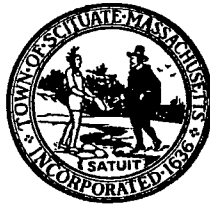


TOWN OF SCITUATE

Planning Board



600 Chief Justice Cushing Hwy  
Scituate, Massachusetts 02066  
Phone: 781-545-8730  
FAX: 781-545-8704

**Common Driveway Special Permit – 35 Dreamwold Road**  
**Decision: APPROVED with Conditions**

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Owner: Susan A. Phippen Trust, Maureen O'Connor Hurley & Kimberly Stewart, Trustees  
Applicant: Susan A. Phippen Trust, Maureen O'Connor Hurley & Kimberly Stewart, Trustees  
Date: June 18, 2015  
Location: 35 Dreamwold Road  
Assessor's Map: # 33-6-31, 16 & 16A

Plans: Common Driveway Special Permit Plan in Scituate, MA, Showing a Division of  
Parcels 33-6-31, 33-6-16 & 33-6-16A 35 Dreamwold Road prepared by Morse Engineering Co.,  
Inc., dated March 12, 2015 Sheets 1-4 with revisions through May 28, 2015; Common Driveway  
Application, Deed, Trustees Certificate and Common Driveway Agreement; Stormwater Report  
prepared by Morse Engineering Co., Inc., dated 3/12/15 revised May 28, 2015; ZBA Special permit  
dated 3/16/15 with correction dated 4/16/15 and Response to comments dated 5/28/15 by Morse  
Engineering Co., Inc..

Members Hearing Special Permit Application: Stephen Pritchard, Chairman; Richard Taylor;  
Robert Vogel and Ann Burbine.

**Background:** The property consists of a parcel located on the south side of Dreamwold Road  
addressed as 35 Dreamwold Road. It consists of approximately 4.975 acres in three parcels of which  
4.05 acres (3.74 acres upland) are part of the common driveway development. The property is  
located in the Residential R-2 Zoning District. The land is proposed to be developed into four lots.  
Lots 1 and 3 are proposed as 50 foot frontage lots which a Special Permit was obtained from the  
Zoning Board of Appeals on March 16, 2015. Lots 2, 3 and 4 are proposed to be serviced by a

common driveway. The existing house and pool will remain on Lot 2. The applicant is proposing to use the existing driveway opening for the common driveway access and location. A Form A Plan submitted under the provisions of MGL Ch. 41 S 81P was endorsed by the Planning Board on April 9, 2015 to separate the land into 4 lots and is being held in escrow until the ZBA Special Permit is recorded, Conservation approvals are received and the special permit for the common driveway is approved and recorded.

**Procedural Summary:** This request for a Special Permit was filed with the Town Clerk and the Planning Board on March 30, 2015. William Limbacher stepped down from the Planning Board for the purpose of considering this application as he is an officer of an organization which is expected to benefit from proceeds of the sale of the land. A Public Hearing before the Planning Board for this Special Permit was duly advertised and notices sent to all abutters in accordance with MGL Chapter 40A. The Public Hearing was opened on May 14, 2015 and continued until June 11, 2015 when the Planning Board approved the Special Permit with conditions.

**Hearing Summary:** The applicant's representative, Jeffrey Hassett, P.E. of Morse Engineering Co., Inc. was present at the May 14, 2015 public hearing along with Greg Morse, and co-Trustees Maureen Hurley and Kimberly Stewart. John Chessia was present as the Planning Board's consulting engineer. Mr. Hassett said that the property had received a 50 foot frontage special permit from the Zoning Board of Appeals and a Form A endorsement from the Planning Board. He indicated that the existing house and pool will be on one of the new lots. He said there will be two new lots and the proposed common driveway in the location of the existing driveway will serve three houses. He said Lot 1 is a separate Form A lot and will not be served by the common driveway. He said the common driveway meanders to retain existing mature trees. He indicated that provisions have been made for emergency vehicle maneuvering and the stormwater standards have been met.

