

SCITUATE PLANNING BOARD MINUTES August 10, 2017

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

Others Present: Ms. Laura Harbottle, Town Planner.

Others Absent: None.

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

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

Vice Chairman Burbine called the meeting to order at 7:03 P.M. The meeting was being recorded for airing on local cable television.

Documents

- 8/10/17 Planning Board Agenda

ACCEPTANCE OF AGENDA: Vice Chairman Burbine indicated there was a posted agenda. Mr. Limbacher moved to approve the agenda. Mr. Taylor seconded the motion. Motion was unanimously approved. Chairman Pritchard arrived at approximately 7:15 pm after the votes on the agenda, minutes and bills.

Minutes

Documents

- Meeting minutes from 7/13/17, 7/27/17 and 5/4/17

Mr. Bornstein moved to approve the meeting minutes of 7/27/17, 7/13/17 and 5/4/17. Mr. Limbacher seconded the motion. Motion was unanimously approved with Mr. Taylor abstaining from voting on the 7/13/17 minutes as he has not present. Chairman Pritchard was not present.

Accounting

Documents

- PO # 1801450 (\$365.82), PO # 1801428 (\$5,013.59), PO # 1801427 (\$1,980.00), PO # 1801425 (\$212.35), PO # 1801570 (\$2,535.00), PO # 1801567 (\$1,820.00)

Mr. Bornstein moved to approve the requisition of \$ 365.82 to Gatehouse Media for legal advertisements in the Scituate Mariner, for \$5,013.59 to Sycamore Properties LLC for return of the Common driveway bond for 700 Country Way, for \$1,980.00 to Henry Holmes for a refund of the unexpended construction inspection funds for 700 Country Way, for \$212.35 to Amory Engineers for construction inspections for 13 Ford Place, for \$2,535.00 to Merrill Corporation for engineering peer review for Curtis Estates and for \$1,820.00 to Merrill Corporation for construction inspections and plan review for 529-531 Country Way. Mr. Taylor seconded the motion. Motion was unanimously approved.

Mr. Bornstein moved that the Board redesignate Ann Burbine to sign bills under the Municipal Modernization Act. Mr. Bornstein moved that the Board designate Benjamin S. Bornstein as back

up to sign bills under the Municipal Modernization Act effective August 10, 2017. Motion was seconded by Mr. Limbacher. Motion was unanimously approved.

Chairman Pritchard did not participate in these votes and arrived prior to the public hearing for 90 Ann Vinal being opened.

Public Hearing – Flexible Open Space Definitive Subdivision Plan – 90 Ann Vinal
Assessor's Map/Block/Lot 27-06-01
Applicant: Welby Builders, LLC
Owner: Steven D. and William G. Curtis, Jr. TRS, Curtis Realty Trust

Documents

- Email from Laura Harbottle to the Board dated 8/3/17 with Flexible Open Space Definitive Subdivision Plan dated 6/14/17 by Ross Engineering
- Email from Laura Harbottle to the Board dated 8/3/17 with Assessor's Field card, Conventional Density Definitive Subdivision Plan dated 12/1/16, Board of Health Comment dated 8/3/17, Flexible Open Space Special Permit Application, Merrill Review dated 7/27/17, Test Pit Location Plan dated 11/23/16, Transmittal to departments dated 7/3/17, pictures of the house and site
- Email to the Board from Karen Joseph dated 8/7/17 with letter from Ohrenberger, DeLisi & Harris dated 8/7/17 forwarding a letter from Acting Building Commissioner
- Email from Karen Joseph to the Board with comment from DPW Engineering dated 8/10/17 and DPW Water Division dated 6/27/17
- Email from Karen Joseph to the Board with comment from the Historical Commission dated 8-10-17

Attorney's Bill Ohrenberger and Jeff DeLisi, Don Gillespie of Welby Builders LLC, Paul Sheerin Sr., and Paul Mirabito and Greg Tansey were present for the applicant.

Attorney Ohrenberger indicated that the pre-application conference occurred in the winter and the Board was shown the Conventional Density Plan at that time. He indicated that the Board of Health sent a letter approving a sixteen lot subdivision. He said that the applicant went to the Historical Commission under the Demolition Delay bylaw; however since that meeting the applicant has decided they will retain the existing historic house and move it to lot 1.

Mr. Mirabito said the Conventional Density Plan is a standard subdivision plan that was reviewed by the Board of Health for sixteen lots. He said the review is based on test pits provided. He said the site is approximately 15 acres with bordering vegetated wetlands to the east and there is a small isolated wetland to the front which is manmade. Mr. Mirabito indicated that the wetland line has been confirmed by the Conservation Commission. He indicated to the Board the location of the existing historic home on-site as well as the existing subdivision of Townsend Road to the north and Ann Vinal Road to the south. He said there is a high point in the center at elevation 36 which slopes to the wetlands and salt marsh which flows to Hatherly Country Club. He said water also runs radially and ends up in the corner of the site at Ann Vinal Road.

Mr. Mirabito said the proposed layout has an entrance off Ann Vinal opposite Pleasant Street and goes to a cul-de-sac. He said there is also a short cul-de-sac to the right. He indicated there is open space at the back of the house lots and there is one leaching lot where the existing field is located. Mr. Mirabito said there are four stormwater basins and under the Scituate stormwater regulations,

the volume is not allowed to be increased so that the volume of runoff leaving the site is less than or equal to existing conditions. He indicated that there would be a common septic system with each lot having its own tank. He said the tanks would flow by gravity to a pump chamber. He indicated that both the reserve leaching field and the project leaching field would be constructed at the same time. Mr. Mirabito indicated that the septic system plans for construction have been submitted to the Board of Health.

