

SCITUATE PLANNING BOARD MINUTES September 28, 2023

Members Present: Patricia Lambert, Chair; Rebecca Lewis, Vice Chair; Ann Burbine, Clerk; Stephen Pritchard, Bob MacLean and Patrick Niebauer alternate.

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

Members absent:

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

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

Chair Lambert called the meeting to order at 6:30 P.M. The meeting was being recorded for airing on local cable television and streaming live on Facebook with in-person and remote access available.

Documents

- 9/28/23 Planning Board Agenda

ACCEPTANCE OF AGENDA: Chair Lambert indicated there was a posted agenda. Ms. Burbine seconded the motion for the posted agenda a vote was taken the vote was unanimously in favor. Mr. MacLean joined the meeting late at 7:10pm.

Continued - Public Hearing – Site Plan Administrative Review and Special Permit for Mixed-Use Building and Stormwater Permit in the VCN- GDG-NDTV – 61 New Driftway
Assessor's Map/Block/Lot 53-03-2A
Applicant: John Tedeschi
Owner: John Tedeschi and James McInnis

Documents

- DOC DRAFT Motion Form for 7th continuance
- PDF Letter to Karen Joseph RE: Continuance 9-22-23

Attendees: Susan Tedeschi, Wife of late Owner/Applicant

Ms. Joseph indicated that a personal representative has not yet been assigned by the court, thus the hearing must continue.

Motion:

Ms. Burbine moved to accept the applicants request to continue the public hearing for Site Plan Administrative Review and Special Permit for a Mixed-Use Building and Stormwater Permit in the Village Center and Neighborhood District – Greenbush Gateway District- New Driftway Transit Village Subdistrict (VCN-GDG-NDTV) until November 9, 2023 at 6:30 pm and to continue the time for action for filing with the Town Clerk until December 29, 2023.

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

Public Hearing – Site Plan Review and Special Permit for Density and Stormwater – (VCN-GDG – GVC) - 19 Ford Place
Assessor's Map/Block/Lot 52-5-16
Applicant/Owner: Steven B. Leitch

Documents

- PDF 19 Ford Place- Cottage Plans
- PDF 2023-07-18 Site Plan
- PDF 2023-08-03 PB Site Plan Review Application
- PDF 2023-08-03 PB Special Permit Application
- PDF 2023-08-03 PB Stormwater Application
- PDF 2023-08-08 Courtyard Area Plan
- PDF CB Plan 11x 17
- DOC REV 1R
- PDF Stormwater Report
- DOC Summary of Issues 9-28-2023
- PDF Transmittal 19 Ford
- DOC DRAFT Motion for Continuance

Attendees:

Ms. Burbine read the legal ad into the record.

Ms. Joseph indicated the applicant's engineer could not be in attendance tonight and has requested a continuance due to a death in the family.

Motion:

Ms. Burbine moved to accept the applicant's request to continue the public hearing for Site Plan Administrative Review and Special Permit for density for a Cottage Court and Stormwater Permit in the Village Center and Neighborhood District – Greenbush Gateway District- Greenbush Village Center Subdistrict (VCN-GDG-GVC) until October 12, 2023 at 7:00 pm and to continue the time for action for filing with the Town Clerk until December 29, 2023.

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

Discussion/Vote - Surety Reduction – Seaside at Scituate

Documents

- PDF 1 2023-08-29 Seaside at Scituate Toll Brother Bond Reduction
- PDF 2023-08-29 Seaside at Scituate Toll Brothers Bond Reduction
- PDF 230914-Seaside at Scituate -Outstanding Items
- Email to Karen Joseph dated 9.22.23 from David Buckley
- Doc DRAFT Motion Form Surety Reduction
- Doc DRAFT Motion Form Nature Trail

Attendees: William Ohrenberger, Attorney; Brian Weiner, Toll Brothers

Nature Trail:

Mr. Ohrenberger said that Toll Brothers has worked with Ms. Joseph and Horsley Witten regarding the elimination of a portion of the nature trail; Toll Brother has reached a written financial agreement with the Home Owners Association (HOA).

