

SCITUATE PLANNING BOARD MINUTES July 14, 2022

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

Others Present: Karen Joseph, Town Planner

Members absent:

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

- 7/14/22 Planning Board Amended Agenda

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

Continued - Public Hearing – Site Plan Administrative Review and Special Permit for A Multi-family Building in the Village Center and Neighborhood District Greenbush Gateway District - Greenbush Gateway Business Subdistrict (VCN-GDG- GWB) and Stormwater Permit – 7 New Driftway

Assessor's Map/Block/Lot 53-05-37F

Owner: Joan Auciello, Tr of Shepard Way Realty Trust

Applicant: Drift-way LLC

Documents

- PDF 7 New Driftway Traffic Review 11.22.21
- Doc 7 Driftway Project TRRC
- Email dated 4.27.22 Test Pit Logs
- Email dated 6.17.22 7 New Driftway Water & Sewer Report
- PDF 22-150 Landscape Plan-Conservation Progress 2022-05-06 R3 2022-05-11
- PDF 218-153 Site Plan R-1
- PDF 14061 Permit Set- Scituate-Lawson Rd.- 31
- PDF Comment Letter request for waivers
- PDF Common Driveway 136, 165 and 167 Stockbridge
- PDF Decision – 163, 165, 167 Stockbridge
- PDF Response to PB Review
- Doc REV2
- PDF Rt 3A @New Driftway and Country Way
- PDF Sewer Evaluation 1-4-22
- PDF Water Evaluation 1-4-22

Attendees: Frank Polak, Developer; Walter Sullivan, Attorney; Eric Schoumacher, Engineer; Philippe Thibault, Architect; John Chessia, Town's Consulting Engineer; Peter Benvy, Corporation for Independent Living, (CIL); Stephen Irish, Chair of the Scituate Affordable Trust

Ms. Lambert requested the meeting begin with the discussion on the affordable units.

Mr. Sullivan indicated that Mr. Polak has been working with Mr. Benvy from CIL that builds group homes, some that have been built here in Scituate; a design was submitted from another group home already established in Scituate for Stockbridge Road. Mr. Sullivan indicated details are still being worked out, but Mr. Polack would acquire title to the property on Stockbridge Road, CIL is a non-profit that would construct the home and Driftway LLC would then donate the value of the lot in cash to CIL for home construction.

Ms. Lewis questioned Mr. Polak taking title of the property. Mr. Sullivan said that is what they think will happen, but they are still working out the details with CIL. He continued to explain that Mr. Polack would take title from the Affordable Housing Trust, then enter into a contract with CIL, CIL would build the house and then Mr. Polack would then donate the value; ultimately the property would be deemed back to CIL and CIL would then have a 30-year lease with the company that would run it and ultimately the land of the home would be donated to that entity. Mr. Polack added that he would be responsible for all the necessary permitting and variances that maybe required.

Mr. Steve Irish, Chair of the Affordable Housing Trust said he is here to answer any questions regarding the Stockbridge lot.

Ms. Lambert said one of her big concerns is she does not want this to be a precedent setting idea; if someone comes to the Board and requires a density bonus and asks to do something different than what the Board normally does she has some hesitation. Mr. Bornstein agreed with Ms. Lambert; this is not a precedent setting scenario.

Ms. Lambert said there is some confusion about who runs the house. Mr. Polack said CIL is responsible for building the house, he is responsible permitting it with the Town, i.e. building and any zoning issues and working with Mr. Bendy. There will be a certified appraisal of the property to establish the market value, that coupled with the costs of permitting will be donated to CIL for costs of construction.

Mr. Pritchard asked who is responsible for construction and operation. Mr. Polak said he has nothing to do with operation or construction. CIL works with Cardinal Cushing in a management capacity, they will be the leasee.

Mr. Pritchard said the benefit is the construction and operation and the value it brings to the individuals who stay there; he said that Mr. Polak is really only committing to a certain point and then someone else needs to pick it up and make it happen. He said Mr. Polak is not going to ensure that it gets built and someone else is operating it. Mr. Sullivan said the occupancy permit of this project will be tied to the project on 7 New Driftway; Mr. Polak's company is going to provide the cash based upon the value of the property to construct the home.

Mr. Benvy from CIL said they have developed over 200 group homes for people with disabilities in Massachusetts; they have done one in Scituate. He said the plans submitted are from the home in Scituate and they are indicative of what they hope to do on Stockbridge, it is not exactly what they

would do unless required. He said like the house on Lawson Road, it would be leased to Cardinal Cushing Centers who will provide the services and the property would be deed restricted in perpetuity to be used as a group home for people with disabilities; after 30 years the house is donated to Cardinal Cushing Centers and they continue to operate it as a group home for people with disabilities. He also noted that each bedroom in the house counts as an affordable unit. He indicated there is a verbal agreement and an ongoing relationship with Cardinal Cushing Centers and they could easily provide a contract; they are desperate for group homes for people with disabilities and it would just be a formality. He said they could quickly develop a services agreement between Cardinal Cushing and CIL that clearly says CIL builds the house and Cardinal Cushing leases it.

