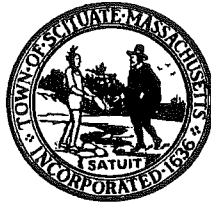


TOWN OF SCITUATE



600 Chief Justice Cushing Hwy
Scituate, Massachusetts 02066
Phone: 781-545-8730
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Planning Board

**Special Permit – Mixed Use in the Village Business Overlay District
60 Country Way**

Decision: APPROVED with Conditions

Applicant: Charles R. Fagan
Address: P.O. Box 43, Greenbush, MA 02040
Owner: Charles R. Fagan
Address: P.O. Box 43, Greenbush, MA 02040
Request: Approval of special permit for Mixed Use in the Village Business Overlay District
Under Scituate Zoning Bylaw Section 560

Date: April 17, 2019
Location: 60 Country Way

Assessor's Map: 53-4-11

Zoning District: Business, Village Business Overlay District, Water Resource Protection District

Hearing Dates: March 28, 2019, April 11, 2019

Members Hearing Special Permit Application: Ann Burbine, Stephen Pritchard, William Limbacher,
Benjamin Bornstein and Patricia Lambert.

Decision: Approved with conditions by a unanimous vote

Background:

The property is a 41,912 sq. ft. upland parcel improved with an existing single family home with attached garage and bituminous concrete driveway, a free standing garage to the north and a free standing workshop with a gravel driveway to the south. The property is shown on the Scituate Assessor's Maps as parcels 53-4-11. Access is from Country Way to the existing residence and workshop via two separate driveways. Country Way is a paved public road with existing utilities. The site is in the business district, Village Business Overlay District and Water Resource Protection District with the west corner in a Zone A. The west corner will remain undisturbed for the project.

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An application for a Special Permit for a Mixed Use Development in the Village Business Overlay District was received on February 22, 2019. The proposed development consists retaining the existing Gothic revival home with the addition of an office of approximately 150 sq. ft. in the rear of the home. The existing attached garage will be removed. A 2,700 sq. ft. warehouse is being proposed along with converting the existing north garage of approximately 500 sq. ft. to an office. The workshop will remain with its parking in the gravel driveway. As there are fewer than eight housing units no affordable units are required. Only one unit of housing is proposed with no bonus density requested or required. 10 parking spaces are required and 13 are provided. The stormwater management system consists of a subsurface stormwater recharge system under the parking area. The rate and volume of post development conditions does not exceed pre-development conditions for the 2, 10, 25 and 100 year storms. A water quality Best Management Practice (BMP) treats the first 1" of runoff as required and 90% Total Suspended Solids (TSS) are required to be removed which the calculations indicate will be achieved.

The applicant submitted a Stormwater Permit Application and Drainage Calculations by Merrill Engineers and Land Surveyors stamped by Edward T. Cullen. This report and the accompanying mixed use special permit plans was reviewed by the Town's consulting engineer, Matthew Lundsted, P.E. of Comprehensive Environmental Incorporated (CEI), who submitted detailed comments to the Planning Board. In response to these comments, the applicant provided an Amended Stormwater Report and plans which, after further review by the consulting engineer, were found to address his comments and recommendations.

No traffic study was submitted. The Deputy Fire Chief, Alfred Elliott, has commented that he saw no issues from the fire department's standpoint.

Procedural Summary:

An application for a Mixed Use Development Special Permit in the Village Business Overlay District was filed with the Town Clerk on February 22, 2019. A Public Hearing on the Special Permit was duly advertised and notices sent to all abutters in accordance with MGL Chapter 40A. The Public Hearing was opened on March 28, 2019. The public hearing was continued to April 11, 2019 when the Special Permit was approved with conditions.

Hearing Summary:

When the public hearing was opened on March 28, 2019, Charles Fagan, applicant was present with his project team of Attorney Frank Colpoys, engineer Ed Cullen and his assistant Josh Green. Karen Joseph, Town Planner was also present.

