

**SCITUATE PLANNING BOARD    MINUTES    October 22, 2020**

Members Present: Ann Burbine, Chairman; Benjamin Bornstein, Vice Chairman; Patricia Lambert, Clerk; Stephen Pritchard, Rebecca Lewis and the alternate member Bob MacLean.

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

Members absent:

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

Location of meeting: 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 conducted in compliance with the Governor's executive order modifying the Open Meeting Law regulations for remote participation during the COVID-19 health pandemic. The meeting was being recorded for airing on local cable television.

**Documents**

- 10/22/20 Planning Board Agenda

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

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**Roll Call to call the meeting to order:**

A roll call vote was taken to open the meeting.

Ms. Burbine - yes  
Mr. Pritchard – yes  
Ms. Lambert – yes  
Mr. Bornstein - yes  
Ms. Lewis – yes  
Mr. MacLean - yes

**Continued - Public Hearing – Stormwater and Site Plan Administrative Review Common Driveway - 16, 18-20 Mann Hill Road  
Assessor's Map/Block/Lot 27-7-9  
Applicant/Owner: Estate of Patsy Jo Terrell**

**Documents**

- PDF 2020.08.14 14-16 Old Country Way Planning Board revision w/cars
- PDF 3804 Ann Burbine Ltr
- PDF 3804 O&M Plan Lot 2 #18 Rev 9-22-20
- PDF 3804 O&M Plan Lot 3 #16 Rev 9-22-20
- PDF 308 O&M Plan Rev 9-22-20
- PDF 19288 – PB Review Report, #16, 18 and 20 Mann Hill Rd., 6-05-20
- Doc DRAFT Decision 16, 18, 20 Mann Hill CD SPAR – SW
- Doc Declaration of Common Driveway Easements
- Motion A 16, 18, 20 Mann Hill CD – SPAR

- Motion D 16, 18, 20 Mann Hill CD – SPAR

Virtual Attendees: Paul Mirabito, Ross Engineering; Jeff De Lisi, Attorney, Bob Terrell, Property Owner.

Mr. De Lisi indicated he was new to the project brought on board to draft the common driveway easement and utility document and help see the project through.

Mr. De Lisi provide a recap for the Board.

- Property is located in R-2 Zoning District
- Buildable lots require 150' in width and 20,000 sq. ft. in land area
- Track of land is approximately 104,000 sq. ft.
- Divided into 3 lots
  - Lot 3 complies with all zoning and dimensional requirements, has 100' of frontage and 20,000 sq. ft. of lot area
  - Lot 1 & 2 granted Special Permit by ZBA
    - Allows dwellings be constructed on a lot with 50' of frontage so long as the lots have a least twice the required lot area, 40,000 sq. ft.
    - Provision also provides when two lots are approved at the same time with 50' frontage and share a lot line in order to minimize the number of curb cuts within 100' Common Driveways approved in accordance with Section 720 shall apply
- Section 720 ordinarily requires a Special Permit with one exception which the applicant falls under
  - Common Driveway less than 500' in length and serves no more than 2 lots
  - Applicant seeking an Site Plan Administrative Review that has to meet the standards/design and application requirements of Section 770 and those under Section 720 for the Common Driveway Provision
- Applicant has broken out the Operation and Maintenance Plan (O&M Plan) to three separate plans – one plan for each lot
- Common Driveway and Utility Stormwater Easement document has been provided
- Plans have not been revised since the last meeting
- Applicant opines the concerns from the Peer Review Engineer, Merrill, have been satisfied
- Applicant received document of Findings of Fact for the Common Driveway and Stormwater Permit, document indicated that there is still work to do.
  - Applicant asked for a continuance

Ms. Joseph said she does not think all the comments from Peer Review have been addressed.

- Easement between #20 and #30 Mann Hill Road is not on the plan
- O&M Plan has not been revised with comments to the Applicant from the Planning Board
- Question about the easement recommended by Merrill on Lot 2.
  - Board needs to decide on the easement
    - Impression from last meeting is the Board wanted the easement

Mr. De Lisi indicated the applicant is still working to address some concerns, but is prepared to show the easements on the plan and address the O&M issues.

Ms. Joseph indicated the common driveway easement stops 11' from the garage in front of Lot 2; no parking is allowed in the easement so that emergency vehicles can access the properties, there is a turnaround for the vehicles, but it does not allow for the owner of Lot 2 to have parking in front of the garage. That is a problematic scenario. Mr. De Lisi said they will address that item.

There was discussion about where the easement is on the plan; the easement is a dashed line on the plan. Mr. De Lisi indicated they would clean the plans up with a separate easement sheet. Ms. Joseph said there was one provided, but it has not been updated.

