

SCITUATE PLANNING BOARD MINUTES March 13, 2014

Members Present: William Limbacher, Chairman; Stephen Pritchard, Vice Chairman; Richard Taylor, Clerk; Robert Vogel and Robert Greene, Alternate Member.

Members Absent: None.

Others Present: Ms. Laura Harbottle, Town Planner.

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

Location of meeting: Selectmen's Hearing Room, Town Hall, Scituate, MA.

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

Documents

- 3/13/14 Planning Board Agenda

ACCEPTANCE OF AGENDA: Mr. Pritchard moved to accept the agenda. Mr. Greene seconded the motion and the vote was unanimous in favor. Chairman Limbacher added that under Old Business a refinement of the vote on Walnut Tree Hill will need to occur.

Community Preservation Committee (CPC) Discussion

Documents

- CPC Project Descriptions for FY 2015 dated 2/26/14

Lisa Fenton, Frank Snow and Cyndi Robbins were present for the CPC discussion. Ms. Fenton indicated that with new legislation this year, the Town is receiving a double match of funds this year, approximately \$680,000. She indicated that the CPC hopes to move forward next year with affordable housing as the CPC now has a member of the Housing Authority on the committee. She indicated that the CPC is supporting 5 projects this year. One is for the purchase of the Damon property. Mr. Snow and Ms. Robbins said that the Damon property would be an asset to the Town as it is a 40 acre upland piece adjacent to the South Swamp. It borders water resource areas that flow to Tack Factory Pond and to Cohasset's Bound Brook. They indicated the Damon family would like the land preserved and are willing to accept a lot less money for the land than if it was on the open market. A development study for the land suggested that 25 lots could be developed. Ms. Fenton indicated that preservation of open space is key to the CPC, especially upland. She indicated that the land has been used for forestry in the past. Mr. Snow indicated there is a path across the swamp that connects the Damon land to the Crosbie property that the Town is in the final stages of acquiring. The land would further protect habitats. Ms. Fenton indicated that this is a one shot opportunity to acquire the land for approximately \$748,000 which is less than \$20,000 an acre and includes costs of survey. She indicated there has been talk that the land could be used as ball fields, but believes there is other land that is better suited to that use and owned by the schools such as the Ellis land. She indicated that 1.4 million is reserved for recreation and as soon as the High School/ Gates School issue is resolved then a ball field could be voted upon. Chairman Limbacher suggested that the Board endorse the purchase of the property. Mr. Taylor moved to endorse the CPC

recommendation to purchase the Damon property with CPC funds. Mr. Vogel seconded the motion. Motion was unanimously approved.

Ms. Fenton then discussed the Tilden Road multi-purpose trail. She said the road has always been difficult as it is a narrow scenic road. She indicated that the neighborhood came forward and spoke with Al Bangert about a multipurpose trail. She said the residents have lobbied together and 30 people thus far are in favor of the trail to help pedestrians walk along the street and to the Wampatuck School. She said that residents would allow the trail to meander on their properties in order to keep trees and stone walls on the scenic road. She said that Phase I, at a cost of \$375,000, would go from Turner Road to Beaver Dam Road; Phase II would go from Beaver Dam Rd. to the Harbor and Phase III from Beaver Dam Rd. to the Roach ball field. Chairman Limbacher said that when Tilden Farms was before the Board, a walk was requested to go to the Wampatuck School, but it needed to go on private property so it was not done. Mr. Taylor asked if easements would be required on private property. Ms. Fenton indicated they would, but the location of the road in the right of way would need to be determined first. She said that on Country Way, poles will likely be moved for that path. Mr. Pritchard asked about steep slopes. Ms. Fenton said that will all be factored in in the engineering phase and the price of \$375,000 includes engineering, design, permitting, earthwork and walls. Chairman Limbacher said it could be very similar to Gannett Road. Ms. Fenton said there would be public meetings and the input of residents would be considered in the engineering.

She indicated that the next project the CPC supports is moving the Mossing Shed from Edward Foster Road to the Mossing Museum. She indicated the mossing structure is historically significant and is likely one of the only ones left in the United States and it belong with the other mossing artifacts at the Museum. The location it is now is not its original location.

Renovation of the Skate Park is the next CPC project. It has taken a priority with the Recreation Department. Ms. Fenton said that detailed costs for the project are in the CPC drop box. She said that the new skate park will be state of art and practically maintenance free. She said it would remain in its current location.

Ms. Fenton said the fifth project the CPC recommends is for the Scituate Arts Association who rents the Bailey Ellis Estate which is a Town owned building. She said the Arts Association has been responsible for maintenance of the building and they are seeking just enough funding to do a feasibility study to be placed on the National Historic Register. She indicated that the roof and basement need sealing and once that is accomplished they can follow through to get other Historic Preservation funding. She said the CPC supports the proposal. Mr. Taylor said that if they are replacing the slate roof with asphalt he would like to see it done in a historically accurate way. Mr. Taylor moved to endorse the recommendations by the CPC Committee for expenditure of CPC funds for the upcoming fiscal year (FY 15).

Mr. Taylor moved to endorse the recommendations by the CPC Committee on current CPC funds for the 2015 Fiscal year. Mr. Vogel seconded the motion. Motion was unanimously approved.

