

## **SCITUATE PLANNING BOARD    MINUTES    July 28, 2022**

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

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

Members absent: Rebecca Lewis

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

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

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

### **Documents**

- 7/28/22 Planning Board Amended Agenda

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

---

**Continued - Public Hearing and Public Meeting – Stormwater and Site Plan  
Administrative Review Common Driveway - 803 First Parish Road & Laurelwood  
Drive (Lot 3)  
Assessor's Map/Block/Lot 29-1-2 and 30-1-5K  
Applicant: J. Stephen Bjorklund  
Owner: John T. Murray – 803 First Parish Road and Simeone Properties LLC Lot 3  
Laurelwood Drive**

### **Documents**

- DOC DRAFT Motion Form for WD SPAR

Attendees: Steve Bjorklund, Developer; Greg Morse, Engineer

*Motion:*

Ms. Burbine moved to accept the applicants request to withdraw the application for the Site Plan Administrative Review for a Common Driveway at 803 First Parish Road and Laurelwood Drive (Lot 3) as a Special Permit for the Common Driveway has been filed due to the non-adjointing legal frontage requirement. The application for the Stormwater Permit will now be decided under the Special Permit

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

Ms. Lambert – yes

Mr. Pritchard – yes

Mr. MacLean – yes

Ms. Burbine – yes

Mr. Bornstein - yes

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

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

**Applicant: J. Stephen Bjorklund**

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

**Documents**

- PDF Common Driveway Plan Rev. 6-22-22
- PDF Planting Plan – stamped in
- PDF Revised Common Drive App.
- PDF T1241\_Peer Review #2
- PDF WRPD Zone A Cert
- Doc Common Driveway Agreement-803 First Parish-laurelwood-simeone 071222
- Doc DRAFT 1 Motion CDSP-SW 803 FP Laurelwood FOF-cond
- Doc Transmittal Letter

Attendees: Steve Bjorklund, Developer; Greg Morse, Engineer

Ms. Burbine read the legal into the record.

Mr. Morse provided an overview of the project.

- Project had been presented to the Board at the end of June.
- The original application was withdrawn and resubmitted as a Special Permit because the two lots do not have adjoining legal frontage.
  - He indicated aside from the change to a Special Permit the rest of the project remains unchanged
- Common Driveway accessing over a portion of land at 803 First Parish Road providing access to a new single-family home,
  - The driveway is approximately 291' in length.
  - A peer review with TEC was conducted with and all comments have been satisfactorily addressed.
  - A planting plan has been submitted which specifies the number of shrub plantings within the rain garden area and seed mixes that were recommended by the Board previously.

Ms. Joseph said the planting plan is for a buffer instead of a fence along the stonewall, there is native vegetation, a dry wetlands seed mix was added to the swale so that it wouldn't just be lawn. She said it looks to meet all the zoning bylaw requirements, it was re-advertised as a Special Permit all the requirements under Chapter 40A have been met.

Mr. Bornstein said he reviewed the planting plan, but said there should be more specificity on the seed mix being used; one of the seed mixes is not really a long-term planting mix, but is used just to stabilize the area so that should be reviewed to make sure it is the right one. He opined otherwise the plan looks and a good effort has been made to improve the area as a stormwater BMP and adding

screening along the property line which the abutters will be pleased with in a few years. He also said there should be more specificity around the installation and operation and maintenance plan of the seed mixes to the Contractor on how it is to be done. He said the Seed Houses usually have good specifications or best management practices about how the mixes should be installed and managed; it should be a boilerplate thing that should be added in. Ms. Joseph said it is in the conditions.

Mr. Bjorklund said the mix is what the Board wanted, it is not just the grasses. He said when they designed the plantings they wanted to make sure there as a good buffer, the plantings go from the front to the back, there are a lot of plants and shrubs and he hopes the abutters will be happy with it.

*Public Comment:*

Ms. Tierney, resident of 26 Laurelwood Drive, Norwell, said she got a letter saying she was an abutter. She got the plan from Town Hall, but thought it was very hard to understand and wondered why she was the only abutter notified. Ms. Joseph explained how abutters are determined under Chapter 40A, those within 300'; she said certified lists of abutters were provided from both the Town of Norwell and the Town of Scituate. There was some discussion about the name of one of the abutters on the plan and that they had moved away. Ms. Joseph said the person who gets the notification is as of January 1<sup>st</sup>, 2022 per the Assessor's data.

Mr. MacLean said the last time this was discussed several other abutters were here at the meeting.

Mr. Bjorklund said when the project was initially put in for review the abutter notification was different from what is now required as a Special Permit; when it was first done less people were notified because it was not a Special Permit. He said there are some strange lot lines and it is any lot line within 300'. He said that was done and if there is an issue with the Assessor's information it is not on the Developer.

Ms. Tierney said she looked at the plan, but is having a hard time visualizing where the driveway is going to be. Mr. Morse reviewed the plan and pointed out where the drive will be; he said the existing curb cut at 803 First Parish Road will be closed off and a new curb cut will be put in so that 803 and the new house will use the same driveway, it will split to go to 803 and then continue up to the new house location. He said the new house is over 250' off of Laurelwood Drive, the frontage is on Laurelwood Drive, there is a wetland and a 100' buffer zone and the proposal is outside of that. The frontage area is immediately after the detention basin. He said this house is serviced by its own septic system it does not have any impact on the shared system at Laurelwood Drive.

Mr. Averill resident of 10 Laurelwood Drive, Norwell, asked about the wetlands and where the concern was. Mr. Bjorklund said there is another lot owned by Laurelwood LLC that is below the line shown on the plan which also has wetlands along the front. He said they do not own that lot and are not proposing anything on the lot, so there is nothing that will happen on Laurelwood Drive that is why the access is off of First Parish Road.

Mr. Averill again asked what the concern was. Mr. Morse pointed out the lot line to an abutter where the screening was placed; the proposal is to put vegetation as screening for the driveway along the lot line for the abutter.

Mr. Banister resident of 797 First Parish Road said the entire driveway abuts his property and they prefer the natural screening versus a fence.

Mr. Morse added that all utilities for the house come from Scituate; the common driveway and new house is not serviced through Norwell or Laurelwood Drive, it all comes off First Parish Road. He said the view up Laurelwood Drive will not change, a stormwater analysis has been done, drywells are proposed for roof gutters, there is drainage along the driveway so there will be no impact to down gradient abutters or Laurelwood Drive.

*Motion:*

Ms. Burbine moved to make the following Findings of Fact:

1. J. Stephen Bjorklund (the "Applicant") filed an application for a Site Plan Administrative Review for a Common Driveway less than 500 feet to serve two lots at 803 First Parish Road and Lot 3 Laurelwood Drive known as Assessor's Map/Block/Lot 29-1-2 and 30-1-5-K (the "Property") with the Town Clerk on May 26, 2022. It was determined after consultation with Town Counsel that a Special Permit was required as the lots did not have adjoining legal frontage. An application for a common driveway special permit for a Common Driveway less than 500 feet long to serve two lots without adjoining legal frontage was filed with the Town Clerk on July 6, 2022. The Applicant's deeds are recorded with the Plymouth County Registry of Deeds at Book 10726, p.174 for 803 First Parish and Book 17804 Page 33-35 and Land Court Plan 40262D.
2. One Common Driveway is proposed (the "Common Driveway"). According to the application which measures the drive from the property line, the length of it is 291' long. It serves 2 lots without adjoining legal frontage.
3. The property at 803 First Parish Road contains 52,014 sq. ft. of upland according to the plan and is in the Residence R-1 Zoning District and Water Resource Protection District. Lot 3 has 51,426 sq. ft. of land of which 47,576 sq. ft. is upland. This is also in the R-1 Zoning District and Water Resource Protection District.
4. The site is in the Water Resource Protection District. The zoning bylaw establishes a Water Resource Protection District "to include areas significant to the Town's drinking water supply source which require zoning protection." The Water Resource Protection District requires "all runoff from impervious surfaces to be recharged on the site, diverted toward areas covered with vegetation from surface infiltration to the extent possible or as otherwise directed from the Scituate DPW and Scituate Conservation Commission." 1" of roof runoff is recharged and the first inch of runoff is recharged for all impervious areas according to DEP requirements.
5. The zoning bylaw prohibits rendering impervious any lot/parcel more than 15% or 2,500 sq. ft., whichever is greater, unless a system of artificial recharge is provided that will not result in degradation of water quality. The plans show that 803 First Parish Road will have 7,250 sq. ft. or 13.9% of the lot and Lot 3 Laurelwood Drive will have 3,400 sq. ft. or 6.6% of the lot as impervious. The engineer indicates the water quality will not be degraded as evidenced in a signed and stamped certification by engineer Gregory J. Morse, P.E. dated July 11, 2022.
6. Under the Stormwater bylaw, Section 32050 of the General Bylaws, all development and redevelopment projects that will disturb over 15,000 sq. ft. of land in a Residential zoning district, render 25% or more of an undeveloped lot impervious or increase the impervious area of a developed lot by 25% or more, even if it is conducted over separate phases and/or by separate owners require a Stormwater Permit. The proposed total impervious area of the

two lots is 10,650 sq. ft. The existing of 2,715 sq. ft. is an increase of 144.4% according to the application and certification which is approximately 10.7% of the two lots combined. The proposed area of disturbance for re-grading or clearing is 40,320 sq. ft. or approximately 40% of the two lots combined. 90% TSS removal has been provided and adequate recharge has been provided.

7. The standards of the Common Driveway indicate that the location and construction of the Common Driveway should minimize soil disturbance, vegetation removal, and drainage impacts, and preserve existing trees over 12" caliper and other natural features of special significance. The plan shows at least 10 large trees over 12" which will be removed for the Common Driveway. Pictures provided by the Applicant show the trees are in declining health. A tree line of trees to remain on the properties is shown. The plan indicates a majority of the Common Driveway is in previously disturbed area of 803 First Parish. Based on the Findings of Fact presented in numbers 1-6, the Common Driveway meets the standards of Section 720.7A
8. The Common Driveway is 16 feet in width from Sta 0+00 to Sta 0+ 66 according to the plan. One side has a two-foot grass shoulder and the other side contains a two-foot wide pea stone diaphragm from Sta 0+50 to the remaining length of the Common Drive. The Common Driveway is 12' wide from Sta 0+66 to Sta 3+ 09. The Deputy Fire Chief has determined that the turnaround and the 12-foot-wide driveway beyond the turnaround leading to Lot 3 Laurelwood Drive is adequate. The requirements of Section 720.7B have been met.
9. The Common Driveway is accessed from First Parish Road, a public road in Scituate. The Common Driveway is not connected to any other Common Driveway. The Common Driveway meets the requirements of Section 720.7 C.
10. The Common Driveway shall be located in an easement which allows space for installation of water lines and utilities. The water line and electric line are shown to be in the Common Driveway easement. No other utilities are shown. Utilities are shown as underground utilities. The Common Driveway meets the requirements of Section 720.7 D.
11. The Common Driveway cross section shows a top course of 1 ½" of bituminous concrete top course Type I-1 over a 1 ½ bituminous base Type I-1 over a 12" processed gravel base Type C gravel borrow per Mass DOT Spec M1.03.1. The Common Driveway meets the requirements of Section 720.7 E.
12. The Common Driveway is approximately 291' long measured from end of the hammerhead to the property line. This is less than 1000 feet and meets the requirements of Section 720.7 F.
13. A Stormwater Permit has been filed simultaneously with the Common Driveway Special Permit. The plan indicates there is no increase in rate or volume of stormwater to abutting properties. The site is in the Water Resource Protection District, so the Board must review the adequacy of measures proposed to maximize recharge and surface infiltration of surface runoff from impervious surfaces and the diversion of runoff toward vegetated areas. The Applicant has stamped and certified there will be no increase in rate or volume of runoff to abutting properties for the 1, 2, 10 and 100 year 24-hour storm events. TEC (The Engineering Group) has indicated the abutting properties shall not exceed that which existed prior to construction of the Common Driveway and the home to be constructed on Lot 3. The Common Driveway meets the requirements of Section 720.7 G. As the site is in the Water Resource Protection District, infiltration of surface runoff is maximized by a pea stone diaphragm, a grassed rain garden and underground infiltration chambers.

