

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

**November 1, 2022**

**Present: Anthony Bucchere, Chairman, George Xixis, Susan Harrison, Justin M. Marks, Christopher Carchia**

**Also present: Robert Vogel, Scituate Building Commissioner**

**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.**

**Jeffrey S. Dirk, P.E., PTOE, FITE, Traffic Consultant with Vanasse & Associates Inc. (via Zoom) – for applicant**

**Cynthia L. Amara, Esq. – Town counsel**

**Deborah Keller, Merrill Engineers and Land Surveyors**

**Kirsten Braun – Ron Muller and Associates – Traffic Peer Review**

**The Scituate Zoning Board of Appeals held a public hearing via Zoom only on Tuesday, November 1, 2022 at 7:00 P.M. to consider the following request:**

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***(Continued from October 4, 2022)*** 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 and explained that the board has seen a significant redesign of the project. Most notably the project will go from 32 units to 24 units and no attached units will be in the new proposal – entirely single-family homes.

**Attorney De Lisi** – gave an overview since the last meeting and reiterated that the property consists of three assessors' parcels on a total of approximately 11 acres of land. The mailing address of the property is 279-281 Old Oaken Bucket Road. The conservation commission approved a delineation of the wetlands last year and will in the future, should an approval be granted, a filing of Notice of Intent application would be filed with the conservation commission to deal with what is in its jurisdiction. There are no mapped wildlife priority habitat areas on the property. The property currently contains a two-family dwelling having a total of five bedrooms. Last year a site eligibility approval was issued by the state to authorize a maximum of 34 units, 9 of which would be deed restricted for low to moderate

income persons/families who qualify. The first meeting in this matter was in April 2022, second meeting in June 2022. The town/this board did not engage a peer review engineer until June 14, 2022 and a report was not received by the town's peer review engineer until August. At that time, questions and issues were addressed with the town's peer review engineer and traffic consultants. In the month of August additional questions arose regarding perc tests and some more due diligence was required. During this process it was discovered that even though the number of units has been redesigned from 32 to 24 units, the perc tests drive the bedroom count for Title V purposes. So, while the applicant can still have 34 units, the applicant is limited to 66 bedrooms. Due to this issue a redesign has been developed.

**Mark Casey – South Shore Survey Consultants-** Deb Keller, the town's peer review engineer, has asked for additional perc tests in the area where the soils are consistent of the leaching area that the septic was going to be and numerous observation holes and soil evaluation in all the areas where drainage structures are indicated on the plan. The slower the perc rate the larger the soil absorption system has got to be. Due to the limited area, the redesign now includes 66 bedrooms. The fire department has reviewed the new layout and are reportedly happy with the new plan. Mr. Bucchere confirmed that the fire department has submitted their approval in writing. On the new plan, units 3, 8, 13, 16, 20 and 22 are designated as affordable. At this time, a bedroom count has not been determined; however, the affordable units will not be distinguished as such. The unit counts will most likely be 18 three-bedroom and 6 two-bedroom but this has not been confirmed. Attorney De Lisi stated that one of the benefits in reducing the number of units is that there will be a material reduction in the amount of impervious area on the site. Mr. Casey noted the setbacks for that zoning area and noted that no accessory structures will be on this property. There are side setback issues at the back-property line. Units 1 and 2 are the only units where the front setback is involved and setback waivers will be requested where noncompliant. A conversation followed with Mr. Bucchere with a review of setback issues and where front, side and rear setbacks will be determined.

**Attorney De Lisi** – addressed issues/concerns regarding an access way/road and new bylaw issues regarding a “residential compound development” Section 610.2D of the Scituate Zoning Bylaws. Mr. Bucchere clarified that everything abutting the Old Oaken Bucket right of way would be viewed as a front setback, everything abutting the newly constructed way would be a front setback and everything on the right side of the property would be rear setbacks lines (back of Unit 19 and side of 18). Mr. Vogel suggests to take a look at Stockbridge Landing development as this will be a similar layout.

