

## **SCITUATE PLANNING BOARD      MINUTES      September 10, 2015**

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

Members Absent: Richard Taylor, Clerk.

Others Present: Ms. Laura Harbottle, Town Planner.

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

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

Chairman Pritchard called the meeting to order at 7:00 P.M. The meeting was being recorded for airing on local cable television.

### **Documents**

- 9/10/15 Planning Board Agenda

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

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### **Continued Public Hearing – Major Site Plan Review – 800 Chief Justice Cushing Highway – Scituate Public Safety Complex Assessor's Map/Block/Lot 12-3-1-0 and 25-2-7-A Applicant/Owner: Town of Scituate**

### **Documents**

- Email from Laura Harbottle to Board dated 9/8/15 with revised engineering peer review from Merrill Engineering dated 8/27/15, with response to comments from Nitsch Engineering dated 9/8/15 on Merrill's issues, response to comments from Nitsch Engineering dated 9/8/15 on Water Resource Protection District issues, draft motion dated 9/8/15.
- Email to Board from Karen Joseph dated 9/9/15 with 9/8/15 letter from Concerned Citizens
- Email to Board from Laura Harbottle dated 9/10/15 with comments from Jim Hunt
- Email from Karen Joseph to Board dated 9/10/15 with engineering peer review response from Merrill Engineers
- Email from Laura Harbottle to the Board dated 9/10/15 with draft Findings of Fact
- Email to Board from Laura Harbottle dated 9/10/15 with Nitsch response to letter from concerned citizens
- Email from Public Health Department dated 9/10/15 on initial septic system design review

Don Walter and Alan Brown of Dore & Whittier, Jennifer Johnson of Nitsch Engineering and Town Administrator Patricia Vinchesi were present. Chairman Pritchard opened the continued session of the public hearing of the Site Plan Administrative Review for the Public Safety Complex. Ms. Harbottle said that at the last meeting the Conservation Commission and Planning Board jointly discussed the project and covered stormwater issues, the basic design of the building, some traffic issues and had some neighborhood input. She said the applicant's engineer has responded to comments from the Water Resource Committee and the Conservation Commission and the public driveway has been moved out of the 50 foot wetland buffer. She said a final letter was received from the Town's consulting engineer that they are satisfied with the stormwater issues and design.

Ms. Harbottle indicated that late this afternoon a comment was received from the Public Health Director that nitrogen treatment may be required for the septic system based on proximity to a Zone II, she wants to verify that the location of the leaching field on a separate lot is acceptable to DEP and that they are waiting for final comments from DEP.

Ms. Harbottle indicated that comments have been received from Jim Hunt and a neighborhood petition but no signatures were received. Mrs. Hunt brought up the signatures to Chairman Pritchard. Ms. Harbottle said she prepared draft findings of fact and conditions for the Board to discuss. Mr. Limbacher asked about a traffic study. Ms. Harbottle said that the Board was provided a draft traffic study. Chairman Pritchard asked for the applicant to review the changes since the last meeting.

Ms. Johnson indicated that the driveway has been moved out of the 50 foot buffer, six parking spaces have been relocated to the trail head, small changes to the location of the rain garden were done with Merrill Engineers already having reviewed them and the berm has more planting with seven trees at the edge of the secure parking lot and wildflowers and perennial grasses for a more naturalized looking berm.

Mr. Limbacher asked about the traffic at the Mann Lot/Route 3A intersection. Mr. Brown said that a draft traffic report had been completed and is being reviewed by the Town. Ms. Vinchesi said that there is a meeting on Monday to review the phasing of signalization, but Phase II would address Mann Lot Road. Mr. Limbacher said he would provide his notes on the traffic report to Ms. Harbottle for delivery to Ms. Vinchesi before the Monday meeting. Chairman Pritchard asked about the berm height. Ms. Johnson said it varies from a few feet to eight feet maximum and will be adjusted in the field based on quantities of excavated soils. Mr. Walter said it is the intent to work with the contractor to minimize the berm and blend it into the surroundings as much as possible. He said the berm would be all soil and not tree limbs etc. which will be removed from the site.

Ms. Burbine said she was a proponent of the Public Safety Building, but has several concerns regarding the location and land including: the project is changing where and how water flows and there may be springs and ponds beyond the berm that are not being factored into the equation; the berm itself; traffic had not been studied on Mann Lot Road which is very narrow; and the reduction in the bays from three to two for the fire component. Mr. Walter indicated that this location was selected after review of three sites. He indicated this site was considered to be the best based on traffic, site lines and response times to the West End and Minot sections of Town. He said that the stormwater issues are being addressed and by law runoff cannot be made worse. Ms. Johnson indicated that based on a topographical analysis of the full 20 acre parcel that the facility is proposed upon; the six acre piece is isolated with highpoints sheeting water back to the proposed piece where it is managed and mitigated. Chairman Pritchard asked if Merrill Engineers had reviewed the information. Ms. Harbottle said they asked for the larger watershed to the area drain and for the septic location. Ms. Johnson said they provided the information and Merrill Engineers were satisfied.

Mr. Walter addressed the traffic. He said that police cars will be out on patrol will respond to calls according and will not likely be using Mann Lot Road as a primary patrol path. He said they will use Mann Lot with proposed speed and lighting for some instances. Mr. Walter indicated the preferred response route for the fire department is Route 3A to either Booth Hill or Henry Turner Bailey. He said Mann Lot is not a prime path for the fire department. Ms. Burbine said she will agree to disagree, but stated there is not room for a fire truck and a bus to pass on Mann Lot and the

road should not be more dangerous. Mr. Walter said it is a public way now and does not agree the road will be more dangerous. He said the berm an added benefit as it is being used as a sound and site buffer to the public safety facility components and to the remainder of the land. He indicated the remainder of the site land is recreation and could be used for a school or fields in the future which the berm would provide separation. Mr. Walter said that drainage off the berm will be controlled by the swale to the rear which will properly direct runoff. He said site issues have been mitigated.