Ms. Joseph indicated the way the nature trail is built it was going to be very difficult on the slope and it is in the best interest of the project to not construct a portion of the trail. She said the Board had agreed to this previously, this is the formal request since an agreement has been made with the HOA.

Motion:

Ms. Burbine moved to accept Toll Brothers request to eliminate 1,165 linear feet of the nature trail around Basin E and in lieu of the trail financial compensation of \$20,000 is to be provided by Toll Brothers to the Seaside at Scituate Condominium Trust. Written notification shall be provided to the Town Planner when the payment is made and received.

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

Surety:

Mr. Ohrenberger said he is aware that Ms. Joseph, Ms. Bernardo and some of the Board members walked the site recently. He said that a list of work has been completed and work that has not been done has also been submitted. He said Ms. Bernardo's recommendation is that the Board could reduce the Bond to \$1.0M and Toll Brothers would be amenable to that.

Mr. Weiner said he was before the Board about a year ago and a lot of progress has been made since that time, there is a handful of items that need to be completed and they are working to finish those up this fall with final road paving in the spring.

Ms. Lambert said she walked the site and opined there are a lot of housekeeping issues that need to be addressed; the basins have not been maintained at all, the driveways are a mess, the nature trail has not been kept up.

Ms. Lewis said there was some improvement from the last time they walked, but the driveways are not finished.

There was discussion why the topcoat for the roadways is not being done until the spring; Mr. Weiner said because they have to work on the driveway transitions and it is in progress and there is a timeline for getting to the paving and they will not get to it this year. He said they are doing as much as they can and will work as late as they can weather dependent.

Ms. Lewis said there are obviously issues with the cobblestones and driveways, she questioned how much the work that is leftover is going to cost. Mr. Weiner said it is a lot less, there is some

maintenance that needs to be done, but it is nowhere near the value of the bond. He said the last bond reduction they had was 3 years ago.

Mr. Pritchard said he thought from the last meeting that the topcoat was going to be done this year, he does not understand why it is not happening until next spring and that is a big job. He asked why it has been pushed out another 6 months or more, he said it doesn't look like anything was done to the driveways or for the topcoat since the last time they were here asking for a reduction. Mr. Weiner said it is taking longer than expected, but a lot has been done and they have been focusing on other things, i.e. landscaping, etc.

Mr. Pritchard said he does not see these as a handful of things, they seem much bigger.

Ms. Burbine said the nature trail has huge tripping issues, in retrospect she wishes the cobble curbing had not been done, it looks like teeth and a lot of it is broken. She said we didn't really have any snow last winter and it will be fascinating to see how the cobble holds up through a snowy winter in terms of plowing. She said there is a lot to be done; she commented the stairs in the nature trail should not be as high as they are.

Ms. Joseph said she agrees that the side slopes of the basins have never been maintained, there are swales that have never been maintained, there cannot be 1" diameter sumac growing if something has been maintained. She said they have been spending a lot of time doing the driveways, some of the sidewalks were done this year, they have spend time doing curbing which is not done, planting is supposed be done next week, they are working on putting up speed limit signage, there is a dumpster in the emergency access road that was called out to be moved right away and that has not been done, there is an issue with some handicapped ramps, she had been told that the slope on the basin by Tilden Road had been addressed, it is not done, there is a big weed patch that should not be there. She said there is a lot of maintenance that needs to be done and a lot of work that needs to be done. She also said there is a dumping problem into the wetlands, which has also been mentioned to the Conservation Agent.

Ms. Lambert asked on the ocean side who is cutting back all the way to the wetlands; she assumes someone has their own lawn mower. Mr. Weiner said maintenance should be turned over to the HOA, he is not familiar with who does the mowing. Ms. Lambert believes the HOA is responsible for the mowing and asked if they have been told they cannot mow all the way down to the wetlands on the ocean side.

Ms. Joseph added that she is not sure the permeable pavers have ever been maintained, every yard has permeable walkways. She said it is up to the Board to decide what should be released or not.

Mr. Ohrenberger said they have seen Horsley Witten's recommendation of \$1.0M and they would agree to that.

