

SCITUATE PLANNING BOARD MINUTES March 27, 2014

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

Members Absent: Richard Taylor.

Others Present: None.

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 7:32 P.M. The meeting was being recorded for airing on the local cable television station.

Documents

- 3/27/14 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.

Continued Public Hearing – Accessory Dwelling Special Permit – 75 Moorland Road Assessor's Map/Block/Lot Applicant/Owner: John F. III and Catherine M. McNamara

Documents

- Revised primary dwelling floor plans by Off the Wall Design Sheets a-1 through A-7 dated 9-3-13,
- Architectural Drawings A-1 through A-6 by Custom Homes Designs for McNamara Residence Carriage House dated 8/15/13
- Site Plan for detached Accessory Dwelling at 75 Moorland Road revised 3/19/14
- Perspective from corner of existing house to front of existing house
- Perspective from corner of existing house to front with accessory dwelling
- 3-24-14 Request to continue the public hearing to May 8, 2014
- 3-27-14 email from Mike Benning

The applicant's representative sent in a request to immediately continue the public hearing as only 4 members would be present and a supermajority vote is needed. No testimony or evidence was taken.

Mr. Vogel moved to accept the applicant's request to continue the Accessory Dwelling Special Permit public hearing for 75 Moorland Road until May 8, 2014 at 8:30 pm. Motion was seconded by Mr. Pritchard. Motion was unanimously approved.

Form A – 31 Mann Hill Road Assessor's Map/Block/Lot: 27/6/39-39A Applicant: James Brennan Owner: James & Linda Brennan

Documents

- Application, deed and plan of Land on Mann Hill Road in Scituate, MA dated 3/18/14 prepared by Outback Engineering, Inc. for James and Linda Brennan.
- Memo to Board from Fire Chief dated 3/14/14
- Land Court Registration Plan dated 5/7/1928
- 3-26-14 comment from the Water Dept.

Jeff Youngquist and Jim Brennan were present. Mr. Youngquist indicated that the applicant desires to take some lot area from the existing Lots 2 & 3 to make Lot 1 a buildable lot. He said that Lot 2 and Lot 3 are combined for a larger lot with the existing house. He said that no frontage is being changed. Planning Board Assistant, Karen Joseph, indicated that Lot 1 will have frontage and access on Mann Hill Road and Lot 2 will have frontage on an unnamed gravel way that is shown on a Land Court Subdivision Plan from 1928 which is given the status of an approved subdivision plan. She indicated that the Board could ask for improvements on the ground. Mr. Pritchard asked if the unnamed gravel way was public. Mr. Youngquist said that it was a private way with a 30 foot layout and with another house beyond the existing house on Lot 2.

Mr. Pritchard moved to endorse as approval under the Subdivision Control Law not required a plan of land on Mann Hill Road in Scituate, MA, Assessors' Lot 27-6-39 & 39A Land Court Certificate 114607 and plan number 20106 prepared by Outback Engineering, Inc. for applicant James and Linda Brennan dated 3-18-14 as the division of land is not a subdivision because it shows a change in lot line which does not alter the existing frontage as required under the Scituate Zoning Bylaw. Frontage is provided on Mann Hill Road and an unnamed way shown on a Land Court Plan dated May 7, 1928. The Board makes no finding as to the existence of the way on the ground prior to the adoption of the Subdivision Control Law in the Town of Scituate or to the adequate, width, grade or construction of the unnamed way, as required for creation of additional buildable lots or changes in frontage. Mr. Vogel seconded the motion. Motion was unanimously approved.

Form A – 47 First Parish Road

Assessor's Map/Block/Lot: 50-10-08

Applicant: S. Lee Vickers

Owner: Estate of Henry C. Vickers, c/o Timothy C. Vickers, Adm.

Documents

- Application and Plan of Land in Scituate, MA showing a division of parcel 50-10-8 located at 47 First Parish Road dated 3/6/14.
- 3-26-14 Comment from the Water Dept.

Jeff Hassett from Morse Engineering Company was present on behalf of the applicant. He indicated that the applicant would like to create a new residential lot at 47 First Parish Road. He said the site, in the R-3 zoning district, is 1.08 acres with an existing driveway, residence and garage that does not comply with setbacks. He said that Lot 1 has over 100 feet of frontage on First Parish Road. Mr. Hassett said they would like to create a 50 foot frontage lot for Lot 2 and it would have 25,000 sq. ft. which is more than twice the required lot area. He said the land is all upland. He indicated that a 50 foot frontage special permit has been applied for to the ZBA. The Board confirmed that the lot is adjacent to Jenkins School. Planning Board Assistant, Karen Joseph, indicated that the plan can be endorsed and put into escrow until the Zoning Board approves the 50 foot Special Permit.