**Mr. Xixis** – the units that are along Old Oaken Bucket, specifically Units 1 and 2, were discussed as to placement (whether they could be pushed back slightly) due to wetlands and common driveway concerns. Mr. Casey explained if that happened then the impervious surface would come close to becoming a 25' setback from the wetlands. Mr. Casey further explained that those units could be moved a bit but would be very close to the wetland setback. Attorney De Lisi reminded that this board is “wearing the hat” of the local wetland regulations for the purposes of review of this application – so under the local regulations there is no real buffer strip to a resource area and this board is acting in the authority of that; however, in the state regulations there is no “no build” buffer strip. Therefore, this board has the authority to allow developer to go into that area if necessary. Mr. Casey reiterated they are trying to respect the 25' buffer. Mr. Bucchere added the board would like to see Unit 1 and 2 get as far away from Old Oaken Bucket as possible without violating the town's 25' setback.

**Mr. Bucchere** – questioned whether the units will be on slabs or have basements. It was confirmed that these units will have basements. Further discussions with the board and the applicant regarding additional setback issues followed.

**Attorney De Lisi** – asked the board if they wished to hear from Mr. Dirk regarding traffic issues. Mr. Bucchere stated that the board was not inclined to hear from Mr. Dirk as they had heard his information

and where this revised proposal is less units with significantly less bedrooms and less cars it would most likely diminish traffic. Attorney De Lisi noted for the board that the goal of this meeting was to propose the new layout. He did state that the engineering for the new layout will need to be further refined to get to such a point that at the next meeting the board could expect to present any engineering issues that were reviewed, issues that remain and be more of a technical hearing. For those reasons, Attorney De Lisi requested a continuance to late December. Mr. Xixis and Mr. Casey agree that this is a significant redesign where everything effects everything and will require tweaking.

**Ms. Keller** – stated that from an engineering standpoint the layout has been adjusted due to soil testing results that occurred on the site. She does not have much more to comment on the new layout until the revised engineering results are received regarding drainage and such.

**Kirsten Braun** – provided a summary on the traffic. She did review the initial traffic study that was done for this site. She is aware that some changes have been made and stated that the traffic changes are good. Any reduction in unit count would result in less traffic than assumed in the study. Ms. Braun did have a few comments on the initial study. One being the discrepancy between the mix of units and unit count but due to the change in plan the information will get ironed out. Ms. Braun did note that a few intersections within the study area did have some safety issues, specifically the intersections at Old Oaken Bucket Road and Maple Street and Old Oaken Bucket Road at Route 123, both of these intersections did have much higher crash rates than district and statewide averages. For these reasons it was suggested that the town include the condition of approval that Road Safety Audits have been completed and submitted to the town prior to the issuance of any certificate of occupancy. Additionally, it was asked that the applicant look into background developments in Norwell as being in the area those reports may have an impact on the traffic study in this area and more information on the unsignalized intersection capacity analyses tables and that they include the volume to capacity ratios. The safety of the site access point was mentioned and that there is some existing vegetation that will need to be removed along the south side of Old Oaken Bucket Road and an embankment east of the site that will need to be regraded so sight lines exiting the sight meet or exceed the minimum requirements for safe operation. It was suggested that the applicant include a site line profile and plan to ensure any landscaping, fencing and/or objects are not located in the site triangles and that the embankment is graded well enough to allow motorists to get in and out safely. An interior siding and striping plan were also recommended and a stop line and sign be placed on the driveway exit to Old Oaken Bucket Road. The suggestion that the fire department be contacted has been worked out. A response to these comments has not been received yet. Mr. Bucchere stated that it was his intention that the applicant's traffic engineer's contention was that a development of this size didn't have anything with a sufficient impact on the situation at the intersections previously mentioned. Mr. Bucchere asked Ms. Braun if her analysis matched up to that. Ms. Braun responded that these intersections have a minor traffic impact compared to other developments but a larger issue does not want to be created than already exists. Ms. Braun's understanding was that the applicant agreed to contribute to implementing low cost improvements. Mr. Bucchere stated it was his understanding that DPW was not interested in pursuing an RSA concerning Old Oaken Bucket and Maple Street intersection. Mr. Bucchere stated he did not understand as to why that was. Ms. Braun also suggested that additional information could be requested by requesting crash data from the police department, analyzing crashes and recommendations for improvements.