Scenic Road Public hearing – National Grid

Documents

- List of Town owned Trees for removal
- Legal ad- Notice of Public Hearing

- Comment from Mike Breen

Mike Breen was present for the Tree Warden and Ryan Kress was present for National Grid. Mr. Breen indicated that the trees selected for removal have been reviewed by himself and George Story, the Tree Warden. He said the trees for removal are dead and need to be removed away from the electric wires. Mr. Kress said that he did a tree by tree survey and the trees slated for removal are dead, dying and/or have structural integrity problems that could result in the tree compromising power for many people. He indicated that the trees are on County Way, Stockbridge Road and First Parish Road. Chairman Limbacher asked Mr. Kress if he had talked with the abutters of trees to be taken down. He indicated that he has left paperwork or talked with most of the people. He indicated that the trees have been posted for a few weeks. It was indicated that the tree at the intersection of Stockbridge Road and First Parish Road has been requested to be removed by the Town as it is pushing up the walk and curb into the street. Mr. Kress said that it is rotting at the top and Norway Maples rot quickly once they start to rot. He said that Norway Maples are not salt tolerant and they are not decay resistant either. He said they were generally planted after elms died off as they were a quicker growing tree. He said that Norway maples are no longer allowed to be planted in Massachusetts as they are an invasive species. Mr. Kress indicated that ash trees adjacent to the pump station are also not doing well due to disease, the emerald ash borer and road salt. He said that the main line runs next to the pump station and it would be a problem if electricity to the pump station was out due to a fallen tree. Mr. Kress reviewed the other trees to be removed.

Mr. Vogel inquired if a homeowner requests a replacement tree would they receive one. Mr. Kress suggested that if any trees are replaced, they should be wire friendly trees and not higher than 35 feet. Mr. Breen said the Trees and Grounds Dept. can provide a tree if requested. Mr. Pritchard moved that the Planning Board vote to approve the removal by National Grid under the Hazard Tree Mitigation Program of the following trees under the Scenic Road Act in accordance with the attached list and as summarized herein as the trees are being removed to reduce tree outage problems affecting large numbers of National Grid customers:

Country Way – Scenic Road - Remove eleven trees
Stockbridge Road – Scenic Road – Remove 2 trees
First Parish Road – Scenic Road – Remove 1 tree

If any resident requests a tree replacement, it will be provided by the Town where ever feasible. The selection and location of trees shall be determined between the Tree Warden and Town Planner with input from the abutters. Mr. Vogel seconded the motion. Motion was unanimously approved. Matt Buckley of 191 Country Way asked about a replacement tree.

**Continued Public Hearing and Scenic Road Public Hearing – 305 Country Way
Flexible Open Space Special Permit & Definitive Subdivision Plan & Scenic Road
Assessor's Map/Block/Lot 37-2-2 & 37-8-13R
Applicants/Owners: Douglas Sheerin/Kristen DeGaravilla**

Documents

- 2/3/14 DEP Superceding Determination of Applicability for 305 Country Way
- Email from Lance Van Lenten dated 3/3/14
- Draft special permit and subdivision conditions sent 3/7/14
- Two additional conditions sent to the Board on 3/11/14 by email.

- Email forwarded from Karen Joseph to Board on 3-13-14 on DEP Settlement discussion report in the matter of Krusell
- Email dated 3/13/14 from Greg Morse on draft conditions
- Response to email from Greg Morse dated 3/13/14 by Laura Harbottle on draft conditions

Chairman Limbacher indicated that since two hearings are scheduled consecutively, the Board would spend an hour on Country Way then at about 9:30 would go to Curtis Street.

Greg Morse, Doug Sheerin and Mike Hayes were present for the applicant. Mr. Morse indicated that since the last session the abutter has filed an appeal to DEP for a Superseding Request for Determination of Applicability and the pretrial conference is scheduled for March 18. He said the abutter has offered to settle with DEP. He indicated the property owner is not party to the lawsuit. Mr. Morse said that the project has plans approved by the DEP and the Scituate Conservation Commission and the applicant would like to move forward with conditions. Mr. Pritchard clarified that the Determination was issued and appealed to an Administrative Law Judge. Ms. Harbottle said that there was a conference call with the abutter, his representative, DEP and the Conservation Agent. They tried to reach a settlement. She indicated there will be a second site visit to confirm what is on the plan for the tributary is scientifically correct. She said that the plan before the Board can be approved subject to DEP approval and subject to a modification condition from the Board.

Mr. Vogel asked when the earliest time closure will be obtained from DEP. Mr. Morse said he was not party to the conference call and said closure could likely come in June. Mr. Morse said it does not prevent the Board from moving forward. Ms. Harbottle said the approval could be subject to DEP approval. Mr. Morse disagreed. Mr. Vogel asked if construction could start at the applicant's risk. Ms. Harbottle said that approval by the Board is usually a key to financing etc. She said she thought the applicant was on board with not going ahead with construction until the DEP approval was final. Mr. Greene said that DEP didn't find anything incorrect and everything is accurate on the plans, yet the abutter is appealing. Chairman Limbacher said that DEP has approved everything so far and suggested proceeding with the approvals. He asked for public comment before proceeding.

Lance Van Lenten of 150 Old Oaken Bucket Road said it is not a good idea to approve the project until the adjudicatory hearing by DEP is complete. He said he is involved through the abutter Bill Krusell. He indicated that when the project started everyone on the Board said that 3 houses wouldn't fit. He said it is like putting a square peg in a round hole. He said the Board has jumped over issues that the Zoning Enforcement Officer should have been involved in. He said the Board never should have proceeded to the Flexible Open Space Design stage. He said the Conventional Plan is not good. Chairman Limbacher said he doesn't want to reinvent the wheel. He said there is a vote that a 3 lot subdivision can be built under current zoning. He said the vote was unanimous and that was the basis for the density. He said there needs to be closure on the rest of the project.

Doug Sheerin said he would not put the road in until the appeals are done. Chairman Limbacher said that is a decision that he can make.

Chairman Limbacher indicated that the Board would start with the Scenic Road, then go to the Special Permit and review section by section for the conditions.

Under the Public Shade Tree Law and Scenic Road Hearing regarding an application by Douglas Sheerin to remove public shade trees and trees on Scenic Road of Country Way, the Board voted the following motion on March 13, 2014 favorably with a unanimous vote of the members present. Mr.