Ms. Lambert opined that what they are asking for is too much there is a lot of work to be done. She said she would be willing to give back \$500K.

Ms. Burbine said she would agree to give back \$500K and not a penny more.

Mr. Pritchard said he would only agree to give back \$500K if this is the last conversation they have.

Ms. Lewis agreed to the \$500K.

Ms. Joseph said they have done some work, but if the Board is going to give back something they should require proof that the maintenance is done and nothing should be given back until then. The Board agreed.

Mr. Ohrenberger said the Town's Consultant analyzed this thoroughly and she came up with a number twice that amount and questioned the purpose of the consultant.

Ms. Lambert said the consultant listened to the Board's concerns and said it is the Board's decision; the Board would never do a project without a Consulting Engineer.

Ms. Burbine said the Board does not have to agree with the Consulting Engineer and ultimately it is the Board's decision.

Mr. Pritchard said the Board has taken the consultant's recommendation into consideration, but the course of conduct over the last 2 years is leading him; the Board wants to make sure the project gets finished and the applicant is motivated to finish and get all this maintenance done. Mr. Weiner said they have done maintenance on the basins in the spring and fall, some of the maintenance goes to the Seaside HOA it is not all Toll Brothers. Mr. Pritchard said the Board is not differentiating who is responsible for what, they need to work with the HOA.

Ms. Joseph indicated that as-builts have not yet been received; Mr. Weiner said interim as-builts have been submitted. Ms. Joseph indicated that in the end Stantec needs to certify that all the basins are working properly. She said she is not sure they all drain within the 72 hours as required. She said there has been a lot of rain and the basins are much improved, but she does not think they all drain within 72 hours. Specifically, she mentioned the basin above the club house still has puddles regularly. Mr. Weiner said it is ground water that is coming through the piping system, it flows through the drains. He said there will be periods of the year that there will be a small trickle of flow.

Mr. Pritchard asked how that will be fixed, he did not think that was part of the design. Ms. Joseph said it is not much more than an inch deep, but that one spot never seems to be dry. Mr. Weiner said it dried out this summer.

Motion:

Ms. Burbine moved to not accept Toll Brothers request to reduce the amount of the bond being held for the Seaside at Scituate Residential Cluster Project by the Planning Board from \$2,000,000.000 to \$ 387,000.00 for completion of the project. The Board proposes to reduce the surety to \$1,500,000.00 after proof of maintenance is supplied to the Board and Town Planner. The current bond is to remain in effect (date of reduction rider issuance) until the new bond is provided to the Town Planner.

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

Form A – ANR Plan – 40 Crescent Ave.

Assessor's Map/Block/Lot 56-5-15 and 13

Applicant/Owner: Joseph G. Imbriani, Trustee of The Pitts Crescent Avenue Nominee Trust

And the Pitts Family Home Trust

Documents

- PDF 4321 ANR Filing Pkg
- PDF 4321-FMA
- Email dated 9.14.23 from the Sewer Department
- Email dated 9.20.23 from the Water Department
- DOC Transmittal
- DOC DRAFT Motion Form 40 Crescent Ave.

Attendees: William Ohrenberger, Attorney

Mr. Ohrenberger said the property is under agreement for sale, the ZBA has already approved the lot, the appeal period is over and the decision has been filed with the Registry of Deeds. The current owner knows there are other permitting requirements if something was to be built on Lot 1. He said they meet the statutory requirements for the Board to endorse the plan.

Ms. Joseph indicated the plan has access and frontage, the Planning Board will put their stamp on it that the Board does not determine if the lot is buildable, but it should be endorsed.

The ZBA granted a 50' frontage lot; there were comments from Sewer that there is no sewer, but that is not the Board's jurisdiction. The Board is concerned with access and frontage. The ZBA approved the 50' frontage, the Planning Board approves the lot, but does not approve if it is buildable.

