

SCITUATE PLANNING BOARD MINUTES July 8, 2021

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

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

Members absent:

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

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

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

Documents

- 7/8/21 Planning Board Agenda

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

Housekeeping – Revote 4 Cushing Road Common Driveway Surety Release Applicant: Kendall Village Cohasset Builders

Documents

- Doc DRAFT Motion Form

Ms. Joseph indicated this is a correction to the vote taken on June 24, 2021 to return surety. Correct applicant is Kendall Village Cohasset Builders not Diamond Development.

Motion:

Ms. Burbine moved to accept the applicant's, Kendall Village Cohasset Builders, request for the release of the \$10,000.00 plus accumulated interest for paving of Cushing Road as it has been repaved by the Commonwealth of Massachusetts and the DPW has indicated they take no exception to the work.

Ms. Lewis seconded the motion; a vote was taken and was unanimously in favor.

Discussion - Seaside at Scituate - Construction Issues Applicant: Toll Brothers

Documents

- PDF Corrective action from TB rec'd 6-30
- PDF Hatherly Duplexes_StormEvents 6-22-21

Attendees: Scott Miccile, Land Development Director for Toll Brothers

Ms. Burbine started by saying the Board is not happy with what is happening on the Seaside at Scituate site and listed several issues that have come up lately, i.e. ocean plume, flooding, landscaping that has died, etc. The Board wants to understand how Toll is going to make the project work and why it is not working so Ms. Joseph is not at the site all the time.

Mr. Miccile said they take full responsibility as the builders to the sediment release, to trees that have died, etc. He said he can point to a number of reasons why things haven't work, but he was not going to make excuses. He was here when the project was approved and has not been on site as much since the approval process, but recently has become more actively involved and is now in the job full time; Dave Buckley also has become more actively involved than he has been. He and Mr. Buckley feel responsible for getting the project to the end point and making sure everyone is happy and proud with what is being built.

Mr. Miccile addressed the erosion issues on the east side of Hatherly Road during the last storm; he classified it as a unique rain event with the amount of water that fell in a short period of time. Mr. Pritchard objected to that statement as it was not a unique event, it was not above the levels of a 100-year storm and that is part of the expectation of the design of the stormwater system; it should be designed for that and the system designed failed.

Mr. Miccile agreed it was not a "unique" event, but said from an engineer's point of view he would rather see 7" of rain in 24 hours versus 3" of rain in two hours. Mr. Pritchard said he understands that, but the stormwater system is supposed to be designed to handle both the intensity and the duration. Mr. Miccile said he agrees, but the way the system is designed the basins are all on the main part of the site; they did not have any issues with the main basins releasing water. When the project is done there are no detention basins on the Hatherly Road side. When the analysis was done for the site there was all concrete on the east side and they eliminated the concrete, what is going back is equal to or less than what was there. Temporary controls are set up, i.e. a temporary sediment basin that filled up and discharged; it could not handle the 3" of water.

At Ms. Joseph's suggestion Toll Brothers has committed to revisiting the stormwater analysis using the as-built condition of the buildings, roof tops, drywells, etc. and looking at it against what Horsley Witten reviewed at the beginning to make sure that it falls in line with what was approved.

Since 6/22 the temporary detention basin has been enlarged with an electric pump which has a float so that as soon as water starts going in the basin the pump turns on and it is run by a generator; some area on the east has been tackified - about an acre and a half; the schedule has been changed to expedite the buildings on the Hatherly side; once sod is down and buildings on the east are complete it is expected there will not be any erosion issues - working to be done by end of September; working to finish roofs, gutters, and have driveways paved within the next two weeks; going to shrink the area around the buildings to force the crews to only work within 15' of the building anything beyond 15' will be loamed and sodded and it is expected to be completed by the first week of August; trying to reduce the exposed footprint.

Ms. Lambert asked why the basin will not a permanent basin. Mr. Miccile said the way the analysis was run before it was an equal trade off of impervious compared to what they are putting in now. He opined when everything is stabilized and clean water is running off there will be the same volume of run off and there won't be this situation of excessive amount of runoff coming off the lots.

Mr. Pritchard said it was clear when the Board issued the special permit that construction does not give license to emit stormwater. The design of the temporary sediment basin needs to be designed to handle the worst-case construction condition and it wasn't. He asked if the temporary basin with the pump is designed to handle the 100-year storm. Mr. Miccile said no it is not designed to hold the 100-year storm; it can handle 2" of water without the pump running which is equivalent to a 10-year storm. The pump is to make up the difference in volume, even with the pump running it is not designed to hold the 100-year storm. Mr. Pritchard said they need to be prepared to handle the water and not have another plume in the ocean or have the water go to the wetlands.