Ms. Lewis asked how Mr. Irish feels about the project. Mr. Irish said he was originally connected with Mr. Benvy by the Town Planning office. He said they had a great conversation and he had explained the AHT had agreed that the property on Stockbridge Road which is approved for a two-family was working with the Driftway LLC Developers should the Planning Board approve that their proposal of four units on the property to meet their required affordable component; there may be some hurdles with regards to planning and zoning. He indicated that Mr. Benvy said they could work with both the Driftway LLC and the AHT to develop a group home with 5 -bedrooms, and each bedroom counts as an affordable unit which is a win for the affordable housing goals. Mr. Irish connected the two parties, they've discussed it and are working out the details, there are still some deed transfer mechanics to work out, but similar to the Lawson Green project the AHT is confident in the deed transfer, etc. He said Mr. Benvy's group are experts in developing these types of properties and they have already worked with Cardinal Cushing Centers that provides great resources to people who need it. Mr. Irish said Mr. Polak's group can handle all the other stuff that may come up with this piece of property, site engineering, etc. the AHT is only providing the land.

Ms. Lewis said regarding the concern of setting a precedent for new buildings, she inquired if this is the only land the AHT owns; Mr. Irish confirmed yes, it is the only property the AHT owns. Ms. Lewis said when she has been at the AHT meetings there had been discussions about finding someone to develop this land, Mr. Irish said yes for a long time over 5 years. Ms. Lewis said there are not a lot of these pieces of property available in town for someone to build on in conjunction with the AHT. Mr. Irish said the AHT would have to go out find a lot or a home that would likely have to be torn down at the Trust's expense and seek out a developer, i.e. CIL or another project like 7 New Driftway seeking to do affordable units.

Mr. Pritchard asked if it is the AHT's game plan to have a certain number of homes versus other kinds of affordable homes. Mr. Irish said the AHT goals are broad, the basic goal is to provide affordable housing opportunities in Scituate whatever they are, i.e. people with disabilities, veterans, there are limited land opportunities. Mr. Irish said the AHT donated money to the Lawson Green project and CPC donated money; Ms. Joseph said all the units from Lawson Green are on the Subsidized Affordable Housing Inventory list. Mr. Irish said there is such a need for all kinds of affordable housing whatever the AHT can do to seize the opportunity when it comes before them they are open to.

Ms. Lambert said she appreciates the out of the box solution for affordable housing, but this is only part of the density bonus, this is in lieu of the affordable housing there will be another part required.

Mr. Pritchard asked to confirm that Mr. Polak is conditioning the Certificate of Occupancy for the 7 New Driftway property with the Stockbridge property; Mr. Polak said yes.

Ms. Lambert said she would like to see something more formal than a verbal conversation, but as a group the Board needs to vote if they approve or not.

Ms. Joseph said she thinks the Board needs to vote if they approve the proposal for the affordable units. She explained the number of affordable units needed for the project, 19 units requires 20% which means 5 units are needed; each bedroom in the home counts as an affordable unit, so 5 bedrooms is 5 units. Ms. Joseph explained that she was approached a while ago about property that could possibly be available for a group home, she mentioned the Stockbridge property saying she did think it was spoken for, all the coordination done for this proposal was done on their own, it was not done through her or the Planning office. She said there are other group homes in Town and they are desperately needed.

Ms. Lambert said as a group the Board needs to decide if this is a good use for the offsite affordable units. She said personally she thinks it is a very good deal for the Town it's a good deal for Cardinal Cushing and that would be her vote.

Motion:

Ms. Burbine moved that the Board consider in lieu of 5 units at 7 New Driftway, a 5-bedrooms group home on Stockbridge Road.

Ms. Lewis seconded the motion; there was discussion that this is not intended to set a precedent that "affordable housing" means a group home somewhere else; the next development the Board could say they want to see affordable housing in the development. The circumstances, the players involved the support of the Town's AHT all lead to this being a viable solution. This is based on specifics and these specifics have certain circumstances.

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

Ms. Lambert indicated the project still needs permitting and approval from the ZBA and Conservation for the Salt Marsh and Flood Plain and Watershed Protection District per Mr. Chessia's letter. She also said a detailed list of the waivers is needed so a decision can be started; a decision will not be started until all the questions have been answered.

Ms. Lambert indicated that there needs to be discussion about the density bonus. Mr. Sullivan said there has been discussion about sidewalks, etc. and in terms of a cash contribution there has been some precedent set with the gas station down the street and that is something Mr. Polak would entertain. Ms. Lambert said as the Chair of the Board, the Board is out of the sidewalk business, that is part of doing business in Scituate.

Ms. Joseph said that 15 units are allowed by right, the proposal is for 19 units, that is a minimum of 4 units that the density bonus is needed for. She opined there should a substantial sum of money for that. She said the money is supposed to be put towards a use in the Greenbush-Driftway area. She said they met with Conservation and there is an approved Open Space Plan for the Driftway Conservation Park which is in dire need of the pier being rebuilt. She said Conservation has some money from fines from Toll Brothers, but it is a project that benefits the Greenbush-Driftway area as well as many other people in the Town of Scituate and other Towns. She suggests a monetary contribution to be specifically used for that project would be beneficial to the Town of Scituate.