Mr. Cullen reviewed the project which includes razing the existing attached garage to the Gothic revival home and adding an office in the home to create a mixed use building, adding a 2,700 sq. ft. warehouse structure and converting the existing garage space to the north into an office. He indicated the majority of the lot is unchanged with 58% open space. He indicated that ultimately traffic circulation would be one way through the microbrewery through the site for shared parking with the microbrewery. He indicated the dumpster at the microbrewery would be shared with the proposed warehouse site. Town Planner, Karen Joseph, indicated that the drainage was reviewed by CEI with the runoff being infiltrated; the proposal is for a mixed use development with through circulation from the microbrewery through the site which will improve fire department access and parking for the microbrewery to be permitted as a site plan modification for the adjacent site at a later date; an office will be created in the existing Gothic revival residence creating a mixed use; the new warehouse structure will be designed to look like a stable outbuilding to the existing home which is in keeping with the character of the neighborhood; the project may not technically meet the

glazing or retail requirements, however, retaining the house is of significant value to the neighborhood. Parking for the new uses will be on site. Mr. Fagan indicated he has received permission from the Historical Commission to remove the attached garage to the existing home. Connections to public water and sewer will be made and stormwater will be handled on site. The Board discussed the benefits of through connections to the microbrewery site as well as the future parking benefits. The Board asked about uses for the storage, mechanical equipment, open space and public realm benefit.

At the April 11, 2019 hearing session, Mr. Fagan was present as the applicant along with Attorney Frank Colpoys and Ed Cullen. Attorney Colpoys summarized that at the last meeting the Board was receptive to the project and asked for a few clarifications. Mr. Cullen reviewed the plan changes/clarifications including use of the dumpster on the adjacent microbrewery property, sewer flows and landscaping. The Board clarified that this project was for 60 Country Way and not for the adjacent microbrewery site although cross easements may be necessary for the dumpster, parking and traffic circulation. At this meeting the public hearing on the Mixed Use Special Permit in the Village Business Overlay District was closed. The Planning Board voted to grant the Mixed Use Special Permit in the Village Business Overlay District for 60 Country Way based on the Findings of Fact and subject to the Conditions as discussed.

Public and Town Department Input:

Deputy Fire Chief Alfred Elliott indicated that the project would improve emergency access to the brewery and did not see any glaring issues from the fire department standpoint.

William Branton, of the Scituate Sewer Division, indicated that he had spoken with Mr. Fagan and a sewer privilege fee would need to be paid before connection to the sewer.

Becky Malamut, of the Water Resources Committee commenting individually, indicated that the prohibited land uses in the Water Resource Protection District (WRPD) and Zone A would need to be conveyed to future tenants; the site shows over 50% impervious which is a concern in the WRPD as requirements for increased impervious cover of preserving hydraulic conditions that resemble predevelopment conditions and protection of sensitive natural resources need to be met; impacts to natural slope of the property should be addressed as well as adding bioretention areas throughout the parking to minimize runoff.

No public comment was received during the public hearing.

Findings of Fact:

The following findings of fact based on information submitted by the applicant and the testimony given during the Public Hearing were approved on April 11, 2019:

1. Charles R. Fagan filed an application for a Mixed Use Special Permit in the Village Business Overlay District under Scituate Zoning Bylaw Section 560 on February 22, 2019. This application included a Project Narrative, Stormwater Permit Application & Drainage Calculations and plans by Merrill Engineers and Land Surveyors entitled Site Plan #60 Country Way, Scituate, Massachusetts, Sheets C1.1 – C6.1 and C6.2 (seven sheets) dated 2/15/19 with revisions through 3/25/19; architectural rendering of the new building and floorplan.

2. The property that is the subject of this application is a 41,912 sq. ft. upland parcel improved with an existing single family home and garage, freestanding garage to the north and 1 ½ story workshop and gravel driveway. The property is shown on the Scituate Assessor's Maps as parcels 53-4-11. The property is in the Business District, Village Business Overlay District and Water Resource Protection District with a portion in Zone A which will not be disturbed.
3. The lot or yard area required for the new building or use do not include any part of a lot that is required by any other building or use to comply with any requirements of this bylaw. The proposal meets the requirements of Section 560.4 A.
4. The Planning Board waived review of the application under Section 750 by the Design Review Committee as the project was minor in nature. As required by Scituate Zoning Bylaw Section 560.8, Design Review Standards, the Planning Board has considered the extent to which the applicant satisfies the Design Review Standards detailed below:
 - a. Roofs – Roofs are pitched to the center ridge. The slope of the proposed roof is 6:12 and does not meet the requirement of a minimum slope of 8:12 required by Section 560.8 A; however, the building is designed to look like a stable to the existing gothic revival house and will be below the roof of the adjacent microbrewery. The Planning Board waives this requirement. Dormers are not proposed.
 - b. Façade Treatment – On the façade of the proposed building facing Country Way, a small window is proposed for the warehouse. The windows of the gothic revival house will remain unchanged. Glazing requirements of 50% on the ground floor are not verified to be met.
 - c. Front Yard Setbacks – The front setback for the existing residence situated on Country Way, will be 16.8 feet. 15 feet is the maximum. The Planning Board may waive this requirement on corner lots for existing buildings which are converted to mixed use. As the residence will have an office in it to be a mixed use building, the Planning Board waives the front yard setback. One parking space is proposed to be located in the front yard setback of the property. The Planning Board agrees to waive this requirement. The proposal is considered to meet this requirement.
 - d. Side and Rear Yard Setbacks – The side setback is proposed to be 9.0' on the north side for the proposed warehouse. The rear setback for the proposed warehouse is 41.4'. The rear setback for the existing workshop is 20.4'. The proposal is considered to meet this requirement.
 - e. Special Setbacks- Scituate Harbor – This requirement is not applicable.
 - f. Greenbush Design Standards – The proposed warehouse is less than 120 feet long on its longest side which does not face the street. This proposal is considered to meet this requirement.
 - g. Parking and Landscaping – The driveway for the proposal will be 22' wide. Landscaping was incorporated on the plans. No invasive plants are proposed. Screening is proposed abutting the residence. The site is in the Water Resource Protection District. Stormwater is proposed to be treated by a subsurface recharge system. Impervious surfaces are minimized.

