

SCITUATE PLANNING BOARD MINUTES December 22, 2016

Members Present: Stephen Pritchard, Chairman; William Limbacher, Vice Chairman; Ann Burbine, Clerk, Richard Taylor and Alternate member, Gerard Wynne.

Others Present: Ms. Laura Harbottle, Town Planner.

Others Absent: None.

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

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

Chairman Pritchard called the meeting to order at 7:30 P.M. The meeting was being recorded for airing on local cable television.

Documents

- 12/22/16 Planning Board Agenda

ACCEPTANCE OF AGENDA: Ms. Burbine moved to accept the agenda. Mr. Taylor seconded the motion and the vote was unanimous in favor.

Continued Public Hearing – Mixed Use Special Permit in the Village Business Overlay District 4 Union Street

Assessor's Map/Block/Lot 53-4-9

Applicant/Owner: Milton J. Hallin/4 Union Street, LLC

Documents

- Site Chronology report dated 12/6/16 with permits and approvals for 4 Union Street/6 Old Country Way including decisions, plans and easement documents for items 1 – 5 in the report.
- 3/1/2001 6 Old Country Way meeting minutes
- 3/15/2001 6 Old Country Way meeting minutes
- Email to Board from Laura Harbottle dated 12/19/16 with revised plan dated 12/7/16

Paul Mirabito and John Hallin were present for the applicant. Mr. Hallin said he took insight from the Board and spoke with the neighbor and came up with a better plan. Mr. Mirabito said the new proposal for the Mixed Use Special Permit adds two additional contractor bays with two apartments above to the existing structure. He said there would be three new parking spaces in front and the dumpster has been relocated along with the existing curb cut so there is parking in back. Mr. Mirabito said the green space is at 38% where 20% is required and would have stormwater infiltrators underground for the increased runoff. He said the plan conforms to the rules and regulations and would also make the microbrewery stand out as the new addition is now proposed as an addition to the existing building. Mr. Hallin confirmed that the plan was reviewed with the neighbor and there would be hedges around the parking lot. He said the additional bays may be for a plumber and there would not be any retail at this address.

Ms. Harbottle indicated she met with Mr. Hallin and the revision seemed like what the Board wanted. She said it is a tough proposal to meet the mixed use bylaw as the bylaw is specific as to what defines mixed use which is retail/office and residential and one or more mixed use buildings.

She indicated a carpenter's shop may not fit the criteria. She said if the use was furniture reproduction it could be different, but a contractor's yard is not permitted in the Business district but in the Commercial district. She said expanding this use and mixed use doesn't fit together. Ms. Harbottle also indicated that the existing building does not meet the dimensional requirements of mixed use as the length of the building has no articulation, a 30 foot setback is proposed where 25 feet is required and driveway openings are supposed to be 24 feet versus the existing 88 feet. She said the site is also in the Water Resources Protection District where less impervious area is desired. She indicated the proposal does have artificial recharge, but the desired amount of impervious is 15% where 57% is proposed.

Chairman Pritchard asked the applicant to address Ms. Harbottle's comments. Mr. Mirabito said the site is in the Business District and Village Business Overlay District (VBOD) and they wanted apartments above so they filed as a mixed use. He indicated this area in Greenbush does not require retail and read from Section 560.4 D of the zoning bylaw (p 71). He said no new curb cuts are being proposed and they are narrowing the curb cut on Old Country Way. He said the new driveway will be less than 24 feet as required. Ms. Harbottle said special permits run with the land and should cover the entire property not just part of it; but the Board may want to verify that with Town Counsel. Chairman Pritchard said he is looking at the whole lot. Mr. Taylor asked about multiple buildings. Ms. Harbottle said that a mixed use special permit includes a group of buildings on the whole lot which is different than an accessory dwelling special permit. Chairman Pritchard said that the driveway opening is still larger than 24 feet and it may not fall into the definition of the VBOD. Mr. Mirabito said that the existing opening is an existing condition and that the bylaw does not say that Union Street can't have parking in the front setback. Mr. Hallin said they could slide the new part of the building up 5 feet to meet the 25 foot setback. Chairman Pritchard said as a whole the entire lot does not conform to the setbacks for the VBOD. Ms. Harbottle said that the bylaw on page 75 has a maximum setback of 25 feet for all other streets in Greenbush besides Country Way and Driftway. Mr. Taylor said the bylaw also says the Planning Board can waive the requirements on corner lots for existing buildings that are converted to mixed use. Chairman Pritchard said he sees the addition as an extension of an existing use. Ms. Burbine agreed. Mr. Limbacher said one can't pick and choose which parts of the mixed use bylaw one wants to use. Mr. Taylor commented that the original use was just business in 2001. Chairman Pritchard said there are multiple requirements that need to be met.

