

## **SCITUATE PLANNING BOARD    MINUTES    June 23, 2022**

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

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

Members absent: Rebecca Lewis

See Sign-in List for names of others present at this meeting.

Location of meeting: Select Board Hearing Room, Town Hall, 600 C J Cushing Highway, Scituate.

Chair Lambert called the meeting to order at 6:30 P.M. The meeting was being recorded for airing on local cable television.

### **Documents**

- 6/23/22 Planning Board Amended Agenda

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

---

### **Continued - Public Hearing - Stormwater & Site Plan Review Common Driveway – 533 Country Way Assessor's Map/Block/Lot 26-2-5 Applicant/Owner: Marvell Homes, LLC**

### **Documents**

- Doc 533 Country Way Common Driveway and Easement Draft 3
- PDF 4169-CD SWP BOH 5-20-22-CD DET-SHT-2
- PDF 4169 -CD SWP BOH 5-20-22-CD-SHT-1
- PDF 4169-CD SWP BOH 5-20-22-SWP DET II-SHT-5
- PDF 4169-CD SWP BOH 5-20-22-SWP DET I-SHT-4
- PDF 4169-CD SWP BOH 5-20-22-SWP EROS PLAN-SHT-6
- PDF 4169-CD SWP BOH 5-20-22-SWP EROS DET-SHT-7
- PDF 4169-CD SWP BOH 5-20-22-SWP EX COND-SHT-1
- PDF 4169-CD SWP BOH 5-20-22-SWP LAYOUT PLAN-SHT-2
- PDF 4169-CD SWP BOH 5-20-22-SWP SITE PLAN-SHT-3
- DOC DRAFT Motion CD-SW 533 Country Way 5 FOF-cond
- DOC DRAFT Motion CD-SW 533 Country Way 6 FOF-cond
- DOC DRAFT Motion CD-SW 533 Country Way 7 FOF-cond

Attendees: Steve Bjorklund, Representative; John Chessia, Town's Consulting Engineer

Mr. Bjorklund indicated all issues have been addressed regarding stormwater; at the last meeting finding of facts were reviewed and some corrections were made which the Board has received. At this point it is time to review the conditions.

Ms. Lambert said she saw Mr. Bjorklund at the Conservation meeting and she understands he feels the Stormwater is onerous, but the Conservation Commission validated the Planning Boards efforts and also thanked Mr. Bjorklund for their efforts to control the water. Ms. Lambert said it is nice to be validated. Mr. Bjorklund said they understand this will not be an easy project.

Ms. Joseph indicated the Board was sent version 7 of the decision, any changes made to the Findings of Fact are highlighted in **RED**. She indicated Mr. Pritchard missed two meetings so he is not a voting member on this project.

*Motion:*

Mr. Bornstein moved to make the following Findings of Fact:

1. Marvell Homes LLC (the "Applicant") filed an application for a Site Plan Administrative Review for a **Common Driveway** and Stormwater Permit for a **Common Driveway** serving two lots at 533 Country Way known as Assessor's Map/Block/Lot 26-2-5 (the "Property") with the Town Clerk on July 27, 2021. The applicant's deed is recorded with the Plymouth County Registry of Deeds at Book 54760, p. 232.
2. One Common Driveway is proposed (**the "Common Driveway"**). According to the application which measures the drive from the property line, the length of it is 186'. It serves 2 lots.
3. The property at 533 Country Way contains about **56,384** sq. ft. according to the plan and is in the Residence R-1 Zoning District in addition to the Water Resource Protection District. The Planning Board endorsed a Form A Plan dividing the property into two lots on June 24, 2021.
4. The site is in the Water Resource Protection District. The zoning bylaw establishes a Water Resource Protection District "to include areas significant to the Town's drinking water supply source which require zoning protection." The Water Resource Protection District 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 and Scituate Conservation Commission. 1" of roof runoff is recharged and the first inch of runoff is recharged for all impervious areas according to DEP requirements.
5. The zoning bylaw requires rendering impervious any lot/parcel 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 is prohibited. The plans show greater than 15% impervious with 22% impervious; however, the engineer indicates the water quality will not be degraded as evidenced in a signed and stamped **certification** by engineer Gregory J. Tansey, P.E. dated April 25, 2022.
6. **Under the Stormwater bylaw, Section 32050 of the General Bylaws, all development and redevelopment projects that will disturb over 15,000 sq. ft. of land in a Residential zoning district, render 25% or more of an undeveloped lot impervious or increase the impervious area of a developed lot by 25% or more, even if it is conducted over separate phases and/or by separate owners require a Stormwater Permit. The proposed total impervious area of the site is 18,644 sq. ft. from the existing of 6,534 sq. ft. an increase of 185% according to the application which is approximately 33% of the site. The proposed area of disturbance for re-grading or clearing is 41,000 sq. ft. or approximately 73% of the site. 90% TSS has been provided and adequate recharge has been provided.**

7. The standards of the Common Driveway indicate that the location and construction of the Common Driveway should minimize soil disturbance, vegetation removal, and drainage impacts, and preserve existing trees over 12" caliper and other natural features of special significance. The plan shows soil disturbance and vegetation removal for constructing the Common Driveway, its' drainage systems, and two four-bedroom single family dwellings and two septic systems. The existing concrete wall in the right-of-way of Country Way will be removed and **a new retaining wall and new walkway will be constructed**; there is disturbance in the right-of way of the frontage. The proposed stormwater management system has been reviewed by the Town's consulting engineer, Chessia Consulting Services LLC whose comments indicate the stormwater system **will be** adequately addressed with revised plans. Based on the Findings of Fact presented in numbers 1-7 6, the Common Driveway **meets** the standards of Section 720.7A
8. The Common Driveway is 16 feet in width with bituminous berm and two-foot grass shoulders on each side. The Fire Department has indicated that 16' is acceptable to service two lots. The Common Driveway **meets** the requirements of Section 720.7B.
9. The Common Driveway is accessed from Country Way, a public road in Scituate. The Common Driveway is not connected to any other Common Driveway. The Common Driveway meets the requirements of Section 720.7 C.
10. The Common Driveway shall be located in an easement which allows space for installation of water lines and utilities. The water lines and gas lines are shown on the Common Driveway plan in the easement. No other utilities are shown. Electric, telephone and cable utilities are indicated as overhead wires connection to lines in Country Way. Not all utilities are shown as underground utilities. The Common Driveway **meets** the requirements of Section 720.7 D.
11. The Common Driveway cross section shows a top course of 1 ½" of bituminous concrete top course Type I-1 over a 1 ½" bituminous binder Type I-1 over a 12" compacted sorted gravel sub-base. Frost free sub-grade shall be provided between the sub-base and parent material. The Common Driveway meets the requirements of Section 720.7 E.
12. The Common Driveway is approximately 186' long measured from end of the hammerhead to the property line. This is less than 1000 feet and meets the requirements of Section 720.7 F.
13. The Applicant has stamped and certified there will be no increase in rate or volume of runoff to abutting properties for the 1, 2, 10 and 100 **year** 24-hour storm events. Chessia Consulting Services LLC has indicated the stormwater management system could work with minor changes and runoff draining to abutting properties shall not exceed that which existed prior to construction of the Common Driveway. The Common Driveway meets the requirements of Section 720.7 G. As the site is in the Water Resource Protection District, infiltration of surface runoff is maximized by open lawn basins, underground infiltration chambers, a Hydrostorm HS6 by Hydroworks and a hybrid media filter. The standards of review for Section 770.6 E have been met.
14. No impervious areas are located above the major components of the proposed septic system. The Common Driveway meets the requirements of Section 720.7 H as no impervious areas are above the proposed septic system. The proposed septic system will meet all Board of Health requirements. The standards of review for Section 770.6 D. have been met.

15. The Common Driveway **is** buffered from Country Way. Six 2.5" caliper dbh red maple trees are proposed to be planted along the inside of the wall as replacement plantings for trees in the Country Way right of way that are being removed as required from the Scenic Road approval. Existing trees are proposed to remain at the west property edges by the septic systems. This may provide better traffic safety and reduce visual impacts on abutting properties. The Common Driveway **meets** the requirement of Section 720.7 I for screening and Section 770.6 A. for protection of adjoining premises against detrimental and offensive methods of utilizing the site.
16. **A turnaround** for emergency vehicles shall be provided with a minimum length of 30' and width of 20' in locations approved by the Fire Chief. The Scituate Deputy Fire Chief indicated there was no issue with the hammerhead. The Common Driveway meets the requirements of Section 720.7 J.
17. The plan indicates that the available sight distance at the driveway exceeds 300' and AASHTO sight distance is met for the posted speed of 30 mph. The Common Driveway meets the requirements of Section 720.7 K and Section 770.6 B and C.
18. Lot width for lots served by a Common Driveway may be measured parallel to the Common Driveway, except in the case of fifty-foot frontage lots. The lot width of Lots 1 and 2 are both measured parallel to the Common Driveway. The Common Driveway meets the requirements of Section 720.7 L.
19. Spill control provisions will be required on site. Fill is proposed on site. Length of stone wall removed has been minimized. A new **retaining** wall will be provided. Erosion control will be provided. Outdoor lighting will minimize glare to adjacent properties. The requirements of Section 770.6 F, G, H and I are met to **the extent** practical for a residential Common Driveway.
20. Based on these findings and information submitted by the Applicant and reviewed by the Board, the Common Driveway **meets** the requirements of Section 720 and Section 770.6 of the Scituate Zoning Bylaw.

