

SCITUATE PLANNING BOARD MINUTES January 8, 2015

Members Present: William Limbacher, Chairman; Stephen Pritchard, Vice Chairman; Richard Taylor, Clerk; Robert Vogel, Robert Greene and Ann Burbine, 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, 600 C J Cushing Highway.

Chairman Limbacher called the meeting to order at 7:32 P.M. The meeting was being recorded for airing on local cable television.

Documents

- 1/8/15 Planning Board Agenda

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

**Scenic Road Public Hearing – 71 Clapp Road
Assessor's Map/Block/Lot 24-2-15 (16)
Applicant/Owner: Lawrence & Leslie Stenbeck**

Documents

- Application for Scenic Road hearing received 12/16/14
- 12/16/14 Transmittal to Town Departments
- 12/18/14 Proposed Curb Cut Sketch 71 Clapp Road Lot 1 by Morse Engineering
- 12/31/14 and 1/5/15 Revised Proposed Curb Cut Sketch 71 Clapp Road Lot 1 by Morse Engineering

Greg Morse, registered professional engineer from Morse Engineering was present to represent the Stenbeck's. He said that the Board formerly endorsed a Form A for the site and there is a stone wall across the site that the owner would like to open to put in a driveway to the new lot. He indicated the wall would have returns coming into the driveway. He said that only brush and saplings would be removed for the 20 foot opening.

Ms. Harbottle said there is a catchbasin just west of the drive that the DPW wants included in the driveway pavement. She said there is an existing opening in the stone wall approximately 20 to 30 feet east of the proposed driveway that the stone removed could be used to fill in the existing opening. She said the opening is not shown on the plan. The Board was in favor of having the catchbasin in the driveway. Chairman Limbacher asked about the line of sight. Mr. Morse indicated he did not survey it, but it was a straight line so there should not be a problem.

Mr. Taylor moved to close the Scenic Road Act public hearing and that the Planning Board vote to approve the removal of approximately 20 linear feet of stone wall and saplings under 3" in diameter for construction of a new driveway in a 20 foot wide wall opening for 71 Clapp Road Lot 1 as shown on a plan provided by Morse Engineering Co., Inc. dated 12/4/14 entitled Proposed Curb Cut Sketch 77 Clapp Road Lot 1 with revisions through 1/5/15. Temporary disturbance of up to 10 feet of

stone wall is proposed for utility installation with the wall being restored to its original condition after utility installation. Stone from the wall opening will be reused on site to fill in the existing opening in the wall. The driveway at the street line will be shifted the necessary distance to include the existing catchbasin in Clapp Road. The applicant will notify the Town Planner 48 hours before construction commences, 48 hours prior to temporary disturbance of the stone wall for utilities and when the driveway and utility installation is fully completed. This approval is contingent upon all federal, state and local permits being obtained. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Request for Surety Release – Blanchard Farm Estates

Documents

- Email from John Barry dated 11/24/14 asking for surety reduction for Blanchard Farm
- 12/11/14 Construction Report from Amory Engineers
- 12/15/14 Estimate for Surety Retainer dated 12/15/14 by Amory Engineers

Ms. Harbottle asked if Mr. Tedeschi had reviewed the estimate from Amory Engineers and found it acceptable. He said it was acceptable to him. Ms. Harbottle said it was acceptable to her as Pat Brennan of Amory Engineers, the Board's engineer, went out to the site and reviewed the work prior to putting the estimate together.

Mr. Taylor moved to accept Blanchard Farm, LLC's request to reduce the amount of surety being held by the Planning Board for completion of the Blanchard Farm Estates Subdivision from \$99,732.38 to \$ 67,380.80 remaining in the account as much of the loaming and seeding has been done, binder for the walk is installed, some street trees are planted, partial as-builts have been done, the utility pole has been removed and pavement patched and the reduction is consistent with the engineer's recommendations. Mr. Pritchard seconded the motion. Motion was unanimously approved.