Ms. Burbine suggested \$25,000/unit for a total of \$100,000 toward the Open Space project. Mr. Sullivan said that is a big number. The Board said it is a big project, it is negotiable. The applicant needs to think about the numbers and discuss them with the Town Planner. Mr. Polak proposed doing an annual contribution to the upkeep of the brook per discussions from previous meetings where a representative of the North/South River Commission spoke about the cost of upkeep. Ms. Joseph clarified that the North/South River Commission does not maintain the brook, they have an active part in preserving the brook, but so does the Conservation Commission.

The applicant is to come back to the Board with a proposal after discussion with the Town Planner.

Ms. Joseph indicated that there was a peer review done dated June 2nd and the Board should hear from Mr. Chessia. She indicated a second set of plans was submitted after this peer review, but it was not submitted in a timely manner. She said the discussion tonight is on the first set of plans and perhaps the applicant can mention some of the things they have done to address Mr. Chessia's comment letter. She said Mr. Chessia is still reviewing the new set of plans, but the summary of issues the Board has is outlining issues based on the older report.

Mr. Sullivan asked if it was worth having the discussion since there will be another meeting. Mr. Chessia opined it was worth having the discussion because the Board may have to opine on some of the issues.

Mr. Chessia reviewed his summary list.

- Special Permit is required for the Salt Marsh Tideland Conservation District
- Special Permit is required for the Flood Plain Watershed Protection District
- Does the Board want additional data on fill, cut fill volume, earthwork within the floodplain zone to help with deliberations?
 - Ms. Joseph indicated the Board is not the permit granting authority, the ZBA is
 - Conservation will weigh in, but the permit needed is from the ZBA
 - Ms. Joseph said the Board should have an idea of the amount of fill being brought in
- Water Resource Protection District – site is in the Zone A and Zone II and there are different requirements for the zones.
 - Zone II – want recharge
 - Zone A - should have no BMP's, no recharge
 - There is a rain garden which could potentially have a little recharge through a porous pavement patio detail, but there were no details on how it would work
 - The project removes a lot of impervious surface from the site, having grass creates more recharge - does the Board want the applicant to consider recharge in the Zone II even though it is in the Zone A because it is a redevelopment where pavement is being taken away
 - The WRC may want to comment
 - Information is conflicting and the Board should decide how it feels
 - Some slopes that are at 3:1 which is not allowed in the district
 - There are outlets from the roof that are at the top of the bank
- Section 750.8 - Development site standards
 - Handicapped space in the front setback

- Requirement is there should be no parking in the front setback
 - Applicant may ask for it to be waived, but something for the Board to consider. Handicapped spaces should be near the front door.
- Landscape plan was not stamped by a registered Landscape Architect
 - Board should review the screenings and the plantings
- Does the Board want to see any type of truck turning analysis?
 - Loading of tenants, loading of dumpsters, etc., potentially how cars are turning in the garage, etc., end spaces in the garage may need to be looked at
- Requirements under Section 760
 - Number of trees in the parking area plan did not comply
- Section 751 – Low Impact Design Standards
 - Smaller impervious area being redeveloped – Bylaw does not speak to redevelopment, Board should consider
 - Plans did not show which trees are to remain and which are to be removed
 - Some existing trees have been blown over in recent storms, there may be updates needed for what exists now
 - Impervious area in the front yard exceeds what is allowable
 - Requirement for certain amount of buffer to the right-of-way was not met
- Section 580.6 – Amenity Spaces
 - Board should review what is there for amenity spaces, do they agree with the design
 - Short 1 street tree on the plan
- Site Plan Review which includes stormwater aspects
 - More data needed on the retaining walls, i.e. heights, cross-section needs to be looked at
 - Stormwater
 - Decreasing the impervious area from what is there now
 - Much of the parking lot goes into a scupper that runs down the slope or pavement that runs into the brook and that would probably not be allowed now.
 - This is an improvement
 - Some outlets from the roof are going to the bank, which could be an issue, water should not be dumping on the top of the bank
 - They will meet impervious discharge rates because removing so much impervious surface, there are some detail issues that need to be addressed
 - There will be more recharge to the ground because there is less impervious area, but there are some details that need to be cleaned up
 - TSS removal
 - Site is in a critical area
 - Zone A to surface water supply
 - Zone II to wells

- Tributary to shellfish growing area
 - Rain garden is not something that should go into a shellfish growing area per the handbook
 - Information needed on the Stormceptor that is provided
- Few outstanding issues for the erosion control plan

Ms. Joseph clarified that she provided the Board with the most recent comment letter, but did not provide the Board with new plans that were submitted because they were submitted after the deadline. She suggested Mr. Schoumacher give a summary of comments; some of the comments may already be addressed.

Ms. Schoumacher said many of the issues have been addressed with the new plan set.

- Truck turning analysis was provided
 - Shows Box truck entering and exiting the site
 - Designated a loading space
- Roof leaders have been angled to allow vegetated uptake before the stormwater enters the brook
- Conversations with DEP regarding redevelopment and recharge
 - The project has been determined as a redevelopment project so recharge standards are held to the maximum extent practical.
 - The entire lot is in the Zone A so infiltration is not allowed
 - The only alternative is to have a rain garden
 - The portion of the project discharging is not a shellfish growing area, the growing area is located about half mile to the south
 - The applicant believes they are meeting the regulations
 - A greater vegetated buffer has been provided from the front property line to the parking lot
 - Parking lot has been shifted back by a foot
- Data on Stormceptor has been provided
- Information on retain walls has been provided

Mr. Schoumacher said that they have addressed the information from Mr. Chessia's letter and he believes all will be confirmed when the plan is reviewed.

