

**TOWN OF SCITUATE**



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

*Planning Board*

**Special Permit – Mixed Use in the Village Business Overlay District  
21 – 23 Ford Place**

**Decision: APPROVED with Conditions**

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PLANNING BOARD

**Applicant:** Ford Realty Trust, C. Christopher Ford, Trustee  
**Address:** 31 South Main Street, Cohasset, MA 02025  
**Owner:** Ford Realty Trust, C. Christopher Ford, Trustee  
**Address:** 31 South Main Street, Cohasset, MA 02025  
**Request:** Approval of special permit for Mixed Use in the Village Business Overlay District  
Under Scituate Zoning Bylaw Section 560

**Date:** August 15, 2016

**Location:** 21 – 23 Ford Place, Scituate, MA 02066

**Assessor's Map:** 53-5-17

**Zoning District:** Business and Village Business Overlay District

**Hearing Dates:** July 14, 2016, August 11, 2016

**Members Hearing Special Permit Application:** Stephen Pritchard, William Limbacher, Ann  
Burbine, Robert Vogel and Gerard Wynne

**Decision:** **Approved with conditions by a unanimous vote**

**Background:**

The property is a 6,400 sq. ft. upland parcel improved with a single family house of approximately 1,248 net square feet according to Assessor's records and the 480 sq. ft. Greenbush Post Office. The property is shown on Assessor's Maps as parcel 53-5-17. Access is from Ford Place from the south for both the house and the post office. The site is abutted by the MBTA railroad to the east and developed property to the north and west. In the Mixed Use Village Business Overlay District Development proposal for the site, the existing two bedroom single family house is proposed to remain. The existing post office building is proposed to be razed and replaced with the existing barn

from 50 Country Way which will be finished and converted to a mixed use building. This building will contain office space on the first floor and a one bedroom apartment on the second floor. 16 units per 40,000 square feet are allowed by right without significant public benefit. 2.56 units on this site are allowed by right and 2 units are proposed. Seven parking spaces are provided for the site with an additional overflow space for the residence located on the grass. The office space and one bedroom apartment require four parking spaces and seven are provided for the site including one handicap parking space. Stormwater is piped to six subsurface cultic chambers which will discharge to a proposed stormceptor. The rate and volume of runoff do not exceed pre-development conditions for the 2, 10, 25 and 100 year storms.

The applicant submitted a Stormwater Report and Calculations by Morse Engineering Co., Inc. stamped by Gregory J. Morse, P.E. This report and the accompanying mixed use special permit plans was reviewed by the Town's consulting engineer, Patrick Brennan of Amory Engineers, P.C. who submitted comments to the Planning Board. In response to these comments, the applicant provided revised Stormwater Reports and plans which, after further review by the consulting engineer, were found to address his recommendations.

#### **Procedural Summary:**

An application for a Mixed Use Development Special Permit in the Village Business Overlay District was filed with the Town Clerk on June 3, 2016. 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 July 14, 2016 and continued until August 11, 2016 when it was closed and the Special Permit was approved with conditions.

#### **Hearing Summary:**

When the public hearing was opened on July 14, 2016, Planning Board Chairman Mr. Stephen Pritchard explained the process for the hearing. Christopher Ford, applicant and Gregory Morse, PE of Morse Engineering Co., Inc., design engineer, were present. Mr. Patrick Brennan of Amory Engineers, P.C., consulting engineer for the Town and Laura Harbottle, Town Planner were also present. Mr. Morse indicated that they met with the Design Review Committee who had no major comments. He indicated they were awaiting correspondence from the MBTA on access agreements. Ms. Harbottle said the Board had not heard from the Fire Department and would like to give them the chance to comment on the hydrant location and curbing. The Board expressed that some type of delineation should occur in the MBTA right-of-way so that cars do not back up into the existing pedestrian walkway. Mr. Ford indicated that the route for moving the barn from 50 Country Way had not been finalized yet, but he would like to do the foundation on the site first along with improvements to the barn while it is still at 50 Country Way and then relocate it to the site. He estimated the process as a two to three month timeframe.

