

SCITUATE PLANNING BOARD MINUTES November 26, 2013

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

Members Absent: Eric Mercer.

Others Present: Ms. Laura Harbottle, Town Planner.

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

Location of meeting: Scituate Harbor Community Building, 44 Jericho Road, 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

- 11/26/13 Planning Board Agenda

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

**Continued Public Hearing and Scenic Road Public Hearing – 214 Thomas Clapp Road
Flexible Open Space Special Permit & Definitive Subdivision Plan & Scenic Road
Assessor’s Map/Block/Lot 18/1/2
Applicants/Owners: Fern Properties, LLC**

Documents

- Letter from Steve Ivas to Scituate Conservation Commission dated 23 Oct 13 with separate signature page on vernal pools and turtle habitat
- Figure 1 from the Ivas report showing CVP’s around 214 Thomas Clapp Rd, Scituate dated 18 Oct 13
- McKenzie response to Landscape Memorandum dated 11/19/13
- Benjamin Studley Farm partial set Sheets 1,4,5,7,9,9A, 10 dated 11/19/13
- Conceptual open space trail plan
- 9/27/13 letter from Hyla Ecological Services to Conservation Commission on MESA and Vernal Pool and Wildlife Impact Analysis
- 214 Clapp Road Planning Staff Report dated 11/25/13
- Conservation Commission Order of Conditions dated 11/19/13
- Email on 11/25/13 from Kevin Cafferty to Laura Harbottle forwarded to McKenzie Eng
- Email to Deb Keller on 11/26/13 with Revised Landscape Memo dated 11/25/13
- Email from Laura Harbottle to Deb Keller dated 11/26/13

Mr. Watsky, Ms. Keller, Mr. Bourque, and Dave and Joe Iantosca were present for the applicant. Mr. Watsky indicated that after the last meeting the Board wanted to see the Ivas report and the Conservation Commission Order of Conditions. He indicated that there were no changes to the plan as a result of Conservation Commission so that the density won’t be affected. Mr. Watsky indicated he hoped the Board could make a decision and close the hearing tonight.

Chairman Limbacher indicated that he wanted to allow time for public input, then review the Conventional Plan and waivers. He indicated the Board is not ready to close the hearing, but hoped

to cover all conservation, landscape and DPW issues. The Scenic Road will be discussed at a later date. Ms. Keller said that the landscape quantities, tree detail and demarcation of the open space have been addressed. She indicated the back property lines of Lots 4 and 5 and the drainage parcel would be delineated as well as posts at the 125 ft. buffer of the vernal pool. She said there is a fence along Lot 1 so no additional screening will be needed. Chairman Limbacher indicated that Mike Breen would like a mix of trees along the roadway instead of one species. Conservation Agent Pat Gallivan indicated he is rewording some conditions from the Order. He said the proposed work never goes inside the 125 foot vernal pool buffer or the 50 foot buffer to wetlands.

A discussion on road width followed. Ms. Keller said that the road width should not be altered per Kevin Cafferty of the DPW if the road will be put up for acceptance. Mr. Watsky disagreed. He said the Selectmen decide on the road layout. He indicated the purpose of a Flexible Open Space Subdivision (FOSD) was to have the project designed this way. He indicated it was not logical to have a disincentive to use the bylaw. He indicated that the drainage and pavement are designed to subdivision standards. Chairman Limbacher said that Town meeting decides on what streets to accept. He said the Street Acceptance Committee makes recommendations to the Selectmen and Planning Board if a street should be accepted. He said that some FOSD's with reduced road widths remain private and some need to be brought up to subdivision standards to be accepted by the Town. Mr. Watsky said it was not logical if the Planning Board determines that a narrower road width will yield less runoff and be in the best interest of the development.

Mr. Pritchard asked about granite curbing. Ms. Keller said they asked to use bituminous berm and will need a waiver to use granite only at the entry and drainage structures. She indicated that the waiver would also be required for the inner cul-de-sac island so that water can flow to the rain garden. She indicated they are using Class V RCP pipe. She indicated she would send the fire flow tests to the Board. Ms. Harbottle asked about the pipe cover waiver. Ms. Keller said that the requirement for 2.5 feet of cover over drain pipes is not met in one area. She indicated that the consulting engineer said with Class V RCP that would be acceptable, but the DPW wants ductile iron pipe. Ms. Keller said Class V RCP is warranted for 1 foot of cover. She said she can lower the pipe or use ductile iron.