Ms. Burbine seconded the motion; the vote was unanimously in favor.

Mr. Bornstein moved based upon the testimony presented at the Public meetings and public hearing, application and plans, minutes of the meetings, documents and comments submitted and the Findings of Fact, I move to approve the Site Plan Administrative Review for a Common Driveway and Stormwater Permit at 533 Country Way subject to the following conditions:

1. The Common Driveway shall be constructed according to plans entitled Common Driveway Plan in the Town of Scituate, MA 533 Country Way dated July 26, 2021 with revisions through May 20, 2022 consisting of 2 sheets and Stormwater Permit in the Town of Scituate, MA 533 Country Way dated July 26, 2021 with revisions through May 20, 2022 consisting of 7 sheets prepared for applicant Marvell Homes, LLC by Ross Engineering Co., Inc.; Stormwater Report and Application for Scituate Stormwater Permit for 533 Country Way dated July 19, 2021 with revisions through May 23, 2022 inclusive of all supplementary information including mounding analysis, post construction calculations, certification of no degradation to groundwater quality, cover letters, NJ DEP information on HydroStorm Separator for 50% TSS removal rate, calculations received May 23, 2022 and all cover letters with submittals and as further revised to meet these conditions. A complete set of the latest revised plans with revision dates and calculations consistent with peer review engineering comments **shall** be submitted prior to a

building permit. A copy of the approved plan and conditions shall be kept on the site at all times during construction.

2. Lots 1 and 2 shall access over the Common Driveway as depicted on the plans. No further extensions or attachments of any other roadways or Common Driveways, or other access to any other lots besides those created by the plan shall be permitted. The Common Driveway shall remain private in perpetuity and shall never be considered for acceptance as a Town road and that all maintenance and repair of the Common Driveway and drainage facilities shall be the responsibility of the owners of the property. A note shall be placed on the plan and deed for each lot serviced by the Common Driveway stating the above with proof provided to the Planning Board prior to occupancy of the first unit.
3. The Applicant shall mean the current applicant and all its successors in interest (~~the Applicant~~). This site plan review and stormwater 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 appeal under Mass General Laws Chapter 40A, from the grant thereof unless substantial use or construction has commenced prior to that time in accordance with MGL Chapter 40A, Section 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 good cause necessitating an extension. The Planning Board office must receive written notification at least one week prior to any change of ownership of the property occurring during construction.
4. Copies of this approval including the plans and Common Driveway Easement shall be provided to subsequent owners who shall be advised of the need for maintenance of the Stormwater System per the Operation and Maintenance Plan and the need to retain the grading on the lot as approved. Prior to the transfer of the property, the owner shall provide to the subsequent owner and the Planning Office an inspection report certified by a professional engineer showing compliance with the Operation and Maintenance Plan. The Planning Office must receive written notification at least one week prior to any change in ownership of the property during construction.
5. There shall be no further division or subdivision of any lot shown on the 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 swimming pools are allowed without further review; No additional dwelling units shall be added; No additional expansion of the limit of work is allowed without further approval of the Scituate Planning Board.
6. The Applicant shall consent to allow members and Town officials from the Planning Board and other persons acting under the Planning Board or its agents, to enter upon any lands and carry out such surveys and inspections as may be deemed necessary, and place and maintain monuments. The Applicant shall cooperate with the Planning Board and Town officials and assist them in their effort to verify that the layout, design and construction work are satisfactory and conform to Town specifications and requirements of the Board.
7. Prior to the pre-construction conference, the Applicant must obtain all necessary approvals and meet all requirements from the Board of Health (BOH), Conservation Commission, Fire Department, Building Department and Department of Public Works (DPW), and these shall be deemed conditions of the Planning Board approval. Any state and federal permits must be

obtained if required and supplied to the Planning Board Office prior to scheduling the preconstruction conference and are also deemed to be conditions of the Planning Board approval. This includes a NPDES Permit.

8. Construction of this Common Driveway is subject to the Planning Board's approval of the Scenic Road Permit and any conditions imposed by the Planning Board in connection with *said* approval.
9. Construction shall meet all requirements of the Scituate Zoning Bylaw. All contractors are responsible for all conditions shown on the plans and in the written decision.
10. No new in ground 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 rule, all irrigation systems installed in Scituate must be supplied by on-site sources at the expense of the property owner. Fines for violating this rule may be levied on the homeowner as well as the system installer.
11. The septic systems shall meet all the requirements of Title V and 310 CMR 22 including a reserve area. Any changes to the plan necessitated by compliance with any BOH provision, requires notification of the Town Planner to determine if the change is significant and requires further input from the Planning Board.
12. No work is allowed beyond the limit of work/tree line without approval of the Planning Board. The entire limit of work is to be staked with erosion control during construction. Fines shall be imposed for disturbance beyond the limit of work and any disturbance beyond the limit of work will be subject to full restoration with a restoration plan to be submitted to and approved by the Planning Board.
13. The Post Construction Operation and Maintenance Plan shall be strictly adhered to so that 90% Total Suspended Solid (TSS) is achieved at all times. An annual report is to be provided to the Planning Board yearly by June 30 certifying all required maintenance has been completed per the plan.
14. All utilities shall be placed underground to the extent practical or agreed upon with the Planning Board.
15. The Planning Board agrees to a waiver of the Landscape Plan required under Section 751.3 of the Zoning Bylaw as the type and size of trees for the scenic road requirements are shown on the plan and the applicant has committed to landscaping the properties.

*Comments: there was discussion about voting the waiver for the landscape plan. This project is not precedent for future projects. The waiver is for this project **only** and will remain within the conditions. A landscape plan will not be waived for any future projects.*

16. The recharge chambers shall be installed to have the bottom elevation a minimum of three feet above seasonal high groundwater elevations. Stormwater during construction as well as after construction is not allowed to increase in rate or volume to adjacent properties, the street or offsite.



17. A stabilized construction entrance shall be installed ~~immediately~~ **immediately upon removal of the wall,** ~~immediately prior to any work~~ on the site and shall be maintained throughout construction to prevent dirt tracking onto the road.
18. No sediment (including silty water) shall be allowed to leave the site during site construction and construction of the new retaining wall, sidewalk, and landscaping in the Country Way right of way. All work in the right of way shall be done in accordance with DPW standards and DPW memorandum of April 20, 2022, DPW letter of April 13, 2022 and DPW memorandum of June 9, 2021 attached and are part of this permit. DPW and the Town Planner must be consulted prior to any work in the right of way. A schedule of work must be provided and a minimum of 5 business days' notice is required.

### **Common Driveway Agreement**

19. A Common Driveway Agreement shall assign to the owners of Lots 1 and 2 the responsibilities and costs of maintenance and repair of the Common Driveway (including snowplowing), as well as the open basin, subsurface infiltration systems, hybrid media filter, swales, and all other drainage devices, grading and all other improvements for stormwater management **onsite.** ~~in the Common Driveway Easement.~~

The responsibilities of maintenance in the Common Driveway Agreement shall include all requirements of the Operation & Maintenance Plan, which shall be attached to the Agreement together with other typical maintenance such as snow-plowing, driveway repair and any cape cod berm repair.

The agreement shall indicate no parking is allowed in the Common Driveway Easement area and a sign indicating there is no parking must be placed in the easement area.

The Agreement shall require annual certification, to be submitted to the Town Planner by June 30 yearly, by an engineer that the stormwater system is being properly inspected and maintained per the Operation & Maintenance Plan. The Operation & Maintenance Plan shall also be provided to the Planning Board as a stand-alone document.

The standard format from the Planning office shall be used. A final draft of the Agreement shall be provided to the Planning Board within two weeks of the approval of this Site Plan Review and Stormwater Permit. The Agreement shall be recorded at the Registry of Deeds with the Site Plan Review Permit. No preconstruction conference or building permits will issue without a recorded Common Driveway Agreement.

20. Any plan changes or changes from the proposed materials shall be submitted to the Planning Office to determine if the changes are insignificant or require a permit modification approved by the Board or Town Planner. The stormwater management system including all recharge chambers and components of the system, house, driveways, grading and site amenity locations shall not be changed or expanded without prior written approval of the ~~issuing authority~~ **Planning Board.** Expansion includes additional pavement areas. Failure to obtain written approval is a violation of the Town of Scituate Stormwater Bylaw and subject to fines.