Ms. Joseph asked that the information from DEP be submitted and that the Conservation Commission would likely be interested in the data as well. Mr. Schoumacher indicated it was just an informal email; Ms. Joseph said that is fine.

Ms. Burbine asked if the gate had been removed on the new plans. Mr. Schoumacher said there is no gate on the street.

Mr. Chessia asked the he also get the email from DEP and hopefully he has everything needed for the next time.

Ms. Joseph said she quickly reviewed the new set of plans; there was a comment given that plantings should not occur in the state highway layout; it was confirmed that the area beyond the 7 New Driftway property line is in the state layout and the Town does not want planting in the state layout.

She said the extra trees will need to be removed. She also indicated that the water and sewer studies are okay and the cleanouts need to be incorporated per the email that has been forwarded. She said there has not been a letter back addressing comments from the Town's Traffic Engineer; comments need to be returned. She said there should be no gate, she did not see EV Charging stations on the plan and they will be conditioned. Ms. Joseph indicated there will be mitigation for traffic, but it is not known what it is at this time; she has sent emails to DPW and Police. She indicated there was a Roadway Safety Audit done at the rotary and mitigation will be something from that audit done with MassDOT. She said a list of waivers is needed. She also asked how people get to the patio, are there benches, is it handicap accessible as it weighs into the public amenity space.

Mr. Schoumacher said the patio is accessed through the lower level garage and there is a vegetated path with a slight slope, but they will take another look at the access.

Public Comment:

Mr. Humphrey resident of 8 Ladd's Way and Board member of the North & South River Watershed Association mentioned several concerns from the Association, the use of native plants, irrigation system using well water, runoff and the integrity of the bank, planting of mature trees has to be a priority. Ms. Lambert let Mr. Humphrey know that the Board has 2 registered landscape architects he can be assured they know all about the native plants and she is confident there will be consensus on the plantings.

Ms. Joseph indicated the bank is a Conservation Commission issue, it is under Conservation jurisdiction. The Planning Board has the Stormwater Permit the Board needs to ensure that water is not going to the road or over the bank down the stream.

Mr. Bornstein suggested that the importation of fill be monitored, so that it is known where the fill is coming from since it is going to a watershed and ecologically sensitive area; it should also be brought up with other permitting committees.

Mr. Polak said that all fill that comes to the site will be pre-tested and certified.

Motion:

Ms. Burbine moved to accept the applicants request to continue the public hearing for Site Plan Administrative Review and Special Permit for a Multi-family Building in the Village Center and Neighborhood District – Greenbush Gateway District -Greenbush Gateway Business Subdistrict (VCN-GDG-GWB) until August 25, 2022 at 7:00 pm and to continue the time for action for filing with the Town Clerk until October 14, 2022.

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

Minutes

Documents

- Meeting Minutes 5.26.22
- Meeting Minutes 6.9.22

Ms. Burbine moved to approve the meeting minutes for May 26, 2022.

Ms. Burbine moved to approve the meeting minutes for June 9, 2022.

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

Accounting
Documents

PO #2211538 (\$2,925.00), PO #2310233 (\$135.00)

Ms. Burbine moved to approve the requisition of \$2,925.00 to TEC, Inc. for peer review of 803 First Parish Road, for \$135.00 to Chessia Consulting for peer review of 485 Country Way Residential Compound.

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

Liaison Reports:

Select Board – reported by Ms. Lambert:

- Charter Committee was discussed
 - Ms. Lewis indicated the Charter was just about done
 - Charter to be reviewed at Special Town Meeting, September 19

CPC – reported by Ms. Burbine:

- August meeting will discuss the 90' Baseball field proposal at Central School
- Cushing Trail restoration on hold, difficulties in coming up with numbers
- Wheeler Park window restoration
 - \$6,800/window
 - Windows in building 1 were replaced 5 yrs. ago for \$300K
 - Received a grant and funding from MassHousing
 - Asked for other quotes
 - Total estimate \$576, 708
 - Needs to be determined if it is under CPC prevue to provide funds
 - Is this maintenance or restoration?
 - Windows replaced at Central Park
 - Building is a historic building – was restoration
 - Wheeler Park is not a restoration
- CPC voted to add and replace Mobie Mats at the beaches
- CPC approved replacement of the Bailey Ellis Tower windows and door restoration
- Picnic areas at Damon and Crosby properties \$200K
- CPC Funds
 - \$345K Historic Restoration
 - \$351K Open Space
 - \$1.086M Housing
 - \$1.29M Undesignated Funds
 - Funds can be shifted
 - Funds are available
- Discussion if some of the Housing Funds can be used to augment some of the “affordable rents”, i.e. Herring Brook Meadow affordable rent is \$1,900

- Housing Authority owns property at junction of Kent Street and Driftway
 - Idea that it would become a private development of affordable housing, would like to see it developed like Lawson Green
- Gazebo at Cole Parkway
 - Suggesting to instead a pavilion at Pier 44 location
 - Ms. Lambert expressed concern about the residential area
 - Ms. Joseph said the activities at the Gazebo are there to bring in business to the Harbor
 - Evaluating the Gazebo for safety – roof may have to be taken down
 - Architect in Town is designing the Gazebo pro-bono

Ms. Lambert encouraged the Board members to listen to the zoom meeting for the Water Treatment Plant.