Mr. Limbacher said there is not as much concern about the impact of traffic to Mann Lot as he initially thought as there isn't as much traffic directed there and emergency vehicles would need to cross four lanes to get there. He said there will be a problem at Mann Lot and Country Way due to lack of sight distance. The Board questioned how certain sectors such as Hatherly School and Dreamwold would be serviced. Mr. Walter said they cannot say which sectors will be serviced from which location at this time. Mr. Limbacher said he has no problem with the location as it meets the requirements. He said he may have had a different design solution and added that if there was another \$200,000 the berm could go away. Mr. Walter said they are managing a budget that the Town approved and the berm provides economies for the project.

Mr. Vogel said he has concerns about traffic on Mann Lot, but sees that the trip generation is low for the street. He said he does see Ms. Burbine's point that all that is needed is one trip disaster. He said that the berm will look like a ridge when it grows in which is acceptable to him and he is comfortable with Nitsch's professional expertise and Merrill's confirmation on the stormwater design. Mr. Greene said he was satisfied that the site works with the wetlands, stormwater system and berm.

Chairman Pritchard asked for any comments from the Town Administrator, Selectmen and public. Town Administrator Ms. Vinchesi said the applicant has been responsive to the concerns of the Conservation Commission and Planning Board. She indicated the project has been in the works for three years and this location will decrease emergency response times to the West End of Town. She said the Board has questioned the traffic study which will allay concerns on signalization of Route 3A and Mann Lot and she will ask the Fire Chief to reroute department response away from Mann Lot and she will ask the police to direct patrols away from Mann Lot Road as well. She indicated the Selectmen have provided a response to a citizens' letter although they did not receive the letter with signatures. Selectmen Shawn Harris offered no comments.

Andrea Hunt of 66 Mann Lot Road, an abutter, said she has no problem with the Public Safety Complex. She indicated she owns a store in North Scituate Village and people talk to her which is what drove her to represent their opinions. She handed Chairman Pritchard copies of the signatures for the citizen's letter Ms. Vinchesi referenced. Mrs. Hunt outlined the citizen letter concerns:

- Reduction in the number of bays from three to two – they have been told the third bays is not used now but with new growth projected the citizens want the room for another ambulance that the third bay would provide;
- The Berm – aesthetically it can be attractive, but existing trees and their root systems will be lost potentially impacting the runoff down Mann Lot Road and to the remainder of the site which already has major ponding with trails flooded in the spring. She said there is glacial till soil and when it is disturbed, springs and water issues have occurred. She said she grew up in her current house with no water in the basement, but since she and a neighbor have done additions there is a river through her basement from springs that have been disturbed. She said the berm disturbs more trees and soil and a study should be done what will happen on the other side of the berm.

- Mann Lot Road – the road is narrow, in places only 16 to 17 feet across with three telephone poles in the pavement. She said a fire engine is nine feet wide and feels the road should be widened as there will be impacts. She said there will be a traffic impacts and feels the Board should study the issue and not pass the project too quickly.

Chairman Pritchard asked if the traffic study would be available next week. Mr. Limbacher said the Board doesn't have the final traffic study. He said he saw Merrill's report for the Conservation Commission which meets on September 16. He asked Mrs. Hunt to thank Mr. Hunt for his comments and indicated there is a response from the letter she wrote by the consulting engineer. Mrs. Hunt said she would like to see how far the parking and driveway have been moved from the wetland buffer zone. Chairman Pritchard said it was moved out of the 50 foot buffer and that the Zone II runs through the property. Mr. Vogel indicated the Town well is off the plan as it is on the other side of the water tower.

Chairman Pritchard said there are a couple of open items. Ms. Harbottle said there were illusions to a traffic light, but that is not part of this project. She said the draft traffic report only projected 5% of the traffic from the complex would go east on Mann Lot Road. She said that is not a big increase. Mr. Vogel noted there would be more traffic from the future 40 B development. Phyllis Karlberg asked if the people doing the traffic study have actually driven the roads as what happens on paper is not what effects are felt driving out there.

Mr. Limbacher asked to do this at the next meeting. Chairman Pritchard asked next time to address traffic, the berm and mitigation and move forward. Mr. Vogel reported that the Conservation Commission will have met by the Board's next meeting and the final traffic study should be ready. Chairman Pritchard asked if the berm was an alternate. Mr. Walter said it was not as it will be on-site soil as structural fill is needed for the development areas. Mr. Vogel asked about the topography beyond the berm. Ms. Johnson said it has been supplied to Merrill Engineers and they will provide it to the Board. Chairman Pritchard asked if the nitrogen treatment issued would be resolved by the Board of Health.

Mr. Walter asked if the Conservation Commission is concerned with the wetland buffer, couldn't the Board close the hearing tonight and do conditions. Ms. Harbottle said that if more information comes in it can't be included then. Chairman Pritchard said he would like to leave the hearing open and finish the project at the next meeting.

Ms. Burbine moved to accept the applicant's request to continue the Site Plan Administrative Review and Stormwater Permit public hearings for the proposed Public Safety Complex at 800 C J Cushing Hwy/Mann Lot Road until September 24, 2015 at 8:30 pm and to continue the time to file the decision with the Town Clerk until October 7, 2015. Mr. Limbacher seconded the motion. Motion was unanimously approved.