Ms. Burbine commented on the three separate O&M Plans, she does not understand why when there are shared detention basins, a shared driveway, etc., what is the point of three plans. She also said the applicant needs to address the revetment along the back of the property, which does not make sense. She said there are a lot of issues and she is very concerned; they are trying to push 3 good size homes into a two acre slot and wouldn't it be better to just have two houses.

Mr. De Lisi said he appreciates the comment. He opined with some recent plans, i.e. this plan and the plan at 0 Country Way that is being endorsed tonight, larger homes are shown on the plans to ensure from an engineering stand point the stormwater calculations, etc., are not understated. The larger footprint shown on the plan is there to make sure they have the most conservative stormwater analysis and it is just a maximum coverage area that is theoretical/conceptual in nature; the homes in all likelihood would be build smaller than what is shown. He said they are not committing to this size of home, but they are committing to no more than the impervious area shown on the plan.

Mr. De Lisi spoke to the common driveway. Lot 3 stands alone it meets zoning and does not share a driveway, it is not subject to the common driveway application, but because of the topography of the land it makes sense to include it in the overall stormwater management design for the benefits of the other lots. He opined the O&M Plans were broken out because that is what the applicant thought the Board wanted. Mr. Pritchard said the Board wanted all three lots to have common responsibilities for the integrated stormwater management system and a single O&M Plan was the way to go. Mr. Pritchard also addressed the suggestion of the maximum house size, he said if the Board approves this plan there is no way for the Board to foresee that homes would be smaller unless they are shown on the plan. The Board would be approving the layout before them; if there were changes made the Board would need to see that the performance of the stormwater management system is not affected. The Board needs to go in assuming that whatever is on the plan could and would actually be built. Mr. De Lisi said he agrees which is why these houses are larger than what they would expect to be built.

Ms. Burbine said if these homes are larger than what in fact the applicant thinks will be built, would it not be better for the Board to see smaller homes which would have less impact on the stormwater.

Mr. De Lisi said the homeowner that buys each individual lot is going to want to design their own homes; they do not know what that is going to look like and that is why it is over-stated and why it is designed this way.

There was discussion about if this application is a special permit; Mr. De Lisi opined the Board was overstepping its authority and treating this as a special permit. He said it is a common driveway administrative site plan. Ms. Joseph indicated this is also a public hearing for stormwater because of the size of the project. She indicated this is a public hearing for stormwater and a site plan review

for a common driveway; the Board is not trying to over reach what is beyond the scope of the Board. The Board is trying to get the stormwater managed in a responsible way that the homeowners can maintain after the fact. Mr. De Lisi agreed. Mr. Pritchard indicated the Board has not asked for anything more than they would in any other stormwater permit; the Board wants to know the system will function as designed and there is a basis for design, should there be any changes that cause material impacts the applicant will come back and provide the request to change. The idea is the stormwater management system should function as designed and the property owners that take over the responsibility for it should operate and maintain it in a fashion that it continues to function for its entire life.

There was discussion on how the applicant was going to proceed, separate O&M Plans or a common plan. The Board provided comments on the original submitted O&M Plan and indicated the preference is for a common O&M Plan. Mr. De Lisi needs to further discuss with his team.

Ms. Burbine also said the common driveway easement does not work. She indicated another applicant is coming in later for relief in a similar situation where the easement is 10' from the garage. She opined the applicant needs to go back and look at this for lot 2 as the same situation is being created and it is not fair to Lot 2.

Ms. Joseph also requested a new stormwater application so the correct finding can be made regarding the land disturbance. The request is just for an updated application with the three lots that comprise the stormwater permit; this does not provoke a new hearing it is just providing more data.

Mr. Pritchard also asked that the applicant look at the Declaration of Common Driveway Easement and the section on adverse impact on the stormwater system because of the failure of a lot owner to maintain the stormwater improvements on their property; he opined it needs to be more broadly stated that the impact could be on the other two lot owners or it could be on an abutting property. He also asked that in Section 5 not only should there be written consent among the homeowners for a modification, but Planning Board approval should also be required if there are any material modifications. Mr. De Lisi to review.

Mr. Bornstein commented that in terms of the site design this is a lot of development on a small tract; it would have been nice to marry the stormwater water permit with the common driveway design standards. He previously opined the stormwater basins, which are intended to be loamed and seeded would be better as vegetated areas and function more as bioretention BMP's that could add some kind of screening and environmental function; there was never a survey of existing mature trees and he referenced design standard A of Section 720.7. He opined what he sees as wholesaling and filling of the site and has never been convinced that the design standard A is really being met. He would like to see more innovation in the design, less fill, more preservation of large trees so it does not look like a "scorched earth development" from the front.