40 R Update

Town Planner, Laura Harbottle, indicated that the application to the state is coming together. She said MAPC is working on the maps and she has been working on the bylaw and financial analysis on parcels that are going into the 40 R district that are likely to be redeveloped. She said that she will be going out to the area to take pictures of properties and to see if there are vacancies and for sale signs. She indicated that the Board voted on the area for the district at the last meeting and notification is going out to the property owners in the proposed district for them to attend the meeting on January 22 to see if they support the proposed district. Ms. Harbottle said that Bill Reyelt and Matt Smith will be here at the next meeting for a 40 R discussion prior to the Department of Housing and Community Development public hearing for 40 R. She said the Selectmen and Town departments were invited as well with the proposed district map and the bylaw being sent to them today. She said she hopes that the meeting on January 22 will help enable the Town to figure out where people stand on the 40 R issue. Mr. Vogel asked if 40 R would increase the viability and salability of the area. Ms. Harbottle said that most 40 R districts in the state have worked, although Plymouth's Cordage Park is one that has not. She said advantages include that the 40 R process only requires a majority vote whereas a special permit for the Village Business Overlay District requires a 4/5 vote. She indicated there are also incentive payments to the Town which will help the tax base. Selectman Maura Curran asked if it was appropriate to ask for a side by side comparison of the proposed 40 R district and the Village Business Overlay District. Ms. Harbottle summarized the

differences as the vote, the amount of affordable housing increases from 15 to 20% and the density is slightly increased. The Board indicated they would like to see the comparison too. Ms. Harbottle said she would prepare it.

Minutes

Mr. Taylor moved to approve the meeting minutes of 12/11/14 and 12/18/14. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Town Planner Report

In response to a question from Mr. Taylor, Ms. Harbottle said she has contacted the bank for the Riverway project to determine the amount of the bond retained. She said she is working on an estimate of the remaining work. She indicated she would call Mr. DiNanno and ask if the development rights to the mixed use building were sold as the sign is no longer up at the site.

Ms. Harbottle indicated that there will be an informational presentation at the next meeting on the future proposed 40 B at Clapp Road. She indicated that the Town Administrator has asked the applicant to visit the Planning Board and Conservation Commission before they apply to seek input on the project now being called Bartlett Fields.

Ms. Burbine asked if the meetings could start earlier if there were going to be lengthy presentations. Mr. Vogel said that the affordable unit required for the Village at South River is underway off of Stockbridge Road. He also indicated that the 40 B Stockbridge Landing is before the ZBA next week. Chairman Limbacher said that the CPC is starting to hear application on 1/12/15. He said 18 or 19 projects have applied for funding from the CPC. Mr. Greene said the skating rink is up. Mr. Taylor asked about the wind turbine. Ms. Curran and Ms. Burbine offered that a part is waiting to be delivered that modulates power to the grid.

Request for Surety Release – Tilden Estates

Documents

- Request for surety release received 12/8/14
- Construction report by Amory Engineers dated 12/12/14

Steve Bjorklund was present for the applicant. He said that the DPW has indicated that the as built is acceptable. He said that the last item of work after the top coat of the road was placed was to back fill the curb and seed it. He said it is done, but the seed has not germinated. He agreed to Amory Engineer's recommendation to withhold return of \$1,750 in the event reseeding must be done in the spring. He asked that the fee for review of surety be waived for the next time as he thought that the Town Planner could verify that the seed had germinated instead of Amory Engineers. The Board concurred they would waive the fee. Mr. Bjorklund also asked for the Board to vote to recommend the street be accepted subject to the Street Acceptance Committee finding the street acceptable so he would not have to come back to the Board. Chairman Limbacher and Mr. Pritchard said they both preferred to wait. Ms. Harbottle said the street acceptance process is very structured and the Planning Board needs to vote in the proper order.

Mr. Taylor moved to accept Tilden Woods, LLC's request to reduce the amount of surety being held by the Planning Board for completion of the Tilden Estates Subdivision from \$102,338.00 to

\$1,750.00 remaining in the account as the work has been completed except for possibly some re-seeding in the spring and the reduction is consistent with the engineer's recommendations. The Board will also waive the fee for the final surety release. Mr. Pritchard seconded the motion. Motion was unanimously approved. Mr. Taylor expressed his opinion that the subdivision enhances the character of Scituate, except for the stormwater basin.

Accounting

Documents

- PO # 1504506 (\$213.06), PO # 1504381 (\$1,860.00), PO # 1504380 (\$375.00), PO # 1504389 (\$101,085.14), PO # 1504390 (\$32,400.87)

Mr. Taylor moved to approve the requisition of \$213.06 to Gatehouse Media MA for legal advertising for 253 Hatherly Road and 380 Country Way Accessory Dwelling Special Permits, \$1,860.00 to Chessia Consulting for engineering peer review for 50 Country Way Definitive Plan, for \$375.00 to Chessia Consulting for engineering peer review for the mixed use special permit at 50 Country Way, for \$101,085.14 to Tilden Woods LLC for surety reduction for Tilden Estates Subdivision and for \$32,400.87 to Blanchard Farm LLC for surety reduction for Blanchard Farm Estates Subdivision. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Continued Public Hearing – Mixed Use Special Permit in the Village Business Overlay District - 50 Country Way