Ms. Harbottle indicated that for the Conventional Density Sketch Plan, the Board has been struggling with the level of review for the natural resources. She said the Conservation Commission has reviewed the plan and issued their Order. She said that the MEPA review is not done yet. She indicated there was a take of habitat over 2 acres and state review is required. She said MEPA review takes just over a month. She indicated that town counsel told her that the FOSD relates to the natural conditions and the Board could approve the Conventional Plan subject to MEPA approval of the development or wait until after the MEPA process is complete to vote on the Conventional Plan. Ms. Harbottle indicated that MEPA could require more environmental review. Mr. Watsky said that MEPA was triggered by the Conservation Management Permit (CMP) and MEPA does not issue permits. He said they determine if an Environmental Impact Report is or is not required. He said that MEPA will say that agency action can occur. He indicated he didn't understand Ms. Harbottle's comments and that the applicant will go through MEPA once local permitting is complete. Ms. Harbottle said that MEPA sometimes provides conditions that the Planning Board may want to consider.

Ms. Keller provided a brief review of the Conventional Plan. Chairman Limbacher asked for public input. There was none. Mr. Vogel asked if the MEPA review is in process. Mr. Watsky said the CMP needs to be filed first and then the agency cannot issue the permit until MEPA review is

completed. Ms. Harbottle suggested the Board make sure the 9 lots for the conventional density are tied to state review as it gives the Board a stake in the process. Mr. Vogel asked if the state is going to look at the Conventional Plan and if they aren't why would the Board want them tied together. Mr. Pritchard indicated that if something comes up in the environmental review, the Board would have the opportunity to reconsider the issue. He said that the Board doesn't know what the Heritage Program will say. He said that he believes the applicant should go through MEPA first.

Ms. Keller summarized that the Conventional Plan complies with the Conservation Settlement Agreement for the road layout. 9 lots are proposed with 40,000 sq. ft. lots and adequate frontage. The existing home would be razed. She said the land area potentially in the conservation restriction would be in the lot areas. She indicated that the road length is 600 feet and complies with zoning. There were no further questions from the Board or public. Mr. Taylor confirmed that the conventional roadway is 4 feet wider than in the FOSD.

Ms. Harbottle indicated there should be Findings of Fact to support the Conventional Density Plan so that the thought process of the Board is included in case of an appeal.

Mr. Taylor moved that the Planning Board make the following Findings of Fact with regard to the Conceptual Conventional Density Sketch Plan for 214 Clapp Road by McKenzie Engineering Group, Inc. dated March 20, 2013 with revisions through June 5, 2013 as modified below:

1. Fern Properties, LLC filed an application for a Special Permit for a Flexible Open Space Development under Scituate Zoning Bylaw Section 550 on July 25, 2013. The property is a 17.6 acre Parcel in the Residential R-1 Zoning District. A Conventional Density Sketch Plan for 214 Clapp Road was filed with the application for the special permit.
2. The site contains a Certified Vernal Pool, buffer areas to two additional certified vernal pools, and priority habitat mapped by the Natural Heritage and Endangered Species Program (NHESP). The applicant filed a Notice of Intent with the Conservation Commission and their Order of Conditions was issued on November 19, 2013. In the Conservation Commission's hearing process, vernal pools and turtle habitat were evaluated and the Order of Conditions reflects that the layout of the Flexible Open Space Development could be constructed given these constraints. The limits of actual development for the Conventional Plan are significantly the same, thus it can be concluded that the layout shown could be constructed.
3. The NHESP determined a "take" of state listed species will occur with the removal of 7.4 acres of habitat area from this site. The applicant has indicated based on their conversations with NHESP staff, a contribution to the box turtle bank can be made and no alteration to the development layout will be required.
4. The applicant has not received MEPA approval for the development. This is a key approval that will incorporate the Conservation Management Permit and any other state environmental permits that may be required. It may incorporate restrictions on developable area.
5. Lots 1, 2, 6, 8 and 9 as shown on the plan each have more than 100' of frontage. Lots 3, 4, 5 and 7 have at least 60' of frontage on a cul-de-sac. Lots 1-9 each have more than 40,000 sq.

ft. of upland. From the plan, it appears a 175' lot width can be achieved on each of these lots.

