscape buffer area, the landscaping plan and that there is a great portion of land that can't and won't be developed clearly preserves the semi-rural character of the town. He said the alternative option, a conventional subdivision would not allow the Board the ability to restrict open space on the lots; thus he thinks they meet the intention of keeping the semi-rural character of the town. He discussed the distance to the abutters - 150' and 10' in elevation with a 30' buffer strip, he said it is very set back and likely one will not see it driving down Country Way; those are the factors they considered with regards to abutting properties.

Mr. Pritchard asked about the lots being clear-cut. Mr. Grady indicated there is a two phased approach; first phase is the roadway, which is a clear cutting, the second phase would give the opportunity to retain trees. In general, trees to be preserved would be between the houses and along the perimeter.

Mr. Pritchard asked once phase 1 is complete if the individual lots would be sold off to individual builders. Mr. Grady said that has not yet been determined, but that would be a reasonable

assumption. Mr. Pritchard indicated there have been issues with that in the past; the Board would want to make sure the sale of the lots does not compromise the overall performance of the stormwater system and the preference would be to preserve as many trees as possible. Mr. Grady said they agree with Mr. Pritchard's statement, they do not want to have impacts to abutters; they want to retain privacy for the development; the conditions that are proposed and details on the plan are clear, that clear cutting is not going to happen, but accidents happen. Mr. Merritt is an abutter and will have input. Mr. Grady noted there will be fencing to delineate the Aberdeen perimeter and signage, it will be staked and marked.

Mr. Bornstein indicated he respects the project coming in as a Residential Compound; his biggest concerns are the screening buffer around the perimeter especially with Aberdeen Drive; the buffer needs to be of adequate size and that it is evaluated and maintained in the proper way so that it provides the benefits it is intended to. Secondly, he opined the concept of clear cutting throws out the idea of large lot development; it gets rid of the benefits of large lot development. He asked the applicant to explain how they will accomplish using phase 2 as an opportunity, space to preserve things that are not shown on the plan; he would potentially consider a condition that certain aspects of phase 2 be reviewed to be able to preserve trees of note and wooded areas that would add to the value of the development. Mr. Grady indicated in the middle of the lot, there are not any specimen trees that one would want to save, he said there may be some in the buffer area along Aberdeen and suggested that individual lot designs could be submitted and the site could be walked when the roadway is completed to determine which/if any trees could be worth retaining and not end up as nuisance. He said they do have to do plans for the septic systems and they could take it to another level. Mr. Bornstein said he would be amenable to including a condition that Mr. Grady as the site designer along with his team of a landscape architect or horticulturalist provide a plan to see what can be tweaked to preserve some of the trees not explicitly marked on the plan. Mr. Grady said they would be amenable to that as well. Mr. Bornstein said he is trying to avoid the situation where the site contractors come in for phase 2 with a bulldozer and grub out the entire space; having the extra level of scrutiny would make the Board and the abutters feel better. Mr. Pritchard added that there would need to be a chain of custody if the lots are to be sold to individual builders; the builders need to have the same obligation. Mr. De Lisi said that the decision is recorded with a deed restriction and the plans with the conditions and that would bind the builder. Mr. De Lisi said they are happy to work on making that happen.

Mr. Limbacher quoted Mr. Bornstein from a previous meeting in January where he asked about the possibility of designing small pockets of wooded space in strategic areas; he opined that if there are trees, etc. to be saved in phase 2 they need to be marked in phase 1.

Mr. Limbacher asked what efforts could be made to design so the "structures" are not in the perimeter area. Mr. Grady indicated that the driveway coming in is needed for access, and the head wall has a flared end section and riprap and is the discharge from a structural BMP that's a pretreatment requirement of the water quality swale that is required by the zoning bylaw. Mr. Grady opined the current location is the best location for the discharge and the swale, it abuts a parcel owned by the developer and will not impact an abutter who is not involved with the plan to build. Mr. Grady said yes, he does not think there is any way to move the "structures" from the 50' perimeter.

Mr. Limbacher asked for clarification of the cut and fill and areas of clearing; he indicated there would be three areas of clearing. Mr. Grady indicated the bottom of the infiltration basin is at grade, elevation 62 -63 feet; they need to build a berm to attenuate the various storms. Scituate requires

that the peak rate and volume be attenuated which causes there to be more drainage structures, more fill and more berms; whatever is in that area now will be disturbed. Mr. Pritchard opined the entire side to the east of the driveway would need to be clear-cut and no trees in the area will be preserved and to the west side of the entry road there will be more fill so no trees would be preserved. The Board questioned if there will be any trees that will be saved. Mr. Grady said the roadway is being driven by the water quality swale and the WRPD (Water Resource Protection District); the road needs to be pitched back to the water quality swale. The Board opined that in that area there would be all fill so no trees would be preserved; Mr. Grady indicated there are no specimen trees in the area, it used to be farmland, but there may be more mature trees around the perimeter and closer to the Aberdeen. Mr. Pritchard opined that there really does not seem there will be opportunity to save and provide pockets of wooded areas as previously discussed; it is really within the 20'-30' buffer area that opportunity might exist. Mr. Grady said it would look forced if they tried to save anything in that area, there was nothing that he found to be worthy of leaving as a nice pocketed woodland type landscape in front of the proposed houses and septic systems. Mr. Pritchard agreed with Mr. Limbacher that the concept of trying to save trees except for in the 30' buffer does not exist.

Mr. Limbacher commented that if he drew a circle around the five houses being proposed and then took the same circle and moved to Aberdeen Drive, you would have the same density; the density is not much different from the density in the neighborhood now. He opined it "flies in the face of the bylaw".

Ms. Lambert commented about water; it is a very wet property with a swift current that runs under Country Way near Egypt Garage. She asked for assurances that it is not going to flood out Whitter Drive, Westgate Lane and beyond. Mr. Grady indicated the project is designed in accordance with the Scituate's stormwater bylaws which are more stringent than the state; the WRPD standards add another level of requirements. He indicated that all the test holes done over the years show the lot is well drained sand and gravels; this land can infiltrate the stormwater and they have managed it with infiltration basin, outlet structures and it will not increase rate of runoff to the river and across Country Way. Mr. Grady said it will not increase the current.

Ms. Lewis asked if the property is lower than Aberdeen Way or 10' higher. Mr. Grady confirmed it is 10' lower than Aberdeen Way.

Ms. Joseph indicated the applicant will have to provide details of the catch basins at the front of the driveway; it is very tight and they will need to use ductile iron pipe. Mr. Chessia, the Town's Consulting Engineer opined that there should be a condition for the detail, but the ductile iron pipe would work.