Mr. De Lisi asked if Mr. Bornstein would like to see vegetated basin areas instead of clearcutting. Mr. Bornstein opined it would be a nice option considering loss of privacy which was a concern of abutters and to comply with Design standard A; it is similar to the idea of mitigation that a Conservation Commission would request if working in a resource area, trying to put back some of the good that was taken away for the common driveway and lot development.

Ms. Burbine reference Section 720.2.B of the bylaw, to preserve and protect and the applicant is proposing to clear-cut and fill the land. She opined there are real issues here.

*Public Comments:*

Ms. Shari and Alan Wasserman residents at 12 Mann Hill Road said they appreciate the hard work that everyone is trying to do to make this the best possible result; they had no further comments at this point.

*Motion:*

Ms. Burbine moved to accept the applicant's request to continue the public hearing for the Stormwater Permit and Common Driveway Site Plan Administrative Review for 16, 18 and 20 Mann Hill Road until January 14, 2021 at 7:00 pm and to continue the time for action for filing with the Town Clerk until January 30, 2021.

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

Ms. Burbine - yes  
Mr. Pritchard – yes  
Ms. Lambert – yes  
Mr. Bornstein - yes  
Ms. Lewis – yes

**Form A – ANR Plan – 29 Longmeadow Road**  
**Assessor's Map/Block/Lot 27-6-58 and 60**  
**Applicant/Owner: Fox Run Two Realty Trust, Leo Costello**

**Documents**

- PDF ANR Application 10-7-2020
- PDF ANNR Plan Stamped 10-7-2020
- PDF Assessors Card
- Doc DRAFT Motion form 29 Longmeadow
- Email with ConComm comments 10.13.20
- Email with Water Division comments 10.13.20
- Doc Transmittal 29 Longmeadow
- PDF Water Service Plan 29 Longmeadow Road

Virtual Attendees: Greg Morse, Morse Engineering

Mr. Morse reviewed the plans for the ANR.

- Property located in the R2 District
- Proposal to divide the property into two lots
  - Lot A – 537,046 sq. ft.
  - Lot B – 170,093 sq. ft.
  - Both lots have frontage along Longmeadow Road; a public road

Ms. Joseph indicated the plan does have frontage on the cul-de-sac, which can be reduced to 60'; there is frontage and access and recommends the Board endorse the plan. The stamp will be placed on the plan that it is not an approval of conformance to zoning, the wetlands have not been approved by

Conservation, but there is no question there is enough lot area to meet the requirements for upland and the plan should be endorsed.

*Motion:*

Ms. Lambert moved to endorse as Approval Not Required a Plan of Land Showing A Division of 29 Longmeadow Road (A portion Assessor's Parcels: 27-6-58 & 27-6-60) in Scituate, MA stamped by Douglas L. Aaberg, P.L.S. of Morse Engineering Co., Inc. for applicant/owner Leo Costello of Fox Run Two Realty Trust dated October 7, 2020 as the division of the tract of land shown on the accompanying plan 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 Longmeadow Road.

Mr. Bornstein seconded the motion, a roll call vote was taken; the vote was unanimously in favor.

Ms. Burbine - yes  
Mr. Pritchard – yes  
Ms. Lambert – yes  
Mr. Bornstein - yes  
Ms. Lewis – yes

**Endorsement – Residential Compound – 0 Country Way/0 Rear Country Way  
Assessor's Map/Block/Lot 32-7-21 and 32-7-13B  
Applicant/Owner: Bradford A. Merritt**

**Documents**

- Doc Memo 10-7-20
- Doc DRAFT Motion Form – Endorse Plans
- PDF Subdivision Merritt 2020-09-03
- Email from Kevin Grady with plan updates/comments dated 10.7.20

Attendees: Kevin Grady, Grady Consulting

Ms. Joseph indicated she is recommending the Board endorse the plans, but retain the mylars until a revised Homeowner Association Private Access Agreement is provided. She also indicated the Board had conditioned the pipe at the beginning of the development be ductile iron and certified by an engineer for construction standards. The applicant has indicated a certification cannot be obtained, however a certification for HDPE pipe can be obtained. She indicated the Town's Consulting Engineer, Mr. Chessia, has reviewed and is in agreement with the change in conjunction with TV inspections and compaction testing prior to the binder and as part of the as-builts.

