

**SCITUATE PLANNING BOARD    MINUTES    February 13, 2020**

Members Present: Ann Burbine, Chairman; Patricia Lambert, Clerk; Benjamin Bornstein, and William Limbacher

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

Members absent: Stephen Pritchard, Vice Chairman; Rebecca Lewis, alternate member

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**

- 2/13/20 Planning Board Agenda

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

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**Form A – ANR Plan – 0 Rear Summer Street, Scituate (302 Summer Street, Norwell)**

**Scituate Assessor's Map/Block/Lot 23-1-39**

**Norwell Assessor's Map/Lot: 10-4**

**Applicant/Owner: Genevieve and George Davis**

**Documents**

- PDF 2020-01-28 – ANR #302 Summer Street, Norwell #0 Rear Summer Street, Scituate
- PDF Planning Board – ANR Modified Norwell Abutter Letter
- PDF Scituate ANR Application – 0 Rear Summer St., Scituate – 302 Summer St, Norwell
- Doc Transmittal Rear Summer Street
- Doc Draft Motion Form A Rear Summer Street

Attendees: Nicolas Leing, Grady Consulting

Mr. Leing indicated the plan is creating two non-buildable parcels for conveyances along the lot line. He noted the parcels are in Scituate and Norwell and the plan will need to be endorsed by both towns.

Ms. Joseph indicated the applicant would be going to the Norwell Planning Board after Scituate. She indicated the plan should be endorsed; it is really just a change in lot lines which does not alter frontage.

*Motion:*

Ms. Lambert moved to endorse as approval under the Subdivision Control Law Not Required a Plan of Land Norwell Assessors Map 10 Lot 4 Scituate Assessors Map 23 Block 1 Lot 39 302 Summer Street, Norwell, MA (0 Rear Summer Street) sheet 1 of 1 prepared by Grady Consulting, L.L.C. for

Genevieve and George Davis dated January 28, 2020 as the division of the tract of land shown on the accompanying plan is not a subdivision because it shows a proposed conveyance or change in a lot line which does not alter the existing frontage as required under the Scituate Zoning Bylaw. In addition, the following note shall be added to the plan "Planning Board endorsement of this plan is not a determination as to conformance with zoning regulations"

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

**Public Meeting– Site Plan Review - 111 Front Street – Hibernian Tavern**

**Assessor's Map/Block/Lot: 50-4-30**

**Applicant: Arelene McClay**

**Owner: Blayne Curtis, Front Street Management, LLC**

**Documents**

- PDF Application date 1.17.20
- PDF Deed
- PDF Floor Plan
- PDF Lease Agreement
- PDF Location Plan Rev. 1.13.20
- PDF Proposed Lighting
- Email to Karen Joseph from Board of Health with comments dated 1.29.20
- Email to Karen Joseph from Sewer Department with comments dated 1.27.20
- PDF Revised Floor Plan with Basement
- PDF Signage
- Doc Transmittal Letter
- Doc Draft Motion SPAR Hibernian Tavern
- Jpeg Photo Rear of building
- Jpeg Photo of Dumpsters and Shed area
- Email to the Karen Joseph from BOH with comments dated 2.11.20

Attendees: Arelene, McClay, Restaurant/Bar Owner; Michael Carlyle, Restaurant/Bar Owner; Blayne Curtis, Property Owner

Mr. Carlyle said the proposed establishment would be an Irish American restaurant serving Irish American fare; they have an Irish Chef that will be putting his own spin on things. It will be family friendly, will have music, but no amplifiers; they would like to serve breakfast, lunch and dinner. He indicated they have together over 50 years' worth of experience and like to be in community where they can also help the community. He spoke of some fundraising they did in a different community where he does business.

Ms. Joseph indicated the applicant is proposing a 48-seat restaurant; 12 parking spaces are going to be available. The existing parking area will be reconfigured and striped and the old freezers will be removed. 15 spots will be created including one handicapped space; 3 spaces will be reserved for the adjacent business and additional parking is available on Front Street and Cole Parkway. A bike rack will also be available.

Mr. Limbacher asked if they can really get 15 spaces. Mr. Curtis referenced the parking plan submitted showing 15 spots and discussed how it will be reconfigured.

Ms. Lambert expressed concern about how much space there would be between tables and the bar. Mr. Carlyle indicated there is plenty of space 2,200 sq. ft. of space; plenty of room for what they want to do. Mr. Curtis added there is more square footage than The Galley or Riva.

Mr. Bornstein commented that he is in support of bringing business and economic development to the harbor and is sure there will be comments regarding parking.

Ms. Burbine commented that the last time Mr. Curtis was in he was just looking for a parking waiver; this time around, it is a full-blown application/submittal. She commended Ms. McClay on providing all the necessary information.

*Public Comments:*

Mr. Robert Lynch resident at 74 Scituate Ave. said that he is in favor of any business that has put together an application as the applicant has; he is in full support of the proposal and no matter what is done with parking it will be an issue no matter who is in there.

Mr. Paul Wilson resident at 25 Damon Rd. said any business opening on Front Street is a welcome addition.