Limbacher, Mr. Pritchard, Mr. Taylor and Mr. Vogel voted in favor of the Motion. There was no public comment. Mr. Vogel moved that the Planning Board vote to approve the removal of the following trees in connection with the construction of a proposed Flexible Open Space Definitive Subdivision consisting of 3 lots in the public right of way of 305 Country Way: 5 deciduous trees - one 18" Red Maple; one 12" Norway Maple; one 6" American Elm; one 10", 10", 8" leader Black Cherry; one 10" Norway Maple 4 and brush smaller than 3" in diameter. No stone walls are proposed to be removed. All trees are to be replaced with a minimum 2.5" caliper native trees. The Scituate Highway and Public Grounds Department, with input from the Town Planner, will determine placement so as to not obscure sight distance requirements for the development. The Town will plant the trees. Mr. Taylor seconded the motion.

The Board then started with the Special Permit Findings of Fact for the Flexible Open Space Development of White Ash Farm at 305 Country Way. Mr. Vogel moved to make the following Findings of Fact based on information submitted by the applicant and testimony given during the Public Hearing:

1. Douglas E. Sheerin filed an application on February 28, 2013 for a Special Permit for a Flexible Open Space Development under Scituate Zoning Bylaw Section 550 for property located at 305 Country Way shown on Town of Scituate Assessor's Maps as Map/Block/Lot 37/2/2 and 37/8/13R.
2. The property that is the subject of this application is an 8.56 acre parcel at 305 Country Way which contained a single family home which has been razed. The property is located in the Residential R-1, Residential R-2 and Water Resource Protection zoning districts. A small piece of the parcel located at the southeast corner in the wetlands is in the Floodplain and Watershed Protection District.
3. A substantial portion of the property is located within an area designated by Massachusetts Department of Environmental Protection as a Zone A, or Surface Water Supply Protection Zone for the Town Reservoir which extends two hundred feet from a tributary to a surface water supply. Massachusetts DEP identified an intermittent stream that flows across this property as a tributary to the Reservoir. Its location was established by review in the field by DEP's hydrogeologist Bruce Bouck and a survey by William J. McGovern, PLS of Morse Engineering Inc. Scituate Zoning Bylaw Section 520.5, Water Resource Protection District, Buffer Zone requires a non-disturbance buffer zone extending one hundred and fifty feet horizontally from the edge of all tributaries in the reservoir watershed.
4. The proposed stormwater management system has been reviewed by the Town's consulting engineer, John Chessia of Chessia Consulting Service, LLC whose comments indicate his concerns have been satisfactorily addressed.
5. The applicant provided a plan showing removal of trees and vegetation at the entrance to improve sight distance from the entrance towards Country Way to the south.
6. As required by Scituate Zoning Bylaw Section 550.4 D., Special Permit Approval, on July 25, 2013 the Planning Board approved a Conventional Density Sketch Plan showing three lots by a unanimous vote.
7. The following benefits are provided by the Flexible Open Space Development:

- a. The Open Space Parcel provides permanent protection to a tributary to the Town Reservoir and associated wetlands by transferring 6.51 acres of open space including the entire buffer area to the tributary on the parcel, to Town ownership. The Open Space Parcel will be protected by signs and fencing to discourage any access.

The requirement for open space for a Flexible Open Space Development on this site is 2.56 acres, including .77 acres of upland. On this site, 6.51 acres will be permanently preserved as open space, including 2.21 acres of upland. In protecting the town's water supply, and providing additional open space beyond the requirements of the bylaw, this design provides a public benefit.

- b. A permanent easement over Lot 1 created through this development will improve sight distance for drivers on Country Way as well as for those exiting the subdivision.

Based on evidence and information provided by the applicant and reviewed by the board, the Planning Board finds that the Flexible Open Space Development is superior to a conventional subdivision, and there are specific benefits to the town consistent with those in the Purpose section.

8. Scituate Zoning Bylaw Section 550.5, Design Standards, Paragraph A requires protection of important natural and historic features of the land and minimization of the size of developed areas. A buffer to a tributary to the Town Reservoir will be permanently protected by the proposed development. The development will take place on 2.05 acres of the site. 2.21 acres of upland will be permanently preserved as open space. The plan thus meets the Design Standard of Scituate Zoning Bylaw Section 550.5 A.
9. Scituate Zoning Bylaw Section 550.5 Paragraph B requires that construction and laying out of developed areas respect the natural features of the parcel, applying six guidelines, as follows:
 - a. Guideline 1 encourages site disturbance beyond the paved area of the road to be minimized, and open space maximized. Guideline 2 recommends that open space include buffers to wetlands. These are met by the minimization of developed area and preservation of open space as indicated in Finding #6 above.
 - b. Guideline 3 recommends preservation of adjacent trees along, or open space adjacent to, existing roads. In this development, it was necessary to remove trees along the road to provide adequate sight distance, but the applicant has agreed to replace them in other locations.
 - c. Guideline 4 recommends locating water and utilities under road pavement. Where possible, water lines were located under roadways and underground utilities will be used throughout.
 - d. Guideline 5 indicates use of Low Impact Development (LID) drainage techniques wherever feasible. These techniques were not widely used on this site.
 - e. Guideline 6 states curb cuts should be minimized and conflicts with existing traffic should be avoided. One existing curb cut will be used for the development.
10. Scituate Zoning Bylaw Section 550.C requires provision satisfactory to the Planning Board for protection and maintenance of common land and common facilities. The open space in this

development will be owned by the Town. A Homeowners' Association will own and maintain the drainage basin and roadway.