14. No impervious areas are proposed to be located above the major components of the proposed septic system. The Common Driveway appears to meet the requirements of Section 720.7 H. as no impervious areas are above the proposed septic system for Lot 3 and the existing cesspool for 803 First Parish. The proposed septic system will be required to meet all of the Board of Health requirements. The standards of review for Section 720.7 H are met.
15. The Common Driveway will be buffered via vegetation from the adjacent single-family house at 797 First Parish Road. A planting plan has been submitted by ECR, LLC showing a buffer of native saplings and shrubs, evergreen and deciduous, commonly found in upland forested environments. This should buffer the adjacent single-family home. The Common Driveway meets the requirement of Section 720.7 I for screening and reducing visual impacts.
16. A turnaround for emergency vehicles shall be provided with a minimum length of 30' and width of 20' in locations approved by the Fire Chief. The Scituate Deputy Fire Chief indicated there was no issue with the turnaround. The Fire Department is requiring a hydrant to be located at the entrance to the Common Driveway. The Common Driveway meets the requirements of Section 720.7 J.
17. The Common Driveway Plan 803 First Parish Road and Lot 3 Laurelwood Drive in Scituate MA dated May 10, 2022 with revisions through June 22, 2022 shows the stopping sight distance requirements at the Common Driveway entrance have been met for the posted speed limit of 20 mph and American Association of State Highway and Transportation Officials (AASHTO) standards are met. The Common Driveway meets the requirements of Section 720.7 K.
18. Lot width for lots served by a Common Driveway may be measured parallel to the Common Driveway, except in the case of fifty-foot frontage lots. The lot width of Lot 3 is specified as 176.8' and is not measured parallel to the Common Driveway, but parallel to the frontage. Lot 3 is not a 50-foot frontage lot. 803 First Parish has a lot width of 194' meeting the requirements. The Common Driveway meets the requirements of requirements of Section 720.7 L.
19. Based on these findings and information submitted by the applicant and reviewed by the Board, the Common Driveway meets the requirements of Section 720 of the Scituate Zoning Bylaw

Mr. Pritchard seconded the motion as amended; there was a roll call vote, the vote was unanimously in favor.

Ms. Lambert – yes  
Mr. Pritchard – yes  
Mr. MacLean – yes  
Ms. Burbine – yes  
Mr. Bornstein - yes

Based upon the testimony presented at the Public meetings and public hearing, application and plans, minutes of the meetings, documents and comments submitted and the Findings of Fact, I move to approve the Special Permit for a Common Driveway and Stormwater Permit at 803 First Parish Road and Lot 3 Laurelwood Drive subject to the following conditions:

1. The Common Driveway shall be constructed according to plans entitled Common Driveway Plan 803 First Parish Road & Lot 3 Laurelwood Drive in Scituate, MA dated May 10, 2022 with revisions through June 22, 2022 consisting of 2 sheets prepared for applicant J. Stephen Bjorklund by Morse Engineering Co., Inc.; Stormwater Permit Application for 803 First Parish Road dated May 10, 2022 with revisions through June 21, 2022 inclusive of all information including calculations operation and maintenance information, Cultec stormwater chamber information; all cover letters with submittals; Proposed Vegetative Screening Plan 803 First Parish Road & Lot 3 Laurelwood Drive, Scituate by ECR, LLC dated July 8, 2022 and as further revised to meet these conditions. A copy of the approved plans and conditions shall be kept on the site at all times during construction.
2. 803 First Parish Road and Lot 3 Laurelwood Drive shall access over the Common Driveway as depicted on the plans. No further extensions or attachments of any other roadways or Common Driveways, or other access to any other lots besides those created by the plan shall be permitted without approval of the Planning Board. The Common Driveway shall remain private in perpetuity and shall never be considered for acceptance as a Town road and that all maintenance and repair of the Common Driveway and drainage facilities shall be the responsibility of the owners of the property. A note shall be placed on the plan and deed for each lot serviced by the Common Driveway stating the above with proof provided to the Planning Board prior to occupancy of the new unit on Lot 3.
3. The Applicant shall mean the current applicant and all its successors in interest. This Common Driveway Special Permit and stormwater permit shall lapse within two years from the date of its issuance, which shall not include such time required to pursue or await the determination of appeal under Mass General Laws Chapter 40A, from the grant thereof unless substantial use or construction has commenced prior to that time in accordance with MGL Chapter 40A, Section 9. The Planning Board may extend such period, for good cause shown, upon receiving a written request from the Applicant prior to the expiration of said period, which shall provide a detailed description of good cause necessitating an extension. The Planning Board office must receive written notification at least one week prior to any change of ownership of the property occurring during construction.
4. Copies of this approval including the plans and Common Driveway Easement shall be provided to subsequent owners who shall be advised of the need for maintenance of the Stormwater System per the Operation and Maintenance Plan and the need to retain the grading on the lot as approved. Prior to the transfer of the property, the owner shall provide to the subsequent owner and the Planning Office an inspection report certified by a professional engineer showing compliance with the Operation and Maintenance Plan. The Planning Office must receive written notification within least one week of any change in ownership of the property during construction.
5. There shall be no further division or subdivision of any lot shown on the plan for purposes of constructing additional units or buildings; there shall be no further expansion of any building or impervious surface on the site; no swimming pools are allowed without further review; no additional dwelling units shall be added; no additional expansion of the limit of work is allowed without further approval of the Scituate Planning Board.
6. The Applicant shall consent to allow members and Town officials from the Planning Board and other persons acting under the Planning Board or its agents, to enter upon any lands and carry out

such surveys and inspections as may be deemed necessary, and place and maintain monuments. The Applicant shall cooperate with the Planning Board and Town officials and assist them in their effort to verify that the layout, design and construction work are satisfactory and conform to Town specifications and requirements of the Board.

7. Prior to the pre-construction conference, the applicant must obtain all necessary approvals and meet all requirements from the Board of Health (BOH), Conservation Commission, Fire Department, Building Department and Department of Public Works (DPW), and these shall be deemed conditions of the Planning Board approval. Any state and federal permits must be obtained if required and supplied to the Planning Board Office prior to scheduling the preconstruction conference and are also deemed to be conditions of the Planning Board approval. This includes a NPDES Permit.
8. Construction shall meet all requirements of the Scituate Zoning Bylaw. All contractors are responsible for all conditions shown on the plans and in the written decision.
9. No new in ground irrigation systems shall be allowed to connect to the Town's water distribution system or in any manner use municipal water. In accordance with this policy rule, all irrigation systems installed in Scituate must be supplied by on-site sources at the expense of the property owner. Fines for violating this rule may be levied on the homeowner as well as the system installer.
10. The septic system for Lot 3 shall meet all the requirements of Title V and 310 CMR 22 including a reserve area. Any changes to the plan necessitated by compliance with any BOH provision, requires notification of the Town Planner to determine if the change is significant and requires further input from the Planning Board.
11. No work is allowed beyond the limit of work/tree line without approval of the Planning Board. The entire limit of work is to be staked with erosion control during construction. Fines shall be imposed for disturbance beyond the limit of work and any disturbance beyond the limit of work will be subject to full restoration with a restoration plan to be submitted to and approved by the Planning Board.
12. The Post Construction Operation and Maintenance Plan shall be strictly adhered to so that 90% Total Suspended Solid (TSS) removal is achieved at all times. An annual report is to be provided to the Planning Board yearly by June 30 certifying all required maintenance has been completed per the plan.
13. All utilities shall be placed underground for the Common Driveway and Lot 3.
14. The recharge chambers shall be installed to have the bottom elevation a minimum of three feet above seasonal high groundwater elevations. Stormwater during construction as well as after construction is not allowed to increase in rate or volume to adjacent properties, the street or offsite.
15. A stabilized construction entrance shall be installed prior to any work on the site and shall be maintained throughout construction to prevent dirt tracking onto the road.
16. No sediment (including silty water) shall be allowed to leave the site during construction.



17. A vegetated buffer shall be installed adjacent to the stonewall along the east property line as depicted on a plan entitled Proposed Vegetative Screening Plan, 803 First Parish Road & Lot 3 Laurelwood Drive, Scituate prepared by ECR, LLC dated July 8, 2022. No substitutions are allowed without written permission of the Town Planner/Planning Board. The vegetative buffer must be maintained to be living for the foreseeable future.
18. The bottom of the grassed rain garden swale shall be vegetated with New England Erosion Control Restoration Mix for dry sites augmented with a showy wildflower mix or approved equivalent. The Operation and Maintenance Plan shall be revised to include manufacturers recommendations for installation and maintenance of this seed mix.
19. The roof top runoff infiltration chambers, pea stone diaphragm and rain garden swale must be retained and maintained as designed as they are components of the stormwater system. Maintenance must be per the approved Post Construction Phase Operation and Maintenance Plan. Proper maintenance of the systems is required beyond the issuance of a Certificate of Completion.
20. Any condition contained herein that varies from the plans supersedes the plans where different.
21. A sign shall be placed at the entrance of the Common Driveway prior to occupancy clearly depicting the house numbers. House numbers must be clearly visible at all times for emergency response purposes.

### **Common Driveway Agreement**

22. A Common Driveway Agreement shall assign to the owner of Lot 3 Laurelwood Drive the responsibilities and costs of maintenance and repair of the Common Driveway (including snowplowing), as well as the pea stone diaphragm and grassed rain garden, and all other drainage devices, grading and all other improvements for stormwater management in the Common Driveway Easement. (This particular agreement does not have 803 First Parish as a party to costs and responsibilities for maintenance)

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

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

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

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

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

### **Construction**

25. A pre-construction conference will be required prior to the start of construction including the Planning Board's consulting engineer, a representative of DPW, the site design engineer, the applicant, the owner, the site contractor and the Town Planner.
26. Prior to scheduling the pre-construction conference, the applicant shall provide to the Town Planner:
  - a. Recorded copy of the plan, decision and Common Driveway Agreement at the Plymouth County Registry of Deeds and proof of recording;
  - b. An initial deposit with the Town Planner of \$5,000 under G.L. c. 44 s 53G to secure construction review and inspections by the Town of Scituate consulting engineer. The deposit shall be applied toward the cost of construction inspections for the common driveway and stormwater improvements. The specific amount provided to the Planning Department shall be based on the consulting engineer's estimate and shall be subject to amendment from time to time and be supplemented by the Applicant as requested;
  - c. The Applicant shall provide surety for \$10,000 in a form acceptable to the Planning Board prior to beginning construction of the Common Driveway to guarantee completion of the common driveway(s), the drainage system(s), site work, landscaping and clean-up of the site and compliance with the stormwater plan and conditions. After the Town Planner has inspected the site and found grading, loaming and seeding, clean-up of earth materials and construction debris to be complete along with the as-built approved and a Certificate of Completion issued, these funds shall be returned to the Applicant; and
  - d. A schedule of construction activities including approximate dates for installation of erosion control and other site stabilization features for all phases of the project and all applicable items in the Subdivision Rules and Regulations 9.1.3 shall be given to the Town Planner and the Owner of Lot 3 shall provide funds to cover the cost of inspections and attendance at the pre-construction conference by the Town's consulting engineer. Temporary drainage measures shall be provided onsite in the initial phase of construction prior to house construction.
27. The Town Planner is to be notified when construction begins and when construction is completed.
28. Prior to scheduling the preconstruction conference, the Applicant shall provide the Town Planner with permits from the Scituate DPW for street openings and a curb cut. Installation of all water mains and appurtenances shall be performed according to the specifications of the DPW Water Division. Any upgrades, modifications, or connections shall be at the Applicant's expense. The

consulting engineer along with the Town shall review the construction activity to assure compliance with the Town's rules and regulations.