There was discussion about where the water that is pumped out goes; it goes to the opposite side of the street to Basin E, basin by the clubhouse.

Ms. Joseph discussed issues with Basin E; last time she visited the site the basin was almost over the catch basin top, water from there goes into a swale that goes down Hatherly Road. She indicated that she sent information provide by Toll Brothers to the Town's consulting engineer who also visited the site and would like to see a plan to provide more storage at Basin E and the temporary depression adjacent to Hatherly Road without having sediment go into the drainage system. Ms. Joseph opined that every time she has been on site since 6/22 that the a flared end adjacent to Basin E is always running and asked where the water in the swale is going. Mr. Miccile said the water is going to the drainage system that was extended by Toll Brothers in the roadway, the catch basin.

Ms. Joseph asked Mr. Miccile to explain where the water is going from the pipe down by Hatherly Road on the westside of Hatherly. Mr. Miccile said the pipe is an overflow pipe from the temporary basin that is near the two diesel pumps.

The Board said this sounds like a disaster.

Ms. Joseph said it sounds like water came from both the east and west sides of Hatherly Road during the 6/22 storm. Mr. Miccile said it is possible. Mr. Pritchard said the temporary basin near the pumps has also not been designed to handle the 100 years storm; Mr. Miccile said that is correct; it is a temporary basin and, in the end, there will be no basin; two pumps are pumping water up to Basin E.

Ms. Joseph asked for calculations on the east side only to determine if there is an increase in rate and volume on just the east side; if there is then it has to be accounted for and will need a permanent feature.

Mr. Pritchard agreed with Ms. Joseph that there needs to be a demonstration that the permanent stormwater system will function correctly, but right now Toll Brothers needs to be in a mode during construction to manage the water; his question is will the new design be sufficient to handle the construction process. He said he is concerned with what will happen tomorrow and ultimately the finished product.

Mr. Bornstein said he understands what happened on the east side, but what troubles him is the amount of water sheeting over the road and water going into the municipal system. He said on the 22nd he drove past the site and the road was covered with sediment; that can't happen, it is going into the town infrastructure and potentially the wetlands and that cannot stand.

Ms. Joseph indicated that Dave Buckley said they maybe adding a berm on Hatherley Road down to Sixth Ave. to prevent that issue. DPW was at the meeting and needed time to consider the action, nothing has been decided yet. The water would still go in the catch basins on the side of the road, but the berm would prevent the washout.

Mr. Miccile said the design intent was Hatherley Road was supposed to sheet off into the swale that has the catch basins in it, but the water that was running down Hatherley Road was not sheeting in there and instead carving a channel next to the edge of pavement. They will do whatever DPW wants; there could still be a berm and the water could still get to the designed swale/catch basin but it would prevent the water from creating a channel down the road.

Ms. Joseph said the Board would like to see a proposal from Toll Brothers. Ms. Burbine said this has to be resolved now; the Board cannot be hearing about all these issues once Toll Brothers is gone.

Ms. Joseph asked for a timeline for getting drainage calculations and what preparations were being made for tomorrow's tropical storm.

Mr. Miccile committed to having the drainage calculations to the Board the week of the 19th prior to the next meeting on July 22nd, information is to be provided to the Board by July 19th.

Mr. Pritchard said there are two parts of the drainage calculations; one is construction related, sedimentation, etc. and how that will be managed and the second piece is the end product, with a separate east side calculation.

Ms. Joseph asked Toll Brothers look at creating more storage in Basin E and the temporary depression adjacent to Hatherly Road; Mr. Miccile said he would review that and answer the next day if it is possible.

Mr. Miccile provided an update on the erosion control; S & M Farms coming back tomorrow in the rain, HydroGrass technologies sprayed certain areas with seed and tackifier, added treatment at the end of the swale on Hatherly and on the eastside, SLT will have man power starting at 4am and will be on site all day. S & M Farms is a silt fence/wattles company and will put up erosion controls.

There was further discussion about the erosion controls set up in preparation for the arrival of the tropical storm.

Public Comment:

Mr. Tim McCarthy resident at 16 Seventh Ave. said that with the rain last Friday his yard flooded with 8" of rain in its entirety and said he would expect that they would not be putting water on his property in the future.

Mr. Miccile said that is something this east side analysis will flush out.

Ms. Burbine said this is one of the things that needs to be resolved to everyone's satisfaction.

Mr. Miccile opined that one of the things happening is the erosion control is acting like a dam and directing water all the way to Mr. McCarthy's property instead of going into the marsh; water is

getting concentrated there and he opined that if some of the erosion control was removed it would let water go to different areas of the marsh.

Mr. McCarthy said when Toll Brothers leaves who would be liable if water continues to drain onto his property; Seaside Condominium Association was answered.

Ms. Burbine said the goal is to make sure this is fixed prior Toll Brothers leaving.

