

SCITUATE PLANNING BOARD MINUTES July 9, 2015

Members Present: Stephen Pritchard, Chairman; William Limbacher, Vice Chairman; Richard Taylor, Clerk; Robert Vogel, Robert Greene and Ann Burbine, Alternate member.

Members Absent: None.

Others Present: Ms. Laura Harbottle, Town Planner.

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.

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

Documents

- 7/9/15 Planning Board Agenda

ACCEPTANCE OF AGENDA: Mr. Taylor moved to accept the agenda. Mr. Greene seconded the motion and the vote was unanimous in favor.

Form A – 26 Parker Ave Assessor's Map/Block/Lot 64/10/3 & 5 Applicant/Owner: Robert B. & Marilyn B. Serino

Documents

- Transmittal to departments dated 6/30/15
- Form A application, Plan of Land in The Town of Scituate, MA 26 Parker Ave dated 5/21/15 by Ross Engineering
- Email to Board dated 7/7/15 with Town Planner recommendation and Water Dept. memo

Paul Mirabito was present as representative to the Serino's who were also present. He said the applicants have a single family home with access off of Parker Avenue. He said they would like to create a new lot with frontage from Moorland Road and Driftway. Ms. Harbottle indicated the plan has frontage on a public way and there is no reason the Board can't endorse the plan.

Mr. Taylor moved to endorse as approval under the Subdivision Control Law Not Required a Plan of Land in the Town of Scituate, MA 26 Parker Avenue prepared by Ross Engineering Co., Inc. for Robert B. & Marilyn B. Serino dated May 21, 2015 as the division of the tract of land shown is not a subdivision because every lot shown on the plan has frontage of at least the distance presently required by the Scituate Zoning Bylaw on the public way of Moorland Road. Mr. Limbacher seconded the motion. Motion was unanimously approved.

Form A – 160 & 162 Jericho Road Assessor's Map/Block/Lot 46/5/44 Applicant/Owner: Richard Clouser & Martha Campbell

Documents

- Transmittal to departments dated 6/30/15

- Form A application, Plan of Land in The Town of Scituate, MA 160 – 162 Jericho Road dated 6/24/15 by Ross Engineering
- Email to Board dated 7/7//15 with Town Planner recommendation and Water Dept. memo

Paul Mirabito was present as applicant's representative. He indicated that the ANR plan is an 81L as the applicants would like to put each of the 2 dwellings on its own lot. He said there is evidence from the Assessor's that the large house was built in 1800 and the small one was built in 1880. He said one card shows that the large house was remodeled in 1944 and there existed at that time 2 houses on one lot.

Ms. Harbottle said the 81L plan seems problematic; but they have the legal right to divide the property into 2 lots as both houses predate the Subdivision Control Law. She said that the area and setbacks are nonconforming, but that is addressed in the Scituate Zoning Bylaw. She said the frontage and lot width are nonconforming and may require zoning relief but this is up to the Building Department. She said the second house lot is smaller than many single family houses, but she said Town Counsel said that it would also be up to the Building Department to approve if redevelopment were to occur. She said the plan can be endorsed.

Mr. Taylor asked if the driveway services both houses. Mr. Mirabito said it did. Mr. Limbacher indicated it was within the applicant's right to do this plan. Mr. Vogel agreed and said they may need to go to the Zoning Board for building changes. Mr. Greene confirmed it is one lot now and they desire to separate the houses onto 2 lots. Chairman Pritchard said this normally can't be done except that the houses predated the Subdivision Control Law. Mr. Vogel confirmed that each lot could be sold individually. Mr. Mirabito said that people often separate lots like this for estate purposes. He said the value of the two properties will go up so the Town can obtain more tax revenue.

Mr. Taylor moved to endorse as approval under the Subdivision Control Law Not Required a Plan of Land in the Town of Scituate, MA 160 and 162 Jericho Road prepared by Ross Engineering Co., Inc. for Richard Clouser and Martha Campbell dated June 24, 2015 as the division of the tract of land shown is not a subdivision because two or more dwellings were standing on the property prior to the date the Subdivision Control law went into effect in Scituate (August 3, 1947), and one of such dwellings remains standing on each of the proposed lots. The Board finds that the Assessor's cards indicate that the dwellings at 160 and 162 Jericho Road were constructed in 1800 and 1880 respectively. In addition, the following note shall be added to the plan "Planning Board endorsement of this plan is not a determination as to conformance with zoning regulations." Mr. Limbacher seconded the motion. Motion was unanimously approved.

Form A – 163 Stockbridge Road
Assessor's Map/Block/Lot 59/1/1
Applicant/Owner: Town of Scituate

Documents

- Transmittal to departments dated 7/1/15
- Form A application, Plan of Land in The Town of Scituate, MA Stockbridge Road dated March 12, 2010 by Ross Engineering
- Email to Board dated 7/7//15 with Town Planner recommendation and Water Dept. memo

Paul Mirabito was present as the applicant's representative. He indicated an identical plan was signed in April 2010, but the mylar was lost. He said Town Meeting voted to sell the land for affordable housing and Lot 1 is ready to be conveyed to the Affordable Housing Trust. He said Lot 2 will be a duplex and the Board previously approved the common driveway. Chairman Pritchard confirmed it was the same plan as the Board previously signed. Mr. Harbottle said it was. She said it was important that the land division be done as this parcel includes the landfill and solar array and the affordable units should be on their own lot. She said the Affordable Housing Trust will administer the housing.