Mr. Pritchard asked why it cannot be certified the way it is designed; Mr. Grady said the certification was to be from the manufacturer that the pipe could withstand the loading based on the depth of cover at the intersection. He said he contacted the manufacturer's representative and ductile iron company would not provide certification. He noted the applicant looked at other alternatives, he had originally designed the project with HDPE, ADS pipe does have guidance and standards on depth of

cover and they do warrant a protective cover the applicant is proposing. He indicated the plan does show the pipe and the specifications for the backfill, it is a common engineering practice at the depth of cover proposed. He indicated he forwarded the email attempts that have been made to acquire the certification of the ductile iron pipe, unfortunately, they cannot get it.

Mr. Pritchard commented that we was not surprised that a certification could not be obtained; the loading analysis is up to the civil engineer. Mr. Grady said that ADS will provide warranty at certain depths based on cover and that is the only alternative. Mr. Grady does not design the pipe or do the testing of either pipe, he relies on the manufacture to produce the information. He said Ms. Joseph and Mr. Chessia suggested that the pipe be camera'd prior to binder and as part of the as-built to make sure the pipe has not been compromised. He said it is a standard engineering practice and the warranties are available online and added to the plan.

There was discussion if the request made by the Board was unreasonable. Ms. Joseph indicated the condition was made upon Peer Review because the pipe only had about 1' of cover under those circumstances ductile iron is typically used; the condition was made that there would be shop drawings and a manufacturers certification. The Board has been supplied with Mr. Chessia's report and he opines with the proper compaction and TV cameraing before the binder it can be determined if the pipe is intact and if camera'd again as part of the as-builts it will be clear if the pipe has been protected; steel plates can be put down during construction to make sure the pipe is not impacted.

Mr. Grady indicated he has not been required to provide certifications in the past, but ADS does have testing and warranties; this is not a major road that is going to have a lot of heavy equipment and heavy traffic over time, there will be residential traffic and small volume loads. He opined it is fine to use in this instance.

The Board opined the responsibility rests with the Design Engineer.

*Motion:*

Ms. Lambert moved that the Planning Board endorse the plans for the Residential Compound Development Special Permit entitled Special Permit Plan Residential Compound Development Subdivision 0 and 483 Country Way Scituate MA prepared by Grady Consulting L.L.C. consisting of twenty (20) sheets dated May 28, 2019 with revisions through September 30, 2020 with the plans to be retained until a revised draft of the Private Access Agreement/ Homeowner's Association has been submitted with the required items from Condition 21 included in the documents. The Planning Board agrees that HDPE pipe can be used in lieu of ductile iron pipe as specified in Condition 18 as there will be compaction testing and a TV inspection of the pipe with a go/no go gauge for deflection or out of round conditions prior to pavement (binder) installation witnessed by the Town's engineer and the applicant's engineer. A second camera inspection is also required as part of the as-built submittal to verify the pipe is still as installed.

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

Ms. Burbine - yes

Mr. Pritchard – yes

Ms. Lambert – yes

Mr. Bornstein - yes

Ms. Lewis – yes

**Vote Paulette O’Connell – Design Review Committee**

**Documents**

- PDF Cover Letter and Resume – Paulette O’Connell
- Doc DRAFT Motion form
- Doc Stokes\_Xreappointment letter dated 10.19.20

Ms. Joseph indicated that Mr. Hal Stokes as decided not to seek re-appointment to the DRC, he has been on the DRC since its inception about 12years ago. She recommends the Board appoint Paulette O’Connell to the DRC; she has interviewed twice with the Board. She is a practicing architect and will fit in very nicely with the other members of the DRC.

*Motion:*

Ms. Lambert moved to appoint Paulette O’Connell to a three-year term on the Design Review Committee for a term running from November 9, 2020 to November 9, 2023.

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

Ms. Burbine - yes  
Mr. Pritchard – yes  
Ms. Lambert – yes  
Mr. Bornstein - yes  
Ms. Lewis – yes

**Minutes**

**Documents**

- Meeting minutes 10.8.20

Ms. Lambert moved to approve the meeting minutes for October 8, 2020.

Mr. Bornstein seconded the motion, a roll call vote was taken; the vote was unanimously in favor.

Ms. Burbine - yes  
Mr. Pritchard – yes  
Ms. Lambert – yes  
Mr. Bornstein - yes  
Ms. Lewis – yes

**Accounting**

**Documents**

PO #2103314 (\$16.75), PO #2100510 (\$3,022.50), PO #2103146 (\$250.00), PO #2103145 (\$5,526.00), PO #2103144 (\$1,145.00), PO #2103411 (\$175.92)



Ms. Lambert moved to approve the requisition of \$1,145.00 to Chessia Consulting Services for peer review of 18 Ford Place, for \$5,526.00 to Chessia Consulting Services inclusive of traffic review for peer review of 48-52 New Driftway, for \$250.00 to Chessia Consulting Services for peer review of Residential Compound 0 Country Way/0 Rear Country Way, for \$3,022.50 to Harriman Associates for consulting services on the Master Plan, for \$16.75 to Schwaab, Inc. for name plate for Bob MacLean, for \$175.92 to Amazon for purchase of headsets.

