

SCITUATE PLANNING BOARD MINUTES September 13, 2018

Members Present: Ann Burbine, Chairman; Stephen Pritchard, Vice Chairman; Patricia Lambert, Clerk, William Limbacher and Benjamin Bornstein, vacant Alternate member.

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

Members 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

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

Documents

- 9/13/18 Planning Board Agenda

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

Public Hearing – Special Permit Accessory Dwelling - 10 Driftway

Assessor's Map/Block/Lot

Applicant/Owner: Harry Dennis Snyder

Document

- PDF of application dated 7.30.18
- PDF of As-built Cabana 2010
- PDF of Assessors Map, Assessors Card and GIS View
- PDF of BOH comments dated 8.9.18
- Doc Draft Motion 10 Driftway
- Doc transmittal letter dated 7.30.18

Attendees: Harry Dennis Snyder, Owner; Ralph Cirelli, Consultant

Dr. Snyder indicated that when he bought the house in 1992 there was a cabana on the property.

- Renovated 10 years ago
- Given Certificate of Occupancy(COO)
- Used by relatives so that they do not need stairs
- Wishes to make this an Accessory Dwelling
- Cabana has a permitted kitchen and bathroom

Dr. Snyder is before the board to legitimize the detached "cabana" as an accessory dwelling. It was indicated that there had been an existing second kitchen in the primary dwelling that has been decommissioned; the existing house is one legal living unit and Dr. Snyder is asking for the detached cabana to be a second legal living unit which is allowed under the bylaw. The "cabana" was given a

COO in 7.13.10 and it does meet all the required setbacks. The Board of Health provided a comment letter that the unit is only big enough for one person.

There was some confusion among the Board Members as to why this needed to be permitted since it is already permitted. There was discussion that the structure is permitted as a “cabana” not as an accessory dwelling.

Mr. Cirelli a former State Building Inspector for the Department of Public Safety spoke on the applicant’s behalf.

- Before the Board for the correct permit
 - 2008 occupancy was given for a cabana
 - Under the bylaw cannot be called a “cabana” for someone to stay in it
- Applicant met with Neal Duggan and Bob Vogel at property
 - 1 room – with a bed, kitchen and bathroom
 - 2 means of egress, fire suppression system
 - Building Inspectors have provided comments
 - One kitchen in the primary dwelling
 - Stove has been removed from the second kitchen
- No additional modifications are being made to the structure
- 2nd means of egress is a double door to the deck
- Both dwellings on town water and sewer
 - Existing separate feeds
- Parking for ½ dozen cars

Public comments:

Mr. Ken Conway resident of 15 Eagles Nest opined that Dr. Snyder already has an apartment in his house. Ms. Joseph indicated the Building Commissioner has determined that the second kitchen has been decommissioned. The applicant is applying for the detached building to be the accessory dwelling.

Ms. Joseph said if Mr. Conway has further questions he should speak with the Building Commissioner.

Mr. Conway was adamant that Mr. Snyder still had an apartment in his primary dwelling with renters. He questioned the Board on what they define as a decommissioned kitchen. Mr. Conway feels that the applicant has both an apartment and accessory dwelling on his property now. He said that it exists without a kitchen; the Board indicated that Mr. Conway could take up his concerns with the Building Inspector. Mr. Conway opined this is setting a persistent.

It was noted that Dr. Snyder withdrew his first application for an accessory dwelling in order to conform to the bylaw of having a primary dwelling and an accessory dwelling. Dr. Snyder admitted he did not have a permit for the apartment that was inside his primary dwelling, this is why the kitchen has been decommissioned.

Mr. Conway opined he wanted this on the record that he is taking this as a persistent that he could have an apartment inside the main house that doesn’t have a kitchen with an outside entry way. The Board opined that is not permitted and is not an accurate assessment.

Ms. Joseph opined the “cabana” meets the requirements of the detached accessory dwelling.

The Board indicated that the illegal apartment in the main house has been decommissioned. Ms. Joseph has documentation from the Building Commissioner.

Mr. Cirelli said that state law says a dwelling unit consists of three things – sanitation, cooking, and sleeping. He said State law allows up to 4 unrelated people living in the dwelling. He indicated Dr. Snyder has three friends that live in the home.

Mr. Bornstein opined this opens an issue from a Planning perspective on Air BNB’s and short term rentals for the future.

Mr. Limbacher opined there are two things taking place, making the cabana legal and taking away an illegal dwelling.