Mr. Vogel moved to endorse as approval under the Subdivision Control Law Not Required a plan of land in Scituate, MA showing a division of Parcel 50-10-08 located at 47 First Parish Road stamped by William J. McGovern of Morse Engineering Co., Inc. for S. Lee Vickers and the Estate of Henry C. Vickers, Jr. c/o Timothy C. Vickers, Adm. revised dated March 21, 2014 as the division of the tract of land shown is not a subdivision because every lot shown on the plan will have the frontage of at least the distance presently required by the Scituate Zoning bylaw when a 50 foot frontage Special Permit is approved by the Scituate Zoning Board of Appeals for Lot 2. The Planning Board will hold the plan in escrow until the ZBA Special Permit is approved and recorded at the Registry of Deeds and proof of recording furnished to the Town Planner. Mr. Greene seconded the motion. Motion was unanimously approved.

Public Meeting –Site Plan Waiver

Assessor's Map/Block/Lot 50/7/1

Applicant: Lucky Finn Schooner, LLC – William Noonan

Owner: KLM Realty Trust

Documents

- Application for Site Plan Waiver received 3/10/14
- Emails dated 3/10/14 and 3/11/14 from W Noonan on sign colors and sign dimensions
- New sign and front piers for Lucky Finn

Bill Noonan, owner of the Lucky Finn Schooner business, was present. He indicated he operates the schooner business from the Bulman Marina dock at 206 Front Street. He said the Quarterdeck recently closed and he has a lease from Mike Bulman for the building. He indicated he would like to open the Lucky Finn Boathouse café. He said he would serve locally sourced foods including an espresso bar and locally sourced baked goods for breakfast. He said lunch would include clam chowder, lobster rolls and salad. He indicated in the evening coffee and desserts including ice cream would be available. He said there will be limited food preparation on site. All the food will be brought in and there will be a bar to service the food and a sink. He indicated he would like seating for 10 -12 inside the store. He said there will also be space for T shirts and hats from the Lucky Finn Schooner Company as well as an art gallery. Mr. Noonan said he will be constructing a bathroom as there is none now. He said he was considering bringing in a launch for harbor tours. He said it would use the same dock as the schooner business.

Mr. Pritchard asked about outdoor seating. Mr. Noonan said there are benches outside in the front and he would like a few seats on the rear back deck for the summer. Mr. Vogel asked if the reason for the site plan was the change of use for food service. Chairman Limbacher said that he saw it as one retail use to another retail use. Mr. Pritchard asked about refrigeration and trash. Mr. Noonan indicated there would be a small refrigeration unit with no outside condenser and trash would be outside possibly under the stairs that go to the top floor. He indicated there would be no dumpster. Mr. Vogel asked if the Board of Health has signed off. Chairman Limbacher said they will need to sign off. Mr. Noonan said that there will be no cooking inside, but they may have a heating element and a microwave. Mr. Vogel inquired if the toilet needs to be barrier free and the Board indicated that the Building Inspector would need to determine that issue. Mr. Noonan indicated that the toilet would be for the customers and the plumbing in the building is awkward so the location of it may need to move.

Mr. Pritchard asked about parking. Chairman Limbacher said the retail use predates parking requirements in Scituate and asked the Board if there was a new use that requires more parking. He

said he saw that it was retail to retail so it was the same use. Chairman Limbacher asked about the potential launch service. Mr. Noonan said the launch service would be for about 10 -12 people for harbor sightseeing. He said it would run on a regular schedule. He indicated he hopes that the Lucky Finn customers will now come through the store to reach the dock. Chairman Limbacher said that he is not sure the launch service was a continuation of the retail use. Mr. Noonan said he could bring that back another time.

Walter Collins of TK O'Malley's said that the proposal sounds okay, but that the applicant should be aware that there is a launch service from TK's that takes people to/from their moored boats. Mr. Noonan said his service would be for sightseeing. Planning Board Assistant, Karen Joseph, indicated that the Board of Health has not signed off on the project yet. Chairman Limbacher said that he wanted to finalize the seating. It was agreed that seating on the inside would be limited to 10 -12 and on the outside in the rear 8 seats in the summer. He said any launch service must come back. Mr. Noonan confirmed that the fresco will remain and the signage will work around the fresco as shown. Mr. Vogel said the Board of Health and the Building Dept. need to have input. Mr. Pritchard said he would like sealed trash cans.

