

Scituate Planning Board, January 10, 2013

SCITUATE PLANNING BOARD

MINUTES

January 10, 2013

Members Present: William Limbacher, Chairman; Daniel Monger, Vice Chairman; Richard Taylor, Clerk; Robert Vogel, Eric Mercer and Stephen Pritchard, 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.

Chairman Limbacher called the meeting to order at 7:30 P.M. He announced the meeting was being audio recorded and asked if there were any other recordings being taken. The meeting was being recorded for airing on the local cable television station.

Documents

- 1/10/13 Planning Board Agenda

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

Economic Development Commission Update

Documents handed out at the meeting

- Economic Development Commission results of Residential survey presented 10/30/12
- Scituate Economic Development Study: Rough Scope by MAPC
- Economic Development Commission FY 2014 Budget Request

Chris McConaughey, Victor Milligan and a later arriving Colin McNiece represented the Economic Development Commission (EDC) for an update. They indicated they would like to briefly review the results of the EDC survey, the MAPC proposal and their FY 2014 proposed budget. They indicated they are hoping to use the survey to guide their mission of finding new revenue for the town. They indicated they wanted to know what works well and what does not and create a baseline for business in town as well as an opportunity for the town to be heard. The survey was created based on what other towns have done. It was an on-line survey for both residents and businesses to respond to. There were 684 resident responses and only 54 business responses and many of those were incomplete. There was no way to tell how many businesses there are in town and if they all responded. It is assumed that many did not respond based on the number of responses.

Mr. Milligan indicated that the method of business needs to change. It appears the businesses are detached and ways need to be found to engage local businesses. Mr. Mercer indicated he is a local business person and many of his associates are unhappy and don't know about the EDC and what they are trying to do. Mr. Milligan indicated it was a goal of the EDC this year to find out the source of discontent this year and improve communication.

Mr. McConaughey indicated the themes from the residents are that they are in favor of expanding the business base and variety of businesses, they shop outside the town because they cannot find the stores they are looking for in town and they desire a good grocery store, health food store, recreation facilities,

take-out food sources, hotels-inns and specialty stores. Not all of these desires are related to Economic Development. He indicated that residents will need to accept change and an education program must be part of the change. The future capital spending plans will need more revenue and education of the public similar to the outreach that occurred for the Gates School and public facilities masterplan will be needed.

Mr. Milligan indicated Economic Development is a town activity and it does not equal strip malls. The survey indicated residents like Scituate and its schools and want to see the business base expanded. They see the Harbor, Route 3A and North Scituate as places to expand. All of the survey questions are on the EDC website.

The survey asked if residents would favor a meals tax. Mr. McConaughy indicated 66.3% of the responses were favorable for the tax. Mr. Monger indicated that many towns are not finding it a burden and it could raise approximately \$200,000 a year. Mr. McConaughy indicated that it is a goal of their budget to have the meals tax and there is an article on the Town meeting warrant for the future revenue to go for Economic Development. They want to have an investable stabilization type fund to put money back into business. All agreed there will need to be more revenue for future capital projects. Mr. Milligan also indicated that increasing the productivity of existing businesses is part of the initiative that needs to be communicated.

Mr. Pritchard indicated that the existing business dynamic in the area needs to be understood as a first step. Mr. McConaughy indicated that the EDC, with the help of Laura Harbottle, the Town Planner, is working with MAPC to seek a grant to identify types of businesses that can be supported and where they can locate as part of a market study for Scituate. MAPC has not been selected to do the market study, but they are recommended because they have a good regional base, they can provide management skills and they have access to DLTA grants. The EDC has \$9,000 in their budget now which they are hoping to put toward the MAPC proposal and hope their budget request is approved by the Town so that more funds can go to the plan and it can be executed. The meals tax would also be a financial lever for this study. Mr. Vogel indicated that the study should review some of the surrounding towns so that voids can be filled here in Scituate.

Mr. McConaughy indicated that the EDC's accomplishments include hosting a Maritime summit, promoting the now defunct Ocean Campus Center initiative, exploring a meals tax, completing the survey to help them implement their goals and proceeding on an inventory of public lands with the assistance of Laura Harbottle as future rezoning may be necessary. Their FY 2014 goals include the MAPC market study, sponsoring and seeking passage of a meals tax to support economic development, outreach to the local business community and engaging developers in business summits for N. Scituate, the Harbor and Greenbush. Mr. McConaughy indicated the EDC wants to help bring about a greater good for the Town. Chairman Limbacher indicated they Board is willing to help the EDC. John Tedeschi offered his comments that the land between Henry Turner Bailey Road and the Cohasset line is wet so not much development can happen there. He thinks the Town could redesign the golf course as Driftway has a lot of land.