21. The use of pesticides and fertilizers shall be strictly prohibited.

## Construction

22. A pre-construction conference will be required prior to the start of construction including the Planning Board's consulting engineer, a representative of DPW, the site design engineer, the owner, the site contractor and the Town Planner.
23. Prior to scheduling the pre-construction conference, the applicant shall provide to the Town Planner:
  - a. Record the plan, decision and Common Driveway Agreement at the Plymouth County Registry of Deeds and provide proof of recording;
  - b. An initial deposit with the Town Planner of \$5,000 under G.L. c. 44 s 53G to secure construction review and inspections by the Town of Scituate consulting engineer. The deposit shall be applied toward the cost of construction inspections for the Common Driveway. The specific amount provided to the Planning Department shall be based on the consulting engineer's estimate and shall be subject to amendment from time to time and be supplemented by the Applicant as requested;
  - c. The Applicant shall provide surety for \$10,000 in a form acceptable to the Planning Board prior to beginning construction of the Common Driveway to guarantee completion of the Common Driveway(s), the drainage system(s), site work, landscaping and clean-up of the site and compliance with the stormwater plan and conditions. After the Town Planner has inspected the site and found grading, loaming and seeding, clean-up of earth materials and construction debris to be complete along with the as-built approved and a Certificate of Completion issued, these funds shall be returned to the applicant. Additional surety of \$60,000 is required for work in the ~~the~~ in the Town's right of way; and
  - d. A schedule of construction activities including approximate dates for installation of erosion control and other site stabilization features for all phases of the project and all applicable items in the Subdivision Rules and Regulations 9.1.3 shall be given to the Town Planner ~~and the Applicant shall provide funds to cover the cost of inspections and attendance at the pre-construction conference by the Town's consulting engineer.~~ Temporary drainage measures shall be provided onsite in the initial phase of construction prior to house construction and *shall be maintain throughout construction.*
24. The Town Planner is to be notified when construction begins and when construction is completed.
25. Prior to scheduling the preconstruction conference, the Applicant shall provide the Town Planner with permits from the Scituate DPW for street openings and a curb cut. Installation of all water mains and appurtenances shall be performed according to the specifications of the DPW Water Division. Any upgrades, modifications, or connections shall be at the Applicant's expense. The consulting engineer along with the Town shall review the construction activity to assure compliance with the Town's rules and regulations.
26. The property line and boundary of the limit of clearing shall be marked or flagged in the field under the direction of a surveyor and notification given to the Town Planner and Consulting Engineer a minimum of five days prior to the start of construction. The property line and limit of clearing shall remain staked in the field throughout construction.



27. A stabilized construction entrance ~~as shown on the plans~~ must be installed prior to any earth disturbing activities on site including but not limited to clearing and grubbing.
28. 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.
29. Any proposed changes in grading and drainage from the approved plan must be reviewed by the Town Planner and Town's consulting engineer to determine if they are materially significant. The Applicant shall certify that such changes shall result in no impact on the drainage system and shall not increase runoff onto Country Way, abutting lots, or the rate and volume of the post condition from the predevelopment condition.
30. All lawns shall have a minimum of 6" of screened loam.
31. There shall be no flow to the subsurface systems until the tributary area is stabilized.
32. No use of hydrants on-site or on adjacent roads off-site is allowed for construction use. A hydrant may be available at the water treatment plant for construction use if water supply allows and permission is obtained from DPW.
33. The inspections for this development will be done in accordance with Section 9.1.3 of the Town of Scituate Subdivision Rules and Regulations **as modified in the next sentence**. The Town's consulting engineer shall perform these inspections with costs paid by the Applicant. All required inspections shall take place and be inspected by the consulting engineer including water lines (along with DPW). Weekly reports shall be submitted to the Applicant and Planning Board stating results of all required inspections unless more frequent reports are needed. 48 hours minimum advance notice is required for all inspections. All stormwater recharge structures require inspection of the bottom of the excavation by the consulting engineer. SWPPP inspections for the NPDES permit by the applicant must be submitted after every ½" storm.
34. Construction of the Common Driveway, site drainage systems, grading and water system shall be supervised by a registered professional engineer approved by the Planning Board who shall certify in writing to the Planning Board at completion that the driveways, grading, drainage structures and utilities 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. 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 and permit. 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. All grading and landscaping must be submitted prior to the final as-built submittal.
35. Grade stakes shall be provided for inspection **by** ~~of~~ the consulting engineer prior to **placing** gravel and shall remain for inspection through final paving installation.

36. Prior to the issuance of an occupancy permit, the Board's Consulting Engineer shall inspect the lots and notify the Board and Building Commissioner that the Common Driveway~~s~~, grading, drainage, site utilities and stabilization conforms to that shown on the Common Driveway and Stormwater Permit Plan.
37. Construction work shall not begin prior to 7 am on weekdays and 8 am on weekends and shall cease no later than 7 pm or sunset whichever is earlier. No construction is permitted on Sundays and federal and legal state holidays. Construction work includes any operation of machinery and idling of vehicles. *Prior to the preconstruction conference*, the name and phone number of a 24-hour contact shall be provided to the Town Planner, Building Department, Police Department and Department of Public Works to be used in the event of an emergency. ~~prior to the preconstruction conference.~~
38. There shall be no parking, loading or unloading of construction equipment, staging or idling of vehicles on Country Way or adjacent public roads during construction unless a Police Detail is provided if warranted as determined by the Police Department.
39. 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.
40. Construction activities shall be conducted in a workman like manner at all times. Noise mitigation and proper dust controls shall be taken so that levels conform to Mass DEP policies. All equipment that emanates sound shall be kept in proper working order through regular maintenance. Street sweeping shall be used to control dust from leaving the site. A wheel wash station may be required to prevent sediment from leaving the site. Blowing dust or debris shall be controlled by the Applicant through stabilization, wetting down or other proper storage and disposal methods.
41. Construction activities on site shall conform to Town of Scituate General Bylaws.
42. Sight lines on Country Way shall be maintained per the plans.
43. 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.
44. No Certificate of Occupancy shall be issued until both the Planning Board and Building Commissioner are satisfied that access, construction of the Common Driveway~~(s)~~ and installation of necessary utilities are in full compliance with the approved plans and the Site Plan Administrative Review.
45. If the drainage system is not performing as designed and conditioned or stormwater is observed going to abutting properties or to the street, the Stormwater Authority can request necessary mitigation to remedy the situation. This condition survives the issuance of a Certificate of Completion.

#### **Administration**

46. This site plan review shall run with the land and be void if it is not recorded at the Registry of Deeds within 90 days of the expiration of the appeal period. The Applicant shall provide proof of this recording to the Planning Board prior to construction.
47. Failure to comply with any condition of this permit shall cause it to be deemed invalid.

Ms. Burbine seconded the motion as amended; the vote was unanimously in favor.

No public comment.

**Minutes**  
**Documents**

No meeting minutes.

**Accounting**  
**Documents**

PO #2211096 (\$124.80), PO #2211094 (\$30.00), PO #2211089 (\$900.00), PO #2210696 (\$1,702.50), PO #2210919 (\$1,605.00), PO #2210833 (\$1,957.50), PO #2210835 (\$696.00), PO #2210834 (\$405.00), PO #2210832 (\$345.00),

Ms. Burbine moved to approve the requisition of \$345.00 to Chessia Consulting for peer review services for 18 Ford Place, for \$405.00 to Chessia Consulting for peer review services for 3 Poplar Ave., for \$696.00 to Chessia Consulting for peer review services for 485 Country Way/Residential Compound, for \$1,957.50 to Chessia Consulting for peer review services for 7 New Driftway, for \$1,605.00 to Horsley Witten Group for peer review services for Seaside at Scituate, for \$1,702.50 to Chessia Consulting for peer review services for 533 Country Way, for \$900.00 to Merrill Corp. for peer review services for 115/119 Grove Street, for \$30.00 to ABC Equipment Company for office supplies, for \$124.80 to GateHouse Media for legal ad for 239 Tilden Road.

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

**Liaison Reports:**

**CPC – reported by Ms. Burbine:**

- Reconstruction of the Bandstand in the Harbor
- Chair of Housing Authority presented a proposal to replace 78 windows at Wheeler Park #2, requesting just over \$500k, \$6,800/window
  - Windows and the roof were replaced in Building 1 about 5 years ago, but unknown where the money came from
  - Additional research being done
  - Bids have to be prevailing wage
- New Ball Field proposal at Central Field
  - Applicants will need to come to the Planning Board

**ZBA – reported by Ms. Lambert:**

- Meeting on Cottages at Old Oaken Bucket – 40B
  - Moving along, need to work on the setbacks

- Neighbors concerned about traffic
  - Traffic report says everything is going to the rotary
- Sidewalks on both sides of the roadway for children with covered area for bus stop
- Continued to August 23<sup>rd</sup>, Tuesday night
- Once peer review received, then Planning Board can determine if comment will be made
- Old Oaken Bucket Road very fast, commuter traffic
  - 4-way stop sign at Maple has slowed it down a little
- Mr. Bjorklund suggest the Traffic study should look at traffic that will be coming from a new subdivision that has been approved in Norwell.