Attorney Ohrenberger indicated that the Conventional Density Sketch Plan that was discussed with the Board in the winter was reviewed by the Zoning Enforcement Officer who indicated that 16 lots are okay by zoning. He included that four of the lots require 50 foot frontage special permit and none have ever been denied. Mr. Mirabito indicated that the Board of Health approved the 16 lot Conventional Plan with conditions of mosquito control being provided, no plants to be located on the leaching system, all lots have a deed restriction for four bedroom houses, an operation and maintenance plan be provided and each house have its own septic tank as Mr. Mirabito indicated it protects the leaching field. Mr. Limbacher asked which lots could be developed by right and which lots are the 50 foot frontage lots. Mr. Mirabito said that lots 3 and 4 and 6 and 7 are 50 foot frontage lots with double the upland area. The Board confirmed that four of the cul-de-sac lots have 60 feet of frontage as allowed. Chairman Pritchard observed that all of the 50 foot frontage lots propose development at the back of the lot. Peter Palmeri of Merrill Engineers indicated that the engineering review did not include a review of the Conventional Density Plan. Ms. Harbottle said that the Board must find the Flexible Open Space Development (FOSD) Plan superior to the conventional plan. She said the zoning bylaw has several standards including preservation of natural features, preservation of historic houses, buildings and roads respecting topography as well as buffers to the wetlands. She said the density is generally how many lots are allowed by right without a special permit. She indicated that the Board can get an interpretation from Town Counsel on this; however, by right is the way an appraiser would evaluate the land.

Attorney Ohrenberger disagreed with Ms. Harbottle. He said the Board discussed this at the pre-application conference when it was indicated that it was too expensive to permit the 50 foot frontage lots under the conventional plan if a FOSD Plan was the preferred plan. He said they obtained a letter from the Zoning Enforcement Officer (ZEO) that 16 lots will work. He said if they have to engineer the conventional plan then that is what they will do. He said nothing in the bylaw says the conventional plan needs to be engineered and over the years no 50 foot frontage lot has ever been denied. He said the geometry dictates much unusable land. He said the bylaw section 610 2.B is not a bylaw creating a lot, but a bylaw saying that the lot can be built on. He said lots are created under the Subdivision Control Law. Attorney Ohrenberger said from a land use, they are proposing to reduce the density otherwise allowed????

Mr. Limbacher said he recalled there was precedent on the former Hennessey property that assumed two wetland crossings under the conventional density plan as it related to the maximum number of lots. Attorney Ohrenberger emphasized the probability of obtaining the permit has been demonstrated to be achievable where wetland crossings are more stringent. Ms. Harbottle said wetland regulations have nothing to do with the zoning bylaw. She said the conventional density is based on the current zoning and subdivision regulations. Mr. Limbacher said that in addition to being by right on Hennessey, the second wetland crossing would have been allowed and that is what determined the conventional density. Chairman Pritchard said that in this zoning activity, the Board needs to look at the conventional plan to set the density for the FOSD. He said it does not make sense to develop the plan for bidding; however, it needs enough substance to do a comparison for density. He said if the conventional plan is good, how does the FOSD compare and what are the

benefits to the Town of Scituate. Mr. Taylor commented that four lots don't fit exactly by right and the FOSD has a shared septic system and asked if this was thought about in the conventional plan. Mr. Mirabito and Attorney Ohrenberger answered affirmatively.

Chairman Pritchard asked if the conventional plan could be built under zoning and can the Board infer that the 50 foot frontage lots can be built. Ms. Burbine opined yes but commented that she did not like houses behind houses as it looks crowded. She opined that the three lots up top are sandwiched together and would the Board be better off with 14 lots to obtain more space in the FOSD. Attorney Ohrenberger said that economics dictate the 16 lots. Chairman Pritchard said is this layout designed appropriately under the current zoning. He said the reality is that it is all about the 50 foot frontage lots and is it worth their time to permit them??? Ms. Burbine reiterated her concern for the 60 foot lots on the cul-de-sac. Attorney Ohrenberger read the letter from the ZEO and said the letter assures the permitting without difficulty. Chairman Pritchard said that decision is a Planning Board decision. He suggested that the Board move on to see the benefits of the FOSD before approving the Conventional Density Plan. Mr. Taylor said he recalled for the prior meeting that the Board expressed concern for the density and wanted to see the benefits of the FOSD. Attorney Ohrenberger said that was not his recollection and the applicant would not have spent \$200,000 developing the FOSD Plan. Mr. Taylor said he recalled the Board endorsed the FOSD, but not the number of lots. Chairman Pritchard said that decision is subject to what is filed in the application.

Mr. Bornstein said on the FOSD there are large areas for stormwater and septic and wants to see the requirements for those imposed on the conventional plan as it is a requirement of a subdivision. Mr. Mirabito said that the Board of Health ruled that there could be a septic system on each lot with their letter and their review of the soils. Chairman Pritchard asked where the stormwater controls could be located on the conventional plan. Mr. Mirabito says he only needs to be able to describe where the stormwater would be located. He said he did not do a stormwater design. He said basins would be less than 2,500 sq. ft. so that they could be on lots and there would be rain gardens as well and other Low Impact Development features. Chairman Pritchard asked if Stormwater Management was viable on the Conventional Plan. Mr. Mirabito said it absolutely was based on the soils on-site. Chairman Pritchard said he was trying to understand how. Mr. Mirabito said that over 100 test pits were done and the soils are suitable. Mr. Mirabito said that some of the woods will remain in the FOSD for the stormwater system.