Ms. Nancy Tibbett resident at 16 Lawson Terrace and owner of the adjacent business, Harborside Wine and Spirits, is worried about the parking and is not sure why they were only allotted 3 spots. Ms. Burbine indicated that is something with the lease and should be addressed with the property owner. Ms. Burbine opined they have a beautiful storefront and people will continue to come to their store because of the product.

Mr. Limbacher asked if the parking spaces will be marked. Mr. Curtis indicated yes and that currently there are 10-11 spots, the area will be getting repaved, striped and marked, and coolers will be going away adding 5 spots. There will be no change in the grading; currently the entire lot is paved. Ms. Joseph indicated there are 2 catch basins on site; there have been no comments from DPW. Ms. Joseph indicated that the office has received comments from Board of Health and from the Sewer Division on the grease trap.

There was discussion that parking could be taken up by employees. Mr. Curtis indicated there would be no employee parking allowed on the premises.

*Motion:*

Ms. Burbine moved based on the Location Plan for 109 – 113 Front Street (Assessor's Parcel 50-4-30) Scituate, MA dated 8/19/19 with revisions through 1/13/20 by Morse Engineering Co., Inc.; floor plans for proposed restaurant for Areline McClay by Designs by Marshall, LLC; the application package for Site Plan Review from Areline McClay received January 17, 2020 and testimony provided during the public meeting on 2-13-20, the Planning Board opines that the requirements of the Town of Scituate Zoning Bylaw Section 770.6, Site Plan Standards of Review have been met to a degree consistent with the use of the site for the purpose permitted in the regulations of the district in which the land is located and to approve the Site Plan Administrative Review for the Hibernian Tavern with the following conditions:

1. All site work shall be in substantial conformance with a plans entitled Location Plan for 109 – 113 Front Street Place Assessor's Parcel 50-4-30 Scituate, MA revised dated 1/13/20 by Morse Engineering Co., Inc., floor plans for proposed restaurant for Areline McClay by Designs by Marshall, LLC, except as may be modified to meet the conditions below.
2. Approval is contingent upon all local approvals being obtained from the Town of Scituate. Materials and details of construction shall meet all the requirements of the DPW, Board of Health, Fire Department and Building Department. Where this Site Plan Administrative Review requires approval, permitting or licensing from any local, state or federal agency, such required approval, permitting or licensing is deemed a condition of the Town of Scituate Planning Board's approval of the site plan.
3. The owner of the property shall provide the Scituate DPW and Town Planner with a letter stamped by an engineer regarding the adequacy of the sewer pipes to serve the building after a camera inspection. Any required upgrades on site for sewer or water shall be at the owner's expense.
4. Suitable external grease facilities shall be provided. Proof of provision shall be submitted to the DPW Sewer Division, Board of Health and Town Planner. A schedule for maintenance and pump outs shall be provided.
5. The restaurant requires 12 parking spaces with 15 parking spaces to be striped on-site according to the Location Plan. 3 parking spaces of the 15 are to be striped to be signed and dedicated to the adjacent retail establishment (Harborside Wine and Spirits). One accessible parking space is proposed among the 12 spaces and shall be signed as such. Staff parking is proposed to be kept to a minimum with incentive options provided by the applicant. A bike rack shall be provided. Additional parking is available on Front Street and in Cole Parkway and there is a sidewalk connecting the building to the parking.
6. Construction shall be an interior buildout only. No exterior modifications shall be allowed except for painting, minor masonry work, signage and lighting installation and removal of awnings.

*Comments: Add language for window changes and repaving and parking area modifications.*

7. Indoor seating is limited to a maximum of 48 seats. No outdoor seating is shown, proposed or allowed.
8. Hours of operation are limited to 7 am to 1 am Friday – Sunday and 10 am to 12 am Monday – Thursday with restaurant hours of 8 am – 11 pm Friday, Saturday and Sunday and 11 am – 11 pm Monday through Thursday.
9. Loading and deliveries shall be maintained in a manner so delivery trucks will not block access in/out of the parking lot.
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.

11. Signage shall be as proposed with black inlay lettering on a white composite back. Any changes to the sign design shall be reviewed and approved by the Town Planner before application to the building department for a sign permit. No signs shall be affixed to the interior or exterior window surface.
12. The project shall comply with applicable ADA and Massachusetts Architectural Access Board (MAAB) requirements.

*Comments: There is an ADA lift being provided into the building and there will be a handicapped parking space.*

13. Solid waste is to be continued to be trucked off site and stored in covered dumpsters as located on the plan. Trash shall be emptied at least once a week or more frequently if necessary, or as otherwise directed by the Board of Health. The dumpster area shall be enclosed on four sides.
14. The existing shed and refrigeration units are to be removed prior to occupancy of the restaurant to provide for necessary parking.
15. The Town Planner is to be notified upon completion of construction.

Mr. Bornstein seconded the motion as amended; the vote was unanimously in favor.

#### Minutes

#### Documents

- Meeting minutes 1.23.20

Ms. Lambert moved to approve the meeting minutes for January 23, 2020.