29. The property line and boundary of the limit of clearing shall be marked or flagged in the field under the direction of a surveyor and notification given to the Town Planner and Consulting Engineer a minimum of five days prior to the start of construction. The property line and limit of clearing shall remain staked in the field throughout construction.
30. All clearing and earth moving operations shall only occur while erosion and sedimentation control measures, approved by the Town Planner and shown on the plan are in place. Such control measures shall remain in place until the Town Planner determines that the danger of erosion or sedimentation no longer exists.
31. Any proposed changes in grading and drainage from the approved plan must be reviewed by the Town Planner and Town's consulting engineer to determine if they are materially significant. The Applicant's Engineer shall certify that such changes shall result in no impact on the drainage system and shall not increase runoff onto First Parish Road, abutting lots, or the rate and volume of the post condition from the predevelopment condition.
32. All proposed lawns and swale areas shall have a minimum of 6" of clean screened loam.
33. There shall be no flow to the subsurface systems until the tributary area is stabilized.
34. No use of hydrants on-site or on adjacent roads off-site is allowed for construction use. A hydrant may be available at the water treatment plant for construction use if water supply allows and permission is obtained from DPW.
35. The inspections for this development will be done in accordance with Section 9.1.3 of the Town of Scituate Subdivision Rules and Regulations as modified in the next sentence. The Town's consulting engineer shall perform these inspections with costs paid by the Owner of Lot 3. All required inspections shall take place and be inspected by the consulting engineer including water lines (along with DPW). Timely reports shall be submitted to the Planning Board stating results of all required inspections unless more frequent reports are needed. 48 hours minimum advance notice is required for all inspections. All stormwater recharge structures require inspection of the bottom of the excavation by the consulting engineer. SWPPP inspections for the NPDES permit by the applicant must be submitted after every ½" storm.
36. Construction of the Common Driveway, site drainage systems, grading and water system shall be supervised by a registered professional engineer approved by the Planning Board who shall certify in writing to the Planning Board at completion that the driveways, grading, drainage structures and utilities were constructed in accordance with the approved plans. This certification shall be accompanied by as-built plans, signed and stamped by a registered professional land surveyor and the supervising professional engineer. No Certificate of Occupancy shall be issued until the Planning Board is satisfied that access, construction of the driveways, grading, installation of drainage structures and stormwater management features, installation of utilities and site stabilization are in full compliance with the approved plans and permit. The stormwater system must be functioning in accordance with design requirements and the as-built certification must include a statement that any variation in grade is immaterial and

does not materially alter the performance of the stormwater system. All grading and landscaping must be submitted prior to the final as-built submittal.

37. Grade stakes shall be provided for inspection of the consulting engineer prior to gravel and shall remain for inspection through final paving installation.
38. Prior to the issuance of an occupancy permit, the Board's Consulting Engineer shall inspect the lots and notify the Board and Building Commissioner that the Common Driveway, grading drainage, site utilities and stabilization conforms to that shown on the Common Driveway and Stormwater Permit Plan.
39. Construction work shall not begin prior to 7 am on weekdays and 8 am on weekends and shall cease no later than 7 pm or sunset whichever is earlier. No construction is permitted on Sundays and federal and legal state holidays. Construction work includes any operation of machinery and idling of vehicles. The name and phone number of a 24-hour contact shall be provided to the Town Planner, Building Department, Police Department and Department of Public Works to be used in the event of an emergency prior to the preconstruction conference.
40. There shall be no parking, loading or unloading of construction equipment, staging or idling of vehicles on First Parish Road or Laurelwood Drive or adjacent public roads during construction unless a Police Detail is provided if warranted as determined by the Police Department.
41. Stockpiles shall be located as shown on the plans and must be protected with erosion controls including but not limited to silt socks and temporary seeding.
42. Construction activities shall be conducted in a workman like manner at all times. Noise mitigation and proper dust controls shall be implemented so that levels conform to Mass DEP policies. All equipment that emanates sound shall be kept in proper working order through regular maintenance. Street sweeping shall be used to control dust from leaving the site. A wheel wash station may be required to prevent sediment from leaving the site. Blowing dust or debris shall be controlled by the Applicant through stabilization, wetting down or other proper storage and disposal methods.
43. Construction activities on site shall conform to Town of Scituate General Bylaws.
44. Sight lines on First Parish Road shall be maintained per the plans.
45. All construction shall comply with all applicable requirements of the Water Resource Protection District in Section 520 of the Zoning bylaw. No finished slope shall exceed 4:1.
46. No Certificate of Occupancy shall be issued until both the Planning Board and Building Commissioner are satisfied that access, construction of the Common Driveway and installation of necessary utilities are in full compliance with the approved plans and the Special Permit conditions.
47. If the drainage system is not performing as designed and conditioned or stormwater is observed going to abutting properties or to the street, the Stormwater Authority can request necessary mitigation to remedy the situation. This condition applies to all construction activities and survives the issuance of a Certificate of Completion.

## **Administration**

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

Mr. MacLean seconded the motion as amended; a roll call vote was taken and was unanimously in favor. Minor changes were made to the motion and the minutes reflect the final wording.

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

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

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

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

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

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

## **Documents**

- PDF 20-401-Transmittal – 7.5.22
- Doc DRAFT Motion CD-SPAR-SW 93 Elm Lot 6-1
- Doc DRAFT Motion CD-SPAR-SW 93 Elm Lot 5-1
- PDF 20-401-Lot 5 Elm-Stormwater-7.5.22
- PDF 20-401-Lot 6 Elm-Stormwater – 7.5.22
- PDF 20-401-Lots 5 & 6 Elm- Common Driveway-7.5.22
- PDF 20-401- Illicit Discharge Statements – 6.22.22
- PDF 20-401 – Peer Review Letter – 6.22.22
- PDF 20-401- Lot 5 Elm- O&M – 6.22.22
- PDF 20-401 – Lot 6 Elm- O&M- 6.22.22
- PDF 20-401- Lot 6- Stormwater Report- 6.15.22
- PDF 20-401 – Lot 5-Stormwater Reprot-6.15.22

Attendees: Greg Morse, Engineer; Cristina & Robert Counihan, Owners

Mr. Morse indicated this is a Stormwater and Common Driveway application for Lots 5 & 6 at 93 Elm Street, the plan was discussed at the end of June with Board and reviewed by Horsley Witten Group and all comments have been satisfied. He said the plan provides access to two single-family homes and it complies with the bylaw.

Ms. Lambert asked how much fill will be brought in. Mr. Morse estimates it will be 600-700 yards of fill across the site.

Ms. Joseph said there is a lot of fill being brought in, but the Town does not have anything limiting fill. She explained that because this was submitted as a Common Driveway and two separate Stormwater Permits; however, each Lot will have a combined Common Driveway and Stormwater Permit Decision. All the conditions that were just read for the previous project are the same, but have been tailored to read “Elm Street”. There was discussion that just the Findings of Fact would be read and all the changes made in the last permit will be made to these permits where they apply. She said there are some slightly different Findings of Fact for each lot.

*No public comment.*

*Motion 93 Elm Street Lot 5:*

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

1. Cristina & Robert Counihan (the “Applicant”) filed an application for a Site Plan Administrative Review for a Common Driveway less than 500 feet long to serve two lots with adjoining legal frontage and a Stormwater Permit for Lots 5 and 6 Elm Street known as Assessor’s Map/Block/Lot 44-2-17 (the “Property”) with the Town Clerk on May 25, 2022. The Applicant’s deed is recorded with the Plymouth County Registry of Deeds at Book 54250, p. 116.
2. One Common Driveway is proposed (the “Common Driveway”). According to the revised plan dated July 5, 2022 which measures the drive from the property line, the length of it is 118’. It serves 2 lots with adjoining legal frontage.
3. Lot 5 Elm Street contains 20,001 sq. ft. of land of which all of it is upland according to the Common Driveway Plan. The lot is in the Residence R-2 Zoning District. A portion of Lot 5 is in the Water Resource Protection District (WRPD) and portions are also in Zone A. The Planning Board endorsed a Form A Plan creating lots 5 and 6 on March 24, 2022.
4. Portions of Lot 5 are in the Water Resource Protection District and Zone A. The zoning bylaw establishes a Water Resource Protection District “to include areas significant to the Town’s drinking water supply source which require zoning protection.” The Water Resource Protection District requires “all runoff from impervious surfaces to be recharged on the site, diverted toward areas covered with vegetation from surface infiltration to the extent possible or as otherwise directed from the Scituate DPW and Scituate Conservation Commission.” 1” of roof runoff is recharged for the entire roof. The first inch of runoff is recharged on Lot 5 for all impervious areas according to DEP requirements. The proposed stormwater management practices are located outside of the DEP Zone A and WRPD.
5. The zoning bylaw prohibits rendering impervious any lot/parcel more than 15% or 2,500 sq. ft., whichever is greater, unless a system of artificial recharge is provided that will not result in degradation of water quality. This is further restricted in the Zone A to no more than 20%

with artificial recharge. Lot 5 shows less than 15% impervious with 13.5% impervious. A certification of water quality has not been provided as there is less than 15% impervious.

6. Under the Stormwater bylaw, Section 32050 of the General Bylaws, all development and redevelopment projects that will disturb over 15,000 sq. ft. of land in a Residential zoning district, render 25% or more of an undeveloped lot impervious or increase the impervious area of a developed lot by 25% or more, even if it is conducted over separate phases and/or by separate owners require a Stormwater Permit. The proposed total impervious area of Lot 5 is 2,701 sq. ft. (as indicated in the application). There is currently 1,661 sq. ft. of impervious area on Lot 5, thus there is an increase of 62.6%. The proposed area of disturbance for re-grading or clearing is 12,828 sq. ft. according to the application or approximately 64% of the site for Lot 5. 80% TSS removal has been provided and adequate recharge has been provided for Lot 5 for the driveway area.
7. The standards of the Common Driveway indicate that the location and construction of the Common Driveway should minimize soil disturbance, vegetation removal, and drainage impacts, and preserve existing trees over 12" caliper and other natural features of special significance. The plan shows soil disturbance and vegetation removal for constructing the Common Driveway, its' drainage systems, and two four-bedroom single family dwellings, two septic systems and one pool. Fill is needed to construct the site. Anywhere from 1- 6' of fill will be brought in to construct the two lots as shown. At least two trees over 12" caliper must be removed. The proposed stormwater management system has been reviewed by the Town's consulting engineer, Horsley Witten Group whose comments indicate the stormwater system is adequately addressed. Based on the Findings of Fact presented in numbers 1-7, the Common Driveway meets the standards of Section 720.7A
8. The Common Driveway is 16 feet in width for 99 feet, just passed the separate driveway for Lot 5. The driveway has been reduced to 12 feet up to the Lot 6 house. The Common Driveway Section includes two-foot grass shoulders on each side. The Fire Department has indicated that the width is acceptable to service two lots. The Common Driveway meets the requirements of Section 720.7B.
9. The Common Driveway is accessed from Elm Street, a public road in Scituate. The Common Driveway is not connected to any other Common Driveway. The Common Driveway meets the requirements of Section 720.7 C.
10. The Common driveway shall be located in an easement which allows space for installation of water lines and utilities. The water line and electric line are shown to be in the Common Driveway easement as well as the gas line for Lot 6. Utilities are shown as underground utilities. Lot 5 utilities are shown coming in from Elm Street. The Common Driveway meets the requirements of Section 720.7 D.
11. The Common Driveway cross section shows a top course of 1 ½" of bituminous concrete top course Type I-1 over a 1 ½ bituminous binder Type I-1 over a 12" compacted sorted gravel sub-base. Frost free subgrade shall be provided between the sub-base and parent material. The Common Driveway meets the requirements of Section 720.7 E.
12. The Common Driveway is approximately 118' long measured from the property line to Sta 1+ 46, a location approximately 30' beyond the driveway for Lot 5. This is less than 1000 feet and meets the requirements of Section 720.7 F.
13. A Stormwater Permit has been filed simultaneously with the Common Driveway Special Permit. The plan indicates there is no increase in rate or volume of stormwater to abutting

properties. The site is in the Water Resource Protection District, so the Board must review the adequacy of measures proposed to maximize recharge and surface infiltration of surface runoff from impervious surfaces and the diversion of runoff toward vegetated areas. The Applicant has stamped and certified there will be no increase in rate or volume of runoff to abutting properties for the 1, 2, 10 and 100 year 24-hour storm events. Horsley Witten Group has indicated the stormwater management system will work and runoff draining to abutting properties shall not exceed that which existed prior to construction of the Common Driveway and development on Lot 5. The Common Driveway meets the requirements of Section 720.7 G. As the site is partially in the Water Resource Protection District, infiltration of surface runoff is maximized by underground infiltration chambers for the entire roof area of Lot 5 and the driveway.

