

**Scituate Zoning Board of Appeals
Meeting Minutes
October 2, 2018**

The Scituate Zoning Board of Appeals will hold a public hearing in the Joseph P. Norton Emergency Operations Center in the Scituate Public Safety Complex located at 800 Chief Justice Cushing Hwy. on **Tuesday, October 2, 2018 at 7:30 P.M.** to consider the following request:

Present: John Hallin, Chairman, Sara Trezise, Ed Tibbett, Anthony Bucchere.

Also Present: Jason Talerman, Esq., Mead, Talerman & Costa, LLC. and Bob Vogel, Building Commissioner and ZEO.

(Continued from August 30, 2018) SEB/Herring Brook Meadow, LLC requests a Modification to the Comprehensive Permit for Herring Brook Meadow, LLC pursuant to M.G.L. Chapter 40B, Sections 20-23. The request for change is on file with the ZBA for the project located at **126 and 132 Chief Justice Cushing Highway (Assessor's Map 58, Block 1, Parcels 8A and 5), Scituate, MA.**

Representing the Applicant: Bob Engler of SEB, LLC, and Attorney Stephanie Kiefer of Smolak and Vaughn.

Documents submitted: Hard Copy of draft decision for SEB/Herring Brook Meadow, LLC.

Mr. Hallin opened the meeting by explaining that the Board would review the draft decision for Herring Brook Meadow and that the Board could no longer accept public input because the hearing was closed.

Mr. Talerman thanked the project team. He sent a draft decision to SEB/Herring Brook LLC which served as a boilerplate. Mr. Talerman explained that SEB added some conditions. He moved things around and included some conditions that the Board felt strongly about. He sent a clean version as well as a redlined version to the Board members that afternoon for review.

Mr. Talerman stated that the first part of the decision was a description of the property with only a few additional details, so he suggested moving on to review the conditions with the Board.

Mr. Hallin and Mr. Bucchere agreed that the property description was acceptable and agreed to proceed with the conditions.

Mr. Talerman explained that the findings were generic with the exception of the final landscape plans and made a notation in the findings that the Board review final architectural plans.

Ms. Trezise said she had concerns regarding page 2, number 7, with the last sentence. "The jurisdictional requirements of 760 CMR 56.04(1) have been satisfied, provided that the Applicant closes on such proposed purchase of the site." She asked if they had a due date that had to be met.

Mr. Talerman said he was not concerned because the permit would be effective for 3 years.

Mr. Engler stated that SEB would have site control throughout the duration of the process.

Mr. Talerman explained there is minimal site control under 40B and that SEB must be the owner at the time they apply for the building permit.

Mr. Engler thanked Mr. Talerman for expediting the decision.
He said his only concern was the 1-4 rental condition.

Mr. Talerman clarified that he rewrote the condition to be 2 and 8 which will ensure that SEB would be able to rent an affordable unit.

Mr. Hallin agreed that 2 and 8 was more reasonable.

Mr. Engler said he would submit the architectural plans (final schematic plans) as soon as possible to ensure the Board had time to review them.

Mr. Talerman said he built in flexibility with the landscaping and lighting.

Mr. Engler said they would be meeting with the neighbors to finalize the landscaping plan.

Mr. Hallin asked whether the final set of plans would be reviewed by Woodard and Curran prior to submitting them to the Building Department.

Mr. Talerman explained that the Building Department, DPW and Engineer would have 45 days to review.

Mr. Tibbetts said the procedural history and findings were boiler plate and suggested moving on to the Conditions. He requested that Mr. Talerman provide a synopsis on the conditions instead of reading them verbatim.

Mr. Talerman began.

1. States that this is the newest permit and supersedes all others and approvals.
2. Approval is based on the plans already received as well as the final site plans.
3. The applicant must get final approval from Mass Housing.
4. Final Site Plans must be submitted to the Board's designated engineer, DPW Director, and Building Commissioner for review 45 days prior to the commencement of the construction of the project. The plans must be consistent with the original plan. If they require changes, the applicant must be notified that the Final Site Plans are incomplete.
5. The Architectural Plan will be reviewed by the Zoning Board at a regularly scheduled meeting prior to permitting.
6. The Administrative review of the Landscaping Plan must be complete prior to permitting.

Mr. Bucchere clarified that the review of the Landscaping Plan would also take place during a regularly scheduled ZBA meeting.