11. Scituate Zoning Bylaw Section 550.6, Minimum Requirements, states that the maximum number of lots in a Flexible Open Space Development special permit must not exceed the number which could be created through conventional development of the site. A Conventional Density Sketch Plan dated February 19, 2013 with revisions through July 25, 2013 showed the parcel could be subdivided into three lots in a manner which complies with the Zoning Bylaw and the standards of the Subdivision Rules and Regulations. This plan was approved by the Planning Board on July 25, 2013.
12. Scituate Zoning Bylaw Sections 550.6 A., Lot Area and B., Frontage requires lot area and frontage for each lot in a Flexible Open Space Development to be sufficient to support the dwelling, its accessory structures, septic system and access. Based on information provided by the applicant's engineer, each lot is of sufficient size to support construction of a single family home and an individual septic system, and frontage appears adequate to provide access to each lot.
13. Scituate Zoning Bylaw Section 550.6 C. requires 15' front, side and rear setbacks in a Flexible Open Space Development, with setbacks from the perimeter of the development equal to those of the underlying zoning. Building envelopes shown on Sheet 3 show setbacks for Lots 1 – 3 which meet the requirements of 550.6 C.
14. Scituate Zoning Bylaw Section 550.6 D requires no more than one single- or two-family dwelling and accessory structures on each lot. No more homes can be built on any lot because Scituate Zoning Bylaw prohibits construction of more than one single- or two-family home on a residential lot (see Section 430.1.)
15. Scituate Zoning Bylaw Section 550.6 E requires open space to be conveyed to the Town, a conservation trust, or protected through a deed restriction accepted by the Massachusetts Office of Energy and Environmental Affairs. The open space shown on the plan will be conveyed to the Town.
16. Scituate Zoning Bylaw Section 550.6 F requires restriction of further subdivision of the lots shown on the plan with a note so stating added to the plan. The special permit will include a condition that prior to the start of construction, a deed restriction shall be recorded stating that no lot in the Flexible Open Space Development may be further divided or subdivided into additional building lots, and a note shall be added to the plan to reference this condition.
17. Scituate Zoning Bylaw Section 550.6 G permits the Planning Board to specify roadway, drainage and utility design requirements deemed necessary to ensure adequate access, lessen congestion, provide proper drainage, protect public safety or provide for water, sewage, utilities or other municipal services. The plans have been reviewed by the Traffic Rules and Regulations Committee, the DPW and the Town's consulting engineer. Completion of items they recommended shall be included in the conditions of approval.

Based on these findings and information submitted by the applicant and reviewed by the Board, this development meets the requirements for a Flexible Open Space Development, Section 550 of the Zoning Bylaw.

Mr. Taylor seconded the motion. Mr. Pritchard asked about finding 9b. He asked if the applicant has agreed to replace trees. He said that the language said that the Town will replace the trees in the right-of-way. Ms. Harbottle said that these trees referred to are the ones in the sight distance easement. She said there are about 5 trees and they are on the applicant's property and they will provide a public benefit for the development. Lance Van Lenten asked if there would be planting in the non-disturbance zone. The Board indicated there would not be. There was no further Board or public comment. The Board approved the findings 4-0 with members Limbacher, Pritchard, Taylor and Vogel voting in favor.

The Board started reviewing the conditions based on Mr. Morse's mark up of the conditions emailed to the Board. Ms. Harbottle said the black type is what she put out and the blue lines are the applicant's proposed wording. Chairman Limbacher indicated they would proceed section by section and resolve one section before proceeding to the next. Based on the Findings of Fact, Mr. Vogel moved that the Planning Board approve the Flexible Open Space Development Special permit with the following conditions:

GENERAL

1. All construction shall be according to a plan by Morse Engineering Co., Inc. titled White Ash Farm, A Definitive Flexible Open Space Development Plan, dated February 19, 2013, revised through December 4, 2013, stamped by William McGovern PLS on December 23, 2013, and with any additional revisions as needed to conform to these conditions.
2. Construction shall meet all requirements of the Fire Department, the Building Department, the Board of Health, the Conservation Commission, Massachusetts DEP, the State Building Code, and all applicable federal, state and local laws and regulations.
3. Installation of all water mains and appurtenances shall be performed according to the specifications of the Scituate DPW.
4. The total number of residential dwelling units on the site shall not exceed three (3.) with the exception of permitted accessory dwellings. There shall be no further division or subdivision of any lot shown on the plan for the purpose of construction of an additional dwelling. (Chairman Limbacher and Mr. Pritchard both agreed that given the density and site sensitivity, they don't want to allow accessory dwellings. Mr. Vogel said that was not a bad point and inquired as to buildable footprints as he was trying to see if there was space within current setbacks to allow any expansion of the proposed dwellings. Mr. Morse said that there is some space and accessory dwellings are allowed in structures by the bylaw. Chairman Limbacher said he was not in favor of it. Mr. Pritchard questioned about the need for parking and additional impervious surface. Mr. Vogel said he was not comfortable totally restricting them as that would be a restriction that no one else in town has and you can make an accessory dwelling within the existing space. Mr. Taylor indicated that an accessory dwelling special permit could be denied when it came before the Board. Chairman Limbacher said that it would give the expectation that an accessory dwelling would be allowed and approved. Mr. Pritchard said that the Board has shown little ability to deny accessory dwellings. Mr. Taylor said he can see both sides of the argument and the Board shouldn't put a restriction where no one else has one. Chairman Limbacher said that there was a need to start somewhere. All 4 members agreed that the proposed language by the applicant should be struck.)
5. Access to all lots shall be over the proposed subdivision road. ~~There shall be no further extensions of the road or attachments of any other roads or Common Driveways to the proposed subdivision road.~~ (Chairman Limbacher indicated he wants the applicant's struck

out wording in as he doesn't want the road extended. All the members agreed that they want the language in.)

6. The drainage system shall be maintained according to the Long Term Operation & Maintenance Plan, Best Management Practices by Morse Engineering Co., Inc. dated February 19, 2013 with revisions through July 11, 2013 and as revised to incorporate comments by the Town's consulting engineer John Chessia, PE of Chessia Consulting Services LLC. (The Board wanted to add the following to the end of the last sentence " with any additional revisions as needed to conform to these conditions.")
7. Prior to installation of an entrance sign, a sketch showing dimensions, location, materials and color shall be approved by the ~~Planning Board. Town Planner.~~ (The applicant indicated they would like to come in and have the Board approve the entrance sign. The Town Planner said it would save time and money if the applicant was allowed to do this with the Town Planner who would consult the chair. The Board and applicant agreed that it would be the Town Planner.)