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

#### Accounting

#### Documents

PO #2007200 (\$120.96), PO #2007195 (\$312.50), PO #2007194 (\$400.00), PO #2005430 (\$2,470.70), PO #2007083 (\$2,850.00), PO #2006940 (\$144.00), PO #2006686 (\$45.62), PO #2006685 (\$1,750.00), PO #2000510 (\$12,285.94).

Ms. Lambert moved to approve the requisition of \$120.96 to Gatehouse Media for legal ad for 755 First Parish Road, for \$312.50 to Chessia Consulting Services, LLC for peer review of Residential Compound at Country Way, for \$400.00 to Dodson & Flinker Inc. for zoning map updates, for \$2,470.70 to Barrett Planning Group LLC for consulting services for Sign Bylaw Amendments, for \$2,850.00 to Merrill Corp for peer review services for 443-461 Chief Justice Cushing Hwy, for \$144.00 to Westongraphics for printing of Zoning Maps, for \$45.62 to Gatehouse Media for annual subscription of Scituate Mariner, for \$1,750.00 to Chessia Consulting Services LLC for peer review of Residential Compound Country Way, for \$12,285.94 to Harriman Associates for consulting services for the Master Plan.

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

**Liaison Reports:**

**Community Preservation Committee (CPC) - reported by Ms. Burbine:**

- Estimated revenue for 2021 of \$2.3M
  - 10% for Historic Preservation, Open Space, Community Housing
  - Administration will be 2.5%
- Town Meeting proposals
  - Mordecai Lincoln property purchase for \$900K
    - Will be taken care of between Recreation and Historical
    - Open space for recreation – gardens, NO fields
    - 3 buildings – small house – caretakers' house, big house – could be rented by the public - one of the oldest structures in the area – mill – used for storage of kayaks, etc.
  - PJ Steverman Rink – Friends of Scituate Recreation donating \$10K for maintenance fund
  - Mission Chapel replacement of heating system
    - Researching issue of Church and State to see if can do
    - Historically a meeting place
    - Building is labeled as church, non-denominational
    - 501 3 C, no taxes being paid
    - Historic building
    - CPC previously put in windows
      - Prior to Andover Case – ruled could not be done
- Lawson Green – finalized next couple of weeks – Scituate Housing Authority
  - Combination of Private and Public Funds
- Athletic Field Renovation Project – moving along

**Board of Selectmen- reported by Ms. Lambert:**

- Discussion about refurbishing field behind Gates – money from Toll Brothers could be used
- Food Pantry – move into Gates Cafeteria
  - All volunteers would park at the Unitarian Church
  - Discussion has been tabled
  - Wednesday and Friday pick up – very short period of time – summer time would be issue

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

- Senior Center – erosion control in and approved
  - Start demolition next week if all paper work in place
  - Abatement went well
- Next meeting Zoning Public Hearing – Sign Bylaw and Section 830
- Heard from Attorney General with approval from Fall 2019 Special Town Meeting
- Kick off meeting next week for Affordable Housing Production Plan
- Seaside at Scituate – 3 Occupancy Permits
  - Spring will address the plantings and have dead stuff replaced

**Continued - Public Hearing – Definitive Subdivision Plan – 14 & 16 Old Country Way  
Assessor's Map/Block/Lot: 48-2-56 & 57  
Applicant/Owner: Robert Proctor, Manager of 14-16 Old Country Way LLC**

**Documents**

- PDF 3711 Aerial Photo to Sub with 2<sup>nd</sup> Peer Review Resp Ltr 02-07-20
- PDF 3711 Ann Burbine Resp Ltr 2<sup>nd</sup> Peer Review Comments from HWG Revised
- PDF 3711 CVR LTR 1\_28\_20
- PDF 3711 DSP 2-6-20
- PDF 3711 DSP Plans 4 Zoning 1-28-20
- PDF 3711 DSP Zoning Documents 1\_28\_20
- PDF 200204\_2<sup>nd</sup> Peer Review\_DefSubdivision\_1416 Old Country Way
- PDF 200207\_3<sup>rd</sup> Peer Review\_DefSubdivision\_1416 Old Country Way
- PDF 200207\_3<sup>rd</sup> Peer Review\_DefSubdivision\_1416 Old Country Way
- Doc Draft motion for 14-16 Old Country Way

Attendees: Jeff DeLisi, Attorney; Paul Mirabito, Ross Engineering

Mr. De Lisi indicated that the plan has been revised with additional data per the Board's request, the Boards consultant has reviewed the plan and he and Ms. Joseph have worked on language in the event the Board would approve the plan.

Mr. Mirabito reviewed the changes to the plan.

- Changed the shape of the driveway, not as wide
- Showing 5 test pits and their locations
- Added initial contours and proposed grading
- Added information to the notes as points of clarification per the Town's Consultant recommendations
- Added waivers back to the plan

Ms. Joseph indicated the intent of the plan is to freeze the Zoning, which is allowed under Mass State Law. The applicant has added the data the Board requested at the last meeting and the Town's Consulting Engineer has reviewed it. It has been determined this plan could be built if it was desired to be built, but the intention is to freeze the zoning. She indicated she has written an approval for the subdivision if the Board chooses to approve the plan the next step would be endorsement; the date of the zoning freeze is 8 years from the date of endorsement. She indicated language was added that would allow the waivers to be revisited if the plan were to be built. Ms. Joseph recommended the Board approve the plan.