**Continued Public Hearing – Site Plan Administrative Review – 13 Ford Place  
Assessor's Map/Block/Lot 53-5-15  
Applicant/Owner: John O'Keefe**

**Documents**

- Email from Laura Harbottle to the Board dated 9/4 /15 with engineering peer review from Amory Associates dated 7/2/15, revised architectural drawings by Aprea Design dated 9/1/15, cover letter from Ross Engineering dated 9/2/15, Operation and Maintenance Plan dated 9/2/15, revised site plans by Ross Engineering dated 9/1/15, revised watershed plan

dated 9/1/15, Long Term Pollution Prevention Plan, email from Amory Engineers dated 9/4/15 with revised engineering review, photo of sidewalk and draft motion for approval

- Email from Pat Brennan of Amory Engineers dated 9/10/15
- Design Review Committee meeting minutes of 9/8/15

Paul Mirabito, Attorney Jeff DeLisi and John and Norma O'Keefe were present for the applicant. Mr. Mirabito said that they have received the engineering peer review comments and incorporated them into the plans. He said they met again with the Design Review Committee (DRC) who was satisfied. He indicated the existing garage will remain in its present location as there will be five units and one parking space has been eliminated. Mr. Mirabito said there is a fence around the dumpster, they are retaining the large tree in the front corner and the Fire Chief had no concerns about emergency vehicle access; but wanted no hazardous materials stored in the units. He said hazardous materials cannot be stored on site as part of the site is in the Water Resource Protection District. Mr. Mirabito indicated that a detail of the downspouts has been added and they have added a note about a live fence such as arborvitae.

Ms. Harbottle said that the DRC brought up the landscaping issue. She said she is not sure if a planted screen is needed in the back as a lot more plants would be needed. She indicated some of the arborvitae by the road should be removed. She said the DRC would like the units numbered and they approved the gooseneck lights. She said the rest of the items from the peer review can be incorporated as conditions. She indicated the historic house is in the Zone A and Water Resource Protection District (WRPD) and has improvements along Ford Place that were done about five years ago. She indicated that she did not speak to the Fire Chief, but Mr. Mirabito did. Mr. Mirabito said the chief was concerned with sprinklers and alarms, but they would be reviewed as part of the building permit. He said they show a proposed hydrant that the chief was happy with.

Mr. Vogel said he was at the DRC meeting and the response was favorable. He said they would like to see the character of Ford Place matched with the pavement. Mr. Limbacher asked Mr. Mirabito to indicate where the WRPD was along with the Zone A. He indicated that he would like to see the most restrictive uses for the districts enforced. Mr. Mirabito said that storage of certain materials will be prohibited. Attorney DeLisi said his client is agreeable to having the most restrictive uses allowed in Zone A and the WRPD on site. Chairman Pritchard asked how the limitation on hazardous materials would be addressed as the units will be leased. Attorney DeLisi said it would be put in the lease, along with the bylaw provision and along with signs for each of the unit on the doors. He said they did not contemplate periodic inspections. Chairman Pritchard liked the idea of signs inside the units.

There was no public comment.

Ms. Burbine moved to close the public hearing. Mr. Vogel seconded the motion. Motion was unanimously approved. Ms. Burbine moved to make a finding that the Site Plan for 13 Ford Place dated March 27, 2015 with revisions through September 1, 2015 by Gregory J. Tansey of Ross Engineering Company, Inc. meets the requirements of the Town of Scituate Zoning Bylaw Section 770.6, Site Plan Review Standards of Review to a degree consistent with a reasonable use of the site for the purpose permitted by the regulations of the district in which the land is located, and to approve the site plan for 13 Ford Place subject to the following conditions:

1. The project will conform to the Site Plan for 13 Ford Place dated March 27, 2015 with revisions through September 1, 2015 by Gregory J. Tansey, P.E. for Ross

Engineering Company, Inc., the stormwater report and Schematic Design Plans titled New Commercial Building for O'Keefe Construction by Aprea Design dated July 30, 2015 with revisions dated September 1, 2015. Materials used shall be of the type with the textures shown on the architectural plans. Any changes from these plans other than to incorporate the conditions below will require approval of the Planning Board. – ***Attorney Jeff DeLisi said the revised plans are dated September 9, 2015.***

2. Where this Site Plan Administrative Review requires approval, permitting or licensing from any local, state or federal agency, such required approval, permitting or licensing is deemed a condition of the Town of Scituate Planning Board's approval of this site plan. All necessary permits and approvals must be received prior to construction. Materials and details of construction, including connection to Town Water and Sewer systems, shall meet all requirements of the DPW, Board of Health, Fire Department, Conservation Commission, Building Department, the State Building Code and the Water Resource Committee.
3. Prior to scheduling the pre-construction conference, the following changes shall be made:
  - a. The following notes shall be added to the plan:
    - i. Uses prohibited by Scituate Zoning Bylaw Section 520.6 or any use generating, treating, storing or disposing of materials considered hazardous waste, except for very small quantity generators as defined by 310 CMR 30.00 shall not be conducted in the commercial units. Storage of liquid hazardous materials or liquid petroleum products unless such storage is above ground level on an impervious surface; and in containers or above-ground tanks within a building, or outdoors in covered containers or above-ground tanks with a containment system designed and operated to hold 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater.
    - ii. No vehicle washing is to occur on the site.
    - iii. The Long Term Pollution Prevention Plan shall be provided to all tenants and occupants of the property, and applicable sections included as conditions of lease or rental agreements.
    - iv. Significant trees located to the front of the property shall be preserved to the greatest extent possible and protected with snow fence during construction.
    - v. The units on the new building shall be numbered on the outside for identification, fire protection and emergency response purposes.
    - vi. All light fixtures shall be fully shielded to avoid light trespass onto adjacent properties.
    - vii. The storage units adjacent to Unit 1 shall be used by the owner or tenants on the site and shall not be separately rented. – ***The Board decided this could be eliminated.***
    - viii. A note and detail for stockade fence for the dumpster shall be added.
  - b. The plan shall be revised so the existing house and commercial units are aligned, or plantings, fencing, etc. shall be added after consultation with the applicant's architect to soften the misalignment, because of the visibility of the two existing structures and

