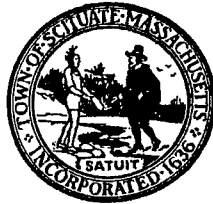


TOWN OF SCITUATE



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Planning Board

**Common Driveway Special Permit – 529 – 531 Country Way
Decision: APPROVED with Conditions**

Owner: Shamrock Realty Nominee Trust, John Dow, Trustee
Applicant: Shamrock Realty Nominee Trust, John Dow, Trustee
Date: April 2, 2015
Location: 529 – 531 Country Way
Assessor's Map: # 26-2-3

Plans: Common Driveway Plan, 529 Country Way, Scituate, MA prepared by SITEC Inc., dated December 29, 2014 revised 2/25/15, 3/23/15 and 3/26/15; Common Driveway Easement Plan, Shamrock Realty Trust, prepared by SITEC Inc., Sheet 1 of 1 dated December 29, 2015 with revisions through 3/23/15; Detail Sheet dated 12/29/14 with revisions through 3/26/15; Stormwater Permit Application and Site Plan Special Permit applications dated January 15, 2015; HydroCAD Stormwater Analysis prepared by SITEC Inc., dated January 16, 2015 with revisions through 3/24/15; Existing and Post Development Drainage Plan for 529 Country Way, Scituate, MA prepared by SITEC dated January 14, 2015; Stormwater Summary, TSS Removal Calculation Worksheet and Operation/Maintenance Plan-Stormwater Management Plan prepared for 529 Country Way by SITEC Dated January 14, 2015 revised 3/16/15, response to peer review dated 2/26/15, 3/25/15 and 3/26/15.

Members Hearing Special Permit Application: William Limbacher, Chairman; Stephen Pritchard, Richard Taylor, Robert Vogel and Robert Greene.

Background: The property consists of a parcel located on the west side of Country Way addressed as 529 – 531 Country Way. It consists of approximately 65,000 sq. ft. in two lots. Lot 1 is 30,828

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sq. ft. and Lot 2 is 34,139 sq. ft. The property is located in the Residential R-2 Zoning District and Water Resource Protection District. This parcel is proposed to contain two houses which will be served by one common driveway; the five existing houses and structures occupying the property will be razed. The applicant is proposing to use the existing driveway opening so no tree or stone wall removal will be necessary requiring a Scenic Road Public Hearing. A Form A Plan submitted under the provisions of MGL Ch. 41 S 81L was endorsed by the Planning Board on May 23, 2014 to separate the land on which two dwellings were standing prior to Scituate's acceptance of the Subdivision Control Law in 1947. The Zoning Board of Appeals approved two lots with less frontage than required by the Zoning Bylaw on September 17, 2014.

Procedural Summary: This request for a Special Permit was filed with the Town Clerk and the Planning Board on February 4, 2015. 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 February 26, 2015 and immediately continued with no testimony taken until March 26, 2015, and closed the same night, when the Planning Board approved the Special Permit with conditions.

Hearing Summary: The applicant's representative, Steven Gioiosa, P.E. of SITEC, was present at the Public Hearing. Mr. Gioiosa said that the property had received a Section 6 Finding from the Zoning Board of Appeals and a Form A from the Planning Board. He indicated that five structures exist on site of which two are houses built in the 1930's. He said the proposed common driveway to service two new houses will provide access to the two lots off of Country Way improving traffic circulation and safety by minimizing curb cuts. He indicated the existing driveway location curb cut will serve as the common driveway curb cut. He indicated that provisions have been made for emergency vehicle maneuvering and the stormwater standards have been met with greater than 90% TSS removal. He indicated that a level spreader serves as a secondary outflow to minimize a point source discharge to Country Way.

Comments were received from Merrill Inc., the Planning Board's consulting engineer, who has indicated with the revised plans, that the Stormwater management system meets the Zoning Bylaw and can be constructed as designed. Comments were also received from the Fire Department, Department of Public Health and Water Resources Committee whose concerns have been met or are conditioned.

Public Comment: No public comments were made.

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 529-531 Country Way:

1. John Dow, Trustee of Shamrock Realty Nominee Trust, filed an application for a special permit for a common driveway serving two lots at 529 & 531 Country Way with the Town Clerk on February 4, 2015.
2. The property at 529-531 Country Way is in the Residence R-2 and Water Resource Protection Zoning Districts. The Planning Board endorsed a Form A Plan dividing the

property into two parcels on May 23, 2014. These parcels were nonconforming as lots with respect to lot frontage.