Planning Board Priorities Discussion

Documents

- PDF Harwich – Lot Shape Figure
- PDF Medfield - Figure 1- Perfect Rectangle Plate
- PDF Lot Shape Bylaws – Memo to JB from B Mitchell

The Board discussed their priorities.

- Recommendations from Master Plan
 - What can the Planning Board do; some recommendations the Board cannot do anything about, i.e. elevation of structures and roadways
 - Zoning and Building recommendations the Board should figure out how to integrate into overall planning process
 - Example, Land Use - establish programs and policies for buy outs, land swaps, relocations and transfers how does the Board facilitate that in the regulations/policies
 - Pass the proposed North Scituate Village District (VCN)
 - Done – AG approved North Scituate and Inclusionary Zoning
 - Sign Bylaw review extended until September 11, 2021

Ms. Burbine said it is about small successes, what can the Board accomplish that is finite; lot shape.

Mr. Pritchard opined the Board has just spent 2 years doing this Master Plan; he agreed with Ms. Burbine, on those more “tactical level” issues the Board can address, but how do they address some of the bigger issues?

The Board suggested that the Director of Planning and Development come in to discuss how to implement some of the ideas in the Master Plan; August 12th meeting.

The Board discussed having a joint meeting with the Planning Board and the Select Board; first step is meeting with the Director of Planning and Development; then Board needs to have a list of talking points to discuss with the Select Board. The Director of Planning and Development was hired to help implement all the ideas of the Master Plan, the Coastal Plan, etc.

Ms. Joseph said some of the items involve capital and those need to be identified and discussed with both the Director of Planning and Development and the Select Board. But, with the day to day activities of projects that come before the Board what kinds of questions should the Board be asking developers, what kind of tradeoffs should the Board be talking about to advance the goals; the Board

needs to know if they have the ability to do it, do regulations need to change, modify zoning, what is the Board trying to accomplish. Different tools may be needed.

Mr. Bornstein said he thought about this in 3 different buckets.

- 1st bucket - Initiatives that involve capital, or changes in philosophy
 - Needs to be interdisciplinary, work done with all Boards/Committees
 - Long-term work that needs to happen and need to set the ground work and get the conversations started
- 2nd bucket – Actionable items in terms of zoning
 - Look for a consultant to rewrite the Zoning Bylaws
 - May need capital, but can ask
- 3rd bucket – Initiatives the Planning Board can do now
 - Lot shape/rat tails
 - Floor area ratio/lot coverage
 - Land alteration/site development bylaw
 - Limit land clearing, give more teeth into preserving existing land forms, mature trees, minimize cut and fill, etc.
 - Mitigation for when above concerns can't be met
 - Tree canopy or percent coverage
 - Large home review process – Cohasset just passed a bylaw
 - Reform to current stormwater

Ms. Joseph indicated we are still working on Stormwater Regulations. There was discussion if there is something that could happen now to give more teeth for enforcement so developers actually listen about keeping stormwater on site during construction. Ms. Joseph said that Norwell requires the NPDES permit materials be included when applying for a Subdivision; it was adopted into their Subdivision Rules and Regulations Bylaw.

Ms. Joseph indicated the Subdivision Regulations have not been updated since 2003; it is large endeavor.

The Board should identify money sources and put in for them.

Ms. Burbine suggested there should be another person in the office for stormwater enforcement and other stormwater related stuff. Ms. Joseph said maybe this could be a shared position with Conservation; there just isn't enough time to follow up on all the Stormwater related issues, etc.

Mr. Bornstein said it would be great to have a Stormwater database. It was discussed this could be just a onetime upfront cost, but it would need to be maintained afterward or it would be a waste of money.

Another example where there is not enough time to follow up was with Accessory Dwellings; ensuring that each year notarized letters are submitted to the Planning Board that the owner of the property is living on site.

The Board continued the discussion of hiring another person to project manage, develop a Stormwater Database, but also have person that do inspections, etc. and make sure that what the plan says and what is on the ground agree. This is something to discuss with the Director of Planning and

Development. Having an “inspector” would maybe free up the Planning office to concentrate on the bigger picture of planning. The bigger jobs have a Consulting Engineer and this would not eliminate this, but there could be someone to help with smaller/medium sized jobs. This individual could also manage the third-party engineers.

Ms. Joseph discussed the current procedure for administrative stormwater permits.

Ms. Lambert opined the Board will support having another person in the office; but the ideas of clear cutting/lot coverage are ideas that the Board can talk about right now.

