

**TOWN OF SCITUATE
PROPOSED 40B PROJECT HEARING
ZONING BOARD OF APPEALS
Meeting Minutes**

April 27, 2022

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Present: Anthony Bucchere, Chairman, George Xixis, Susan Harrison, Justin M. Marks, Christopher Carchia
Also present: Robert Vogel, Scituate Building Commissioner
Cindy Amara, Esq., Special Counsel for the ZBA Board and Town of Scituate (via Zoom)
Jeffrey A. De Lisi, Esq., Ohrenberger, De Lisi & Harris, LLP, 28 New Driftway, Scituate, MA -
Representing the applicant Dan Lovendale of Salt Meadow Development at Scituate, LLC
Dan Lovendale of Salt Meadow Development at Scituate, LLC - applicant
Mark Casey, Engineer with South Shore Survey Consultants, Inc.
Jeremy Lake, Architect with Union Studio Architecture
Patricia Van Buskirk, Landscape Architect (not present)
Jeffrey S. Dirk, P.E., PTOE, FITE, Traffic Consultant with Vanasse & Associates Inc. (not present)

The Scituate Zoning Board of Appeals held a hybrid public hearing in the Selectmen's Hearing Room in the Scituate Town Hall located at 600 Chief Justice Cushing Highway and was also accessible via zoom on **Wednesday, April 27, 2022 at 7:00 P.M.** to consider the following request:

Salt Meadow Development at Scituate, LLC, seeks a Comprehensive Permit pursuant to Massachusetts General Law Chapter 40B, Sections 20 through 23, 760 CMR 56, and the Town of Scituate Zoning Bylaw and Comprehensive Permit Rules and Regulations, and/or any other relief that the Board of Appeals may grant, to allow for the construction and use of at least 32 dwelling units, at least eight of which would be restricted for low and moderate income for the development of affordable housing, at the property known and numbered as **279-281 Old Oaken Bucket, Scituate, MA, comprised of Assessor Parcels (44-1-3-D, 44-1-3-0, 41-1-3-A).**

Mr. Bucchere – opened the meeting with introductions from the board members and gave a general overview of the 40B process relating to this project.

Attorney De Lisi – presented a brief overview of the proposed project and introduced involved parties. The property itself consists of three assessor's parcels which contain approximately 11.2 acres of land and have the addresses of 279-281 Old Oaken Bucket Road, Scituate, MA. Salt Meadow Development, LLC is the sole owner of the property and has full control over the site. The property is within the R3 zoning district as well as the Water Resources Overlay zoning district. The property currently contains a two-family five-bedroom dwelling. This project proposes to construct at least 32 dwelling units (single or duplex units) and possibly in addition to the 32 units, to renovate the existing dwelling into an additional two units. The total bedroom count is 89 – 8 units being deed restricted. In the event the proposal ends up being 34 units then 9 could be deed restricted to low and moderate family income, which would be a

family income of no more than 80% of the mean family income in the area. Wetlands do exist on the site and have been delineated and approved by the Conservation Commission. An application and hearing will be submitted and requested before the Scituate Conservation Commission for approval of the state regulations under the Wetlands Protection Act for any work within its jurisdiction which is 100 feet from any delineated resource area. This site is not located in a mapped priority habitat area. This project has been preliminarily reviewed by the Board of Selectmen regarding the site eligibility process. The state did issue an eligibility approval letter last year approving a maximum of 34 units and 90 bedrooms. The outcome of the existing dwelling on the property is open for discussion with the board and/or how it may fit into the proposed project. Drainage calculations, stormwater management plan and a preliminary traffic assessment were all submitted with the application and are open for discussion.

This is a Comprehensive Permit application and regarding local regulations, the ZBA is the sole permit granting authority. Other town boards have been provided a copy of this application and have been provided an opportunity to comment. A hearing before any other town board will not be required except the Conservation Commission which is required by state law.

Jeremy Lake – introduced himself and his firm. Reviewed for the board and the public via Zoom the designs that were submitted with the application. The proposed design was discussed and included an entry green, kiosk for school children to wait for a bus and an overlook area over the marsh. 32 new units are proposed and 2 additional units in the existing house. The units are a mix of single-family detached (stand alone homes) and single-family semi-detached (duplex homes), which will be attached by garages/garage walls and vary between two and three bedrooms. The two-bedroom units will be approximately 2,200 square feet and the three-bedroom unit will be approximately 2,350 square feet. The single-family detached units that will be known as “The Lily Cottage” will be approximately 2,100 square feet. The units will have front and back porches and patios. The materials that are to be used are of high quality and are meant to be in keeping with the traditional scale and character of the area.