Request to Eliminate Special Permit Condition limiting number of signs – Jacob Hatch Building – 10 New Driftway (formerly 2 Country Way)

Applicant: Country Way Associates, LLC Owner: Joseph G. Scanzillo

Documents

- Email from Joe Scanzillo to Karen Joseph dated 1/2/13 containing his mark up of the Draft Decision to the Town Clerk for a minor change to condition 8 of the Site Plan Special Permit for the Jacob Hatch Building - 10 New Driftway

Russ Anderson and Joe Scanzillo were present for the applicant. Mr. Scanzillo indicated that a locus sketch was prepared along with sign details and coloring and he has agreed to the draft conditions.

Mr. Taylor moved to approve a minor change to Condition 8 of the Site Plan Special Permit for the Jacob Hatch Building, 10 New Driftway, approved March 2, 2000 to allow a second free standing sign identifying the name of the building, the businesses on the site and the availability of space for rent to be located on

the applicant's property. The sign will face the roundabout/rotary and be set back on the grass/lawn area about 43 to 46 feet from the existing fence line as shown on the sketch received on 12-12-12.

The sign shall consist of a single faced sign with no more than four removable panels of maximum size of 24" by 90" each panel, mounted over a 96" wide mounting panel. The posts/columns will be 6" x 8" or 8" x 8". The owner currently anticipates the color scheme will be beige/cinder/grey tone at the background, country redwood at the lettering and white at the columns, posts and trim. The height from grade for the new sign lettering will not exceed the existing sign height of 13'-4". Final colors to be selected by the owner shall not be substantially different, and as further described in the sketch attached to this decision. Any installed illumination for the sign shall be from the ground or base of the sign. Internal illumination of the sign is not permitted. The existing sign at the roundabout/rotary shall be removed when the new sign is installed. One additional sign for each business may be attached to the building or otherwise installed.

Additional signs which do not identify a business may also be installed as permitted by the Town of Scituate Zoning Bylaw and as needed for traffic safety, public safety or convenience. Mr. Vogel seconded the motion. Motion was unanimously approved.

Request for Lot Releases for Lots 2, 3 and 4 – Dreamwold Estates Subdivision

Approved 6/23/05; Covenant dated 10/26/2006

Applicant/Owner: John Tedeschi

Documents

- Dreamwold Estates Roadway As-Built prepared by Moran Surveying Inc. received 12/31/12.
- Modification of Special Permit and Definitive Subdivision decisions for Dreamwold Estates filed with the Town Clerk on 12/27/12
- Letter from Beals & Thomas to Town Planner dated 1/2/13 with justification for surety for Dreamwold

Chairman Limbacher indicated that there are a couple of items to resolve for the project including pavement thickness and setting surety for the items to complete on the project.

John Tedeschi indicated that he has completed many of the items on the Beals & Thomas list including the street sign, lot corners have caps, the swale is done, the slope has wood chips spread in it, the level spreader is done and the as-built was given to the Town Planner. Mr. Tedeschi said he spoke with Beals & Thomas about this as he was not at the site visit. He questioned why clean up of the site was included as the site is clean.

Mr. Tedeschi indicated he wants a reduced section for the roadway pavement as shown on the plan. He said the reviewing engineer should have caught the discrepancy between the roadway sections and the berm section so he wants a reduced section. He indicated the DPW was not opposed to a reduced section, but they don't want to get in the middle. Mr. Tedeschi indicated they told him to look at Hatherly Road which the Town did with a section of 1 1/2" top coat and 2" binder coat. He said his estimate for paving is for just under \$12,000 and includes the berm on Dreamwold. He said he wanted an amount of surety set so his lots could be released. He indicated that he did not know why the meeting was cancelled for Wednesday afternoon.

Chairman Limbacher refocused the meeting on the pavement waiver request and setting surety. Mr. Taylor and Chairman Limbacher both indicated that they went to the site on different occasions and it appeared that the work was done. Mr. Tedeschi indicated he would like to do a 1 1/2" top coat and a 2" binder for the pavement section. He said he would do what the Board wanted.

Town Planner, Laura Harbottle, apologized for not being successful in reaching Mr. Tedeschi to cancel the site visit. She indicated she did not go to the site, but believes the street sign and monuments are complete. She indicated she was not sure the level spreader and swale are complete and there is usually clean up at the end of a job. She indicated that she felt hand spreading of the seed would not be effective here. Mr. Tedeschi said he did hydroseed and it would be evident in the spring and he said the swale is there, but

this is really part of the occupancy permit. Ms. Harbottle indicated to the Board it is hard to go back after setting surety to make sure work is done. She indicated that she also spoke with Mr. Cafferty of the DPW and he is not going to proffer an opinion on the pavement as what is required is what is in the subdivision regulations. Mr. Tedeschi indicated Mr. Cafferty told him something different. Ms. Harbottle indicated the as-built was received, but did not go to Beals & Thomas for review as there are no remaining funds for engineering review which was the reason the site meeting was cancelled. She indicated that the funds were all used and Mr. Tedeschi may say it is excessive, but the engineer went out for several visits and redid work at Mr. Tedeschi's request. Ms. Harbottle indicated more money is needed for a final site visit and for top coat inspection. She also indicated that \$750 is needed for the as-built review and \$800 is needed for work already done, but beyond the budget. She also indicated she spoke with Beals & Thomas about the budget which was a not to exceed proposal.