Ms. Harbottle indicated that investigations into whether the wetland contains a vernal pool are not yet completed. She indicated that the proposed common driveway and the existing private subdivision way of Coby's Run are within 110 feet of each other and the proposed Lot 1 driveway will be between the two. She suggested that it may be desirable to have Lot 1 access over the common driveway; however a variance would be necessary from the Zoning Board of Appeals.

Mr. Chessia had several concerns about the common driveway including that the common driveway easement on the Form A Plan was not the same as the common driveway plan, that rain gardens aren't accepted by DEP for rate control, no soil testing has been done where any of the infiltration systems are proposed, several drainage assumptions need to change, an erosion control plan needs to be provided and existing above ground utility services to the existing dwelling should be located underground. Comments were also received from the Fire Department and Water Department whose concerns have been met or were subject to conditions of Planning Board approval.

The Board indicated they wanted utilities to the existing house underground. They determined that because there was minimal traffic on the Dreamwold Road, the driveways would be located on the outside of the curve and they did not want to set precedent, the proposed configuration with three lots accessed by a common driveway and a separate lot with its own driveway, close to a road serving a small subdivision, was acceptable. They required the proposal to meet Mr. Chessia's concerns and granted a continuance to June 11, 2015.

On June 11, 2015, Mr. Hassett indicated that the plans were revised to include removal of existing overhead wires, relocation of the existing water line to avoid standing trees, addition of an infiltration basin to handle peak rate/volume, the drainage area's time of concentration has been revised, erosion and sedimentation controls were depicted on the plans and test pits in the basin area were done, along with a mounding analysis which shows that the water table won't rise into the basin during peak storm events. The infiltration basin is in the 50' buffer of the wetlands, but the area is existing lawn and would need to be approved by the Conservation Commission.

The Board received confirmation from the Conservation Commission that the water body in the wetland was not a vernal pool. Mr. Chessia confirmed that the mounding analysis assumptions were reasonable for the site. He indicated that the existing pipe exiting from the wetland is clogged and he recommended an easement to the Town to allow maintenance. The applicant's representative indicated an easement would be provided.

**Public Comment:** At the May 15, 2015 public hearing session, Dana Hartwell of 32 Dreamwold Road asked why the driveway for Lot 1 could not come off of Coby's Run to avoid headlights shining into his property. Mr. Hassett indicated he was working for the applicant and Coby's Run was not part of the applicant's property. Stephen Bjorklund indicated that all the mortgagees of Coby's Run would need to assent to any changes to the private road and that the Planning Board limited the number of lots off the private Coby's Run. Written comments were received from the Fire Department, Water Division, the Conservation Commission and Environmental Consulting Services, Inc.

**Findings of Fact:** Following a motion duly made and seconded, the Planning Board voted to make the following Findings of Fact for the common driveway special permit for 35 Dreamwold Road:

1. The Susan A. Phippen Trust, Maureen O'Connor Hurley and Kimberly Stewart, Trustees, filed an application for a special permit for a common driveway serving three lots at 35 Dreamwold Road with the Town Clerk on March 30, 2015.
2. The property at 35 Dreamwold Road contains about 4.05 acres and is in the Residence R-2 Zoning District. The Planning Board endorsed a Form A Plan dividing the property into four parcels on April 9, 2015.
3. On March 16, 2015 the Zoning Board of Appeals approved a special permit under Section 610.B of the Scituate Zoning Bylaw to create two 50 foot frontage lots as Lots 1 and 3.
4. The plan shows soil disturbance and vegetation removal as generally limited to what is necessary for constructing the common driveway and its drainage system. The proposed stormwater management system has been reviewed by the Town's consulting engineer, Chessia Consulting Services Inc. whose comments indicate the system has been adequately addressed with the revised plans. The common driveway meets the standards of Section 720.7A.
5. The common driveway has a varied surface width of not less than 14'. An email from the Fire Chief indicated that he approved the width. The common driveway meets the requirements of Section 720.7B.