14. No impervious areas are proposed to be located above the major components of the proposed septic system. The Common Driveway meets the requirements of Section 720.7 H. as no impervious areas are above the proposed septic system. The proposed septic system will meet all of the Board of Health requirements. The standards of review for Section 770.6 H are met.
15. The Common Driveway will be buffered by vegetation from the adjacent single-family house at 91 Elm Street. The Common Driveway Plan shows four red cedar plantings to enhance the existing vegetation to remain along the easterly edge of the Common Driveway. This should buffer the adjacent single-family home. The Common Driveway meets the requirement of Section 720.7 I. for screening and reducing visual impacts.
16. A turnaround for emergency vehicles shall be provided with a minimum length of 30' and width of 20' in locations approved by the Fire Chief. The Scituate Deputy Fire Chief indicated there was no issue with the turnaround. The Common Driveway meets the requirements of Section 720.7 J.
17. The Common Driveway Plan 93 Elm Street (Lots 5 & 6) in Scituate MA dated July 5, 2022 shows the stopping sight distance requirements at the Common Driveway entrance have been met for the posted speed limit of 25 mph and American Association of State Highway and Transportation Officials (AASHTO) standards are met. The Common Driveway meets the requirements of Section 720.7 K.
18. Lot width for lots served by a Common Driveway may be measured parallel to the Common Driveway, except in the case of fifty-foot frontage lots. The lot width of Lot 5 is specified as 167.50' and is measured parallel to the Common Driveway. Lot 5 is not a 50-foot frontage lot. The Common Driveway meets the requirements of requirements of Section 720.7 L.
19. Based on these findings and information submitted by the applicant and reviewed by the Board, the Common Driveway meets the requirements of Section 720 of the Scituate Zoning Bylaw.

Mr. MacLean seconded the motion as amended; a roll call vote was taken and was unanimously in favor.

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



Based upon the testimony presented at the Public meetings and public hearing, application and plans, minutes of the meetings, documents and comments submitted and the Findings of Fact, I move to approve the Site Plan Administrative Review for a Common Driveway and Stormwater Permit at 93 Elm Street Lot 5 subject to the following conditions:

1. The Common Driveway and Lot 5 shall be constructed according to plans entitled Common Driveway Plan 93 Elm Street (Lots 5 & 6) in Scituate, MA dated July 5, 2022 consisting of 2 sheets prepared for applicant Cristina & Robert Counihan by Morse Engineering Co., Inc.; Stormwater Site Plan Lot 5 Elm Street dated 5/10/22 with revisions through July 5, 2022 by Morse Engineering Co., Inc.; Stormwater Permit Application for proposed New Single Family Dwelling Lot 5 Elm Street dated May 10, 2022 with revisions through June 15, 2022 inclusive of all information including calculations, operation and maintenance information, Cultec stormwater chamber information ; all cover letters with submittals and as further revised to meet these conditions. A copy of the approved plans and conditions shall be kept on the site at all times during construction.
2. 93 Elm Street Lot 5 & Lot 6 shall access over the Common Driveway as depicted on the plans. No further extensions or attachments of any other roadways or Common Driveways, or other access to any other lots besides those created by the plan shall be permitted without the approval of the Planning Board. The Common Driveway shall remain private in perpetuity and shall never be considered for acceptance as a Town road and that all maintenance and repair of the Common Driveway and drainage facilities shall be the responsibility of the owners of the property. A note shall be placed on the plan and deed for each lot serviced by the Common Driveway stating the above with proof provided to the Planning Board prior to occupancy of the first unit.
3. The Applicant shall mean the current applicant and all its successors in interest. This Common Driveway Special Permit and Stormwater Permit shall lapse within two years from the date of its issuance, which shall not include such time required to pursue or await the determination of appeal under Mass General Laws Chapter 40A, from the grant thereof unless substantial use or construction has commenced prior to that time in accordance with MGL Chapter 40A, Section 9. The Planning Board may extend such period, for good cause shown, upon receiving a written request from the Applicant prior to the expiration of said period, which shall provide a detailed description of good cause necessitating an extension. The Planning Board office must receive written notification at least one week prior to any change of ownership of the property occurring during construction.
4. Copies of this approval including the plans and Common Driveway Easement shall be provided to subsequent owners who shall be advised of the need for maintenance of the Stormwater System per the Operation and Maintenance Plan and the need to retain the grading on the lot as approved. Prior to the transfer of the property, the owner shall provide to the subsequent owner and the Planning Office an inspection report certified by a professional engineer showing compliance with the Operation and Maintenance Plan. The Planning Office must receive written notification within least one week of any change in ownership of the property during construction.
5. There shall be no further division or subdivision of any lot shown on the plan for purposes of constructing additional units or buildings; there shall be no further expansion of any building or impervious surface on the site; no swimming pools are allowed without further review; no

additional dwelling units shall be added; no additional expansion of the limit of work is allowed without further approval of the Scituate Planning Board.

6. The Applicant shall consent to allow members and Town officials from the Planning Board and other persons acting under the Planning Board or its agents, to enter upon any lands and carry out such surveys and inspections as may be deemed necessary, and place and maintain monuments. The Applicant shall cooperate with the Planning Board and Town officials and assist them in their effort to verify that the layout, design and construction work are satisfactory and conform to Town specifications and requirements of the Board.
7. Prior to the pre-construction conference, the applicant must obtain all necessary approvals and meet all requirements from the Board of Health (BOH), Conservation Commission, Fire Department, Building Department and Department of Public Works (DPW), and these shall be deemed conditions of the Planning Board approval. Any state and federal permits must be obtained if required and supplied to the Planning Board Office prior to scheduling the preconstruction conference and are also deemed to be conditions of the Planning Board approval. This includes a NPDES Permit.
8. Construction shall meet all requirements of the Scituate Zoning Bylaw. All contractors are responsible for all conditions shown on the plans and in the written decision.
9. No new in ground irrigation systems shall be allowed to connect to the Town's water distribution system or in any manner use municipal water. In accordance with this policy rule, all irrigation systems installed in Scituate must be supplied by on-site sources at the expense of the property owner. Fines for violating this rule may be levied on the homeowner as well as the system installer.
10. The septic system for Lot 5 shall meet all the requirements of Title V and 310 CMR 22 including a reserve area. Any changes to the plan necessitated by compliance with any BOH provision, requires notification of the Town Planner to determine if the change is significant and requires further input from the Planning Board.
11. No work is allowed beyond the limit of work/tree line without approval of the Planning Board. The entire limit of work is to be staked with erosion control during construction. Fines shall be imposed for disturbance beyond the limit of work and any disturbance beyond the limit of work will be subject to full restoration with a restoration plan to be submitted to and approved by the Planning Board.
12. The Post Construction Operation and Maintenance Plan shall be strictly adhered to so that 80% Total Suspended Solid (TSS) removal is achieved at all times. An annual report is to be provided to the Planning Board yearly by June 30 certifying all required maintenance has been completed per the plan.
13. All utilities shall be placed underground.
14. The recharge chambers shall be installed to have the bottom elevation a minimum of two feet above seasonal high groundwater elevations. Stormwater during construction as well as after construction is not allowed to increase in rate or volume to adjacent properties, the street or offsite.

15. A stabilized construction entrance shall be installed prior to any work on the site and shall be maintained throughout construction to prevent dirt tracking onto the road.
16. No sediment (including silty water) shall be allowed to leave the site during construction.
17. The proposed four (4) red cedar trees to be planted at the beginning of the Common Driveway on the east side shall be 6 to 8 feet in height to provide the intended screening. No substitutions are allowed without written permission of the Town Planner/Planning Board.
18. The grassed swale and rain garden on the east side of the Common Driveway may not be altered in any form without additional permission from the Town Planner/Planning Board. The seed mix or plants may not be altered. The Operation and Maintenance Plan shall be revised to include manufacturer's recommendations for installation and maintenance of the seed mix.
19. The roof top runoff infiltration chambers, pea stone diaphragm and rain garden swale must be retained and maintained as designed as they are components of the stormwater system. Maintenance must be per the approved Post Construction Phase Operation and Maintenance Plan. Proper maintenance of the systems is required beyond the issuance of a Certificate of Completion.
20. Any condition contained herein that varies from the plans supersedes the plans where different.
21. A sign shall be placed at the entrance of the Common Driveway prior to occupancy clearly depicting the house numbers. House numbers must be clearly visible at all times for emergency response purposes.

### **Common Driveway Agreement**

22. A Common Driveway Agreement shall assign to the owners of 93 Elm Street Lot 5 and 6 the responsibilities and costs of maintenance and repair of the Common Driveway (including snowplowing), as well as the pea stone diaphragm, grassed swale and rain garden, and all other drainage devices, grading and all other improvements for stormwater management in the Common Driveway Easement.

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

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

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

The standard format from the Planning office shall be used. A final draft of the Agreement shall be provided to the Planning Board within two weeks of the approval of this Common Driveway

Special Permit and Stormwater Permit. The Agreement shall be recorded at the Registry of Deeds with the Special Permit and Stormwater Permit. No preconstruction conference or building permits will be issued without a recorded Common Driveway Agreement.

23. Any plan changes or changes from the proposed materials shall be submitted to the Planning Office to determine if the changes are insignificant or require a permit modification approved by the Board or Town Planner. The stormwater management system including all recharge chambers, swales and rain garden and components of the system, house, driveways, grading and site amenity locations shall not be changed or expanded without prior written approval of the issuing authority. Neither property owner shall change the grading on the east side of the driveway. Expansion includes additional pavement areas. Failure to obtain written approval is a violation of the Town of Scituate Stormwater Bylaw and subject to fines.
24. The use of pesticides and fertilizers shall be strictly prohibited.

### **Construction**

25. A pre-construction conference will be required prior to the start of construction including the Planning Board's consulting engineer, a representative of DPW, the site design engineer, the applicant, the owner, the site contractor and the Town Planner.
26. Prior to scheduling the pre-construction conference, the applicant shall provide to the Town Planner:
  - e. Record copy of the plan, decision and Common Driveway Agreement at the Plymouth County Registry of Deeds and proof of recording;
  - f. An initial deposit with the Town Planner of \$5,000 under G.L. c. 44 s 53G to secure construction review and inspections by the Town of Scituate consulting engineer. The deposit shall be applied toward the cost of construction inspections for the common driveway and stormwater improvements. The specific amount provided to the Planning Department shall be based on the consulting engineer's estimate and shall be subject to amendment from time to time and be supplemented by the Applicant as requested;
  - g. The Applicant shall provide surety for \$10,000 in a form acceptable to the Planning Board prior to beginning construction of the Common Driveway to guarantee completion of the Common Driveway(s), the drainage system(s), site work, landscaping and clean-up of the site and compliance with the stormwater plan and conditions. After the Town Planner has inspected the site and found grading, loaming and seeding, clean-up of earth materials and construction debris to be complete along with the as-built approved and a Certificate of Completion issued, these funds shall be returned to the Applicant; and
  - h. A schedule of construction activities including approximate dates for installation of erosion control and other site stabilization features for all phases of the project and all applicable items in the Subdivision Rules and Regulations 9.1.3 shall be given to the Town Planner and the Applicant shall provide funds to cover the cost of inspections and attendance at the pre-construction conference by the Town's consulting engineer. Temporary drainage measures shall be provided onsite in the initial phase of construction prior to house construction.
27. The Town Planner is to be notified when construction begins and when construction is completed.

