

Town of Scituate

ZONING BOARD OF APPEALS

600 Chief Justice Cushing Hwy.
Scituate, Massachusetts 02066
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**TOWN OF SCITUATE
PROPOSED 40B PROJECT HEARING
ZONING BOARD OF APPEALS
Meeting Minutes**

March 8, 2023

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.
Daniel LaCivita, Traffic Engineer with Vanasse & Associates Inc. (via Zoom) – for applicant
Kevin Freytag, Esq. – Town counsel
Deborah Keller, Merrill Engineers and Land Surveyors
Jeremy Lake, Architect with Union Studio Architecture (via Zoom)
Patricia Van Buskirk, Landscape Architect (via Zoom)
Tony Esposito (via Zoom)
Michelle Easter – Realtor, William Raveis Real Estate

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, Scituate, MA on **Wednesday, March 8, 2023 at 7:00 P.M.** to consider the following request:

(Continued from January 11, 2023) 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 had a discussion with Attorney De Lisi regarding discussions and expectations from the last meeting and current status.

Attorney De Lisi – reviewed the status and revisions/new submissions since the last hearing on January 11, 2023 and to date. Attorney De Lisi discussed the letter he submitted regarding the waivers and asked if the board would be open to some form of working session that would work with a draft decision so that could be addressed and brought it to the final meeting for approval, most likely at a point in April.

Mark Casey – South Shore Survey Consultants, Inc. – stated that he and Tony Esposito met with Deb Keller of Merrill Engineers and Land Surveyors and went over final items, ten specifically, were discussed. Mr. Bucchere asked Mr. Casey to pinpoint specific physical improvement changes to the plan that were addressed. These changes include: crosswalks, hydrant locations, correction to turnaround at Unit(s) 11 and 12, granite curbing at sidewalk, retaining wall at the rear of Unit 20 (no footprint changes). Mr. Bucchere addressed with Deb Keller that the previous list of questions/concerns of physical improvements and other non-physical improvement changes have been fully addressed to satisfaction. Deb Keller further stated that an additional physical change of the driveway turnaround for Units 1 and 2 has been added to the plan as well. Mr. Bucchere discussed the only outstanding issue with regard to traffic engineers was the confirmation of site line numbers at the entrance and that has been provided and deemed acceptable. Deb Keller confirmed she spoke with the traffic peer review and her email was forwarded to the town which confirmed that she felt the site lines shown on the plan were acceptable. Mr. Bucchere asked Deb Keller – from a water resource protection and stormwater standpoint, were there any protections, construction measures, other improvements or treatments that may be appropriate, common or of reasonable cost that may be available that are not being implemented on this site that should be. Deb Keller responded with she felt that the layout of the site and stormwater design is appropriate and has the required treatment for each one of the stormwater facilities (four larger systems and a drywell system). The standards are being met and there isn't anything additional that could be added. From a construction standpoint, the recommendation would be to ensure that the general permit is applied for through EPA (Environmental Protection Agency) and SWPPP (Stormwater Prevention Pollution Plan) and be provided prior to construction to ensure that during construction that everything is managed well. Mr. Bucchere reminded the public and participants that any relief that is granted through this comprehensive permit process is not relief from state and federal regulations or relief from state building codes– this is relief from the Town of Scituate bylaws. Additionally, this board would not conduct any review that they are doing it properly. Attorney De Lisi noted that the applicant would then need to apply to the conservation commission following this permit for a notice of intent and order of conditions under the state regulations.

Mr. Bucchere – with Attorney Freytag's and Mr. Vogel's approval stated that at this point the board confirmed that they were comfortable with the plan pending further review of the waivers and the implications of the waivers that are needed according to the bylaws. Mr. Vogel also stated that he would like to see more variety in the architecture rather than having all the units look the same. Additionally, the second floorplan has a "bonus room", which is approximately the size and shape of a bedroom and has a door. If this plan was submitted in conjunction with a building permit application and/or Board of Health review, this room would technically be counted as a bedroom – in fact, making these four-bedroom units, not three and the septic system would have to be reflective of that capacity. Mr. Vogel stated that there have been cases where the homeowners have been asked to "decommission" an existing bedroom if the creation of a new bedroom needed to take the capacity of a septic system. Mr. Carchia commented on this issue. Mr. Casey also commented that the Title V definition of a bedroom for new construction is for seven foot six- or seven-inch ceiling height, a minimum of 70 square feet, have a door which meets an expectation of privacy and possibly a window. To resolve the issue during a recent build in another South Shore town a six-foot opening without a door was installed so there is no expectation of privacy. Ms. Kellar concurred with this explanation. Attorney De Lisi commented that this issue would not be relevant until an application for a building permit was applied for and would possibly fall under a condition of approval and/or the building commissioner's judgment of a three-bedroom home. Mr. Casey also suggested another way to limit the number of bedrooms would be include that information in the condominium documents and/or master deed. The condominium association would have power of jurisdiction.