Ms. Burbine asked about showing the reserve areas for the septic systems on the plan. Mr. Grady indicated the plan shows the outline for the septic systems, which includes the primary septic system and the reserve system. They are just showing the area they would need based on the perks.

Ms. Burbine asked if there is a plan for 100 year storm during construction. Mr. Grady said during construction they look at the 10 year storm and the 100 year storm is reviewed post construction; he said it is not feasible to build any structures for a 100 year storm during construction. There was further discussion about what happens if there is a bigger storm than what is planned for during construction. The Board questioned whether the silt, etc. would end up on Country Way and Whitter Drive; what is the contingency plan for a larger storm. Mr. Grady said he believe the site is capable of handling storms like that, there is silt sock erosion control with 12" tubes at the perimeter. He said

the site is not steep and he does think there would be a slide that would overrun the silt sock; if the silt sock were to be compromised there is a 50' of undisturbed woodland between the development and the wetlands resource area and there is additional space within the wetlands down to the river, the 50' woodland buffer and associated undergrowth would capture silt and they would be able to clean it out; they need to have good contractors that would make provisions. Mr. Pritchard gave Toll Brothers as an example of mud up and down the street when there were some large storms.

Public Comment:

Mr. Dana Gillis resident at 10 Aberdeen Drive, said he appreciates the additional buffer and the additional screening is a big deal for all those along Aberdeen; the new homeowners will want the same privacy. He asked when the perk tests were done; Mr. Grady indicated 7/8/19, 1/17/20, 12/19/13, and 2/24/20. Mr. Gillis asked about the height of the new houses and when the foundations go in will they be set in a way that they are higher than Aberdeen; he asked the applicant to elaborate on the height of the new dwellings vs. dwellings on Aberdeen. Mr. Grady said the new foundations would be 4'-6' lower than the stone wall, the houses on Aberdeen would be 10' higher. The new homes are roughly 3,000 sq. ft.

Mr. Edward Katersky resident at 14 Aberdeen Drive asked if it was affirmed that there is a 30' buffer from the stone wall to the property line of the houses. Mr. De Lisi said they are proposing to increase the buffer area from 20' to 30', but not to plant additional screening within the buildable areas of the lots; the proposal is for 30' buffer and a split rail fence. Mr. Katersky asked what the obligation of the homeowner's is to maintain the 30'. Mr. De Lisi said there is a deed restriction that would prohibit homeowner's from doing anything unless there is an event where a tree dies or becomes diseased that needs to be removed and replace it; they would not be able to do anything within the area and the association would be required to maintain the fence. Ms. Burbine said no one is allowed to dump from either side of the buffer zone of the fence or the stone wall, i.e. grass clippings, etc.

Mr. Katersky asked if the septic systems will be raised. Mr. Grady said in some instances they will stick out of the natural grade, but they will not be classic mounded systems.

Mr. Katersky asked how the water is prevented from coming west. Mr. Grady said the grading from the site will not allow water to go towards Aberdeen; everything on the site grades towards the wetland and brook on the east side of the Mr. Merritt's property. The gradient is uphill. Mr. Katersky asked how the applicant explains the wetland that is there at this point. Mr. Grady said the west side is Aberdeen and the east side is the intermittent stream and all the water runs from Aberdeen to the intermittent stream on the east. Mr. Katersky defers to the Planning Board and hopes they are satisfied with the engineering studies; he asked the Planning Board what happens if the studies do not work and the water flows west. Ms. Burbine said it won't flow west, it won't flow uphill, the water comes down from Aberdeen across the Merritt property into the brook and ultimately into the Dolan well site. She said this has to work if it goes forward; this project was peer reviewed by the Town's Engineer, John Chessia. It has been reviewed and he has opined it will work. If for some reason it does not work the Board will be asking the applicant to make it work. Mr. Katersky asked what the recourse is if it fails once the builders are long gone and the homes are occupied; Ms. Joseph indicated the Board has put some measures in place in the DRAFT decision that would condition there would be testing after the roadway is constructed, after the lots are constructed, to make sure the system functions as it is designed. The water can't flow west.

Mr. Brian Power resident at 20 Aberdeen wanted to confirm if any of the trees would be cleared in the 30' buffer. The Board indicated nothing gets cleared.

Mr. Gillis asked what measures are taking place for water going to the east, he said he discovered there has never been a soil test on the Egypt Garage asking are there measures or guards against moving all the soil to the east. Ms. Burbine said it would require a 21E, but the property does not belong to Mr. Merritt and Mr. Merritt does not have anything to do with it. Mr. Gillis hopes that there is enough forethought to the redistribution of the water that is moving east with the earth disturbance. Ms. Burbine indicated that nothing to the east, the wetlands along Country Way is being touched; the land is all upland from the Egypt Garage. The water is going towards the culvert/brook that runs beside the garage out under Country Way.

Motion:

Ms. Burbine moved that the Planning Board make the following Findings of Fact:

1. Bradford A. Merritt of 493 Country Way, Applicant, filed an application for a Residential Compound Development Special Permit under Scituate Zoning Bylaw Section 610 2.D on July 11, 2019. This application included plans by Grady Consulting, L.L.C. entitled Special Permit Plan Residential Compound Development at 0 & 483 Country Way consisting of thirteen (13) sheets dated April 25, 2019 or May 28, 2019. Revisions have been made to the plans such that there are now seventeen (17) numbered sheets with revisions through March 30, 2020 and pre and post development watershed plans.
2. The property that is the subject of this application is a 431,048 sq. ft. parcel at 0 Country Way and 0 Rear Country Way Assessor's Parcel Number 32-7-21 and 32-7-13 B. This parcel is an undeveloped lot. The property is in the Residence R-2 Zoning District as well as the Water Resource Protection District and Floodplain and Watershed Protection District. The Zoning Board of Appeals has determined that the site is not subject to flooding via a Determination of Suitability filed with the Town Clerk on 1/2/2020.
3. The wetland line and resource areas shown on the plan was concurred with by the Scituate Conservation Commission and their consultant EcoTec, Inc. on August 28, 2019.
4. The Stormwater Pollution Prevention Plan (SWPPP) contains information on the control of erosion and sedimentation during construction and was provided to the Planning Board and reviewed by the Board's consulting engineer who found it satisfactory as amended.
5. The Deputy Fire Chief approved the proposed 20' width of the private access drive with 12" Cape Cod berms and 24" gravel shoulders on either side. From Station 1 + 20 to Station 4 + 69 the road is super elevated with Cape Cod berm on one side only. A hammerhead turnaround for the fire department with dimensions of 45 feet long and 55.1' in width from the center point of the road with 28 foot radii has been provided. The private access drive is intended to forever remain private and shall never be accepted by the Town.
6. The project will be served by individual septic systems on each lot. The Board of Health has found that each of the 5 lots is suitable for a septic system. Reserve areas for septic systems have not been shown.