The proposal meets the requirements of Section 560.4 B. and the Design Review Standards of Section 560.8.
5. As the proposal contains less than 8 housing units, no affordable units as defined in Section 560.7 are required or proposed. The proposal meets the requirements of Section 560.4 C.

6. The requirement that 50% of the floor area be a retail use is not met here as the property is on Country Way in Greenbush. The proposal is not considered to meet the requirements of Section 560.4 D. The Planning Board agrees to waive this requirement.

7. According to Edward T. Cullen, P.E., the lot contains 41,912 sq. ft. The minimum lot area per dwelling unit is 16 units per 40,000 sq. ft. Only one residential unit is provided. 24,562 sq. ft. or 58% of the site shall be maintained as open space. This exceeds the required 20%.

Frontage is required to be an amount sufficient in the opinion of the Planning Board to provide adequate access, and not less than 20'. Frontage of approximately 393.87' is provided on Country Way according to the Site Plan (Sheet C4.1) stamped by Edward T. Cullen, P.E.

The proposal is considered to meet the requirements of Section 560.4 E.

8. The applicant is not seeking a bonus density. The requirements of Section 560.5 are not applicable.

9. The proposal will contain 14 parking spaces including one ADA van accessible space and 10 spaces are required. This is 2 spaces per the residential dwelling. The applicant has provided parking which meets the requirements of Section 560.6.

10. The proposed stormwater management system has been reviewed by the Town's consulting engineer, Matthew Lundsted of CEI whose comments indicate his concerns have been satisfactorily addressed if the stormwater management system is built as designed.

11. The review of the stormwater management system by the Planning Board's consulting engineer and their approval of this special permit eliminates the requirement for a separate stormwater permit under the Stormwater General Bylaw and its regulations for any work that conforms to the plans. Edward T. Cullen, P.E. has certified that the drainage system can be expected to result in post-development runoff characteristics (including peak flow, total volume of runoff and water quality of runoff) to be equal to or less than the pre-development runoff characteristics.

Based on these findings, the Mixed Use Special Permit meets the requirements under the Village Business Overlay District, Section 560.

Decision:

Based on the Findings of Fact, the Planning Board approved the Mixed Use Development Special Permit in the Village Business Overlay District for 60 Country Way on April 11, 2019 with the following conditions:

General Requirements

1. All construction work shall be done in accordance with the plans submitted by Merrill Engineers and Land Surveyors entitled Site Plan #60 Country Way, Scituate, Massachusetts, Sheets C1.1 – C6.1 and C6.2 (seven sheets) dated 2/15/19 with revisions through 3/25/19; architectural rendering of the new building and floorplan except as may be modified to meet these conditions.
2. Where this Mixed Use Special Permit requires approval, permitting or licensing from any local, state or federal agency, such required approval, permitting or licensing is deemed a condition of the Town of Scituate Planning Board's (the "Planning Board" or the "Board") approval of this Mixed Use Special Permit. All necessary permits and approvals must be received prior to construction.