Mr. Hallin said that he shifted the building adjacent to the existing building and has different uses and feels that he is getting mixed messages. Chairman Pritchard said he feels the project is not meeting the VBOD standards and doesn't really know how the project can get there. He said that the VBOD standards have to comply with the whole lot and it feels like a square peg is trying to fit in a round hole. He said the answer may be that the site can only accommodate business use. He said the site was originally permitted for office and now there is a contractor's garage which is not intended in the VBOD but in the Business district. Mr. Mirabito said they could have moved the building 10 feet from Old Country Way and have office and apartments in the VBOD. Mr. Taylor said that even if the addition moved, the whole lot is mixed use and the existing building does not meet the requirements. Chairman Pritchard reiterated that if a lot is being permitted in the VBOD, the requirements need to be met without wavering everything. Ms. Harbottle concurred that the dimensional requirements for the existing building don't meet the bylaw. Ms. Burbine opined that the applicant and Board are trying to make something work that doesn't meet the Greenbush design standards and is an overuse of the corner lot itself between parking, pavement and buildings. Chairman Pritchard said the applicant has asked for permitting under the VBOD and there are multiple elements that are not met and maybe the site is just meant for business. Ms. Burbine said

that first a permit was issued for the existing building then an accessory dwelling special permit. She said Mr. Hallin could do the same thing again. Mr. Limbacher affirmed his feelings that the plan does not comply with the intent and dimensions of the VBOD.

Mr. Hallin asked if he came back with an application for general business use could he do the plan that way. Chairman Pritchard said the Board will not tell an applicant how to permit a property. He said the Board is saying that it does not conform to the requirements of the VBOD and the Board will not conjecture about other plans. Ms. Harbottle concurred that the site needs to be looked at as a whole as defined in the bylaw. Mr. Hallin said he feels there is a need for housing and may come back for a use in the business district. Chairman Pritchard applauded the effort of Mr. Hallin to produce affordable housing, but he does not feel the proposal can be permitted without changing the existing building. He asked Mr. Hallin to go through a check list for the whole site before he comes back. Mr. Limbacher said the proposal can't be done as mixed use. Ms. Burbine said the Board should deny the project or ask the applicant to withdraw without prejudice.

Steve Monteiro of Jenkins Place confirmed that Mr. Hallin did come and show him the new plan; however, he feels it is still an extension of the existing building without office or apartments. Chairman Pritchard said there are apartments above the carpenters shop. He said a new iteration would require a new filing and it sounds like a withdrawal. Mr. Limbacher and Ms. Burbine agreed. Ms. Burbine moved to accept the applicant's request to withdraw the application for a Mixed Use Special Permit in the Village Business Overlay District for 4 Union St. without prejudice. Mr. Limbacher seconded the motion. Motion was unanimously approved.

Form A – 80 Mann Lot Road

Assessor's Map/Block/Lot 25-1-3F

Applicant/Owner: Diamond Development/Laurie J Parker

Documents

- Letter, application, deed and Plan of Land in the Town of Scituate, MA for 80 Mann Lot Rd dated 11/30/16 prepared by Ross Engineering
- Email from Laura Harbottle to the Board dated 12/15/16 with above information
- Emails to the Board dated 12/20/16 with Conservation Commission and Water Department Comments

Mr. Steve Bjorklund was present for the applicant. He said he was the contract purchaser of the lot proposed adjacent to the existing dwelling. He said there is the required lot width with no wetlands or even Conservation Commission jurisdiction. He indicated Mann Lot Road is a public road, the lot has 20,000 sq. ft. of lot area and meets all the Form A requirements.

Ms. Harbottle said that the proposed lot has all of the required dimensional requirements and frontage and access and the water department will require a 1" copper pipe service.

Ms. Burbine moved to endorse as Approval Not Required a Plan of Land in the Town of Scituate MA 80 Mann Lot Road by Ross Engineering Co., Inc. for Diamond Development dated 11-30-16 with the notation added to the plan that "Planning Board endorsement of this plan is not a determination as to conformance with the zoning regulations." Mr. Taylor seconded the motion. Motion was unanimously approved.

Form A – 489 Country Way

Assessor's Map/Block/Lot 32-7-013A, 14, 15, 16, 17, 18, & 21

Applicant/Owner: Bradford Merritt/Bradford Merritt & Princess Pine Realty Trust

Documents

- Letter, application, deed, agent authorizations, abbreviated title search, and Plan of Land Country Way, Scituate, MA by Grady Consulting, LLC dated 11/30/2016
- Plan of Land Country Way dated Feb 14, 2014 by Grady Consulting
- Email to the Board from Laura Harbottle dated 12/15/16 with above information
- Email to the Board dated 12/20/16 from Laura Harbottle with Conservation Commission and Water Department Comments

Rob Carlezon, Bradford Merritt and Todd Merritt were present for the applicant. Mr. Carlezon indicated there was a duplex at 493/495 that needed 40,000 sq. ft. of lot area so the Lot 1 lines changed to make the existing lot conforming. He indicated that the lot at 483 Country Way shown as Lot 3 was also changed so that it would be a conforming lot as well. Chairman Pritchard noted that there was a “rattail” to get the land area for the existing duplex. Ms. Harbottle indicated that the 50 foot frontage lot has to be approved by the ZBA prior to the lot being developed.