Motion:

Ms. Burbine moved to endorse as approval under the Subdivision Control Law Not Required a Plan of Land for 40 Crescent Avenue in Scituate, MA showing a Division of Parcel 56-5-15 & 13 by Paul J. Mirabito, Professional Land Surveyor of Ross Engineering, a subsidiary of Grady Consulting LLC, dated August 28, 2023 for applicant Joseph G. Imbriani, Trustee of The Pitts Crescent Avenue Nominee Trust and the Pitts Family Home Trust as the division of land is not a subdivision because every lot shown on the plan has frontage of at least the distance presently required by the Scituate Zoning Bylaw on the public way of Crescent Ave..

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

Discussion/Vote – Request to change a Special Permit Condition – 62 Pin Oak

Attendees: Greg Morse, Morse Engineering; Robin Kelly, Property Owner

Mr. Morse indicated they are here to talk about an accessory dwelling permitted about a year ago, they are substantially complete with building. He said they met the threshold of impervious area so that a stormwater permit was not required and they did that by proposing to remove a portion of the asphalt driveway and replace it with pervious pavers, 420 sq. ft. He said they would still like to have 420 sq. ft. of pavers, but they would like to reconfigure where the pavers are placed; they are proposing to break up the pavers with an apron at the bottom of the driveway, a portion at the top of

the driveway outside the garage and a border along the sides of the driveway. He said the square footage would be exactly the same that as originally proposed and does not alter the drainage and there is technically no reason it would change anything with this application. Mr. Morse said the homeowner has met with a couple of landscapers and site contractors and it is thought it would be a better aesthetic for the property.

Mr. Pritchard asked if there was a drawing provided; Mr. Morse said nothing was provided, but they would have happy to provide one if the Board feels it is necessary. He said it would be a one-to-one swap and that is what they would sign-off on for the as-built, 420 sq. ft.

Ms. Joseph indicated the applicant is proposing a 3' strip all the way around the driveway, like a picture frame.

Ms. Kelly said they just want to make it more aesthetically pleasing for themselves and their neighbors instead of having a chunk at the bottom of the driveway and asphalt up to the top; 420 sq. ft. is a significant portion of the driveway she said it is going to look funny.

Ms. Lambert said that was addressed at the hearing and it was admitted that the reason behind it was to avoid a stormwater permit.

Ms. Kelly said it will accomplish the same exact thing as having it all at the bottom; she understands from what Mr. Morse has told her there is no real engineering reason why it couldn't change because it is the exact same drainage. She said they just want to make it aesthetically pleasing for the neighborhood, they want to have a nice entrance to their house, etc., she said they have done a lot of due diligence to make sure they are complying with all the conditions the Board set and they are just asking for a little bit of leeway in terms of how they set up the pervious pavers.

Ms. Lewis asked Ms. Joseph if she thinks the drainage can be achieved with the change. Ms. Joseph said she questions how easy it will be to maintain; will it get more clogged up with 3' strips versus a larger area.

Mr. Pritchard said his recollection of the conversation was the pavers would be at the end of the driveway so water would infiltrate before getting to the street and that was the justification for having it designed that way and he does not understand why it is changing other than for aesthetics. Mr. Morse said as you build a project what was originally designed is not always the best option, he used an analogy of painting a room in your house and looking at paint swatches. He said it is not a drainage matter it is going to look better for the entire property; drainage wise the existing driveway drains to the street in its entirety, with the new driveway it will still drain to the street the slope is not being changed; there is a slope so it will not infiltrate the whole driveway.

Mr. Pritchard said he remembers the whole conversation was the reason for putting the pavers at the end of the driveway was for there to be a chance for water to infiltrate and not go to the street. Mr. Morse said it will still have the ability to that through the pervious pavers.

Ms. Kelly said there is going to be a pervious paver apron at the top which will catch the initial rain and then it will continue down the driveway.

Mr. Morse said the apron at the top and bottom of the driveway will probably be 5' - 6' at each end with the 3' apron on the sides to make up the 420 sq. ft. total on the site.

Ms. Burbine said she has seen many driveways constructed with the apron at the end of the driveway it sort of flares out and they look very attractive and deliberate; this is to absorb some of the water coming down the driveway. She questioned if having a picture frame with 3' in front of the garage, 3' around the sides and 3' at the bottom it would really look more aesthetically pleasing, than to have it be more deliberate and have it at the end of the driveway.