Discussion:

Mr. Bornstein noted that Mr. Grady pointed out that both the primary and reserve septic systems are shown on the plan and # 6 should be amended.

7. The application was reviewed under Scituate Zoning Bylaw Section 610 2 D.1. Residential Compound Developments. This section allows no more than five single-family dwellings to share common frontage and a private access drive. This development includes five proposed single family dwellings sharing common frontage and a private access drive.
8. The application was further reviewed under Section 610 2.D. Paragraph 2., Standards, as follows:
 - a. Tract Frontage – The tract of land has 268.12 feet of shared common frontage on the single tract of land held in one ownership with a minimum of 100 continuous feet of frontage is provided on Country Way, a public way. The common frontage is provided in one 50 foot section and one 218.12 section. Much of the 218.12 section is encumbered with wetlands and an intermittent stream which flows under Country Way. This meets the requirement for a minimum of one hundred continuous feet of frontage on a public way.
 - b. Minimum Tract Size – The tract size shall contain at least four times the gross size that is required in the district for the number of lots proposed for the tract. 400,000 sq. ft. is four times the gross size of 20,000 sq. ft. per lot that is required in the Residential R-2 district for a total of 5 lots (4 x 20,000 x 5). The total tract size is 431,048 sq. ft. Lot 1 contains 41,140 sq. ft. of upland; Lot 2 contains 40,114 sq. ft. of upland; Lot 3 contains 63,396 sq. ft. of which 44,413 sq. ft. is upland; Lot 4 contains 221,705 sq. ft. of which 87,246 is upland; Lot 5 contains 64,693 sq. ft. of land of which 41,662 sq. ft. is upland. None of the land is subject to a conservation restriction found in MGL, Ch. 184 S 31; however the tract is subject to wetlands requirements under State and Town laws and a Notice of Intent has been filed with the Conservation Commission. This meets the requirement for minimum tract size.
 - c. Dimensional Requirements – No minimum lot width or lot frontage requirements are required within the tract. No structure other than a fence is allowed within 50 feet of any perimeter line in a Residential R-2. District. The plan shows building envelopes 50' from any perimeter lot line except for access into the site. The plan shows a 20 foot restricted clearing zone along a portion of the west and north property lines. The applicant is willing to accept a condition that no structure other than a fence can be erected within 50 feet of any perimeter lot line. The infiltration basin as well as a stone check dam and stone rip rap are proposed as part of the stormwater device leading to the stormwater infiltration basin are within 50 feet of the perimeter property line of 483 Country Way with no screening proposed. The driveway for Lot 1 is within 50 feet of the perimeter lot line of 489 Country Way. The private access driveway into the site and its stormwater devices is also within 50 feet of the perimeter lot lines of the site. The plan **does not meet** this requirement.

Discussion:

*The Board was concerned that this could set precedent for the future. The Board opined that infrastructure for stormwater is infrastructure and is something that is built and this decision should in no way say that the Board would accept this in the future. The Board cannot grant a variance. There was discussion if this could be modified and Mr. Limbacher opined it either needs to meet or does not meet; there is no latitude. All members agreed that it **does not meet** the requirement.*

Mr. De Lisi was concerned if this finding is a threshold issue for the deniability or the allow ability of the project with conditions. He argued because there is no definition of a "structure" in the bylaw

the Board has the ability to make an interpretive call if this is the type of structure that is meant to not be within the perimeter or if it is a structure at all. If the project is denied on this basis, the alternative to the situation is worse for the abutters and the town of Scituate. He opined the Board could say that given the particular facts and circumstances and arguments made and recognizing that every project is to be determined on its own merits and as to not set precedent this Board finds in this circumstance that these objects are permitted within the 50' perimeter. He said zoning bylaws are not to be read to render an irrational result.

Mr. Limbacher said that there has not been a vote, the bylaw says that nothing within the 50' buffer should be allowed and that is within the 50' so it should not be allowed.

Ms. Joseph said this is a factual finding of what is in the 50' buffer; if the Board accepts the conditions there is possibility for the Board to take action in the conditions. As written the Board says "yes" there are structures within the 50' buffer and ultimately they want to condition "no additional structure within the 50'".

- d. Minimum Lot Size – Each lot will contain at least 40,000 sq. ft. of upland, or two times the minimum lot area of 20,000 sq. ft. of upland required in the zoning district. The requirement is met by the plan.
- e. Access – The access drive will serve the five homes in the development and is proposed to be 20' in width. Each building lot has access over the private access road through an access and utility easement of 38 feet in width. The private access road meets the minimum requirements for a Common Driveway found in Section 720 of the Zoning Bylaw as required. This requirement has been met.
- f. Open Space – All land is designated as building lots. There is no additional land which would be classified as open space according to the bylaw.

The proposal meets the requirements of Section 610.2.D Paragraph 2.

The applicant has agreed that the tract for this special permit may not be further divided or subdivided and a notation is provided on the plan and shall be contained in the deed to each lot. The proposal meets the requirements of Section 610 2 D. Paragraph 3.

- 9. The applicant has agreed to put the statements required in 610.2 D. Paragraph 4. a-d into Notes to be added to the plan and to have these included as conditions of the special permit. These notes are on the plan.
- 10. The Planning Board **finds** that the proposed development is in harmony with the general purpose and intent of this section, to provide an alternative to residential subdivision development limiting residential development within a large tract of land without requiring construction of a subdivision road so as to:
 - a. Promote large lot development;
 - b. Reduce construction costs;
 - c. Reduce impacts of new development on abutting properties;
 - d. Eliminate future town maintenance, responsibility and costs for the development; and
 - e. Preserve the semi-rural character of the Town.

The Board finds that the semi-rural character of the Town **will** be maintained by this development and impacts of the new development on abutting properties **are** reduced with this current plan.

Discussion:

Mr. Pritchard opined that if you balance the individual requirements it does meet the requirements. Mr. Limbacher said that it does not meet the requirements; he opined it does not reduce the cost for future town maintenance nor that it would not impact abutting properties.

Ms. Lewis said the town will not have to take over the road so that is one way that it would reduce costs.

There was discussion that the proposal needs to be compared to something and the Board does not have an alternative analysis to do the metrics of some of the decisions. Mr. Bornstein opined it is difficult to make a definitive decision.