Mr. Palmieri said that the applicant did do a lot of soil testing; however, he recommends that more be done in the locations of the stormwater basins on the proposed plan. He said he tried to superimpose the FOSD stormwater design on the conventional plan to determine if it could work with the high groundwater and a similar volume. He said the high groundwater concern applies to both scenarios. Chairman Pritchard asked Mr. Palmieri if the conventional plan was buildable. Mr. Palmieri indicated not with the layout now. He said the stormwater would change the lot layout, but not necessarily the lot count. He said a stormwater basin may need to be on its own lot. Mr. Mirabito said the basins would be less than 2,500 sq. ft. He said the volume of stormwater cannot be increased from the FOSD and is different than the conventional. Ms. Harbottle questioned if Mr. Mirabito was forgetting the stormwater from the subdivision road. Mr. Mirabito indicated he was not. Chairman Pritchard indicated that the Board is trying to answer Mr. Bornstein's question. Mr. Taylor commented that the Board can approve 16 lots in the conventional plan, but does not have to approve 16 lots in the FOSD Plan. He said he agrees with Ms. Burbine that three lots behind others does not look right and is concerned with setting that density. Ms. Harbottle said that Lot 7 and 8 are behind others on the flexible plan ????. Mr. Limbacher said the question is can they be built or

make them look like is wanted. Chairman Pritchard said that if the Board says the conventional is 16, then the maximum number of lots on the FOSD is 16.

Attorney Ohrenberger said that it is not written in stone that the FOSD lots can change frontage etc.?? He said that density and drainage are not determined by the stormwater bylaw. He said the FOSD is the better use of the land and the project will not be designed twice on conjecture.

Chairman Pritchard said the Board is asking if the conventional plan is buildable and that's why they are inquiring as to stormwater. Attorney Ohrenberger said that open space and the ability to save vegetation is what is driving the design. He said if the density is not determined in the first step, the second step is not reached.

Mr. Limbacher asked where the Dolan well field was located. Attorney Ohrenberger said it was behind Al Bangert's house. He said Sean McCarthy said it was abandoned and that DPW is starting to look at it. He said if the Selectmen want them to tie into sewer and run it from Hatherly, they would do that. Chairman Pritchard said he would be interested in seeing that and he would like to see the well location and the Zone 2. Ms. Burbine commented the well was put on hold due to the railroad. Mr. Limbacher commented that with the location the same, there is less disturbance in the FOSD than in the conventional plan.

Steve Comerford of 70 Townsend Road was concerned with the wetland areas near Sedgewick Drive as there are presently stormwater issues and he does not want to see them exacerbated. He asked about how the no increase in volume is handled. Chairman Pritchard said that engineering calculations from the existing conditions and proposed design that the applicant prepares are reviewed by a third party engineer hired by the Town. He said the Town's engineer reviews for conformance. Mr. Taylor verified that no calculations are done for the conventional plan. Chairman Pritchard concurred and said that is the nature of the FOSD. He said that the Conventional Plan sets the density and there are many issues that still need to be addressed. Megan Mulcahy of 74 Townsend Road said that every house takes water in every storm. She asked if the Board would require additional testing. Chairman Pritchard indicated that the Board is trying to set the density for the conventional plan so that they can go through the FOSD process. Philip Cahalin of 80 Townsend Road said existing studies show there is tremendous flooding at the end of Townsend Road. Ms. Harbottle said she was not aware of any studies at Townsend Road. Ms. Burbine commented that she is well aware of what happens at Townsend Road as she lives in Bulrush Farm and that if the project was done correctly the residents may be better off. Chairman Pritchard commented that residents should not be worse off.

Ms. Burbine asked the applicant if he would consider cutting the number of lots from 16 to 14. Attorney Ohrenberger said no as the utilization of the site supports 16 with plenty of open space. Ms. Burbine said that houses behind houses must be discussed. Mr. Taylor agreed. Chairman Pritchard said a decision needs to be made on the conventional density. Ms. Harbottle said many projects have not made this decision the first hearing and said a 4/5 vote with findings was needed. She said if the Board wants the question on the 50 foot frontage lots can be posed to Town Counsel. Ms. Burbine opined that it was not necessary as the ZBA would give the permits. Ms. Harbottle said that two special permits are needed; one from the ZBA and one from the Planning Board since there are two common driveways back to back. Attorney Ohrenberger said that a special permit is only needed from the Planning Board if the two common driveways are developed at the same time. He said he did not agree with Ms. Harbottle. He said it doesn't say under current zoning with a special permit. He said if the ZEO can't make a decision on zoning, then who can. Chairman Pritchard said

the letter did not say absolutely, but “all but assured.” Chairman Pritchard asked the Board’s opinion.

Mr. Limbacher said they have gone through the process in the past and approved the conventional plan at the end to make sure the FOSD was superior. Chairman Pritchard said it is a yes or no vote and the Board is not saying that it would approve the FOSD. Mr. Limbacher said he gets the sense that the conventional plan is not superior to the FOSD. Chairman Pritchard said he would like to hear more on the FOSD and its benefits. Mr. Taylor opined that the FOSD is better and this layout is bad. He said he wants to see 16 lots nicely laid out. Attorney Ohrenberger said the conventional plan has the maximum number of units and unless there is a vote there is no redesign. He said alternatives can’t be explored without the vote. Chairman Pritchard said he would like an overview of the FOSD and its benefits holding the vote on the conventional plan. Mr. Limbacher and Ms. Burbine agreed. Mr. Taylor said that the applicant needs to take a “leap of faith”. Chairman Pritchard said he already has as he has submitted a FOSD Plan and reiterated he wants to understand the design and the comments. Attorney Ohrenberger said the maximum number of lots does not impact the review. He said he can’t see how it impacts the FOSD and there can be less lots in the FOSD. He said the Board has never followed this procedure before. Ms. Harbottle said that on White Ash Farm, the Board approved three lots and it hurt them as the Board really wanted two. Chairman Pritchard said that it took a while for White Ash Farm and Studley Farm Conventional Plan was not approved the first night. He said he didn’t think the Board was interested in Town Counsels opinion – although he said he was and Mr. Taylor concurred.