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

Ms. Burbine - yes  
Mr. Pritchard – yes  
Ms. Lambert – yes  
Mr. Bornstein – yes  
Ms. Lewis – yes

### **Liaison Reports:**

#### **Master Plan – reported by Mr. Bornstein:**

- Final public workshop
- All virtual format
- Consulting team working on the DRAFT, on track for draft at end of month
- Draft then will go to Advisory Committee - early to mid-November, do discuss next steps

#### **Planning and Development – reported by Ms. Joseph:**

- Revised letter going to Drew with approval of new Juliette balconies
- Next meeting November 5<sup>th</sup> and then November 12<sup>th</sup>
- November 16<sup>th</sup> Town meeting
- Board does not meet until first week in December

### **Board Signatures and Liaison Appointments**

#### **Documents**

- Excel PB\_Liaison\_2021

Mr. MacLean will be the liaison to the EDC and the Public Building Commission.

**Public Hearing – Special Permit Accessory Dwelling – 16 Gannett Road**  
**Assessor's Map/Block/Lot**  
**Applicant/Owner: Jason and Melanie Leilo**

#### **Documents**

- PDF 16 Gannett Rd Special Permit Dwelling App
- PDF Assessors Card
- PDF GIS Map
- Doc comment letter from DPW – Water Division, 10.6.20
- Doc Cover-transmittal letter 16 Gannett Rd

- Doc DRAFT Motion 16 Gannett Road
- Email with Sewer Department comments 10.14.20
- Email with Building Department comments 10.6.20
- PDF Letter of support from 10 Gannett Road

Virtual Attendees: Jason Lelio, Property Owner

Ms. Burbine read the legal ad for the record.

Mr. Lelio indicated he is before the Board to have an existing structure granted a permit as an Accessory Dwelling.

Ms. Joseph indicated the applicant has filed to legitimize the existing garage building in the back of the property as an accessory dwelling, Mr. Lelio purchased the building after it was built, and there is a full kitchen. She indicated that in order for it to be used as an accessory dwelling it needs to have a special permit.

Mr. Pritchard asked how long this has been a pseudo accessory dwelling without a permit. Ms. Joseph indicated the Building Department approved the structure sometime in 2017, but there are no files in the Building Department. Mr. Lelio purchased the property in 2019, did some improvements on the property to the main house, and is now filing to legitimize the accessory dwelling.

Mr. Pritchard opined the Zoning Bylaw was not intended to legitimize construction that was just built as an accessory apartment. There was discussion about when the structure was built inclusive of the garage; the structure was built around 2017. Mr. Pritchard opined when it was built it was built out as an accessory dwelling with none of the approvals.

Mr. Lelio said that he did not build the structure; he purchased the home with the structure already built. He indicated to his knowledge the previous owner did go to the Town to get the approvals for the structure when it was approved to be built, it was approved to have 2 bedrooms on the second floor with a bath, he is unsure about the kitchen aspect, but as it exists right now there is a kitchen it, it does not have a working stove, that is how he purchased the property. He said in speaking with Mr. Vogel in order to have a working kitchen with a stove it is necessary to go before the Planning Board and get the unit qualified as an Accessory Dwelling. Mr. Lelio said he does have a letter from the Building Department indicating the approval of the building permit and the use as 2 bedrooms and a bathroom; he did say that when he went back to the building department once he bought the property the file as mention no longer existed; it did have lots more information.

*Public Comments:*

Ms. Karen Maguire resident at 20 Collier Ave. said that she does not remember getting any notification of this dwelling being constructed; it was an empty lot there was nothing there. She said that she watched it being built with a back deck and French doors, etc. and was surprised with how large it is that they were not notified of the intent; it was supposed to be a garage not a house. She indicated that it was done in the wintertime when a lot of people are away. She said if the Building Department records have gone missing that is a concern because no notification was sent out to the abutters.

Ms. Joseph indicated that building permits do not require abutter notification. Ms. Joseph said the applicant is here now to have a full kitchen. She said you can build a garage to have an upstairs then come back and retro fit an accessory dwelling; this is happening a lot in Scituate right now and the Planning Board does not like to see it happen this way because it does not give the neighbors any input when the intention is to use it as an accessory dwelling. Under a regular building permit a garage can be built with and upstairs and not have a kitchen.