Ms. Burbine moved to endorse as Approval Not Required a Plan of Land, Country Way, Scituate, MA by Grady Consulting, LLC for Bradford A. Merritt dated 11-30-16 with the notation added to the plan that “Planning Board endorsement of this plan is not a determination as to conformance with the zoning regulations” as the division of land is not a subdivision because Lots 1 and 3 as shown on the plan have adequate access and the amount of frontage required by the Zoning Bylaw on Country Way, a public way. Parcel A is not a buildable lot as it contains insufficient frontage until a special permit is approved by the Zoning Board of Appeals. Mr. Limbacher seconded the motion. Motion was unanimously approved.

Form A – 26 Ann Vinal Road

Assessor’s Map/Block/Lot 27-6-28

Applicant/Owner: John Tedeschi

Documents

- Letter, application, deed and Plan of Land showing a division of Parcel 27-6-28 Ann Vinal Road in Scituate, MA dated 12/12/16 prepared by Moran Survey, Inc. in conjunction with Morse Engineering Co., Inc.
- Transmittal to departments dated 12/15/16
- Email from Laura Harbottle to the Board dated 12/15/16 with above information
- Email to the Board with Conservation Commission and Water Department comments

Gregory Morse was present on behalf of the applicant. He indicated the large lot is being divided to separate the back land which is to be conveyed to a neighboring lot from the front house lot. He said the plan has the requisite frontage on a public way and the back parcel is labelled as not a buildable lot and will be combined with land to the east.

Ms. Harbottle indicated that Lot 1 doesn’t have the correct lot width, but it didn’t before and the Board will add the stamp that endorsement of the plan is not a determination as to conformance with the zoning regulations.

Ms. Burbine moved to endorse as Approval Not Required a Plan of Land showing a division of Parcel 27-6-28 26 Ann Vinal Rd in Scituate, MA prepared by Moran Survey Inc. in conjunction with

Morse Engineering Co., Inc. dated 12-12-16 as the division of land is not a subdivision because it shows a proposed conveyance or change in lot line which does not alter the existing frontage as required under the Scituate Zoning Bylaw. Mr. Taylor seconded the motion. Motion was unanimously approved.

Form A – Summer Street

Assessor's Map/Block/Lot 17-4-28

Applicant/Owner: The Stewartia Family Trust

Documents

- Letter, application, deed, agent authorizations and Plan of Land in Scituate and Norwell MA showing a division of parcel 17-4-28 vacant lot off Summer Street dated 12/12/16 by Morse Engineering Co., Inc. with revisions through 12/20/16
- Transmittal to departments dated 12/15/16
- Email to the Board from Laura Harbottle dated 12/15/16 with above information
- Email to the Board from Laura Harbottle dated 12/20/16 with Conservation Commission and Water Department comments

Gregory Morse was present for the applicant. He said the plan proposes two Form A lots off of Summer Street, a public road. He said the Conservation Commission had reviewed the wetland line in the front of the lots. He indicated there is a large wetland through the site that separates some back upland, but it is part of one of the two lots shown. Mr. Morse said Lot 1 has 179.8 feet of frontage and is 2.98 acres with about half upland and Lot 2 has 301.22 feet of frontage with a lot area of 461,862 sq. ft. of which 214,155 sq. ft. is upland. He said both lots comply with lot area, upland and frontage requirements. Chairman Pritchard asked if the only accessible area was the front of the lots off Summer Street. Mr. Morse said they have filings for dwellings in the front of the two lots; however there is not a contiguous upland area requirement.

Ms. Harbottle said this plan shows the value of having a contiguous upland area requirement in the bylaw. She said Summer Street is a scenic road and there would need to be a scenic road hearing if trees or the stone wall in the road right of way are altered. She said there is marginally enough land in front for two dwellings, but it will be in the Conservation Commission's jurisdiction. She said the former plan showed a Lot 3, but the plan does not show it as there is no access to the back land except a clearing. She said there is no gravel or pavement like Bates Lane and there are legal issues with access to the back. Mr. Morse said they are not proposing any access over a right of way in back as they have not done deed research. He said they are only proposing access off of Summer Street not off any right of way to a wood lot.