Mr. Vogel moved that the Planning Board finds the proposed site work or building work is minor in nature because there appears to be adequate parking on Front Street and the nearby public parking lot, and no site work is proposed, and to grant the site plan waiver for William Noonan of Lucky Finn Schooner Company at 206 Front Street, with the following conditions:

1. Construction shall comply with the improvements submitted with the application. Wooden sign shall be as submitted and be painted black and gold and comply with plan submitted and be on the front of the building.
2. Approval is contingent upon all local approvals being obtained from the Town of Scituate particularly approval of the Board of Health and Building Inspector or Inspectional Services Department.
3. Trash shall be handled in covered sealed containers and emptied at least once daily or more frequently if necessary, or as otherwise directed by the Board of Health.
4. There shall be no food preparation i.e. cooking on site. Indoor seating is limited to 10-12. Seating on the exterior rear deck is limited to 8.
5. Any further expansion of the use applied for (retail store to include small café/retail for schooner business/Art Gallery) such as a launch service must come back to the Planning Board for approval.

Mr. Greene seconded the motion. Motion was unanimously approved.

Accounting

Documents

- PO # 1405876(\$1,088.08)

Mr. Pritchard moved to approve the requisition of \$1,088.08 to Beals & Thomas for the surety estimate for Deer Common. Mr. Greene seconded the motion. Motion was unanimously approved.

Minutes

There were no meeting minutes to approve.

**Continued Public Hearing – Zoning Articles
Registered Marijuana Dispensaries, Water Resource Protection District, Village Business
Overlay District**

Documents

- Email dated 3/11/14 from Brandon Moss to Laura Harbottle on Sec 330
- Email dated 3/19/14 from Pat Gallivan to Laura Harbottle on new DEP site visit for WRPD
- Email forwarded on 3/26/14 on DEP correspondence on bogs on Old Oaken Bucket Rd
- Revised Water Resource Protection District Map dated March 2014
- 2 pictometry photos of 32 New Driftway

Chairman Limbacher indicated it was 8:15pm and the zoning articles public hearing would continue with the Water Resource Protection District (WRPD) first. He said that the article is for zoning and does not address ownership or land takings. John Clarkeson, Chair of the Water Resources Committee (WRC) and Jim DeBarros, Head of the Water Division were present. Mr. Clarkeson congratulated the Planning Board on the recent SJC finding that the community can limit housing in the floodplain taking public safety into account. Mr. Clarkeson indicated that the proposed bylaw being advanced the Planning Board has been a collaborative effort between the WRC and the Board and the Town Planner, Laura Harbottle. Chairman Limbacher indicated that the Advisory Committee has voted to support the article.

Mr. Clarkeson indicated that the town has a permit from DEP for use of surface and groundwater that was originally issued 20 years ago. He said the entire state is going through the process of renewal of their water withdrawal permits and greater protection for drinking water health is proposed to be consistent with the state regulations. He said the new drinking water permit from the state is contingent on this bylaw passing. He said all communities across the south coastal watershed and 27 watersheds of the state are involved in the same process. He said that the item that caused the meeting continuance until tonight was a challenge of the proposed map dated December 2013. The area known as the “Popes Pond kidney” was included in the Zone A on this map. Mr. Clarkeson said that in the late 60’s a diversion structure was constructed to be maintained by the Town to divert water away from Tack Factory Pond drinking water supply from the bog area so there would not be agricultural water flowing to the drinking water supply. He said that the diversion structure fell into disrepair in the early 2000’s. It has recently been repaired with DEP coming to check the operation of the diversion structure twice. The first opinion from DEP that the structure was working was challenged. Mr. Clarkeson said that Bruce Bouck, a hydrologist from DEP, revisited the site and reaffirmed that the cranberry bogs should be removed from the Zone A as shown on the map as the diversion structure was keeping agricultural water out of the drinking water supply. He indicated that Kathy Romero of DEP concurred. Mr. Clarkeson said that at the public hearing last time the consensus was that the map should be right. He said it is verified by DEP and the revised map dated March 2014 should be part of the bylaw. Mr. Clarkeson indicated that at the last hearing session Mr. Pritchard asked about the fingers and if they were taken away would the area be in the blue area of the WRPD. Mr. Clarkeson confirmed they would be in the WRPD. In response to Mr. Pritchard’s question, Mr. Clarkeson said that the diversion structure has a 200 foot radius around it as the new boundary of the Zone A.

Jeff DeLisi commended the presentation and Water Superintendent and WRC for being attentive to having the best map available for Town Meeting. He said the date in the bylaw language (Sec 520.3) will need to change to match the map. He said that as a lawyer he can imagine that people

will want to do work within the 200 foot buffer of a tributary. He suggested it might be a good idea to insert language as in the Floodplain & Watershed Protection District. He said map may show a tributary, but upon verification one may not be present. He said he could provide the language. Mr. Clarkeson said that there is already language about field verification in the bylaw and it is the custom to field verify when obtaining permits. Chairman Limbacher said the wording is consistent with what has been practiced in the past. Mr. Vogel asked if the map has been officially approved. Mr. Clarkeson said that DEP approved it in the emails from Bruce Bouck and Kathleen Romero of DEP. Mr. Pritchard thanked the WRC for their work. Mr. Clarkeson thanked the Board for their patience. Chairman Limbacher indicated that the vote will occur at the conclusion of the discussion on all the zoning articles.