28. Prior to scheduling the preconstruction conference, the Applicant shall provide the Town Planner with permits from the Scituate DPW for street openings and a curb cut. Installation of all water mains and appurtenances shall be performed according to the specifications of the DPW Water Division. Any upgrades, modifications, or connections shall be at the Applicant's expense. The consulting engineer along with the Town shall review the construction activity to assure compliance with the Town's rules and regulations.
29. The property line and boundary of the limit of clearing shall be marked or flagged in the field under the direction of a surveyor and notification given to the Town Planner and Consulting Engineer a minimum of five days prior to the start of construction. The property line and limit of clearing shall remain staked in the field throughout construction.
30. All clearing and earth moving operations shall only occur while erosion and sedimentation control measures, approved by the Town Planner and shown on the plan are in place. Such control measures shall remain in place until the Town Planner determines that the danger of erosion or sedimentation no longer exists.
31. Any proposed changes in grading and drainage from the approved plan must be reviewed by the Town Planner and Town's consulting engineer to determine if they are materially significant. The Applicant's Engineer shall certify that such changes shall result in no impact on the drainage system and shall not increase runoff onto Elm Street, abutting lots, or the rate and volume of the post condition from the predevelopment condition.
32. All proposed lawns and swale areas shall have a minimum of 6" of clean screened loam.
33. There shall be no flow to the subsurface systems until the tributary area is stabilized.
34. No use of hydrants on-site or on adjacent roads off-site is allowed for construction use. A hydrant may be available at the water treatment plant for construction use if water supply allows and permission is obtained from DPW.
35. The inspections for this development will be done in accordance with Section 9.1.3 of the Town of Scituate Subdivision Rules and Regulations as modified in the next sentence. The Town's consulting engineer shall perform these inspections with costs paid by the Applicant. All required inspections shall take place and be inspected by the consulting engineer including water lines (along with DPW). Timely reports shall be submitted to the Planning Board stating results of all required inspections unless more frequent reports are needed. 48 hours minimum advance notice is required for all inspections. All stormwater recharge structures require inspection of the bottom of the excavation by the consulting engineer. SWPPP inspections for the NPDES permit by the applicant must be submitted after every ½" storm.
36. Construction of the Common Driveway, site drainage systems, grading and water system shall be supervised by a registered professional engineer approved by the Planning Board who shall certify in writing to the Planning Board at completion that the driveways, grading, drainage structures and utilities were constructed in accordance with the approved plans. This certification shall be accompanied by as-built plans, signed and stamped by a registered professional land surveyor and the supervising professional engineer. No Certificate of Occupancy shall be issued until the Planning Board is satisfied that access, construction of the

driveways, grading, installation of drainage structures and stormwater management features, installation of utilities and site stabilization are in full compliance with the approved plans and permit. The stormwater system must be functioning in accordance with design requirements and the as-built certification must include a statement that any variation in grade is immaterial and does not materially alter the performance of the stormwater system. All grading and landscaping must be submitted prior to the final as-built submittal.

37. Grade stakes shall be provided for inspection of the consulting engineer prior to gravel and shall remain for inspection through final paving installation.
38. Prior to the issuance of an occupancy permit, the Board's Consulting Engineer shall inspect the lots and notify the Board and Building Commissioner that the Common Driveway, grading drainage, site utilities and stabilization conforms to that shown on the Common Driveway and Stormwater Permit Plan.
39. Construction work shall not begin prior to 7 am on weekdays and 8 am on weekends and shall cease no later than 7 pm or sunset whichever is earlier. No construction is permitted on Sundays and federal and legal state holidays. Construction work includes any operation of machinery and idling of vehicles. The name and phone number of a 24-hour contact shall be provided to the Town Planner, Building Department, Police Department and Department of Public Works to be used in the event of an emergency prior to the preconstruction conference.
40. There shall be no parking, loading or unloading of construction equipment, staging or idling of vehicles on Elm Street or adjacent public roads during construction unless a Police Detail is provided if warranted as determined by the Police Department.
41. Stockpiles shall be located as shown on the plans and must be protected with erosion controls including but not limited to silt socks and temporary seeding.
42. Construction activities shall be conducted in a workman like manner at all times. Noise mitigation and proper dust controls shall be implemented so that levels conform to Mass DEP policies. All equipment that emanates sound shall be kept in proper working order through regular maintenance. Street sweeping shall be used to control dust from leaving the site. A wheel wash station may be required to prevent sediment from leaving the site. Blowing dust or debris shall be controlled by the Applicant through stabilization, wetting down or other proper storage and disposal methods.
43. Construction activities on site shall conform to Town of Scituate General Bylaws.
44. Sight lines on Elm Street shall be maintained per the plans.
45. All construction shall comply with all applicable requirements of the Water Resource Protection District in Section 520 of the Zoning bylaw. No finished slope shall exceed 4:1 in the WRPD.
46. No Certificate of Occupancy shall be issued until both the Planning Board and Building Commissioner are satisfied that access, construction of the Common Driveway and installation of necessary utilities are in full compliance with the approved plans and the Site Plan Administrative Review.

47. If the drainage system is not performing as designed and conditioned or stormwater is observed going to abutting properties or to the street, the Stormwater Authority can request necessary mitigation to remedy the situation. This condition applies to all construction activities and survives the issuance of a Certificate of Completion.

### **Administration**

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

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

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

### *Motion 93 Elm Street Lot 6:*

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

1. Cristina & Robert Counihan (the “Applicant”) filed an application for a Site Plan Administrative Review for a Common Driveway less than 500 feet long to serve two lots with adjoining legal frontage and a Stormwater Permit for Lots 5 and 6 Elm Street known as Assessor’s Map/Block/Lot 44-2-17 (the “Property”) with the Town Clerk on May 25, 2022. The Applicant’s deed is recorded with the Plymouth County Registry of Deeds at Book 54250, p. 116.
2. One Common Driveway is proposed (the “Common Driveway”). According to the revised plan dated July 5, 2022 which measures the drive from the property line, the length of it is 118’. It serves 2 lots with adjoining legal frontage.
3. Lot 6 Elm Street contains 40,3771 sq. ft. of land of which 40,070 sq. ft. is upland and 306 sq. ft. is wetland according to the Common Driveway Plan. The lot is in the Residence R-2 Zoning District. A portion of Lot 65 is in the Water Resource Protection District (WRPD) and portions are also in Zone A as well as the 100-foot buffer to bordering vegetated wetlands. The Planning Board endorsed a Form A Plan creating lots 5 and 6 on March 24, 2022.
4. Portions of Lot 6 are in the Water Resource Protection District and Zone A. The zoning bylaw establishes a Water Resource Protection District “to include areas significant to the Town’s drinking water supply source which require zoning protection.” The Water Resource Protection District requires “all runoff from impervious surfaces to be recharged on the site, diverted toward areas covered with vegetation from surface infiltration to the extent possible or as otherwise directed from the Scituate DPW and Scituate Conservation Commission.” 1” of roof runoff is recharged for the entire roof. A pervious paver patio is proposed for the Lot

6 pool area. The first inch of runoff is recharged on Lot 6 for all impervious areas in the Zone A and WRPD according to DEP requirements. The proposed stormwater management practices do not discharge into the Zone A or WRPD.

5. The zoning bylaw prohibits rendering impervious any lot/parcel more than 15% or 2,500 sq. ft., whichever is greater, unless a system of artificial recharge is provided that will not result in degradation of water quality. This is further restricted in the Zone A to no more than 20% with artificial recharge. Lot 6 shows greater than 15% impervious, but below 20% impervious lot area; however, the engineer indicates the water quality will not be degraded as evidenced in a signed and stamped certification by engineer Gregory J. Morse, P.E. dated June 16, 2022.
6. Under the Stormwater bylaw, Section 32050 of the General Bylaws, all development and redevelopment projects that will disturb over 15,000 sq. ft. of land in a Residential zoning district, render 25% or more of an undeveloped lot impervious or increase the impervious area of a developed lot by 25% or more, even if it is conducted over separate phases and/or by separate owners require a Stormwater Permit. The proposed total impervious area of Lot 6 is 7,840 sq. ft. (as indicated in the application). There is no existing impervious area on Lot 6, thus there is an increase of 100%. The proposed area of disturbance for re-grading or clearing is 23,396 sq. ft. according to the application or approximately 58% of the site for Lot 6. Disturbance may be slightly higher according to our peer review engineer. 80% TSS removal has been provided and adequate recharge has been provided for Lot 6.
7. The standards of the Common Driveway indicate that the location and construction of the Common Driveway should minimize soil disturbance, vegetation removal, and drainage impacts, and preserve existing trees over 12" caliper and other natural features of special significance. The plan shows soil disturbance and vegetation removal for constructing the Common Driveway, its' drainage systems, and two four-bedroom single family dwellings, two septic systems and one pool. Fill is needed to construct the site. Anywhere from 1- 6' of fill will be brought in to construct the two lots as shown. At least two trees over 12" caliper must be removed. The proposed stormwater management system has been reviewed by the Town's consulting engineer, Horsley Witten Group whose comments indicate the stormwater system is adequately addressed. Based on the Findings of Fact presented in numbers 1-7, the Common Driveway meets the standards of Section 720.7A
8. The Common Driveway is 16 feet in width for 99 feet, just passed the separate driveway for Lot 5. The driveway has been reduced to 12 feet up to the Lot 6 house. The Common Driveway Section includes two-foot grass shoulders on each side. The Fire Department has indicated that the width is acceptable to service two lots. The Common Driveway meets the requirements of Section 720.7B.
9. The Common Driveway is accessed from Elm Street, a public road in Scituate. The common driveway is not connected to any other common driveway. The Common Driveway meets the requirements of Section 720.7 C.
10. The Common Driveway shall be located in an easement which allows space for installation of water lines and utilities. The water line and electric line are shown to be in the common driveway easement as well as the gas line for Lot 6. Utilities are shown as underground utilities. Lot 5 utilities are shown coming in from Elm Street. The Common Driveway meets the requirements of Section 720.7 D.
11. The Common Driveway cross section shows a top course of 1 ½" of bituminous concrete top course Type I-1 over a 1 ½ bituminous binder Type I-1 over a 12" compacted sorted gravel



sub-base. Frost free subgrade shall be provided between the sub-base and parent material. The Common Driveway meets the requirements of Section 720.7 E.

12. The Common Driveway is approximately 118' long measured from the property line to Sta 1+ 46, a location approximately 30' beyond the driveway for Lot 5. This is less than 1000 feet and meets the requirements of Section 720.7 F.
13. A Stormwater Permit has been filed simultaneously with the Common Driveway Special Permit. The plan indicates there is no increase in rate or volume of stormwater to abutting properties. The site is in the Water Resource Protection District, so the Board must review the adequacy of measures proposed to maximize recharge and surface infiltration of surface runoff from impervious surfaces and the diversion of runoff toward vegetated areas. The Applicant has stamped and certified there will be no increase in rate or volume of runoff to abutting properties for the 1, 2, 10 and 100 year 24-hour storm events. Horsley Witten Group has indicated the stormwater management system will work and runoff draining to abutting properties shall not exceed that which existed prior to construction of the Common Driveway and development on Lot 6. The Common Driveway meets the requirements of Section 720.7 G. As the site is partially in the Water Resource Protection District, infiltration of surface runoff is maximized by underground infiltration chambers for the entire roof area of Lot 6 and the pool.
14. No impervious areas are proposed to be located above the major components of the proposed septic system. The Common Driveway meets the requirements of Section 720.7 H. as no impervious areas are above the proposed septic system. The proposed septic system will meet all of the Board of Health requirements. The standards of review for Section 770.6 D are met.
15. The Common Driveway will be buffered by vegetation from the adjacent single-family house at 91 Elm Street. The Common Driveway Plan shows four red cedar plantings to enhance the existing vegetation to remain along the easterly edge of the common driveway. This should buffer the adjacent single-family home. The Common Driveway meets the requirement of Section 720.7 I. for screening and reducing visual impacts.
16. A turnaround for emergency vehicles shall be provided with a minimum length of 30' and width of 20' in locations approved by the Fire Chief. The Scituate Deputy Fire Chief indicated there was no issue with the turnaround. The Common Driveway meets the requirements of Section 720.7 J.
17. The Common Driveway Plan 93 Elm Street (Lots 5 & 6) in Scituate MA dated July 5, 2022 shows the stopping sight distance requirements at the Common Driveway entrance have been met for the posted speed limit of 25 mph and American Association of State Highway and Transportation Officials (AASHTO) standards are met. The Common Driveway meets the requirements of Section 720.7 K.
18. Lot width for lots served by a Common Driveway may be measured parallel to the Common Driveway, except in the case of fifty-foot frontage lots. The lot width of Lot 6 is specified as 184.6' and is not measured parallel to the common driveway. Lot 6 is a 50-foot frontage lot. The Common Driveway meets the requirements of requirements of Section 720.7 L.
19. Based on these findings and information submitted by the applicant and reviewed by the Board, the Common Driveway meets the requirements of Section 720 of the Scituate Zoning Bylaw

Ms. Burbine seconded the motion; a roll call vote was taken, and was unanimously in favor.

