

SCITUATE PLANNING BOARD MINUTES July 27, 2017

Members Present: Stephen Pritchard, Chairman; Ann Burbine, Vice Chairman; Benjamin Bornstein, Clerk; Richard Taylor and William Limbacher.

Others Present: Ms. Laura Harbottle, Town Planner.

Others Absent: None.

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

Location of meeting: Selectmen's Hearing Room, Town Hall, 600 C J Cushing Highway, Scituate.

Chairman Pritchard called the meeting to order at 7:30 P.M. The meeting was being recorded for airing on local cable television.

Documents

- 7/27/17 Planning Board Agenda

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

Public Hearing Accessory Dwelling Special Permit – 2 Cedar Crest Lane Assessor's Map/Block/Lot 54-1-16 Applicant/Owner: Karen M. Lynch

Documents

- Email from Laura Harbottle to the Board dated 7/23/17 with application for an accessory dwelling at 2 Cedar Crest Lane; Location Plan by Morse Engineering dated 6/6/17 with revisions on 7/27/17; General Notes & Details A0, Proposed Floor Plans A1, Proposed Elevations A2, Existing Conditions EC for 2 Cedarcrest Lane dated 8/1/16; memo from the Board of Health dated 7/20/17 and two photos of the site of the proposed accessory dwelling and driveway and existing house
- Email to the Board from Karen Joseph dated 7/25/17 with comments from abutters John and Christine Harris
- Email to Board from Karen Joseph dated 7/26/17 with additional pictures from the Harris'
- Email to the Board from Karen Joseph dated 7/27/17 with revised location plan dated 7/27/17 and letter from Morse Engineering dated 7/27/17
- Email from Laura Harbottle dated 7/27/17 with comments from Water Department
- Excerpt from the septic plan approved by the Board of Health dated 6/6/17
- People GIS map printed from Town website

Greg Morse of Morse Engineering was present to represent applicant Karen Lynch. He said Ms. Lynch is applying for a detached accessory dwelling unit which she will occupy. He said the lot is nonconforming due to lot area and went before the ZBA and received an approval. Mr. Morse said the lot is a corner lot and the accessory dwelling will be 748 sq. ft. and it will have two means of egress, thus meeting the bylaw.

Ms. Harbottle said the proposed accessory dwelling on the floor above a new garage is similar to some the Board has reviewed and she has a concern that this one reads like two houses on one lot. She said the corner lot reads as two houses as the accessory dwelling will have its own drive off of

Torrey's Lane. She said the Water Dept. has indicated that the water for the accessory dwelling cannot come from Torrey's Lane, but needs to come from Cedar Crest or the existing house. Mr. Morse said they will accept the water coming from the existing house. Mr. Limbacher asked about the topography and slope to Torrey's Lane. Mr. Morse said it was a hill and the building would be cut into the hill. He said the low point at the driveway is 37.1 and the building is 41.5 with a driveway slope of 8.8%. He said the existing lawn is all upland and the building is 1 ½ stories in the front and 1 story in the back. He said the back is 6 feet higher than the front. Mr. Limbacher asked why the accessory dwelling was not attached to the main house. Mr. Morse said he was not certain.

Abutters across the street, John and Christine Harris, said they believe it is because the owner has had allergic reactions to something in the basement that she has not been able to remove and thus she wants a separate house. Mr. Morse said that Ms. Lynch will live in the accessory unit. Mr. Harris said her sister will live in the primary unit. Mr. Limbacher asked about additional grading on the lot. Mr. Morse said the septic system will be under the driveway and there will be grading for a roof drywell in back. He said the stormwater bylaw is not triggered.