Mr. Pritchard opined there are larger lots than what other might be done in a conventional subdivision, building a subdivision road might cost more than what is being proposed, the potential to have 8 homes vs. 5 homes would reduce the impact on abutters and the screening, the future town maintenance would be reduced, qualitative judgement about the semi-rural character of the town and if nothing was ever built then nothing would apply, but is this as an alternative to a subdivision plan better.

Mr. Limbacher was not sure a conventional subdivision would not be better.

Ms. Burbine opined Mr. Pritchard's points are well taken, they are annotated houses and they have given the 30' buffer.

Ms. Burbine, Mr. Pritchard and Mr. Bornstein agreed that it is in harmony with the general purpose, maintains the semi-rural character and impacts on abutting properties are reduced. Mr. Limbacher and Ms. Lambert did not agree to all points.

11. The entire site is in the Water Resource Protection District (WRPD). The Section 520 of the Zoning Bylaw establishes a WRPD "to include areas significant to the town's drinking water supply source which require zoning protection". The WRPD running through the site is a source of recharge to the aquifer for the Town's water supply. The WRPD requires all runoff from impervious surfaces to be recharged on the site, diverted toward areas covered with vegetation from surface infiltration to the extent possible or as otherwise directed from the Scituate DPW or Conservation Commission. The site has been designed such that all rooftops will recharge the first inch of roof runoff and all impervious surface runoff is recharged for all impervious areas according to DEP requirements. The site has been designed to achieve 90% Total Suspended Solid Removal (TSS). All stormwater management features are designed with a three-foot minimum separation between the bottom of the structure and the maximum groundwater elevation.
12. The zoning bylaw (in Section 520.5F and 520.6 34.) restricts the rendering of impervious surface of any lot/parcel to no more than 15% or 2,500 sq. ft., whichever is greater, unless a system of artificial recharge is provided that will not result in degradation of water quality and meets the design requirements in 520.5F. The Applicant has supplied an impervious amount of 33,117 for all five lots as a whole not including the driveway with Lots 1 and 2 exceeding 15% individually; however, the Applicant has designed a system for stormwater management with artificial recharge and has provided a statement dated March 13, 2020 that certifies "that a

system of artificial recharge of precipitation is provided that will not result in the degradation of water quality.” Kevin S. Grady, P.E. signed and stamped the certification. Mr. Grady indicates the project has been designed and reviewed to be in conformance with State stormwater regulations and Town of Scituate Stormwater and Zoning Bylaws.

13. The Applicant has indicated that there will be no increase in rate or volume of runoff to abutting properties for the 2, 10 and 100 year storm events. The proposed stormwater management system has been reviewed by the Town’s consulting engineer, John Chessia of Chessia Consulting Services LLC, whose comments indicate his concerns have been satisfactorily addressed. The 1-year storm calculations have not been provided as required in the Water Resource Protection District and should be added to the Report for the record. It is not anticipated that this data will impact the design as there is no increase in rate or volume from the development as it is being infiltrated in the basin and there will be less volume discharged overland to the culvert from the site. Since the site is a small percentage of the total area to the culvert, the reduction in volume will not have a significant impact on current conditions at the culvert.
14. The review of the stormwater management system by the Planning Board’s consulting engineer and their approval of this special permit eliminates the requirement for a separate stormwater permit from the Scituate Planning Board for any work that conforms to and is shown on the plans.
15. The Board of Health has indicated that they approve the septic feasibility study that was done. Each of the five (5) lots has had 4 test pits per site with 3 of them perking.
16. Correspondence received from the Fire Department indicated that they are satisfied with the common driveway and want conditions to have signage at the location of the common driveway at Country Way and at each driveway to each house.

Based on these findings, the Planning Board finds the Residential Compound Development Special Permit **[meets/does not meet]** the requirements of Scituate Zoning Bylaw, Section 610 2.D.

Ms. Burbine moved that the findings of facts meet the requirements of the Scituate Zoning Bylaw.
Ms. Lewis seconded the motion for discussion.

Discussion:

There was discussion that if there is one finding of fact that does not meet the zoning bylaw on the face it would not meet the bylaw; there was discussion if it could be conditioned and still be approved. 2 out of the 5 Board members said it does not meet the zoning bylaw.

Mr. De Lisi opined there are design standards and then there is the purpose of the zoning bylaw. He opined the only standard the Board needs to vote to move forward to approve the project with conditions is in Section 610.2D.6.; that the proposed development is in harmony with the general purpose and intent of this section and that it is designed in such a manner to make it sufficiently advantageous to the town to depart from the requirements of this bylaw otherwise applicable to the residential districts in which the development is located. He opined the Board does not need to vote on any finding except for the finding of Section 610.2D and the general purpose and intent.

Ms. Joseph said the Board could say based on these findings the Residential Compound Development special permit does not meet the design requirements of the Scituate Zoning Bylaw,

however under Section 610.2D 6 the proposed development is in harmony with the general purpose and intent of this section.

Ms. Burbine moved that based on the findings of fact the Residential Compound Special Permit does not meet all of the design requirements of the Scituate Bylaw. The Planning Board finds the proposed development is in harmony with the general purpose and intent of this section and it is designed in such a manner to make advantageous to the town to depart from the requirements of the bylaw otherwise applicable to the residential districts in which the development is located.

Ms. Lambert seconded the motion: a roll call vote was taken.

Ms. Burbine – yes

Mr. Pritchard - yes

Mr. Limbacher – yes

Ms. Lambert – yes

Mr. Bornstein - yes

Ms. Burbine moved that based on the Findings of Fact and the information obtained at public hearings on November 14, 2019, January 9, 2020, February 27, 2020, April 9, 2020, May 14, 2020, May 28, 2020 and June 11, 2020, the Planning Board approve the Residential Compound Development Special Permit for 0 Country Way and 0 Rear Country Way with the following conditions:

General Requirements

1. All construction work shall be done in accordance with the plans submitted by Grady Consulting, L.L.C. entitled Special Permit Plan Residential Compound Development 0 & 483 Country Way Scituate MA consisting of seventeen (17) sheets and pre and post development watershed condition sheets dated May 28, 2019 with revisions through March 30, 2020, and as further revised to meet these conditions. All conditions of this approval shall be inscribed on the Residential Compound Development Special Permit plan prior to endorsement.
2. Lots 1-5 shall each have access over the Residential Compound Development (RCD) driveway. No additional extensions or attachments of any other roadway or common driveway or access to any other lot other than those specifically created and shown on the plan shall be permitted. The RCD driveway shall remain private in perpetuity and shall never be considered for acceptance as a Town road. All maintenance and repair of the driveway shall be the sole responsibility of the property owners who comprise the Homeowner's Association. A note shall be placed on the plan and deed for each lot serviced by the RCD driveway stating the above with proof of the recording of such notes provided to the Planning Board prior to occupancy of the first unit.
3. Where this Residential Compound Development Special Permit requires approval, permitting or licensing from any local, state or federal agency, such required approval, permitting or licensing is deemed a condition of the Town of Scituate Planning Board's (the "Planning Board" or "Board") approval of this Residential Compound Development Special Permit, including but not limited to the Board of Selectmen's approval of work in the public right-of-way of Country Way. All necessary permits and approvals must be received prior to the start of construction.
4. The applicant shall mean the current applicant and all its successors in interest (the "Applicant").
5. The total number of single family dwellings in the Residential Compound Development shall not exceed five (5) as shown on the Drawings.

