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**Scituate Zoning Board of Appeals**  
**Meeting Minutes**  
**April 20, 2017**

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**PRESENT:** John Hallin, Chairman, Sara Trezise and Anthony Bucchere.  
**Also Present:** Bob Vogel, Acting Building Inspector and ZEO.

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The Scituate Zoning Board of Appeals held a public hearing on April 20, 2017 at the Scituate Town Hall located at 600 Chief Justice Cushing Highway, Scituate. The meeting was called to order at 7:05 P.M.

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**First Application: K & E Construction of 209 Broadway, Hanover, MA** requests a Special Permit/Finding in accordance with M.G.L. Chapter 40A, Section 6 and/or Section 810.2 of the Scituate Zoning Bylaws for the razing and reconstruction of a preexisting, nonconforming property adding more than 20% to the existing gross floor area at **563 Country Way (Assessor's Map 26, Block 2, Parcel 46)**. Representing the Applicant: Kevin Grady, Grady Consulting.

Mr. Grady reviewed the application and explained to the Board the preexisting structure was built in 1957, prior to zoning, on a 21,600 sq. ft. lot in the R2 residential zone.

Ms. Trezise clarified the year built according to the assessor's card is 1947 which does, in fact, predate zoning. Mr. Grady was asked to revise the plan to reflect the correction.

Mr. Grady explained the nonconformities are in the frontage (85.72' where 100' are required) and lot width (108' where 125' are required). Setbacks for the side, rear and front comply with requirements. The proposed dwelling would not increase the nonconformities.

Mr. Bucchere inquired about the proposed sq. ft. of 1707 as stated on the plan. Is that the footprint or the proposed living space?

Mr. Grady asked if there is a livable limit in the bylaw.

Mr. Bucchere explained that while there is no livable limit in the bylaw the Board must make the determination of any intensification of nonconformities and whether or not such intensification would be more detrimental to the neighborhood than the existing structure.

Mr. Grady determined an overestimate of the proposed sq. ft. to be 1200 sq. ft. on the first floor and 1700 on the second floor totaling 2900 sq. ft. of living space.

Mr. Bucchere stated according to the Assessor's card the existing sq. ft. is 1610. The proposed plan reflects an increase of approximately 65-80% in living area.

Ms. Trezise requested the Applicant amend the application and site plan to reflect existing square footage and year built as stated on the Assessor's card as a condition of a Finding/Special Permit.

The Board inquired about the dry well and septic plan.

Mr. Grady explained a catch basin would be located on the front property line and the plan shows a roof dry well with a subsurface of stone and concrete leaching galley.

There were no comments from the public.

**Mr. Bucchere motioned that the Board grant the special permit on the application of K & E Construction for the property at 563 Country Way, Scituate for the proposed raze and reconstruction as shown on the plan dated 3/20/17 by Grady Consulting with nonconformities in lot frontage and lot width and that the Board find that the proposed improvements do not create any existing nonconformities and that to the extent the proposed improvements represent an intensification of any nonconformities, that such intensifications are not substantially more detrimental to the surrounding neighborhood. Mr. Bucchere further moved that the Board grant the Finding subject to submission of a corrected application showing existing square footage of 1610 and the year built as 1947. Motion seconded by Ms. Trezise. All in favor, unanimous.**

**Second Application: Stockbridge II Realty Trust, Pierre Coll, Trustee, of 20 North Park Avenue, Plymouth, MA 02360** requests a modification to the Comprehensive Permit issued on or about February 10, 2003 and most recently modified on February 17, 2016 to change the aforesaid project from rental to ownership for the property at **96 Stockbridge Road, Scituate, MA**, previously referenced as 90 Stockbridge Road, Scituate, MA, also being identified as **Assessor's Map 054, Block 2, Parcels 28-A and 28-C**, both portions of former Assessor's Map 054, Block 2, Parcel 28.  
Representing the Applicant: Attorney Adam Costa of Mead, Talerman and Costa, LLC.  
Also Present: Pierre Coll, Trustee of the Trust and Jim O'Brien of Dakota Partners.

Attorney Costa explained the Applicant's request to modify the Comprehensive Permit to reflect a change in housing tenure from rental to ownership and conceded said request is a substantial modification requiring a public hearing. Mr. Costa further stated the Comprehensive Permit was originally issued for ownership units and later modified to rental units. The Applicant has requested a reversal due to financing difficulties and encourages the Board to consider benefits to the Town such as pride in ownership by individuals as well as greater tax revenues.