Ms. Burbine opined that the plan shows frontage and access for the two lots. Jonathan Mariano of Summer Street in Norwell said that he has done research to show that the only access the property has is from Summer Street and not any other easements or rights of way and three separate lawyers have concurred on this. John Mariano of Norwell also stated that the access easement grants access from his son's house at 349 Summer Street to a wood lot by the water tower and that is the only access to the wood lot. He said his son purchased the wood lot so he would exclusively own the right of way. He said the right of way on his son's property is on the southerly side and the applicants do not have access to that the right of way. John Mariano asked that if the Board approves the ANR, it should be noted that the lots cannot be further subdivided to use the right of way that they do not have access to. Chairman Pritchard said that the Board cannot condition an ANR in that manner. John Mariano noted that if they tried to divide in the future there would not be

enough frontage and they are causing their own hardship. Ms. Harbottle said that the Planning Board does not get into ownership issues, but the motion is clear that some other possibility is not being discussed here. Debra Rosenau of Highland Crossing said she had an interest in what John Mariano was saying as the applicants were previously looking at access from Highland Crossing to the back upland area. She indicated she supported what John Mariano was saying. John Mariano said the applicants are following a systematic way of squeezing out an extra lot. He said they caused their own hardship with Highland Crossing and this plan and the land was formerly owned by all one person. He said the full picture needs to be reviewed and he said he knows the ANR process needs to only look at access.

Doreene Close of 132 Summer Street said that she is an abutter and was not notified and asked if there was another plan. She said this plan has no dimensions and is not realistic as people need to see what is proposed with the houses and septic systems as there is a brook and the biggest swamp in Scituate is across the street. She said the brook drains her property and much of the west end. Chairman Pritchard said that what is before the Board is the division of the land and the Conservation Commission will be dealing with other matters. He said the Board is not saying the lots are buildable. Ms. Close questioned why the project was being handed over to the Conservation Commission. Chairman Pritchard said the applicants have not filed for a scenic road hearing which is in the jurisdiction of the Board. Ms. Close said they broke into the wall with a backhoe to do perc tests. Chairman Pritchard said that the Board does not have jurisdiction over perc tests and state law gives the Board jurisdiction for ANR lots. Ms. Close said that most of the water from the west end goes to Cohasset and the topography which is not on the plan will show that. She said Summer Street cut off the flow to the South Swamp and said she would like a scenic road hearing. Chairman Pritchard said the proponent will be notified that a Scenic Road hearing will be required and abutters will be notified. Ms. Harbottle said they should have had a hearing if they disturbed the wall. Mr. Morse said the perc tests were witnessed by the Board of Health and no stone walls were disturbed.

Ms. Burbine moved to endorse as Approval Not Required a Plan of Land in Scituate & Norwell, Massachusetts Showing a Division of Parcel 17-4-28 by William J. McGovern, P.L.S. of Morse Engineering Co., Inc. for The Stewartia Realty Trust dated December 12, 2016. The Conservation Commission has reviewed and confirmed the wetlands line under a Notice of Intent as required by Subdivision Rules & Regulations Section 4.2.2. 10. The division of land is not a subdivision because Lots 1 and 2 have adequate access and the amount of frontage required by the Zoning Bylaw on Summer St., a public way. In addition, the Planning Board brings to the attention of the owners that Summer St. is a Scenic Road and prior to alteration of stone wall or removal of trees over 3" in the road layout, a public hearing and approval of the Planning Board would be needed, and there is no water main on that section of Summer St. and private wells would be needed for any new homes. The plan is endorsed with the following notes added that Planning Board endorsement is not a determination as to conformance with the zoning regulations and the plan is only endorsed for frontage and access from the 301.22' on Summer Street in Scituate and not on any right-of way I Norwell. Mr. Taylor seconded the motion. Motion was unanimously approved.

**Public Meeting – Site Plan Administrative Review – 93 – 97 First Parish Road
Assessor's Map/Block/Lot 49-3-1
Applicant/Owner: JMGH Family Trust**

Documents

- Application, deed and Proposed Raze and Rebuild 93 – 97 First Parish Road Assessor's parcel 49-3-1 Scituate, MA revised dated 12/22/16 by Morse Engineering Co., Inc.

- Transmittal to departments dated 12/15/16
- ZBA decision dated 9/26/16
- Email from Zarla Ludin dated 12/14/16
- DRC Summary 7-26-16
- DRC Sketch 93 – 97 First Parish Road
- Stormwater Permit decision 9-6-16
- Email to the Board from Laura Harbottle dated 12/20/16 with above information
- Emails to the Board from Karen Joseph with Bornstein/Ludin Planning Board and ZBA comments
- Email to the Board from Laura Harbottle dated 12/22/16 with building elevations
- Email from DPW dated 12/22/16

Greg Morse and John Barry were present for the applicant. Mr. Morse indicated that the applicant has applied for a Site Plan Administrative Review for property at 93 – 97 First Parish Road. He indicated they thought all permits were in place and this permit came up at the last minute. He said the site was pre-existing, nonconforming with a five unit multifamily dwelling on it. He indicated they applied to the ZBA for a Section 6 finding to raze and reconstruct a new building as the existing building was nonconforming to setback and was a multifamily dwelling in the R-3 Zoning District. Mr. Morse said there were several meetings with the ZBA and the Design Review Committee (DRC) which looked at several iterations.