**Water Treatment Plant Virtual Listening Meeting – reported by Ms. Lambert:**

- Nothing new presented
- Participants unhappy that there was nothing new presented
- Mr. Vegnani only participant from the Select Board that could be identified on Zoom

**Water Resources Committee (WRC) – reported by Ms. Lambert:**

- Interesting meeting, Ms. Lambert encouraged the WRC to come and talk to the Planning Board
- Very concerned about the Water Treatment Plant
- Produced a “Best Practices” document that will be available on the website.
  - Fines and costs
- Concerns about Central Field and how it will be watered and maintained
  - Irrigation system is functioning
  - WRC concerned about a waiver being given

**Planning and Development – reported by Ms. Joseph:**

- Roadway Safety Audit on Tuesday
  - Henry Turner Bailey Road down to First Parish Road, includes Booth Hill and Mann Lot
  - Several members of Town will be attending
  - Arranged by MassDOT, in response to high accident rates
- Letter from US Department of Justice from Rhode Island not sure if applicable, but Relates to Americans with Disability Act for Outdoor Dining
  - Must comply with all outdoor dining, fully ADA accessible
  - Letter will be sent to all restaurants with outdoor seating
- Three hours walk at Seaside at Scituate
  - Productive meeting
    - Consulting Engineer and Conservation both present
  - Understand the site is not acceptable and is a mess
  - Ms. Joseph believes there will be some improvement in the next month
    - Public perception is the site is a mess
  - Anticipating they will be asking for a surety reduction
    - Ms. Joseph indicated the Board would not entertain that at this time, more work needs to be done
      - Basin’s and topcoat of the road are last 2 things to be done
      - Road may not be completed this year
      - Housing construction through mid-December
      - Hatherly Road needs to be fixed
      - Plantings need to be replaced and completed

- Residents and Town have been complaining
  - Ms. Joseph met with representatives from the HOA
    - Complaints mainly about landscaping
    - Toll will not be able to walk away without everything being completed
      - Town will hold money/bond until it is ready to be released
- Plan will be submitted for some erosion controls to be removed that are not within the 100' buffer.
  - Residents don't like the erosion control
  - Planning and Conservation to review and agree on the plan
- Pump at the end of Hatherly Road likely to be removed at end of August early September
- Silt sock along Hatherly Road will be removed
- Basins will have to be fixed according to conditions and required testing

**Public Meeting - Site Plan Administrative Review Common Driveway – 93 Elm Street – Lots 5 & 6**

**Assessor's Map/Block/Lot 44-2-17**

**Applicant/Owner: Cristina & Robert Counihan**

**Documents**

- PDF 20-401 – Common Drive Application
- PDF 20-401 – Common Drive Plan
- PDF 20-401 – Common Driveway – 6.15.22
- PDF 109 Elm Street ANR Plan-REV3.24.22
- PDF 2206099\_1<sup>st</sup> PeerReview\_93 Elm Street
- PDF 220620\_2<sup>nd</sup> PeerReview\_93 Elm Street Lots 5 and 6
- Email from Fire Department dated 6.15.22
- PDF 20-401 – Lot 6 Elm-O&M-6.15.22
- PDF 20-401 – Lot 5 Elm -O&M -6.15.22
- PDF 20-401 – Common Driveway 6.15.22
- PDF 20-401 – Lot 5 – Stormwater Plan – 6.15.22
- PDF 20-401 – Lot 6 – Stormwater Plan – 6.15.22
- PDF 20-401 – Lot 5 Elm – Stormwater Report – 6.15.22
- PDF 20-401 – Lot 6 Elm – Stormwater Report – 6.15.22
- Email dated 6.9.22 from Water Resources Committee
- Doc Transmittal Letter

Attendees: Greg Morse, Engineer; Cristina & Robert Counihan, Property Owner's

Mr. Morse provided an overview of the project.

- Property located at 93 Elm Street
- Previously an ANR Plan that was endorsed by the Planning Board Lots 5 & 6
- Construct a new home on Lot 6
- Requesting approval of a Common Driveway under Section 720

- Common Driveway
  - Starts on Elm Street, traverses to the back Lot 6 house
  - Complies with all requirement under Section 720
    - Provides access to two houses
    - Reduces access points to Elm Street
    - Reduces stormwater impacts with only one driveway
    - Preserves rural character of Scituate
    - Bylaw 720.7 has standard A-L, feel meet all the criteria
      - Cross-section materials comply
      - Width of driveway complies, 16' wide
      - 20'x 30' emergency vehicle access turnaround
        - Email from Deputy Fire Chief confirming location of the turnaround
      - Provided sight distances according to AASHTO on plan
      - Length of Common Driveway is 118'
      - Driveway is located within an easement
        - Note 13 on the plan that the driveway will never be considered as an accepted way; there will be a restrictive covenant placed on the deeds for both properties
- Project was peer reviewed by Horsley Witten and latest review indicates all issues have been addressed and complied with
- Stormwater application submitted at same time as Common Driveway
  - Administrative review, disturbs less than 40,000 sq. ft. of land
- Section 720.4 says the Board can require additional information if necessary, to this point no request has been made from the Planning Department, but asking if the Board has any requests
- Mr. Morse opined the project complies

Ms. Joseph indicated Horsley Witten has done 2 peer reviews; a revised submittal was received yesterday that the Board does not have and has been forwarded to Horsley Witten for review. Ms. Joseph asked the Board to consider the limit of the driveway and the end of the Common Driveway easement. She opined there should be information provided on the amount of fill that is going to the site and that some of the electric utility is not all underground, if the Board requires they be underground the applicant needs to know. She indicated the utility connections need to be shown on the plan to where they will connect into Elm Street.

Ms. Joseph said the stormwater permit is an administrative review, there is approximately 36,000 sq. ft. of disturbance, the applicant is only here for the Common Driveway. She indicated she does not have a decision for the Common Driveway and an extension will be needed for the Common Driveway and the stormwater. There was discussion that the disturbance is for both lot 5 & 6 and the Common Driveway.

Ms. Burbine commented on the emergency turnaround and the idea that it is behind 2 cars that could be parked. She opined it could become a real mess; she has issue with this type of turnaround. She said it is too squished and too contained and not in anyone's best interest.



Mr. Pritchard agreed with Ms. Burbine and said it feels to contiguous with the actual parking spaces and said he was surprised the Fire Department is okay with it.

Ms. Burbine said it looks like it is part of the driveway; she asked if there is anything that can be done to address it.

Mr. Morse said they can look at it, but they tried to incorporate it into the driveway to reduce the visual impact and decrease the amount of impervious surface. The driveway is 20' wide and 60' long there is plenty of room for cars to park in front of the emergency turnaround. He opined the Fire Chief was okay with it and provided that correspondence; it can be moved, but it is already signed off on and would add more impervious surface to the site and disturbance.

Mr. Bornstein said if the turnaround meets the technical requirements and Fire is okay with it, from a smart development and low impact development stand point, minimizing disturbance is probably better so long as stormwater rules, etc. are being met.

Mr. Bornstein also commented on why one existing tree was called out to be removed on the plan and why no others were noted. Mr. Morse said because it is within the limit of the Common Driveway, there is a limit of clearing around the perimeter. Mr. Morse indicated there are 2 additional trees within the Common Driveway easement that will also be removed.

Ms. Burbine said her concern is similar to that of 46 Hollett Street, regardless of the signoff from Fire is that is very long for emergency vehicles to backout.

Ms. Lambert said she is not going to overrule the Deputy Fire Chief, that is his job.

Mr. Pritchard said it is the decision of the Fire Chief, but it is likely it will become a parking space. He prefers not to create more impervious surface.

Mr. Pritchard asked why the property line is cut short. Mr. Morse explained that Lot 5 only has access up to that point, the line was carried 30' beyond the emergency access so a fire truck would have full rights to use the area when maneuvering. Beyond the line is not Common Driveway, it is the driveway to Lot 6 and they are responsible for anything beyond.

Mr. Pritchard asked how the stormwater of the Common Driveway ties into the rest of the construction. Mr. Morse explained Lot 5 is responsible for the stormwater BMPs on Lot 5 and Lot 6 is responsible for Lot 6 stormwater BMPs. Mr. Morse said one is not reliant on the other. Mr. Pritchard asked if the Common Driveway agreement has both parties responsible for the stormwater system in Common Driveway. Ms. Joseph said she does not believe it says it yet, but it is typically conditioned.

Ms. Lambert indicated since new plans were submitted yesterday there will be continuance to allow for the peer review. Mr. Morse said it really wasn't a revised set of plans, but a discharge compliance statement that said there would be no illicit discharge on the site and a detail of the retaining wall associated with the septic system. He said there were no changes to the stormwater system of Common Driveway, but understands the Board wants to review the information.

Ms. Lambert said it is needed for the protection of the applicant and the Board.

Ms. Pritchard asked if the applicant was going to provide the information on the cut and fill. Mr. Morse said that is not required and there are no limitations on it; he said they tried to minimize the fill on the site and designed it to comply with the rules of Scituate and the Water Resource Protection District. There needs to be extra space with the separation to ground water, there needs to be 4 to 1 slopes which all increases the amount of fill on the site. Mr. Morse said this is a fill site, he said he can figure out the number, but it is not a relevant number to any of the standards.

Ms. Joseph said it looks like almost 9' of fill, the house is going up on 6' and the Common Driveway looks like 2' of fill; she just wants everyone to aware of what is going on.

Mr. Bornstein asked for a description of the existing conditions. Mr. Morse said the house at the property is derelict and is falling down, the property at one point was an old farm, it is all over grown, there are a couple of sheds and fencing located out back, the existing driveway is either gravel or poorly mixed asphalt, the vegetation is all over grown, it is not virgin woods.