REQUIRED PRIOR TO ENDORSEMENT OF THE DEFINITIVE PLAN

8. All remaining comments by the consulting engineer shall be addressed prior to endorsement of the Definitive Plan, including revisions to the Long Term Operation & Maintenance Plan, Best Management Practices by Morse Engineering Co., Inc. dated February 19, 2013 with revisions through July 11, 2013.
9. To reflect the waiver granted by the Planning Board, prior to endorsement of the Definitive Plan, curbing details shall be modified to show bituminous berm and detail for granite where it is still required. Bituminous concrete berm must reflect loam and seed to the top of the back of the berm. Vertical granite curb detail must be added to plans. 4' transition curb adjacent to the curb inlet must be labelled as granite. Vertical granite curb shall be set and held in place with a 6" depth lift of Portland cement concrete on both sides and the bottom of the curb. Limits of vertical granite curb shall be shown on the plans. (Portland cement concrete should be eliminated and replaced with 4,000 PSI concrete with $\frac{3}{4}$ " aggregate per the DPW recommendations.)
10. To reflect the road width and other items which do not meet the standard of the Subdivision Rules and Regulations, a note shall be added to the Lot Layout Plan stating "The subdivision road does not meet the standards of the Subdivision Rules and Regulations and shall remain private in perpetuity."
11. The applicant shall provide an Easement Plan as an additional plan sheet. This shall be provided to the Planning Board a minimum of three weeks prior to endorsement of the Definitive Plan. The purpose and dimensions of all easements, as described below, shall be clearly shown on the Easement Plan, which shall include the following easements:
 - a. An easement to allow a Homeowner's Association and/or its designee access to maintain, inspect and repair the stormwater management system, sight distance easement, fencing, signs and common area plantings, and to allow the Town access to the detention basin in case of an emergency. This shall include an easement for access to the detention basin of a minimum width of 20' which shall allow vehicle access from the end of the subdivision road across Lot 3.
 - b. An easement to allow the Town of Scituate the right to repair, replace, operate, use and maintain all streets, water mains, and all surface and subsurface stormwater drains in, through and under the streets and easement, allowing the town access in case of an

emergency, and allowing the DPW to test water quality if this is deemed in the public interest.

- c. ~~An easement over Lot 1 in the area shown on the plan, and in a triangular area on Lot 37-2-1 from the easement on Lot 1, extending to a point 40' away along the Country Way, providing that the area within 2 1/2' and 6' above the pavement in to provide a safe sight triangle shown on the plan~~ shall be kept clear of obstructions including vegetation in order to maintain adequate sight distance along Country Way to the south. (Ms. Harbottle said she wanted to be specific about the sight triangle. Mr. Morse said that they could not obtain an easement from the neighbor. It was agreed by all that the wording would be "An easement over Lot 1 in the area shown on the plan to provide a safe sight triangle which shall be kept clear of obstructions as shown on the plan including vegetation in order to maintain sight distance along Country Way to the south." Mr. Morse said this was the same as condition 15. Ms. Harbottle said this is on the easement plan.)
12. Prior to endorsement of the Definitive Plan, a note shall be added to the Erosion & Sedimentation Plan stating that construction shall proceed in two phases, the first including clearing for the road, detention basin, staging areas and temporary sediment basin; the second, for homes as they are built. This will help prevent sediment affecting the water quality of the tributary to the reservoir and protect other wetlands resources.
13. The boundary of the 150' buffer to the Tributary to the Reservoir shall be protected by installation of staked siltsock, the stakes flagged with bright surveyor's tape. This buffer protection shall be maintained until all work is complete.
14. The Landscape Plan shall be revised to include the following and shall be provided to the Planning Board a minimum of two weeks prior to endorsement of the Definitive Plan:
 - a. All easements described in Condition 11 above with their purpose, boundaries, dimensions and improvements.
 - b. 3' PVC split rail fence from the location near the entrance to the subdivision shown on the Landscape Plan to the back property line of Lot 3 at the limit of clearing, with shrubs as identified on the plan, located on the open space side with minor gaps, but fairly continuously behind the fence. The plan and detail shall show the fence located 5' off the subdivision road. A note shall be added to the plan stating that the ~~Town Planner~~Planning Board shall approve the number, type and locations of shrubs prior to planting. (add high to make clear it is a 3' high PVC fence. Keep in Town Planner. Add "in the field" at the end of the last sentence.)
 - c. Two freestanding signs, one on the north side of the subdivision road at the end of the stone wall and the second at the beginning of the cul-de-sac describing the purpose of the tributary buffer, limitations on public access and the reasons for same. The sign shall be white with dark green lettering, constructed of a durable, weatherproof material, a minimum of 1 sq. ft. in area and 4' in height. Wording shall be approved by the Town Planner. 5" X 5" square signs shall be affixed to the PVC fence at intervals not to exceed 60 feet stating "Conservation Area / No Disturb Zone". (The Board agreed that the recommended added wording was a good addition.)
 - d. A planting plan fully specifying seed mixes and species of shrubs and trees.
 - e. Concrete bounds ~~at a distance of not more than 25'~~shall be installed at the beginning and end points along the property line between Lot 3 and the Drainage Parcel. The bounds shall

extend 4" above grade. (The Board and the applicant compromised with the wording "Concrete bounds on or about 50 feet shall be ...)

f. Notes shall be added to the plan stating:

~~a. The developer agrees to provide the owners of Lots 37-2-1, 43-1-15A and 43-1-14A and 43-1-14B up to six rhododendron, laurel, holly, forsythia, inkberry or similar shrubs to each of the owners for screening along the boundary of the development. Shrubs shall be provided prior to the approval of As-Built plans by the Planning Board.~~ (Ms. Harbottle said that the applicant agreed to this early on in the hearing. Mr. Morse did not agree and said this has never been offered. The item was left open for staff to review the meeting minutes.)