Mr. Morse said the first iteration was a townhouse style development which resulted in concerns of massing and height from the surrounding properties. He indicated the second iteration rotated the building 90 degrees and eliminated the garages under the building reducing the height, but still having a mass the neighbors did not like. The third iteration which is what the DRC recommended was two buildings. The front building would look like a large single family home similar to ones in the area. It will have a porch, be a 2 ½ story wooden structure with three individual units. The back building would resemble a carriage house with two units. Mr. Morse said each unit will have two bedrooms for ten bedrooms total to match what was present in the existing condition.

Mr. Morse said the ZBA issued the special permit and read from it that the proposed dwelling was not substantially more detrimental to the surrounding neighborhood and no new non conformities were created by the proposed dwelling if constructed per the plan. He said the special permit not appealed and was recorded. Mr. Morse said then the applicant filed for a stormwater permit which was reviewed by Amory Engineers. He said there is a swale to the side and front which flows to a rain garden which overtops and spills to the road into a catch basin as it does in the existing condition. Mr. Morse said there was an increase in impervious surface, but the rates and volumes of runoff were met. Mr. Morse said a building permit was issued two weeks ago and the existing building was demolished and the foundation was started. He said then they were requested to come before the Planning Board for a Site Plan Administrative review. Mr. Morse said the parking lot has ten spaces to meet the by law and the ZBA had conditions of down lighting to the west, vegetated or landscape buffer to the west and south with existing trees to remain and evergreens added as infill, no dumpster and the air conditioning units to be on the east to prevent noise. He indicated there was adequacy of parking, the sewer and other public utilities would be reconnected and there was protection to abutting properties. Mr. Morse indicated the use has not changed and there will be a new building without code violations with ten parking spaces and stormwater management in place.

Ms. Harbottle said this was a late Site Plan Review. She said the DRC looked at the whole design of the site similar to a site plan review instead of their normal scope of just looking at the buildings.

She said she was told that the ZBA told Mr. Barry that he did not have to do a site plan review, but she believes that the ZBA had no authority to do that and that maybe a clarification of roles is necessary for the future. She indicated that when the DRC met, they went through several iterations and came up with the idea to make the house and its style similar to other historic buildings in the neighborhood so that it would blend into the neighborhood, which it does despite its tight fit. She said she received a comment from DPW that they want granite curb at the entry and they want to review the sewer demand and number of bedrooms. She indicated there was a concern that the rain garden shown may not adequately fit the site and there was minor redesign of that. She said in the draft conditions she has recommended that one tree per 10 spaces be added per the bylaw and snow fence be added to help preserve the existing tree which roots have been undermined. She said the stormwater has been reviewed, parking spaces need to be delineated and that the Board has received comments from abutters who are here.

Mr. Wynne inquired as to the size of the previous existing structure. Mr. Morse said it was 65 feet long and 36 feet wide and the slab of the previous carriage house was present. He said the new building in front was 34 feet by 55 feet. He said the square footage increased by 1600 to 1700 sq. ft. and the number of bedrooms has stayed the same at ten. Mr. Taylor asked for verification that there would be vertical granite curbing at the entry and there is none on First Parish Road now. Mr. Morse affirmed that. Mr. Limbacher and Ms. Burbine had no questions. Chairman Pritchard asked if the plan had changed since the ZBA approved it. Mr. Morse said that plantings, drainage, the air conditioners on the east, vertical granite curb at the entry and grading had been smoothed at the rain garden were changes added. He said the setbacks and building massing had not changed from the ZBA plan.

Ben Bornstein of 99 First Parish Road said he had not seen this plan iteration and his comments are based on the plan at the building department. Mr. Morse reiterated the changes of adding arborvitaes, adding the granite curb and smoothing the rain garden grading were the only changes added. Mr. Bornstein read from his prepared comments. He said he is not against the development in general and is not a NIMBY person and has actively participated in the DRC and ZBA meetings. He said he did not appeal the ZBA decision and indicated this is a significant redevelopment that will impact the neighborhood. He said he has submitted detailed comments; but will only speak to two issues – the landscape buffer is not shown and the drainage is an existing issue. He said there is a 90% increase in impervious surface and the rain garden is close to his foundation which is prone to seepage from heavy rains and leaves little room for the landscape buffer. He asked that the Board view the site before making a decision.