Mark Casey – introduced himself and his firm. Reviewed for the board and the public via Zoom the plan set that was submitted with the application. The plans reviewed consisted of the layout of the development, the existing conditions, the location of wetlands, the utilities layout, grading and drainage, erosion control, road profiles, emergency vehicle movement and constructions details.

Mr. Bucchere – asked the applicant for clarification for the number of units that are being applied for – which total 34 units. A floor plan for the existing home was not submitted with the application but it was included on the site plan. An assessor’s card was submitted for that property which indicates the number of bedrooms to be five. Mr. Bucchere addressed the issue of percentage of affordable units and the location of same. Further discussion consisted of where the affordable units would be and how they would be made up. Attorney De Lisi stated he would have to further investigate these issues and confer with his client.

Mr. Bucchere also addressed the issue of setbacks from Old Oaken Bucket Road for the existing structure and proposed structures. Mark Casey reviewed the plans and stated that Unit #1 would be approximately 22 feet from the property line and to the roadway would be approximately 33.5 feet (from the first step on the covered front porch of the unit). On Unit #2 to the closest corner of the porch is approximately 22.5 feet and to the edge of the traveled way is approximately 33 feet. Mr. Bucchere asked that for the next meeting if a typical site plan with noted setbacks from the exterior of the buildings to the nearest property lines could be submitted by Attorney De Lisi for review. Attorney De Lisi stated that he would do that and include the building envelope as suggested by Mr. Carchia. Mr. Xixis has questions regarding traffic issues and the significant traffic impact on the area and how those issues will be handled.

Mark Casey – stated that Jeffrey Dirk is the traffic engineer and that at a future hearing, Mr. Dirk would go through everything and answer any questions the board may have.

Mr. Marks, Ms. Harrison and the board – had questions regarding the location of the affordable units, traffic and the existing dwelling. Mr. Casey responded with he was looking for input and direction from the board on how they would proceed regarding the existing dwelling – to save it, save it and improve it are possibilities. The historic value of the dwelling also will be researched and discussed. Mr. Lake commented that the maximum number of bedrooms within this development is 90 so if the house will remain some of the bedrooms in the remaining units may have to be modified. Mr. Bucchere confirmed that the 90 bedrooms maximum is for the site in general. Mr. Casey reviewed with the board what the DEP regulations would allow for this “one facility” regarding bedroom units.

Attorney De Lisi – reviewed the historical review process with the board regarding the existing dwelling. Mr. Bucchere also conferred with Mr. Vogel regarding the historic building bylaw that it doesn’t prevent the modification – only that there would be a waiting period. Mr. Vogel reviewed this process. Mr. Vogel added there would be no restrictions on interior renovations in the meantime. Mr. Bucchere and Attorney De Lisi discussed that the possibility of the existing dwelling being a condominium structure and would be for sale. Attorney De Lisi confirmed this dwelling would be a condominium circumstance and would be part of the homeowner association and would not count toward affordable housing inventory and would be sold.

Ms. Harrison – questioned a waste water treatment. Attorney De Lisi stated Mark Casey would address those questions. Mr. Bucchere stated that with the assistance of the planning department has reached out to five engineers that are on the town’s approved list with a request for a proposal for peer review for this application. In terms of bullet points in a proposal to review would include: existing conditions and the engineering plans within the application, the notice of intent, the stormwater conditions at the property, the traffic plan at the property, infrastructure review (water and septic), landscape and lighting, the list of waivers submitted by applicant, the proposals conformance with the eligibility letter and any performance guarantee (to the extent one may become necessary). Attorney De Lisi asked the board to consider the comprehensive permit regulations that deal with peer review consultants, specifically the Town of Scituate Comprehensive Permit Rules of the Scituate Zoning Board of Appeals Section 4.01. Attorney De Lisi stated that it appears that there needs to be a vote as to who the peer review consultant is going to be and the language that states whenever possible to work with the applicant in the selection process and negotiation of that contract. Alternatively, the town can hire whomever they want but the amount of that fee needs to be reasonable and a fee will be charged.

Mr. Bucchere – responded to Attorney De Lisi and reviewed with him the peer review process to date in this particular application. Attorney De Lisi pointed out the Code of Massachusetts Regulations that governs the procedure hearings, specifically 760 CMR 56.05 (5)(b) and encouraged the board to review these regulations. Cindy Amara was part of this discussion. Specific areas that will be addressed by peer review will include: stormwater, traffic, infrastructure (septic/wastewater) and possibly landscape/lighting and additional administrative items. Mr. Bucchere stated the board would keep Attorney De Lisi advised of RFP responses and materials. Responses are due on or before May 3, 2022. Mr. Bucchere read into the record a statement issued by Amy Walkey – the town’s Conservation Agent. Attorney De Lisi discussed with the board. Mr. Bucchere reiterated that this board is tasked with all approvals with respect to the town’s zoning bylaw and other ordinances regarding the approval of this project. Con Com will hear this application concerning state environmental regulations. A statement from Karen Joseph – Town Planner was also read into the record and discussed, which included the availability of fresh water use.