6. The RCD Special Permit plans shall be endorsed by the Planning Board within 90 days of expiration of the appeal period and this decision becoming final. The Plans and Special Permit decision shall be recorded together at the Plymouth County Registry of Deeds.
7. All plan sheets of the Residential Compound Development Special Permit shall be recorded at the Registry of Deeds.
8. No removal of trees over 3" dbh or stone walls in the Country Way right of way is allowed by this permit and the Applicant shall mark, protect and provide the Town Planner an as-built drawing of any such trees and or stone walls.
9. There shall be no further division or subdivision of any lot shown on this plan for purposes of constructing additional units or buildings. There shall be no further expansion of any building or impervious surface on the site. No additional single family dwelling units shall be added. No expansion of the limit of work is allowed without further approval of the Scituate Planning Board.
10. The location and footprint of each building shall be in conformance with the layouts of each building on the Drawings. Any proposed change to such layouts shall require prior approval of the Board. **[No structure shall be placed or erected within 50 feet of any perimeter lot line except for fencing and proposed driveways and the stormwater basin devices as shown on the plan and a conditioned landscape buffer.]** No additional structures are permitted in the future in the 50 foot perimeter lot line area. A deed restriction shall be placed on each lot noting this structure prohibition within 50 feet of a perimeter lot line.

Discussion:

Language to be changed: the location and footprint of each building shall be in general conformance with the layout of each building shown on the drawings, any proposed changes to such layouts shall require prior approval of the Board who will determine if the change is insignificant or requires a modification of the special permit...

Condition added:

Individual site plans shall be submitted for each lot prior to an application for a building permit.

Individual site plans shall be submitted for each lot prior to an application for a building permit with the intent of preserving trees on individual lots. The site engineer and site landscape architect shall review the lots in the field prior to clearing in consultation with the Town Planner and/or Planning Board.

Utilities, Parking and Traffic

11. Installation of all water mains and appurtenances shall be performed according to the specifications of the DPW Water Division. Copies of required Town and State approvals for water connections and/or extensions shall be furnished to the Planning Board. If desired by the Water Division, a determination of the adequacy of the existing water service for the proposed tie-in shall be provided to the DPW for their approval. Any required upgrades, modifications or connections shall be at the Owner's expense.
12. The Applicant shall trim the trees along Country Way so that there is good visibility in the sight distance triangle shown on Sheet 9 of 17. This area shall be maintained by the applicant until the Homeowners' Association takes over maintenance of the private access drive and drainage system.

13. The Applicant shall obtain, in advance, the approval of the Planning Board through the Town Planner if minor changes from the plan are desired, and/or details are needed for lighting, signage or landscaping.
14. The lots shown herein shall have legally enforceable rights of access to Country Way.
15. No structures shall be placed in the drainage easement other than those associated with the proposed stormwater management system.
16. The septic systems shall meet the requirements of Title V and 310 CMR 22 including a reserve system. The locations of the reserve systems shall be added prior to endorsement. Any changes to the plan necessitated by compliance with any Board of Health provision including reserve systems, requires notification of the Town Planner to determine if the change is significant or insignificant.
17. The details for the catch basins and storm sewer piping near the intersection with Country Way are insufficient to demonstrate that the system would be constructible to manufacturer's standards. A refined detail shall be provided prior to endorsement. The detail shall include the use of ductile iron pipe. The Applicant is required to provide shop drawings with the manufacturer's certification that the system meets all applicable industry standards for the proposed application including loading conditions, connections of pipes to structures, space to install the specified hood frames and grates.

Required Prior to Release of Special Permit to Applicant for Recording

18. A final copy of the updated plans shall be provided to the Planning Board. The following notes and conditions shall be added to the plan or report:
 - **[No structure shall be placed or erected within 50 feet of any perimeter lot line except for fencing and proposed driveways and the stormwater basin devices basin as shown on the plan and a conditioned landscape buffer. No additional structures are permitted in the future.]**
 - The 1-year storm calculations have not been provided as required in the Water Resource Protection District and should be added to the Report for the record prior to endorsement.
 - The Construction Period Phase 1 Plan Sheet 17 shall add a note regarding soil stabilization requirements between November 10 and April 15 in order to comply with SWPPP stabilization practices.
 - Areas for snow storage shall be added to the plan in accordance with the Operation and Maintenance Plan.
19. A ~~[10' wide minimum landscape buffer]~~ shall be provided inside development area of the 4 foot post and rail fence line/permanent barrier along the rear of the property abutting Aberdeen Drive, abutting the south side of the 489 Country Way property and to the rear of 483 Country Way on the project site. The buffer shall consist of a staggered row of vegetation containing both evergreen and deciduous trees and shrubs. Deciduous trees shall be a minimum size of 2 ½" caliper, evergreen trees shall be a minimum size of 6-7' height and evergreen and deciduous shrubs shall be a minimum size of 18-24" height or 3 gallon container. A landscape plan shall be submitted for approval prior to endorsement and included in the plans recorded at the Registry of Deeds. It is intended that this buffer be permanent and maintained by the Homeowner's

~~Association. A deed restriction is required for the permanent protection of the buffer. Fines shall be issued if the buffer is removed.~~

Discussion:

The Board decided to remove this condition and add to the below condition that additional trees may be needed if there is insufficient screening once they are on site. Additional 12 trees to be planted. Nothing is removed from the 30' buffer unless it is dead/diseased and needs to be replaced.

20. The 30' restricted clearing zone buffer located adjacent to Aberdeen Drive and on the south side of 489 Country Way shall be a permanent barrier demarcated by a 4 foot post and rail fence. The permanent barrier and fence is to be maintained by the Homeowner's Association with an allowance for removal of dead or diseased vegetation in the buffer area with approval of the Planning Board. Any dead or diseased vegetation that is removed shall be replaced with similar plant material to the conditioned landscape buffer. No machinery is allowed in the permanent barrier and no dumping of any kind is allowed. Restrictive clearing area signs shall be provided as detailed on the plans.