Mr. Bornstein asked if it is a non-conforming lot; no, it is conforming.

Ms. Maguire said the building is literally on top of people, it is as close to the lot line as it can be. She said that because things can be grandfathered in there are lot of extra summer homes that have been squeezed into what are already tiny lots.

Ms. Joseph indicate the lot was at one time pre-existing non-conforming, the main house on the property was built in 1910, a Section 6 Finding was granted by the ZBA to increase the size of the house, according to the Assessor's card the lot is now 12,379 sq. ft. the portion in the back was added via a Form A.

Ms. Maguire asked how much the existing house was recently expanded; she was interested if there is an amount of area you are allowed to cover on a lot. Ms. Burbine said the expansion of the existing house has nothing to do with this hearing. Ms. Joseph indicated there is not a lot area coverage requirement in the Town of Scituate.

Mr. Michael Snyder resident at 19 Collier Ave. commented on how all the documents have disappeared, it makes no sense and looks very shady; why don't we have records. Ms. Burbine said that has nothing to do with the Planning Board and directed to Mr. Snyder to discuss his issue with the Building Department; it is unfortunate, but that is what happened.

The Board opined they have no control over how it got built in the first place, but does it meet the requirement of the special permit for an accessory dwelling.

Mr. Pritchard asked does the structure change at all under the issuance of an accessory dwelling or will it physically remain the same.

Mr. Lelio said the structure has been described incorrectly by some abutters, there is no deck on the structure, the setbacks meet and exceed all of the building code, the closest to his lot line is on the left side that is 8'9" and the right side of the property is 29' from the property line and from the back there is over 20'. He said "no" he is not changing anything about the structure, i.e. the size. He said he bought the property under the impression this was a legal dwelling and that was not the case, he is now trying to do the correct thing and make sure it is legal in the Town's eyes.

There was discussion about water and sewer. Mr. Lelio said the Sewer Department has conflicting information on this a well; there is water and sewer to the property. He indicated he is aware that he will need to pay the betterment for Sewer, he believes it is tied into the existing line from the main house per the Sewer Department is acceptable. He will also need to pay a water line hookup; the accessory dwelling will be on a separate water meter.

There was discussion about the egress in and out of the accessory dwelling. Mr. Lelio indicated he worked with Mr. Vogel on the egress issues; per a letter from him, it was deemed acceptable with a

side exit on the first floor and two patio doors which provide exit/entrance to the first floor. There is a garage on the first floor and behind that is the kitchen area and then stairs leading up to the second floor bedroom and bathroom area. There was discussion about windows to also provide egress.

Mr. Lelio said there were 2 lights above the garage and to the left side of the structure there is a very small light by the entrance.

Parking is provided with the 2 garage space and there is parking for 6-8 tandem parked cars to the right of the building.

Gas is already provided to the structure.

There was discussion about unfinished spaces, i.e. attic space. Mr. Lelio said there is a very small attic space, but nothing could be done with it.

Ms. Burbine noted that there was a letter of support from Mr. Thomas & Ms. Inez Moore.

Ms. Burbine opined the applicant should be commented for trying to make this legitimate; the issues with the missing materials from the Building Department is not the applicant's fault.

Mr. Bornstein suggested that perhaps the neighbors could have an amicable discussion to see how everyone could feel better about things going forward.

Ms. Lambert said this is happening all over Minot.

Mr. Lelio said he thinks of himself as a good neighbor, he is not planning to make this an AirBNB which is a concern of neighbors; he is here to be the best neighbor he can, he has improved the property and just wants to make sure what he is doing is legal in the town of Scituate.

The Board appreciates his comments, but it is unfortunate it didn't get addressed and permitted as an accessory dwelling when it was originally built.

*Motion:*

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

1. On September 22, 2020 Jason and Melanie Lelio applied for a special permit for a detached accessory dwelling on the property at 16 Gannett Road.
2. According to the Town of Scituate Assessor's records and the deed, the property at 16 Gannett Road is owned by Jason and Melanie Lelio.
3. Based on a floor plan submitted by the applicant, the floor area of the proposed accessory dwelling will be approximately 928 gross sq. ft. This is 34% of the total square footage of the primary dwelling, which is 2,744 sq. ft. according to the Applicant. This meets the size requirements of 530.2F of the zoning bylaw for accessory dwellings as the bylaw allows 750 sq. ft. or 40% of the total square footage of the primary dwelling, whichever is greater. The accessory dwelling is subordinate to the existing single family home.