Ms. Burbine mentioned when she was on the Board years ago she worked on a height requirement for the area along town pier along Jericho and up to Cedar Point, but the Beach Association fought it. Mr. Pritchard said that looking at the Master Plan and what has been said about that area is it will have to move backwards; if there is development coming up in that space what capacity does the Board have to help the long-term objective before the area gets flooded out. i.e. buying lots. Ms. Burbine said after the storm of '78 there was an attempt to do a program like that and if failed.

Ms. Lambert opined the Board needs to partner with and identify who the key players are; the Water Resource Committee (WRC) is definitely one of them. She said back 40 years ago the town did not have an entity that would support such a program. The WRC is about sustainability and responsibility; they are on the same page as the Board.

The Board wants the Director of Planning and Development come to the meeting on August 12th with an agenda/his view of how the Planning Board might be able to affect some of the recommendations from the Master Plan; what are his goals.

There was discussion about the printing of the bylaw and maps now that they have been approved by the Attorney General.

Planning and Development – reported by Ms. Joseph:

- New projects coming in
 - 7 New Driftway
 - 533 Country Way Common Drive way
 - 16 Mann Hill for stormwater permit
 - First of three lots coming in for Public Hearing for Stormwater
 - Out for Peer Review
 - Have a NPDES permit because part of the large development
- Surety review of offsite improvements for the Drew Project
- Toll Brothers will be back
- Accessory Dwellings coming in the next 2 meetings
 - Scituate has on of the most successful Accessory Dwelling (ACDU) bylaws in the State
 - Cohasset called looking for recommendations
 - It is alternative housing, although not on the subsidized housing list
- Working on Lot Shape
- Stormwater Regulations
 - Next step to bring to the Board as a working document
 - Goal is to have the Regulations mirror the bylaw

- Bylaw will have to change to include Coastal Storm Flowage

The Board discussed how it can proactively address construction stormwater contamination; does there need to be a different drawing/plan for construction does the Board ask for the construction stormwater management plans/calculations and then the finished product. Some consulting engineers require SWPPP's to verify sizes of temporary sumps, etc., Board can make sure to ask for this. Benchmarks should be put in place for projects coming in, construction and then as-built final. The Board can make sure such wordings are incorporated into the Stormwater Regulations.

Ms. Joseph reviewed some other projects that she had gone to see today and indicated she reminded everyone to be buttoned up for the impending storm.

There was discussion if any calls have come in from abutters near Curtis Estates; not recently. Ms. Burbine had driven by Townsend and there is water flowing from one house from a pipe in their driveway, but it is beyond the basin. She said that the area has always been very, very wet. Ms. Burbine opined there might be some kind of intermittent stream beyond the detention basin. Ms. Lambert said she is in Curtis Estates frequently and the basins seem to be working.

Ms. Joseph said the next major zoning is to focus on is the Harbor; the Harbor should probably be a VCN.

- Consultant would need to be hired
- Need to know priorities of what is going to happen down there with regards to other plans developed
- Need to keep an eye on the economic development
 - New development coming to Greenbush area with Drew project and Gas Backwards
- Ms. Burbine said she would like to see the Business District/VCN pushed up to Hazel
 - Going to be difficult with people buying those properties and putting big houses on them

Minutes **Documents**

- Meeting minutes 6.24.21

Ms. Lewis moved to approve the meeting minutes for June 24, 2021.

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

Accounting **Documents**

PO #2200232 (\$24.57), PO #2111102 (\$13.78), PO #2111103 (\$1,350.00), PO #2200322 (\$10,392.15)

Ms. Lewis moved to approve the requisition of \$24.57 to WB Mason for office supplies, for \$13.78 to Karen Joseph for mileage, for \$1,350.00 to Merrill Corporation for peer review services at The

Residence at Driftway Place/Drew project, for \$10,392.15 to Kendall Village Cohasset Builders for return of surety for 4 Cushing Road Common Driveway.

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

Liaison Reports:

No Liaison reports

The Board discussed the property that is on Border Street on the east side of the street that if for sale and coming before the CPC at their next meeting. The Board has received a letter regarding the 61A of the property and it will be discussed at the Boards next meeting, pending further direction from the Town Administrator.

Documents

- Email to the Board from Shari Young dated 7.7.21 with agenda for 7.8.21
- Email to the Board from Karen Joseph dated 7.6.21 with meeting materials 4 Cushing Road, Seaside at Scituate and Lot Shape
- Email to the Board from Karen Joseph dated 7.8.21 with meeting materials for Seaside at Scituate
- Email to the Board from Shari Young dated 7.8.21 with DRAFT meeting minutes from 6.24.21.

These items were distributed to the Board electronically.

Ms. Lewis moved to adjourn the meeting at 8:16 p.m. Ms. Lewis seconded the motion; the vote was unanimously in favor.

Respectfully submitted,

Shari Young
Planning Board Administrative Assistant

Rebecca Lewis, Clerk

Date Approved: July 22, 2021