6. The common driveway is accessed from Dreamwold Road, a public road in Scituate. The common driveway meets the requirements of Section 720.7 C.
7. The water line is shown on the common driveway plan. The common driveway meets the requirements of Section 720.7 D.
8. The common driveway cross section shows a top course of 1 ½" of bituminous concrete over a 1 ½ bituminous concrete modified binder and a 2" bituminous concrete binder over a 15" processed gravel sub-base. The common driveway meets the requirements of Section 720.7 E.
9. The common driveway is approximately 270 feet in length. The common driveway meets the requirements of Section 720.7 F.
10. Chessia Consulting Services, Inc., indicated the stormwater management system is satisfactory. The common driveway meets the requirements of Section 720.7 G.
11. No impervious area is located above the major components of proposed septic systems. The common driveway meets the requirements of Section 720.7 H.
12. A small wetland with existing vegetation will remain on the north side of the common driveway. The common driveway meets the requirement of Section 720.7 I for screening.
13. The Fire Chief approved a 20' by 45' area of the common driveway and Lot 3 driveway for emergency vehicle turnaround. The common driveway meets the requirements of Section 720.7 J.
14. The consulting engineer has indicated that stopping sight distance requirements at the entrance have been met. The common driveway meets the requirements of Section 720.7 K.
15. Based on these findings and information submitted by the applicant and reviewed by the Board, the common driveway meets the requirements of Section 720 of the Scituate Zoning Bylaw.

**Decision:** Based upon the testimony presented at the Public Hearing and the findings, the Board approved the special permit with the following conditions:

1. One Common Driveway shall be constructed according to plans entitled Common Driveway Special Permit Plan, prepared for The Susan A. Phippen Trust by Morse Engineering Co., Inc. dated March 12, 2015 with revisions through May 28, 2015 and as further revised to meet these conditions.
2. Lots 2, 3 and 4 shall access over a single Common Driveway. No further extensions or attachments of any other roadways or Common Driveways, or other access to any other lots besides those created by the plan shall be permitted.
3. Prior to obtaining building permits, the applicant must obtain all necessary approvals from the Board of Health, Conservation Commission, Fire Department, Building Department and Department of Public Works, and these shall be deemed conditions of the Planning Board approval.

4. 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 this policy, all irrigation systems installed in Scituate must be supplied by on-site sources at the expense of the property owner.

#### **Common Driveway Agreement**

5. A Common Driveway Agreement shall assign to the owners of Lots 2, 3 and 4 the responsibilities and costs of maintenance and repair of the Common Driveway and emergency turnaround (including snowplowing), as well as the catchbasin, rain garden, infiltration basin, grading and all other improvements for stormwater management in the Common Driveway Easement.

The responsibilities of maintenance in the Common Driveway Agreement shall include all requirements of the Operation & Maintenance Plan, which shall be attached to the Agreement together with other typical maintenance such as snow-plowing, driveway repair and any cape cod berm repair.

The Agreement shall require annual certification by an engineer that the stormwater system is being properly inspected and maintained per the Operation & Maintenance Plan. The Operation & Maintenance Plan shall also be provided to the Planning Board as a stand alone document.

6. The standard format from the Planning office shall be used. A final draft of the Agreement shall be provided to the Planning Board within two weeks of the approval of this special permit. The Agreement shall be recorded at the Registry of Deeds.

#### **Finalization of Documents**

7. The plans for the Common Driveway shall be submitted to the Planning Board for their signature after the expiration of the twenty day appeal period of this special permit. The plans and special permit shall be recorded together at the Plymouth County Registry of Deeds.

#### **Required Prior to Planning Board Signing Plans**

8. The following notes shall be added to the plan:
  - The lots on this plan shall not be further divided or subdivided.
  - The Common Driveway is owned by the homeowners. It shall always remain private and shall never be maintained by the town. A Common Driveway Agreement assigns to the owners of Lots 2, 3 and 4 the responsibilities and costs of maintenance and repair of the Common Driveway and emergency turnaround (including snowplowing), as well as the rain garden, infiltration basin, grading and all other improvements for stormwater management in the Common Driveway Easement.
  - New construction must comply with the Zoning Board of Appeals decision issued March 16, 2015 revised 4/16/15 which allows for the development of two 50 foot frontage lots.
  - 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 of the Board of Selectmen effective October 8, 2014. In accordance with this policy, all

irrigation systems installed in Scituate must be supplied by on-site sources at the expense of the property owner.