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

1. On July 30, 2018, Harry Dennis Snyder applied for a special permit for an accessory dwelling in a detached structure on the property at 10 Driftway. The existing cabana is proposed to be used as a detached accessory dwelling unit.
2. Based on a floor plan submitted by the applicant, the interior floor space of the proposed accessory dwelling will be approximately 260 sq. ft. The accessory dwelling is below 750 sq. ft. and meets the size requirements of 530.2F of the zoning bylaw for accessory dwellings.
3. The As-Built Building Location Plan #10 Old Driftway dated 6-29-2010 shows a garage and paved driveway which appears capable of providing two outside parking spaces. This appears adequate to provide two parking spaces for the accessory dwelling and parking for the primary dwelling.
4. The owner has submitted a signed, notarized statement that he will occupy one of the dwelling units on the property.
5. The main dwelling and the accessory dwelling will be serviced by town sewer and water.
6. The accessory dwelling is a separate housekeeping unit and there is only one accessory dwelling on the lot.
7. The detached accessory dwelling in the existing cabana complies with all required setback, building height and yard requirements for a primary structure.
8. The application meets the standards of the Scituate Zoning Bylaw for an Accessory Dwelling Special Permit.

Mr. Bornstein seconded the motion; there was discussion.

Discussion:

Mr. Pritchard indicated there should be a FOF added that the applicant has decommissioned a second kitchen in the primary dwelling and that kitchen shall not be recommissioned in the primary house.

Amendment:

The applicant has decommissioned a second kitchen in the primary dwelling and will not recommit it.

Ms. Burbine moved to approve the Findings of Fact as amended.

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

Ms. Lambert moved to approve the Special Permit for a detached accessory dwelling at 10 Driftway 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 attached to this decision.
2. The footprint, number of bedrooms and/or square footage of the detached accessory dwelling shall not be increased without prior approval of the Planning Board.
3. The accessory dwelling shall conform to all applicable standards in the building, plumbing, electrical, mechanical, fire and health codes and bylaws.
4. 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.
5. 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. Limbacher seconded the motion for discussion.

Discussion:

Construction – amended –If changes necessary to meet these conditions that require construction such construction will conform to the plans attached to this decision.

Mr. Limbacher indicated there was a letter from Board of Health and read from the letter. The Board added an additional condition; if the primary residence it to become a rental unit in the future the primary dwelling must meet the requirements of the State sanitary code, etc. the accessory dwelling must also meet the requirements.

There was discussion about adding a condition regarding the number of people that could be renters in the primary dwelling. The Board did not add such a condition.

The vote was four in favor and one opposed.

**Continued Public Hearing - Scenic Road – Shade Trees – 92 Neal Gate
Site Plan Administrative Review – Common Driveway
Assessor's Map/Block/Lot 57-1-3 and 57-1-6
Applicant/Owner: Gregory P. & Wendy S. Sears**

Document

- Email to the Board from Mr. McGovern requesting continuance dated 8.15.18

Motion:

Ms. Lambert moved to accept the applicant's request to continue the Site Plan Administrative Review public meeting and Scenic Road/Public Shade Tree public hearing for the proposed common driveway at 92 Neal Gate Street until September 27, 2018 at 7:00 pm.

Mr. Bornstein seconded the motion; the vote was unanimously approved.

**Continued Public Meeting – Site Plan Administrative Review – 52 Country Way (formerly Morning Glories)
Assessor's Map/Block/Lot 53-5-3A
Applicant: Paul M. Rodrigues
Owner: Morning Glories, LLC**

Document

- PDF 2018001V4R layout1 dated 8.22.18
- PDF GT_Scituate 8.23.18
- PDF Gunther Tooties CDs dated 8.20.18
- PDF Road sign 02 dated 8.23.18
- PDF Road sign photo 02 lr dated 8.23.18
- Doc Draft Motion

Attendees: Paul M. Rodrigues, Kamp Construction

Ms. Joseph indicated since the last meeting comments regarding the Sewer have been received and forwarded to the applicant and the Board. She said the applicant has put some crushed stone where the roof drains/gutter will be coming into the pavement and the island to help water seep into the ground. She indicated they have met all requests of the Board.