Chairman Pritchard asked Mr. Bornstein how close was his house to the property line. Mr. Bornstein said it is five to six feet from the property line and is also nonconforming. Chairman Pritchard asked that Mr. Morse address the landscaping and rain garden. Mr. Morse said there is a ten foot setback from the Bornstein foundation to the raingarden and the top of the berm is five feet onto the applicant's property. He indicated that Mr. Bornstein did show a picture with a steady stream of water near the property line which the graded swale will accommodate. He said the swale is proposed to overtop to the catch basin in First Parish Road as grass and is not subject to erosion. He said the detail of the rain garden is on the Stormwater Permit Plan reviewed by Amory Engineers. Chairman Pritchard asked if the planting between the property line and rain garden would undermine the rain garden itself. Mr. Morse said the whole rain garden is planted and there are already significant trees at the lot line. He said supplemental planting is already shown on the plan with arborvitae placed 2.5 feet from the property line and 2.5 feet to the berm. Mr. Morse said that the rain garden will fill up to the berm and discharge to the road as the grade rises from the

property line to the Bornstein house. He said he would not be opposed to adding stone to channelize the flow to the street. He said the 100 year storm was evaluated and it will overtop and flow to the road in the 100 year storm. Chairman Pritchard said he would like flow directed so that it does not flow to the west.

Chairman Pritchard commented that DPW would like vertical granite curb at the entry and there will need to be handicap access. Mr. Morse said they would do the curbing and provide ramp access. Ms. Burbine said that the site is tight and Planning Board is at a disadvantage as the project has been approved by the ZBA and has a building permit. She suggested a joint meeting with the ZBA on projects similar to this next time. Ms. Harbottle said that Hingham has joint meetings with the ZBA and Planning Board regularly. Chairman Pritchard said a building permit should not have been issued and asked Ms. Harbottle to follow up on the joint meeting idea.

Richard Bowen, an abutter, said he had not seen the revisions but he was not sorry to see the old building gone. He said he spoke with Mr. Barry yesterday. He said he has a few issues although he is not as directly affected as the Bornstein's. He said his property is treed and private and is glad to see that additional screening has been added. He said he does not think arborvitae is a good choice for the infill buffer plants as they need sun, are not moisture tolerant and the root system will also be on asphalt. He suggested the arborvitae matter be rethought as he does not think it will work. He said that he would like the down lighting on the west side continued to the south side. He also indicated that he does not want his property to be the detention basin for the new project. Mr. Morse said the proposed grade meets the existing grade at the rear of the property and slopes to First parish Road. Chairman Pritchard confirmed that there is no change where the drainage enters or exits the property and Mr. Morse concurred. Chairman Pritchard asked that the landscaping choice be reconsidered. John Barry said the ZBA left that condition to him and the abutters to work out and something will be done to provide screening. John Tedeschi offered that Leland cypress offers a beautiful fast growing screen. Mr. Bowen offered that Mr. Bornstein is a landscape designer and has considerable knowledge of plants. The chair asked that a plan be developed and that it come back to the Board. Mr. Barry asked to speak toward of the plan and asked if it could be submitted prior to implementation. Ms. Harbottle suggested conditioning a number of plants. Mr. Morse said the intent is to fill in the gaps with new planting and they have not done a detailed inventory of what is there at this time, but that could be provided at a later date.

Chairman Pritchard asked if there was a way to move the parking lot forward from the rear property line as it is very close. Mr. Morse said it was originally two feet and is now five feet so there is room for a car to turn around. Chairman Pritchard asked about the existing ash to remain. Ms. Harbottle said she has requested snow fence be added to help define the tree's location. Mr. Bornstein said he is skeptical the tree will survive as the roots have been disturbed and he is worried the tree will be a hazard in the future. Chairman Pritchard said that the best the Board can do is keep it from being run over or replace it.

Ms. Burbine asked about the procedure. She said Mr. Barry is set to go and wanted to know how long he will need to wait to continue work at the site. She asked if there was a 20 day appeal period. Ms. Harbottle said there is no appeal period, but things may be needed prior to a full building permit. Mr. Barry said he wants to make sure everything is acceptable to the building department and is having a structural engineer complete the plans. Ms. Burbine asked if a condominium association was needed. Ms. Harbottle said it could be prior to the first occupancy permit. Mr. Bornstein requested the tree be assessed by an arborist and if the arborist recommends removal that it be done. Mr. Bowen asked that the condominium documents be incorporated as part of the decision. Mr.

Bornstein said that the rain garden captures stormwater and infiltration and he would like the subsurface hydrology discussed. Chairman Pritchard asked Mr. Morse the effects of concentrating the drainage in a point location. Mr. Morse said in the existing condition drainage would go to the right or left and the rain garden area was wet in the past. He said half of the drainage is concentrated. Ms. Harbottle asked if a liner could be put on the west side of the rain garden. Mr. Morse said the groundwater is not deep there as it is only three feet down. Mr. Barry said that seepage is from groundwater as the seasonal high groundwater migrates and water puddles in the rain garden location under existing conditions. Mr. Morse said a liner would prevent lateral movement of water. Mr. Barry said they are proposing what is actually happening at the site. Ms. Harbottle said there is more impervious surface closer to the boundary. Mr. Bornstein urged the Board to go see the site as the scope of the project is intense for the site.