6. The septic systems on Lots 1-9 appear to be horizontally separated from the property lines by at least 10', as required by Title V. These septic systems are proposed to be separated from the proposed homes by at least 20' as permitted by Title V.
7. A detention basin is shown on a separate lot, of similar size to the basin as fully designed. The lots meet all of the requirements of the Zoning Bylaw, despite the Planning Board concern on the "rattail" design.
8. The proposed road layout is 42' wide and pavement is 24' wide. The length does not exceed 600'. Curvature radius, grade and curb radius appear to meet the standards of the Subdivision Rules and Regulations.
9. The Conventional Density Sketch Plan was reviewed in the pre-application meeting process by the Town's consulting engineer Amory Engineers, P.C. on May 17, 2013. They noted that the layout/shape of the lots is not practical, and it was difficult to assess the size of the detention basin and difficult to determine whether the development could be constructed without a decision from NHESP, but indicated nine lots could be developed on the parcel.
10. The lots shown on the Conventional Density Sketch Plan meet the requirements of the Scituate Zoning Bylaw and Subdivision Rules and Regulations as required by Section 550.3 Paragraph 2.

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

Mr. Taylor moved based on these Findings of Fact, to approve the Conventional Density Sketch Plan showing nine lots for 214 Clapp Road, subject to MEPA approval of the development plan for nine lots. Mr. Pritchard seconded the motion. Motion was unanimously approved.

The Board discussed the waivers for the project as indicated below:

Section 6.3.1 Margin Requirements

Requirement: 2.5" left side margin and 1" margins on other 3 sides.

Proposed: 1.5" left side margin and ¾" margins on other 3 sides.

Section 6.3.3.4.b. Layout Plan and Profile

Requirement: Provide easements on Roadway Plan and Profile.

Proposed: All proposed easements are shown on the Subdivision and Easement Plans. Electric easements shall be provided by the Utility Company.

Discussion: Ms. Harbottle questioned why the drainage easement was also not an access easement to the open space. Ms. Keller indicated that the trail location won't go to the open space property. She said it could be added later if the Homeowner's Association agrees, but there will be no trail on the property to the public trail. Mr. Watsky indicated that 8 out of the 9 lots border on the public land and the applicant was trying to be responsive to concerns expressed previously by the abutters

about trespass issues. Ms. Harbottle indicated she was unaware that the section of private trail was being removed. Mr. Pritchard and Mr. Vogel concurred that they don't see a need for the private trail for 9 houses. Mr. Taylor thought there was to be a private trail to the public trail with signage to notify of private property. The Board concurred that if the private trail was not there, it would keep public trail users out of the private development.

Section 6.3.3.5.h. Topographic and Grading Plan

Requirement: Locate existing large trees, having a caliper of 12" or more in areas of disturbance.

Proposed: Illustrate the existing tree line and the proposed limit of clearing or tree line.

Waiver: Mr. Taylor moved to grant the proposed waivers of Section 6.3.1, 6.3.3.4b. and 6.3.3.5h. Motion was seconded by Mr. Pritchard. Motion was unanimously approved.

Section 6.3.4.1 Observation Pits

Requirement: Provide observation pits within roadway section.

Proposed: Extensive soil testing was previously done on site prior to filing in order to determine suitability of soils to accommodate Title 5 systems and stormwater management facilities.

Discussion: Ms. Harbottle indicated this was not an onerous requirement and it is meant to know that the road base will be suitable. Ms. Keller said that 51 test pits were done on the property in the developable area and some are located just off the road in the road right of way. She believes this is adequate to determine soil types. She indicated some of the road is in fill so that will aid in the ability for it to be adequately installed. Ms. Harbottle asked about depth to groundwater. Ms. Keller indicated it was consistent through the site. Mr. Iantosca indicated there will be compaction testing and testing of material at the pit before it comes to the site and that DPW will require compaction tests too. Mr. Vogel thought that was adequate testing.