The Board indicated this has to be done; they commended Ms. Joseph on the job she did putting it all together.

*Motion:*

Ms. Lambert moved to approve the Definitive Subdivision Plan at 14 & 16 Old Country Way based on the following criteria:

1. Completeness and technical adequacy of all submissions;
2. Determination that development at this location does not entail unwarranted hazards to safety, health and convenience of future residents of this development or of others;
3. Conformity with the requirements of Section 6.0 and 7.0 of the Town of Scituate Subdivision Rules and Regulations, except as specifically waived by the Planning Board and the Zoning Bylaw;
4. Determination that the subdivision as designed will not cause substantial and irreversible damage to the environment, which damage could be avoided or ameliorated through an alternative development plan.

And subject to the following findings, requirements and waivers:

### **Findings**

The subdivision for 14 & 16 Old Country Way may be constructed on a 29,284 sq. ft. site and is proposed to consist of a total of two (2) residential dwellings and a proposed roadway cul-de-sac. The locus is off of Old Country Way and the primary access will be from a new proposed cul-de-sac of 50 feet in length off of Old Country Way.

During the Planning Board public hearing process, the Applicant, through his counsel, proposed that the plan was submitted to the Planning Board with the goal of “freezing” the applicable Scituate Zoning in effect at the time of submission of the Preliminary Plan followed by submission of a Definitive Plan within seven (7) months for a period of eight (8) years pursuant to M.G.L. Chapter 40A Section 6, and the subdivision set forth in the application may not be constructed. Therefore, the Planning Board’s approval is based on the assertion that the submitted subdivision plans were designed without the required soil testing and street layout design as required under the Town of Scituate Rules and Regulations Governing the Subdivision of Land. At the time the Applicant intends to move forward with the construction of the approved subdivision, the Planning Board’s approval is conditioned upon the following requirements:

### **General Requirements**

1. This approval authorizes only those activities requested in the application of Robert Proctor, Manager of 14 – 16 Old Country Way, LLC as approved and conditioned by this decision. Any changes, extensions or modifications to those activities is not authorized and shall be subject to the provisions of the Scituate Zoning Bylaw. This approval does not waive compliance with the Scituate Zoning Bylaw.
2. All construction work shall be done in accordance with the plans submitted by Ross Engineering Company, Inc. entitled Definitive Subdivision Plan of Land for 14 & 16 Old Country Way in Scituate, MA dated September 18, 2019 together with any additional revisions needed to conform to the conditions contained herein (the "Definitive Subdivision Plan").  
*Add revision date of plan set.*
3. Where this Definitive Subdivision Plan requires approval, permitting or licensing from any local, state or federal agency, including the Conservation Commission, such required approval, permitting or licensing is deemed a condition of the Town of Scituate Planning Board’s (the "Planning Board" or the "Board") approval of this Definitive Subdivision Plan,



including but not limited to the Planning Board's approval of work in the public right-of-way of Old Country Way.

4. Construction of the Definitive Subdivision shall meet all requirements of the Scituate Subdivision Rules and Regulations dated August 13, 2010 except as otherwise specifically waived and recorded herein by the Planning Board. All such conditions of approval and waivers granted by the Planning Board shall be inscribed on the Definitive Subdivision Plan prior to endorsement by the Board.
5. The applicant shall mean the current applicant and all its successors in interest (the "Applicant").
6. The Planning Board is issuing this approval with the understanding that this project is not intended to be constructed as shown in the Applicant's documents, and the Applicant's submission is for the purposes of freezing zoning, only. If the Applicant intends to construct the subdivision set forth in this application, it must submit a modified application to the Planning Board and the Planning Board shall schedule a public hearing on the modified application in accordance with G. L. c. 41, s. 81W. In such instance, failure to submit such Modification will result in rescission of the Planning Board's approval. Among other requirements, such modified application shall address the items set forth below which are required to be completed and complied with prior to the commencement of construction or any other authorized activities.
7. Prior to construction or any other authorized activities, all revisions to the Definitive Subdivision Plan required by this approval shall be incorporated onto the Plans. All conditions of approval shall be listed on the title page of the plans, ~~inclusive of reference to the required covenant guaranteeing construction of ways and installation of municipal services prior to endorsement.~~
8. Prior to construction or any authorized activities, the Applicant shall provide a performance guarantee per MGL c. 41, s. 81U in sufficient amount to guarantee construction of ways and installation of municipal services for review and approval by the Board. The Covenant shall be provided to the Planning Board by the owners of record of the land in the subdivision after the Final Revised Plan set has been reviewed and approved if the subdivision is to be built. This Covenant shall run with the land and be binding upon the owner(s) and their successors in interest. Upon approval of the Covenant by the Planning Board, reference thereto shall be inscribed upon the Definitive Subdivision Plan and which shall be recorded along with the Covenant at the expense of the Applicant.
9. The Scituate Planning Board shall resolve any ambiguities, discrepancies, omissions or inconsistencies determined to exist in the plans.
10. The Applicant shall complete the construction of all ways and municipal services within three years of the date of endorsement of the Definitive Subdivision Plan. The Board may extend said period, for good cause shown, upon receiving a written request from the Applicant prior to the expiration of said period, which request shall provide a detailed description of the good cause necessitating an extension.
11. The total number of residential dwelling units on the plan shall not exceed one (1) per lot, except for permitted accessory dwellings. No lot in the Definitive Subdivision may be further divided or subdivided to create additional building lots.