Discussion:

Adding language: replacement should be with similar native species existing in the buffer and up to a maximum of 12 additional trees to be added if it is determined, the screening is insufficient. Language to also be added to condition #10.

Private Access Driveway Agreement/ Homeowner's Association

21. A draft Homeowners' Association Agreement has been provided to the Planning Board. The Homeowners Association Agreement shall include:
- a. A statement that the Private Access Drive and stormwater management system shall be owned and maintained by the Homeowners' Association and shall not be maintained by the Town. All requirements of the Homeowners' Association Agreement shall be enforceable by the Town and shall be subject to fines and penalties should the Homeowner's Association fail to meet its obligations under the Homeowners' Association Agreement. This shall also be stated in a note on the plan.
 - b. The Homeowner's Association Agreement shall assign the responsibilities and costs of maintenance and repair of the private access driveway and emergency turnaround, as well as the stormwater management system serving the private access driveway, to the owners of the lots shown on the plan. The private access drive and drainage system shall remain private in perpetuity and not be maintained by the Town. This shall be stated by a note on the plan.
 - c. A requirement that maintenance of the Private Access Drive and stormwater management system shall be in accordance with the Operation and Maintenance Plan approved by the Planning Board's consulting engineer; which plan shall include a description of annual maintenance of the Private Access Drive, stormwater management system and other common amenities and shall include provisions for snow removal and maintenance of safe conditions at all times.

- d. A requirement that the Association maintain an account always containing a minimum of one year's costs for this maintenance. A contractor's estimate of this maintenance and proof of the available funds in this account shall be provided to the Planning Board with the Agreement and annually on the first of the year.
 - e. A requirement that the Applicant notify contractors, builders and real estate agents that membership in a Homeowners' Association is required to be disclosed to all prospective buyers. The Applicant shall make copies of the Homeowners Association Agreement and Covenants available to agents to provide to purchasers.
 - f. A requirement that Homeowners' Association notify the Planning Board of the name, address, phone no. and e-mail of the trustees within thirty (30) days of their election or appointment, and to provide an annual report of their maintenance activities to the Planning Board by March 30 of each year.
 - g. The Private Access Driveway/Homeowner's Association agreement shall include a provision that no parking along the private driveway and access and utility easement is allowed. It must be kept clear and passable at all times for emergency vehicles.
 - h. Areas for snow storage shall be provided on the plan as to not interfere with any stormwater management features.
 - i. A final draft of the Private Driveway Agreement/Homeowners' Association shall be provided to the Planning Board within two weeks of approval of the special permit. The Agreement/ Homeowner's Association shall be recorded at the Registry of Deeds.
22. Lots 1-5 are part of the Residential Compound Development and shall also use the private access drive. The owners of these five lots shall be included in a Homeowners' Association and shall be responsible for maintenance of the private access drive and stormwater management system. Until a Homeowners' Association is formed, maintenance and repair of the private access drive, stormwater management system, snow removal and landscaping shall be the responsibility of the owner/Applicant.
23. The Operation & Maintenance (O & M) Plan has been provided to the Planning Board as a standalone document. Any changes to the O & M Plan require approval of the Planning Board.
24. The Post Construction Operation and Maintenance Plan shall be strictly adhered to so that, without limitations, 90% TSS removal is achieved at all times.

Inspections

25. The Town Planner is to be notified when construction begins and when construction is completed. All clearing and earth moving operations shall only occur while erosion and sedimentation control measures, approved by the Town Planner and shown on the plan are in place. Such control measures shall remain in place until the Town Planner determines that the danger of erosion or sedimentation no longer exists.
26. The inspections for this development will be done in accordance with Section 9.1.3 of the Town of Scituate Subdivision Rules and Regulations. Installation of storm drainage facilities includes inspection of the bottom of the excavation prior to any backfill materials being placed. The Town's consulting engineer shall perform these inspections with costs paid by the Applicant. All required inspections shall take place including inspection of water utilities (along with the

DPW). Weekly reports shall be provided by the consulting engineer to the Town and Applicant stating the results of the inspections unless more frequent reports are needed.

27. The design engineer shall inspect the development during all phases of construction and provide updates to the Applicant and Town not less than weekly to ensure that the plan is implemented and functions as designed. The costs for this shall be borne by the Applicant.
28. The project shall be phased according to the Applicant's Phasing Schedule. Phase 1 is construction of the driveway, utilities and drainage basin. Phase 2 is the lot development of five dwellings, landscaping and top coat of the driveway. The two phases are separate and distinct phases. The Applicant must appear before the Planning Board at a public meeting prior to being given permission to proceed with the second phase.

Before any grubbing begins, a minimum of one test pit at each proposed infiltration system, witnessed by the Town's designee, shall be conducted to confirm the required three foot separation exists between the bottom of the infiltration basins and any drainage device and the maximum groundwater elevation as required for a drainage device in the Water Resource Protection District. The infiltration rates of the parent subsoil must also be confirmed.

The Applicant shall provide to the Planning Board an interim as-built plan, prepared and stamped by a licensed professional engineer, as soon as the infiltration systems are installed to further confirm the required 3' separation between the bottom of the basin and the maximum groundwater elevation exists as required in the Water Resource Protection District. For open systems the grading shall be completed to topsoil but prior to planting in the event that modifications are required. The interim As-Built Plans shall be reviewed and approved by the Planning Board or its agent. No further site work or construction shall take place until the required 3' minimum separation has been confirmed by review of the as-built plan and a site inspection. No building permits shall be issued until this has been verified by the Planning Board or its designee.

Construction of the private access driveway, drainage systems and all utilities shall be supervised by a registered professional engineer approved by the Planning Board (suggested to be the design engineer) who shall certify in writing to the Planning Board during construction and at completion that the driveways, grading, drainage structures, utilities and dwellings were constructed in accordance with the approved Plans. This certification shall be accompanied by as-built plans, signed and stamped by a registered professional land surveyor and the supervising professional engineer. The costs of this supervision and certification shall be borne by the applicant. No Certificate of Occupancy shall be issued until the Planning Board is satisfied that access, construction of the driveways, grading, installation of drainage structures and stormwater management features, installation of utilities and site stabilization are in full compliance with the approved plans, special permit and 3' separation to the maximum groundwater exists and the infiltration rate is as designed. The stormwater system must be functioning in accordance with design requirements and the as-built certification must include a statement that any variation in grade is immaterial and does not materially alter the performance of the stormwater system.