Mr. Morse indicated the septic for the accessory unit and the house will be under the new driveway which will be pervious paving. He said the loading for the septic system will be H2O loading. Mr. Morse said the existing septic system has not failed, but it has not been upgraded for a while and the applicant felt it is time to do it. Mr. Limbacher asked where groundwater was. Mr. Morse said they went down 10 feet and did not encounter any. Mr. Bornstein inquired as to the number of bedrooms. Mr. Morse indicated three in the main dwelling and one in the accessory for a total of four. Ms. Burbine questioned the elevation of the front of the house with four windows and two garage doors for a studio apartment fronting on Torrey's Lane. Mr. Morse said it was a studio apartment with parking for two cars in the garage. He said the existing house would use the existing driveway.

Mr. Taylor indicated that the shallowest part of the site was at the corner of Torrey's Lane and Cedar Crest and inquired if the neighbors received runoff water. Ms. Christine Harris said they did and sent pictures to the Board. She said there is a lot of runoff from the two roads. Mr. Harris said there is erosion on the street and they get channels in their yard from the Torrey's Lane runoff. Mrs. Harris asked where the land perked as she was concerned with runoff as the soil is dense. Mr. Taylor said it appeared there would be no change along Cedar Crest so there would be no negative impacts there. He said the runoff situation may improve with the proposed accessory dwelling's drywells and runoff being mitigated from the slope. Mr. Morse said water does runoff the slope, but the roof will flow to drywells and when it over tops them, it will flow the same as now. He said the pervious drive will help the situation. He said there are issues with Torrey's Lane itself which is a public way and deemed adequate for access.

Mr. Taylor also said that the road dips before going uphill so that water is in the dip. Mr. Morse said that the proposed driveway will be flat for 10 feet and then slope up so the water would continue as in the existing condition and the water would overtop to Torrey's Lane as it does now. He said they are trying to eliminate runoff and with the septic system under the driveway the situation could possibly be better as the glacial till will be removed for the system. Mr. Taylor asked why the windows are off centered in the carriage house style accessory dwelling. Chairman Pritchard concurred it did have an impact.

Mr. Harris asked where the water goes when it lands on the driveway and what happens when it is frozen. Mr. Morse said he provided a detail of the paver and water will seep into the cracks as it is pervious. He said the same amount of runoff will occur when the ground is frozen. He said the

runoff from the pervious pavers uses a curve number associated with loamy sand, but he did not do a full stormwater analysis as a stormwater permit is not triggered. Mr. Taylor inquired if there was going to be pavement to the door on the side of the garage as it is an egress to the accessory dwelling. Mr. Morse indicated it would be the pervious pavers. Mr. Bornstein commented that the pervious pavers will need to be kept clean and asked how it works above the septic system. Mr. Morse said that water infiltrates the same way and it will not affect the septic system. Mr. Taylor questioned that there was no set sleeping area. Mr. Morse said it was a studio with one big room. Chairman Pritchard inquired as to why the accessory dwelling was located at the lower corner of the property. Mr. Morse indicated this area had the best perc test and it is separate from the main house. He said the dwelling exceeds the side setback being 16' away from the property line. Mr. Morse said there is a fence to the north and another single family residence. Ms. Harbottle provided a People GIS map to the Board to see the relationship of surrounding properties to the site.

Mr. & Mrs. Harris said they have lived in their home for 22 years. He said they are concerned with runoff and flooding and the closeness to the watershed protection district. He said they are concerned with the proposed size of the accessory dwelling on the lot and about the location of the septic system. They indicated Torrey's Lane has pavement about 15' wide in a larger right of way and are worried about traffic coming in and out of the new driveway. They said a large 200 year old tree was previously removed along with a large rhododendron and inquired if there was going to be new landscaping as they do want some to lessen the impact. Mr. Harris said this will be the fourth construction project in their neighborhood in the past 4 ½ years and he feels the proposed accessory dwelling is not in character with the neighborhood. They indicated they did not want their property to be devalued.