12. The Applicant shall construct streets and complete all other work specified on the Definitive Subdivision Plan or required under the Scituate Subdivision Rules and Regulations except those sections specifically waived by the Planning Board, and, if constructed shall meet all relevant provisions of the Scituate Zoning Bylaws and other local bylaws, including but not limited to the installation of all required utilities in such subdivision and off-site, and all work incidental thereto, such as grading of lots to provide drainage, construction of walkways, retaining walls and other details, and installation of a water main connecting to Old Country Way as outlined in Section 7.0 of these Rules and Regulations and as specifically required by the Planning Board, within three years of the date of endorsement of the Definitive Subdivision Plan.

The Applicant shall maintain all streets and utilities including the system of stormwater management, with the exception of water service, within the subdivision until such time as maintenance is performed by the Property Owner's Association. Unless and until a street within the Definitive Subdivision is accepted by Town Meeting as a public way, all streets, those portions of drainage systems within the street layout and other improvements within the street layout and/or within the Definitive Subdivision shall be operated and maintained by the Applicant or a duly authorized Property Owner's Association made up of residents of the subdivision or their representatives.

The Applicant shall inform the Planning Board in writing within seven (7) days of the date that his/her maintenance responsibilities are assumed by the Property Owner's Association. Such written notification shall also identify the officers of the Property Owner's Association and the name, phone no. and e-mail of the Property Owner's Association's contact person.

13. Prior to construction or any authorized activities, the Applicant shall grant to the Town of Scituate, a right and easement to construct, repair, replace, extend, operate, use and forever maintain all streets, water mains and the stormwater management system including all surface and subsurface stormwater drains in, through or under the streets and easements as indicated on the Definitive Subdivision Plan. The above shall not be construed to relieve the Applicant, and his successors in title, to the ownership of a portion of the land or any street within the subdivision or the stormwater management system which is generally not accepted by the Town, nor diminish in any way, the Applicant's responsibility to complete all construction as required by the Applicant's agreements with the Town and to thereafter maintain all streets and utilities in satisfactory condition unless or until they are accepted by the Town.

Easements shall be provided: i) to allow the Property Owner's Association's access to drainage and stormwater management systems in order to allow the Property Owner's Association to privately inspect, maintain and repair; and ii) to allow the Town of Scituate similar access in case of an emergency or to test water quality if this is deemed in the public interest.

14. The Applicant shall consent to allow members and employees of the Planning Board and other persons acting under the authority of the Planning Board as its agents, to enter upon any lands and carry out such surveys and inspections as may be deemed necessary, and place and maintain monuments and marks. As a condition of subdivision approval by the Planning Board, the Applicant shall cooperate with the Planning Board and Town officials and assist them in their efforts to verify that the layout, design and construction work in the Applicant's subdivision are satisfactory and conform to the Definitive Subdivision Plan, the Town specifications and the requirements of the Planning Board.

**Required Prior to Board Endorsement of Definitive Subdivision Plan**

15. All conditions of approval and waivers granted shall be inscribed upon the Definitive Subdivision Plan prior to endorsement by the Board.
16. The Applicant shall obtain the endorsement of the Planning Board upon the Definitive Subdivision Plan within 180 days of the date of approval by the Board and termination of the appeal period of the approval. Failure to obtain such endorsement shall result in the automatic rescission of the approval of such plan.

**Engineering Conditions**

17. Prior to construction or any other authorized activities, the Applicant shall submit a revised Stormwater Report to accompany the Definitive Subdivision Plan for 14 & 16 Old Country Way to the Planning Board including elevations, drainage calculations and required soil testing.
18. Prior to construction and the preconstruction conference or any other authorized activities, the Applicant shall submit a "Final Revised Plan Set" incorporating all applicable conditions of this decision. Said set shall contain any changes necessitated by this approval. Said plans shall be adopted by a majority of the Planning Board at the time of submittal.
19. The Final Revised Plan Set shall incorporate the following plan changes as they are hereby conditioned as part of the Definitive Subdivision Plan:
  - a. All requirements for the Board of Health must be met prior to any demolition activity including asbestos inspection, pest control plan and dust control plan.
  - b. Proof must be furnished that there is adequate capacity within the Town's sewer system to accommodate the project as utilization of Town sewer is proposed.
  - c. The parcels are located entirely within the Zone A of the Water Resource Protection District and must meet the applicable zoning bylaws.
  - d. Prior to endorsement the cover sheet must be changed so the date of filing of the preliminary plan is April 1, 2019.
  - e. An easement for the existing 24" reinforced concrete pipe (RCP) if one does not currently exist.
  - f. Details for the roadway cross section, roadway paving, and sidewalk shall be provided in accordance with Scituate Department of Public Works Requirements and the Town of Scituate Subdivision Rules and Regulations.
  - g. Any wetland resources within 100 feet of land disturbance shall be shown on the plan as approved by the Conservation Commission with such notations provided.
  - h. All requirements of the Water Division shall be met. Any improvements required on/off site shall be at the owner's expense.
  - i. Any improvements required on/off site shall be at the owner's expense.
  - j. Operation and Maintenance Plan for the stormwater practices to be provided with Final Revised Plan Set.
  - k. The Massachusetts Stormwater Handbook requires 44% total suspended solid (TSS)