Ms. Burbine moved to approve the site plan entitled Proposed Raze & Rebuild 93 – 97 First Parish Road, Scituate, Massachusetts dated December 15, 2016 by Morse Engineering Co., Inc. because it meets the requirements of the Town of Scituate Zoning Bylaw Section 770.6, Site Plan Review Standards of Review to a degree consistent with reasonable use of the site for the purpose permitted by the regulations of the district in which the land is located, subject to the following conditions: (Changes made during the motion process are noted in bold)

1. All construction shall conform to the site plan entitled Proposed Raze & Rebuild 93 – 97 First Parish Road, Scituate, Massachusetts dated December **22** (15), 2016 by Morse Engineering Co., Inc. except as it shall be modified to meet the conditions below and the east, north and west elevations shown on Sheets A201, A202 and A203 dated 9/27/16 and the building section shown on Sheet 301 dated 9/21/16 by Davies Design Studio, Somerville, MA.
2. The buildings shall meet all requirements of the Massachusetts state building code.
3. Materials and details of construction shall meet all 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 approval of this site plan. The conditions of the Stormwater Permit **issued** (s) September 6, 2016 are made conditions of approval of this Site Plan Administrative Review. All necessary permits and approvals must be received prior to a building permit being issued.
4. Prior to connection to the Town's water service, the size of pipe from the main to the stop and waste (shut off) shall be approved by the DPW Water Division. An inspection of the new service by the Water Department will be required.
5. Ten parking spaces shall be provided. Spaces shall be individually marked with pavement striping or concrete bumper stops.

Required Prior to Application for a Building Permit

6. The development shall obtain all necessary approvals for the use of Town sewer. Copies shall be provided to the Planning Board.
7. The plan shall be modified to show vertical granite curb shall be installed on both sides of the driveway at the entrance. References to Cape Cod berm in that location shall be changed to conform.
8. Final building elevations stamped by a Registered Architect **or Structural Engineer [New]** shall be provided to the Planning Department. The Town Planner shall review and insure that they

conform to the approved elevations.

9. The following notes shall be added to the plans with a full paper copy provided to the Planning Board prior to application for a building permit:
 - All exterior lighting shall be “down lighting” with cutoff so as to not spill over the property line(s). [**Limit to west side of building removed.**]
 - The owner (s) of the property shall maintain a 5’ landscaped buffer or fence along the western and rear property lines.
 - No permanent dumpster or mass/open trash receptacle be located on the property.
 - All building mechanicals and HVAC equipment shall be located on the eastern side of the building.
 - **An impermeable membrane shall be installed in the rain garden between the adjacent abutting property and the rain garden to a depth of at least 4’.** [New]

In addition, the plan shall show crushed stone at the overflow outlet of the rain garden to First Parish Rd. to prevent erosion. [New] [General language about plan with details of fence or buffer removed.]

Required Prior to the Start of Construction

10. A pre-construction conference will be required prior to the start of construction including the Planning Board’s consulting engineer, a representative of the DPW, the site contractor and the Town Planner.
11. The applicant shall provide a check to the Planning Board to cover the cost of inspections by the Town’s consulting engineer. These shall include, at a minimum, inspections required under Subdivision Rules & Regulations Section 9.2 for the driveway, parking area and stormwater management system. This check and a schedule of construction activities shall be given to the Town Planner prior to scheduling the pre-construction conference.
12. All clearing and earth moving operations shall only occur while erosion and sedimentation control measures are in place. See the approved stormwater permit for information on erosion controls and the required crushed stone construction entrance, both of which shall be installed prior to the start of work.

Required During Construction

13. Stormwater control measures shall be installed and maintained according to the Stormwater Permit issued on September 6, 2016. Any changes from the approved Stormwater Permit plan shall require approval of the Planning Department.
14. Water and sediment shall not be discharged to the rain garden/bioretenention area until the site is fully stabilized.
15. Existing hardwood trees on the western and southerly property lines shall be protected by snow fence in addition to the existing silt sock to prevent injury during construction. If the 2’ dbh tree near First Parish Rd. on the west side of the property dies **or is considered damaged beyond its ability to survive in the opinion of a Certified Licensed Arborist** [New] prior to one year from the issuance of the building permit, it shall be replaced with a hardwood tree of minimum 3” caliper.
16. Construction work shall not begin prior to 7 AM weekdays and 8 AM on Saturday and shall

cease no later than 7 PM or sunset whichever is earlier. No construction shall take place on Sunday or legal/federal holidays.

17. During construction, there shall be no parking or unloading of construction vehicles or equipment on First Parish Rd.