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

Mr. Pritchard moved to accept the conditions as written. Mr. MacLean seconded the motion; a roll call vote was taken and was unanimously in favor.

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

Based upon the testimony presented at the Public meetings and public hearing, application and plans, minutes of the meetings, documents and comments submitted and the Findings of Fact, I move to approve the Site Plan Administrative Review for a Common Driveway and Stormwater Permit at 93 Elm Street Lot 6 subject to the following conditions:

1. The Common Driveway and Lot 6 shall be constructed according to plans entitled Common Driveway Plan 93 Elm Street (Lots 5 & 6) in Scituate, MA dated July 5, 2022 consisting of 2 sheets prepared for applicant Cristina & Robert Counihan by Morse Engineering Co., Inc.; Stormwater Site Plan Lot 6 Elm Street dated 5/10/22 with revisions through July 5, 2022 by Morse Engineering Co., Inc.; Stormwater Permit Application for proposed New Single Family Dwelling Lot 6 Elm Street dated May 10, 2022 with revisions through June 15, 2022 inclusive of all information including calculations, operation and maintenance information, Cultec stormwater chamber information ; all cover letters with submittals and as further revised to meet these conditions. A copy of the approved plans and conditions shall be kept on the site at all times during construction.
2. 93 Elm Street Lot 5 & Lot 6 shall access over the Common Driveway as depicted on the plans. No further extensions or attachments of any other roadways or Common Driveways, or other access to any other lots besides those created by the plan shall be permitted without the approval of the Planning Board. The Common Driveway shall remain private in perpetuity and shall never be considered for acceptance as a Town road and that all maintenance and repair of the Common Driveway and drainage facilities shall be the responsibility of the owners of the property. A note shall be placed on the plan and deed for each lot serviced by the Common Driveway stating the above with proof provided to the Planning Board prior to occupancy of the first unit.
3. The Applicant shall mean the current applicant and all its successors in interest. This Common Driveway Special Permit and stormwater permit shall lapse within two years from the date of its issuance, which shall not include such time required to pursue or await the determination of appeal under Mass General Laws Chapter 40A, from the grant thereof unless substantial use or construction has commenced prior to that time in accordance with MGL Chapter 40A, Section 9. The Planning Board may extend such period, for good cause shown, upon receiving a written request from the Applicant prior to the expiration of said period, which shall provide a detailed

description of good cause necessitating an extension. The Planning Board office must receive written notification at least one week prior to any change of ownership of the property occurring during construction.

4. Copies of this approval including the plans and Common Driveway Easement shall be provided to subsequent owners who shall be advised of the need for maintenance of the Stormwater System per the Operation and Maintenance Plan and the need to retain the grading on the lot as approved. Prior to the transfer of the property, the owner shall provide to the subsequent owner and the Planning Office an inspection report certified by a professional engineer showing compliance with the Operation and Maintenance Plan. The Planning Office must receive written notification within least one week of any change in ownership of the property during construction.
5. There shall be no further division or subdivision of any lot shown on the plan for purposes of constructing additional units or buildings; there shall be no further expansion of any building or impervious surface on the site; no swimming pools are allowed without further review; no additional dwelling units shall be added; no additional expansion of the limit of work is allowed without further approval of the Scituate Planning Board.
6. The Applicant shall consent to allow members and Town officials from the Planning Board and other persons acting under the Planning Board or its agents, to enter upon any lands and carry out such surveys and inspections as may be deemed necessary, and place and maintain monuments. The Applicant shall cooperate with the Planning Board and Town officials and assist them in their effort to verify that the layout, design and construction work are satisfactory and conform to Town specifications and requirements of the Board.
7. Prior to the pre-construction conference, the applicant must obtain all necessary approvals and meet all requirements from the Board of Health (BOH), Conservation Commission, Fire Department, Building Department and Department of Public Works (DPW), and these shall be deemed conditions of the Planning Board approval. Any state and federal permits must be obtained if required and supplied to the Planning Board Office prior to scheduling the preconstruction conference and are also deemed to be conditions of the Planning Board approval. This includes a NPDES Permit.
8. Construction shall meet all requirements of the Scituate Zoning Bylaw. All contractors are responsible for all conditions shown on the plans and in the written decision.
9. No new in ground irrigation systems shall be allowed to connect to the Town's water distribution system or in any manner use municipal water. In accordance with this policy rule, all irrigation systems installed in Scituate must be supplied by on-site sources at the expense of the property owner. Fines for violating this rule may be levied on the homeowner as well as the system installer.
10. The septic system for Lot 6 shall meet all the requirements of Title V and 310 CMR 22 including a reserve area. Any changes to the plan necessitated by compliance with any BOH provision, requires notification of the Town Planner to determine if the change is significant and requires further input from the Planning Board.

11. No work is allowed beyond the limit of work/tree line without approval of the Planning Board. The entire limit of work is to be staked with erosion control during construction. Fines shall be imposed for disturbance beyond the limit of work and any disturbance beyond the limit of work will be subject to full restoration with a restoration plan to be submitted to and approved by the Planning Board.
12. The Post Construction Operation and Maintenance Plan shall be strictly adhered to so that 80% Total Suspended Solid (TSS) removal is achieved at all times. An annual report is to be provided to the Planning Board yearly by June 30 certifying all required maintenance has been completed per the plan.
13. All utilities shall be placed underground.
14. The recharge chambers shall be installed to have the bottom elevation a minimum of three feet above seasonal high groundwater elevations. Stormwater during construction as well as after construction is not allowed to increase in rate or volume to adjacent properties, the street or offsite.
15. A stabilized construction entrance shall be installed prior to any work on the site and shall be maintained throughout construction to prevent dirt tracking onto the road.
16. No sediment (including silty water) shall be allowed to leave the site during construction.
17. The proposed four (4) red cedar trees to be planted at the beginning of the Common Driveway on the east side shall be 6 to 8 feet in height to provide the intended screening. No substitutions are allowed without written permission of the Town Planner/Planning Board
18. The grassed swale and rain garden on the east side of the Common Driveway may not be altered in any form without additional permission from the Town Planner/Planning Board. The seed mix or plants may not be altered. The Operation and Maintenance Plan shall be revised to include manufacturer's recommendations for installation and maintenance of the seed mix.
19. The roof top runoff infiltration chambers, pea stone diaphragm and rain garden swale must be retained and maintained as designed as they are components of the stormwater system. Maintenance must be per the approved Post Construction Phase Operation and Maintenance Plan. Proper maintenance of the systems is required beyond the issuance of a Certificate of Completion.
20. Any condition contained herein that varies from the plans supersedes the plans where different.
21. A sign shall be placed at the entrance of the common driveway prior to occupancy clearly depicting the house numbers. House numbers must be clearly visible at all times for emergency response purposes.

### **Common Driveway Agreement**

22. A Common Driveway Agreement shall assign to the owners of 93 Elm Street Lot 5 and 6 the responsibilities and costs of maintenance and repair of the Common Driveway (including snowplowing), as well as the pea stone diaphragm and grassed swale and rain garden, and all

other drainage devices, grading and all other improvements for stormwater management in the Common Driveway Easement.

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

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

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

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

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

### **Construction**

25. A pre-construction conference will be required prior to the start of construction including the Planning Board's consulting engineer, a representative of DPW, the site design engineer, the applicant, the owner, the site contractor and the Town Planner.
26. Prior to scheduling the pre-construction conference, the applicant shall provide to the Town Planner:
  - i. Record copy of the plan, decision and Common Driveway Agreement at the Plymouth County Registry of Deeds and proof of recording;
  - j. An initial deposit with the Town Planner of \$5,000 under G.L. c. 44 s 53G to secure construction review and inspections by the Town of Scituate consulting engineer. The deposit shall be applied toward the cost of construction inspections for the common driveway and stormwater improvements. The specific amount provided to the Planning Department shall be based on the consulting engineer's estimate and shall be subject to amendment from time to time and be supplemented by the Applicant as requested;

- k. The Applicant shall provide surety for \$10,000 in a form acceptable to the Planning Board prior to beginning construction of the Common Driveway to guarantee completion of the common driveway(s), the drainage system(s), site work, landscaping and clean-up of the site and compliance with the stormwater plan and conditions. After the Town Planner has inspected the site and found grading, loaming and seeding, clean-up of earth materials and construction debris to be complete along with the as-built approved and a Certificate of Completion issued, these funds shall be returned to the Applicant; and
  - l. A schedule of construction activities including approximate dates for installation of erosion control and other site stabilization features for all phases of the project and all applicable items in the Subdivision Rules and Regulations 9.1.3 shall be given to the Town Planner and Applicant shall provide funds to cover the cost of inspections and attendance at the pre-construction conference by the Town's consulting engineer. Temporary drainage measures shall be provided onsite in the initial phase of construction prior to house construction.
27. The Town Planner is to be notified when construction begins and when construction is completed.
  28. Prior to scheduling the preconstruction conference, the Applicant shall provide the Town Planner with permits from the Scituate DPW for street openings and a curb cut. Installation of all water mains and appurtenances shall be performed according to the specifications of the DPW Water Division. Any upgrades, modifications, or connections shall be at the Applicant's expense. The consulting engineer along with the Town shall review the construction activity to assure compliance with the Town's rules and regulations.
  29. The property line and boundary of the limit of clearing shall be marked or flagged in the field under the direction of a surveyor and notification given to the Town Planner and Consulting Engineer a minimum of five days prior to the start of construction. The property line and limit of clearing shall remain staked in the field throughout construction.
  30. All clearing and earth moving operations shall only occur while erosion and sedimentation control measures, approved by the Town Planner and shown on the plan are in place. Such control measures shall remain in place until the Town Planner determines that the danger of erosion or sedimentation no longer exists.
  31. Any proposed changes in grading and drainage from the approved plan must be reviewed by the Town Planner and Town's consulting engineer to determine if they are materially significant. The Applicant's Engineer shall certify that such changes shall result in no impact on the drainage system and shall not increase runoff onto Elm Street, abutting lots, or the rate and volume of the post condition from the predevelopment condition.
  32. All proposed lawns and swale areas shall have a minimum of 6" of clean screened loam.
  33. There shall be no flow to the subsurface systems until the tributary area is stabilized.
  34. No use of hydrants on-site or on adjacent roads off-site is allowed for construction use. A hydrant may be available at the water treatment plant for construction use if water supply allows and permission is obtained from DPW.