4. The Accessory dwelling unit will be a complete separate housekeeping unit and there will be only one accessory dwelling on the lot.
5. The property is in the Residential R-3 zoning district. The proposed detached accessory dwelling structure meets all the required setbacks, building height and yard requirements for a primary dwelling.
6. The proposed accessory dwelling is proposed to be located in the exiting 2-story detached garage. Access will be via a main door and patio doors on the ground level.
7. The appearance of the accessory dwelling will be in keeping with the appearance of the primary dwelling.
8. The Plot Plan for 16 Gannett Road in Scituate, MA shows two driveways on either side of the primary dwelling, a two car garage and a gravel parking area to the east of the proposed accessory dwelling able to accommodate two cars. This appears adequate to provide two parking spaces for the primary dwelling and two spaces for the accessory dwelling.
9. The owners have submitted a signed, notarized statement that they will be occupying one of the units at 16 Gannett Road.
10. The accessory dwelling will be serviced by Town water and Sewer. DPW requirements for water connections will be met.
11. The application meets the standards of the Scituate Zoning Bylaw for an Accessory Dwelling Special Permit.

Ms. Burbine moved to approve the Special Permit for an accessory dwelling at 16 Gannett Road 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 substantially conform to the undated floor plans submitted with the application and attached hereto.
2. The number of bedrooms in the accessory dwelling is limited to two in the location and size indicated on the floor plan submitted with the application.
3. No further expansion of the accessory dwelling floor area is allowed without further review by the Planning Board.
4. Upon occupancy of the accessory dwelling, the applicant shall provide a notarized affidavit that they are living in one of the dwelling units. A yearly certification that the owner occupies one of the dwelling units must be provided by March 1 yearly.
5. All requirements of the Board of Health, Building Department, Zoning Board of Appeals, Department of Public Works, Fire Department and other Town agencies must be met prior to occupancy of the accessory dwelling.
6. The accessory dwelling shall conform to all applicable standards in the building, plumbing, electrical, mechanical, fire and health codes and bylaws.
7. No parking is permitted in the driveway easement areas.

8. Water and sewer connections must meet all requirements of the DPW Water Division/DPW Sewer Division for the accessory dwelling.
9. Any lighting installed shall be down lighting to not shed light on abutting properties.
10. 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.
11. Runoff from the proposed accessory dwelling shall not be increased from the property.
12. Erosion and sedimentation control devices shall be installed to prevent any erosion or sedimentation from leaving the site during construction. Silt sock shall be used as necessary.

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

Ms. Lambert indicated that Mr. Lelio is not listed as the current owner on the Assessor's Database. Ms. Joseph indicated we have the current deed that was recorded on 10.28.19 that shows Mr. Lelio is the current owner.

Ms. Burbine - yes  
Mr. Pritchard – yes  
Ms. Lambert – yes  
Mr. Bornstein - yes  
Ms. Lewis – yes

### **Discussion 178 First Parish Road – Parking Pad**

#### **Documents**

- PDF 178 Stormwater Asbuilt Lot4R First Parish Road
- PDF Cost Estimate for driveway expansion
- PDF Plan Driveway expansion
- PDF Reference Plan for CD easement
- PDF Stormwater Management Plan
- PDF SW bylaw

Virtual Attendees: Joseph Catalano, Resident at 178 First Parish Road

Mr. Catalano explained to the Board what he would like to do on his property.

- Construct a parking pad
  - Pad is 20'x20'
  - Entry to the parking pad is a gradual transition
  - Parking pad is staked out with survey marking
  - Will be removing 6" of grass
  - Ground will be leveled
  - 14 cubic yards of dense grade base will be spread and compacted

- 6 cubic yards of crushed ¾" ground stones spread and compacted
- Cobblestones will be placed at the sides and entry of the parking pad
- Parking pad to be constructed at the end of the driveway in back yard
- Backyard has 3 survey markers designating the property line
- Privacy fence between properties
- Entry constructed on lawn to the left of the house

Mr. Catalano provided information from his contractor; parking pad entirely on his property, pad and entry will be constructed of lower level dense grade material, top layer and ¾" crushed stone, the pad will do little to change the runoff characteristics.

Ms. Joseph indicated the parcel was previously part of a stormwater permit; a larger development stormwater permit

Mr. Catalano said the stormwater permit has been issued and what he is doing is part of an exempt activity. He read for the stormwater bylaw, construction on any lot that has previously been issued a stormwater permit, so long as that construction substantially conforms to the grading the limit work, impervious area and drainage characteristics on an approved plan. He noted he also had two engineers tell him he would not need an engineer's certification, because this has been reviewed and the project is not increasing impervious area and the rate is not being changed. He said he spoke with Morse Engineering, who did the original permit, and their opinion was the project would be exempt because it is going to be constructed with previous materials. He is waiting for the Board to decide what he can do.