Planning and Development – reported by Ms. Joseph:

- Attorney General has requested another 90 days to review the Zoning Articles from Spring Town meeting
- Timeline for Budgets and Annual Town Meeting expedited
 - Final wording needs to be done by 1/10/23
 - Zoning Workshop in November and Public Hearings in December
 - Next meeting Board will discuss Zoning
- Director of Planning and Development – Kyle Boyd has left the position

Public Hearing – Major Site Plan Administrative Review and Special Permit Tandem Parking – 14 & 16 Old Country Way

Assessor's Map/Block/Lot 48-2-56 & 57

Applicant/Owner: 14-16 Old Country Way LLC – Robert Proctor, Manager

Documents

- PDF 14.16 Old Country Way Planning Board 2022-04-01
- Jpeg 14-16 OCW Walk 2
- Jpeg 14-16 OCW walk
- PDF 2022-07-05 Response to Horsley Witten Group – 14 & 16 Old Country Way
- PDF 2220620-Zoning-SitePlan – Stormwater – Peer Review
- PDF Landscape Plan
- PDF Lighting Plan
- PDF Lighting Specs
- Email dated 5.31.22 Comments from Sewer Department
- Email dated 5.26.22 Comments from Water Department
- Email dated 6.21.22 Comments from Water Resources Committee
- PDF Siteplan 14-16 Old Country Way – 2022-05-19 Rev 2022-07-05
- PDF Stormwater Report 14-16 Old Country Way 2022-05-19
- PDF TC filed legal Posting 14-16 Old Country Way
- PDF Transmittal 14-16 OCW SPAR-SP

Attendees: Robert Proctor, Manager/Owner; Janet Bernardo, Town's Consulting Engineer

Ms. Burbine read the legal ad for the record.

Mr. Proctor said he is here to answer questions and find out if anything else needs to be done.

Ms. Joseph indicated the Board is in receipt of the original filing submitted, revisions came in, but did not come in in a timely manner for review. Ms. Joseph indicated what was formerly the barn building is now being proposed as a multi-family building; previously it was a mixed-use building permitted under the old zoning. It is now being permitted under the new zoning; proposal is for 8 units and one unit has to be affordable. She said it is the same footprint as what was previously permitted, the drainage has been peer reviewed to make sure it is the same as what was permitted before. Ms. Joseph said she asked for the plans to be brought up to date with the new zoning, the business district is now the VCN and the new sidewalk needed to be located on the plans. She indicated new plans have been submitted with the revision, but they have not been reviewed since they did not come in on time.

Mr. Proctor said his understanding is the only outstanding issues are the sidewalk and revisions to the districts. Ms. Joseph said she believes those issues have been taken care of with the revised submittal, but they were not submitted on time. Mr. Proctor said he hopes those could part of the conditions of approval. Ms. Joseph indicated a decision will not be rendered tonight.

Ms. Bernardo indicated a review letter was provided to the Board on 6.20.22, the applicant responded with most of the information on 7.5.22 and then there was a set of revised plans that was received on 7.12.22 a second peer review letter was provided on 7.12.22. She said in terms of the stormwater design there was in-depth review done for the last submittal of this project the applicant did make some minor changes; raising the subsurface infiltration systems for the two buildings; there is 3' of separation from ground water, the larger system under the parking lot and bio-retention area already had 3' of separation there were no changes made there. Ms. Bernardo said at this time the project is meeting all stormwater regulations both state and local. She indicated the project was also reviewed against the WRPD zoning and the applicant has met the requirements within that district. She said the applicant had asked for some relief in June 25, 2019 and she assumed that relief carried over into this project as well. She indicated there is an affordable unit, but it is unclear if the proper documentation has been submitted, Section 580.8. Ms. Bernardo referenced page 8 of the peer review letter which references Table 1A – Multi-family Building Types and Design Standards, she said there is a minimum and maximum front yard setback requirement 10'-30'. Building 1 is at 15', but Building 2 is at 130' it is unclear how the building setback relates to Building 2 and there is a minimum 60' setback for the street facing wall currently building 1 shows the street facing wall is 40'3", but building 2 meets the requirements. The applicant did not show any trash dumpsters. Building 2 has two garage doors and there is requirement that no garage doors are facing the street. She said Building 1 does not have them but Building 2 does so not sure where the Board sits. Ms. Bernardo said the applicant has addressed the peer review comments, but there are those few zoning comments that she wanted to bring to the Boards attention.

Ms. Bernardo also indicated the detail pages on the plans dated July 12th did not print properly; the Board should make sure the set in the office is legible.

Ms. Joseph said this is a site plan review and a special permit for tandem parking, tandem parking is defined as one car behind another even if it is in a garage. She said that permit was not granted with the mixed-use special permit, but needs to be granted at this time.

Mr. Pritchard asked if there was interpretation regarding the setback requirements.

Ms. Bernardo indicated that the tandem parking requirements were met.