3. Construction shall meet all requirements of the Scituate Zoning Bylaw. All conditions of approval shall be inscribed on the Mixed Use Special Permit plan.
4. The applicant shall mean the current applicant and all its successors in interest (the "Applicant"). This special permit shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under General Laws Chapter 40A, Section 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or, in the case of a special permit for construction, if construction has not begun by such date except for good cause. The Planning Board may extend said period, for good cause shown, upon receiving a written request from the Applicant prior to the expiration of said period, which request shall provide a detailed description of the good cause necessitating an extension.
5. The total number of residential dwelling units on the site shall not exceed one (1).
6. The Applicant shall obtain the endorsement of the Planning Board for the Mixed Use Special Permit within 90 days of the expiration of the appeal period and this decision becoming final.

Utilities, Parking and Traffic

7. Maintenance and repair of the driveway, parking areas, stormwater management system, snow removal, lighting and landscaping shall be the responsibility of the owner/applicant per the Operation and Maintenance Plan attached to this decision.
8. No new underground irrigation systems shall be allowed to connect to the Town's water distribution system or in any manner use municipal water in accordance with the policy made effective by the Board of Selectmen on October 8, 2014. All irrigation systems installed in accordance with the policy must be supplied by on-site sources at the expense of the property owner.
9. All parking will be constructed as shown on the Plan.
10. The building, parking, walkways, paths and required signage shall meet all applicable requirements of the ADA and Scituate Commission on Disabilities.
11. Trash management shall be in the dumpster on the adjacent brewery site to the extent that the applicant owns the adjacent site or easements are granted. If additional measures are needed for refuse disposal, they shall be submitted to the Town Planner to determine if acceptable or a permit modification is needed through the Planning Board.
12. All electrical, telephone, cable and similar utilities shall be located underground.
13. Any lighting shall be attached to the buildings on the interior facing side. Lighting shall be shielded so as not to spill onto adjacent properties.
14. The applicant shall obtain the approval of the Planning Board through the Town Planner if minor changes from the plan and/or details are needed for lighting, signage, fencing or landscaping.

Required Prior to Scheduling the Pre-Construction Conference

15. The final building plans, stamped by a registered architect, shall be provided to the Planning Department for review for consistency with the elevations and renderings described in Condition 1. If the plans appear inconsistent, approval by the Planning Board will be required.
16. The development shall obtain all necessary approvals for the use of Town sewer prior to scheduling a pre-construction conference. Installation of any sewer mains and appurtenances shall be performed according to the specifications of the DPW. Any required upgrades,

modifications or connections shall be at the Owner's expense. Copies shall be furnished to the Planning Board.

17. A determination of the adequacy of the existing water service for the proposed use shall be provided to the DPW for their approval prior to scheduling a pre-construction conference. Installation of all water mains and appurtenances shall be performed according to the specifications of the DPW Water Division. Any required upgrades, modifications or connections shall be at the Owner's expense.
18. Prior to scheduling the pre-construction conference, the following notes shall be added to the plans:
 - a. No finished slope shall be created that exceeds 25%.
 - b. No vehicle washing is to occur on the site.
 - c. The units on the new building shall be numbered on the outside for identification, fire protection and emergency response purposes.
 - d. Uses prohibited by Scituate Zoning Bylaw Section 520.6 or any use generating, treating, storing or disposing of materials considered hazardous waste, except for very small quantity generators as defined by 310 CMR 30.00 shall not be conducted in the commercial units. Storage of liquid hazardous materials or liquid petroleum products shall be prohibited unless such storage is above ground level on an impervious surface and in containers or above-ground tanks within a building, or outdoors in covered containers or above-ground tanks with a containment system designed and operated to hold 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater.
 - e. The Long Term Operation and Maintenance Plan/Pollution Prevention Plan shall be provided to all tenants and occupants of the property with applicable sections included as conditions of lease or rental agreements.
19. Prior to scheduling the pre-construction conference, the Applicant shall provide to the Planning Board:
 - a. Copies of the recorded special permit and plans;
 - b. A check to cover cost of inspections by the Town's consulting engineer. These shall include, at a minimum, inspections of Subdivision Rules and Regulations Section 9.0, for the driveway, parking areas and stormwater management systems, and in addition, inspection of applicable items in the Construction Sequence and any curbing and water and sanitary sewerage facilities as coordinated with Scituate DPW. The specific amount shall be provided by the Planning Dept. based on the consulting engineer's estimate, shall be subject to amendment from time to time and shall be supplemented by the applicant as requested by the Planning Dept.;
 - c. A construction schedule including approximate dates for installation of erosion control and other site protection/stabilization, construction of the building, all applicable items in Subdivision Rules and Regulations Section 9.0 and
 - d. A type and amount of security satisfactory to the Planning Board to cover the satisfactory completion of features shown on the site plan including parking, drainage, landscaping,

walkways, lighting, signs, fences, and conditions imposed by the Board shall be provided by the Applicant. The amount shall be based on the Applicant contractors' estimates of the costs of these items, reviewed by the Town's consulting engineer and shall be approved by the Planning Board prior to the pre-construction conference.