Patricia Murphy of 7 Cedar Crest Lane said it will look like two structures on a small lot. She said she grew up in the house at 7 Cedar Crest and as a child rain regularly washed into the basement at 2 Cedar Crest and they waded through it. She said water runs down the streets like a river and she does not want to see another structure as she feels it will devalue the neighborhood. Steve Bjorklund asked the Board that if it was not for the second floor being proposed as an accessory dwelling, he did not know why the project would need to come to them. He questioned why the owner would need to correct any existing issues in Torrey's Lane.

Ms. Burbine asked for clarification of the height. Mr. Morse said it was 1 ½ half stories or about 23' in height from Torrey's Lane and one story in back to the ridge line. She said she understands the concerns; however, if the applicant wanted to do a garage she could do it by right. She said that looking at the GIS she sees issues; but there are property rights too. Mr. Limbacher asked if the driveway needs to be so wide. Mr. Morse said there are two garage doors so it is wide at top then narrows down. The Board questioned the width between the doors and if it was possible to narrow the space and/or realign the space to be more aesthetically pleasing with the windows above. Mr. Morse said that at most 2.5' could be lost between the doors and there is a stair inside the garage on the side to get to the accessory dwelling that takes up room and affects the alignment.

The Board asked where the fill from the septic system was going to be located. Mr. Morse said it would be trucked offsite. He said the tank for the old septic system will be filled in and the system abandoned in place. Mr. Bornstein said the project has been approved by the ZBA and the size of the accessory dwelling is 748 sq. ft. He asked what is to prevent the garage space from being converted to residential use. The Board indicated that the accessory dwelling special permit is based on a specific set of drawings and requires a building permit from the building department.

Mrs. Harris asked that the groundwater situation be clarified. Chairman Pritchard said that he heard no water was encountered in the test pit which went down 10 feet and that there is 4'-1" clear from the bottom of the septic system to the bottom of the test pit. Mr. Morse said there is 7 feet of separation and the test pit was conducted on June 25, 2015.

Mr. Bjorklund commented that if there was a 3,000 sq. ft. barn, then the accessory dwelling could be 750 sq. ft. and it will never be the size of the barn. Mrs. Harris reiterated that she would like to see some proposed landscaping if the project is approved. Mr. Morse indicated that the bylaw has no criteria for landscaping, but that the property owner is open to doing some foundation planting at the front. The Board requested a landscape plan to mitigate the starkness of the structure prior to continuing onward with the hearing.

Ms. Burbine moved to accept the applicant's request to continue the Accessory Dwelling Special Permit public hearing for 2 Cedar Crest Lane until August 10, 2017 at 9:15 pm and to extend the date for filing with the Town Clerk until September 1, 2017. Mr. Limbacher seconded the motion. Motion was unanimously approved.

Public Hearing Accessory Dwelling Special Permit – 10 Marshfield Avenue
Assessor's Map/Block/Lot 72-18-002
Applicant/Owner: Richard Torsney

Documents

- Email from Laura Harbottle to the Board dated 7/23/17 with application for an accessory dwelling at 10 Marshfield Ave and plans C-1 by WCB Associates dated August 2, 2007 showing parking and Plan C-1 by WCB Associates dated March 20, 2017 showing three apartments and the same floor plan showing first floor retail and storage space
- Email from Acting Building Commissioner dated 6/27/17 on egress
- Email from Karen Joseph to Richard Torsney dated 7/24/17 with comment from Acting Building Commissioner

Richard Torsney, the applicant and owner of 10 Marshfield Avenue was present. He indicated that on June 8, 2017 when the Board approved a storage shed on his property, they questioned the legitimacy of the three residential units above the existing commercial space and asked him to file an accessory dwelling special permit to legalize the units. Ms. Harbottle concurred and said that Mr. Torsney is here to legitimize the three accessory dwelling units. Chairman Pritchard confirmed that is a purpose of the bylaw and questioned the egress for two of the units.