Ms. Joseph said for a lot of these sites there is going to be one building behind another and it is never going to meet all the zoning requirements. She opined it doesn't make it a bad plan and the intent is what is being advocated for in the zoning bylaw, if it needs a waiver then perhaps the applicant should ask for a waiver. She would recommend the Board grant the waiver; this project was vetted as mixed-use it is being changed to two multi-family buildings to make it more saleable. Multi-families are becoming very popular in the Greenbush District now and this seems like a reasonable site design.

Mr. Pritchard said if a waiver is needed for some of the setbacks then the Board should have that.

Mr. Bornstein said generally he does not like to see mixed-use go away, but since it seems to not be working out he opined where this project is located in Greenbush it spills more into a residential neighborhood so the change makes sense to him.

Ms. Burbine asked if the units would be condo's or rentals. Mr. Proctor envisions the site being a mix of condo and rental; the Board needs to opine on that. There was continued discussion about what is affordable for rent; there is a range based on bedrooms and the median income in the town. Ms. Joseph said all the documentation is going to have to be produced; it can be conditioned as it is with other projects.

Mr. Pritchard asked how the trash will be managed. Mr. Proctor said there is no plan for a dumpster. Ms. Lambert said the O&M or Condominium Documents will have to say units are responsible for their own trash, i.e. dump or pick up.

Public Comment:

Mr. Monteiro resident of 9 Jenkins Place commented a dumpster will look unsightly and poses other problems and residents can get a dump sticker.

Ms. Joseph said the Board should be aware that this is a Site Plan Review so there is no density bonus required. She indicated that under the former permit, Mr. Proctor was going to donate \$10,000 to the creation of sidewalks. Mr. Proctor said he would still honor his agreement of the \$10,000.

There was discussion about some manholes that were covered when the sidewalk was completed and the placement of curb cut. Mr. Proctor said the manhole to the pipe has been covered so access is no longer possible; DPW is aware. Ms. Joseph asked if a demo permit will be needed if the curb cut is not in the correct place to pull up some of the new sidewalk. Mr. Proctor said yes, but the sidewalk will be replaced; DPW will need to give Mr. Proctor a curb cut permit and utility permits to get into the street. Ms. Joseph said DPW needs to be made aware of what is being permitted. The water permit has already been pulled.

Ms. Joseph said if the peer review is coming back satisfactory then she will begin writing a decision. She indicated she does not have a list of waivers and will need that in order to write the decision; Mr. Proctor needs to provide a list of waivers.

Motion:

Ms. Burbine moved to accept the applicant's request to continue the Site Plan Administrative Review and Special Permit for Tandem Parking in the Village Center and Neighborhood District-Greenbush Driftway Gateway District- Greenbush Village Center Subdistrict – VCN-GDG-GVC for property located at 14-16 Old Country Way until August 11, 2022 at 6:30 pm and continue the time for action until September 23, 2022.

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

There was discussion about what more Mr. Proctor needs to do in preparation for the next meeting. There was also discussion about the affordable unit that is required; it is a Local Action Unit. Ms. Joseph said a monitoring agent is needed and asked if Mr. Proctor if he had one in mind. Mr. Proctor said there is a lot of paperwork involved and he is still sifting through it, he is open to a recommendation for an agent if the Board has one. Ms. Joseph said that 50 Country Way was the same they used Metrowest Collaborative as their agent.

Ms. Burbine asked if the unit could fall under the Housing Partnership Trust; Ms. Joseph said they are not a monitoring agent. There was discussion about trying to keep the unit local. Mr. Proctor said right now when he calls people for assistance the answer is "no" they are too busy and don't have time. Ms. Joseph said the unit has to be able to be put on the subsidized housing inventory list and meet what is in the zoning bylaw. She said that is why people don't like doing a single affordable unit, but it is the trade-off from going from a mixed-use special permit to a VCN permit where an affordable unit is required.

Ms. Lewis asked if there is anyone doing this at the same time, so there could be some sort of collaboration or is it site specific. Ms. Joseph said the Drew Company needs come up with their units as well and no information has been provided on those units at this point.

The Board thanked Mr. Proctor for coming in.

While waiting to begin the Zoning Public Workshop there was continued discussion about the Local Action Units; the units have to be built and occupied before they can go on the subsidized housing inventory list, it is different than a 40B.

Ms. Lambert mentioned she would like Mr. Sheerin and Mr. Gillespie to come in and provide a status report on Curtis Estates. Ms. Joseph will try to schedule for August 11th. Ms. Lambert said the project just seems to be lingering.

Ms. Joseph gave a rundown of what is planned for the next meeting.

Ms. Burbine asked what is happening with the Gas Station and their utility pole. Ms. Joseph said they are waiting on the utility company. There was discussion about the difficulty with getting gas hookups as well. The bond for the Gas Station is up for renewal next month and Ms. Joseph told the applicant that it will be treated as everything else is, if a surety reduction is requested a list needs to be provided to Board from the applicant's engineer of outstanding items and then it will be peer reviewed and then it can be discussed. The applicant has indicated that once there is electricity the hope is to be open within two weeks. Ms. Joseph indicated there is no as-built yet.

Ms. Joseph said electric and gas have been very difficult; developers are doing their best to get things done, but they are at the mercy of the power companies.

Mr. Bjorklund commented from a Developers point-of-view the Select Board allows the Utility companies to do whatever they want in the town; every time they come to ask to do something the Select Board gives them the “ok” instead of making them do the stuff that should be done first. He said the Select Board needs to not allow the companies to do some stuff so they are forced to do other stuff that needs to get done.