~~b.a.~~ Prior to the start of construction, the applicant or contractor shall identify healthy trees shown on the Landscape Plan between the boundary of the abutting lots to the southeast and the limit of work shown on the Landscape Plan. These trees shall be preserved unless determined to be diseased or dangerous by ~~the Town Planner~~ certified arborist after field verification. (It was agreed to leave in certified arborist as the applicant will be paying for the certified arborist.)

~~c.b.~~ Light fixtures, if any, shall preferably be of an "antique" style, with the fixture shielded, and not to exceed 14' in height.

15. A deed restriction establishing the Sight Distance Easement on Lot 1, and prohibiting any structure, installation or activity which would interfere with visibility between 2 ½ and 6' above ground, shall be drafted and a copy provided to the Planning Board with a check sufficient to cover review by Town Counsel. This shall be recorded ded with the subdivision covenants and plans. (The Board agreed to add in the wording as suggested by the applicant.)

16. The Homeowners Association Declaration of Trust shall be amended to include the following items, and shall be provided to the Planning Board no less than ten business days prior to endorsement of the Definitive Plan:

a. A statement that homeowners are encouraged to use organic pesticides, herbicides and fertilizers. These may be found through the Northeast Organic Farming Association (NOFA) list of certified landscape professionals, available on the website <http://nofa.organiclandcare.net/aolcp-search> . Pesticides and herbicides shall be used sparingly and as directed. If professional application is used, pesticides shall be applied by a professional applicator licensed under the Massachusetts Department of Agriculture. Fertilizers, herbicides, pesticides and hazardous materials should be stored inside, on an impervious surface, in quantities no greater than necessary for household use. Where outside storage is necessary, covered containers must be used. (It was agreed by all to add the words "or similar" after the website in the event that this website ceased to exist.)

b. A requirement that the Homeowners' Association maintain the Sight Distance Easement on Lot 1 by checking the condition each summer and removing all vegetation between 2 ½ and 6' in height with proof of maintenance provided to the Planning Board each year by October 1.

c. A requirement that the Homeowners' Association permanently maintain the fence on the north side of the subdivision road, entrance landscaping, bounds shown on the Definitive Plan and the signs described in Condition 14 c above.

- d. The Homeowners Association Declaration of Trust shall establish an area for snow storage which shall not impact the stormwater management system, the Open Space Parcel, or interfere with sightlines for vehicles exiting driveways or the subdivision with the location approved by the Town Planner, and shall require that this be used for this purpose. (It was agreed to add the following words after snow storage “,not in the no disturb area,”)
17. This approval is subject to the applicant consulting with the Board of Selectmen regarding their desire to accept the permanently protected open space shown on the plan in the care and custody of the Conservation Commission for protection of the Zone A to a Tributary to the Town Reservoir. This consultation shall occur prior to the endorsement of the Definitive Plan.
18. A copy of the revised Definitive Flexible Open Space Development Plan shall be provided to the Planning Board a minimum of ten business days before expected endorsement of the Definitive Plan. (The time allotted for the hearing was up and this is the last condition that the Planning Board discussed.)

Mr. Taylor moved to accept the applicant's request to continue the public hearings for the Definitive Subdivision Plan, Flexible Open Space Special Permit and Scenic Road/Public Shade Tree Hearing for White Ash Farm Lane a Flexible Open Space Definitive Subdivision at 305 Country Way until April 24, 2014 at 8:30 pm and to continue the time for action until May 9, 2014 for filing all three decision with the Town Clerk. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Continued Public Hearing – Definitive Subdivision Plan, Blanchard Farm Estates - 40 Curtis Street

Assessor's Map/Block/Lot 26-1-4, 5, 6B, 7, 9R, 9S, 9T

Applicants/Owners: Blanchard Farms, LLC

Documents

- Draft conditions sent to the Board 3/5/14 and to the applicant's representative
- Email from Laura Harbottle to the Board on speed signs on Curtis Street and Country Way
- Email dated 3/6/14 from Jeff Hassett with turning radius calculations for a fire truck
- 3/10/14 letter from Henderson and Henderson on draft conditions
- Staff comments to Henderson letter dated 3/12/14

John Tedeschi, Richard Henderson and Greg Morse were present for the applicant. Mr. Morse indicated that since the last meeting, the applicant met with DPW and Ms. Harbottle regarding the sidewalks on Curtis Street. The meeting concluded that no items on the walk were easily fixable. Curtis Street has been repaved and never milled down, thus the curb has lost its reveal. The applicants did agree to install two radar street signs – one on Curtis and one on Country Way. Ms. Harbottle concurred with Mr. Morse's summary and said that the flashing radar signs are approximately \$6,000 each. Mr. Taylor commented that \$12,000 is substantially less than the amount needed to install granite curb for the whole development. The Board concurred. Mr. Vogel asked about the turning radius plan of the fire truck in the member's packets. Mr. Morse said that he received information from the Scituate Fire Dept. regarding their largest truck wheel base and the diagram shows that the truck can negotiate the 84 feet of pavement so it complies.

Chairman Limbacher indicated that all 5 members present are voting and a majority vote is needed.

Mr. Pritchard moved to approve the Definitive Subdivision Plan of Blanchard Farm Estates at 40 Curtis Street based on the following criteria:

1. Completeness and technical adequacy of all submissions;
2. Determination that development at this location does not entail unwarranted hazard to safety, health and convenience of future residents of the 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 conditions (wherever a condition refers to “the applicant” this shall include his successors or assigns as applicable):

Track changes and comments below the condition reflect what was discussed on 3/13/14.