The infiltration systems shall be monitored during all phases of construction and reports, including inspection of monitoring wells and observation ports, together with site photographs of observed conditions, submitted monthly. Inspections shall be scheduled to confirm that infiltration systems have completely drained within 72 hours of rain events and include an

inspection after snow melt and/or spring thaw conditions. No further site work or construction (including going into an additional phase) shall take place until the required 3' minimum separation has been confirmed by the inspection reports. The Town may authorize independent inspections after critical milestones, including rain events or snow melt/spring thaw conditions.

Required Prior to Scheduling the Pre-Construction Conference

29. A pre-construction conference shall be held with the Applicant, their representatives, their engineer, the site contractor(s), the Town Planner, the Planning Board's consulting engineer and other representatives of the Town as the Board feels are necessary. A list of all contractor contacts, including names and telephone numbers, shall be provided to the Planning Board and the DPW. At least one telephone contact shall be available 24 hours per day in the event of an emergency.
30. Prior to scheduling the pre-construction conference, the Applicant shall provide to the Planning Board:
 - a. Copies of the recorded special permit and plans;
 - b. Copies of the NPDES Permit including its Stormwater Pollution Prevention Plan (SWPPP). Such plan shall include any necessary contingency plans during construction to manage stormwater up to and including the 100 -year storm event. For avoidance of doubt, the Application shall comply with all stormwater management requirements at all times during construction and shall take additional necessary measures as necessary to ensure such compliance. Inspections and observations made according to the SWPPP shall be submitted to the Board within 48 hours if there are any issues identified with the inspections;
 - c. Copies of the permits from DPW for street opening/curb cuts;
 - d. Copies of the "as-built" conditions and measures to be taken that identify all trees 3" and greater and all stone walls that are to be preserved during construction.

Discussion: add Country Way into the language.

- e. A check to cover the cost of inspections by the Town's consulting engineer. They shall provide a schedule of necessary inspections to the Conservation Commission, Planning Board and Applicant prior to the Pre-construction Conference. The specific amount shall be provided by the Planning Dept. based on the consulting engineer's estimate;
- f. The Applicant shall provide surety for \$ 1,000,000 in a form acceptable to the Planning Board to ensure that the private access road, utilities, stormwater management system and grading will be completed in accordance with the plan approved by the Special Permit. After the Town Planner and consulting engineer has inspected the site and found the grading, loaming and seeding, clean- up of earth materials and construction debris to be completed, and the as-built submitted, the surety shall be returned to the Applicant.
- g. A construction schedule for installation of infrastructure and build-out of the development.

Required During Construction

31. In accordance with Section 610.2 D. 6. A, the following mandatory conditions are imposed by the Planning Board as they relate to construction of all the infrastructure including roads, utilities and stormwater management:
 - a. "As-built" plans shall be forwarded to the Planning Board prior to the issuance of any building permit;
 - b. All site work and grading must be performed in accordance with the special permit as granted prior to the issuance of any building permit;
 - c. All site work and grading must be completed, inspected by the Town's consulting engineer and determined by said consulting engineer to conform to the requirements of said Special Permit prior to the issuance of any building permit for any lot within the tract.
32. Any proposed changes in grading from the approved plan must be reviewed by the Town Planner and town's consulting engineer to determine if they are materially significant. Material deviations include but are not limited to moving a dwelling by more than four feet and changing grading by more than one foot. The Applicant shall certify that such changes shall result in no impact on the drainage system and not increase runoff onto Country Way, abutting lots or the rate and volume of the post condition from the predevelopment condition.
33. A stabilized construction entrance as shown on the SWPPP must be installed prior to any earth disturbing activities on site including but not limited to clearing and grubbing. Construction access must be clearly identified on the site with signage on Country Way approved by the Town Planner.
34. The hours of construction shall be limited to 7 AM to 7 PM weekdays and 8AM to 7PM or sunset, whichever is earlier on Saturdays. No construction is permitted on Sundays or legal federal or state holidays. A name and phone number of a 24 hour contact must be provided to the Town Planner, Building Department, Police Department and DPW to be used in the event of an emergency.
35. Construction activities shall be conducted in a workman like manner. Noise mitigation and proper dust controls shall be used, with clean-up of all areas of the site as needed. All equipment that emits sounds shall be kept in proper working order through regular maintenance by the Applicant. Blowing dust or debris shall be controlled by the Applicant through stabilization, wetting down or other proper storage and disposal methods.
36. All earth moving/disturbance operations shall only occur while erosion and sedimentation control measures as shown on the SWPPP and approved by the Town Planner are in place. Such control measures shall remain in place until the Board's consulting engineer determines after consultation with the Town Planner, that the danger of erosion or sedimentation no longer exists. Erosion controls are to be maintained throughout the project. Limits of clearing to be staked in the field under the direction of a surveyor and inspected prior to start of any tree clearing and maintained throughout construction. Notification must be 5 days prior to start of construction. Any disturbance or dumping beyond the limit of work shall be fully restored in accordance with a restoration plan submitted to and approved by the Planning Board and a fine of \$5,000 as well.

37. The Construction Period Phase 1 Plan Sheet 17 shall add a note regarding soil stabilization requirements between November 10 and April 15 in order to comply with SWPPP stabilization practices.
38. No parking, idling or unloading on Country Way, adjacent public roads, or the private access drive shall be permitted during construction.
39. Police details may be required for construction access to the site. Any police detail required is at the expense of the Applicant.
40. Construction activities on the site shall conform to Town of Scituate General Bylaws.
41. No use of hydrants on-site or on adjacent roads is allowed for construction use. A hydrant is available at the water treatment plant for construction use.
42. Inspections and observations made according to the Stormwater Pollution Prevention Plan (SWPPP) shall be submitted to the Board within 48 hours after the inspections. The Board reserves the right to require the consulting engineer to visit the site weekly during times when required construction inspections are further than one week apart.
43. Spill control provisions shall be provided on site.
44. Any mosquito control required shall be organic in nature.
45. The use of pesticides and fertilizers is prohibited.
46. All utilities shall be placed underground.
47. No new underground irrigation systems shall be allowed to connect to the Town's water distribution system or in any manner use municipal water. In accordance with this policy, all irrigation systems installed in Scituate must be supplied by on-site sources at the expense of the property owner.
48. All construction shall comply with all applicable requirements of the Water Resource Protection District in Section 520 of the Zoning Bylaw. No finished slope shall exceed 4:1.
49. Stockpiles shall be located as shown on the plans and must be protected with erosion controls including but not limited to silt socks and temporary seeding.