7. The Applicant must provide evidence that they have discussed the placement of the school bus stop with the school department.

Ms. Trezise suggested they speak with the police because it involves a State road.

Mr. Talerman said he would add that to this condition.

8. The Applicant is responsible for scheduling a preconstruction meeting with the Board's Engineer.

9. The Applicant must incorporate full cut-off lighting to comply with the Zoning Bylaw.
10. The final site plans shall include a construction mitigation plan, including truck routes. The construction mitigation plan must address cutting and clearing.
11. The Building Commissioner must confirm approval from the Water Division for utility hookup before issuing Building Permit.
12. The Building Commissioner has to receive evidence of a groundwater discharge permit from Massachusetts DEP.
13. The Applicant must provide the Building Commissioner with an approved amendment to the superseding Order of Conditions from Mass DEP.
14. The Applicant must finalize the details of emergency access including the gate, the Knox box and Turf stone. They need to decide who other than the property manager should have keys for the emergency access gate.
15. The final site plans shall depict the final design for drainage.
16. There must be an approved Fire safety plan.
17. The Applicant must provide DEP permit.
18. Mr. Talerman stated that he preferred not to have a list of waivers because something can be missed. Most of the waivers are dimensionally related. Waivers will not be granted from the requirements that are beyond 40B or from inspectional fees.
19. At least 15 units will be affordable. In the event that a tenant goes over income, they can stay and then the next available unit becomes affordable. The affordable units will move around the project which is compliant with the Regulatory Agreement.
20. Local residents do not automatically get preference. If the Town Staff wants local preference they would be required to demonstrate why.
21. The Applicant must have a monitoring agent.
22. The Applicant is a limited dividend entity as required by law.
23. The Applicant must provide the documentation regarding unit count required by Mass Housing to the Planning Department for the Town of Scituate.
24. This property is treated like a subdivision covenant. All of the infrastructure must be completed to ensure that the Applicant receive an occupancy permit.
25. The bylaws-hours of operation based on other projects in Scituate.
26. The Applicant must maintain the building and infrastructure of the project.
27. The Applicant is responsible for ice and snow removal as soon as possible.

28. This follows condition number 4. The Board's engineer or outside engineer shall be charged with general review of construction activities of the project.
29. The Applicant must pay Board's engineering fees and third party inspections for infrastructure.
30. Modifications to the project have to follow regulations. The Applicant must make request for change and the Board has 30 days to set hearing unless it is an insubstantial change.
31. The decision must be recorded with the Plymouth County Registry of Deeds and evidence of the recording must accompany the Applicant's Building Permit Application.
32. Prior to issuance of occupancy permits, any and all easements may be necessary to complete and occupy the Project shall be in a form approved by Town Counsel.
33. If the Applicant wants to transfer ownership of the permit they must go through the regulatory process and give notice.
34. The Applicant has 3 years to complete the project and must apply for extension if needed.
35. This is a severability clause in the event that all of the conditions are not met.
36. Appeals of this amended permit decision shall be made pursuant to G.L. c. 40B.

Mr. Hallin asked Mr. Engler when he expected to start building.

Mr. Engler explained that they needed permits from the State of Massachusetts. He said it would take approximately 6 months to finish the drawings and get bids. He said he would like to start building by late spring. He was hoping for occupancy in 2020.

Mr. Hallin asked if there were any other questions from Mr. Talerman or the Board members.

Mr. Talerman they were ready to go.

Mr. Tibbets complimented the Engler family and said as the owner, you look to be a good neighbor.

Mr. Bucchere made a motion that the Board grants approval to the 40B permit and the application presented by the applicant drafted by Mr. Talerman which shall be amended to reflect the some of the minor amendments discussed tonight. Motion seconded by Mr. Tibbets.

All in favor Unanimous.

Ms. Trezise complimented all of the neighbors for their input which made the project the best it could be. She said she wished more people would get involved and thanked them. She said she was grateful to the whole team and cannot wait to tour the new building.

Mr. Engler thanked the neighbors for working with them. He said he appreciated all of their input and dialog.

Mr. Hallin thanked Sarah for her service over the last 12 years.

Ms. Trezise made a motion to adjourn. Mr. Hallin seconded. All in favor.

Meeting adjourned at 8:30pm.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Susan Tice". The signature is written in dark ink and is positioned above the printed name.

Susan J. Tice