**Meeting was opened for public comment –**

**Liz O'Reilly (abutter @ 179 Maple Street, Scituate, MA 02066)** – had questions on the new design and concerning the historical farmhouse on the property, concerns about traffic speed with recent speed traps and new paving and a proposed new 26-unit development on the Norwell-Scituate (322 Old Oaken Bucket) line, which is on the agenda of the Norwell planning board for November 2, 2022. Mr. Bucchere reviewed each of these concerns with Ms. O'Reilly and the board. Mr. Bucchere also addressed

additional concerns/questions with Ms. Braun regarding RSA issue. Ms. Braun explained the RSA process and involved parties. Ms. Xixis commented on the speed and sight line concerns noted by Ms. Braun. Mr. Carchia commented that the speed issue was discussed at a recent Select Board meeting and police have noted issues with speed due to recent repaving on Old Oaken Bucket and are currently enforcing same. Mr. Casey noted that it was his intention to resend a survey crew back out to the site to resurvey and check for visual obstructions. Mr. Bucchere asked Ms. Cicchese to draft an email to DPW, fire and police with copy Mr. Bucchere to renew the conversation regarding a recommended RSA by the town traffic engineer and to reach out to Norwell regarding the pending development. Attorney De Lisi interjected that he is actually involved in that development and is familiar with it. Attorney De Lisi explained that this development would have an entrance off of Old Oaken Bucket as well as off of Cross Street. He also commented on the issue of speeding regarding Ms. O'Reilly's concerns.

**Mr. Bucchere** – asked the applicant for a more detailed set of plans and physical locations and to convey those to the town's engineers for an opportunity for review. After discussion with the parties, a preliminary response to the town's engineers should be expected by December 9, 2022 and to reschedule the next meeting to January 11, 2023. Mr. Bucchere also requested a "relief list" and asked for the list in advance of next hearing.

**Karen Marques (abutter @ 255 old Oaken Bucket Road, Scituate, MA 02066)** – stated she had concerns regarding traffic and safety issues and was concerned with setbacks of the homes proposed along Old Oaken Bucket.

**Gail Anderson (abutter @ 178 Maple Street, Scituate, MA 02066)** – questioned whether the board was awaiting information on most current perc tests. Mr. Bucchere advised that tests have been done and the results are pending.

**Mr. Bucchere** – brought up the issue of basements and issues to deal with wet basements such as sump pumps and basement protection systems, as well as plans for the units and consistency between the market rate and affordable units. Mr. Vogel commented that a requirement to infiltrate runoff and any water coming sump pumps. Mr. Casey also commented on this issue. Mr. Casey also commented that the reserve septic field still in play.

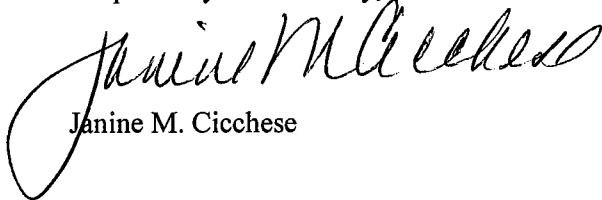
**Mr. Bucchere** – made a motion that this hearing be continued to January 11, 2023. Motion seconded by Mr. Xixis, all in favor, unanimous.

## **ADJOURNMENT**

Motion to close the hearing made by Mr. Bucchere and seconded by Mr. Xixis, all in favor, unanimous.

Meeting adjourned at 8:30 p.m.

Respectfully submitted by,



Janine M. Cicchese