Mr. Bornstein asked what would go in the space between Lot 5 and the west side of the paving. Mr. Morse indicated lawn area.

The Board requested the electrical utilities be under ground. Mr. Morse said it is their intent for it be underground all the way.

*Public Comment:*

Mr. Bjorklund commented about a Common Driveway done on second cliff between Bridge Street and Crescent Ave. that is the same as this proposed driveway and there have been no issues; the drive was extended to make sure there was no parking in the area. He opined the Deputy Chief really wants is to be able to turn the ambulance around in the turnaround; they will do whatever they have to do to get to the fire and they do not like the trucks to be too close to the fire so they stay away a but, it is more for the ambulance. Mr. Bjorklund said in his experience he has not seen any issues with any of the Common Driveways that have been done.

Ms. Burbine said she understands, she would like to see the turnaround further up so that if an ambulance has to go up to Lot 6 it does not have back up so much.

The applicant will take Ms. Burbine's concern under advisement.

*Motion:*

Ms. Burbine moved to continue the public meeting for the Site Plan Administrative Review Common Driveway at 93 Elm Street, Lot 5 & 6 to July 28, 2022 at 7:00 pm and to continue the time for action for filing with the Town Clerk until August 12, 2022.

Ms. Burbine move for a continuance of the Administrative Action Stormwater Permit to August 12, 2022 to correspond with the Common Driveway Site Plan Review.

Mr. Pritchard seconded the motion; the vote was unanimously in favor.

Ms. Burbine moved to take an 8-minute break at 7:52 pm; Ms. Lambert seconded the motion; the vote was unanimously in favor.

Ms. Lambert called the meeting back to order at 8pm.

**Public Hearing - Stormwater & Site Plan Review Common Driveway – 803 First Parish Road and Laurelwood Drive (Lot 3)**

**Assessor's Map/Block/Lot 29-1-2 and 30-1-5K**

**Applicant: J. Stephen Bjorklund**

**Owner: John T. Murray – 803 First Parish Road and Simeone Properties LLC Lot 3 Laurelwood Drive**

**Documents**

- PDF Common Drive App., Deeds & Letters of Authorization
- PDF Common Driveway Plan
- PDF Stormwater Report
- PDF T1241\_Peer Review #1
- PDF TC Filed legal posting
- Doc Transmittal Letter
- PDF Response to Peer Review
- PDF Common Driveway Plan Rev. 6-21-22
- PDF Stormwater Report Rev. 6-21-22
- PDF recharger – 180hd -stormwater-details
- Email from Fire Department dated 6.21.22
- Email from DPW dated 6.21.22
- Email from Fire Department Dated 6.21.22
- Email from Water Department dated 6.1.22
- Photographs provided at the meeting

Attendees: Steve Bjorklund, Applicant; Greg Morse, Engineer

Ms. Burbine read the legal ad into the record.

Mr. Morse indicated the applicant is requesting the construction of a Common Driveway under Section 720 and a stormwater permit associated with construction of the driveway and a new single-family home at 3 Laurelwood Drive.

- Lot 3 frontage of is off Laurelwood Drive – an approved subdivision
- 803 First Parish Road has an existing home
- Proposal is to construct a new Common Driveway off First Parish Road
- Wetlands along the frontage of the Laurelwood Drive lot
- Construction of the Common Driveway eliminates disturbance of the area
- Eliminates building over wetland resource area
- Reduces curb cuts
- Site laid out in accordance with Section 720.7, A-L
  - Cross-section, gravel depths and pavement width 16', providing fire truck turnaround 20' x 30'
    - Deputy Fire Chief has approved the location of the turnaround
    - Turn around is located further back on the property
  - Driveway location picked because it is largely lawn surface area currently

- Approximately 6 trees need to be taken down in the Common Driveway area
- Location of new house is virgin forest, pine forest
- Total land disturbance is 40,320 sq. ft. area
- Stormwater
  - Proposing chambers that connect to roof gutters and down spouts of the house to promote ground water infiltration
  - Grass rain garden adjacent to the Common Driveway, adjacent to a pea stone diaphragm for treatment off the driveway prior to the rain garden
    - Achieve 90% TSS removal
  - Report shows compliance with stormwater rates and volumes of runoff for the 2, 10, 25- and 100-year storm events.
  - Satisfied all comments from Peer Review
    - Revised plans submitted yesterday, change on the plan added utility location and water main for a proposed hydrant location
      - Fire Chief requested a new hydrant
      - Changes have no impact on the Stormwater design

Ms. Joseph indicated that peer review has been done and is in agreement with what is on the plans. She said she counted about 12 trees within the Common Driveway and the grading associated with it that will need be removed; the peer reviewer thought impacts were minimized, but refers to the Planning Board for mitigation for tree removal. The peer review is okay with the drainage design, but they do need to go back and look at the revised information received today.

There was discussion about how long the Common Driveway is; the public notice said it is 48'. Ms. Joseph said it is 309' and there are issues with the applications matching the plans. Ms. Joseph to send the Board the most recent peer review report.

Ms. Lambert said there is a process and we need to follow it; information needs to be submitted at least a week ahead of time, if the process is not followed then there will need to be continuances.

Ms. Lambert asked if the applicant is going to clear cut the area. Mr. Bjorklund explained the area where the Common Driveway is mostly lawn; in order to catch all the stormwater there needs to be a swale on the east side of the property because it all slopes in that direction and moves the driveway further from the abutter to the east and allows them to trap all the water from the existing lawn and the driveway that is there. It will all go back towards the new proposed house.

Mr. Bjorklund addressed the length of the driveway and said they originally planned the turnaround to be similar to the previously discussed Common Driveway and were indirectly asked to move it, so the turnaround was moved which lengthened the driveway and then the peer review asked that the easement be extended further so the outlet portion of the stormwater stuff would be included in the easement. He further explained that they worked with DPW to tie into utilities there is no gas; there will be underground electric and there is a 6" water pipe; the Fire Chief has requested a hydrant be installed and it is shown on the plan with a note that the hydrant will be positioned as per the Fire Department. Mr. Bjorklund said the peer review letter that came in today agreed with the changes that have been made. He said they are aware a time extension is needed and that is not a problem.

Ms. Joseph said she asked Mr. Bjorklund to provide some pictures to the Board; the Board needs to determine if they want a fence along the stonewall towards the east to buffer adjacent properties and to show the condition of the trees in the area.

Mr. Bjorklund opined there is one neighbor that may be impacted and feels they will not want a fence; it is the only fence out there and if there is screening needed he would rather provide it with greenery, i.e. plant evergreens. He said there is a distance between the abutter and the proposed project and the project is designed to make sure the water does not flow towards their site, they are definitely downhill. He opined the project is 6'-8' higher than the abutters and slopes right down towards their home even though there is a distance between them. Mr. Bjorklund provided photographs to the Board.

Mr. Downing, resident of 811 First Parish asked for the turnaround to be pointed out on the plan. Mr. Bjorklund pointed out the turnaround on the plan and explained there is a shallow swale to catch the water and said it will outlet behind Mr. Downing's property and outside the 100' buffer to conservation land and ultimately make it to the wetlands. Mr. Bjorklund said he hopes the Board would take into consideration if the neighbors wanted a fence or not, but he is happy to plant some greenery to lessen the impact. He said no one is on top of each other and of all the driveways he has done in town this is the simplest, because it is just a straight driveway and meets all the requirements.

Mr. Bannister, resident of 797 First Parish Road asked if the driveway enters and then curves down. Mr. Bjorklund said the existing driveway at 803 First Parish Road will be closed off and landscaped, it moves the entrance closer to Mr. Bannister's property, but further from the top of the hill and makes it a safer entrance, there will be a better sight distance for everyone. Lights will run parallel to Mr. Bannister's property line they will not be pulling in and shining at them.

Mr. Downing commented about all the wildlife in the area. Mr. Bjorklund described some of the development that is happening in the area and explained that there is a lot in the Laurelwood subdivision that was just built upon, another lot that will likely go into tax title with the Town and will remain a vacant lot. Mr. Bjorklund said that behind Mr. Downing's property is not really impacted; the house is outside the 100' buffer, they are in the Water Resource Protection District there is minimal impact.

Ms. Bannister, resident of 797 First Parish said that their leaching field abuts the proposed driveway and currently there is a lot of water coming into their front yard, it looks like swamp land during the spring and their backyard also has a lot of water, she just wants the Board to take that into consideration with regards to the design. She inquired if there was ever consideration for a Common Driveway to be built when the subdivision was built and having it come off Laurelwood instead. She said she appreciates not going through the wetlands, but it seems the developer could have designed it differently and the driveways could have been factored into the design. Mr. Bjorklund explained originally there was a Common Driveway approval by the ZBA in Scituate and it was the Conservation Commission that wanted to restrict the access because of the wetland location. There was continued discussion about why the original Common Driveway was never built, but ultimately Conservation did not want the wetland crossed. Mr. Bjorklund said this proposal takes that issue out of the mix. He explained that Scituate has a Common Driveway bylaw and that previously the developer wanted the driveway to be only in Scituate, but part of it was going to be in Norwell and the Norwell lot had already been sold; all that stuff is in the past. Mr. Bjorklund said that with regards to the water comment, he promises they cannot make it worse, but if they interrupt all the

water that is coming from the site to the Bannister's this proposal will push it away from where their septic system is. He said they maybe able to make it better, but they cannot make it worse. He said they are bringing the water back beyond the Bannister's property line; they are doing everything they can to keep the water away from the Bannister's property.