Required Prior to Issuance of Occupancy Permits

50. Proof of recording of the Homeowners' Association Agreement/Private Access Road Agreement at the Registry of Deeds or the Land Court must be provided to the Planning Board prior to the Building Department's issuance of an occupancy permit.
51. Signage identifying house numbers served by the private access driveway and for each house shall be provided to the Town Planner for approval who will coordinate with DPW and the Fire Department for emergency purposes. Signage must meet 911 requirements. Signage must be in place prior to issuance of an occupancy permit.
52. No Certificate of Occupancy shall be issued until both the Town Planner and Building Commissioner are satisfied that access, construction of the private access road and installation of the necessary utilities are in full compliance with the approved plans and the special permit. The Town Planner and Town's consulting engineer shall inspect the lots and notify the Building Commissioner that the grading and stormwater conforms to the approved plans.

Administration

53. 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 or following the resolution of any appeals. The owner shall provide proof of this recording to the Planning Board.
54. This special permit shall lapse within two years from the date of its issuance, which shall not include such time required to pursue or await the determination of an appeal under M.G.L. c. 40A, s.9, from the grant thereof unless substantial use or construction has commenced prior to that time in accordance with M.G.L. c. 40A, s. 9. The Planning Board may extend such period, for good cause shown, upon receiving a written request from the Applicant prior to the expiration of said period, which shall provide a detailed description of the good cause necessitating an extension.
55. Failure to comply with any condition of this special permit shall cause it to be deemed invalid.

Discussion:

Mr. De Lisi wanted to add the word "willful" failure to comply. He expressed concern that the bank would not provide any financing to an applicant. The Board agreed to add "willful" and following notice to the owner, a hearing and a final decision of the Planning Board.

Mr. Pritchard seconded the motion for discussion.

Mr. Bornstein opined he felt okay with the addition of condition 10A, but wanted to make sure that the Board felt enough was being done to address the clear-cutting of the residential lots. Mr. Pritchard wanted to add a provision that prior to phase 1 beginning there be a complete survey and identification of trees to be saved; added into condition #28.

Mr. Grady said that he does not know that there are any trees to be saved in phase 1. He said they would stake the limit of clearing for phase 1 and nothing would be done beyond that point; once they go into phase 2 is when there would be opportunity to evaluate additional trees to be saved. The construction sequencing discusses the limit of clearing.

The Board and the Applicant agreed to add into condition #28 – prior to commencement of phase 1 the applicant, their representative and the Town Planner shall evaluate potential trees to be preserved in phase 2 which shall be preserved throughout phase 1.

There was discussion that when speaking of the 3' separation to groundwater that infiltration is also addressed; Ms. Joseph indicated that she reviewed with Mr. Chessia and it was determined that callout for infiltration was included in the appropriated places.

The Board added language to condition #12 to trim and maintain the trees and that the HOA shall maintain the visibility for the site distance triangle.

Mr. Pritchard moved to approve the motion as amended; Ms. Lambert seconded the motion a roll call vote was taken; the vote was unanimously in favor.

Ms. Burbine – yes

Mr. Pritchard – yes

Mr. Limbacher – yes

Ms. Lambert – yes
Mr. Bornstein – yes

Ms. Burbine moved to close the public hearing; Ms. Lambert seconded the motion; a roll call vote was taken and was unanimously in favor.

Ms. Burbine – yes
Mr. Pritchard – yes
Mr. Limbacher – yes
Ms. Lambert – yes
Mr. Bornstein – yes

Minutes
Documents

- Meeting minutes 5.14.20
- Meeting minutes 5.28.20

Ms. Burbine moved to approve the meeting minutes for May 14, 2020 and May 28, 2020.

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. Limbacher - yes
Mr. Bornstein - yes

Accounting
Documents

PO #2009557(\$450.00), PO #2009545(\$1,050.00), PO #1907489(\$777.60), PO #2009631 (\$1,275.00), PO #2009863 (\$3,317.54), PO #2009924 (\$600.00), PO #2009938 (\$450.00)

Ms. Lambert moved to approve the requisition of \$450.00 to Merrill Corporation for stormwater peer review of 61 Border Street, for \$1,050.00 to Merrill Corporation for peer review of Curtis Estates/90 Ann Vinal, for \$777.60 to Harriman Associates for consulting services for the Master Plan, for \$1,275.00 to Merrill Corporation for peer review services for 443-461 CJC Hwy Common Driveway and Stormwater, for \$3,317.54 to Horsley Witten Group for peer review services for Seaside at Scituate, for \$600.00 to Merrill Corporation for peer review services for 92 Neal Gate Street, for \$450.00 to Merrill Corporation for stormwater review at 273 First Parish Road

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. Limbacher - yes
Mr. Bornstein – yes

Schedule Discussion:

- The Board moving forward with remote meetings and will begin to schedule upcoming projects for public hearings.
 - No project will close on the first night of hearings

Lion's Head Trust – 61A – recommendation to Board of Selectmen

Documents

- PDF Lion's Head Trust Correspondence

Ms. Joseph indicated the Applicant would like to take a small 61A sliver of land out of the property, give it to a neighbor, and combine with land that has an encroachment to a property. She recommends the Board move to the BOS that the Town decline to exercise its right to purchase the land as described in the Lions Head Trust documents.

Motion:

Ms. Burbine moved to recommend to the Board of Selectmen that the Town decline to exercise its rights to purchase the land as described in the Lions Head Trust documents.

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

Liaison Reports:

CPC reported by Ms. Burbine:

- Moving forward with Mordecai Lincoln Property
- Still working to close on Maxwell Trust in the West End

Planning and Development – reported by Ms. Joseph:

- Curtis Estates agreed to do testing next week
- Toll Brother fined for blowing dust – 3 fines
- Drew Company hoping to start sometime this summer

Documents

- Email to the Board from Karen Joseph dated 6.4.20 with meeting materials for Lion's Head Trust
- Email to the Board from Karen Joseph dated 6.5.20 with meeting materials for 0 Country Way, 0 Rear Country Way

- Email to the Board from Shari Young dated 6.9.20 with meeting agenda and meeting minutes from 5.28.20

These items were distributed to the Board electronically.

Mr. Limbacher moved to adjourn the meeting at 10:55 p.m. Mr. Pritchard seconded the motion; the vote was unanimously in favor.

Ms. Burbine - yes

Mr. Pritchard – yes

Ms. Lambert – yes

Mr. Limbacher - yes

Mr. Bornstein – yes

Respectfully submitted,

Shari Young

Planning Board Administrative Assistant

Patricia A. Lambert, Clerk

Date Approved: June 25, 2020