Mr. Vogel – wanted to note that the project will be controlled construction. Also, wanted to review the conditions that will be placed on the comprehensive permit by the ZBA, such as hours of operation, dust control on the site during construction, construction related traffic and parking activity and possibly others. These conditions are placed to mitigate the impact on the neighborhood during construction. In the event that any of these issues need to be enforced they will be done so through the Building/Zoning Enforcement Office.

Meeting was opened for public comment –

Karen Canfield (Scituate Select Board member & liaison to other town boards) – asked for the developer to provide background on his experience and what it can bring to this development. Dan Lovendale responded that he represents the Saltmeadow Development and is a lifelong resident of the south shore (Weymouth) and spent significant time in and was/is familiar with Scituate throughout his lifetime. Although he has been involved with many construction projects, this is his first involvement in a 40B process. Dan explained that in working with Mark Casey and Jeremy Lake that a lot of thought and effort has been put into this project and the need for affordable housing in the area. Ms. Canfield additionally addressed the concerns relating to water resources, egress and access. Ms. Canfield also asked for an explanation regarding if or how the affordable units contribute to the maintenance of the HOA. Attorney De Lisi responded with the requirements for the condominium statute and stated that in this case there will be a document that is recorded against the title which is a restriction that indicates the appropriate number of units are deed restricted to be affordable cannot be sold to anyone unless they qualify with the 80% income of the area ratio that is contained in the statute. In short, they will pay less for the maintenance than the non-affordable units. The total acreage of the site was confirmed at 11.22 acres.

Kerry Hannigan (37 Marilyn Road, Scituate, MA 02066) – questioned whether this application has or has not been approved by the Conservation Commission. Mr. Bucchere explained it has not been approved yet.

Liz O'Reilly (179 Maple Street, Scituate, MA 02066) – stated her concerns regarding the traffic study and regulations regarding Old Oaken Bucket Road being a scenic road and removal/restoration of stone walls, trees coming down and the possibility of a school bus kiosk. Also, Ms. Reilly has concerns regarding a perk test report for this proposed project (281 Old Oaken Bucket) or Title V for the sale of the property. Mr. Bucchere stated that that topic will be reviewed. Mr. Reilly asked if a 21E was going to be done on the 279 Old Oaken Bucket property. Mr. Bucchere responded that the reference Ms. Reilly was referring to was a state environmental and this board will be the administrative board for all town bylaws. State and/or federal issues are not before this board.

William Nelson & Jamie Patterson (38 Marilyn Road, Scituate, MA 02066) – had concerns that the previous owner of the property located at 279 and 281 Old Oaken Bucket Road was listed on the Assessor's Office records and not the present owner. Mr. Bucchere explained that the Assessor's records are not updated instantaneously. Attorney De Lisi also explained that Mr. Harris (prior owner) is not involved. Mr. Nelson also had questions regarding involvement with the Scituate Fire Department in a prior attempt at developing this site. Ms. Patterson stated that her family roots are well established in Scituate and her father currently is a Trustee to the Historical Society and Chamber of Commerce noted she has concerns regarding the water and whether the fire department would revisit issues with this proposed project. Mr. Bucchere stated that comments from the fire department should be forthcoming.

Sean Manning (272 Old Oaken Bucket Road, Scituate, MA 02066) – is located directly across from the proposed development and he is concerned about the traffic. He also has concerns regarding water and/or if sprinkler systems are being considered. Mr. Bucchere confirmed with Attorney De Lisi that the

developer would not be seeking a waiver from the town for the prohibition of landscaping irrigation systems.

Attorney De Lisi – addressed the issue of water and the town's drainage infrastructure is in constant need of repair and a tremendous amount of water is lost due to the deteriorated/leaking pipes and infiltrates into the ground. In order to fix that and ensure enough water is available for the town, tax dollars are required. One of the collateral benefits of this project, and others, is that the town is bringing some income in through tax dollars to be utilized to repair these areas.

Jesse Brandt (297 Old Oaken Bucket Road, Scituate, MA 02066) – questioned the impact on the school system with the size of the development. Mr. Bucchere and/or the board would be willing to reach out to the school system. Mr. Vogel commented that according to a recent projection that within the next ten years the schools would actually see a decline. Mr. Carchia also commented and confirmed the results of this study.

Jacqueline Koelsch (269 Old Oaken Bucket Road, Scituate, MA 02066) – expressed concerns regarding how wet this property is and displacement of trees and how her property would be affected. Mr. Bucchere responded that stormwater issues would be addressed by peer review.