removal prior to entering an infiltration practice. The stormwater management system shall be re-designed to eliminate permeable pavement in the Zone A as the required TSS treatment is not provided. Other stormwater practices must be provided to manage driveway runoff.

1. The final plans shall verify that there are no natural slopes over 25% and that no finished slopes are greater than 25%.

**Required Prior to Pre-Construction Conference**

20. Following the Board's endorsement, the Applicant shall record the Definitive Subdivision Plan within six (6) months of such endorsement if the subdivision is going to be built.
21. In addition to the Covenant required to secure the construction of ways and installation of municipal services, the Applicant shall, after approval of the final revised plan set, prior to construction, submit a supplemental covenant containing those conditions of approval that are intended to survive the release of the Covenant (the "Supplemental Covenant"). The Supplemental Covenant shall be approved as to form by the Planning Board's legal counsel. The Supplemental Covenant shall be executed and duly recorded by the owner(s) of record of the land, and shall run with the land. The Supplemental Covenant shall be referenced on the Definitive Subdivision Plan prior to recording the plan in the Registry of Deeds. The Applicant shall promptly, after recording, send a copy of the Supplemental Covenant, showing book and page number to the Board.
22. All additional information and changes to plans required prior to the pre-construction conference shall be reviewed by the Town Planner and Planning Board's consulting engineer. If further waivers or approvals are required, the Board shall review and approve same prior to the pre-construction conference.
23. The Applicant shall provide a draft Property Owner's Association Agreement and sufficient funds for review by Town Counsel prior to a pre-construction meeting. Following review and approval by the Board, the Property Owner's Association Agreement shall be recorded at the Registry of Deeds prior to the Town Building Department's issuance of any occupancy permit. The Property Owner's Association Agreement shall include the operation and maintenance plan approved by the Planning Board's consulting engineer and shall be written to include the owner(s) of the two proposed single family homes (the "Operation and Maintenance Agreement").
24. Prior to the pre-construction conference, the Applicant shall provide the Planning Board with a copy of the recorded Definitive Subdivision Plan on disk in CAD (.dwg format).
25. Prior to the pre-construction conference, the Applicant shall provide to the Planning Board:
  - b. A check to cover cost of inspections by the Town's consulting engineer. The specific amount shall be determined by the Planning Department based on the consulting engineer's estimate, such estimate shall be subject to amendment from time to time and shall be supplemented by the Applicant as requested by the Town Planning Department.
  - c. A construction schedule including approximate dates for items in the Subdivision Rules and Regulations 9.1.3.

**Required Prior to the Start of Construction**

26. A pre-construction conference shall be held with the Applicant, their representatives, their

engineer, the site contractor(s), the Town Planner, the Planning Board's consulting engineer and other representatives of the Town as the Board feels are necessary including the Conservation and Natural Resource Officer. A list of all contractor contacts, including names and telephone numbers, shall be provided to the Planning Board and the DPW. At least one telephone contact shall be available 24 hours per day in the event of an emergency.

27. Prior to the start of construction, a street sign shall be erected in accordance with the US DOT Manual on Uniform Traffic Control Devices 2009 Edition, Ch D3-1, Sheet 1 of 3 (copies are available at the Planning Board office.) The name of the street shall be approved by the Police Department and Planning Board.

#### **Required During Construction**

28. Construction work shall not commence prior to 7:00 AM weekdays and 8:00 AM on Saturday 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.
29. The Applicant shall keep a clean site throughout construction. Upon completion of all work on site, all debris and construction materials shall be removed from the site and legally disposed of.
30. All earth moving/disturbance operations shall only occur while erosion and sedimentation control measures per the Definitive Subdivision Plan and approved by the Town Planner are in place. Such control measures shall remain in place until the Board's consulting engineer determines after consultation with the Town Planner, that the danger of erosion or sedimentation no longer exists.
31. Except for clearing, grubbing, road construction and paving, the subdivision road shall be kept clear and passable at all times. No equipment shall be parked or stored so as to render the street impassable. No portion of the subdivision road or cul-de-sac shall be used as a staging area. No parking or unloading on Old Country Way shall be permitted during construction.
32. Inspections and observations made shall be submitted to the Board within 48 hours after the inspections. The Board reserves the right to require the consulting engineer visit the site weekly during times when required construction inspections are further apart.
33. Construction of the proposed subdivision road and proposed drainage system shall be supervised by a registered professional engineer who shall certify in writing to the Planning Board and DPW at completion that the proposed subdivision roads and drainage system were constructed in accordance with the approved Definitive Subdivision Plan. This certification shall be accompanied by as-built plans, signed and stamped by a professional land surveyor and the supervising professional engineer.