3. On September 17, 2014 the Zoning Board of Appeals approved a special permit/ finding pursuant to MGL Chapter 40A Section 6 to allow two nonconforming single family dwellings to be razed and replaced by two new dwellings, each on a lot with nonconforming frontage, with the condition that each new home not exceed a gross floor living area of 3,800 sq. ft. and that all zoning requirements except frontage must be met.
4. Soil disturbance and vegetation removal is generally limited to what is necessary for the common driveway and its drainage system, septic systems and new homes. The proposed stormwater management system has been reviewed by the Town's consulting engineer, Merrill 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 surface width of 14'. An email was received from the Fire Chief indicating that he approved the width. The common driveway meets the requirements of Section 720.7B.
6. The common driveway is accessed from Country Way, a major 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 base/binder course and top course of 1 ½" of bituminous concrete each over a 12" processed gravel sub-base. The common driveway meets the requirements of Section 720.7 E.
9. The common driveway is approximately 220 feet in length. The common driveway meets the requirements of Section 720.7 F.
10. The stormwater management system has been reviewed by the Town's consulting engineer, Merrill, Inc., whose comments indicate the system is satisfactory. The common driveway meets the requirements of Section 720.7 G.
11. No driveways, parking areas, turning area or other impervious area is located above the major components of the proposed septic systems which are to be located behind the proposed houses. The common driveway meets the requirements of Section 720.7 H.
12. Screening is shown on both sides of the common driveway along with existing vegetation proposed to remain. The common driveway meets the requirement of Section 720.7 I.
13. A turnaround of 54' in length from end of hammerhead to opposite side of the driveway and 20' in width is provided. The Fire Chief indicated this is acceptable. 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. Country Way is a scenic road. No additional stonewall or trees greater than 3" caliper are proposed to be removed, thus a scenic road hearing is not required.

16. 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 Plan, prepared for Shamrock Realty Nominee Trust by SITEC, Inc. dated December 29, 2014 with revisions through March 26, 2015 and as further revised to meet these conditions.
2. The Common Driveway shall be constructed to a width of 14' with 2' shoulders on either side, with an emergency turnaround, as shown on the plan. Shoulders shall be cleared and grubbed to a width of 2'. The Common Driveway shall be paved with bituminous concrete in two 1 ½ inch coats with a 12" thickness of processed gravel base.
3. Lots 1 and 2 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.
4. 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.
5. 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.

Common Driveway/Stone Wall Agreement

6. A Common Driveway/Stone Wall Agreement shall assign to the owners of Lots 1 and 2 the responsibilities and costs of maintenance and repair of the Common Driveway and emergency turnaround (including snowplowing), as well as the catchbasins, subsurface recharge system, level spreader, grading, all other improvements for stormwater management in the Common Driveway Easement and the mortared stone retaining wall dividing Lots 1 and 2 for approximately fifty feet.
7. The responsibilities of maintenance in the Common Driveway/Stone Wall 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 necessary repair of the stone wall.

8. 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 Agreement shall be executed by the Planning Board and the homeowners, and shall be recorded at the Registry of Deeds.

Finalization of Documents

9. Requirements for maintenance described in the General Specifications for Maintenance of Flo-Gard+Plus catchbasin inset filters included with the applicant's Stormwater Report shall be added to the Operation & Maintenance Plan.

The Operation & Maintenance Plan shall be provided to the Planning Board as a stand alone document which shall also be included in the Common Driveway/Stone Wall Agreement. A final draft of the Agreement shall be provided to the Planning Board within two weeks of the approval of this special permit.

10. 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

11. The following notes shall be added to the plan:
 - The lots on this plan shall not be further subdivided.
 - The Common Driveway is owned by the homeowners. It shall not be maintained by the town and shall always remain private. A Common Driveway/Stone Wall Agreement assigns to the owners of Lots 1 and 2 the responsibilities and costs of maintenance and repair of the Common Driveway and emergency turnaround (including snowplowing), as well as the catchbasins, subsurface recharge system, level spreader, grading and all other improvements for stormwater management in the Common Driveway Easement, and the mortared stone retaining wall dividing Lots 1 and 2.
 - New construction must comply with the Zoning Board of Appeals Section 6 finding issued September 7, 2014 which limits the gross floor area of living space for each new dwelling to 3,800 square feet.
 - 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.

Construction

12. 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.

13. 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.
14. 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.
15. 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.
16. 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.
17. 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.
18. 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.
19. There shall be no parking or idling of vehicles on Country Way during construction.
20. 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

21. 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.

22. 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.
23. 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.
24. 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 529 – 531 Country Way Road with the conditions noted above.

March 26, 2015

Date

SCITUATE PLANNING BOARD

Richard W. Taylor

John P. Fulcher

William L. Lusk

Robert J. Lusk

Robert B. Lusk

This decision was filed with the Town Clerk on April 2, 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 Hearing, the comments and suggestions of other boards which have reviewed and made comments on the plans