At the August 11, 2016 hearing session, Mr. Ford and Mr. Morse were present. Mr. Morse indicated the plans were revised with minor edits including placement of an overflow parking space for the resident on the lawn, the sidewalk detail now complies with ADA requirements, stormwater issues are all resolved, and curbing and an island have been placed around the fire hydrant. Mr. Morse said it was not feasible to put the electric utilities underground and striping on the ground would delineate the pedestrian path in the MBTA right-of-way.

#### **Public Input:**

At the July 14, 2016 public hearing session, Taryn Consilvio of 22 Ford Place was concerned with construction vehicles parking in Ford Place as she indicated it is narrow and emergency vehicles already have a difficult time turning there as people do park in the street when using the post office. She further questioned if the amount of parking was adequate. Marylou Consilvio expressed the same concerns as her daughter in law and added that she is very concerned about people backing up into pedestrians using the path. She was also concerned about construction vehicle parking and the impact to the existing mailboxes.

At the August 11, 2016 hearing session, Taryn Consilvio of 22 Ford Place again expressed concern whether the parking was sufficient as she provided a picture and indicated on a normal day cars park on the road. She was concerned that a semi-tractor trailer comes three times a day for mail delivery and will not have sufficient room to turn around. Mary Consilvio expressed the same concern on mail delivery and said that the applicant has not taken into account the people coming to the post office and to the business. She said a lot of people do use the MBTA path and blocking the fire hydrant is an issue. Mr. Ford said the post office did not raise any concerns about the truck access and there is only one employee for the post office. He indicated he has never has a problem parking at the post office. Mr. Morse indicated they would put a no parking sign by the hydrant.

**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 August 11, 2016:

1. Ford Realty Trust, C. Christopher Ford, Trustee filed an application for a Mixed Use Special Permit in the Village Business Overlay District under Scituate Zoning Bylaw Section 560 on June 3, 2016. This application included plans by Morse Engineering Company, Inc. entitled Proposed New Building 21 – 23 Ford Place (Assessor’s Parcels: 53-5-17) Scituate, Massachusetts, dated 5/26/16, revised 8/1/16, and plans received July 5, 2016 including sheets A101 Elevations, A102 Site Plan and Roof and A103 Elevations prepared for C. Ford.
2. The property that is the subject of this application is a 6,400 sq. ft. parcel at 21 – 23 Ford Place. It contains a single family house of approximately 1,248 square feet according to Assessor’s records and a 480 sq. ft. building containing the Greenbush Post Office. The property is in the Business District and Village Business Overlay District.
3. According to Assessor’s records, the Greenbush Post Office building was built in 1948 and is not subject to the Demolition Review Bylaw.
4. The lot or yard area required for the new building or use does 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.
5. The application was reviewed by the Design Review Committee on July 12, 2016. 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 and the slope meets or exceeds the 8:12 slope required by Section 560.8 A.

- b. Façade Treatment – Section 560.8 B. requires a minimum of 50% of the first floor and 30% of the second floor to be glazed. This building was originally a barn which would have had a minimum number of windows. Preservation of the historic building is a higher priority than meeting the glazing standard in this case.
- c. Front Yard Setbacks – The front setback for the building situated on Ford Place will be 10.7' which is over the 10' minimum required. No parking is located in the front yard setback. The proposal is considered to meet this requirement.
- d. Side and Rear Yard Setbacks – The side setback is proposed to be 8.7'; the rear setback will be 11.1'. The proposal is considered to meet this requirement.
- e. Greenbush Design Standards – All sides of the proposed building are less than 120' long. The façade is articulated. This proposal is considered to meet this requirement.
- f. Parking and Landscaping – Parking has been provided. Landscaping has been shown separating the mixed use building from the existing residence. No invasive plants are proposed. The property does not abut a Residential zoning district and no screening is proposed.
- g. Water Resource Protection District – The site is not in the Water Resource Protection District.

The proposal meets the requirements of Section 560.4 B. and the Design Review Standards of Section 560.8.