Attorney Ohrenberger asked why the ZEO statement was not sufficient. Chairman Pritchard said not?????. He said he wanted to see the FOSD as there were lots of issues. Attorney Ohrenberger again pursued looking just at the conventional plan. Chairman Pritchard reiterated it was just too soon. Ms. Burbine asked the applicant if it would hurt to continue that conversation so that the Board could see how the FOSD works and said the ZEO letter is subject to interpretation. She urged the applicant to be patient. Attorney Ohrenberger asked if the matter was being referred to Town Counsel. He said he would ask Town Counsel if the conventional plan showing 16 lots can be approved with four requiring special permits. He said then the vote can occur at the next meeting. Mr. Bornstein said that he would like to see the theoretical stormwater as it is hard to evaluate the plan without it and says it is required per section 4.22 18 of the subdivision regulations. Attorney Ohrenberger said that is not what Sec 550. 3 and 4 of the bylaw say. Mr. Taylor said it says preliminary drainage in paragraph 3 in the zoning bylaw on page 66. Mr. Mirabito said that he can sketch the stormwater concept on the plan. He asked if Town Counsel will be made aware that he has done 60 or 70 50 foot frontage lots. Attorney Ohrenberger asked to see the letter that goes to Town Counsel. Chairman Pritchard agreed. Ms. Harbottle said that sometimes there is just a conversation.

Raymond Blosner of Townsend Road asked if any studies on groundwater had been done as everyone has wet basements. Mr. Taylor offered that he thinks the FOSD is better and it is just getting to the right mix. Chairman Pritchard???? Ms. Harbottle said that several items were not included in the application including viewsheds, landscape plans, a draft deed etc. She asked if the Board wanted that in the motion. Attorney Ohrenberger said the bylaw is poorly written and he can’t do deeds at this time. He said he would do the homeowner’s association and operation and maintenance plan at the correct time. Ms. Burbine said she just wants a time and date. Mr. Comerford inquired that if the conventional then the FOSD plans are approved, can the applicant come back and do a conventional subdivision. Chairman Pritchard indicated that can be done.

Ms. Burbine moved to accept the applicant's request to continue the public hearings for the Definitive Subdivision Plan and Flexible Open Space Special Permit for Curtis Estates at 90 Ann Vinal Road- A Flexible Open Space Definitive Subdivision until September 21, 2017 at 7:00 pm. and to continue the time for action for filing with the Town Clerk until November 3, 2017. Mr. Limbacher seconded the motion. Motion was unanimously approved.

**Public Hearing – Major Site Plan Administrative Review – Restaurant & Bar
7-9 Marshfield Avenue
Assessor's Map/Block/Lot 72-19-3B
Applicant: Stephen Leaman
Owner: Humarock Industrial, LLC**

Documents

- Email to the Board from Laura Harbottle dated 8/3/17 with application and deed, Assessor's Field Card, restaurant floor plan, Revised Subsurface Sewage Disposal Plan for 7 Marshfield Ave Assessor's Lot 72-19-3B Humarock/Scituate, MA dated 7/20/17 by Grady Consulting, LLC, transmittal to departments dated 7/21/17, Comment from Humming Rock Gifts dated 7/22/17, Comment from Water Department dated 7/27/17 and Comment from Coastal Resource Officer dated 8/2/17 and memo to the DRC from Stephen Pritchard dated 8/2/17
- Email to the Board from Karen Joseph dated 8/8/17 with photos furnished by the applicant
- Email to the Board from Laura Harbottle dated 8/8/17 with Board of Health comment
- Email to the Board from Karen Joseph dated 8/9/17 with comment from Ohrenberger, DeLisi & Harris

Attorney John Aieta, Steve Leaman and Rick Grady were present for the applicant. Mr. Aieta indicated that the application is for a major site plan review for 7-9 Marshfield Ave. He said Mr. Leaman has been a tenant for five years. He said the property is 17,000 sq. ft. with an existing two story warehouse. He said that Mr. Leaman operates a retail seafood market on the first floor which is 6,000 sq. ft. He indicated that the applicant wants to take 1,000 sq. ft.(50' x 20') of the first floor and change it to a restaurant and bar. He said the second floor is not in use and has not been since 2004 since the current owner took the property over. He indicated that a 28 seat restaurant is a use by right and the parking is based on the seating and is given in the application. He indicated that the septic system will accommodate 28 seats so there will be 12 at the bar and 16 at tables. Mr. Aieta said that the Board of Selectmen have taken the project under advisement while the application is before the Planning Board.

Mr. Aieta said that there are 25 parking spaces on site and 20 are required for the warehouse at 1 space per 600 sq. ft. of gross floor area. He indicated that the warehouse was in existence on January 1, 1988. He indicated that 7 spaces are required for the restaurant/bar at 1 space per 4 seats. He said 25 spaces are required for the project and there are 6 spaces along the front, 5 along the building, 6 along the back property line and 8 that wrap along from Marshfield Ave to Central Street. Chairman Pritchard inquired about access to the spaces. Mr. Aieta said space would need to be cleared. Mr. Grady said there was a 12' aisle which is wide enough for one way circulation. Ms. Harbottle indicated that there are obstacles to the parking. She said the parking in the front extends into the Town right of way. She said a concrete wall on the side needs to be removed. She indicated there is no formal agreement with Humming Rock Gifts and if the property is sold it will be a problem. She also said that there are large boats in the rear blocking the parking. She said parking is illusory.