Shawn Tierney (178 Maple Street, Scituate, MA 02066) – questioned why low income/affordable homes for handicapped/disabled veterans or housing for elderly are not being considered. Mr. Bucchere explained the calculation for pricing for what is market and/or market for these units is set by the state/state law. The issue of disabled veterans and/or elderly housing is not being addressed in this particular application although they remain important issues. Mr. Tierney also had concerns regarding traffic.

Kevin Marshall (282 Old Oaken Bucket Road, Scituate, MA 02066) – asked what could be done to require the development to be set back so it doesn't change the character of the neighborhood. Mr. Bucchere stated to this point he would like to see additional renderings and designs of what this development will look like from the main street including a sign, landscape, lighting etc. and/or if the main house will remain.

Stephen Mooney (149 Old Oaken Bucket Road, Scituate, MA 02066 & 171 Old Oaken Bucket Road, Scituate, MA 02066 (Pope's Pond Cranberry Co., Inc.)) – owns his home and Pope's Pond Cranberry Co. He supplies cranberries to Ocean Spray and has concerns regarding drain off/wastewater and the possibility that he would not be eligible to use his cranberries. He has concerns regarding traffic and speed of incoming from Norwell and around Scituate. Attorney De Lisi responded and commented on Mr. Mooney's concerns. Mr. Bucchere also stated that these issues would be reviewed in detail.

Edward Foley (21 Marilyn Road, Scituate, MA 02066) – had objections to this project for two reasons: traffic and water issues/demands.

Matthew Murphy (268 Old Oaken Bucket Road, Scituate, MA 02066) – commented he felt that this proposed project was already a done deal and expressed similar concerns as other abutters regarding traffic and water. Mr. Bucchere commented on his concerns.

Karen Marques (255 Old Oaken Bucket Road, Scituate, MA 02066) – expressed concerns regarding traffic. Mr. Bucchere commented on her concerns.

Virginia Rubega (41 Woodworth Lane, Scituate, MA 02066) – commented that in her opinion the public did not have a choice to make any modifications. Mr. Bucchere stated that modifications could be sought and/or to include imposing conditions and/or deny the application.

Frank Gianino (58 Kings Way, Scituate, MA 02066) – wanted to offer his suggestion to the board for consideration to put up a performance bond as an experienced developer. Mr. Bucchere stated that the board is planning on doing that and that it was an excellent recommendation.

Mr. Bucchere – closed public comments at 9:45 p.m. Reviewed a “to-do list” for the next hearing in this matter which included to reach out to Norwell and Scituate fire and police with a more direct request for comment regarding traffic safety and within the proposed development, to follow-up on requests for peer reviewers and share responses, will reach out to DPW and Water Resource Commission for their comments on water use and capacity. Mr. Bucchere additionally had a “to-do list” request for Attorney De Lisi and the developer which included a request for a setback plan, additional renderings, landscape, lighting, architecture from the perspective of the street, a logistics plan during construction (when, how, timeline etc.) and a revised affordable calculation.

Attorney De Lisi – stated that with regard to the selection of a peer review consultant he would like to be able to work cooperatively with involved parties – not necessarily in the context of a hearing – which would allow some form of review prior to the next hearing. Attorney De Lisi ultimately would like to take the list of items/questions and formulate revisions/responses and submit those to the peer review engineer for an initial review prior to the next meeting and suggest the next meeting take place in approximately six to eight weeks. Mark Casey also commented.

Mr. Bucchere – agreed with Attorney De Lisi’s summary and made a motion that the chair will be working with Janine Cicchese, Bob Vogel, Cindy Amara and the applicant to nail down a peer reviewer and to get the initial items of peer review going prior to the next hearing and not limiting or taking any future areas of peer review off the table. Motion seconded by Ms. Harrison, all in favor, unanimous.

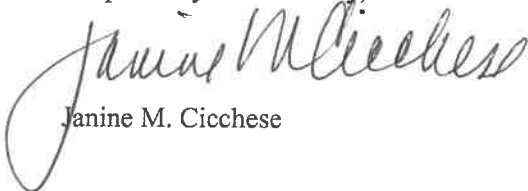
Mr. Bucchere made a second motion to continue the hearing until June 22, 2022 at 7:00 p.m. to be located at an available location which will be published on the Scituate Zoning Board of Appeals website. Motion seconded by Mr. Carchia, all in favor, unanimous.

ADJOURNMENT

Motion to adjourn by Mr. Bucchere and seconded by Mr. Carchia, all in favor, unanimous.

Meeting adjourned at 10:00 pm.

Respectfully submitted by,

A handwritten signature in dark ink, appearing to read "Janine M. Cicchese", is written over a printed name. The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Janine M. Cicchese