Though no longer permitted to be required by the ZBA since 2008, the Applicant submitted two pro formas to the record. Pro forma I for a rental project. Pro Forma II for an ownership project and reflects a 15.1% profit of total development cost.

Ms. Trezise inquired about the number of units under the current Comprehensive Permit.

Mr. Costa stated the current pro forma reflects a total of 74 two bedroom units in a town house style to be evenly distributed over 14 buildings. In accordance with Comprehensive Permit regulations 25% of those units are required to be affordable. Dakota Partners has made no proposed increase to the 19 affordable units. Approximate selling price is \$180,000. The remaining units would be sold at market rate, approximately \$525,000.

Mr. Bucchere asked when the HAC would transfer to owners from the developer and if the 40B Regulations impose a restriction on the timing of that transfer.

Mr. Costa replied there is nothing stated in the 40B regulations. The subsidizing agencies will require the units to be sold. Generally the ratio is 1 affordable unit for every 3 market rate units built.

Mr. Hallin clarified the phasing remains as the ZBA approved.

Mr. O'Brien stated financing cannot be secured until such time the Board approves the modification request before them. Dakota Partners would like the project build out in 2-3 years.

Ms. Trezise stated the change from rental units to ownership impacts the credit given to the town.

Mr. O'Brien stated there is no credit if it is not built.

The meeting was opened for public comment.

Brian Sullivan of 11 Sherman Drive stated he was ZBA chairman in 2001 during the time of the initial application and was encouraged to know Dakota Partners will be moving forward with the project. The ZBA originally approved 69 units for ownership. This was later modified to 74 units for rental. Mr. Sullivan encouraged the Board to seek review of the pro forma submitted by the Town's consultant. He further stated his belief that less density is better for the town than more density.

Tricia Lambert of 14 Alexander Place stated her concern for the wetlands.

Mr. Sullivan responded wetlands are all over the site. No work can commence without prior approval of Conservation.

Mr. Bucchere asked if the Applicant is not saying it is not economically feasible to move forward with 69 units versus the 74 units as presently permitted.

Mr. Costa responded the public comments regarding the number of units by explaining the regulations for 40B's have changed greatly since 2001. Regulations were significantly changed in 2008 following the Amesbury case. Economic feasibility is determined by the subsidizing agency. Further, he did not support revisiting the number of units because it was not in front of the Board.

Mr. Sullivan submitted that every 40B hearing have counsel and consult with the attorney who saw this through for input on the proposed plan.

Mr. Hallin asked Mr. Costa if the Applicant considered any movement in the 19 proposed units.

Mr. Costa replied not at this time. Financing can be secured for the plan presented while still attracting investors.

Ms. Trezise stated the number of units is not before the Board.

Mr. Hallin stated extensive site work had been completed to address water issues. Additionally, the proposed change holds benefit to the neighborhood in ownership. The project should move forward.

Mr. O'Brien stated the affordability is reduced with 69 units from 74.

Mr. Vogel stated the 2011 change from 68 to 74 units and the change in configuration as well as that of partial rental, partial ownership would have less density despite more units.

Mary Jane Sylvester of 114 Greenfield Lane asked how many units will be designated for the disabled and would that be advertised as such?

Mr. Costa explained there are required disclosures that would be part of the marketing plan.

Mr. O'Brien explained that 5% of the community must be handicapped accessible if requested.

Mr. Costa stated under ADA code the units must be retrofitted if requested.

Ms. Sylvester asked where on Stockbridge Road construction vehicles will enter the site.

Mr. O'Brien explained that a wall will be dismantled to allow vehicle access at 96 Stockbridge Road which has 70' of frontage. The wall will be reassembled following project completion.

**Ms. Trezise moved on the request by Stockbridge Realty Trust, Pierre Coll, Trustee of 20 North Park Avenue, Plymouth, MA with respect to the modification to the Comprehensive Permit issued on or about February 10, 2003 and most recently modified on February 17, 2016 to change the aforesaid project from rental to ownership for the property at 96 Stockbridge Road, Scituate, MA previously referenced as 90 Stockbridge Road, Scituate, MA also being identified as Assessor's Map 054, Block 1, Parcels 28-A and 28-C, both portions of former Assessor's Map 054, Block 2, Parcel 28 be granted with the condition that the marketing plan include availability of handicapped accessible units. Motion seconded by Mr. Bucchere. All in favor, unanimous.**

**Mr. Bucchere moved to adjourn. Motion seconded by Ms. Trezise. All in favor, unanimous.**

Meeting adjourned at 8:10pm.

Respectfully Submitted,



Anne M. Kelly