Mr. Bornstein asked for clarification on the stormwater design, regarding swales, rain gardens, rain garden with sediment forebay, pea stone diaphragm and asked if the swale/rain garden is an infiltration BMP or is it an advance BMP to have the water go to the back of the property.

Mr. Morse explained that next to the impervious surface driveway is a pea stone diaphragm, all the contours run in a westerly direction, the driveway is cross pitched and hits the pea stone diaphragm when that over tops it over tops into a grassed rain garden, it is being used for infiltration, soil testing was done and is taken into account in the calculations, when that over tops at in the 100-year storm event it over tops in the back which is on the Laurelwood property and at that point it would flow down gradient to the wetlands. The whole swale overtops in the back of Lot 3. Mr. Morse said the sediment forebay is minimum grading within the bottom of the rain garden, he said it didn't warrant a separate contour elevation, but had separate spot elevations. He explained it could be seen on the cross-section; the pea stone is wrapped in geotextile and is 2' deep. Mr. Bornstein asked what the O&M for the pea stone diaphragm is, from experience that usually catches the majority of the sediment and gets mucked up and is a maintenance nightmare. Mr. Morse said that is exactly what it is supposed to do, trap the sediment and hopefully there is not much coming off the driveway, all of the upgradient area is fully vegetated, there is no exposed soil. Mr. Morse said there is no credit being taken for the infiltration trench it is purely just a filter trench.

Mr. Bornstein also commented that after seeing the pictures there are a lot of oak/hardwood trees and that some of those trees could be preserved per the peer review comments. He would like more information on the existing trees and what could potentially be preserved in the grading area that could be more aesthetically pleasing and look more like a natural land area. He also suggested that this would be a perfect example in Scituate on how to do a more bio infiltration swale or something that is heavily vegetated area restoring it rather than just doing a lawn grass swale. He opined that might be more amenable to the abutters and easier to maintain and a more quality stormwater BMP. He suggested the word "rain garden" be removed if they applicant intends to provide lawn area.

Mr. Bjorklund reviewed additional pictures of the trees that are intended to come down with Mr. Bornstein and the Board. Mr. Bjorklund also indicated that there is a tree that he will work with a neighbor to remove that has fallen when the work the driveway is being done.

Mr. Pritchard asked about the before and after conditions going to the east. Mr. Morse provided several numbers; there is a slight reduction in every storm across the entire lot.

- 1-year storm is .58 cubic feet/second, post development is .29 cu. ft.
- 2-year storm 1.633 cu. ft./second, post is 1.22 cu. ft.
- 10-year storm 3.53 cu. ft./second, post is 3.26 cu. ft.
- 100-year storm 7.5 cu. ft./second, post is 7.0 cu. ft.

No additional online public comment.

Ms. Downing, resident at 811 First Parish Road asked if the abutters even have a say. Ms. Lambert assured her the Board listens to everything that is said. The Board said that they have no control over



if someone sells a piece of land they have the right to build on it, but that they must meet and follow all the bylaws of the Town; the Board does their best to enforce those bylaws.

Ms. Lambert opined she would not want a fence.

Ms. Joseph suggested the Board may want to request a planting plan before the next meeting. The Board agreed and would like a planting plan submitted for the next meeting.

The Bannister's agreed they would not like to see a fence, but would prefer more vegetation and referred to Mr. Bornstein's suggestion of a bio infiltration system. Mr. Bornstein advocated for use of seed mixes, i.e. wet meadow basin seed mixes that over the course of 3-4 years is going to look much better than lawn and will be way less maintenance. He said the guidelines for the seed mix must be followed.

Mr. Bjorklund pointed out the piece of property owned Mr. John Murray for which he has secured an easement to access across his property; there is no ownership change.

*Motion:*

Ms. Burbine moved to accept the applicants request to continue the public hearing for the Stormwater Permit and the public meeting for the Site Plan Administrative Review for a Common Driveway at 803 First Parish Road and Laurelwood Drive (Lot 3) until July 28, 2022 at 6:30 pm and to continue the time for action for filing with the Town Clerk until August 12, 2022

Ms. Lambert seconded the motion; the vote was unanimously in favor.

**Form A – ANR Plan –146, 1514 & 0 Tilden Road**

**Assessor's Map/Block/Lot 39-26-30, 30A & 32A**

**Applicant: J. Stephen Bjorklund**

**Owners: J. Stephen Bjorklund (154 Tilden Rd.), Marilyn D'Angelo & Joan & Richard McCready & Rudi & Ann Gerhard (0 Tilden Rd.), and Neil F. O'Donnell & Donna Sheehey (146 Tilden Rd.)**

### **Documents**

- PDF 21-131 ANR 6-7-22
- PDF 21-131 Form A Application
- PDF 21-131 Land Court Submittal Letters 6-2-22
- PDF 39205-267
- PDF CERT 115912
- PDF CERT 127783
- Doc Transmittal, 0, 146, 154 Tilden Road ANR
- Doc DRAFT Motion Form A 0, 146, 154 Tilden Road

Attendees: Steve Bjorklund

Mr. Bjorklund indicated that he is part owner of the property along with D'Angelo, McCready, Gerhard, O'Donnell and Sheehey. The proposal is to divide Land Court Land and Recorded Land.

He pointed out on a colored plan what parcels are Land Court and which are registered parcels and which lots will be combined.

- Parcel A, Land Court Lot 3 and Parcel 1 become 1 buildable lot, 20,000 sq. ft.
- Parcel B, Land Court Lot 4 and Parcel 2 become 2<sup>nd</sup> lot
- 3<sup>rd</sup> lot becomes a parcel to hopefully be donated to Conservation
  - Town owns abutting land to the east and south, and a lot that goes out to Shadwell.
- 3,000 sq. ft. of land will be swapped with Neil and Donna, this will add to their frontage
- Land Court requires that wording is “to be held in common ownership” cannot use the word “combined”

Mr. Pritchard asked if there was approval from all the owners to do this. Ms. Joseph indicated yes, we have written approval from all the owners.

Ms. Joseph indicated the combined lots provide access and frontage so it is an endorsable plan.

*Motion:*

Ms. Burbine moved to endorse as Approval Not Required a Plan entitled Plan of Land 0, 146 & 154 Tilden Road (Assessor's Parcels: 39-26-30A, 39-26-30 & 39-26-32-A) Scituate, MA prepared by Jason Scott, PLS of Morse Engineering Co., Inc. for applicant J. Stephen Bjorklund and owners J. Stephen Bjorklund, Neil F. O'Donnell and Donna Sheehey and Marilyn D'Angelo, Joan and Richard McCready and Rudi and Ann Gerhard dated June 3, 2022 as the division of land shown on the accompanying plan is not a subdivision because every lot shown on the plan has frontage of at least the distance presently required under the Scituate Zoning Bylaw on the public way of Tilden Road with the Planning Board stamp added that Planning Board endorsement of the plan is not a determination as to the conformance with zoning regulations.

Mr. Bornstein seconded the motion; the vote was unanimously in favor.

## **Discussion – Senior Center Parking**

### **Documents**

- PDF Scituate Parking Assessment Final
- PDF Senior Center – Parking Data Collection Logs 080221 to 013122
- PDF TC filed decision 9.18.19 – includes Scenic Road (AMENDED) and Closing Public Hearing

Attendees: Steve Kirby, OPM; Linda Hayes, Director Senior Center; Amy Archer, Traffic Engineer

Mr. Kirby indicated that as part of the approval for the Senior Center issued 9/18/19 item #17 in the decision required a 6-month monitoring of the parking for the lot designed for the Senior Center and the adjacent lot along the A-wing of the school to determine if the implementation of the future 16 space lot would be needed located in the southwest corner of the property. The monitoring has been completed and ran from August 2, 2021 to January 31, 2022. Parc Corporation issued a report dated 5/27/22. Mr. Kirby summarized the report that the overall campus has parking for peak periods for

the Senior Center and the Senior Center adjacent, however it is not necessarily conducive for the Seniors who have mobility issues, etc. if the parking available is in the location of the tennis courts or the little school house. Mr. Kirby said regardless of the report the COA (Council on Aging) wants to move forward with implementing that future lot.

Ms. Joseph asked for a presentation on some of the numbers first before there is continued discussion; how were the numbers arrived at and what do the numbers show.