Waiver: Mr. Vogel moved to approve the waiver. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Section 7.2.1.7.f Driveway location over soil absorption systems

Requirement: Curb cuts shall be located to allow construction of driveways without crossing over a soil absorption system or septic system structural component other than a forced main or transport pipe.

Proposed: Less than 20% of any soil absorption system shall be located underneath proposed driveways.

Waiver: Mr. Pritchard moved that the Board grant the waiver as requested. Mr. Vogel seconded the motion. Motion unanimously approved.

Table of Street Dimensions: Roadway Width

Requirement: Minor Street Type – roadway width of 24 feet.

Proposed: Proposed 20 feet roadway width.

Discussion: Ms. Harbottle indicated she was diverging from the DPW opinion and feels 24 feet is a lot of road and that a 20 foot road is not a safety issue. Chairman Limbacher indicated the proposed road is not a through road.

Waiver: Mr. Pritchard moved to approve the proposed 20 feet street width. Mr. Vogel seconded the motion. Motion was unanimously approved.

Section 7.2.1.8.b-e Curbing

Requirement: Granite curb is required at all intersections, cul-de-sacs and curb inlets.

Proposed: 18" Cape Cod berm is proposed for the subdivision.

Discussion: Ms. Keller indicated that the bituminous berm would be monolithically placed with the topcoat so it would stay put. The Board was concerned that with no curbing on Clapp Road, that snowplows could ride up over the berm and damage it and cause roadway damage. They thought granite curbing at the entry would make a nice entry and wanted granite curbing at the structures. The Board agreed that the inside of the cul-de sac will be per the plan and have openings for the rain garden drainage and the outside of the cul-de-sac could be Cape Cod berm. The Board agreed that appropriate transition curbs are required at the entry and throughout the development where necessary.

Waiver: Mr. Vogel moved to require granite curbing at the subdivision entry and drainage structures and not require granite curb at the cul-de-sac. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Section 7.3.1.4.d.2 Fencing for Detention Devices

Requirement: Detention devices which are expected to contain water or have a steeper than 3:1 interior slope shall normally be fenced.

Proposed: No fencing is proposed as no interior slopes are greater than 3:1. The micro pools in the pocket wetland will permanently contain water. With minimal water, no fencing will allow wildlife access to the pocket wetland.

Waiver: Mr. Pritchard moved to waive the fence requirement. Mr. Vogel seconded the motion. Motion was unanimously approved.

Section 8.2.1.2 Drain Pipe Cover

Requirement: Storm drains shall be reinforced concrete pipe and shall be laid with a minimum of 2.5 feet of cover over the top of the pipe.

Proposed: All storm drains shall be Class V reinforced concrete pipe with a minimum of 2.5 feet of cover except a waiver is requested for a minimum of 2.2 feet of cover at one location approximately at station 1 + 70 for catch basins CB-3 and 4 and DMH -4.

Ms. Keller indicated this waiver would affect 42 feet of pipe. Chairman Limbacher had no opinion. Mr. Vogel believes they should do what DPW wants. No vote was taken on this waiver.

Mr. Watsky asked that he have a chance to review the draft conditions after the Board has seen them prior to January 9, 2014.

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 Benjamin Studley Farm at 214 Clapp Road until January 9, 2014 at 7:30 pm and to continue the time for action for the Definitive Subdivision Plan, Flexible Open Space Special Permit and Scenic Road/Public Shade Tree Hearing until January 23, 2014. Mr. Vogel seconded the motion. Motion was unanimously approved.