#### **Prior to Application for Building Permits**

34. 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.
35. Interim As-Built Plans shall be prepared for all drainage or detention basins, rain gardens and infiltration structures and the roadway system, and be provided to the Planning Board for

approval before any building permits for new structures or buildings are issued.

Interim As-Built Plans shall confirm that the roadway and stormwater system are properly constructed, stabilized, located in the approved location and properly sized, so that the required storage capacity is available and no upland necessary for adjacent lots has been used. The location of the stormwater practice and all drainage easements shall be confirmed by setting a minimum of two bounds and shall be tied to at least two bounds of the subdivision way and to the Mass. State Plane coordinate system. Interim As-Built Plans shall be signed and stamped by a Registered Professional Engineer and Professional Land Surveyor.

#### **Prior to Application for Occupancy Permits**

36. Prior to issuance of any occupancy permit, a registered professional engineer shall inspect the lot and certify with his signature and stamp to the Planning Board and Building Commissioner that any variation in grade from the original plan is insignificant and does not in any way alter the drainage calculations, the function of the stormwater management system or the rate or volume of stormwater flow onto abutting properties.

#### **Acceptance of Street as a Town Way**

37. Approval of the Definitive Subdivision Plan does not constitute the laying out or acceptance by the Town of the streets shown on the Plan. For additional clarity, the subdivision street shall remain a private way, the operations and maintenance of which remain the sole responsibility of the Applicant and subsequently the Property Owner's Association, unless or until such streets are accepted by the Town.

#### **Ongoing**

38. Following occupancy, a certification of compliance with the Operations and Maintenance Plan shall be provided to the Planning Board on or before January 31 of every calendar year.

#### **WAIVERS:**

The Board voted to approve the following waivers 1 through 9 from the Town of Scituate Subdivision Rules and Regulations on February 13, 2020 **with the caveat that the waivers are based on conditions as presented by the Applicant and the Planning Board reserves the right to withdraw their waiver should the underlying conditions change if the subdivision is going to be built and a Final Revised Plan Set submitted:**

1. Section 6.3.2 2. 100 scale index sheet

Requirement: An index sheet showing the entire subdivision at a scale of 1"=100'.

Waiver Requested: No index sheet is proposed as the lot layout is on a single sheet as opposed to multiple sheets.

Applicant's justification: The subdivision has only two (2) lots, both of which are shown on one plan sheet.

2. Section 6.3.2 6. A Landscape plan

Requirement: A landscape plan.

Waiver Requested: Submit prior to the issuance of the first building permit.

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3. Section 6.3.2 4. Layout Plan and Profile

Requirement: A layout plan and profile.

Waiver Requested: None.

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4. Section 6.3.3. 3h Closed Traverse Calculations

Requirement: A closed traverse of the perimeter of the subdivision, tied into public and private monuments, shall be shown on the plan.

Waiver Requested: To waive the requirements, unless the subdivision is built.

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5. Section 6.3.2 7. And 6.3.3 7 Erosion and Sedimentation Control Narrative and Plan

Requirement: An erosion and sedimentation control plan and narrative.

Waiver Requested: To waive the requirement for an erosion and sedimentation control plan and narrative, unless the subdivision is built.

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6. Section 6.3.4 5. Traffic Circulation and Safety

Requirement: The Applicant shall furnish documentation necessary to determine compliance with the regulations including street alignment, corner and stopping sight distance, grade and all other requirements governing location and construction of proposed roads.

Waiver Requested: To waive the requirement.

7. Section 6.3.4 6. Draft Homeowners Agreement

Requirement: The Applicant shall submit a draft Homeowner's Agreement establishing a Homeowner's Association with any application for a Definitive Plan.

Waiver requested: To submit prior to construction, if the subdivision is to be built.

8. Section 7.2.1 9. Sidewalks

Requirement: Sidewalks having a width of not less than 5 feet shall be constructed beside the roadways in the subdivision.

Waiver Requested: To require no sidewalks as none exist in Old Country Way or Country Way.

Applicant Justification: None exist in Old Country Way or Country Way.

Waiver voted: To not waive the requirement for sidewalks as sidewalks may exist in the future on Old Country Way and Country Way and require them to be shown on a final revised plan set should the subdivision be built.

9. Section 7.5.5 Street Trees

Requirement: The Applicant shall provide street trees along all new subdivision roadways.

Waiver Requested: To show street trees on the landscape plan to be submitted prior to the issuance of the first building permit, unless the subdivision is built.

Mr. Limbacher seconded the motion for discussion, all in favor.