Mr. Torsney described to the Board how each unit has the two means of egress. Ms. Harbottle indicated that there is no real plan to show egress and the building department is asking for that which can be included as a condition. She indicated that the Fire Department will also do checks to verify that the carbon monoxide and smoke detectors meet the code. Chairman Pritchard confirmed that the required parking was present.

Ms. Burbine moved to make the following Findings of Fact concerning the accessory dwellings at 10 Marshfield Avenue:

1. On June 20, 2017, Richard Torsney applied for a special permit for an accessory dwelling special permit for three units above a business at 10 Marshfield Avenue.

2. Based on the application, the three accessory dwelling units are located on the second floor above the commercial space on the first floor. The bylaw requires that accessory units above businesses be above the first floor or street level and no more than three accessory units may be in one building. Area requirements of Section 610.1 of 10,000 sq. ft. for each family do not apply. The accessory dwellings meet the requirements of Section 530.2B.
3. The three accessory units will have two bedrooms each. Six parking spaces are needed and seven are provided. The accessory dwellings meet the requirement of Section 530.2G.
4. The accessory dwellings will be serviced by a septic system. The Board of Health previously commented under the Site Plan Administrative Review application, that the rental units must meet the requirements of the State Sanitary Code, Chapter II as well as Section 30350, the Housing Bylaw, of the Code of General Bylaws.
5. New exterior stairs needed to provide primary or secondary means of egress for each accessory dwelling shall be located to the side or rear unless otherwise required by the Massachusetts Building Code. Based on the plan provided with the application, the Acting Building Commissioner has determined that this appears feasible for the units, except Unit # 1. The Acting Building Commissioner requires plans that show the 2nd egress for this unit. If this egress is not constructed, the C/O for the unit may be in jeopardy
6. The application meets the standards of the Scituate Zoning Bylaw for an Accessory Dwelling Special Permit.

Mr. Taylor questioned if the Building Inspector just verifies the egress. That was confirmed. Mr. Taylor seconded the motion. Motion was unanimously approved.

Ms. Burbine moved to approve the Special Permit for an accessory dwelling special permit at 10 Marshfield Avenue with the following conditions and standard conditions for accessory dwellings approved by the Planning Board after a public hearing on 12/17/15:

- 1) Except for any changes necessary to meet these conditions, any construction shall conform to the plans by WCB Associates for the Humarock Beach Condominium Site Plan C-1 dated 8/9/2007 and C-1 dated 3/20/2017 showing three apartments.
- 2) The number of accessory dwellings is limited to three above the existing commercial space in the location and size indicated on the plan submitted with the application. The number of bedrooms is limited to six.
- 3) The accessory dwelling shall conform to all applicable standards in the building, plumbing, electrical, mechanical, fire and health codes and bylaws.
- 4) Two means of egress satisfactory to the Acting Building Commissioner shall be provided for each of the accessory dwelling units.
- 5) The standard conditions for accessory dwellings approved by the Planning Board as modified for this accessory dwelling special permit shall be conditions of this decision and shall be included for recording at the Registry of Deeds.

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

Form A – 573 Country Way/8 Hatchet Rock Road
Assessor's Map/Block/Lot 26-2-47 and 26-2-41
Applicant: Sieminski Family Trust
Owner: Brighton Realty Trust

Documents

- Email to the Board dated 7/23/17 from Laura Harbottle with ANR application and deed, Plan of Land in Scituate, MA showing a division of parcels 26-2-47 and 26-2-41 573 Country Way and 8 Hatchet Rock Road by Morse Engineering dated 6/20/17, and transmittal to departments dated 7/18/17

Chairman Pritchard discussed with the Board prior to beginning the ANR meeting, a question on what an ANR represents and asked how the Board could act on an ANR with lot lines less than the bylaw requires. He said he did not see how the Board could act without a special permit being approved first. He said he understands the special permit for the 50 foot frontage lot has been decided, but no decision has been issued. He said he believes the lot needs to meet the frontage prior to the ANR being acted upon or else subdivision approval is needed. He said he would like Town Counsel's opinion as he see it that the Board cannot legally act on the ANR without the ZBA decision. He said it really is a sequencing issue. Mr. Taylor questioned if the Board hasn't made sure there is a ZBA decision first. Chairman Pritchard said he believes the Board should change the process and wait until the ZBA decision is filed based on his reading of the ANR Handbook.