After more discussion, the Board indicated they didn't want to set any precedents on the paving issue. Mr. Vogel indicated that the bituminous berm detail on the plans shows a 2"top/2" binder section. He thinks the Board should go with the plans and not a third cross section of 1 ½" top/2" binder. Mr. Vogel moved to accept John Tedeschi's request for a field change waiver of the pavement thickness for the subdivision road for Dreamwold Estates Definitive Subdivision approved by the Planning Board on 6/23/2005, to a cross section of 2" of binder course pavement and 2" top course pavement to match the typical bituminous concrete berm cross section on sheet 9 of 10 approved by the Planning Board on 8/17/05. Mr. Monger seconded the motion. Motion was unanimously approved.

The Board reviewed the estimate for surety by Beals & Thomas and began itemizing the cost of the work. Mr. Tedeschi continued to complain about the cost Beals & Thomas has billed. Chairman Limbacher indicated that the Board has multiple inspectors and they are used on a rotating basis. He reviewed the list and came up with a maximum amount of surety to be \$25,465 based on \$12,000 for paving, \$300 for berm, \$200 for street sign, \$5,100 for monuments, \$1,800 for lot corners, \$1,000 for swale/slope, \$1,000 for level spreader, \$750 for as-builts and \$1,000 for clean up and \$2,315 for inflation/contingency. The Board asked that the Town Planner review the work that has been completed and that surety could be reduced based on verified completed work. Mr. Monger moved to accept John Tedeschi's request to release Lots 2, 3 and 4 from the Dreamwold Estates covenant dated 10/26/2006 and recorded in the Plymouth County Registry of Deeds in Book 33715 pages 62 – 65 signed in connection with the Dreamwold Estates Definitive Subdivision approved by the Planning Board on 6/23/2005, contingent on the applicant providing cash surety as estimated by the consulting engineer, Beals & Thomas, to a maximum of \$25,465 to be reduced by any work completed that has been reviewed and agreed upon by the Town Planner, to the Planning Board to secure the performance of the remaining work, and that the Town Planner hold the lot releases until the money is deposited in an account approved by the Town Treasurer and proof furnished to the Town Planner of the deposit. Mr. Taylor seconded the motion. Motion was unanimously approved.

Chairman Limbacher indicated that Mr. Tedeschi should put up additional money for Beals & Thomas review and then come back and argue with them later. Ms. Harbottle indicated she now has a proposal for hourly rates and she has spoken to them about overages. Chairman Limbacher informed Mr. Tedeschi that the money must be put up before Beals & Thomas does any work. He instructed Mr. Tedeschi to make peace. Mr. Monger moved that the agreed upon amount of money be placed in the Planning Board Guarantee Deposit Account for Beals & Thomas review of the as-builts and final paving. Mr. Taylor seconded the motion. Motion was unanimously approved.

Continued discussion on Zoning Articles for Annual Town Meeting 2013
Medical Marijuana, Accessory Dwellings

Documents

- Email from Laura Harbottle to the Board dated 12/28/12 containing the Hill Law Group Medical Marijuana Bylaw template and Draft Medical Marijuana Bylaw dated 12-28-12.
- Email from Laura Harbottle to the Board dated 1/8/13 containing the City of Cambridge Medical Marijuana petition dated 1/4/13 and Medical Marijuana Bylaw revised 1-8-13.

- Draft moratorium wording for medical marijuana
- Revised draft Accessory Dwelling bylaw dated 1/4/13
- Email from Laura Harbottle to Board dated 1/9/13 with Town counsel's draft of the medical marijuana moratorium
- Email from Laura Harbottle to Board dated 1/10/13 with revision to Accessory Dwelling Bylaw and memorandum to Planning Board

Chairman Limbacher indicated that since the last meeting he and Laura Harbottle have talked with Town Counsel, met with the police chief and have reviewed material from other towns on medical marijuana. He indicated Cambridge is looking for a moratorium. In their moratorium they are recognizing the law and are indicating they need more facts and the Department of Public Health (DPH) regulations prior to implementing a bylaw. Ms. Harbottle indicated that she believes a moratorium is the way to proceed and indicated that Town Counsel has been working on wording and believes it will be upheld. Mr. Monger indicated that Cambridge is a city and if a moratorium is not upheld by the Attorney General then City Council could enact a bylaw immediately. Scituate is a town and would need to wait for a Town Meeting to enact a bylaw if a moratorium is not upheld.