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

- 50 Country Way Application for Mixed Use Special Permit and Deed and Stormwater Report and Calculations dated 10/14/13
- 50 Country Way Architectural Design Plans Sheets A 101- A 107 received 10/21/13
- 50 Country Way Proposed Mix Use Development Site Plans Sheet 1-7 prepared by Morse Engineering Co., Inc. dated 10/14/13
- 50 Country Way Assessor's Field Card
- 50 Country Way Transmittal to departments with applicant's list of public benefits
- 10/23/13 email from Chris Ford to Karen Joseph identifying architectural designer and public benefits
- 11/14/13 letter from Conservation Commission
- 11/15/13 DPW Comment
- Email forwarded from Paul Ford with Community Mtg 2013 Images and posters dated 11/17/13
- Email from John Clarkeson of the Water Resources Committee dated 11-15-13
- 50 Country Way Planning Staff Report dated 11/18/13
- 50 Country Way 11/21/13 Engineering Peer Review by Chessia Consulting Services
- 11/20/13 Design Review Committee Recommendations

Chairman Limbacher opened the public hearing at 9:00 pm. Chris Ford was present with his engineer, Gregory Morse; architect, Jim Sandell and attorney Steven Guard. Mr. Ford indicated he has owned the site for over 20 years. He said he attended all of the Greenbush study meetings and the Cecil Group previously indicated that the 50 Country Way site was underutilized. Mr. Ford distributed a package of materials with findings from the Cecil Group and previous site plans studied for the site development. He indicated he also owned the post office building near the site.

Mr. Ford said that the site was studied for residential development. He said the existing building was cited in the Cecil Group report as an element that should be preserved for its contribution to village character. He said his first plan in 2005 had five buildings and there was concern about building coverage and density. His second proposal had similar density concerns. He said this third proposal went before the Design Review Committee with a favorable response, but then the economy tanked. He said his fourth proposal was 1 ½ years ago and received positively, except that traffic was raised as a concern. He indicated this plan has taken traffic into account and the parking would be beneficial for Morning Glories too. He said he plans to preserve some of the existing building while creating a mixed use entity with retail on the first floor, office on the second floor and apartments on the third floor. Mr. Ford passed out details of the current plans. Mr. Ford expressed concern that Mr. Chessia's peer review said that there could only be a single building and there should be mixed use in all of the buildings. He indicated he would have gone a different route if that is the case. He said that commercial space is tough to fill.

Greg Morse reviewed the existing site. He said it currently has 5 rental apartments and the 1.4 acre site is all upland. He said the site is serviced by 2 access points off Country Way; one being a shared drive with Morning Glories. He said the site is flat and that soil testing indicates good gravel and

deep groundwater. Mr. Morse said the 400 foot Zone A line passes through the front of the site. He said the existing house and barn date to the 1800's.

Mr. Morse outlined the proposal. He said a piece of the old house would be moved to the front of the site with a proposed addition for Building A which would have retail, office and 3 apartments. He said the commercial use would be closest to the road. He said the applicants may want to move the barn to the post office property. He indicated that Building B would have 16 apartment units and Building C would have 11 apartments. There would be 30 units with 1 to 2 bedrooms and 15%, or 4, would be affordable units. Mr. Morse said 24 units are allowed by zoning, but a density bonus allows an additional 6 units with significant public benefit. He said the public benefits include continuing the path started by the MBTA that ends at Reynolds/Drew Place. The path will connect through the site to the walkway at Country Way and Stockbridge Road. Another benefit is to construct some park space in the 25 foot area off the back of the property. Mr. Morse indicated that services will come through the new parking lot and access easement and a few more parking spaces are required.

Mr. Pritchard asked for clarification on the retail/office component on the first floor. Mr. Ford said he has asked if the post office wants to relocate to this site. Mr. Morse reviewed the drainage and indicated that the 2, 10 and 100 year storms will be mitigated for both rate and volume. He said the site is on sewer. He said that a landscape architect is working on planting plans. He indicated that they have done traffic counts and are providing a second egress to avoid long ques. He said they have met with the Water Resource Committee and will be addressing their comments along with DPW's and Mr. Chessia's comments.

Mr. Sandell briefly described the architecture to be complementary to the historic building's architecture. He said all the buildings will have full basements and there will be bike storage facilities. Mr. Sandell stressed that it would be a transit oriented development to reduce cars and to encourage train and bike use. He said the buildings would be classic clapboard sided to look like wood with shingled roofs. He said Paul Ford is the architect.