Ms. Archer, Traffic Engineer, said she was part of the planning, design and the follow-up. She explained how the monitoring was done. Data was collected by volunteers from the Senior Center for the 6-month time frame, primary senior center lot – 70 parking spaces and A-wing lot – 14 spaces for a total of 84 spaces primarily used by the Senior Center. There are three other lots across the campus, northeast lot labeled as Rec Center Lot and Tennis Court North and Tennis Court South. Counts were done for 122 days, no weekends and no holidays; over 122 days there were 14 days where the primary parking lot was at or over capacity and 11 days where the A-wing lot was at or over capacity, cumulatively there were 4 days in which both lots were over capacity. She said the initial number presented for a supplemental lot was 16 spaces it needs to be determined if that would be adequate. She indicated there were no counts done for the other lots on the site; from the data collected they were not able to analyze how many vehicles were being displaced on the site to other locations or possibly just leaving. She indicated they did 2 days of supplemental counts after the 6-month time period to help quantify what the overflow value was; counts performed in April and June with different activities occurring, i.e. a day when activities for the Senior Center coincided with the Food Pantry and another day when the Senior Center had a large lunch event overlapping with other programming; Ms. Archer said prior to the lunch program hitting the main parking lots for the Senior Center were under capacity and the other lots cumulatively had 11 vehicles in them between the Rec Center lot and the two Tennis Court lots. She said once the crowd started coming in for the lunch event, the main lot and A-wing lot both reached capacity and the other lots combined went up to 27 vehicles. She said there was an increase in use of the other parking lots of 16 cars. She opined if additional parking is going to be constructed 16 seems to be the right number. She did say over the course of time there was no point where the entire site was over capacity, but they are trying to keep in mind the distance to the senior center and the lighting in certain areas. She said they have identified the tennis court parking lots as the furthest way and the least visible and the Rec Center lot is visible and is the same distance from the previously identified 16 supplemental spaces; there could be possibility for expansion in that lot. Ms. Archer said overall the numbers show that there are times when the Senior Center lots are at capacity and if supplemental parking was to be constructed 16 spaces would be sufficient.

Ms. Joseph asked for explanation of the programming. Ms. Hayes indicated the programming for the first year has been building; the Tuesday's that showed over capacity conflicts were most often due to a monthly men's breakfast and that happens the same time as the Food Pantry and the other time is a large art presentation that is a monthly event. She said there is sometimes an overlap in events, i.e. 15 minutes with people coming and going. They have tried changing times of programs to address, but it is not always possible. The building is not filled to capacity when the parking lot is; they are trying to coordinate and move some things to the afternoon, but they are trying to meet the demand.

Ms. Lambert said she took the data and only found there were 2 days when the senior center lot was at capacity; she opined the data does not suggest that they are over capacity. She also said the COA

is part of a campus and all the resources need to be shared. Ms. Lambert feels the removal of the circular driveway was a big mistake for the Senior Center and a loss of maybe 20 spaces.

Mr. Pritchard asked about the future programming and additional demand there might be in the coming years; is the programming levelized or is there going to be increases in the next few years. Ms. Hayes said there is likely going to be increases as the programming becomes more well-rounded and it should increase.

Mr. Pritchard said there are the added issues with the campus that has not been planned for it has just organically grown; we don't know what is planned for the rest of the building. The Board asked what the master plan is and there still seems to be no master plan. He said it seems to be too early and there needs to be a full plan about the full use of the campus and this is being piecemealed together.

Ms. Hayes said she can only address the part of the campus they use; they have 70 spaces for their patrons and staff, the staff is parking as far away as possible, they are restricted from using the recreation lot and need to ask permission even though it is underutilized most of the year. She said the 14 spaces on the A-wing are competed for on Tuesday morning with the Food Pantry. Ms. Joseph indicated that the volunteers for the pantry are supposed to be parking at the church across the street. Ms. Lambert said it is not up to the Senior Center to enforce the parking it is up to the Town Administrator.

Ms. Burbine asked where the vans are parked. Ms. Hayes said they are parked on the site in the corner. Ms. Burbine suggested the vans should be parked down at the fire station on First Parish Road as they used to be. Ms. Hayes said she wants the vans near them; the transportation services have increased just as the activities have they are often utilizing 2-3 vans during the day when activities are occurring.

Ms. Joseph suggested the vans need to park further away and the vans are not being parked correctly, i.e. taking up 2 spaces. She suggested the vans should be parked further away in the A-wing so patrons can utilize the spaces up closer to the Senior Center. Ms. Hayes said Recreation was not on board with that scenario, especially as they are coming up on their busy time period of summer. Ms. Joseph asked if the vans could go in the Rec Lot if it is being underutilized. Ms. Hayes said that a conversation would have to happen collectively with the other parties on the campus.

Ms. Burbine suggested there should be a meeting once a month between the Senior Center, Recreation and the Food Pantry to discuss the use of the campus. She opined based on the information there is enough parking.

Ms. Hayes said that to help mitigate the issues they have added some "friendlier senior citizen" parking signs to encourage people who are able to park further away that don't have mobility issues, they are utilizing the tax work off seniors who did the monitoring plan as a valet, they have proposed the purchase of a golf cart to help with parking. She said she speaks with Recreation and the Food Pantry when there is the need, but the conflicts remain nonetheless.

There was discussion about the time of lunch and when people arrive; people who want to park closer to the building come earlier than necessary.

Ms. Lambert said there is not enough information and there needs to be a conversation with Mr. Boudreau. Ms. Joseph said she would work to get a meeting with Mr. Boudreau.

Ms. Joseph indicated one of the other conditions was the coordination of programming and the Board needs to understand if there is coordination of the programming. Ms. Hayes said yes, there is coordination between the Senior Center and Recreation. The Senior Center operates primarily during the day and Recreation is primarily at night and during the summertime. She said at this point there has not been much conflict with the Recreation Department. Ms. Joseph opined that Ms. Hayes is saying the issue is really with the Food Pantry. Ms. Hayes said one or two days.

Ms. Lambert said that is an issue that needs to be addressed with Mr. Boudreau.

Mr. Bornstein opined this was sold as “build a campus” and now the water treatment plant is coming down the pike. He said he really has issue with just picking away at the site, it has enormous value for the town and there is a building that’s just sitting there that is part of “build a campus” he would like to see this taken up again, either by the Planning Board or the Public Building Commission; this needs to be addressed as soon as the water stuff is over. Ms. Lambert said she was part of a reuse committee which had plans, etc. for a campus at Gates school it was brought to the Select Board who would not provide any funds.

Ms. Hayes closed with the mission of the Senior Center; utilize the building, providing activities that promote the stimulation of the Seniors and it should be considered.

Ms. Joseph said she would discuss with Mr. Boudreau and perhaps there is an offline meeting that happens before the COA comes back to the Planning Board.

## **Zoning – Public Workshop**

### **Documents**

- PDF Revised penthouse change
- Doc Option 2 setback-stepback
- Doc Section 720 CD Bylaw 2<sup>nd</sup> Pass – Redline
- Doc 720 CD Bylaw 3<sup>rd</sup> pass - Redline

Ms. Joseph opened the workshop for the proposed Zoning amendment for the Fall Special Town meeting that is scheduled for September 19, 2022. The meeting is much earlier than it typically is because of the water treatment plant.

#### *Setback/Stepbak Amendment:*

- Clarify that the figure in the current bylaw matches the tables regarding height.
  - The current figure is misleading suggesting the height can be 45’
  - Maximum building height in Scituate is 40’
  - Section 750.6 is used for calculating height
- This is a housekeeping issue

#### *Penthouse Amendment:*

- Eliminating Penthouses

- Renumbering the building height section
- Removing the special dwelling units' section for penthouses

*Common Driveway Bylaw:*

- Change the length of Common Driveways
- Add more design and construction criteria for Common Driveways

Ms. Joseph indicated the Board was provided a draft redline version of changes to the bylaw several weeks ago. A change was made under the advice of Town Counsel and the Town Administrator that an applicability clause was added..." the provisions of Section 720 Common Driveways shall not apply to any application filed with the Planning Board and Town Clerk pursuant to Section 720 prior to June 30, 2022."

There was discussion as to why the applicability clause is needed; Ms. Joseph said there are projects in the pipeline that are not going to be completed and the Planning Board did an applicability clause when it changed the VCN because projects were in the pipeline. Town Counsel and the Town Administrator opined it is only fair to do the same thing for this proposed change.

Mr. Pritchard disagreed and thought it was setting a precedent that it needs to be done this way all the time. Ms. Joseph said that Town Counsel has opined that if a project does not have a building permit or a special permit 30 days before the zoning change the application is not safe. Ms. Joseph said we have a lot of projects in the pipeline that do not have building permit or a special permit and have already invested a lot of time and money; to be fair Town Counsel has opined an applicability clause is warranted.

Ms. Burbine and Mr. Bornstein agreed with Town Counsel, Mr. Pritchard did not agree and thought this was precedent setting and every time the Board passes a Zoning Bylaw there will have to be a hard and fast zoning freeze. Mr. Pritchard opined if there is already State Law that governs the clause is not needed.

Ms. Joseph explained with the timing of Town meeting being so early there would have possibly been some projects that would have been through the permitting process, i.e. the two Common Driveways heard tonight and possibly have building permits before the Board had to advertise the proposed zoning changes.

There was discussion of different scenarios regarding timing of applications and the period between when zoning is voted at Town Meeting and what happens in that timeframe to applications that are not approved, etc. It was said that applicants may have to refile a project if zoning changes while they are in the middle of the approval process.