Mr. Taylor moved to endorse as approval under the Subdivision Control Law Not Required a Plan of Land in the Town of Scituate, MA Stockbridge Road prepared by Ross Engineering Co., Inc. for the Town of Scituate dated March 12, 2010 as the division of the tract of land shown is not a subdivision because every lot shown on the plan has frontage of at least the distance presently required by the Scituate Zoning Bylaw on the public way of Stockbridge Road and the plan was endorsed in 2010 but never recorded. The Board agrees to waive the fee for the Town. Mr. Limbacher seconded the motion. Motion was unanimously approved.

Form A – 40 Hazel Avenue

Assessor's Map/Block/Lot 50/3/11

Applicant/Owner: Donald Nagle & Janice Evans

Documents

- Transmittal to departments dated 7/1/15
- Form A application, Plan of Land 40 Hazel Avenue Scituate, MA dated 6/24/15 by Cavanaro Consulting
- Email to Board dated 7/6/15 with Town Planner recommendation, Water Dept. memo and excerpt from 8 Gannett

Don Nagle was present representing himself and his wife Janice Evans. He said the 81 L plan proposes to divide the existing lot into 2 lots with each one having a dwelling that was on the ground before August 3, 1947.

Ms. Harbottle said there a few difference on this ANR than Jericho Road. She said that Town Counsel confirmed that the buildings don't have to be dwellings for the division to occur. Proof that 2 dwellings existed would be needed for any future Building Department/Zoning Board action. She said the frontage does not conform on one of the lots, but that is not the Planning Board jurisdiction for an 81L. She said the plan can be endorsed.

Ms. Burbine said that the buildings predate zoning so it seems from what Town Counsel has said is that the Board has no choice but to endorse the plan and the other issues go to the Building Department. Mr. Greene noted that a sewer line goes to the barn. He said it appears to meet the requirements. Mr. Vogel said that camp/garage is noted on the Assessor's card. He said that 81L says that it must be a structure and the Town says a dwelling so he is okay to endorse the plan. Mr. Taylor and Chairman Pritchard agreed. Mr. Limbacher said the Board should stamp it and pass it on. He confirmed with Mr. Nagle that the house will remain on a conforming lot.

Mr. Taylor moved to endorse as approval under the Subdivision Control Law Not Required a Plan of Land 40 Hazel Avenue - Scituate prepared by Cavanaro Consulting for Donald P. Nagle dated June 24, 2015, as the division is not a subdivision because two or more buildings were standing on the

property prior to the date the Subdivision Control Law went into effect in Scituate (August 3, 1947), and one of such buildings remains standing on each of the proposed lots. A Site Plan from July 1937 shows a house and garage. In addition, the following note shall be added to the plan "Planning Board endorsement of this plan is not a determination as to conformance with zoning regulations." Mr. Vogel seconded the motion. Motion was unanimously approved.

Planning Board Zoning Articles, Spring 2016

Ms. Harbottle began with an update of the status of sewer and 40R. She indicated that the Town must provide a certification to the state that there is sewer capacity for a 40R district. She said the Town is over 80% capacity and the DPW does not want to certify that the district of the previous size discussed could be accommodated. She said that DPW has to deal with Seaside at Scituate (Toll Brothers) which will be a large number of units and bedrooms and Kevin Cafferty is not willing to certify that that much capacity is there. She indicated he may do it for a couple of lots. She said other towns have hired outside firms to determine their capacities. She said she does not know if a study has been done, but certified sewer capacity is required as part of the application for 40R.

Mr. Vogel inquired if the Board could pick a test parcel and try 40R for one. Mr. Limbacher said decisions will need to be made on the Village Business Overlay District as those projects come in. Ms. Harbottle said the problem is committing to the capacity on paper. Mr. Taylor asked if the Economic Development Commission is pressuring the Selectmen. Ms. Burbine said that she has heard that with I & I (Inflow & Infiltration) corrections from Toll Brothers they are hoping to sewer North Scituate and the tree streets with the added capacity. She said there have been problems with the plant for 30 years and it needs to be dealt with. Mr. Greene asked if Toll Brothers could do their own plant. Ms. Harbottle said the Selectmen have already approved Toll brothers. Mr. Taylor said he does not want to go through with 40R without knowing the sewer capacity. Ms. Harbottle asked the Board if they wanted to write a letter. Ms. Burbine said she thinks a discussion with Kevin Cafferty is in order as she thought the Town recently approved \$250,000 to study the sewer capacity. She said 40R is good for the economic development, but the Town has a business district with no infrastructure. Mr. Limbacher concurred that increased development requires increased capacity. Ms. Burbine asked if there was sufficient water in terms of the Town's water withdrawal permit too. Ms. Harbottle said she would talk to Kevin Cafferty. Chairman Pritchard said he would like to know if there is a baseline model of the two systems. Ms. Burbine indicated that there is a potential for 600 units in the next 3 to 5 years and this should be on the DPW's radar.