Discussion turned to the Village Business Overlay District (VBOD) proposal to amend the zoning map and bylaw by extending the VBOD around Driftway and New Driftway as shown on the map. Chairman Limbacher outlined the proposed changes including adding definitions for mixed use and mixed use developments. He indicated that the Board looked at the existing area and added the proposed area based on suitable upland areas for development. Bob Drew indicated that he was in the Citizen Petition Article area last fall and wondered why his property has been removed from the proposed VBOD expansion. Chairman Limbacher indicated that last fall the article was a Citizen Petition and the Board cannot alter what is proposed in them. He said that the Board looked at the upland and wetland of the area properties to make a determination of land in the expanded area. Mr. Drew said his property is mostly upland and reviewed his and surrounding land with the Board. The Board reviewed 2 pictures of the Drew property printed from the Town of Scituate Pictometry Overlays. Mr. Drew said he would like to be added back into the VBOD expansion and see if Town meeting agrees. Chairman Limbacher indicated that there appears to be more upland on the Drew property than he thought. Mr. Vogel said he didn't see why it was not appropriate. Chairman Limbacher said it does not change the language, but just changes the map slightly. Mr. Pritchard asked how it changes the zoning compared to what is there now. The Board said that a mixed use could extend through the Drew property just as in any other property. Mr. Pritchard asked about access, water and sewer. Mr. Drew said there is access, a hydrant and he has not hooked up to sewer and presently has a septic system away from the marsh. Steve Bjorklund said that the only access to the property is through the new district being created so it makes common sense to add it in. He said that he can combine his land with someone else. Mr. Pritchard said he was ok with the addition as long as it was mixed use and the septic was not by the marsh. Chairman Limbacher said any development permit under the bylaw would be by a Special Permit from the Board where conditions could be placed. Mr. Drew said he has a deeded right of way. Jeff DeLisi said that he thinks it is a good idea to put the Drew property in the VBOD and if it is developed it would be subject to permits.

Mr. Limbacher moved to modify the map and resultant bylaw for the Village Business Overlay District to add the upland area encompassed by parcel number 53-5-32B as shown on the marked up map dated 2/19/14. Mr. Vogel seconded the motion. Motion was unanimously approved.

Chairman Limbacher reviewed the bylaw for Registered Marijuana Dispensaries and where they could be located. There was no comment from the Board or the public.

Mr. Limbacher moved to close the public hearing for the zoning articles of Registered Marijuana Dispensaries, Water Resource Protection District and the Village Business Overlay District and that the Planning Board make a recommendation that the Annual Town Meeting commencing on April 14, 2014 adopt the proposed zoning articles for Registered Marijuana Dispensaries, extending and

modifying the Village Business Overlay District, and Changes to the Water Resources Protection District per the language filed with the Town Clerk on February 11, 2014; and as amended at the public hearings on February 27 and March 27, 2014 with updated language for the Water Resource Protection District to include the current map dated March 2014 as the changes are minor and within the scope of the legal advertisement. Mr. Vogel seconded the motion.

Vote Planning Board reports to Town Meeting

Documents

- Planning Board Report – Registered Marijuana Dispensaries
- Planning Board Report – Village Business Overlay District
- Planning Board Report – Water Resource Protection District – Zoning and Map

Mr. Vogel moved to approve the Planning Board Report to Town Meeting for Article 19: Village Business Overlay District as written with the exception of the deleted sentence of “A small portion of one undeveloped parcel in the original proposal was removed due to proximity to the wetlands and First Herring Brook.” as parcel 53-5-32B was added in at the March 27, 2014 public hearing. Mr. Greene seconded the motion. Mr. Bjorklund questioned if the Drew property was included. The Board indicated yes as the sentence above was left out of the report.

Mr. Vogel moved to approve the Planning Board Report to Town Meeting for Article 20: Registered Marijuana Dispensaries as written. Mr. Pritchard seconded the motion.

Mr. Greene moved to approve the Planning Board Report to Town Meeting for Article 21: Water Resource Protection District Zoning Bylaw – Section 520 and Town of Scituate Zoning Map as written. Mr. Pritchard seconded the motion.

Old Business and New Business

Documents

- Email dated 3/19/14 from Pat Gallivan on DEP preconference meeting for 305 Country Way
- Email from Pat Gallivan on DEP motion to dismiss for 305 Country Way
- MaryAnn Doherty vs Planning Board of Scituate
- 305 Country Way Post Conference report
- Lynda Carroll letter dated 3/24/14 on Old Oaken Bucket Rd
- Email forwarded from Laura Harbottle on 3-27-14 on Gates Feasibility Study

These items were distributed to the Board electronically.

Mr. Vogel moved to adjourn the meeting at 9:05 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