Motion:

Ms. Lambert moved that the Planning Board make the following Findings of Fact:

1. The applicant submitted a site plan entitled Site Plan of Land 52 Country Way Scituate, Mass, Sheets 1-1 dated 5/29/18 with revisions through 9/12/18 by John S. Keefe Professional Land Surveyor of Keefe Associates for KAMP Construction; Architectural Plans revised dated 8/20/2018 by bf architects Sheets AO, A1, A2, A3, A4 (preliminary only Not for Construction). The Applicant shall mean the current Applicant and all its successors in interest (the "Applicant").
2. The property is a 20,516 sq. ft. lot with an existing one story restaurant with 16 interior seats and is located in the Scituate Business District; Village Business Overlay District; and Water Resource Protection District, with a portion of the site in a Zone A.
3. Stockbridge Road is to the north of the property, a mixed use development at 50 Country Way with 30 residential units is to the east and south of the property. A shared access and utility easement on the 52 Country Way property provides access and some underground utilities to both sites. Country Way is to the west of the property. The new building is being redeveloped

in the same location as the existing one story restaurant building after reinforcing the existing foundation and pouring a new slab as the existing building does not have reinforced walls to allow for the addition of a second story. The adjoining premises that could be most affected will be protected against detrimental or offensive uses of the site. The site plan meets the standard of review of Scituate Zoning Bylaw Section 770.6 Paragraph A.

4. The Scituate Zoning Bylaw Section 760.6, Table of Minimum Parking Requirements, requires one parking space per 4 seats. 16 interior seats are provided requiring 4 parking spaces. 4 exterior seats are provided requiring one space. The second floor contains 1041 sq. ft. of storage requiring 1 space/600 sq. ft. or 2 spaces and the office space requires 1 space per 300 sq. ft. or 1 space. There are 8 existing parking spaces on site and 10 proposed spaces total including one handicap parking space. The parking appears to be sufficient for the proposed use.

The shared entrance has a 24 foot width. Loading and unloading of supplies and materials will be to the rear of the building, away from pedestrians.

Traffic circulation through the drive- through will be one way. The applicant has relocated the drive up speaker with canopy to the rear of the cooler to provide additional car stacking room.

A sign will be added to the plan to indicate traffic flow entering the drive through shall not block the main entrance/egress at any time.

The site plan meets the standard of review of Scituate Zoning Bylaw Section 770.6 B. and C. for traffic safety, ease of access, pedestrian safety, minimizing glare and access for service and emergency vehicles.

5. The existing building is currently connected to public water and sewer. The new building will be connected to the public sewer and public water in the same location as the existing building. A new dumpster pad is being added to service the building. There is a fire hydrant across the driveway on the 50 Country Way property.

The site plan meets the standard of review of Scituate Zoning Bylaw Section 770.6 D. for adequacy of methods of waste disposal, adequacy of water supply and fire-fighting facilities on the site.

6. There are no changes to the existing stormwater system. According to the applicant's plan, there will be a decrease in impervious area in the Zone A from 5,141 sq. ft. to 3,297 sq. ft. or a 35.9% reduction from existing. There will also be a net decrease in impervious area on the site by 43.7% from the existing conditions. As required under the 50 Country Way project, the on-going and perpetual inspections, maintenance and repairs of stormwater devices in the access and utility easement as necessary shall be performed by the Property Owner's Association of 50 Country Way and such access shall be allowed by the owner of 52 Country Way.

No toxic or hazardous materials will be stored on-site.

The site plan meets the standard of Scituate Zoning Bylaw Section 770.6 E. and F. for adequacy of stormwater management and control of toxic and hazardous materials in the Water Resource Protection District.

7. Minimal site grading is proposed as the site is relatively flat. There will be 3 shade trees installed in the access and utility easement by the developer of the 50 Country Way project. The dumpster will be enclosed on four sides. No additional lighting is proposed for the site beyond the gooseneck lights on the building. A bicycle rack will be installed. The site plan meets the standards of Scituate Zoning Bylaw Section 770.6 G., H., I. and J.

8. The site plan entitled Proposed Site Plan 52 Country Way Scituate, MA, Sheets 1-1 dated 5/29/18 with revisions through 9/12/18 by John S. Keefe Professional Land Surveyor for KAMP Construction meets the requirements of the Town of Scituate Zoning Bylaw Section 770.6, Site Plan Review Standards of Review to a degree consistent with reasonable use of the site for the purpose permitted by the regulations of the district in which the land is located.

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

Decision:

Based on these Findings of Fact and the evidence and testimony received at the public hearing, Ms. Lambert moved to approve the Site Plan Administrative Review for a Gunther Tooties at 52 Country Way with the following conditions:

General Requirements

1. All site work shall be in substantial accordance with the site plan entitled Proposed Site Plan 52 Country Way Scituate, MA, Sheets 1-1 dated 5/29/18 with revisions through 9/12/18 by John S. Keefe Professional Land Surveyor for KAMP Construction and Architectural Plans revised dated 8/20/2018 by bf architects Sheets AO, A1, A2, A3, A4 (preliminary only Not for Construction) with any additional revisions needed to conform to the conditions contained herein.
2. Where construction or use requires approval, permitting or licensing from any local, state or federal agency, such required approvals, permitting or licensing is deemed a condition of this approval, including but not limited to approvals from the Board of Health to operate a food establishment, documentation required for demolition from the Board of Health and Building Department and approval from DPW for maintained sewer and water flows. All necessary permits and approvals must be received prior to the issuance of a Certificate of Occupancy for the site.
3. Construction shall meet all requirements in No 2 above, including, but not limited to the requirements of the Scituate Zoning Bylaw and State Building Code.