**DRAFT CONDITIONS
BLANCHARD FARM ESTATES – 40 CURTIS ST.**

General

1. All construction shall be according to a plan by Morse Engineering Company, Inc. titled Blanchard Farm Estates Definitive Subdivision Plan in Scituate, Massachusetts, dated October 10, 2013, with revisions through February 13, 2014, with any additional revisions needed to conform to these conditions.
2. Where a Definitive Plan requires approval, permitting or licensing from any local, state or federal agency, this approval, permitting or licensing will be deemed a condition of the Planning Board’s approval, including the Planning Board’s approval of work in the layout of Curtis Street.
3. Construction shall meet all requirements of the Scituate Subdivision Rules and Regulations dated August 13, 2010 except as specifically waived by the Planning Board. All conditions of approval and waivers granted shall be inscribed on the plan prior to endorsement.
4. The ~~subdivider~~ applicant shall complete the construction of all ways and municipal services within three years of the date of endorsement of the Definitive Plan. Failure to so complete shall result in the automatic rescission of the approval of such plan, unless the Board extends said period, for good cause shown, after the written request of the applicant prior to the expiration of said period. (change subdivider to applicant)
5. The total number of residential dwelling units on the site shall not exceed eleven (11) except for permitted accessory dwellings. No lot in the Definitive Subdivision may be further divided or subdivided to create additional building lots. (add except for permitted accessory dwellings as it is an allowed zoning use with proper permits)
6. The applicant shall agree to construct streets and complete all other work specified on the Definitive Plan or required under these Rules and Regulations, meet all relevant provisions of the Scituate Zoning By-Laws and other By-Laws, including 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 water main connecting to 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 Plan.

The applicant shall maintain all streets and utilities within the subdivision with the exception of water service until such time as maintenance is performed by the Homeowners' Association. Until a street within a 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 shall be operated and maintained by the developer or a Homeowners' Association made up of residents of the subdivision or their representatives.

The developer shall inform the Planning Board within seven (7) days of the date that his/her maintenance responsibilities are assumed by the Homeowner's Association.

7. 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 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, its 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 ~~until~~ if or when they are accepted by the Town. (change word as street may not be accepted. Applicant must maintain drainage in right-of-way until the road is accepted)

An easement shall be provided allowing a Homeowner's Association access to drainage and stormwater management systems which will be privately maintained to allow inspection, maintenance and repair, and allowing the town access in case of an emergency, or to test water quality if this is deemed in the public interest.

8. 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 ~~his~~ the applicant's -subdivision are satisfactory and conform to the Town specifications and the requirements of the Planning Board. (add the applicant's instead of his to be more gender neutral).
9. Any modification of this Definitive Plan, other than as authorized by G.L. c. 41, s. 81O, shall require modification by the Planning Board in accordance with G.L. c. 41, s. 81W. Failure to comply with this requirement shall result in rescission of the Planning Board's approval.

Required Prior to Endorsement or Recording of Plans

10. All conditions of approval and waivers granted shall be inscribed upon the definitive plan prior to endorsement.
11. The applicant shall obtain the endorsement of the Planning Board upon the Definitive Plan within 180 days of the date of approval or termination of the appeal period of the Definitive Plan. Failure to obtain such endorsement shall result in the automatic rescission of the approval of such plan.

12. A Covenant or other form of surety as provided in MG.L. c. 41, s. 81U to guarantee construction of the road, drainage improvements and any additional on or off site improvements agreed to by the applicant, shall be provided to the Planning Board prior to endorsement of the Definitive Plan by the owners of record of the land in the subdivision. 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 plan and which shall be recorded with the covenant at the expense of the applicant. The Town Planner shall ~~accompany~~ assist the applicant to the registry of deeds to ensure documents are recorded and the town is provided recorded copies of decisions, drawings and covenants. (The applicants want to be responsible for recording without the Town Planner as they say it questions their integrity. They suggested adding that the information must be provided within 7 days. The Town Planner indicated that the Town has had several instances of items not being recorded and copies not being given to the Town despite it being conditioned and is trying to find a solution to apply to all projects.)
13. In addition to the Covenant normally required to secure the construction of ways and installation of municipal services, the Planning Board shall require, prior to the endorsement of the Definitive Plan, a supplemental covenant containing those conditions of approval that are intended to survive the release of the Statutory Covenant. Such covenant shall be approved as to form by the Planning Board Legal Counsel. Such covenant shall be executed and duly recorded by the owner(s) of record, and shall run with the land. The covenant shall be referenced on the Definitive Plan prior to recording in the Registry of Deeds. The subdivider shall promptly, after recording, send a copy of the covenant, showing book and page number to the Board.
14. The developer shall provide a draft Homeowner's Association Agreement and sufficient funds for review by Town Counsel prior to endorsement of the Definitive Plan. The Homeowners' Association Agreement shall include provision that annual mosquito control measures described be taken as described in the attachment to this decision. Any deviations from the mosquito control shall be approved by the Board of Health and submitted to the Planning Board.
15. To reflect the waiver granted by the Planning Board, prior to endorsement of the Definitive Plan, curbing details shall be modified to show bituminous berm and detail for granite where it is still required. Bituminous concrete berm must reflect loam and seed to the top of the back of the berm. Vertical granite curb detail must be added to plans. 4' transition curb adjacent to the curb inlet must be labelled as granite. Vertical granite curb shall be set and held in place with a 6" depth lift of ~~Portland cement concrete~~ 4,000 PSI concrete with 3/4" aggregate on both sides and the bottom of the curb. Limits of vertical granite curb shall be shown on the plans. (DPW recommended the stronger concrete).
16. The limit of erosion control shall be the limit of work. Siltation fence shall be placed at the limit of grading on the east side of Lots 2 – 5. This statement and the additional fence shall be added to the plan as a note prior to endorsement. (This condition is still under discussion. The applicant wants to flag and stake the grading along the east side of lots 2-5. The Planning Office suggests the above condition to keep the limit of work contained and preserve the existing tree line that the applicant shows on the drawings. The applicant indicates that it is only scrub vegetation and briars. It was suggested that the applicant could flag the limit of work in the field and have the limit verified by the Town. Members of the Board said they would do a site visit before the next hearing session to check the vegetation.)