Required Prior to the Start of Construction

20. A pre-construction conference shall be held with the Applicant, their representatives, their engineer, the site contractor(s), the Town Planner, the Planning Board's consulting engineer and other representatives of the Town as the Board feels are necessary. A list of all contractor contacts, including names and telephone numbers, shall be provided to the Planning Board and the DPW. At least one telephone contact shall be available 24 hours per day in the event of an emergency.
21. The property lines of the subject property shall be marked or flagged in the field under the direction of a surveyor and notification given to the Town Planner and Consulting Engineer a minimum of three business days prior to the start of construction.
22. A stabilized construction entrance and silt sock as shown on the Plan (Sheet C3.1) of the Proposed Mixed Use Development Plan must be installed prior to any earth disturbing activities on site including but not limited to clearing and grubbing.

Required During Construction

23. Construction work shall not begin prior to 7:00 AM weekdays and 8:00 AM on Saturday and shall cease no later than 7:00 PM or sunset whichever is earlier. No construction shall take place on Sundays or legal/federal holidays.
24. All earth moving/disturbance operations shall only occur while erosion and sedimentation control measures are in place and approved by the Town Planner or Town's Consulting Engineer. Such control measures shall remain in place until the Board's consulting engineer determines after consultation with the Town Planner, that the danger of erosion or sedimentation no longer exists.
25. No parking or unloading on Country Way shall be permitted during construction.
26. The Board reserves the right to require the Town's consulting engineer to visit the site weekly during times when required construction inspections are further than one week apart.
27. Construction of the proposed driveway, parking and site drainage system shall be supervised by a registered professional engineer who shall certify in writing to the Planning Board at the completion of the project that the driveway, parking and drainage system were constructed in accordance with the approved plan. This certification shall be accompanied by as-built plans, showing all site utilities and grading, signed and stamped by a professional land surveyor and the supervising professional engineer. The as-builts shall be reviewed by the Town's consulting engineer for compliance with the design.

Required Prior to Issuance of Occupancy Permits

28. No Certificate of Occupancy shall be issued until the Planning Board and Building Commissioner are satisfied that the driveway, parking area and installation of necessary utilities is in full compliance with the approved plans and the special permit.

Administration

29. All time periods referenced in this document for completion of conditions shall be tolled in case any appeals are taken.

30. This Special Permit shall run with the land and shall be void if it is not recorded at the Registry of Deeds within 90 days of expiration of the appeal period or such extension of that time period granted by the Planning Board following approval of this Special Permit.
31. This Special Permit shall lapse within two years from the date of its issuance unless substantial use or construction has commenced prior to that time in accordance with MGL Chapter 40A, Section 9.
32. All plan sheets of the Mixed Use Development Special Permit Plan shall be recorded at the Registry of Deeds. All construction work shall be done in accordance with the plans.

Vote:

Based on the Findings of Fact and the evidence and information provided by the applicant and obtained through the public hearings, the members of the Planning Board hearing this application voted unanimously to approve the Mixed Use Special Permit in the Village Business Overlay District at 60 Country Way with the conditions noted above.

April 11, 2019

Date

SCITUATE PLANNING BOARD

Anna Burkone

John P. Pulichino

J. A. B.

Patricia A. Jones

William Schubert

This decision was filed with the Town Clerk on April 17, 2019
date

Appeal of this special permit may be made pursuant to M.G.L. Chapter 40A, Section 17, and shall be filed in a court of competent jurisdiction. Proof of that filing shall be provided to the Town Clerk within twenty (20) days of the date of the filing of the decision with the Town Clerk.

This special permit will not become effective until such time as an attested copy of this decision has been filed with the Plymouth County Registry of Deeds, after the expiration of the appeal period of twenty (20) days.

The Planning Board certifies that it has complied with all statutory requirements of MGL Chapter 40A, Sections 9 and 11, and will file copies of this decision with the Town Clerk. The Planning Board further certifies that it has taken into consideration all testimony rendered at the Public Hearing, the comments and suggestions of other boards which have reviewed and made comments on the plans