35. The inspections for this development will be done in accordance with Section 9.1.3 of the Town of Scituate Subdivision Rules and Regulations as modified in the next sentence. The Town's consulting engineer shall perform these inspections with costs paid by the owner. All required inspections shall take place and be inspected by the consulting engineer including water lines (along with DPW). Timely reports shall be submitted to the Planning Board stating results of all required inspections unless more frequent reports are needed. 48 hours minimum advance notice is required for all inspections. All stormwater recharge structures require inspection of the bottom of the excavation by the consulting engineer. SWPPP inspections for the NPDES permit by the applicant must be submitted after every ½" storm.
36. Construction of the Common Driveway, site drainage systems, grading and water system shall be supervised by a registered professional engineer approved by the Planning Board who shall certify in writing to the Planning Board at completion that the driveways, grading, drainage structures and utilities were constructed in accordance with the approved plans. This certification shall be accompanied by as-built plans, signed and stamped by a registered professional land surveyor and the supervising professional engineer. No Certificate of Occupancy shall be issued until the Planning Board is satisfied that access, construction of the driveways, grading, installation of drainage structures and stormwater management features, installation of utilities and site stabilization are in full compliance with the approved plans and permit. The stormwater system must be functioning in accordance with design requirements and the as-built certification must include a statement that any variation in grade is immaterial and does not materially alter the performance of the stormwater system. All grading and landscaping must be submitted prior to the final as-built submittal.
37. Grade stakes shall be provided for inspection of the consulting engineer prior to gravel and shall remain for inspection through final paving installation.
38. Prior to the issuance of an occupancy permit, the Board's Consulting Engineer shall inspect the lots and notify the Board and Building Commissioner that the Common Driveway, grading drainage, site utilities and stabilization conforms to that shown on the Common Driveway and Stormwater Permit Plan.
39. Construction work shall not begin prior to 7 am on weekdays and 8 am on weekends and shall cease no later than 7 pm or sunset whichever is earlier. No construction is permitted on Sundays and federal and legal state holidays. Construction work includes any operation of machinery and idling of vehicles. The name and phone number of a 24-hour contact shall be provided to the Town Planner, Building Department, Police Department and Department of Public Works to be used in the event of an emergency prior to the preconstruction conference.
40. There shall be no parking, loading or unloading of construction equipment, staging or idling of vehicles on Elm Street or adjacent public roads during construction unless a Police Detail is provided if warranted as determined by the Police Department.
41. Stockpiles shall be located as shown on the plans and must be protected with erosion controls including but not limited to silt socks and temporary seeding.
42. Construction activities shall be conducted in a workman like manner at all times. Noise mitigation and proper dust controls shall be implemented so that levels conform to Mass DEP policies. All equipment that emanates sound shall be kept in proper working order through

regular maintenance. Street sweeping shall be used to control dust from leaving the site. A wheel wash station may be required to prevent sediment from leaving the site. Blowing dust or debris shall be controlled by the Applicant through stabilization, wetting down or other proper storage and disposal methods.

43. Construction activities on site shall conform to Town of Scituate General Bylaws.
44. Sight lines on Elm Street shall be maintained per the plans.
45. All construction shall comply with all applicable requirements of the Water Resource Protection District in Section 520 of the Zoning bylaw. No finished slope shall exceed 4:1.
46. No Certificate of Occupancy shall be issued until both the Planning Board and Building Commissioner are satisfied that access, construction of the Common Driveway and installation of necessary utilities are in full compliance with the approved plans and the Special Permit conditions.
47. If the drainage system is not performing as designed and conditioned or stormwater is observed going to abutting properties or to the street, the Stormwater Authority can request necessary mitigation to remedy the situation. This condition applies to all construction activities and survives the issuance of a Certificate of Completion.

#### **Administration**

48. This Site Plan Review and Stormwater Permit shall run with the land and be void if it is not recorded at the Registry of Deeds within 90 days of the expiration of the appeal period. The Applicant shall provide proof of this recording to the Planning Board prior to construction.
49. Failure to comply with any condition of this permit shall cause it to be deemed invalid.

*NOTE: The pervious pool pavers cannot be made impervious without a new Stormwater Permit before the Planning Board*

**Public Hearing – Stormwater Permit - 20 Mann Hill Road  
Assessor's Map/Block/Lot 27-7-9C  
Applicant/Owner: Jason Schumacher**

#### **Documents**

- PDF 20 Mann Hill Road Site Plan
- PDF 20 Mann Hill Road Stormwater Report
- PDF 20 Mann Hill Road Stormwater Permit Application
- PDF 22-472 PB Review Report, 20 Mann Hill Road- 7-9-22
- Doc Transmittal\_DPW\_BOH\_Con
- Doc DRAFT Motion Form for 1<sup>st</sup> continuance

Attendees: Paul Bakis, Grady Engineering; Peter Palmieri, Town's Consulting Engineer, Merrill

Ms. Burbine read the legal ad into the record.



Mr. Bakis said the project is for a stormwater permit.

- Single-family home, with a patio, swimming pool and septic system
- Project consists of some tree clearing and regrading of the lot to accommodate the design of the house and pool.
- Met with the Conservation Commission and the project was continued
- The project has been peer reviewed
  - The Applicant did not have enough time to resubmit plans in response to the comments
  - Applicant asked the Board to opine on the recommendation that additional test pits be performed at slow log locations
    - Request for additional test holes at the roof drain and the trench
      - Already have 6 test holes around the site in surrounding locations of the proposed stormwater treatment
      - System was designed to avoid the seasonal high ground water
- Stormwater from the roof, patio and pool will be directed towards dry wells
- The drive is designed to have a trench underneath to treat and discharge

Ms. Joseph said it is a standard comment to ask for the test pits that all Peer Review Engineers ask for. She recommends the Board ask for the additional test pits as they do on all other projects; there will be another set of plans after the peer review comments are fully addressed.

Ms. Lambert asked about the Conservation Commission meeting and a comment made about a previous design; she asked if the design has changed. Mr. Bakis said that comment was associated with a previous design where there were three lots and this particular lot was to share a driveway with the middle lot, that design is no longer in place and the middle lot is a standalone single-family lot with its own driveway.

Mr. Palmieri concurred that it is important that test holes be done at the specific locations of the BMPs as soil testing can change in a matter of 10'. He opined while the soil testing performed gives a general overview of the soil conditions, his position is they should always be done at the exact locations of the proposed stormwater systems, during the design portion so the Board can see the results and it is not done during the construction because the ability to review them is minimal. He opined they should be done prior to closing the public hearing. Mr. Palmieri reviewed some other recommendations from the review.

- Hydrocad calculations should be redone
  - They take into consideration the proposed system on 20 Mann Hill Road, but also take into consideration the system on 16 Mann Hill Road
    - The lot should be looked at on its own
  - Schematic of the hydrocad flow did not chive with the calculations
- Recommend a separate erosion control plan be provided similar to 16 Mann Hill
  - Majority of the lot is being filled, surrounded by abutters and the work is going right up to the property line
- Recommend a swale be provided adjacent to 30 Mann Hill Road the lot immediately to the north of the site
  - Swale would make sure any runoff from the site would not go onto the abutting site and would direct it down to the design point adjacent to the wetlands

- Ms. Joseph recommended the erosion control plan include the sequence of construction
  - Important when things are done, i.e. the swale would need to be done right away so water stays on the site

Ms. Burbine commented that with the original plan for the property there was real concern with the buffer; she said as it stands now this lot is being filled and cleared right to the lot lines. She said she has a real problem with that, it is taking away what was done before.

Ms. Joseph said there is a buffer on 16 Mann Hill Road of undisturbed vegetation, she suggested the Board may want a planting plan. 16 Mann Hill is already under construction, Ms. Joseph pointed out the limit of work for 16 Mann Hill on the plan.

*Public Comment:*

Mr. Avallone resident of 33 Christopher Lane said this is very different from what was discussed and from what has happened on the first lot; there are significant water flow issues, Christopher Lane is parallel to Mann Hill there are six storm drains on Christopher and none on Mann Hill and that is why this property has always been problematic. Water comes down the road and takes the path of least resistance. He said it is a very complex problem, the first property has been clear cut and he sees water flowing down.

Ms. Joseph indicated she would go out for a site inspection and that Mr. Palmieri has been out for inspections; it did not seem the tail had been clear cut, but she will go out and check. She said the main site was clear-cut because that is what they had to do. If they are doing something that is not in conformance with the approved plans they will be shut down.

Mr. Pritchard asked if all the system was performing in terms of volume and velocity. Mr. Palmieri said the volume and rates are less than the existing condition. He said it is somewhat confusing because there is a lot in the middle of this lot and 16 and the rear part of the middle lot is actually part of lot 16 Mann Hill Road. He said that is the area that has been left as a buffer, but the main part of 16 Mann Hill has been clear cut back to the property line, but there is a grass-buffer, dog-leg that is part of 16.

Mr. Avallone said he is at 43' and this is being built at 53' and is pouring all that water on to his property, it does not make sense to him.

Ms. Joseph asked if the swale is big enough to accommodate the property. Mr. Palmieri said yes, but said one of the comments was to add flow arrows and show that the water has to go down the swale and not go across or underneath the stone wall. He said it could be somewhat deceiving and it is important that the swales/drainage ditches are constructed as shown on the plan because sometimes they are not and that creates issues.

Mr. Avallone also said there is a 10 foot 50-foot-high oak and when the ground gets disturbed there is a good chance it will fall on his property. He described the area where the tree is located and some smaller trees and it is probably the biggest tree in the neighborhood and it at risk when this is done. He said the tree is on his property right on the corner of the stonewall, but the root system obviously extends beyond and that is why the 30' buffer was important. Ms. Joseph said she will review the trees next week.

Mr. Pritchard asked for the trees to be shown on the plan for the next meeting.

Ms. Lambert said this has been a perplexing project for the Board.

There was discussion about when plans could be provided in order to continue the meeting to August 25<sup>th</sup>. Ms. Joseph said Mr. Palmieri needs 2 weeks before the meeting because the Board needs the response back prior to the meeting.

Ms. Minier resident of 29 Christopher Lane said she is a direct abutter and there are several oaks that are nestled into the wall and when looking at 16 Mann Hill and how it was clear-cut it is devastating and trees, especially oaks are very important for water withdrawal and water preservation she said she hopes this lot would not be 100% clear-cut and the large trees by the wall could be left so it is environmentally be more appropriate.

The Board asked that the trees be shown on the plan and stuff should be pulled away from the drip line of the trees in order to protect them.

Mr. Schumacher resident of 3 Aquinnah Path and property owner of 20 Mann Hill said he is willing to work with the abutters to handle the trees.

Ms. Minier said the tail on 16 Mann Hill has not been cut.

Mr. Bornstein said he was surprised to see a full clear-cut to the extent of the property and a massive amount of fill; from a stormwater management perspective he said the technical aspects of rate and flow may have been met, but in terms of a low impact philosophy and perspective this is not hitting the mark in his opinion because it is not working with any of the existing features except for the high ground water table. He opines it could be a more artful project that would be better for the neighborhood and the town.

Mr. Pritchard asked what is establishing the height of the fill, is it the height of the septic system or the pool. Mr. Bakis said it is because of the septic system and ground water under the house; they do not want the house sitting in the water.

*Motion:*

Ms. Burbine moved to accept the applicant's request to continue the public hearing for the Stormwater Permit for 20 Mann Hill Road until August 25, 2022 at 8:00 pm and to continue the time for action for filing with the Town Clerk until September 9, 2022.

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

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

**Public Hearing and Public Meeting – Stormwater Permit and Site Plan Administrative Review – 109 Elm Street Lots 1 & 2**

**Assessor's Map/Block/Lot 44-2-18**  
**Applicant/Owner: Mark Richardson**

**Documents**

- Doc DRAFT Motion Form 1<sup>st</sup> Continuance

Attendees: Greg Morse, Engineer

Ms. Burbine read the legal ad into the record to open the public hearing.

Ms. Joseph indicated the meeting is being immediately continued because money for Peer Review was not provided in a timely manner.

*Motion:*

Ms. Burbine moved to accept the applicant's request to immediately continue the public hearing for the Stormwater Permit and Site Plan Review for the Common Driveway for 109 Elm Street Lots 1 & 2 until August 25, 2022 at 8:30 pm and to continue the time for action for filing with the Town Clerk until September 9, 2022.