new construction from Ford Place. – ***The Board decided this could be eliminated. They asked for a condition that permanent signs indicating prohibited uses shall be in a prominent location in each unit.***

- c. Parking space #3 shall be removed to allow sufficient room to access the garage. Parking space #12 shall meet the minimum standard of the Scituate Zoning Bylaw of 9' x 18' or shall be removed from the plan. – ***The Board determined this could be eliminated.***
  - d. In order to preserve the streetscape of Ford Place, the plan shall show four foot Green Giant arborvitae (Thuja) to be planted 5-6' on center. A planting detail shall be added to the plan. Arborvitae shown to be planted on the front side of the property where they will hide the house from the street or interfere with sight distance shall be removed from the plan. – ***The Board changed the language to “in order to screen the parking lot from the street and adjacent properties, the plan shall show four foot Green Giant arborvitae (Thuja) to be planted 5-6' on center except where the building is less than 15 feet from the property line.” They said minor changes to the language could occur based on the plan which the Board had not seen as it had been revised after the Design Review Committee meeting.***
  - e. Ornamental grasses or low shrubs shall be added to the plan to screen parking spaces 1-3 from the street. – ***The Board determined it should be the two spaces as the third was eliminated.***
  - f. Standard overflow and splash pad discharges shall be added/indicated for the rear downspouts. – ***The Board determined this was already on the plan.***
4. Prior to application for a Certificate of Occupancy, a copy of a contract for inspection and maintenance of stormwater structures per the Post Construction Operation and Maintenance Plan received September 2, 2015 shall be provided to the Planning Department.
5. If signage is incorporated at a later stage of the project's design, it shall be reviewed by the DRC and Planning Board prior to application for a sign permit.

### **Pre-Construction**

- 6. A test pit shall be excavated at the southern end of the subsurface recharge system to verify that suitable soils are consistent across the system. This test pit shall be witnessed by an agent of the Town.
- 7. The applicant or his contractor shall consult with the Conservation & Natural Resources Officer to determine the best way to remove knotweed from the site, both within and outside the Water Resource Protection District as needed.
- 8. Detail(s) of the proposed types of lighting shall be provided to the Design Review Committee for their review and approval. – ***The Board determined this was already complete.***
- 9. A pre-construction conference including the Town's consulting engineer, the site contractor and the Town Planner will be required prior to the start of construction. The

applicant shall provide funds to cover the cost of inspections and attendance at the pre-construction conference by the Town's consulting engineer.

10. Prior to scheduling the pre-construction conference, a final set of revised plans and schedule of construction activities shall be provided to the Town Planner. Six reduced size (11 x 17) copies of the revised plans and PDFs shall be provided to the Town Planner for Town departments.

### **Construction**

11. Stormwater control measures shall be maintained during construction according to the approved Erosion Control Plan and Erosion Control Details. Water and sediment cannot be discharged into the existing infiltration system until the site is fully stabilized.
12. The Town Planner is to be notified when erosion control measures are installed, when construction begins and when construction is completed. If deemed necessary by the Town Planner, temporary sedimentation basins, check dams, silt socks and or noise and dust control may be required. All erosion control measures shall remain until the Town Planner determines that the danger of erosion or sedimentation no longer exists.
13. Construction work shall not begin prior to 7 AM weekdays and 8 AM on Saturday and shall cease no later than 7 PM or sunset whichever is earlier. No construction shall take place on Sundays or legal/federal holidays.
14. The driveway crosswalk and brick sidewalk shall be finished and tapered on either side of the new driveway to match materials, color, and grade for conformance to the streetscape improvements recently installed by the Town and for handicap accessibility. See attached picture. Any granite curb removed which cannot be used on Ford Place at this site shall be given to the DPW.
15. The granite boundary posts on the front of the property shall be preserved.
16. There shall be no parking or idling of vehicles on Ford Place during construction except as required for work in the right-of-way, or after completion of the project.
17. Construction of the proposed site and site utilities shall be supervised by a registered professional engineer who shall certify in writing to the Planning Board and Building Commissioner that the site and site utilities were constructed in accordance with the approved plans. The certification shall be accompanied by as-built plans for the improvements shown on the plan, signed and stamped by a land surveyor and the supervising professional engineer. The as-built plans must be submitted to the Planning Board prior to the issuance of a final occupancy permit. – ***The Board wanted another condition added to the decision that "The uses on the site shall be restricted to uses allowed in the Zone A."***

Mr. Limbacher seconded the motion with the revisions. The motion was unanimously approved.