Chairman Pritchard asked how the applicant was going to resolve the issue. Mr. Aieta said that two boats in the rear are movable and Mr. Leaman has already talked to appropriate people on this issue. Mr. Aieta said that nothing major is in the way. Mr. Grady indicated that the driveway widens to 20' at the north end of the site. Mr. Aieta said the front parking issue is deminimis as it doesn't encroach on the walk. He said a compact car sign could be placed there. He indicated that the only use of the building is the 6,000 sq. ft. on the first floor and there is no use on the second floor. Chairman Pritchard said that answer could not be relied upon forever. Mr. Aieta said that another use would need to come before the Planning Board. Chairman Pritchard said that the Board can approve for what is zoned. He said the rest of the warehouse is controlled by the owner and that informal agreements will not work. He said official easements are needed. Mr. Aieta said that the flow can be signed to be one way from Marshfield to Central Ave. Chairman Pritchard said that two way will not work. Mr. Aieta said that there are also off-site parking spaces that the Board can consider. Mr. Taylor asked for a parking plan so that the Board can clearly see where the parking is without all septic information and what obstacles there really are. Ms. Burbine asked how the building will be spiffed up??? Mr. Taylor asked for the comments from the Design Review Committee (DRC) to be addressed. Mr. Limbacher said that elevations are needed. Mr. Leaman said that there will be potted flowers and the steps and the clapboards will be painted. He said the entrance will be under the stairs. Ms. Burbine commented that the deck abuts some demolition materials. Mr. Leaman indicated there would be a fence. Ms. Burbine remarked that more information needs to be provided like the deck and stone wall, elevations, signage and improvements so it looks inviting for a restaurant.

Mr. Taylor said that the DRC recommended a stone wall similar to the microbrewery. Chairman Pritchard asked if the applicant was willing to do the items the DRC recommended. Mr. Leaman said he would consider them. Mr. Aieta said that Mr. Leaman is a tenant and can't change the façade or eliminate stairs. Chairman Pritchard said that the deck could be the main entry and asked how lighting would be addressed and if the lease was a short or long term lease. He said he would like to see a revised plan and asked what the expected opening was. Mr. Leaman said he hoped to open in mid-September. Ms. Burbine asked if the improvements should be done before a liquor license is obtained. Mr. Aieta said the use is allowed as of right. Ms. Burbine said she attended the Selectmen's meeting and she thought that the Selectmen seemed amenable if the project was approved through the Planning Board. She said there are questions that need to be answered and more information is needed. Mr. Taylor said that a new plan has been usually given to the Board that incorporates the DRC recommendations or indicates why they cannot be achieved. Mr. Aieta said tht they are just getting the DRC information and parking and the layout is what the focus is. Chairman Pritchard said that the Planning Board looks at a combination of everything including lighting and a water cap for the restaurant. Ms. Harbottle said there is a sprinkler system so there is plenty of cap. Mr. Aieta said there are allowed 28 seats on the septic plan. Chairman Pritchard said the Board reviews all the information and indicated there are eight spots available. Mr. Leaman said the owner of Humming Rock Gifts was in the audience.

Chris Brown of 11 Marshfield Ave, the owner of Humming Rock Gifts, said 30 years ago she traded land on the west side of her building to widen the driveway and she received an extension of land to the north so that she could have parking for six cars. She said the warehouse parking is partially on her property and there is no written agreement, but one could be easily done. Chairman Pritchard said that a written agreement is needed to avoid conflict in the future as the applicant is relying on the parking and the fence does not define the property line. Mr. Taylor suggested a parking plan be provided as the property line is hard to see on the septic plan. Chairman Pritchard asked what is the minimum width of one way traffic flow through a parking lot. Ms. Harbottle said it was 10'. Mr.

Limbacher said that there is missing information for the application, a plot plan is missing and the Coastal Resource Officer wants to know how much money is being spent. Mr. Aieta asked for the comments. Ms. Harbottle said the Building Department has no issue, but the Coastal Resource Officer does want an elevation certificate, elevations and noted that the base flood elevation is incorrect. Mr. Bornstein noted that in Section 770.5 of the Zoning Bylaw a detailed list of what is required should be provided. Ms. Harbottle asked if Fire and Police had seen the application. Ms. Harbottle said they should see it. Mr. Aieta said they will need a two to three week continuance.

Jeff DeLisi said he represent Steve Medeiros who owns property on the opposite side of the street with a hairdressing shop on the first floor and an apartment on the second floor. He indicated he submitted a letter with the issues he would like addressed and noted that the DRC felt there was not enough information. He said the issues need to be addressed before the next meeting and the Selectmen said that the applicant needed to go through the Planning Board first prior to obtaining their liquor license. Mr. DeLisi said the site is gravel and there is no demarcation of parking lines so the spots are conceptual. He said he is concerned about safety, what the surface is made of and the parking lot striping. He said the ZBA should look to determine if a Flood Plain Special permit is required as some of the site is in the floodplain. He indicated that the 2014 plan submitted is not signed nor stamped and that the application is incomplete as there needs to be a parking analysis shown on paper. He opined that the Traffic Rules Committee should review the plan as there is no curbing in front and the parking spaces hang out over the walk which is illegal. He also opined that there should be legal documentation of the land swap and it should be recorded at land court. He said that he thought the Fire Chief would want to review the plan for fire suppression so a fire does not spread. He said the presentation indicated that the deck was for smoking; however the liquor license describes the deck for both drinking and smoking which could be a fire hazard with the neighboring boats lined up with potentially flammable substances. Mr. DeLisi said the bylaw requires a vegetated buffer of the parking and said if that cannot be met, perhaps the use is not appropriate. He asked that photometrics, hours of operation, dumpster location and recycling, number of parking spaces, number of seats in the restaurant, Title 5 input based on fast food versus full scale restaurant and uses in the building all be addressed at the next hearing.

Stacey Clark, of 10 Marshfield Ave, said she is a career environmental scientist and is concerned with the deck use of alcohol and smoking as it is adjacent to a boatyard with plastics and combustibles. She said it is a serious dangerous concern for the neighborhood. Mr. DeLisi said he was concerned about handicap accessibility and thinks the Commission on Disabilities ought to weigh in. Ms. Harbottle asked if the Board agreed with Mr. DeLisi that the ZBA, Commission on Disabilities, Traffic Rules and Board of Health should be asked for comments. Mr. Taylor said there are no comments from Police or Fire either. ????