17. Detail and plan view of the temporary sediment basin shall be added to the plans prior to endorsement.

18. Prior to endorsement, the stabilized construction entrance detail shall be revised to be composed of 12" deep of ~~1 to 3"~~ 4" to 6" crushed stone with radii to accommodate construction vehicles. It shall be required to be maintained throughout construction to prevent sediment from being tracked or flowing into the public right-of-way. Additional erosion control, such as silt fence and/or haybales placed prior to a precipitation event, may be needed to prevent sediment from reaching the road, adjacent properties or wetland resources during construction. (DPW suggested a larger stone to keep sediment on-site and 12" deep as maintenance becomes an issue. The applicant does not see the need for 12" deep of stone.) The Board only discussed through condition 18 on 3-13-14.

Mr. Taylor moved to accept the applicant's request to continue the public hearing for the Definitive Subdivision Plan for Blanchard Farm Estates at 40 Curtis Street until April 24, 2014 at 8:15 p.m. and continue the time for action until May 15, 2014. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Form A – 52 & 54 Irving Road

Assessor's Map/Block/Lot 34/25/15, 16, 17

Applicant: Paul Sheerin, Marvell Homes, LLC

Owner: Pamela M. and Joaquim M. Andrade

Documents

- Form A application and supporting information for 52 and 54 Irving Road including Plan of Land in Scituate MA for registry and Plan of Land Land Court Plan 4226 both dated January 20, 2014.
- Comment from Conservation Commission indicating no issues for them 3/4/14

The applicant was not present. Ms. Harbottle indicated that the lots have access and frontage and there are two plans – one for the registry and one for Land Court.

Mr. Vogel moved to endorse as approval under the Subdivision Control Law not required a Plan of Land in the Town of Scituate, Massachusetts 52 & 54 Irving Road stamped by Paul J. Mirabito, Professional Land Surveyor of Ross Engineering Co., Inc. for applicant Paul Sheerin Jr. Marvell Homes, LLC and owner Pamela M. & Joaquim M. Andrade, dated January 20, 2014 as the division of land is not a subdivision because every lot shown on the plan has frontage as required by the Scituate Zoning Bylaw on the public way of Irving Road. Mr. Pritychard seconded the motion. Motion was unanimously approved.

Mr. Vogel also moved to endorse as approval under the Subdivision Control Law not required a Plan of Land, Land Court Plan 4226 for 52 & 54 Irving Road in Scituate, MA stamped by Paul J. Mirabito, Professional Land Surveyor of Ross Engineering Co., Inc. for applicant Paul Sheerin Jr. Marvell Homes, LLC and owner Pamela M. & Joaquim M. Andrade, dated January 20, 2014 as the division of land is not a subdivision because every lot shown on the plan has frontage as required by the Scituate Zoning Bylaw on the public way of Irving Road. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Old Business and New Business

Documents

- Grandfathering information provided from Mark Bobrowski Handbook
- Email on diversion structure at bogs at 149 Old Oaken Bucket Road
- 3/11/14 DRT report

These items were distributed to the Board electronically.

Vote on street acceptance of Walnut Tree Hill Subdivision - Greenbriar Way, Garrison Drive, Walnut Hill Drive, Woodworth Lane and Bridle Lane

Town Planner, Laura Harbottle, said the Selectmen are still dealing with how they are going to address street acceptance for the subdivision. She indicated that the Planning Board has been directed to make their vote more specific. Mr. Pritchard asked if this is really in the purview of the Planning Board. Chairman Limbacher said that $\frac{3}{4}$ of the residents have not signed a letter or said they will pay the betterments. The Board voted the street layout, but there is no formal request for street acceptance yet. Ms. Harbottle said a revised vote would protect the Town as the Town has stated they will not accept the roads as is and the Board can define the understandings in their vote.

Mr. Pritchard moved that the Planning Board recommend to Board of Selectmen and 2014 annual Town Meeting that the streets of Greenbriar Way, Garrison Drive, Walnut Hill Drive, Woodworth Lane and Bridle Lane be laid out in accordance with MGL Chapter 82, Section 21 – 24 and be accepted by Town Meeting to become public ways in accordance with layout plans dated March 17, 2008, upon the condition that $\frac{3}{4}$ of the residents submit signatures agreeing that the streets shall be accepted and all the residents of the Walnut Tree Hill subdivision agree to pay any betterments assigned by the Town to upgrade the condition of the streets to the standard that the Street Acceptance Committee will recommend for acceptance. Mr. Vogel seconded the motion. Motion was unanimously approved.

Mr. Vogel questioned the amount of money that Walnut Tree Hill residents could be assigned to pay. It was indicated that there was a cost estimate for the work needed to be done so that the dollar amount was not an unknown quantity. Mr. Taylor mentioned that Chairman Limbacher and Ms. Harbottle presented the zoning articles to the Selectmen who appeared to support them.

Minutes

Mr. Taylor moved to approve the meeting minutes from 2/27/14. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Accounting

Documents

- PO # 1405496(\$185.61), PO # 1405506(\$143.00), PO # 1405638(\$2,127.50), PO # 1405663 (\$454.26), PO # 1405656(\$60.00)

Mr. Taylor moved to approve the requisition of \$185.61 to WB Mason for office supplies, for \$143.00 to Image Resolutions for maps for Town meeting, for \$2,127.50 to Chessia Consulting Services, LLC for engineering peer review for 50 Country Way Mixed Use Special Permit, for \$454.26 to Gatehouse Media MA for legal advertising in the Scituate Mariner for the Zoning

Articles and for \$60.00 to Laura Harbottle for reimbursement for the CPTC Annual Conference. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Mr. Vogel moved to adjourn the meeting at 11:10 p.m. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph
Planning Board Secretary

Richard Taylor, Clerk
4/10/14
Date Approved