- 6. The property will contain two residential units. No affordable units are required.
- 7. A combination of retail and office space is proposed for the first floor, with an apartment on the second floor. The mixed use building is not located on a street where 50% of the floor area on the first floor must be occupied by retail uses. The proposal is considered to meet the requirements of Section 560.4 D.
- 8. According to Gregory J. Morse, PE, the lot contains 6,400 sq. ft. 2.56 units are allowed as density without significant public benefit. Two are provided. No public benefit is necessary.

According to the Site Plan (Sheet 1 of 2) by Gregory J. Morse, PE, 2,265 sq. ft. or 35% of the site shall be maintained as open space.

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 70' is provided on Ford Place.

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

- 9. The proposal will contain 8 parking spaces, including two for the single family dwelling; one for the new residential unit; and five for the office space which includes one handicap space. 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, Patrick Brennan of Amory Engineers, P.C. whose comments indicate his concerns have been satisfactorily addressed.

Based on these findings, the Planning Board finds the meets the requirements for a Mixed Use Special Permit under Scituate Zoning Bylaw 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 21 – 23 Ford Place on August 11, 2016 with the following conditions:

**General Requirements**

1. All construction work shall be done in accordance with the plans submitted by Morse Engineering Company, Inc. entitled Proposed New Building, 21 – 23 Ford Place (Assessor's Parcels: 53-5-17) Scituate, Massachusetts, dated 5/26/16, as revised through August 1, 2016, with any additional revisions needed to conform to the conditions contained herein.
2. Where this special permit requires approval, permitting or licensing from any local, state or federal agency, such required approvals, permitting or licensing including but not limited to approval of sewer and water connections, relocation of sewer and water lines and the Board of Selectmen's approval of work in the public right-of-way of Ford Place are deemed a condition of the Town of Scituate Planning Board's approval of this special permit. All necessary permits and approvals must be received prior to construction.
3. Construction shall meet all requirements of the Scituate Zoning Bylaw.
4. All conditions of approval shall be inscribed on the Mixed Use Special Permit plan.
5. 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.
6. The total number of residential dwelling units on the site shall not exceed two (2).

**Utilities, Parking and Traffic**

7. Maintenance and repair of the driveway, parking areas and curbing, stormwater management system, lighting and landscaping shall be the responsibility of the owner/Applicant. If a Condominium form of ownership is anticipated, the Condominium Association shall be responsible for all of these on notification by the owner.
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 Site Layout Plan (Sheet 1 of the Proposed Mixed Use Development Plan) and in front of the building along the street shall be marked with no parking signs after consultation with the Town Planner.
10. The mixed use building, parking, walkway and required signage shall meet all requirements of the ADA and the Scituate Commission on Disabilities.
11. 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 or landscaping.

#### **Landscaping and Streetscape**

12. To construct the parking area, two 12" maples will need to be removed with about eight smaller (4 – 6") trees. To partly offset this, the tree between the two buildings should be 3" caliper, rather than 2 ½". Some planters and shrubs or perennials at the foundation should be provided.
13. Striping and/or signage should be installed to alert pedestrians and show the location of the walkway subject to approval by the MBTA.
14. All new sidewalk and driveway crossing materials shall be matched with existing. The ornamental light on Ford Place purchased as part of a Streetscape Program intended to unify Greenbush through consistent design elements should be shown on the plan with a note that it shall be protected during construction and preserved.
15. The Applicant shall provide a \$5,000 deposit to guarantee installation of landscaping, continuity of existing sidewalks and driveway crossing, and replacement of ornamental lighting if needed.

#### **Required Prior to Release of Special Permit to Applicant for Recording**

16. The plans shall be updated as required by conditions of this special permit.
17. A Property Owner's Agreement shall be approved by the Town Planner.

#### **Required Prior to Scheduling the Pre-Construction Conference**

18. The Applicant shall furnish written documentation that the MBTA will allow removal of trees, signage for pedestrians, and access for parking in its right-of-way. This may consist of an easement, license or similar legal document. The Applicant shall make the Town aware of any requirements of the MBTA that must be met in connection with this access, which shall be deemed conditions of this special permit. If the MBTA's conditions cannot be met, the Applicant shall notify the Town forthwith and submit an application for a modification to the special permit with an alternative plan.
19. The Applicant has indicated that he intends to relocate the barn from 50 Country Way to the site to serve as the mixed use building. The Applicant shall obtain all permits and approvals necessary to move the building including permission from property owners on the route. A schedule for moving the building shall be provided to the Planning Office and Building Department a minimum of one week prior to the move.