Ms. Burbine moved to accept the applicant's request to continue the public hearings for the Major Site Plan Administrative Review for 7-9 Marshfield Avenue until September 21, 2017 at 8:15 pm. at a place to be determined and to continue the time for action for filing with the Town Clerk until October 13, 2017 and to request that the applicant schedule a second meeting with the Design Review Committee prior to that meeting and provide four elevations as required by Scituate Zoning Bylaw Section 750.4 and a plan showing detail of the deck, a parking plan including obstacles that will be removed and the dimensions of parking spaces and driveways; signage; lighting; and proposed improvements from those recommended by the Design Review Committee seven days prior to that meeting. Mr. Taylor seconded the motion. Motion was unanimously approved.

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

Documents

- Email from Laura Harbottle to the Board dated 8/3/17 with letter from Morse Engineering dated 7/27/17 with revised location plan dated 7/27/17, Typical Permeable Paver Installation Detail, Heavy Duty infiltrator Detail and impervious areas, Excerpt from Board of Health Plan dated 6/6/17, People GIS Map, ZBA decision dated 7/24/17
- Email from Karen Joseph to the Board dated 8/8/17 with a landscape foundation plan, revised architectural drawings and a comment from Patricia Murphy
- Email to the Board dated 8/8/17 with revised location plan 8/8/17
- Email to the Board dated 8/9/17 with email from Robert Adams of 3 Cedar Crest Lane and letter and pictures from John & Christine Harris dated 8/8/17
- Email to the Board dated 8/9/17 with email from Mary Mulcahy dated 8/9/17

Greg Morse and Karen Lynch were present for the applicant. Mr. Morse indicated that they provided a landscaping plan with foundation plantings and revised architectural plans as requested by the Board. He indicated that a revised site plan was also submitted showing a reduction in the driveway width by two feet to match the reduction in the space between the garage doors. He said that the site plan also shows a walk connection to the garage side door for the accessory dwelling. Mr. Morse said the back area of the accessory dwelling will be lawn and the current condition of the accessory dwelling location is lawn. Mr. Taylor confirmed that some existing vegetation will be removed to accommodate the new septic system. Mr. Limbacher asked about the height of the existing house in relation to the proposed accessory dwelling. Mr. Morse said the accessory dwelling will be about 23 feet tall and is one to two feet higher than the existing house. Chairman Pritchard asked if there were to be additional plantings where vegetation is removed. Mr. Morse said there would not be as it is the septic location.

Ms. Burbine indicated that the ZBA did give a Section 6 finding and the garage can be built as a matter of right. She said the applicant provided what was asked for and has no problem with the project. Mr. Limbacher said he had no problem with the application. Mr. Taylor said the elevation looks better and he likes the narrower drive, but wants mitigation for the septic system. He asked Ms. Lynch where she will sleep. Ms. Lynch indicated she wants an open room and will build a bedroom wall after the room is done if she thinks she needs it. Ms. Harbottle asked if the whole garage could be moved back. Mr. Morse indicated that it would increase the slope of the driveway and the leaching field is under the driveway with the tanks to the left. Mr. Bornstein asked if there weren't the roof infiltrators and pervious pavement would a stormwater permit be needed. Mr. Morse said a pervious driveway is needed so a stormwater permit is not needed. Mr. Bornstein said he would like the pervious driveway maintained.

Christine Harris said she has concerns that the lot is non-conforming and the second dwelling increases the nonconformity as it looks like two buildings on a lot and the ZBA decision doesn't contemplate the accessory dwelling. She said stormwater will be exacerbated and there are no storm drains on Torrey's Lane. She said more trees will be removed for the septic system and would like landscaping. Ms. Harris expressed concern that that some of the driveway is in the right of way of Torrey's Lane and she wants to make sure there is no clearing on the Town land. She said she is also worried about construction impacts due to the narrow width of Torrey's Lane and noise from the construction. She asked for there to be some type of covenant in case they have stormwater

impacts afterwards as two special permits are needed for the development to occur. John Harris of 9 Torrey's Lane said small rainstorms cause a puddle in the location of the proposed driveway and he does not want to see another Blanchard Farm situation. Patricia Murphy of 7 Cedar Crest Lane said that Ms. Lynch keeps her house neat and mold drove her out. She said abutters have paid the price due to construction. She said her house was built in the 50's by her father and she does not want to see the Town ruined as is happening with First Parish Road and Blanchard Farms. Mike Mulcahy of 21 Torrey's Lane said he has similar concerns to the Harris' as his sump pump runs 24/7. He said there is a very high water table and he couldn't do termite control because of the high water table.

The Board confirmed that there will be no tree cutting in the right of way due to the new septic system and that the driveway is not changing the grade in the Town right of way. Mr. Morse said the septic system is on private property and that the back of the yew needs to be pruned. Mr. Harris said that the yew is the only evergreen that shields their house from the accessory dwelling and he feels the landscaping plan is inadequate. Mr. Taylor said that with the pervious driveway and the infiltration chambers, the flow could be decreased to Torrey's Lane. Mr. Morse said the project is not subject to the stormwater bylaw and when the lawn is frozen there will be close to 100% runoff and that exists not. He said the impacts to Torrey's Lane are minimal. Chairman Pritchard said stormwater impacts during construction need to be addressed. Mr. Morse said there will be erosion control down gradient on the site. Mr. Limbacher said he does not want to hear about six trucks waiting to get to the site. Mr. Morse said construction parking will be on site. Ms. Burbine said she understands the frustration, but the Board does the best it can when a Section 6 finding has been issued by the ZBA. She indicated that she has the right to build a garage and the Board is trying to lessen the impact through drywells, pervious paving and landscaping. Mr. Taylor agreed. Chairman Pritchard said that people have the right to apply for a permit to continue to live in the Town. Ms. Harris asked about recourse as abutters as she wants to be assured that damage to her property or flooding will be covered if it occurs. Ms. Harbottle said some of the concerns are addressed by the special permit conditions and if those are not followed that is a zoning violation and the Zoning Enforcement Officer can help along with the Planning Board. Chairman Pritchard said there is always that right.