**Public Hearing – Accessory Dwelling Special Permit – 435 First Parish Road**  
**Assessor's Map/Block/Lot 37-3-16-D**  
**Applicant/Owner: Brian and Andrea Pattison**

### **Documents**



- Email from Laura Harbottle to the Board dated 9/4 /15 with an application for an accessory dwelling received 8/3/15, excerpt of a site plan dated 7/28/15, architectural permit review set dated 7/30/15 by Tiriyaki Architectural Design, LLC, transmittal to departments dated 8/3/15, memo from Water Division dated 9/4/15 and draft motion

Andrea and Brian Pattison and John Tiriyaki were present for the applicant. Mrs. Pattison said they would like to add an accessory dwelling for her mother. Mr. Tiriyaki reviewed the existing house and indicated that the existing mudroom will provide a connection to the new two story accessory dwelling which will be located behind the new garage. A set of internal stairs will lead to the second floor of the accessory dwelling and there will be a separate door from the mudroom to the first floor of the accessory dwelling. A new garage and upstairs playroom is being added to the primary dwelling. He indicated the square footage of the accessory dwelling will be 740 sq. ft. Mr. Tiriyaki also said that it will blend into the existing character of the neighborhood as it will be cape cod style with dormers. He indicated there will be room in the garage for two cars and the pull out area of the driveway will also accommodate two cars.

Ms. Harbottle said the application is straightforward as the proposed accessory dwelling of 740 sq. ft. is below the 750 sq. ft. size and the parking is adequate. Chairman Pritchard asked if the house was on sewer. This was confirmed. The Board had no issues.

Ms. Burbine moved to close the public hearing and to make the following Findings of Fact:

1. According to Town of Scituate Assessor's records, the property at 435 First Parish Road is owned by Brian J and Andrea M Pattison. The property is located in the Residential R-1 zoning district on a lot of 1.68 acres.
  2. On August 3, 2015, Brian and Andrea Pattison applied for a special permit for an accessory dwelling within a single family home on the property at 435 First Parish Road.
  3. Based on a floor plan submitted by the applicant, the interior floor space of the proposed accessory dwelling will be approximately 740 sq. ft. It meets the size requirements of 530.2F of the zoning bylaw for accessory dwellings.
  4. The plan shows the dwelling to have a paved existing driveway and there will be a new two car garage. This appears adequate to provide two parking spaces for the accessory dwelling and ample parking for the primary dwelling.
  5. The applicants have submitted a signed, notarized statement that they will live on the property. The special permit will be recorded. Any future new owner will need to file an affidavit with the Planning Board that he/she occupies the property.
  6. The property is on Town sewer.
  7. There are no new exterior stairs.
  8. The application meets the standards of Scituate Zoning Bylaw for an Accessory Dwelling Special Permit.
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Mr. Limbacher seconded the motion. Motion was unanimously approved.

Ms. Burbine moved to approve the Special Permit for an accessory dwelling at 435 First Parish Road with the following conditions:

1. The applicant shall meet all requirements of the Building Department, Board of Health, Department of Public Works, Fire Department, Water Department, Board of Selectmen and other town agencies.
2. Except for any changes necessary to meet these conditions, any construction shall conform to the plans entitled Pattison Residence Renovation 435 First Parish Road Scituate, MA Permit Review Set by Tiriyaki Architectural Design, LLC dated 7/30/2015 including Sheets A0.0, AE1.1, A1.1, A1.2, A2.1, A2.2 and Certified Location Plan showing existing house and proposed addition 435 First Parish Rd, Scituate, MA 02066 Parcel: 37-2-16 D by Stenbeck & Taylor, Inc. revised dated July 28, 2015.
3. The property at 435 First Parish Road shall contain a maximum of two dwelling units, the primary dwelling and the accessory dwelling as proposed. The footprint, number of bedrooms and/or square footage of the accessory dwelling shall not be increased without prior approval of the Planning Board. 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 and attached to this decision.
4. The owner of the property shall reside on the property as long as it contains an accessory dwelling unit. An Accessory Dwelling Special Permit Certification of Ownership and Occupancy from any new owner shall be completed at the closing of the sale of the house and a copy provided to the Planning Board within seven days.
5. The Planning Board will require an on-site inspection for conformance to the approved plans and these conditions prior to a Certificate of Occupancy being issued for the accessory dwelling.
6. No on-street parking shall be permitted at any time.
7. This Special Permit shall be void if it is not recorded at the Registry of Deeds within 90 days of the date of filing with the Town Clerk. The owner shall provide proof of this recording to the Planning Board.
8. This Special Permit shall lapse within two years from date of its issuance unless substantial use or construction has commenced prior to that time in accordance with MGL Chapter 40A, Section 9.
9. The Planning Board reserves the right to review compliance with this special permit at any time. At the request of the Planning Board, an affidavit shall be provided that either the primary or accessory unit is owner occupied.
10. At each transfer of ownership of the property, a new affidavit that the owner resides on the property shall be provided to the Planning Board within seven days of the closing of the sale of the house.

11. This Special permit shall terminate if the use is not in accordance with this decision and its conditions.

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

**Public Hearing – Scenic Road/Public Shade Tree – Tilden Road Pedestrian Trail**  
**Assessor's Map/Block/Lot**  
**Applicant/ Owner: Town of Scituate DPW**

**Documents**

- Email from Laura Harbottle to the Board dated 9/ 4/15 with scenic road application, plan for the Tilden Road pedestrian trail by Horsley Witten Group dated 7/30/15, scenic road tree listing dated 7/31/15 and draft motion
- Letter from Mike Breen dated 9/4/15

Jackie Carr of 147 Tilden Road and Justin Lamoureux of Horsley Witten were present for the applicant Town of Scituate DPW. Mr. Lamoureux indicated that a .6 mile six foot wide asphalt trail with granite curb will be located from the intersection of Tilden Road and Beaver Dam Road along Tilden Road to the intersection of Turner and Tilden. He said the trail will meander where there is sufficient room in the right of way. He indicated 13 trees will be removed from the right of way consisting of lindens, oaks, maples and a yew. He said the trees were marked in the field and were mostly between 107 and 117 Tilden Road. Mr. Lamoureux provided the Board with photographs of the trees and indicated that several are between 36" and 48" in size; however, they have been pruned heavily to provide for the overhead electric wires. He indicated that the tree warden has provided a letter agreeing with the tree removal. He said that two sections of wall will be removed and rebuilt behind the trail in the right of way.