Assessor's Map/Block/Lot 53-5-3 and 3B

Applicant/Owner: 50 Country Way Trust, C. Christopher Ford Trustee

Documents

- Email from Laura Harbottle dated 1/2/15 with background for 50 Country Way existing house
- Findings of Fact voted 12-18-14
- Draft Conditions dated 1-2-2015
- Email from Laura Harbottle to Board forwarding Greg Morse email dated 1-2-15

Greg Morse and Stephen Guard were present for the applicant. Mr. Morse was recording on his cell phone for Mr. Ford who was not present. Chairman Limbacher said the hearing will be available on Scituate Community TV through youtube.com. Mr. Morse indicated he filed a memorandum outlining desired phasing of the project and two options addressing concerns of the Fire Chief. He indicated that he and Mr. Ford and Ms. Harbottle met with the Fire Chief. Mr. Morse said the Fire Chief's concern was fire apparatus leaving the site if another emergency was called in – secondary egress. He said he provided two options sketches to be incorporated into a condition that fire egress be addressed prior to the preconstruction conference. He indicated that one option involves access over the abutter's property to Drew Place and would involve relocating the dumpster on the applicant's property. Mr. Morse said they have begun talking to the neighbor. He said a second option is to use the bike path in the MBTA easement for emergency egress to Drew Place. He said the 8 foot path would have 2 feet of gravel shoulders on both sides and that they are going to the MBTA already for permission to construct the path. Mr. Morse said the Fire Chief thought that the MBTA would look favorably on the proposal as it increases fire protection to their property as well. Mr. Morse said there would be larger areas of gravel at both ends of the egress to account for the turning radii of the fire trucks. Chairman Limbacher clarified that it would be a drive through. Mr. Taylor asked about the wall and fence. Mr. Morse said that the wall, island and grading would need

to be reconfigured to allow for access and the turning radii. Mr. Pritchard asked if the applicant would do the maintenance in the MBTA easement now that it is proposed as emergency egress. Mr. Morse said they would have to look into the matter, but guessed that they would need to take on the maintenance. He said the lights would be for the walk and the Fire Chief is not requiring them for egress. Ms. Harbottle indicated that approval from the MBTA is necessary for the improvements. She said the Fire Chief did not like the access from the abutter's property and no easement exists. She indicated a construction trailer business on the abutting property would need to be relocated. She also indicated there is no easement either from the MBTA. Mr. Guard indicated that the applicant wants to explore both options; he indicated that he prefers the MBTA access as it would be mutually beneficial. Mr. Pritchard said they would have to figure out which one they can do. Ms. Harbottle said that the Chief was concerned that there is not an easement on the abutting property and they did try to obtain one. Ms. Harbottle said it could take a long time to obtain access and if the project is sold, a preferred option should be expressed. She said the MBTA was the preferred option for the Chief. Mr. Morse said that using the path is designable. Chairman Limbacher asked when and who will be making the decision. Mr. Morse said that Al Bangert, Special Projects Manager for the Town, recommended to wait until approval before they went to the MBTA. He said that prior to the preconstruction conference, Mr. Chessia could review the final design.

Chairman Limbacher expressed concern about the potential number of items being put off until the preconstruction conference including written documentation from Morning Glories, use of the MBTA easement, fire access and phasing. He said the Planning Board should have the final approval of the plan prior to preconstruction. The Board agreed that the final design has to come back before the Board for approval prior to construction. Mr. Pritchard inquired how much room there was in the MBTA right of way. Mr. Morse said there was 18 feet between the fence and the property line. He said that the parking island might need to shift to accommodate the movements of the fire truck, but that no parking would be lost.

Mr. Morse then proceeded to discuss condition 19 and the phasing. He indicated that the 1/2/2015 letter for the phasing differs from the plans. He indicated they understand the Board's position of wanting Building A with the relocated historic portion done first. He said the proposed sequence of construction has Buildings B & C being constructed first with a separate construction entrance so that all large bulk items can go through there and around the existing buildings. He indicated that if Building A is done first, then it would force the large bulk items to use the Morning Glories entrance as it is the access easement to the site. Mr. Morse reviewed his phasing schedule as detailed below:
“Phasing:

The applicant is proposing the following phasing schedule:

1. Construct temporary access around existing 50 Country Way building to rear of site.
2. Excavate and pour foundations for Buildings C & B
3. Import fill material required to complete substantial earthwork at rear of site.
4. Begin framing for Building C & B.
5. Excavate for foundation for Building A.
6. Remove access roadway and raze/remove existing barn and connector addition.
7. Move Building A “mainbox” to new location.
8. Install utilities within shared access roadway to rear of site.
9. Construct rear parking/utilities/site work and main access from Country Way.
10. Complete Building C. (Cert. of occupancy issued, begin renting units).
11. Framing/construction for Building B ongoing.