Ms. Harbottle indicated that density is critical as it would affect traffic volumes, the look of the site and the amenities. She said the proposed park is on town owned land. She indicated that traffic engineering will need to consider circulation in and out of the site and the access easement which will be narrower and is shared with the adjacent owner. She said the buildings will need to be reviewed and the Fire Department may have requirements for access to all sides of the buildings and sprinklers. She said handicap accessibility for units and parking, the bonus density and a discussion on the antique buildings and possibly moving them will need review. She said the trail may be a possible public benefit that would help the property too. Ms. Harbottle said that Mr. Vogel reviewed the architecture and indicated that the roof pitches comply with the 8:12 requirement and one of the dormers needs correction. She said the 50% glazing requirement along the street frontage is not met. She said a waiver might be necessary to preserve the historic character of the building. Ms. Harbottle said that the bylaw requires retail on the first floor. She said that may not be totally realistic and the potential bylaw changes could help. Ms. Harbottle said that the Building Commissioner has said there could be some varying of the bylaw with respect to one versus multiple buildings.

Mr. Pritchard inquired if noise from the train would be an issue when the project is completed. He said he doesn't want residents asking for a sound wall down the line. Attorney Guard said there will be a vegetated buffer and the existing sound wall stops before the site. Mr. Vogel suggested choice

of windows and insulation could solve noise problems. Attorney Guard said that a noise study could be done, but it wouldn't be effective without the units there. Mr. Ford indicated he has rental units nearby and has not had complaints of the train noise. Mr. Vogel suggested getting an acoustical consultant on board and clarified that the apartments are rental units. He asked if parking would be assigned to individual units. Attorney Guard said each unit will come with a parking space, but they may not be designated spots. He said that retail space will have parking available all day. Mr. Ford said that the bylaw suggests that parking may be reduced since the site is in close proximity to the MBTA. He said that John Clarkeson of the Water Resources Committee suggested stations for electric vehicles.

Mr. Pritchard questioned how the open space requirement was met. Mr. Ford said it is 20% and it occurs in between the units. He said he would like to make a park at the rear of the site. Mr. Sandell suggested that terracing the slope by Stockbridge Road with landscape timbers could provide public gardens. Ms. Harbottle said that was a fun idea, but with the steep slope erosion could be an issue. Mr. Pritchard asked for the open space calculations to be submitted. Mr. Vogel suggested a plaza outside the front of the building to enhance the streetscape. Mr. Sandell said that would be great for a restaurant.

Mr. John Chessia P.E. indicated that the site is in the Water Resource Protection District and nitrogen removal needs to be incorporated in the stormwater system. He said that test pits were done this September which was dry so that adjustments should be made, and there must be 3 ft. of separation for groundwater. He said an erosion and sedimentation control plan must be submitted as the site is in the zone A area. He said the 25% slope on site is not natural and needs protection. He indicated a geotechnical engineer should design the wall. He said his interpretation of the bylaw is that there should be one building and thinks there should be a mixed use component in all the buildings. He indicated that the parking does not meet the bylaw and a breakdown of the gross square footage should be provided. He indicated the frontage is only 50 feet and it is not a corner lot as there can be no access over Stockbridge Road. He questioned the length of the building facing the street and indicated no landscape plan was provided.

Mr. Chessia indicated that impervious area needs to be recharged. Impervious area is maximized here so that the intent of the bylaw is not met. He questioned if the dwelling unit lot width is met as required for 100 feet according to the bylaw. He said some parking spaces shown are unusable as they can't be navigated. Mr. Chessia said that the path connection should not be through the parking lot. He requested the zoning table be clarified and the existing conditions plan stamped by a surveyor. He said 50 feet beyond the property line needs to be surveyed. Mr. Chessia said the grading at the rear of the site does not work and the existing conditions need to be current. He said there are more drainage structures on the site than shown and the 400' Zone A line must be surveyed as no drainage can be in the Zone A area. He indicated roof drainage collection will be critical and that all the volume needs to be recharged with 90% TSS as it is in the Watershed Protection District. Mr. Chessia said that in the 400' Zone A there can be no open basins or infiltration.