Ms. Kelly said they drove around looking at different designs, she referenced a development in Andover where there are aprons at the top and bottom and it looks lovely. She said they would like to have the flexibility and not be tied to having it all at the bottom.

Ms. Lewis asked how far up the driveway it goes now; Mr. Morse said all 420 sq. ft. is about 20' up the driveway. There was some discussion with how much is being now being proposed; Mr. Morse said it would be around 6' on the bottom with 3' around the top and sides. He said the bylaw does not apply to this site, they do comply with the WRPD which is enforced by the Zoning Enforcement Officer; they comply with all those requirements. He said the only reason they are before the Board is for the Accessory Dwelling aspect which doesn't reference driveway materials at all.

Mr. Pritchard said the Board approved something to be built a particular way, if you want to built it that way fine. He said the Board does not need to be told what sections apply, but they have an approval it can be built as approved, but you are asking for a modification and the Board is asking questions.

Ms. Lambert asked if they have to do the sides; Mr. Morse said they could put ½ at the bottom and ½ at the top, but the intent is to do top, bottom and sides. Ms. Kelly said the sides could be smaller, they do not have to be 3'.

The grade is not changing. Mr. Morse said the aprons that are being proposed will not change the current grade.

Mr. MacLean joined the meeting.

Ms. Kelly asked if the Board would consider the use of pervious pavement instead of pervious pavers; cost wise pavers are very expensive. She has not priced out pavement yet, but wanted to ask if the Board would be open to allow them that flexibility to do porous pavement for the entire driveway. It would help them as a family financially and aesthetically if they could have a couple of options to talk to contractors about versus locked into the pavers.

Ms. Joseph asked if Ms. Kelly is aware of the maintenance requirements for porous pavement, vacuuming, etc., there is a lot of maintenance and the Board generally does not allow it on a single-family project, because it is a headache to maintain.

Ms. Lewis said she does not have an issue with the change.

Mr. Pritchard said he is willing to consider it, but there needs to be a drawing and confirmation that it is at least equivalent.

Ms. Lambert agreed with Mr. Pritchard and wants to see a drawing, etc.

The Board said they need to see that is equivalent, it is going to work and going to be maintained; Ms. Joseph will distribute the drawing and information submitted to the Board. There should be as much as possible at the entrance to the driveway, 3' is not enough. The condition to ensure stabilization and no runoff still applies.

The applicant is to supply a picture of the revision. Ms. Joseph will circulate it to the Board for comment. The applicant does not need to reappear before the Board, Ms. Joseph will provide comment.

Discussion – MBTA Communities Update

Ms. Joseph indicated she signed the contract for the additional grant funds; grant is effective October 1, 2023 for \$11,000 to complete the work already started and address new legislation. She recapped the presentation to the Select Board and all agreed to going after the Mixed-Use district and trying to keep the numbers to 15 units/acre by-right. At the Select Board meeting it was mentioned that the Planning Board would like more time to hold public hearings for Zoning in January versus December and there was no resistance to that request.

Ms. Joseph said it is likely the Zoning Public Workshop will move to December and then the 2 public hearings will be in January; it will be enough time to make the warrant.

Ms. Joseph has requested to meet with the Advisory Committee to give them an update in November.

The real work will begin in October with running the models and working on what really needs to change.

Discussion – Planning Board Goals FY2025

- MBTA Communities
- Wireless Communications
- Accessory Dwellings and Short-term Rentals
 - Updates needed in Accessory Dwellings
 - Owner has to have the dwelling as their primary residence
 - Need to be a tax payer and voter in Scituate
 - Does the Board still want to make refinements?
 - Definition of cooking
 - Board will put on the list, but will review to see if they want to make any modifications
 - Need to come up with what scenarios the Board wants to prevent
 - Size could be looked at, but Board has tried before and it was voted down
 - Board wants Accessory Dwellings to remain as a Special Permit
 - Accessory Dwellings that are not clearly subordinate
 - Short-term Rentals
 - Board was split on trying to tackle
- Location of electrical charging stations and fire concerns
 - Really issue for Fire Department and Building Code