Mr. Morse said that the ZBA voted unanimously to approve the special permit and it has not been filed with the Town Clerk yet. He said it has gone both ways and read from Section 610.2B of the Scituate Zoning Bylaw. Chairman Pritchard said he is not questioning the bylaw, but the sequencing as no special permit exists at this time. Mr. Morse maintained that the special permit from the ZBA does not create the 50 foot frontage lot, but allows the house on the lot. Chairman Pritchard said that interpretation did not conform to case law. Mr. Morse said the special permit was voted by the ZBA, but just has not been filed yet.

Mr. Morse said the Form A from the Sieminski Family Trust desires to create two lots from the existing lot at 573 Country Way. He said Lot 1 will have 100 feet of frontage and over 20,000 sq. ft. of lot area. He said Lot 2 will be a 50 foot frontage lot with 40,000 sq. ft. of lot area which is double the lot area as required in the bylaw. He said Lot 2, which contains the existing house, is approximately 1200 sq. ft. short of the lot area so that this is taken from 8 Hatchet Rock Road in the form of an upland narrow swath. Mr. Morse said that the lot at 8 Hatchet Rock still maintains its required frontage and lot area. He said that the plan notes that Lot 2 cannot be further divided as required.

Mr. Taylor confirmed there is an existing house on Lot 2 and said the Board may want to look at lot shape factor again. Mr. Morse said the narrow swath will likely remain vegetated and not lawn area.

Ms. Burbine moved to endorse as Approval Not Required a Plan of Land in Scituate, MA Showing a Division of Parcels 26-2-47 & 26-2-41, 573 Country Way & 8 Hatchet Rock Road by Moran Surveying, Inc. dated June 20, 2017 as every lot on the plan will have access and frontage of at least the distance presently required by the Scituate Zoning Bylaw on Country Way or Hatchet Rock Road **given that** the Zoning Board of Appeals **has** approved a 50 foot frontage lot special permit. The plan shall be held in escrow until the ZBA decision for the 50 foot frontage lot is released from the Town Clerk for recording so the two decisions may be recorded together. Chairman Pritchard

asked that that the tense be modified from future to current for the ZBA approval. Mr. Limbacher seconded the motion as modified. Motion was unanimously approved.

Floodplain mapping with potential zoning bylaw changes

Ms. Harbottle indicated that she and others in Town Hall have been working on changes to the zoning bylaw to include changes in vulnerable coastal areas where homes and people are in harm's way during storms. She said the Town Administrator has put a hold on the bylaw going ahead so quickly. She indicated that new maps are being prepared of the most vulnerable areas, not just the FEMA Floodplain. She said the new maps are looking to combine the floodplain map with the FEMA map and have all the FEMA requirements. Ms. Harbottle said this map will likely be a replacement for the 1972 Floodplain map. She said there is no desire to eliminate provisions for additions to existing homes and raze and reconstructs. Ms. Burbine commented that that is unfortunate as lives of first responders are being put at risk. She said houses in the high velocity zone are now "mcmansions" where there used to be cottages. She said a lot of money is being spent on seawalls and she thinks that if a home is repaired more than a certain number of times then it should not be rebuilt. Ms. Harbottle said they looked at the Oak Bluff bylaw in addition to others. She said with the very active real estate market, a tough balance will be hard to find. She said the flood insurance program is in the red and it is not sustainable to keep paying out for severe repetitive losses. Ms. Burbine said that the people need to be educated and tax dollars can't be the only concern. She said it costs at least \$70,000 to clear the road in Humarock each time. She said people get lax when there is not a big storm for a few years. She said historically ship captains lived on much higher ground in South Scituate and the coast has only become year round in the past 30 to 40 years.