Required Prior to Issuance of First C/O

18. In accordance with the requirements of the Zoning Bylaw, one 2 ½" caliper shade tree shall be installed per every 10 parking spaces. **[Moved from front to be triggered by first C/O]**
- 19. A plan for up to 32 additional evergreen trees in the buffer area shall be submitted to the Planning Board prior to issuance of the first C/O. [New]**
20. Prior to the issuance of the first C/O, the applicant shall provide a deposit in the form of a check to the Town of Scituate to cover the completion of the approved stormwater management system, parking, driveway, curbing, and all approved landscaping, including replacement of the tree near First Parish Rd. referenced in Condition #15. This deposit shall be returned with interest when all the work is complete.
- 21. These conditions and standard language for maintenance of the parking, driveway and stormwater management system, including the approved Long Term Operation & Maintenance Plan, shall be incorporated in Condominium documents which shall be provided in draft form to the Planning Department. [New]**

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

Chairman Pritchard indicated that next time the DRC input should come through the Planning Board on its way to the ZBA. Mr. Taylor indicated that the DRC acted on what was before them. Ms. Harbottle said that the project should have come to the Planning Board earlier and offered that the Board can write recommendations to the ZBA, but the ZBA is not bound by them. Chairman Pritchard said the Board can look into joint meetings sometimes, but the concerns of both boards are somewhat different. Mr. Limbacher said the ZBA put conditions that override the Planning Board. Chairman Pritchard said he would like the information upfront next time and that there was an error in the process and the Building Department should not have issued the building permit. Ms. Burbine said the applicant got a disservice and it really is a question of fairness. Ms. Harbottle said a stop work order was issued this time. She said the path is to go to the Town Administrator and talk to Building at the same time to see if joint meets can sometimes be considered.

Accounting

Documents

- PO # 1706082 (\$125.00), PO # 1706196 (\$455.00), PO # 1706197 (\$1,950.00), PO # 1706404 (\$390), PO # 1706480 (\$67.50), Bills under the Municipal Modernization Act PO # 1705924 (\$229.14), PO # 1706000 (\$156.25), PO # 1705999 (\$187.50), PO # 1705998 (\$93.75)

Ms. Burbine moved to approve the requisitions of \$125.00 to Ockers for a typewriter maintenance contract, for \$455.00 to Merrill Corporation for construction inspections for 529-531 Country Way, for \$1,950.00 to Merrill Corporation for engineering peer review for 4 Union Street, \$390.00 to Merrill Corporation for site inspections for 6 Old Country Way, \$67.50 to Image Resolutions for printing zoning bylaws and for four invoices signed under the Municipal Modernization Act of PO # 1705924 to Gatehouse Media for \$229.14 for legal ads in the Scituate Mariner, PO # 1706000 for

\$156.25 to Amory Engineers for 4 Moorland Road Construction inspections, PO # 1705999 for \$187.50 to Amory Engineers for 28 Otis Place construction inspections and \$93.75 to Amory Engineers for construction inspections for 11 Elm Park. Mr. Limbacher seconded the motion. Motion was unanimously approved.

Minutes

Ms. Burbine voted to approve the meeting minutes of 12/1/16. Mr. Limbacher seconded the motion. Motion was unanimously approved.

Liaison Reports/Town Planner Report

Ms. Burbine indicated that the CPC has been told that the Housing Authority would like to do a friendly 40B of 30 affordable rental units for ages 62 and older behind the existing Central Park building. She indicated they would like to use CPC funding for the project which would be constructed by a private developer who would insure that the units are affordable in perpetuity. She said that the Town owns the property and the area was once baseball fields. Ms. Harbottle said she thought the land was owned by the Housing Authority. Ms. Burbine said that maybe the land behind that is the land owned by the Town.

Ms. Burbine indicated that the EDC is doing a web page. She said that she was informed that the EDC will be underwriting the luncheon that occurred for the sister city of Cork in December.

Ms. Harbottle indicated that 50 Country Way is getting ready to come in for a building permit. She said that they need to show documentation from the state that there will be the four units of affordable housing. Ms. Harbottle also reviewed the revisions to the Planning Board budget and said language on the masterplan has been added and she has been told there will be no additional staff but some money for enforcement of Stormwater Permits will be included.

Old Business and New Business

Documents

- Email to Board dated 12/16/16 from Laura Harbottle with agenda for 12/22/16 meeting and some materials for 4 Union Street and memo to the Acting Building Commissioner dated 12/15/16 on the use of a c/o to enforce special permit conditions
- Email from Karen Joseph dated 12/19/16 with meeting minutes from 12/1/16
- Email to the Board from Karen Joseph with amended agenda for 12-22-16
- Board of Health Comments received 12/20/16

These items were distributed to the Board electronically.

Mr. Limbacher moved to adjourn the meeting at 10:30 p.m. Ms. Burbine seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph

Planning Board Secretary

Ann Burbine, Clerk

1-12-17

Date Approved