- Stormwater
 - Waiting for DEP
- Marijuana
 - Board not interested in removing the portion of the bylaw that is not relevant
 - Board not going to move forward with

Minutes **Documents**

No Minutes

Accounting **Documents**

PO #2402842 (\$66.45), PO #2402748 (\$525.00), PO #2402747 (\$540.00), PO #2402746 (\$990.00)

Ms. Burbine moved to approve the requisition of \$990.00 to Merrill Corp for peer review services for SkySail/Drew/MBTA, for \$540.00 to Merrill Corp. for peer review services for 16 Mann Hill Road, for \$525.00 to Merrill Corp. for peer review services for 12 Carriage House Way, for \$66.45 to WBMason for office supplies.

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

Liaison Reports

Affordable Housing Trust – reported by Ms. Burbine:

- Not sure where they are going
- Presentation from Habitat for Humanity
 - AHT needs to find some land
- \$25K that was approved at Town Meeting for grant program for home repairs
 - Unknow if all the funds have been spent

Community Preservation Committee – reported by Ms. Burbine:

- Annual CPC meeting at Library next week

Bicycle Committee - reported by Mr. Niebauer:

- Introductions and setting up officers
- Many members have been to Denmark and have lofty goals
- Small Picture/Big Picture items
 - Get funding for Traffic Engineer
 - Funding for more bike racks installed throughout town
 - Safe to School Program
 - Encourage safe traffic and encourage cycling around school zones
 - Member of Police Department attended
 - Going to provide the Committee with biking traffic accidents in town
 - Looking at a master plan for cycling in Scituate
 - Looking at access through west side of town

- Mr. Niebauer would like to see them come back with suggestions for demarcating bike lanes in the area, i.e. down by Driftway

Planning and Development – reported by Ms. Joseph:

- New updates on the proposed 40B located on 3A near the Safety Complex
 - Rumors around, but Planning Office knows of nothing concrete
 - Form A was done for land swap that was approved at Town Meeting in 2017
 - Believe land was sold, but no other information
 - Issues with septic system and there is no sewer
- Sent information to the State for Subsidized Housing Inventory
 - Drew/SkySail
 - Herring Brook
 - The Cottages at Old Oaken Bucket
 - Stockbridge Landing
- 7 New Driftway
 - No new information, have reached out to find out the status of the project and no response
- 817 Country Way
 - No new information has been submitted
- Water Treatment Plant
 - Memo written on landscaping, no meeting has happened
 - Met with Mr. Vogel regarding the building height
 - Tree survey has not been provided yet
 - No new information has been submitted
 - When info comes in will send out to the Planning Board without the Peer Review
 - Mr. Pritchard will send Ms. Joseph his notes from the meeting

Mr. Pritchard asked about a comment that was made during public comment period at the Water Treatment hearing regarding a change from 50' buffers to 30' buffers. Ms. Joseph indicated there needs to be a 50' parking buffer on CJC Hwy, 100' building setback on CJC Hwy. Mr. Pritchard was discussing the buffer to the houses in the back; he said it sounded like there were Town meetings where 50' was discussed and it now has changed to 30'. Ms. Joseph said she was not aware of that, but could research it.

Ms. Joseph said she did get an opinion from Town Counsel that the abutter that was not notified was not a fatal flaw because the person came to the meeting and would not be able to prove any prejudice in the decision.

There was discussion about the upcoming schedule.

Documents

- Email to the Board from Shari Young dated 9.22.23 with meeting agenda 9.28.23
- Email to the Board from Karen Joseph dated 9.22.23 with meeting materials for 61 New Driftway, 19 Ford Place, 40 Crescent Ave. and Seaside at Scituate.
- Email to the Board from Karen Joseph dated 9.27.23 with AMENDED agenda 9.28.23 and materials for Seaside at Scituate and 19 Ford Place.

These items were distributed to the Board electronically.

Ms. Burbine moved to adjourn the meeting at 7:50p.m. Mr. Pritchard seconded the motion; a vote was taken, and unanimously in favor.

Respectfully submitted,

Shari Young
Planning Board Administrative Assistant

Ann Burbine, Clerk
Date Approved: October 12, 2023