Meeting was opened for public comment –

Liz O'Reilly (abutter @ 179 Maple Street, Scituate, MA 02066) – stated her concerns regarding the water supply and pressure and requested an update. Mr. Bucchere stated he did have a discussion with the water department regarding this particular development. He paraphrased the discussion and stated that the response was as follows: the town of Scituate does not have as much water and/or a robust delivery apparatus as it would like. That being said, the number of proposed units and/or bedrooms for this single development would not present an issue to the town or to this neighborhood for water quality and delivery. A discussion followed regarding the water issue with the board and Attorney De Lisi. Ms. O'Reilly also asked the location of the proposed radar speed signs. Mr. Bucchere responded.

Patricia Lambert – Chair of the Scituate Planning Board – also commented on the water issue. Ms. Lambert also commented that the Planning Board hoped that the applicant would work with the landscape architect and would increase the density in the landscape buffer. The request is to plant 50 trees for a buffer. Mr. Bucchere asked if specific areas were targeted for location for the trees. Ms. Lambert responded that there was not; however, requested they be on the buffer line and to be as dense as possible on both sides. Mr. Bucchere stated he was reluctant to ask the applicant to commit to planting anywhere near 50 additional plantings without additional specificity. Attorney De Lisi's concern with additional plantings would be that that would decrease recreation space. Attorney De Lisi, without discussing it with his client (the applicant), stated that he most likely would not agreed to the planning board's request at this time.

Luke Smith (no address provided) – was provided the opportunity to speak and did not comment.

Kevin Marshall (abutter @ 282 Old Oaken Bucket Road, Scituate, MA 02066) – had questions regarding Attorney De Lisi's letter of February 17 concerning setbacks. Mr. Bucchere responded and commented. Mr. Carchia provided additional comments. Mr. Marshall questioned the definition of an affordable unit per state regulations. Attorney De Lisi reiterated that this development would not consist of rental units and went on to explain the state definition for affordable units.

Bruce Arbonies, 23 Gannett Pasture Lane, Scituate, MA 02066 (Water Resources Commission - Chair) – this property is located in the Water Resource Protection District and has a 15% coverage limit with the exception that an artificial recharge system sufficient to handle any runoff from the property be implemented. Mr. Arbonies questioned the sufficiency. Ms. Kellar stated that all of the stormwater treatment for the site is and are recharged BMP's (best management practices). All of the roofs are going to be recharged, all of the roadways, driveways and sidewalks will be treated and recharged. Relief will be sought from the section of the bylaw referred to by Mr. Arbonies. Attorney De Lisi commented on the impervious area and artificial recharge issue. Attorney De Lisi stated coming into this meeting the applicant would be requesting relief as 23% impervious area is being proposed, where a 20% maximum exists. Mr. Casey and Mr. Bucchere also commented. Mr. Arbonies also questioned the location of the overflow area and Ms. Kellar confirmed they are located toward the back.

Vanessa Leary (abutter @ 272 Old Oaken Bucket Road, Scituate, MA 02066) – commented on the traffic issue and most specifically at the Maple Street intersection. Ms. Leary expressed concern for the number of cars and pedestrians in this area. Mr. Bucchere commented. Mr. Casey also commented that the applicant plans to contribute to the radar freestanding speed units (locations to be determined by the police department). Liz O'Reilly questioned whether the new development to be built close to this one just over the line in Norwell and the Maple Street intersection were taken into consideration by the traffic consultant. Mr. Bucchere stated that had been looked at.

Mr. Bucchere – discussed the waivers with Attorney De Lisi. Based on Attorney De Lisi's letter of February 17, 2023, Mr. Bucchere reviewed the requested waivers. Attorney Freytag was included in this discussion and was present. The board basically asked the applicant for a more specific itemized inventory of what within the regulations they would be seeking relief from as follows:

1. the wetlands protection bylaw (more specifically within Section 520)
2. supplemental rules and regulations for disposal of sanitary sewerage
3. sanitary sewerage and stormwater regulations
4. the demolition review bylaw
5. from zoning - side yard setback, lot width and subdivision.

Given the fact that the final waiver list has not been presented to the board and that the applicant expressed that he would feel more comfortable closing the hearing with something close to a draft decision being seen by both sides and which would include conditions of approval, it was Mr. Bucchere's opinion that it would not be appropriate to close the hearing this evening. The board, applicant, Mr. Vogel, Attorney De Lisi and Attorney Freytag discussed the proposed breakout session and what it should include and requested to continue the next meeting to April 26, 2023.

Mr. Bucchere – made a motion that this hearing be continued to April 26, 2023 and that the plan be approved in concept pending the review of the draft decision and finalized list of waivers, that the board vote that the board (through the chair), the applicant (through applicant and/or counsel), town counsel and the involved engineers engage in a breakout work session to try to resolve outstanding matters and incorporate them into a draft decision prior to the next scheduled meeting on April 26, 2023. The draft decision would then be submitted for the final a week in advance of the next hearing so the board members and the public have an opportunity to review it and then at the next and possibly final hearing, the draft decision be discussed, add any additional input, allow the public any additional chance for questions/comments and then take a vote on the decision with any additional amendments. Motion seconded by Mr. Carchia, all in favor, unanimous.

ADJOURNMENT

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

Meeting adjourned at 8:52 p.m.

Respectfully submitted by,



Janine M. Cicchese