Chairman Limbacher indicated his belief that if that a fallback bylaw created at this time would undermine a moratorium. Mr. Monger disagreed. Mr. Mercer indicated the basis for the fallback was that the Board didn't believe the Attorney General would uphold a moratorium. Town Counsel is indicating likewise now. Mr. Monger questions if the Board feels it needs safety between the spring Town Meeting and fall Town Meeting. Mr. Taylor indicated he agreed with Ms. Harbottle and would like to pursue the moratorium and await the DPH regulations due out May 1. Mr. Vogel concurred as the Town doesn't completely know what it is creating zoning for. Mr. Monger indicated if a moratorium is not upheld, a medical marijuana dispensary could go in any business district.

Ms. Harbottle indicated that Concord has a medical district and they are putting medical marijuana dispensaries there. Mr. Monger indicated Scituate could do a Special Permit in a specific business district with Site Plan Review as an insurance safety. It could be put as a part B to the moratorium saying that if part A is found to be illegal, part B takes effect. Chairman Limbacher indicated that a single article is his preference. Mr. Monger indicated if Town Counsel says a fallback is not necessary he will concur, but in the meantime he would like a fallback for a Special Permit as part of the article as he wants to protect the Town. Ms. Harbottle will talk to Town Counsel about going with a Part A/Part B and if that doesn't work a straight moratorium will be the goal. She will also clarify whether the timeframe needs to be one year or if it can be 4/30/14. The Board agreed that the Greenbush commercial district as shown on the current map will be used as the district for the Special Permit fallback position.

Mr. Monger moved to have a single article for a moratorium for medical marijuana dispensaries with a one year or 4/30/14 timeframe with a fallback in the article for dispensaries to be approved by Special Permit in the Greenbush commercial area. Mr. Taylor seconded the motion. Motion was unanimously approved.

Determine order articles appear on warrant

Town Planner, Laura Harbottle, recommended the order of the articles to be Medical Marijuana, Flexible Open Space, Village Business Overlay District and Accessory Dwellings. The Board concurred.

Discussion on the Accessory Dwelling article began with Town Planner, Laura Harbottle, indicating to the Board that she came up with another draft of the bylaw after considering extended families, and hearing from the Building Commissioner and Town Administrator of their concerns that restricting accessory dwellings in outbuildings in just one zoning district infers people are being treated differently in different parts of town. Ms. Harbottle indicated that with the new area restrictions, it will not be economical for accessory dwellings to be done for a small house. Mr. Monger indicated that with the perspective of treating people differently, it could be hard to have the bylaw passed with size restrictions and no free standing accessory dwelling allowed.

The Board reached a consensus that accessory dwellings will be allowed in all districts, that the increase in size change will provide control, the "clearly subordinate" language changes are good and they want to take out the curb cut piece. They also indicated they would like to stay at 40% or the lesser of 900 square feet, 25 permits per year, taking out E and H and making sure all the language is for primary dwellings will be needed. They also like the net floor area definition and indicated Section 420 of the bylaw needs to change to take out the affordable component.

The Board indicated they would like a review of the final wording for the medical marijuana and accessory dwelling articles and will meet on January 17, 2013 for this purpose.

Accounting

Documents

- P.O. # 13004260 (\$2,393.39)

Mr. Taylor moved to approve the requisition of \$ 2,393.39 to Beals and Thomas for their December invoice of professional services for the peer review of construction for Dreamwold Estates. Mr. Monger seconded the motion. Motion was unanimously approved.

Minutes

Mr. Taylor moved to approve the 12/20/12 meeting minutes and Executive Session Minutes of 12/6/12. Motion was seconded by Mr. Monger. Motion was unanimously approved.

Liaison Reports

None.

Town Planner Report

None.

Old Business and New Business

Documents

- Background and staff recommendations dated 1/10/13
- Email from Laura Harbottle to Karen Joseph dated 12/31/12 with 305 Country Way ANRAD
- Email from Laura Harbottle to Neil Duggan dated 12/27/12 regarding new lighting at the varsity baseball field at Scituate High School
- Request to Modify Comprehensive Permit issued to Walden Woods, LLC received 12/21/12

These items were distributed to the Board electronically. Chairman Limbacher indicated that he talked to Neil Duggan on Hillcrest Road and a building permit has not been granted for the lot before the Board in November. Mr. Monger indicated that case law is that the road must be built before Form A approval. Ms. Harbottle indicated she received a complaint and went out to the area and the turn around on the opposite side of the road is being constructed. No further action was discussed at this time.

Mr. Vogel moved to adjourn the meeting at 10:27 pm. Mr. Monger seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph
Planning Board Secretary

Richard Taylor, Clerk