Utilities, Parking and Traffic

4. As required under the 50 Country Way project, the on-going and perpetual inspections, maintenance and repairs of stormwater devices in the access and utility easement as necessary shall be performed according to the declaration of the property owner pursuant to the special permit condition for 50 Country Way. Maintenance and repair of the driveway and curbing as shown on the 50 Country Way Plan and snow removal and maintenance of safe conditions in the winter are also included in the declaration of the 50 Country Way declaration. Where and as applicable, Applicant shall adhere to the aforementioned requirements.
5. Compliance with the DPW sewer division comments that the external grease trap be pumped out and inspected to verify it is in good condition; ensure that only the restrooms are connected to the sewer line and all other drains, sinks etc. must connect to the external grease trap; and they recommend camera- the private line from the external grease trap to verify the pipe is in good condition and is not impaired.
6. No new underground irrigation systems shall be allowed to connect to the Town's water distribution system or in any manner use municipal water in accordance with the policy made effective by the Board of Selectmen on October 8, 2014. All irrigation systems installed in

accordance with the policy must be supplied by on-site sources at the expense of the property owner.

7. All parking will be constructed as shown on the Site Plan.
8. The 52 Country Way building, parking, and required signage shall meet all requirements of the ADA and AAB.
9. The Applicant shall obtain the prior approval of the Planning Board through the Town Planner if minor changes from the plan and/or details are needed for lighting, signage or landscaping.
10. A separate sign permit shall be required from the Building Department for the free standing entry sign. The proposed sign shall be in substantial conformance to the proposed sign attached herein and be fully located on the applicant's property and shall not block sight lines for the traffic entry/egress.
11. The loading/ delivery area shall be maintained in a manner so delivery trucks will not block access into or through the parking area or the drive-through lane.
12. One Way signs, Do not Block Road signs and Drive Though signs shall be installed as shown on the plans.
13. Trash shall be handled in a covered dumpster and emptied at least once a week or more frequently as necessary, or as otherwise directed by the board of Health. The dumpster pad shall be fenced on four sides.
14. Roof drainage from the south side of the building will be directed to a recharge area of crushed stone 12" deep inside the island to disperse the runoff on the applicant's property.

Required During Construction

15. 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.
16. No parking or unloading on Country Way shall be permitted during construction. **Moreover, clear access to the site driveway and access and utility easement must be maintained at all times.**
17. The owner of 52 Country Way must notify the owner of 50 Country Way a minimum of three business days prior to installation of any additional curbing to be placed within the Access and Utility Easement. The curbing work shall not begin before 9:00 am.

Administration

18. This site plan shall lapse within two years from the date of its issuance unless substantial use or construction has commenced prior to that time in accordance with MGL Chapter 40A, Section 9.

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

Informal Discussion – McDonald Farm

Documents

- PDF CPC proposal final 08132018

Attendees: Mary Jenkins, 22 Sunset Road, Scituate; Heather Jenkins, 22 Sunset Road, Scituate

Ms. Jenkins indicated she is seeking a letter of recommendation from the Board for the purchase of the parcel on First Cliff, 23 Sunset Road, aka the MacDonald Farm.

- MacDondald farm has been in her family since 1800's
- 5 acres of open space
 - Land across the harbor looking out from TK's, Mill Wharf and Lucky Finns
 - 600 feet of beach
- Third time this has been in front of CPC
- In partnership with Wildland Trust and NOAA
- Historical and Recreation are providing recommendations
- Conceptualized pathway created by NOAA
- Positive reaction to the project thus far

Ms. Burbine indicated that CPC will hopefully put this on the November special town meeting. She said the price for the property has gone from \$3M to \$599K and there have been some issue with low and high appraisals, appraised with a dwelling and without a dwelling. She said the Trustees have set the price at \$599,000 and there is no further negotiation.

Ms. Jenkins indicated there have been two appraisals done and CPC will be speaking with the Appraiser at the next meeting. She indicated there are not really any other pieces of property like this in Scituate; you can see the sunrise and set, multitude of wildlife, NOAA has run educational programs, and people surf and walk, not knowing it is private property

Ms. Burbine opined that if CPC does purchase this property it would be a piece of open space that is east of 3A for the Town.