12. Construct Building A to “Weather-tight” including roof, windows, siding etc.
13. Complete Building B (Cert. of Occupancy issued, begin renting units).
14. Complete Building A interior.

This phasing schedule is preferable due to the following:

1. Building C is constructed and available for occupancy by relocated tenants from #50 Country Way. This lessens the burden of the project on existing tenants who are faced with relocation.
2. By allowing Building A to remain during construction of Building C, this provides a positive cash flow for bank funding purposes while the project is being constructed, making financing options more desirable and attainable.
3. This schedule puts the burden on the applicant to complete building A to a “weather-tight” condition before renting out Building B units. This alleviates the concern of Building A not being completed. Furthermore this allows Building A flexibility on its interior fit-out for commercial tenants.
4. By allowing Building A to stay in its existing location while the foundations and majority of site work are constructed for Buildings B & C, it allows the contractor to access over a temporary “haul road” to the South of Building A, thus alleviating heavy traffic concerns at the Morning Glories Bakery parking lot during this phase.” (EXCERPTED FROM 1/2/2015 MORSE ENGINEERING CO., INC. LETTER)

Mr. Pritchard asked when emergency egress was needed. Mr. Morse said prior to occupancy of Building C. Mr. Vogel said the sequence in Step 7 has Building C done before Building A mailbox being moved assumedly without tenants. Mr. Morse said that the tenants from the existing building will not likely move into Building C and it will give them more time to relocate. He said that the tenants from A will stay for as long as possible during construction for revenue purposes. Ms. Harbottle inquired about traffic and parking for Building A with tenants still there. Mr. Morse said there is parking behind Morning Glories and most of the construction traffic will use the haul road. Mr. Pritchard questioned if it was really feasible with the construction activity. Ms. Harbottle asked if there would be fencing around the construction areas. Mr. Morse said it may be required. He indicated that the haul road goes around the barn. Chairman Limbacher asked how long construction will take. Mr. Pritchard asked how long it is from notice to proceed to Step 5. Mr. Morse said no less than 3 months. Mr. Vogel asked Chairman Limbacher how he felt about the phasing. He indicated if he was building it he would probably do it the same way, but if the economics of the project depends on collecting rent from the tenants for 3 months during construction, then there seems to be a problem. He said he didn't think the tenants would want to stay during construction.

Chairman Limbacher said he wanted the historic portion of Building A moved intact. Mr. Pritchard said the Board talked about a bond last meeting to insure that Building A is completed and there has been no follow up on that. Attorney Guard said he client thought it not feasible and the significant investment in Building B should be security enough. Chairman Limbacher said that there is a difference in moving the historic part of Building A and making it weather tight and useful. Attorney Guard said that is why they say weather tight. He said that it would not be economically feasible to do just Building C and it would not satisfy the debt service of a bank. Mr. Pritchard said he would like assurance that the entire Building A is constructed all except tenant fit out. The Board would like the wording “Excavate and pour foundation for rest of Building A included in Step 7.

Chairman Limbacher asked if the barn was going to be there during the haul road construction. Mr. Morse said that Mr. Ford is looking to relocate it. Chairman Limbacher asked if they had looked into reusing the barn. Ms. Harbottle said that in looking into the background of the house, both the house and the barn both contribute to a potential national Historic District. She indicated that Chairman Limbacher and herself met with Doug Smith, Chair of the Historic Commission. She said that Mr. Smith was supportive of letting the barn go if the house was preserved. She said he indicated that if the house can't be preserved then the demolition delay bylaw could be an issue. Mr. Morse said Mr. Ford is actively looking to relocate the barn, but there are no guarantees. Chairman Limbacher said that the barn that exists today is clearly not the barn that existed so a good faith effort would be acceptable to him. He asked how the applicant is going to guarantee moving the house and really make sure it happens. Attorney Guard said by holding the occupancy permits for Building B. He said that first they would frame Building C, then B, then A. He said they would not all be done simultaneously, but sequentially and there is no greater incentive than doing it as a sequence. He said the bank is going to require them to achieve Building A as there would be no income from Building B until Building A is done except for tenant fit up. He said that a bond is not effective and does stop the scenario. He said the occupancy permits are the key. Mr. Pritchard asked if it could be tied to the occupancy of Building C. Attorney Guard says that that ties the developer to a longer debt without income which is crucial to project completion without potential bankruptcy. Mr. Vogel said the phasing proposes a substantial amount of work done on Building A before Building C is occupied. Ms. Harbottle said that is theoretical. Attorney Guard thought that was the logical progression of how the site will be constructed. Chairman Limbacher asked how he will be assured that the old structure of Building A can be moved. Mr. Morse said Architect Sandell indicated it could be moved and that Mr. Ford has a quote from a mover.