There was no public input. Mr. Taylor said that it makes no sense to have retail in the rear and he liked the massing of the 3 buildings. Ms. Harbottle said she agreed with Mr. Chessia on the number of buildings and lot width and suggested that the Board should look at dimensional requirements for the annual town meeting. Mr. Taylor thought that with the constraints of the site, it meets the spirit of the bylaw. Mr. Vogel concurred. He said that in the VBOD increased density is allowed and there will be housing and mixed use. He suggested a hard look from the Village point of view. Chairman Limbacher said a continuance was necessary and everything can't be waived. He

indicated that there needs to be more of a benefit for the increased density. He suggested a possibility of more affordable units. He said the Board is looking for a traffic study and the narrow exit is a concern. He estimated that the parking shortage is in the range of 20 spaces. He said drainage needs to be addressed and the existing drainage structures may impact the picture greatly. He said roof drainage, the exact location of the Zone A line, access in the site, and public areas and open space need to be addressed. Mr. Pritchard added his concern about noise and Mr. Taylor questioned signage.

Mr. Taylor moved to accept the applicant's request to continue the public hearing for the Mixed Use Special Permit in the Village Business Overlay District for 50 Country Way until January 23, 2014 at 8:15 pm and time for the Planning Board to take final action until April 23, 2014. Mr. Pritchard seconded the motion. Motion was unanimously approved.

**Form A – off Thomas Clapp Road
Assessor's Map/Block/Lot 23-1-2 & 3
Applicant/Owner: Beal/Crosbie/Crosbie Jr./Crosbie**

Documents

- Application, title, recorded certificate plans and authorizations from all property owners for ANR plan
- Plan of Land in Scituate showing a division of Assessor's map 23-1-3 showing remaining land on Land Court Plan # 5122A sheets 1 and 2 dated 11/7/13
- Plan of Land in Scituate MA showing a division of Assessor's Parcel 23-1-2 Clapp Rd into parcels B & C to be conveyed to the Town of Scituate dated 11/6/13

Gregory Morse P.E. indicated that there were two Form A's. He indicated that the majority of the land is being purchased by the town with CPC funding and a portion is being retained by the Crosbie/Beal families. He indicated the lot lines are not dissolved as there are separate land court numbers for each lot.

Mr. Taylor moved to endorse as approval under the Subdivision Control Law not required a Plan of Land in Scituate, MA showing a division of Assessor's Parcel 23-1-2 Clapp Road into Parcels B & C to be conveyed to the Town of Scituate dated November 6, 2013, and a Plan of Land in Scituate, MA showing a division of Assessor's Map 23-1-3 "Remaining Land" shown on Land Court Plan 5122A Thomas Clapp Road Scituate, MA consisting of Sheets 1 and 2 dated November 7, 2013, both stamped by William Joseph McGovern, Professional Land Surveyor of Morse Engineering Co., Inc. and both for applicants or record owners Constance C. Beal, Jan E. Crosbie, Arthur H. Crosbie, Jr. and Garrett H. Crosbie. The division of land is not a subdivision because every lot shown on the plan has access and frontage as required by the Scituate zoning bylaw on the public way of Thomas Clapp Road, or will be deed-restricted to prevent further development, and is not intended to be a buildable lot. Mr. Vogel seconded the motion. Motion was unanimously approved. Chairman Limbacher indicated he would sign the plans in the morning.

Sign Final Release for obligations of US Fidelity and Guarantee Co. and Lumbermans Mutual Casualty Company under Performance Bond for completion of Walnut Tree Hill Subdivision

Documents

- 11-8-13 Chessia Consulting Review update
- 11-18-13 Final Release

- Letter dated 11/22/13 from Murphy, Hesse, Toomey & Lehane, LLP

Ms. Harbottle indicated that at the Planning Board's initiative, the Town called the bond for the subdivision that was used to secure completion of the road. She said the Town collaborated with the insurance company and \$850,000 was obtained to fix the subdivision problems. Ms. Harbottle indicated that the work is completed and the Town's consulting engineer has given his signed off. She said that Town Counsel has drafted an agreement to be signed by the Planning Board and Selectmen that the work is completed.