Mr. Bornstein agrees the parcel would be great for the town. He opined the use of the coast line in the town is getting more and more restrictive and feels this purchase would be great in terms of recreation and open space and preserving the flood plain area.

Mr. Pritchard made comments regarding the appraisal amounts and purchase price. Ms. Jenkin opined the Boards need to decide what the value of the property is for the town's people and would the town enjoy this in perpetuity.

Ms. Burbine polled the Board members if they would support the purchase.

Public comments:

Mr. Dan Fennelly, resident of 10 Highland Crossing and member of the CPC Board and Vice Chairman of the Recreation Commission, said he supports the proposal and opined it is a great location, beautiful piece of property; it is a premium piece of property with various values placed on it over the years, price set now is reasonable. He indicated Recreation will be meeting and will support the proposal.

The Planning Board agreed to write a letter of support for the project.

Fire Department - Public Safety Building Sign

Documents

- PDF Electrical Plan from EOC
- PDF Notice Board – Public Safety Rendering
- Email to the Board from Karen Joseph date 9.11.18 with link to the Manufacturers online photo gallery

Ms. Lambert recused herself from the discussion.

Ms. Joseph indicated the Fire Chief came in in June regarding the sign board at the Public Safety Complex; it is an item at the ZBA meeting next week, now is the time to make recommendations if the Board feels inclined.

The Board discussed the gallery of signs provided to them by the Fire Chief, but is unclear on what the actual proposed design would be. The Board discussed additional concerns they had with the sign; size of the sign, internally light, clutter in the area of an already congested area on Mann Lot and 3A, locations of the sign and traffic concerns.

The Board agreed to provide a comment letter to the Zoning Board of Appeals (ZBA) articulating their concerns; traffic, scale of sign, location, etc.

Additionally some Board members opined ZBA should send it to the Design Review Committee.

Accounting
Documents

PO #1902177 (\$4,745.00), PO #1902070 (\$12.95), PO #1902119 (\$14.01), PO #1902530 (\$360.00), PO #1902532 (\$126.00), PO #1902774 (\$64.32)

Ms. Lambert moved to approve the requisition of \$4,745.00 to Merrill Corporation for site inspections and stormwater review for Curtis Estates, for \$12.95 for Amazon for office supplies, for \$14.01 for WB Mason for office supplies, for \$360.00 to Chessia Consulting Services, LLC for construction inspections for 50 Country Way, for \$126.00 to Chessia Consulting Services, LLC for construction inspections for The Glen, for \$64.32 to Gatehouse Media for legal ad for RFP for Wastewater Resilience Feasibility Study.

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

Minutes
Documents

- Meeting minutes 8.23.18

Ms. Lambert moved to approve the meeting minutes for August 23, 2018.
Mr. Limbacher seconded the motion; the vote was unanimously in favor.

Liaison Reports:

CPC- reported by Ms. Burbine:

- MacDonald Farm presentation

Economic Development Commission (EDC) – reported by Ms. Burbine:

- North Scituate forum proposed – group being coordinated
- Water Resource Committee presentation
- Waterways - more advertising for the harbor

Conservation Commission– reported by Ms. Lambert:

- Open space at 90 Ann Vinal discussed by Mr. Ohrenberger
- Moving ahead with trails in the Westend
- Will be looking for letter of support from Board for water offset policy
- Town meeting will propose funding for Green Sands Filter
- Brown water – flushing program
- Comprehensive water study moving slowly

Old Business, New Business, Correspondence, Administrative Items, Update

Planning/Development Report – Ms. Joseph

- Upcoming meeting dates
 - November schedule - November 8th and November 29th
 - December 13th only meeting at this time
- Curtis Estates - progressing
- Working on Stormwater regulations

Documents

- Email to the Board from Shari Young dated 9.7.18 with agenda for 9.13.18 meeting.
- Email to the Board from Karen Joseph dated 9.10.18 with meeting materials for 10 Driftway and 92 Neal Gate Street.
- Email to the Board from Karen Joseph dated 9.11.18 with meeting materials for McDonald Farm and meeting minutes from 8.23.18.
- Email to the Board from Karen Joseph dated 9.11.18 with meeting materials for Fire Department Public Safety Sign.

These items were distributed to the Board electronically.

Mr. Limbacher moved to adjourn the meeting at 8:55p.m. Ms. Lambert seconded the motion; the vote was unanimously in favor.

Respectfully submitted,

Shari Young
Planning Board Administrative Assistant

Patricia A. Lambert, Clerk
Date Approved October 11, 2018