Mr. Taylor suggested that the conditions could say that steps must 1-9 will be done before Building C receives a Certificate of Occupancy and that would tie the project to the construction sequence. Ms. Harbottle said that this would need to include temporary certificates of occupancy too. Attorney Guard suggested leaving whether the certificates are temporary or permanent up to the Building Inspector. Mr. Pritchard said he didn't want any Certificates of Occupancy granted until step 1-9 are complete. Ms. Harbottle suggested saying that any Certificate of Occupancy for Building C could not be issued until Steps 1-9 were completed as then they would not be able to start renting the units. Chairman Limbacher said that this methodology would appear to make the sequence tighter than if a bond was required. Mr. Vogel asked if excavate and pour foundation for rest of Building A could be added to Step 7. The Board asked that Step 12 include the entire Building A so that it is fully complete on the outside including utilities so that Step 14 would just be the interior tenant fit up. Mr. Vogel said that the Board could ask for the residential portion to be complete as well in Step 12 with just the commercial portion left for tenant fit up. Chairman Limbacher said it is the retail that makes it work. Mr. Vogel agreed, but said the residential portion does not rely on which tenants go in as the commercial does. The Board said that it made sense. Mr. Morse said that with funding objectives, Building B would be ready to accept tenants. Attorney Guard suggested that would handcuff the developer and suggested the Board not do it as Building A would look and be totally complete from the outside.

Ms. Harbottle indicated that other pieces also need to be spelled out in the sequence including phasing of the erosion control and temporary stormwater management. Mr. Morse said that is spelled out in the SWPPP and NPDES Permit. Ms. Harbottle said the Board always asks for an erosion control plan and construction sequencing plan. She asked how the site will be separated with fencing for access, construction parking and separation of the existing tenants. Mr. Pritchard agreed that major sequencing needs to be in place and asked if the erosion control, stormwater and

sequencing could be in the final design. Ms. Harbottle said that the Board does not have a plan for this construction sequence. Mr. Vogel agreed that site utilization plans are needed for temporary erosion control and construction staging. Ms. Harbottle reaffirmed that Morning Glories, the site drainage and Reynolds properties must be protected and the erosion control plan needs updating. Attorney Guard said he assumed that could be done at the preconstruction phase. Mr. Morse asked if it needs to be done now as he would like input from a contractor. Ms. Harbottle said it is typically done now and that everything can't be put down the road, the plan must be realistic. Chairman Limbacher indicated that Ms. Harbottle's point was valid and controls need to be in place in phases especially to protect the historic house. He indicated that it should be done and tying the sequence to occupancy permits is probably better than a bond. Mr. Pritchard agreed. Mr. Vogel said that when the project is bid a contractor will need the information and agreed with Ms. Harbottle that an overall concept is needed. Planning Board Assistant, Ms. Joseph indicated that the information is the same material that the SWPPP requires and is all reusable. Attorney Guard said they could do the homework.

Chairman Limbacher asked if any progress had been made with Morning Glories. Mr. Morse said they would like to have the Board's approval and final conditions before going back to Morning Glories. He said they have not contacted them since Mr. Morse's letter in the fall and Morning Glories has not contacted them. Attorney Guard said they have the right to work in the easement and Morning Glories should be happy to have them maintain the drainage. Chairman Limbacher said he wants a good faith effort condition for the applicant to find the barn a new home. Ms. Harbottle suggested they contact the Historic Commission.

Ms. Harbottle said that she made the changes from the last meeting to the Findings of Fact. Mr. Pritchard said he would like the Morse letter dated 1/2/2015 incorporated into the conditions along with emergency egress. Attorney Guard said they would be ready with the erosion control for the next meeting.

Mr. Taylor moved to accept the applicant's request to continue the public hearing for the for the Mixed Use Special Permit in the Village Business Overlay District for 50 Country Way until February 12, 2015 at 9:00 p.m. and to continue the time for action until February 27, 2015. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Old Business and New Business

Documents

- Staff report for 1/8/15

These items were distributed to the Board electronically.

Mr. Vogel moved to adjourn the meeting at 9:50 p.m. Mr. Taylor seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph
Planning Board Secretary

Richard Taylor, Clerk

1-22-2015

Date Approved