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

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

**Form A – ANR Plan – 146, 154 & 0 Tilden Road – RESIGNING of Mylars with Land Court Requirements**

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

**Applicant: J. Stephen Bjorklund**

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

**Documents**

- Doc DRAFT Motion Form A 0,146,154 Tilden
- Doc DFAFT Motion Form A 0, 146, 154 Tilden revised dates

Attendees: Steve Bjorklund, Applicant/Owner; Greg Morse, Morse Engineering

Mr. Bjorklund indicated the mylars had already been signed for this project, subsequently Land Court had some corrections, i.e. typo in a name, re-numbering of the Land Court Lots. He said the most significant change on the plan was a particular drill which was called out as the wrong drill hole, but it is only effects interior lot lines and ultimately it does not change zoning.

*Motion:*

Ms. Burbine moved to re-endorse as Approval Not Required a Plan entitled Plan of Land 0, 146 & 154 Tilden Road (Assessor's Parcels: 39-26-30A, 39-26-30 & 39-26-32-A) Scituate, MA prepared by Jason Scott, PLS of Morse Engineering Co., Inc. for applicant J. Stephen Bjorklund and owners J. Stephen Bjorklund, Neil F. O'Donnell and Donna Sheehey and Marilyn D'Angelo, Joan and Richard McCready and Rudi and Ann Gerhard dated June 3, 2022 with revisions dated July 27, 2022 as the division of land shown on the accompanying plan is not a subdivision because every lot shown on the plan has frontage of at least the distance presently required under the Scituate Zoning Bylaw on the public way of Tilden Road with the Planning Board stamp added that Planning Board endorsement of the plan is not a determination as to the conformance with zoning regulations.

Minor changes were made after additional review of the Land Court.

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

Ms. Lambert – yes

Mr. Pritchard – yes

Mr. MacLean – yes

Ms. Burbine – yes

Mr. Bornstein – yes

**Discussion/Vote – 6 MacDonald Terrace – Utility Pole**

**Documents**

- PDF 6 MacDonaldTerrace\_AsApproved
- PDF Option B Subsurface Connection
- Jpeg Sideview
- Doc DRAFT Motion Form Field change electric

Attendees: Greg Morse, Morse Engineering

Mr. Morse indicated one of the conditions of the project was to install underground utilities to the 5-unit residential building. He said what was proposed and approved on the plan was overhead service from an electrical pole across the street. Mr. Burwick has reached out to National Grid and National Grid said they would place a pole immediately in front of the building and then electric could be run underground to the building. He said a sketch has been provided; he opined that if anyone has been out to the site they would surmise it makes more sense to go overhead from the corner of the building rather than placing a new pole which would be about 15' from the building. He said Mr. Burwick is trying to comply with the condition and will move forward as directed, but this is the option National Grid has presented.

Mr. Pritchard questioned if the preference is to keep the overhead wire from across the street. Mr. Morse said they have already shown it on the approved plans as overhead and it lays out nicely.

Ms. Joseph asked if the pole is staying on the future project that is submitted. Mr. Morse said yes, it is staying.

Ms. Burbine said she does not have an issue.

Mr. Bornstein said if the new pole is to solely serve this building then he is fine keeping overhead, but if the new pole is a benefit to other subsurface utilities then it might be worthwhile.

Mr. Morse said this pole would solely serve this building and he does not see it benefiting any other development.

*Motion:*

Ms. Burbine moved to accept Gregory J. Morse's, P.E. request on behalf of Robert Burwick of RJB Development Corporation to modify the Special Permit for a Mixed-Use Development in the Village Business Overlay District for 6 MacDonald Terrace as a minor field change to include:

1. The proposed electric service to the building can remain as overhead wires as shown on the original plans with the electric pole on the southeast side of MacDonald Terrace.
2. All conditions of the original special permit are to remain intact.

Mr. MacLean seconded the motion; a roll call vote was taken and was unanimously in favor

Ms. Lambert – yes

Mr. Pritchard – yes

Mr. MacLean – yes

Ms. Burbine – yes

Mr. Bornstein – yes

### **Discussion- Future Meeting Schedule**

Ms. Joseph discussed the upcoming meetings in November and December.

- November - the 2<sup>nd</sup> meeting is the Thursday before Thanksgiving
  - Meeting could be moved to the 17<sup>th</sup> or the Tuesday before, the meeting is projected to be a Zoning Workshop meeting
  - The Board opted to have it on November 17<sup>th</sup>
  - First meeting in November is the 10<sup>th</sup>
- December meetings are proposed on December 8<sup>th</sup> and December 22<sup>nd</sup>
  - December 22<sup>nd</sup> meeting would be proposed as the continue Zoning Public Hearing
  - The Board opted to pencil December 17<sup>th</sup> as an option and revisit at a later time

### **Discussion – Future Zoning**

Ms. Joseph said based on the last meeting Common Driveways will be moved to the Spring Town meeting. She asked if the Board had any other issues they wanted to work on for Spring Town meeting based on the tight time schedule.

The Board decided there was no time to work on other zoning for Spring Town meeting.

Mr. Pritchard opined the budget needs to be worked on in order to work on the water scope issues he has highlighted. Ms. Joseph said he will likely need to have a meeting with the Town Administrator (TA), etc. The process is very early this year documents for the budget need to be done in October.

There was discussion about funding and if it would require a warrant article or could be part of the Capital Budget, a capital budget item has to last more than 5 years. Mr. Pritchard said it would be a consulting contract and the Board has done that before; he said the Board should budget for it.

Ms. Joseph and Ms. Burbine said the Planning Board budget would not get increased. Mr. Pritchard asked why not; Ms. Joseph said that is a question for the TA.

Ms. Joseph will set up a meeting with the TA, Water Department, DPW to discuss the water study issues.

Mr. Pritchard said the Board is making decisions on 12-20-unit developments and there should be a high-level approach, looking at the summer water budget and saying what is available. He said right now it is telling him there is nothing available. He said we are supposed to making long-term decisions and there should be the tools to make those decisions. He opined the Water Department should be doing the analysis, but it is still needed as a planning tool.

Ms. Joseph said projects are being asked to provide a sewer and water studies based on the scope that was previously agreed upon. Mr. Pritchard said he wants the scope he sent Ms. Joseph to be included. He said someone still needs to do the capacity analysis and the availability analysis for the Town so that informed decisions can be made about these big projects.

Mr. Pritchard said Ms. Joseph can share his proposal with the rest of the Board, etc.

Ms. Lambert said people are really concerned the Town does not know what is going on with the water.

### **Minutes** **Documents**

- Meeting Minutes 6.23.22
- Meeting Minutes 7.9.22

Ms. Burbine moved to approve the meeting minutes for June 23, 2022 and July 9, 2022.

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

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

### **Accounting** **Documents**

PO #2310733(\$1,350.00), PO #2310646 (\$278.20), PO #2310653 (\$210.00), PO #2310657(\$2,831.50), PO #2310656 (\$2,300.00), PO #2310655 (\$2,825.00), PO #2310654 (#3,700.00)

Ms. Burbine moved to approve the requisition of \$3,700.00 to Horsley Witten Group for peer review of 93 Elm Street Lots 5 & 6, for \$2,825.00 to Horsley Witten Group for peer review of 14-16 Old Country Way, for \$2,300.00 to Horsley Witten Group for peer review of 46 Hollett Street, for \$2,831.50 to Horsley Witten Group for peer review of Seaside at Scituate, for \$210.00 to Chessia Consulting for peer review of 533 Country Way, for \$278.20 to Gate House Media for legal ads for 115 Grove Street and 803 First Parish Road, for \$1,350.00 to Merrill Corp for peer review of 5 Cold Brook Circle.

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

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

**Liaison Reports: No reports**

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

- 61 New Driftway was submitted
  - Nothing has been changed
  - Mixed-use with 25 residential units
  - Penthouse still shown
- 33 New Driftway/7 MacDonald Terrace submitted
  - 2 buildings
    - Mixed-use building
    - Multi-family building
    - Proposed 35 units
- Working on getting Peer Review Proposals
- Hearings proposed to be on September 22<sup>nd</sup>
- Curtis Estates has been sent an email to appear at the next Board meeting
- Drew will wait another month to give a status report
  - Property will not be occupied at the end of the year
  - Supply chain issues
- Residential Compound on Country Way
  - Nearing completion
  - Site visit today
  - Do not have an as-built survey
  - Holding off on paving because the telephone pole is still in the road
    - Good that paving is not happening
  - Developers looking for Occupancy Permits
    - What is the Boards feeling?
      - Would the Board agree to temporary occupancy permits if the as-built is received and is in relatively good shape



- Final as-built needs to be submitted when the topcoat goes on
- There are some outstanding punch list items
- The Board is still holding a Bond

Mr. Andrew Nadar, Developer, said the project is substantially complete aside from the items that Ms. Joseph has mentioned, the topcoat of the road and the utility pole. He said they have sign-off from the Building Inspector on the building permit, sign-off from the Fire Department on life safety measures, there is water service, electric, gas and comcast services to the houses. He said tomorrow Kevin Grady will be submitting the as-built plans to verify the final grades. He explained that originally, they intended to do the topcoat of the road this Friday, but Ms. Joseph and Mr. Chessia had concern with doing the topcoat and waiting for the utility pole to be moved, so they called off their topcoat contractor. He also said Ms. Joseph expressed concern with the utility pole as a public safety hazard. He indicated they reached out to the Fire and Police Departments and both provided comments that they did not see a public safety issue with the current location of the pole; he provided emails to the Board. He requests that instead of temporary Certificates of Occupancy (CO) they be issued full Certificates so the Homeowner's can move in; there is a surety and no bank is willing to close with a temporary CO. He said they have been working to have the pole removed for 18 months and it is an indefinite amount of time before it will be removed. He said he cannot give an exact date of when the pole will be moved.

There was continued discussion about the timing of the pole removal.

Ms. Lambert said she is not willing to make a decision until the as-built is provided; if Ms. Joseph says the as-builts have been provided then she has Ms. Lamberts support to sign-off if she sees fit.

Mr. Nadar said the as-builts will be provided tomorrow. He said he asking for the Board to give permission for full CO not temporary CO because of the location of utility pole.

There was discussion that the current driveway is the binder and how long that will last. Mr. Nadar said it should last for months or years. Ms. Joseph said they may have to put a tack coat on it.

Mr. Pritchard said he would be okay so long as there was a drop-dead date for if the utility hasn't acted that the roadway be paved; patching the road may have to be part of the deal. He said if it hasn't been moved by the end of the school year the road should be paved.

Mr. Nadar said the sign the Police requested to be taken down has been taken down, the house numbers have been put up, street cones have been placed around the pole.

Mr. Pritchard said subject to Ms. Joseph's review if it is just the topcoat and the as-builts that go with that, the Board could release full COOs with the agreement of May 1<sup>st</sup> or 15<sup>th</sup> that if the utility has not been addressed the road is to be completed.

The Board all agreed they do not have issue with Ms. Joseph making a decision subject to her getting everything she needs.

Mr. Bornstein commented that the Board should not make a habit of discussing issues that were not on the agenda. Ms. Joseph said she brought it up in the Planning Report and the Applicant decided to come to the meeting.

Ms. Joseph said the Town's Consulting Engineer goes out after the as-built is received and verifies the condition. Ms. Lambert said the Town's Consultant needs to tell Ms. Joseph that everything is ok. The Board was all in agreement.

**Documents**

- Email to the Board from Shari Young dated 7.22.22 with meeting agenda 7.28.22.
- Email to the Board from Karen Joseph dated 7.22.22 with meeting materials for 93 Elm Street, 109 Elm Street, 6 MacDonald Terrace, 20 Mann Hill Road, 803 First Parish Road and Lot 3 Laurelwood, and Tilden Road.
- Email to the Board from Shari Young dated 7.27.22 with DRAFT Meeting Minutes for 6.23.22 and 7.14.22.

These items were distributed to the Board electronically.

Mr. Pritchard moved to adjourn the meeting at 9:08 p.m. Ms. Burbine seconded the motion; a roll call vote taken and was unanimously in favor.

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

Respectfully submitted,

Shari Young  
Planning Board Administrative Assistant

Ann Burbine, Clerk

Date Approved: August 11, 2022