Ms. Burbine indicated that the developer Steve Bjorklund provided a walk between Ava's Lane and Shadwell Road. Mr. Lamoureux said they will be making that section ADA accessible by being six feet wide. Mr. Limbacher asked if the trail takes the whole right of way. Ms. Carr said where there is room to meander; the trail will be located off the road as far as possible. Mr. Lamoureux said the right of way is variable, so that the trail cannot be located without removal of trees. Ms. Burbine added that the trees have been pruned to be quite ugly. Ms. Harbottle added that the trail has been in the planning stages for a while and will be good for children to get to the Wampatuck School as well as connecting segments of town. She indicated it was a CPC funded article. The Board had no questions on the project.

Mike Kinahan of 287 Tilden Road asked if the trail would go to Turner Road. Mr. Lamoureux said that the base bid is for Beaver Dam to Willow and the alternate is from Willow to Turner. He said the bidding climate is changing and they are not sure there will be enough money to fund the entire trail. He said the expected base cost is \$275,000. Mr. Kinahan said that if the entire trail is not built then it would only benefit the residents of Tilden Farms. He said Tilden Road is a scenic and historic road with some of the trees in rough shape, but questions the justification for removal of the trees and changing the character all for child safety. He asked if the trail could go through Tilden Farms and keep Tilden Road intact. He said he is opposed to changing the character of the Town and with Toll Brothers coming with 90 new homes all the tree removal will change the character. Chairman Pritchard asked if alternatives were considered. Mr. Lamoureux said they considered easements, but there were none available in the area. Mr. Kinahan asked if any residents of Tilden Farms were asked. Collen McCarthy of 21 Candlewood Drive said she supports the trail and would

give an easement for the trail to come off Candlewood. Mr. Lamoureux said that Ms. Carr talked with neighbors about easements, but said that the trail cannot cross the street multiple times and there is no option for locating the trail on the other side of the street. Mr. Kinahan asked why the trail couldn't come up through the exclusive Tilden Farms development. He said the rest of the Town is losing the public benefit of the scenic road. Ms. Carr indicated the trail is not for one neighborhood. She said it is located based on the Town's open space plan and its use will be multigenerational. She said the trail will provide linkage to the beaches and Phase II will provide linkage to the playing field. Josh Roman of Willow Circle said that the idea that one group is advocating for the trail is wrong as the desire is to link areas of the Town safely. He said that six trees are effectively dead. Mr. Limbacher confirmed the trail would become an integral part of trails through the Town. Ms. Burbine said it is about connections. She indicated Forest Street in Norwell is having a path installed and this is a matter of public safety especially with Toll Brothers coming down the line. She said the trail on Driftway is used all the time. She opined the trail is for the greater good. Mr. Limbacher said he lost three trees in front of his home for the trail on Gannett Road which is greatly used. Kelly Lee of 26 Candlewood said some houses are already putting trees on their property. Ms. Harbottle said small trees will be planted. Ellen Kreuter of Beaver Dam Road said she sees the need for more safety and would like more trees. She said she heard there will be a walk on Country Way. Mr. Limbacher said the walk on Country Way will be done at a later date after the waterline work is completed. Laura DeLong of 127 Tilden Road said three trees along her property will be removed. She said they do not provide shade as they have been heavily pruned. She indicated she would be happy to have trees on her property. Martin O'Toole of 15 Maple Ave. confirmed with the Board that the trail will start at Beaver Dam and 13 trees are to be removed. Allison Daraskevick of 30 Ava's Lane said she loves the huge tree trunks, but the trees are in poor shape and they are leaning into the street. She said the trees need to come down. Ms. Burbine read the letter from Mike Breen. She said change is difficult, but the trees need to be put out of their misery. Mr. Lamoureux said construction will begin in October with the curb and binder installed before winter. He said clean up and seeding would occur in the spring.

Ms. Burbine moved to close the Scenic Road Act and Public Shade Tree public hearing, waive the application fee and approve the removal of trees and stonewalls within the Tilden Rd. right of way as shown on a plan prepared by Horsley Witten Group entitled Tilden Road Pedestrian Trail Scituate, Massachusetts C-5 and C-6 dated July 2015 in connection with the construction of a proposed trail along Tilden Rd. from Beaver Dam Rd. to Turner Rd. for the Town of Scituate, as follows: 13 Shade Trees as shown on the above noted plans and brush smaller than 3" in diameter, and approximately 176 linear feet of stonewalls which will be relocated. The Board approves the plan subject to the condition that granite curbing shall be installed at the street corners as shown on the plan for safety. Six (6) trees of 2 ½" caliper native species that will be delivered to the DPW as a condition of a previous scenic road approval shall be placed in the right-of-way under the direction of the DPW, Tree Warden and Town Planner to replace those trees lost after construction is complete. Mr. Limbacher seconded the motion. Upon further discussion, Chairman Pritchard asked for one to one replacement of trees. Ms. Harbottle suggested there may not be enough places to put 13 trees and suggested adding the wording "up to 13 trees". Mr. Kinahan suggested one to one replacement would be better for the Town. Chairman Pritchard concurred. Ms. Burbine modified the motion to add "along with an additional seven (7) trees" be added after approval and prior to shall in the end of the motion. Mr. Limbacher seconded the revised motion. Melissa McDonough of 128 Tilden Road asked if the whole project would go down the drain if the trees can't be obtained. Ms. Harbottle said there are already six from another project. The Board approved the motion unanimously.