Ms. Harbottle said there may be possible zoning that comes from special interests. She said she received a visit from a woman on Fourth Ave. about a HAM radio tower. She asked the Board if they really wanted to pursue accessory dwellings again as it has been shot down twice and she wants the Board to have credibility. Ms. Burbine and Mr. Vogel both said they want to do it again and zoning should not be done at 12 -1 am. Ms. Burbine suggested that the supporters get together a petition and the Board could help them. She said she would be willing to make phone calls if given names and numbers. Chairman Pritchard said the issue is if the town is happy with a 2,400 sq. ft. accessory dwelling.

Ms. Harbottle brought up the issue of inclusionary zoning. She said it would give the developer a density bonus as an incentive for proving affordable units and it would be optional. Mr. Vogel said he can see a lot of push back from the neighbors. He thought it will be a tough sell. Mr. Taylor thought it would be more problematic in the West End. Ms. Burbine said that if all the houses are not lined up there can be privacy as in Heritage Trail. Chairman Pritchard asked in other towns how

often is this option selected. Mr. Limbacher said Cohasset and Duxbury have this zoning, but it has never been done. The Board decided to pass on inclusionary zoning for the moment.

Mr. Vogel asked for regulation of the hours of work for a single family house. Ms. Harbottle said it would be a general bylaw.

Mr. Taylor said he would like more standards for lighting. He said the Deer Common and Studley Farm lighting standards are nice. Mr. Vogel said he had mixed emotions on more design standards. Chairman Pritchard said having one standard for all developments might be going too far. Ms. Harbottle said that there is a height limit of 14 feet and that residential versus business often call for different lighting treatments.

Mr. Taylor asked if there should be more design standards for the Village Business Overlay District (VBOD) and then they could be converted to 40R in 2 to 3 years. Chairman Pritchard said he would be in favor of exploring that; however outside help is needed. Ms. Harbottle said that she received money for developing 40R standards and can write a letter to the State to see if that money can be used to refine the VBOD standards with the intent of turning them into 40R design guidelines at a later time.

Ms. Harbottle said that more enforcement is needed for Stormwater permits. She said she would talk to Town Counsel about non-criminal disposition and linking Stormwater permits to Certificates of Occupancy. She said signing off on permits would be helpful too. Mr. Vogel said tying Stormwater Permits to occupancy permits is a problem due to inspections. Ms. Harbottle said that there are cases where occupancy occurs prior to completion of stormwater permit requirements. Chairman Pritchard asked if the problem is enforcing it during or after construction. Ms. Harbottle indicated it was implementation during construction. She said it is great to have a plan, but the plan needs to be followed. Mr. Vogel said that the Building Department does not review site plans. Ms. Harbottle said they are provided written copies of the permits. Ms. Burbine suggested that applicants should have to pay for construction inspections. Mr. Vogel suggested posting bonds. Ms. Harbottle said she would follow up with Town Counsel on that. Mr. Vogel also suggested that approved as-builts could be a condition of the certificate of occupancy.

Ms. Burbine inquired why the Flood Plain Special Permits are now with the ZBA. Mr. Limbacher said it prevented an applicant from going to multiple boards. Ms. Harbottle said it was changed in 2010 as often there was a need for a Section 6 finding as well as the Flood Plain Special Permit.

Accounting

Documents

- PR # 1509408 (\$67.50), PO # 1509009(\$597.78), PO # 1509007(\$1,116.31), PO # 1509008 (\$1,007.84)

Mr. Taylor moved to approve the requisition of \$67.50 to Kenmark Office Systems for a service charge for evaluating the large copy printer, for \$597.78 to Amory Engineers for construction inspection services for Benjamin Studley Farm, for \$1,116.31 to Amory Engineers for construction inspection services for White Ash Farm and for \$1,007.84 to Amory Engineers for engineering peer review for 13 Ford Place. Mr. Limbacher seconded the motion. Motion was unanimously approved.

Liaison Reports

Mr. Taylor reported that the Design Review Committee meets on Tuesday July 14. He said they will be talking about the sign at 56 New Driftway, the Middle School and the renderings from the Conroy Team. The Board will be sent copies of the Conroy renderings.

Town Planner Report

Ms. Harbottle indicated that the Board has been asked to consider joint hearings with the Conservation Commission for the Public Safety Complex and Middle School. She said it would probably just be the first meeting when the large presentation is made then the individual Boards would make their decision separately. Ms. Burbine asked who would run the meetings. Ms. Harbottle said that would all have to be worked out. Chairman Pritchard said he was game if there was enough room. Ms. Harbottle said she has received some feedback that some towns like doing it and some don't as it may involve listening to presentations that aren't in one's Board's scope of work. The Board said they were willing to try.

Chairman Pritchard asked about 61 Border Street. Ms. Harbottle said it will be on the agenda in August.

Mr. Vogel moved to adjourn the meeting at 9:03 p.m. Mr. Limbacher seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph
Planning Board Secretary

Richard Taylor, Clerk
7-23-15
Date Approved