If the building is damaged in the relocation process, any changes to the façade shall be approved by the Planning Board.

20. Copies of all necessary approvals for the use of Town sewer shall be provided to the Planning Board prior to scheduling a pre-construction conference.
21. A determination of the adequacy of the existing water service for the proposed use shall be approved by the DPW prior to scheduling a pre-construction conference. Installation and relocation 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 Applicant's expense.
22. 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 9.2, for the driveway, parking area and stormwater management system. 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, relocation of the barn from 50 Country Way and all applicable items in Subdivision Rules and Regulations 9.1.3.
23. The Applicant shall provide a draft Owners Agreement or Condominium Declaration of Trust to include the owner(s) of the retail/office units and residential units. This document shall include:
  - a. A statement that the driveway, drainage system, sewer, landscaping and other common areas shall be privately owned and shall not be maintained by the Town. The driveway, drainage system, landscaping, lighting, and other common areas shall be inspected, maintained and repaired by the owner or a legally constituted Condominium Association or similar entity. This shall also be stated in a note on the plan.
  - b. A requirement that maintenance of the drainage system, pedestrian walks, parking, driveways and landscaping shall be in accordance with the Operation and Maintenance Plan approved by the Planning Board's consulting engineer (see Stormwater Operation & Maintenance Plan attached to this approval); provisions for snow removal and maintenance of safe conditions through the winter of all vehicle and pedestrian ways; and a description of annual maintenance of the driveway, parking areas, landscaping, lighting and other common amenities.
  - c. A requirement that the owner or Association maintain an account always containing a minimum of one year's costs for this maintenance. A contractor's estimate of this maintenance and proof of the available funds in this account shall be provided to the Planning Board annually on the first of the year.
  - d. If applicable, a requirement that the applicant notify contractors, builders and real estate agents that membership in a Condominium Association or similar entity is required to be disclosed to all prospective buyers. The applicant shall make copies of the Condominium

Declaration of Trust, Owners Agreement or similar document available to all prospective purchasers of units in the development.

- e. If a Condominium Association or similar entity is formed, a requirement that the Planning Board be notified of the name, address, phone no. and e-mail of its trustees within seven days of their election, and be provided with an annual report of their maintenance activities to the Planning Board by January 1 of each year.

#### **Required Prior to the Start of Construction**

- 24. 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.
- 25. A stabilized construction entrance must be installed prior to any earth disturbing activities including but not limited to demolition, clearing and grubbing. Construction access must be clearly identified on the site with signage approved by the Town Planner.

#### **Required During Construction**

- 26. Construction work shall not begin prior to 7:00 AM weekdays and 8:00 AM on Saturdays 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.
- 27. All earth moving/disturbance operations shall only occur while erosion and sedimentation control measures approved by the Town Planner are in place. 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.
- 28. No parking or unloading on Ford Place shall be permitted during construction.
- 29. Construction of the proposed 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 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.

#### **Required Prior to Issuance of Occupancy Permits**

- 30. Following review and approval by the Planning Board, the Condominium Declaration of Trust or Owners Agreement shall be recorded at the Registry of Deeds prior to the Building Department's issuance of the final occupancy permit. Proof of recording must be provided to the Planning Board.

#### **Administration**

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



32. This special permit 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.
33. All plan sheets of the Mixed Use Development Special Permit Plan shall be recorded at the Registry of Deeds.
34. 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.

**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 21 – 23 Ford Place with the conditions noted above.

August 11, 2016

Date

SCITUATE PLANNING BOARD

Carla Burdick

William Linkletter

John P. D'Almeida

Robert B. Vogel

David W. ...

This decision was filed with the Town Clerk on August 15, 2016.  
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