## Minutes

Mr. Limbacher moved to approve the meeting minutes of 8/27/15. Mr. Vogel seconded the motion. Motion was unanimously approved.

## **Accounting**

### **Documents**

- PO # 1601787(\$96.48), PO # 1601818(\$1,140.00), PO # 1601819(\$535.50)

Mr. Limbacher moved to approve the requisition of \$96.48 to Gatehouse Media MA for a Legal ad for 61 Border Street Scenic Road hearing in the Scituate Mariner, \$1,140.00 to Chessia Consulting Services, LLC for engineering peer review for 265 Beaver Dam Road and for \$535.50 to Chessia Consulting Services for construction inspection services for The Glen. Mr. Vogel seconded the motion. Motion was unanimously approved.

## **Town Planner Report**

Ms. Harbottle indicated that an article for a microbrewery will likely be by citizen petition for the special Town Meeting in November. She said that she is not sure if the Selectmen will entertain zoning for the special Town Meeting. Ms. Burbine thought that a citizen's petition can't be refused if it meets the qualifications.

## **Continued Public Hearing – Scenic Road hearing – 61 Border Street Assessor's Map/Block/Lot 6-2-B Applicant/Owner: Kristen Lilly**

### **Documents**

- Email from Laura Harbottle to the Board dated 9/4/ 15 with the application for the scenic road hearing received 7/6/15, an email from Michele Bonomi dated 7/29/15, DPW comment dated 7/30/15, transmittal to departments dated 7/6/15, Site Distance Plan by Grady Engineering dated 9/2/15, Letter on Sight Distance to Sean McCarthy dated 9/2/15 and draft motion dated 8/5/15
- Email from Sean McCarthy dated 9/10/15

Chairman Pritchard opened the continued public hearing for 61 Border Street scenic road hearing. Kristen Lilly was present as owner. She indicated she would like to amend her August 9, 2013 scenic road approval. She said she received approval for disturbance of 19 feet of stonewall with its reuse on site for a driveway opening with a hammerhead turn. She said at that time she had a foundation permit, but the house design was not finalized. She said between the times of the scenic road approval and when she obtained a building permit, the house shrank in size so she had eight more feet in the front yard of Border Street. She said the additional eight feet allowed construction vehicles to go around a loop instead of backing out into the road.

Ms. Lilly indicated that when she met with Neil Duggan and Laura Harbottle in February 2014, Mr. Duggan said that the circular drive would not be a problem and not a DPW issue as there was no existing curb according to Ms. Lilly. She said she installed the gravel driveway as she thought she was allowed to do. She said Ms. Harbottle never mentioned that an amendment for the scenic road would be necessary despite the many site visits for the stormwater permit. She indicated that in May 2015 she received a letter and said that she did not have permission for the second drive. She said

Ms. Harbottle told her to file for an amendment which she did on June 22. She indicated that Ms. Joseph sent her a cub cut form and told her to go to DPW. She said DPW said that she needed to go to the Traffic Rules Committee and provide the sight and stopping distances for both driveways despite one already being approved. She indicated that her consultant, Kevin Grady did the plan and submitted the results which indicate the sight distances are in compliance.

Ms. Lilly said the circular driveway evolved from changes of usage on the property. Chairman Pritchard indicated that the Planning Board only approved one driveway opening to Border Street under the Scenic Road Permit. Ms. Lilly said she talked with Ms. Harbottle during the process and indicated that no stones were being removed for the second driveway opening. She said she supplied the Board with preconstruction pictures. Ms. Harbottle said she agrees with some of what Ms. Lilly has stated. She said it went by her that Mrs. Lilly needed a second driveway scenic road hearing and she didn't know about a curb cut. She indicated the issue was caught and Mrs. Lilly is here now. Ms. Harbottle said that the area on Border Street has both horizontal and vertical curves that have been shown by Grady Consultants to meet the sight distance and DPW has had a chance to review the data and supports it. Ms. Harbottle said it appears that no stone wall was taken out or trees over 3" in caliper for the second opening. Mr. Vogel said that Town Engineer, Sean McCarthy said that two points of access are better here and indicated that a tree may have a minor impact. He asked if the Board could approve the second opening without the input of the Traffic Rules Committee. Ms. Harbottle answered the Board could approve it conditionally and the item is on the next Traffic Rules meeting.

Joseph Bonomi of 53 Border Street said there was a stone wall there. He said the pictures make it look like no stonewall was ever there. He said they always wanted a second drive. Robert Duncan of 44 Border Street said there was a wall there – a jumble wall. He said there were portions of the jumble wall removed. Mr. Bonomi said he has a tough time pulling out of his driveway due to the tree noted above. Mr. Vogel asked if they wouldn't agree that a circular drive is safer for visibility. Mr. Bonomi said a hammerhead drive with room for two cars was approved and he thinks they haven't done anything right. Ms. Lilly said that she has pictures and asked the Board to judge by the pictures not words. Mr. Duncan, a resident for 20 years, said there was a jumble wall like everyone had and they have built a "Newton style wall" in its place. Ms. Lilly said she has photos and she had 19 feet of wall removed and then the wall stopped and went to nothing. She said she had email with Mr. Grady prior to the application on the lack of the wall here. She brought the pictures up to the Board to see which she indicated were put on her computer on 8/8/13 before the first hearing. Ms. Harbottle said that the 2013 Grady plans shows 19 feet of wall replacement and showed the Board the original approved plan. Ms. Lilly said there were stones under the wall. Mr. Duncan said that the old walls all collapsed, but it was there and went the whole length of the property.