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

1. On June 20, 2017, Karen Lynch applied for a special permit for an accessory dwelling proposed to be in a detached garage on a single family house lot at 2 Cedar Crest Lane.
2. According to the Town of Scituate Assessor's Field Card, the existing house has a net area of 1,088 sq. ft. and three bedrooms. The accessory dwelling with one bedroom will be 69% of the floor area of the primary dwelling. Based on the application, the interior floor space of the proposed accessory dwelling will be 748 sq. ft. This is less than the maximum of 750 sq. ft. allowed by the Zoning Bylaw. The accessory dwelling meets the size requirements of Section 530.2F.
3. The property is non-conforming as to lot area. A special permit to allow expansion on a nonconforming lot was approved by the Zoning Board of Appeals on July 24, 2017.
4. The Location Plan dated 6-6-17 shows two driveways. One is off Cedar Crest Lane. It is bituminous concrete and has room for at least two cars. The second driveway is off Torrey's Lane. It is proposed as pervious material and has room for two cars. The new garage will also contain sufficient room for two vehicles. This appears adequate to provide two parking

spaces for the accessory dwelling and sufficient parking for the primary dwelling.

5. The owner has submitted a signed, notarized statement that she will live on the property.
6. The detached garage complies with all required setback, building height and yard requirements for a primary structure.
7. A memo dated July 20, 2017 from Jennifer Keefe, Health Agent, indicates a four bedroom septic design plan has been approved.
8. There are two means of egress, a slider door to the deck and an outside stair to the garage.
9. The application meets the standards of the Scituate Zoning Bylaw for an Accessory Dwelling Special Permit.

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

Ms. Burbine moved to approve the Special Permit for an accessory dwelling at 2 Cedar Crest Lane with the following conditions in addition to the standard conditions for accessory dwellings approved by the Planning Board after a public hearing on 12/17/15:

1. Except for any changes necessary to meet these conditions, any construction shall conform to the plans entitled Location Plan, 2 Cedar Crest Lane, Scituate, MA by Morse Engineering, dated 6/6/17 with revisions through 8/8/17, and elevations and floor plans including Drawings A0, A1, A2 and EC General Notes & Details, Proposed Floor Plans, Proposed Elevations and Existing Conditions Floor Plans dated 8/1/16 with revisions stamped in on 8/8/17 for 2 Cedarcrest Lane.
2. The number of bedrooms in the accessory dwelling is limited to one in the location and size indicated on the floor plan submitted with the application. The number of bedrooms in the primary dwelling is limited to three.
3. The accessory dwelling shall conform to all applicable standards in the building, plumbing, electrical, mechanical, fire and health codes and bylaws.
4. Per the direction of the DPW Water Division, the water service for the accessory dwelling can connect with that serving the existing house (after the water meter) or from a new service to be installed from Cedar Crest Lane. Under no circumstances is the accessory dwelling to be serviced by water from Torrey's Lane.
5. Stormwater runoff must be contained onsite during construction and after construction is completed. In addition to a stabilized construction entrance and silt sock to be located at the downhill side of the property along Torrey's Lane, stormwater runoff during construction shall be directed to one or more siltation sumps or devices approved by the Planning Office that is appropriately sized to handle runoff during construction. This device and other erosion control shall be in place and inspected by the Planning Office prior to any foundation work commencing. The applicant shall inform her contractor that he or she is required to contact the Planning Office prior to the start of construction. A construction sequence of activities shall be provided to the Planning Office with detail for erosion control, foundation,

building and septic system installations.

6. A new site plan shall be submitted showing a detail of the pervious pavers, a construction sequence of activities and stormwater runoff control measures as described in Condition 5. The decision shall not be filed with the Town Clerk until this new plan is satisfactorily submitted to the Planning Office. The new site plan shall include the above as well as an operation and maintenance plan for the pervious pavers to preserve their ability to infiltrate stormwater. Yearly documentation of maintenance must be provided to the Planning Office.
7. Construction work shall not begin prior to 7:00 am weekdays and 8:00 am on Saturdays and shall cease no later than 7:00 pm or sunset whichever is earlier. No construction shall take place on Sundays or legal/federal holidays. Construction includes idling of vehicles, delivery of materials to the site and all other construction activities.
8. Six evergreen shrubs of a minimum size of three feet shall be installed between the impervious barrier of the septic system and property line to help screen the accessory dwelling. A plan shall be provided to the Planning Board prior to implementation.
9. The standard conditions for accessory dwellings approved by the Planning Board shall be conditions of this decision and shall be included for recording at the Registry of Deeds.

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

7 Blanchard Farm Lane – Length of Driveway Fence and Tree cutting

Documents

- Email to the Board dated 8/8/17 from Laura Harbottle with email from Marie Cristoforo dated 7/24/17, proposal for fencing for Cristoforo property by Armstrong fence dated 7/18/17, vote of the Board from 6/22/17 for mitigation for driveway headlights Lot 8, photo of grasses on Lot 8, estimate of tree removal dated 7/27/17 by Walnut Tree Service, bottom of trunk of maple to be removed, email of 8/8/17 between J. Quinn, Harbottle and Vinchesi

Ms. Harbottle said that at the end of June, the Board voted that the arborvitae be replaced at 7 Blanchard Farm Lane with a fence that was to extend beyond the driveway. She said the Cristoforo's don't want the fence extended and there was never a discussion of barriers beyond. She said the Cristoforo's will install the fence behind the grasses and their permission is needed to install the fence further. Ms. Harbottle said that the Quinn's feel that an agreement was made and should not be changed as they are vulnerable to nuisances from Blanchard Farms. She said that a question also came up about one dead tree with no branches that the Cristoforo's would like removed as well as other branches in the 20 foot area at the edge of the property. She said given the sensitivity, she wanted to have the Board's input. Mr. Taylor said the arborvitae were required the first time. Ms. Harbottle said there was no condition for the arborvitae. She said it was mitigation required by the Board and a trade off by the builder. She said the arborvitae died due to the drought and water ban.