Discussed continued about several projects and the issues with the utility companies.

Mr. Morse commented that when projects are designed they do reach out to the utility companies, but they will not talk about electric or gas connections until there is approval from the Towns; they don’t want to waste their time on a project that might not get approved.

Zoning Public Workshop

Documents

- Email dated 7.7.22 with comments from Greg Morse
- Doc Option 2
- PDF Revised Penthouse Change
- DOC Section 720 CD Bylaw – 4th Redline with Applicability Clause

Ms. Burbine read the legal ad into the record.

Setback/Stepback:

Ms. Joseph indicated this is replacing one diagram with another diagram to show that building height is not 45’; the new figure corresponds with zoning that clearly says the maximum height of a multi-family building is 40’. 45’ buildings are not allowed in Scituate.

Public Comment:

No comments.

Penthouses:

Ms. Joseph said this amendment is to remove penthouses in the VCN. The bylaw clearly states that a penthouse cannot be visible from a sidewalk adjacent to the property. She indicated every proposal that has come before the Board, penthouses have been clearly visible from the sidewalk. She said the Board has previously said penthouses are not applicable to Scituate.

Public Comment:

Mr. Bjorklund asked if the penthouse generally goes above the 40’; the Board said yes. He said then the Board should get rid of them.

Common Driveways:

Ms. Joseph said the Board received copies of the changes filed with the legal ad; an applicability clause was added in, the length was put in a 600', but can be changed if the Board wants. Comments from Mr. Morse and Mr. Bjorklund were also distributed.

Mr. MacLean asked about design standard 720.7.P regarding the grades; maximum is proposed at 7%. The intention is that no location in the driveway would be more than 7%.

Ms. Joseph said the language thus far has been given for the warrant, Ms. Holt knows the public hearing is today with a continuance if needed, currently the plan is to be before the Advisory Board on August 4th. The warrant will be printed later in August and changes can be made up until the warrant goes to print.

Ms. Lambert said the Chair of the Select Board has questioned why Zoning Amendments are being put forth for Special Town Meeting; the Chair feels that Special Town Meeting is for things that are necessary, pertinent and have to be done right away. Ms. Burbine said that has not held true.

Ms. Joseph said it has been discussed with the Select Board Liaison why the Planning Board feels these items need to be taken care of now and hopefully it will be discussed with the other Select Board members.

Mr. Bjorklund reviewed the changes he and Mr. Morse propose and opined the other changes for penthouses and setback/stepback should go through with no problem. He said it happens with every new bylaw as projects come in and you are working through them issues come to light. Ms. Joseph said that is exactly what the Board is doing. He said he has no issue with either of those bylaw changes.

Mr. Morse resident of 167 Tack Factory Pond Drive and local engineer, said that common driveways are a good thing, they are better for public safety, less curb cuts on streets, ideally reducing impervious land coverage and saving vegetation, generally low impact and sustainable development. He said the biggest issue they saw in the change was that all Common Driveways would become special permits. He said what they tried to do in Section 720.1 was to create a set of minimum standards, Section 720.7 design guidelines, length, width, etc., but if an applicant complies with those they can come in for review "by-right" which happens now. If an applicant were to ask for any sort of waiver on those a special permit would be required for those cases.

Ms. Lewis asked for clarification on what Mr. Morse is asking for be by-right and by special permit. Mr. Morse said the proposed change is that all Common Driveways would require a special permit. He said they are requesting to change the proposal to allow Common Driveways by-right if all the standards/criteria under Section 720.7 are met so an applicant could come in for a site plan review and it would not require a special permit approval; if an applicant could not comply with the design standards then a special permit would be required.

Mr. Bjorklund said some of what they added was stuff that has been going on with Common Driveways that the Board either likes or dislikes; they tried to put that in the design criteria, i.e. further setback from the abutting properties, turnarounds near the end of the Common Driveway, the numbers they used are not set in stone and are up for discussion. The proposal really is that if all the criteria are met, then approval should be given just like a subdivision road. Mr. Bjorklund said they

are also trying to open it up a bit, it does not matter how many lots are accessed on a Common Driveway. He said on a private access drive, under a Residential Compound there can be five lots. He provided Arrowwood and Country Way as examples, saying they are 20' drives. He said they are looking to give the Planning Board flexibility. There may be a time when the Board would like to see 4 lots on a common driveway and that immediately becomes a special permit, because only 2 or 3 lots are by-right, if the criteria cannot be met an applicant could come in and it would be at the discretion of the Board. Mr. Bjorklund discussed the length, 400' or 600' it doesn't really matter it could be done as a "matter of right" because it is under the maximum allowed.; they are trying to make the simple ones a simple process; the Board can add criteria in 720. He said he is hoping the Board would move this to the Spring Town meeting. He opined it makes a lot of sense what he and Mr. Morse are proposing even though it does not make all Common Driveways special permits. He said they tried to incorporate everything the Board wants in the criteria to have a site plan review. He doesn't think there should have to be criteria of having a 7% slope, that makes a private drive stricter than a subdivision roadway and a subdivision road is by a "matter of right". He hopes they can come together and keep working on this for a Spring Town Meeting.