Chairman Pritchard verified that 19 feet of wall was approved to be removed. He stated that another driveway opening was put in and asked what happened to the replication. Ms. Lilly said that there is 61 feet of new farmers' wall. She said one side has a formal face (facing the street) and the other side has a jumble face. The Board asked to see the pictures with the application. Mr. Duncan said the old wall is what existed and is along the street and that is what should be preserved. Jim Spelman of 49 Border Street said there was always a wall there and it was substantial enough. He indicated Ms. Lilly had it taken down and they altered their plans many times. He said the new stone wall is not consistent with the scenic road.

Mr. Vogel said that if the plan originally came in with two drives he would have voted for it. Ms. Burbine asked if the Board would have anticipated what would stay would be the existing wall. Mr.

Limbacher said they would have expected the removed stone to be added to the existing wall. Ms. Bubine said the Board would have expected a jumble wall. Mr. Spellman said he would have expected a wall similar in character to the rest of the street to maintain the scenic road character. Ms. Lilly said that Border Street doesn't have any jumble walls. She said the Bleakies' have an improved wall. She said people don't want a rubble stone wall. She said the constructed wall is a farmers' wall with one face jumble and one face fieldstone. Mr. Limbacher asked if it wasn't a circular drive, would Ms. Lilly have extended the wall. Ms. Lilly said she would have done nothing as it was nothing and bushes.

Chairman Pritchard redirected the discussion to the stone wall on this property not others. He said he expected 16 feet of stonewall taken out and replicated at another location. Ms. Lilly said if she replicated the wall it would be nothing as it was a haphazard pile of rocks. She said she couldn't have moved the wall and the vegetation which is why she took the pictures. Mr. Limbacher said they didn't put the wall where they said the 19 feet was to be. Mr. Vogel indicated that is why they are discussing an amendment as it was not built according to the plan. Chairman Pritchard said he does not like to approve changes that are retroactive. Ms. Lilly said she spoke with Laura before she did the wall and spoke with Neil before she went forward with the drive. She said Laura did not say anything and many months went by with several site visits from her without any action. Ms. Lilly said she did not know there was a problem and wouldn't have spent thousands of dollars if she had known there was a problem. Chairman Pritchard said that they cannot police every construction job. Ms. Lilly said that after discussing this with Ms. Harbottle and Mr. Duggan when she found there was a problem she immediately addressed it.

Mr. Duncan asked if there was an official legal process with written permitted documents. Chairman Pritchard said the Board has retroactive documents that are being discussed. Mr. Bonomi said this could set precedent. He said that a one opening driveway with a hammerhead was approved and Ms. Lilly's husband is a builder so he should know the rules better. Mr. Bonomi indicated the house is done and they are begging for forgiveness. Ms. Lilly said she talked with Laura. Ms. Burbine asked if the Board has the authority to tell them to take the wall down and build it as approved. Chairman Pritchard said he believes so. Ms. Burbine said it would be a hardship, but the rules need to be followed. Mr. Vogel questioned what rules. Ms. Burbine indicated the approved plan is what should be adhered to. Mr. Vogel asked how much wall should be reworked. Ms. Burbine indicated the wall to provide for a single curb cut. She said a mistake has been made and she would have the expectation that the stones would have been reused in the wall.

Mr. Limbacher moved to close the Scenic Road Act public hearing and to approve the post-construction application for a second driveway access of approximately 25' wide for a single family home at 61 Border Street, Assessor's Parcel 6-2-B, for Kristen Lilly, on the condition that approval of the second curb cut be obtained from the DPW and the existing stone wall be maintained. A total of 61' of stone wall modifications or improvements resulted from the project at the front property line according to a Scenic Road Plan #61 Border Street Scituate, MA by Grady Consulting, L.L.C. dated June 30, 2015, but no additional removal of trees or stone wall was required for the second driveway opening. The Board reviewed the plan by Grady Associates again. Mr. Greene asked if DPW has the final approval after the Board. Mr. Limbacher said DPW had responded. Ms. Burbine seconded the motion for discussion. Mr. Greene clarified that a yes vote approves the motion and a no vote means the original plan remains in effect and the second driveway opening is removed. Mr. Vogel voted for the motion. Mr. Pritchard, Mr. Limbacher, Mr. Greene and Ms. Burbine voted to deny the motion. Mr. Limbacher said the modification was not approved. He said the second curb cut is not approved and the stonewall opening should be built according to the original plan. Ms.

Lilly asked if she can leave the gravel drive across the front and expand the stone wall across the drive. Mr. Limbacher said yes. Chairman Pritchard said the Board is addressing the curb cut not the driveway on the property.

### **Old Business and New Business**

#### **Documents**

- Email to Board dated 9/9/15 to the Board from Laura Harbottle on potential zoning article on microbreweries

These items were distributed to the Board electronically.

Mr. Vogel moved to adjourn the meeting at 10:43 p.m. Ms. Burbine seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph  
Planning Board Secretary

Richard Taylor, Clerk  
10-8-15  
Date Approved