Ms. Harbottle indicated that there is a possibility that the Homeowner's Association may request additional funds from the bond for resurfacing the road as it is 10 years old. Ms. Harbottle said that the Board may want to take signing the final release under advisement and decide at the next meeting. Chairman Limbacher indicated that any additional request for funds would need to be done prior to the Board signing the final release. Mr. Pritchard asked if the Board will be in a position to sign on December 19. Ms. Harbottle indicated that Town Counsel understands the issue and will talk to the Homeowner's Association.

Chris Brabham and Greg Lengen were present representing their own interests and not the Homeowner's Association despite being members. They indicated they would like the Town to go back and see if they can get more of the \$1.7 million bond. Ms. Harbottle indicated that could be a big undertaking. She said she had discussed legal issues with Town Counsel. Mr. Lengen said that he purchased his lot from Modern Continental who indicated that even if the company went under, the road was guaranteed to be completed through to street acceptance as they had posted a bond. He said they guaranteed a town road. Mr. Lengen said that Modern did go under and the residents can't go after the bond. He said the town hired Mr. Chessia to determine work to be completed, and the Town obtained \$850,000 for the work. He said that DPW is now saying that there is an issue with the road paving and that the road cannot be accepted as is. He said it was a shock to the residents to hear this and they would like to get money from the bond for this additional work.

Mr. Pritchard asked if the bond was written to say street acceptance. Ms. Harbottle indicated that the Homeowners have their view and she would talk with Town Counsel. Mr. Lengen said he specifically talked with Modern Continental about this issue. Mr. Brabham said the homeowners are powerless to have leverage on the bond. Mr. Pritchard asked Ms. Harbottle if it was clear what the obligation was. Chairman Limbacher indicated that the street needs to be brought to subdivision standards. He said that as a member of the street acceptance committee, they won't accept it because the pavement is 10 years old. Ms. Harbottle indicated that she thinks the issue can be resolved by December 19 and she will talk with Town Counsel about use of the performance bond. Mr. Lengen said that he wants to make sure the bond was for getting the road through to acceptance since the roads are more than halfway there now. Ms. Harbottle thought that the road could be accepted if DPW and the Planning Board agreed it was reasonably constructed.

Review Draft Zoning Articles

Documents

- 2013 Changes to the Water Resource Protection District
- Map of proposed Village Business Overlay District Extension
- Proposed changes to Sec 560 Village Business Overlay District
- Draft Medical Marijuana bylaw 11/22 and 11/25/13

The Board discussed having a Medical Marijuana Workshop on December 19, 2013 at their regular meeting. They wanted key parties such as the School Department, the Police Department and Board of Health to be informed. Ms. Harbottle indicated that Chairman Limbacher, Mr. Taylor and herself met with the police chief who indicated he was on Board with the proposal, but concerned with crime as the business would be a cash business. Ms. Harbottle said that Scituate won't get any applications until after the first round. Ms. Harbottle indicated she would talk to John Clarkeson on the Water Resource Protection District bylaw to coordinate a time for that zoning workshop. She indicated that feedback was received earlier in the evening on the Village Business Overlay District (VBOD). Mr. Pritchard questioned the inclusion of the lot by the river in the expanded VBOD district. Ms. Harbottle indicated portions of that lot near the Herring Brook could be cut out of the district and that would address some concerns of development too close to the river.

Accounting

Documents

- PO # 1403194(\$95.00)

Mr. Taylor moved to approve the requisition of \$ 95.00 to Champlain Planning Press Inc. for PlannersWeb.com subscription for 2104. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Minutes

Mr. Taylor moved to approve the meeting minutes of 11/14/13. Motion was seconded by Mr. Pritchard. Motion was unanimously approved.

Old Business and New Business

Documents

- Email from Laura Harbottle to Karen Joseph dated 11/20/13 on Mary Ann Doherty vs. Planning Board Scituate
- 11/26/13 DRT update

These items were distributed to the Board electronically.

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

Respectfully submitted,

Karen Joseph
Planning Board Secretary

Richard Taylor, Clerk

12/19/13
Date Approved