Mr. Taylor asked who would bring the bylaw back. Ms. Harbottle said it would be the Town Administrator likely. She said this is a hard issue politically with storm clean up and affects actions of other Boards including the ZBA. She offered that the Coastal Resource Officer continues to work on education about coastal protection and sea level rise. Chairman Pritchard said that it should be in the next iteration of the masterplan as sea level rise is a real issue. Ms. Harbottle said that the Selectmen have had meetings on the mapping and the Board should go to the meetings and support the issue. Mr. Limbacher said he did not think it was right to change the bylaw for an insurance issue. Chairman Pritchard said it is a naturally occurring issue and is the Town going to be proactive or wait for things to happen. He said the masterplan should consider what a plan is for the Town between sea level rise, foreshore protection etc. Steve Bjorklund said that \$70,000 to clear the road is miniscule in tax dollars to an individual homeowner whose home is worth \$600,000 or more. He said each time the road is cleared amounted to about \$10 for the individual homeowner. He said people will need to pay more money for their flood insurance with the new changes. He said the floodplain bylaw only prevents new construction in the floodplain and if changes are to the FEMA requirements more area will be not allowed to have new construction. He said he thinks the local regulations should be done away with in the floodplain and let the FEMA requirements rule. He said flood insurance along the coast is a small issue compared to the middle of the country where people build next to rivers and then rebuild at the same elevation as they get no FEMA money. He said construction should be allowed in the floodplain if it is done to FEMA standards. Chairman Pritchard indicated that the Town has control over local development. Ms. Harbottle said that some towns have stricter bylaws and FEMA does require a bylaw with restrictions. Mr. Bjorklund said other Towns allow construction in the floodplain. Ms. Harbottle said the Town needs to balance the need to regulate these areas with the income from real estate development in this area; but indicated it is something that the Town needs to consider.

Accounting

Documents

- PO # 1800871 (\$7,295.00), PO # 1800675 (\$496.58), PO # 1800673 (\$2,800.00)

Mr. Bornstein moved to approve the requisition of \$7,295.00 to Horsley Witten Group, Inc. for engineering peer review for Seaside at Scituate; for \$496.58 to Amory Engineers for construction inspections for Blanchard Farms 2-1-17 to 4/28/17 and for \$2,800.00 to Merrill Corporation for engineering peer review for drainage for Blanchard Farm Estates. Mr. Taylor seconded the motion. Motion was unanimously approved.

Liaison Reports

Ms. Burbine said she was reappointed as the Selectmen's liaison to the South Shore Coalition. She said the EDC met and approved a scope of services for Ted Brovitz.

Town Planner Report

Ms. Harbottle reported that she is working 25 hours a week until a new town planner is hired. She said she is not working on EDC nor is she working on the dog park which has been handed over to DPW. She said the sign for the library was ordered and it will be installed in August. Ms. Harbottle said she has been working with the Cristoforo's on Blanchard Farm Lane about the fence and removing trees in the non-disturb area. She said it will be on the Board's agenda next time.

Chairman Pritchard said he forwarded the times of the meet and greet for the finalist candidates for the Director of Planning and Development.

Mr. Taylor said 13 Ford Place is looking good and is respecting the Board's and DRC's comments.

Chairman Pritchard said he would read the letter on 93-97 First Parish Road.

Old Business and New Business

Documents

- Email to Board dated 7/23/17 from Laura Harbottle with items referenced above
- Email to Board dated 7/24/17 from Karen Joseph with agenda for 7/27/17

These items were distributed to the Board electronically.

Mr. Limbacher moved to adjourn the meeting at 9:45 p.m. Ms. Burbine seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph
Planning Board Secretary

Benjamin Bornstein, Clerk

8-10-17

Date Approved