Ms. Joseph indicated this parcel was a part of a larger stormwater and the Certificate of Completion has been issued; there is no outstanding stormwater permit. The proposed parking pad goes right up against the property line in an area that was previously disturbed as part of the stormwater permit; she questions if dense grade is permeable. She indicated that the Board got a copy of the plan; the Board needs to decide if the proposed pad could potentially alter the drainage characteristics on the site if so the Board can require an Engineers Certification. She noted the limit of work in the back yard has been changed by trees that have been cut down; per Mr. Catalano trees were diseased and damaged and in danger of falling on the house. Mr. Catalano said the area was a dump, trucks dumped asphalt and other crazy materials that were killing the trees. He said he spent two years cleaning up the area, removing glass and other debris, now it is a nice green area that he has improved.

Ms. Joseph indicated that shrubs were supposed to be planted in the backyard once the trees were removed, to help with privacy screening to a neighbor that had complained; Mr. Catalano said he has been working with the neighbor.

Mr. Pritchard asked about asphalt on the plan that extends into the backyard. Ms. Joseph indicated that portion was included in the original stormwater permit, but was not supposed to be there and was removed, the pavement shown on the as-built plan was all approved. The Board reviewed the as-built plan and discussed where the parking pad is proposed to go and where there is existing pavement.

Mr. Pritchard said lawn and crushed stone do not act the same, they have different permeability; does that change or impact the performance of the stormwater as it was certified. Mr. Catalano said he cannot answer that, but he has been told that it would not.

There was further discussion that the area in question looks similar in size to the area where asphalt was ripped up, but included in the original stormwater permit, so it may be a wash at the end of the day if the contours stay relatively similar. Ms. Joseph said the proposal is to add an area that looks bigger and is crushed stone which has different characteristics than lawn.

Mr. Bornstein asked if the new parking area can be accessed via the common driveway easement or is there some encroachment on to the abutting properties driveway. The pad is 7.5' wide. Ms. Burbine opined it is possible he would encroach on the easement next door. Mr. Bornstein did not want to site something where there is no easement to access it.

Mr. Bornstein added that an open graded material like  $\frac{3}{4}$ " stone whether it is compacted or not will be a reservoir for a lot of water and might be better than a compacted lawn area or something, but the dense grade layer really reduces the imperviousness; he questions why it would be needed and suggests just using  $\frac{3}{4}$ " stone and have it be an open grade parking pad, rather than something that has a base.

There was additional discussion of the plan. Mr. Pritchard opined it did not feel like it was a big change, but if it created any stormwater issues on abutting properties the applicant would have to come back to address.

Ms. Lambert opined the removal of the trees in the back of the property could have changed the stormwater.

Ms. Burbine said this is a situation between neighbors and needs be resolved; it may not be a big deal, but if there are complaints from the neighbor Mr. Catalano will need to resolve them.

The Board opined going through a full engineering review is over kill, but he will need to be careful where the drywells/piping are located with respect to everything else. Mr. Catalano said that has already been taken into consideration.

Mr. Catalano said he just wants to get this right.

The Board opined the request was fairly innocuous, but if it comes back Mr. Catalano will have to do another stormwater review.

Ms. Joseph said she will draft a letter to Mr. Catalano indicating it is not a big change, but if it creates runoff or other problems from increased materials or trespass onto the adjacent property then he's going to have to come back to the Board. She will send to the Board for review and comment.

### **Documents**

- Email to the Board from Shari Young dated 10.16.20 with meeting agenda for 10.22.20
- Email to the Board from Karen Joseph dated 10.16.20 with meeting materials for 16 Gannett Road, 16, 18 and 20 Mann Hill Road, 0 Country Way/0 Rear Country Way, 178 First Parish Road



- Email to the Board from Karen Joseph dated 10.19.20 with meeting materials for 16, 18 and 20 Mann Hill Road
- Email to the Board from Shari Young dated 10.20.20 with draft meeting minutes and liaison list.

These items were distributed to the Board electronically.

Mr. Pritchard moved to adjourn the meeting at 9:15p.m. Mr. Bornstein seconded the motion; the vote was unanimously in favor.

Ms. Burbine - yes

Mr. Pritchard – yes

Ms. Lambert – yes

Mr. Bornstein – yes

Ms. Lewis - yes

Respectfully submitted,

Shari Young

Planning Board Administrative Assistant

Patricia A. Lambert, Clerk

Date Approved: November 5, 2020