Ms. Joseph said it is up to the Board; she opined there should be a limit on the lots, most towns limit to 3 lots, most towns require special permits. She said she would like to get it right; the length and the grades are up to the Board and just because an engineer says it complies doesn't mean the Board things it complies and that has been some of the issue on some of the Common Driveway applications that Board has been seeing. Mr. Bjorklund said that is why a site plan review is needed. Ms. Joseph said some applications say "comply, comply, comply" and she is not sure that is really the case, she said specifically with regards to drainage and the Board has to look at that. She said if the Board needs more time, then it should be put off.

Ms. Lambert said she was in the office the other day and said the applications need to be filled out completely, there should be no guessing.

Ms. Joseph said stormwater is part of a Common Driveway. She opined applications should not be accepted without the stormwater. Applications have been received with just the Common Driveway and then the stormwater; it is a guess if the stormwater does not go to abutting properties. She said they need to come in together and it is reviewed; the stormwater drainage is part of the Common Driveway and then a separate stormwater is not needed. Ms. Joseph opined that is a big issue.

Mr. Bjorklund said Section 720.3 could add a section that says a stormwater permit must be applied for simultaneously with a Common Driveway. He said if there was some more back and further this could all be addressed without making Common Driveways special permits. The criteria are something that can be worked on to make the bylaw work with site plan review. He said with the design standards the Board should be able to approve a Common Driveway with a site plan if all the criteria are met.

Ms. Lambert said the issue is the majority of Towns require a special permit to make sure the stormwater and the Common Driveway all get resolved. She said she is also concerned about limiting the number of lots. She opined this is maybe something that is not ready for Town Meeting.

There was discussion about how many towns have denied a special permit for a common driveway. Ms. Lambert said she would research that. Mr. Bjorklund said chances are if the design criteria is met, a driveway could be built; it is almost like a mini subdivision approval without a full-blown subdivision road. Mr. Bjorklund used Cohasset as an example, that allows 8 lots. Ms. Joseph said

Norwell limits it to 3 lots, so do other towns. Mr. Bjorklund said that is why they are asking the Board to look at it to see what works.

Ms. Lambert took a straw vote if the Board wanted to continue with Common Driveways for Special Town Meeting.

Ms. Lewis asked how many Common Driveways are “simple”. Ms. Joseph said that is part of the issue, there is a difference in opinion as to what is “simple”.

There was discussion on how many Common Driveways have been approved by site plan review versus special permit.

Mr. Pritchard said the current Common Driveway regulations have carved out a certain component that would be done under site plan review and others that would be done under special permit; continuing that concept might not be a bad thing, it is defining what is site plan review versus special permit that needs to happen. He said there maybe disagreement with what the criteria is. He said the primary objective is to make sure the design addresses all of the key issues, he does not necessarily agree with some of the strikeouts of the criteria presented by Mr. Morse and Mr. Bjorklund. The criteria become very important.

Mr. Bjorklund said they want to work with the Board to come up with the criteria.

Ms. Burbine said she knows how much work has gone into this, but feels it should be pushed off until the Spring. She said this has come about because over the last couple of years the Board has had some very difficult times with Common Driveways and it has become very adversarial and it shouldn't be that way.

Ms. Joseph said there is an expedited time schedule for the Spring meeting, it is fine if the Board does not want to do it for the Fall, but the Board needs to keep working on it to have the public hearing in December.

Mr. Bornstein said the Board needs to philosophically decide if Common Driveways should be by special permit and then begin nitpicking through the design standards. He said the members may want to do a little homework to reflect on their opinions, but the Board needs to decide if it is a special permit and if there are waivers then each design standard needs to be flushed out and there is a provision that gets added for stormwater.

Mr. Pritchard agreed with Mr. Bornstein. He said a framework should be built, he suggests there are two components and once the framework is done the design standards can be determined.

Ms. Joseph asked how many lots does the Board think there should be 2 or 3 lots. Mr. MacLean said that is part of the design criteria.

Ms. Lambert said the original question is does the Board want to do this now or move it to Spring; the Board decided to push the change to Spring Town meeting.

Ms. Joseph will withdraw the article from the warrant for Special Town Meeting. She said Common Driveways will be discussed at the August 11th meeting.

There was discussion about working on the Accessory Dwelling bylaw for the Spring Annual Town meeting.

Not additional public comments.

Motion:

Ms. Burbine moved to close the public hearing for proposed Zoning Amendments for Section 720 Common Driveways, Section 750 – deletion and replacement of figure 6 and Section 750.5 A.2.c Penthouses and Section 750.6 B Penthouses.

Ms. Burbine moved to postpone the Common Driveways; Mr. Bornstein seconded the motion; the vote was unanimously in favor.

Documents

- Email to the Board from Shari Young dated 7.8.22 with meeting agenda 7.14.22 and DRAFT minutes for 5.26.22 and 6.9.22
- Email to the Board from Karen Joseph dated 7.8.22 with meeting materials for 7 New Driftway, 14-16 Old Country Way, and Zoning Amendments
- Email to the Board from Karen Joseph dated 7.12.22 with meeting materials for 7 New Driftway/Stockbridge Road.

These items were distributed to the Board electronically.

Ms. Burbine moved to adjourn the meeting at 9:18 p.m. Mr. Bornstein 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