Tom Quinn indicated that Ms. Harbottle said that the house and driveway changed without notice to the Town. He said he told Ms. Harbottle about the change in January 2016 that the garage door location had changed and it would be a nuisance. He said that Mr. Cristoforo gave a letter and was not at the last meeting when the Board voted unanimously that the fence should be enough to block the sweeping lights. He said the Town new the driveway changed and lights would be a nuisance.

Chairman Pritchard said he wants a resolution and the other party could not be here last time. He asked how much of an impact it would be to have the fence stop at the end of the driveway and asked if it would go to the end of the berm. Mr. Cristoforo said that the fence will be 29 feet and it should block the impact as the fence will be six foot tall and they don't go out late at night. Chairman Pritchard asked if it would address the 90 degree problem. Mrs. Quinn said they would not in future years as headlights come from Blanchard Farm Lane. She said the fence will be 29' and lights will be visible from turning in before they hit the fence. Mr. Taylor questioned if any car would have that effect. Mr. Quinn said that on the side load garage there will be a point when turning when the lights go past the fence. Ms. Burbine asked how long that is. Mr. Quinn said it would be as long as the driveway. Ms. Burbine said that the Cristoforo's have bent over back ward and not a month goes by where the Board is not talking about Blanchard Farm. She said mistakes have been made and they are trying to be fixed and a 29 foot long 6 foot tall fence should be sufficient and adequate. Mrs. Quinn asked if the motion from two weeks ago was null and void. Chairman Pritchard said last time one side was heard and now both parties are here and suggested that it would be better if the two parties came up with a compromise. Mr. Quinn said he felt that was done on June 22. Mrs. Quinn said Mr. Cristoforo is going to put the fence where he wants and there will not be full coverage for lights. She said the problem should have been addressed one year and nine months ago and she does not want to be fighting. Mr. Taylor asked if the Quinn's are looking for four more feet. Mr. Quinn said he wants to hire a lighting engineer. Ms. Burbine opined that the fence is not perfect and the lights will be visible for seconds. Mrs. Quinn said it is a nuisance and the time doesn't matter. Ms. Burbine suggested putting room darkening shades as she has in her bedroom. Mr. Quinn said they did not agree to the arborvitae.

Chairman Pritchard indicated that he has heard both sides. Ms. Burbine confirmed that the Cristoforo's are willing to pay for the fence as proposed and asked if the neighbors contributed to an additional length of four feet would the Cristoforo's consider that. Mr. Cristoforo said they would not. Ms. Burbine said that a fence could be put in the Quinn backyard but the previous owner received a variance for the septic system and wants to be done with the issue. Mr. Limbacher says he feels they should take the fence as offered or not. Mr. Bornstein opined that four additional feet of fence would look bizarre and asked if they would consider an evergreen garden. Mr. Cristoforo asked why does it always needed to be them.

Ms. Burbine moved to accept the Cristoforo's 29 foot long by six foot tall fence. Mr. Taylor seconded the motion. Motion was unanimously approved with Mr. Bornstein abstaining.

Form A – Vacant land off Summer Street – 0 Summer Street
Assessor's Map/Block/Lot 17-4-28
Applicant/Owner: The Stewartia Realty Trust

Documents

- Email to the Board dated 8/8/17 from Laura Harbottle with application and Plan of Land in Scituate and Norwell MA showing a division of Parcel 17-4-28 Vacant Lot off of Summer Street dated 7/24/17 by Morse Engineering Co., Inc.
- Transmittal to departments dated 7/26/17

Greg Morse was present for the applicant. He indicated that the parcel in question was vacant land in Scituate and Norwell with no water main. He said a well has been installed on Lot 1. He indicated that there will be two lots in the R-1 zoning district and the wetland line has been reviewed. He said Lot 1 will have 4.5 acres and Lot 2 about 9 acres and both have in excess of an

acres with extensive wetlands on both lots. He said that both lots have the required 100 feet of frontage. He indicated that the previous three lot plan was abandoned and the people in Norwell do not agree that an easement is present on their property.

Ms. Burbine moved to endorse as Approval Not Required a Plan of Land in Scituate & Norwell, Massachusetts Showing a Division of Parcel 17-4-28 by William J. McGovern, P.L.S. of Morse Engineering Co., Inc. for The Stewartia Realty Trust dated July 24, 2017 as the division of land is not a subdivision because Lots 1 and 2 have adequate access and the amount of frontage required by the Zoning Bylaw on Summer St., a public way. The plan is endorsed with the following notes added that Planning Board endorsement is not a determination as to conformance with the zoning regulations and the plan is only endorsed for frontage and access from the 301.22' on Summer Street in Scituate and not on any right-of-way in Norwell. Mr. Taylor seconded the motion. Ms. Burbine questioned the last sentence of the motion and asked that it be removed. Mr. Taylor seconded the motion as amended. Motion was unanimously approved.

Old Business and New Business

Documents

- Email to Board dated 8/17 from Karen Joseph with agenda for 8/10/17 and meeting minutes from 7/13/17 and 7/27/17
- Email to the Board from Karen Joseph dated 8/8/17 with 5/4/17 meeting minutes

These items were distributed to the Board electronically.

Mr. Limbacher moved to adjourn the meeting at 10:58 p.m. Ms. Burbine seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph
Planning Board Secretary

Benjamin Bornstein, Clerk

Date Approved 1/25/18