9. The following notes and plan changes shall be added:
- Existing specimen trees to remain shall be protected by snow fence installed at the drip line of the trees.
  - No stormwater may be discharged into the infiltration basin or rain garden until these measures are fully stabilized. A temporary forebay for stormwater control during construction shall be located on the plan.
  - Rain garden detail/plan view shall be revised to include 3 feet of soil media, a low level maintenance drain (in bottom of basin with a riser and cap), elevations, spot grades, and plants keyed to the planting schedule. 5 feet of sod between the gravel filter strip and top (WQV) elevation) shall be provided. Detail to reflect the actual site conditions.
  - An easement to the Town shall be provided for the drainage pipe in the wetland.

### **Construction**

10. A pre-construction conference will be required prior to the start of construction including the Planning Board's consulting engineer, the site contractor and the Town Planner.
11. Prior to scheduling the pre-construction conference, a schedule of construction activities shall be given to the Town Planner and the applicant shall provide funds to cover the cost of inspections and attendance at the pre-construction conference by the Town's consulting engineer.
12. The Town Planner is to be notified when construction begins and when construction is completed. All clearing and earth moving operations shall only occur while erosion and sedimentation control measures, approved by the Town Planner and shown on the plan are in place. Such control measures shall remain in place until the Town Planner determines that the danger of erosion or sedimentation no longer exists.
13. Additional soil testing shall be performed at the location of the recharge system and roof drywells for each dwelling prior to the start of construction of the driveway. The testing shall be witnessed by the Board's consulting engineer.
14. Construction of the Common Driveway shall be supervised by a registered professional engineer who shall certify in writing to the Planning Board at completion that the driveway and drainage structures were constructed in accordance with the approved plans. This certification shall be accompanied by as-built plans, signed and stamped by a registered professional land surveyor and the supervising engineer. Inspections will be required for staking of limits of drainage basins and roadway limits prior to clearing and grubbing; grading of drainage basins; placement and compaction of gravel subbase; placement of base/binder; and placement of the top course of the common driveway.
15. Prior to the issuance of an occupancy permit, the Board's Consulting Engineer shall inspect the lots and notify the Board and Building Commissioner that the grading conforms to that shown on the Common Driveway plan.

16. Construction work shall not begin prior to 7 am on weekdays and 8 am on weekends and shall cease no later than 7 pm or sunset whichever is earlier. No construction is permitted on Sundays and federal/legal holidays.
17. There shall be no parking or idling of vehicles on Dreamwold Road during construction.
18. No Certificate of Occupancy shall be issued until the Planning Board and Building Commissioner are satisfied that access, construction of the Common Driveway and installation of necessary utilities are in full compliance with the approved plans and the special permit.

**Administration**

19. The applicant shall post a bond for \$5,000 prior to beginning construction of the Common Driveway to guarantee completion of site work, landscaping and clean-up of the site. After the Town Planner has inspected the site and found grading, loaming and seeding, clean up of earth materials and construction debris to be complete, these funds shall be returned with interest to the applicant.
20. This special permit shall be void if it is not recorded at the Registry of Deeds within 90 days of the date of filing with the Town Clerk. The owner shall provide proof of this recording to the Planning Board.
21. 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.
22. Failure to comply with any condition of this special permit shall cause it to be deemed invalid.

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 Special Permit for a Common Driveway at 35 Dreamwold Road with the conditions noted above.

\_\_\_\_\_ June 11, 2015 \_\_\_\_\_

Date

SCITUATE PLANNING BOARD

\_\_\_\_\_ Robert B. Vogel \_\_\_\_\_

\_\_\_\_\_ Ana Burstein \_\_\_\_\_

\_\_\_\_\_ Tyler R. Fitzhugh \_\_\_\_\_

\_\_\_\_\_ Richard W. Taylor \_\_\_\_\_

\_\_\_\_\_

This decision was filed with the Town Clerk on June 18, 2015

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