Mr. Limbacher indicated they Board needs something to move the waivers.

Mr. Limbacher moved to grant the waivers specified, amended or rejected as defined in this document.

Ms. Lambert seconded the motion as amended; the vote was unanimously in favor.

**Continued - Public Hearing – Definitive Subdivision Plan – One Buckeye Land and #261, 253, 251 and 225 Stockbridge Road**

**Assessor's Map/Block/Lot: 53-2-1, 1B, 4, 6, 7, 9**

**Applicant/Owner: First Buckeye Corp.; Richard W. & William E. Hoffman, Trs., SWET Brothers Trust; Richard W. & William E. Hoffman, JT; and Wilson H. & John R. Brown**

**Documents**

- PDF 2965 DSP 12-10-19
- PDF 2965 DPS CVR LTR 1-30-20
- PDF 200205\_2<sup>nd</sup>\_Peer Review\_DefSubdivision\_Buckeye Lane
- PDF (Untitled)\_2020021013014097
- PDF 2965 DSP 2-10-20
- PDF 4027 Ann Burbine Resp Ltr 2<sup>nd</sup> Peer Review Comments from HWG 02-10-20
- Doc Draft Motion One Buckeye Lane
- PDF 20012\_3<sup>rd</sup>\_Peer Review\_DefSubdivision\_Buckeye Lane

Attendees: Jeff DeLisi, Attorney; Paul Mirabito Ross Engineering

The Board agreed to not read all the conditions, as they are the same as 14-16 Old Country Way. Ms. Joseph indicated the conditions are the same with the exception of the where the project name is noted and there are 2 additional waivers.

It was agreed upon the Board would only read out the differences from 14-16 Old Country Way.

Mr. De Lisi indicated the plan was revised per the Boards requests from the last meeting and the Town's Consulting Engineer has reviewed the plan. Ms. Joseph indicated the consultant concurs the plan could be built.



*Motion:*

The Board made the same changes to the decision in condition #2 and #7 as the decision for 14-16 Old Country Way.

Ms. Joseph commented on the waivers:

- Waiver for 100 Scale Index Sheet is the same
- Waiver for Landscape Plan is the same
- Waiver for Layout Plan and Profile is the same
- Waiver for Erosion and Sedimentation Control is the same
- Waiver for Closed Traverse Calculations is the same
- Waiver for Observations Pits – submitted prior to construction, if the subdivision is built.
- Waiver for Stormwater Management System – submitted with final revised plan set, if the subdivision is built.

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8. Section 6.3.4 5. Traffic Circulation and Safety

Requirement: The Applicant shall furnish documentation necessary to determine compliance with the regulations including street alignment, corner and stopping sight distance, grade and all other requirements governing location and construction of proposed roads.

Waiver Requested: To waive the requirement, unless the subdivision is built.

Ms. Joseph indicated that all other waivers were the same.

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

**Continued - Public Hearing – Special Permit – Common Driveway & Stormwater – 443 – 461  
Chief Justice Cushing Highway  
Assessor's Map/Block/Lot: 47-2-26A to 26J  
Applicant: David MacCready  
Owner: Seven H. Trust**

**Documents**

- PDF 2020 01 29 ANR
- PDF 2020 01 29 Site Plans
- PDF 19180 – PB Review Report, 41-463 Chief Justice Cushing Highway, 2-05-20
- PDF Morse Response to WRC comments 2.4.20
- PDF Mounding
- Email to Karen Joseph from Water Resource Committee dated 2.5.20
- Email to the Water Resource Committee from Greg Morse dated 11.15.20
- PDF Cut & Fill
- Doc Draft Motion Common Drives CJC Approval

*Motion:*

Ms. Lambert moved to accept the applicant's request to continue the public hearing for the Common Driveway Special Permit and Stormwater for 443 – 461 Chief Justice Cushing Hwy until April 9,

2020 at 7:00 pm and to continue the time for action for filing with the Town Clerk until May 1, 2020.

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

**Documents**

- Email to the Board from Shari Young dated 2.6.20 with meeting agenda 2.13.20 and meeting minutes 1.23.20
- Email to the Board from Karen Joseph dated 2.7.20 with meeting materials for 0 Rear Summer Street, Scituate (302 Summer St., Norwell) and 111 Front Street.
- Email to the Board from Karen Joseph dated 2.7.20 with meeting materials for 443-461 Chief Justice Cushing Highway.
- Email to the Board from Karen Joseph dated 2.7.20 with meeting materials for 14 & 16 Old Country Way and Buckeye Lane & Stockbridge.
- Email to the Board from Shari Young dated 2.10.20 with meeting materials for 14 & 16 Old Country Way and Buckeye Lane and Stockbridge.
- Email to the Board from Shari Young dated 2.11.20 with meeting materials for 111 Front Street.
- Email to the Board from Karen Joseph dated 2.11.20 with meeting materials for 14-16 Old Country Way and One Buckeye Lane.

These items were distributed to the Board electronically.

Mr. Limbacher moved to adjourn the meeting at 9:01 p.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: February 27, 2020