*Public Comment:*

Mr. Bjorklund, local Developer, said he tends to agree with Mr. Pritchard that there are requirements for permits that need to be filed within a certain timeframe and it should be clarified with Town Counsel. He said he does not understand her reasoning, but she is saying it for a reason. He said Ms. Joseph is trying to help; she doesn't want to see the Common Driveways go through and then have to come back and permit them again if the zoning passes. He said Mr. Pritchard is saying the applications should be set anyways because of the State provisions. Mr. Bjorklund said he doesn't know which way to go, he thinks they are protected, but Town Counsel should clarify. He opined when the application is filed it locks in the Zoning.



Ms. Joseph disagreed and said it is in state law and the Bobrowski book. Ms. Joseph indicated an applicant does not have an absolute right to protection; state law lays out what happens if there is a change in the zoning bylaw.

Mr. Pritchard does not want to create another component if things have already been litigated. Ms. Joseph said not everything has been litigated. Ms. Joseph to get clarification from Town Counsel.

Mr. Bjorklund commented about driveway grades/percentages that were discussed at the last meeting; roadways can be 9%. This proposes Common Driveways can be at 7% and if no Common Driveway is done there is no percentage on two single driveways. He opined the Common Driveways are doing what they are supposed to do, minimize pavement. He said it needs to be kept as simple as it can to make it usable for people in town; the purpose of the Common Driveway is to have them serve two or three houses, once they are done they look great and it is better than a subdivision road going in which is what people will be forced to do at a much greater expense. He suggests the Board have some more public workshops and gets everyone together to figure out what to do with the Common Driveway bylaw so it is usable and incorporate the Board's concerns with some of the Developer's concerns. He thinks this should be done at the annual Town Meeting.

There was discussion about why a driveway should be at 7%. Ms. Joseph said he is correct a roadway can be at 9% and the Board has expressed they did not like 10% that it is too steep from another project, but if the Board wants it be more in line with a roadway it can be changed. Mr. Bjorklund said he just wants the Board to think if it really makes sense and he doesn't want to see that people are not using the Common Driveway because it is too onerous.

Mr. Morse, Morse Engineering, said this isn't a bylaw that is used all the much; he has been in business 13 years and has permitted five Common Driveways. He said they are being used in places where there would be two houses and two driveways. He gave Elm Street as an example, saying if the Common Driveway is not approved there is still going to be driveway to the house out back that could be built tomorrow without any requirements, no fire turnaround, no Board review, no underground electric, etc. He said adding the second house does not really change the application; he opined the change to a "special permit" is the biggest impact as opposed to something that can be done by right. He argued there can already be a Common Driveway and what about adding a second house makes it so onerous to fall under the guise of a "special permit". He said there is zoning by-right and then special permits and special permits are typically used for an offensive use that could be permitted in an area because it is necessary, i.e. a gas station; what makes the use of a driveway that lawfully exists for one house that once a second house is added it makes it so onerous. He said these things should be promoted, it reduces impervious area, reduces lot coverage, reduces disturbance and now it is put in front of the Board and Fire Department for full review. He said they should be promoted and not fall under a special permit; if one person on the Board doesn't like it, it could be dead even if it meets all the requirements.

Mr. Bjorklund said layout the requirements and make them usable for people. He used Cohasset as an example, where it is not a special permit. He said asking for a special permit for something like this is more onerous than a subdivision; if the subdivision meets all the requirements the Board has to approve it, it is not a special permit. He said they are at the mercy of the Board and it is getting more difficult to get these permits.

Ms. Burbine opined this all started when the 46 Hollett Street was granted a 50-foot frontage lot, unless a Common Driveway was permitted the lot would be made nonconforming. When the

application finally came before the Planning Board the turnaround made no sense; it was fixed, but that is her issue. She gave some examples of good Common Driveways and poorly done Common Driveways. She thinks Common Driveways are a good thing, but she is concerned about the turnarounds and tandem parking.

Mr. Bjorklund said if the issues is the Board wants to fix the turnarounds, it should say the turnaround has to be separate from any portion of the driveway and that change is not a huge deal. He said it does not say that now, it says the Fire Chief has to approve it, but they could live with that change.

Mr. Morse opined the Common Driveway should be clearly defined in the bylaw as the portion of the driveway that services the two houses, at the end of the easement rights are not needed up to the garage of the back house because that is not Common Driveway in his opinion. Mr. Morse's opinion is the Common Driveway is up to the point where the driveway splits and beyond that is private driveway. Ms. Burbine said it is where both homeowner's access over it. Mr. Bjorklund said that is the right to pass and repass over it, typically there is one house in front of the other and the person in the front house does not need to have rights to the back.

Ms. Lambert provided some anecdotal thoughts about Common Driveways from her personal experience and said the Common Driveway has to go all the way back, because the people behind her did nothing for maintaining the driveway. Mr. Bjorklund said that can be handled in the Common Driveway agreement which spells out what the responsibilities are of each homeowner. He agreed with Mr. Morse that the Common Driveway does not have to go all the way, there can be a private easement of the end to get to someone's house or the property line can be moved to where the driveway would end, but he opined that is ridiculous. He said there have been some driveways recently where it may have made sense to be a shorter driveway incorporate the turnaround to be at the end of the common portion so it is not right up front and if there needs to be a separate turnaround it will push it behind the first house. He said an easement could be off the end of it into the woods to another house. He said that is what they think is the purpose of the Common Driveway, so another one does not have to run besides it from all the way in the back to all the way out front. He hopes the Board might wait on this so it can be figured out.

Ms. Joseph indicated that Ms. Lambert did a lot of research and found that out of 22 towns that allow Common Driveways, 18 are by special permit, most are 400' long, (most of the driveways in Scituate have been less than 400'), and most require turnouts every 75'. Mr. Bjorklund said they can do a little bump out on the side it just means more pavement. He said he would rather have a narrower driveway and have a bump out if passing is needed; they are trying to do less pavement and there is so much in the WRPD, the drainage is killing them.

Ms. Lambert said we are running out of land and we need to protect what we have. She said there are Common Driveways everywhere in the west end. Mr. Bjorklund spoke about some driveways off First Parish where neighbors have given each other cross-easements, it is a Common Driveway and the Town could not do anything about it. He said if the driveway is limited to 400' he guarantees there will be two driveways off the end of it. He said the Board is tying their own hands; there are regulations for what is allowed by-right if someone wants to waiver from them a special permit will be needed. Ms. Joseph said other towns allow the Building Commissioner to sign-off on them if there are 100', but the Board needs to decide what is right for Scituate.

Mr. Morse used Norwell as an example, they go in 99' and the Building Commissioner signs-off and then there are two driveways off the end of it. He said that is exactly what would happen here.

Mr. Bjorklund said they don't want to see that happen, but there needs to be a length that will work and if more was needed they would have to come to the Board and the Board would have the opportunity to say "no" and then they would just do two driveways.

Ms. Burbine suggested 600' same as a subdivision. Mr. Bjorklund said he would be okay with less than that if the average is 400' or less but as a matter of right and if more is requested than the applicants would need to come to the Board for approval.

Mr. Bjorklund said some should be allowed as right if the criteria is met; if the Board wants to change the criteria he feels they should get together with Board to figure out what that criteria should be.

Ms. Lambert says she appreciates the help, but she would like to see Common Driveways under special permit because "we" run into a lot of problems, we are talking to two developers who are trying to do the best for their clients, but she thinks 1,000' is too long, maybe it could be 500', but there seem to be so many problems with Common Driveways.

Mr. Morse asked what are the problems and how will a special permit fix them, i.e. the Zaccardi driveway on First Parish where 2 homeowners' do not like each other and have issues, a special permit does not solve those problems; what problems does it solve. He and Mr. Bjorklund both said it is the design criteria that the Board should look to change not changing the permitting.

Ms. Joseph said most of the design criteria that was added was taken from Norwell, i.e. the length of 400'; decisions need to be made on the length and the grade.

There as discussion about grade. Ms. Joseph said the Board did not like the grade of 10% for the project at 533 Country Way, the Fire Department doesn't like 10% but they said it was just a small portion and said it was okay. There was continued discussion about what/if there should be grade criteria.

Mr. Bjorklund said they are trying to keep two thresholds, one as a matter of right and the other if they go over the criteria the Board has the right to say "no" or "yes" if the Board things it makes sense.

Mr. Bornstein suggested that Mr. Bjorklund and Mr. Morse submit written comments for the Board to review and think about before the next meeting. He things they can probably work together get this done.

Ms. Joseph reviewed the timeline for making the zoning changes. Ms. Joseph asked for comments by July 7<sup>th</sup>, so they could be distributed to the Board.

### **Documents**

- Email to the Board from Shari Young dated 6.17.22 with meeting agendas for 6.22.22 and 6.23.22 and AMENDED Agenda 6.23.22

- Email to the Board from Karen Joseph dated 6.17.22 with meeting materials for 533 Country, 146, 154 & 0 Tilden Road, Senior Center, Zoning Workshop, 93 Elm Street Lots 5 & 6, 803 First Parish Road and Laurelwood Drive Lot.
- Email to the Board from Karen Joseph dated 6.21.22 with meeting materials for 803 First Parish Road and Laurelwood Drive Lot 3, 93 Elm Street, 533 Country Way

These items were distributed to the Board electronically.

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

Respectfully submitted,

Shari Young  
Planning Board Administrative Assistant

Ann Burbine, Clerk

Date Approved: July 28, 2022