

Town of Scituate

ZONING BOARD OF APPEALS

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**TOWN OF SCITUATE
PROPOSED 40B PROJECT HEARING
ZONING BOARD OF APPEALS
Meeting Minutes**

January 11, 2023

Present: Anthony Bucchere, Chairman, George Xixis, Susan Harrison, Justin M. Marks, Christopher Carchia

Also present: Robert Vogel, Scituate Building Commissioner

**Jeffrey A. De Lisi, Esq., Ohrenberger, De Lisi & Harris, LLP, 28 New Driftway, Scituate, MA - Representing the applicant Dan Lovendale of Salt Meadow Development at Scituate, LLC
Dan Lovendale of Salt Meadow Development at Scituate, LLC - applicant**

Mark Casey, Engineer with South Shore Survey Consultants, Inc.

Daniel LaCivita, Traffic Engineer with Vanasse & Associates Inc. (via Zoom) – for applicant

Kevin Freytag, Esq. – Town counsel

Deborah Keller, Merrill Engineers and Land Surveyors (via Zoom)

Kirsten Braun – Ron Muller and Associates – Traffic Peer Review (via Zoom)

Jeremy Lake, Architect with Union Studio Architecture (via Zoom)

Patricia Van Buskirk, Landscape Architect

The Scituate Zoning Board of Appeals held a hybrid public hearing in the Selectmen's Hearing Room in the Scituate Town Hall located at 600 Chief Justice Cushing Highway, Scituate, MA on Wednesday, January 11, 2023 at 7:00 P.M. to consider the following request:

(Continued from November 1, 2022) Salt Meadow Development at Scituate, LLC, seeks a Comprehensive Permit pursuant to Massachusetts General Law Chapter 40B, Sections 20 through 23, 760 CMR 56, and the Town of Scituate Zoning Bylaw and Comprehensive Permit Rules and Regulations, and/or any other relief that the Board of Appeals may grant, to allow for the construction and use of at least 32 dwelling units, at least eight of which would be restricted for low and moderate income for the development of affordable housing, at the property known and numbered as **279-281 Old Oaken Bucket, Scituate, MA, comprised of Assessor Parcels (44-1-3-D, 44-1-3-0, 41-1-3-A).**

Mr. Bucchere – opened the meeting and had a discussion with Attorney De Lisi regarding discussions and expectations from the last meeting and current status.

Attorney De Lisi – advised that after the last meeting a revised report was prepared by the applicant's team due to the changes in the plan and the peer review engineer (Merrill) was provided this report. It was the hope that the applicant's team and the town's peer review engineer would have an opportunity to get together and discuss any issues – that has not happened to date. Merrill submitted revised reports on Monday, January 9, 2023 and Tuesday, January 10, 2023 and parties have not had sufficient time to review same. Attorney De Lisi and Mr. Bucchere discussed it was planned for the parties to discuss and come to a consensus of some sort on at least a few of the points prior to the next hearing. Mr. Bucchere

suggested an overview of Merrill's report and had some collective questions on behalf the people of the town, abutters and board members for Deb Keller of Merrill Engineers and Land Surveyors. Mr. Bucchere also asked for clarification on additional matters noted in the review letter. Attorney De Lisi reviewed that at the last meeting a reduction of units was presented from 32 to 24 three-bedroom cottages. Since that time a revised plan, revised drainage calculations and revised responses have been provided to the town's consultant. On the revised review letter received from Merrill there were engineering issues and questions and comments regarding architecture and landscape design. Attorney De Lisi stated that a revised architectural plan set or landscape plan had not been submitted since the last hearing and had those available. Draft and/or revised waivers were also discussed. Attorney De Lisi also asked that at the next hearing he hoped a vote would be possible.

Jeremy Lake (Union Studio Architecture) – provided an overview of the site and the layout. A comparison of the original plan and the revised plan were presented. Some changes made included: along Old Oaken Bucket (4 units instead of 5) the fifth unit being shifted elsewhere and in the back along the southern edge one of the units was shifted elsewhere to provide a view of the meadow and a need for room for utility needs. The plan for sidewalks connecting everything, the central green and small entry green with mail kiosk will remain. This revised plan is not drastically different from the original plan. Mr. Bucchere questioned the layout of the units – Mr. Lake stated that the plan reflected the layout for the majority of the units aside from the units along Old Oaken Bucket where the garages would be in the back due to the common driveway and not the front. There will be no changes to the living space, which will be just over 2,000 square feet with basements. Basements will be waterproofed. Exterior materials and details were also reviewed. Mr. Bucchere questioned if the fire department approved this plan and the applicant stated that they have reviewed the revised plan and have approved same.

Ms. Keller (Merrill Engineers and Land Surveyors) – in response to Mr. Bucchere's questions on the revised review letter from Merrill the following issues were discussed: **Page 2** – 1-foot wide berm road on the plan and whether it is adequate from a pedestrian standpoint. Ms. Keller explained that would be between the cape cod berm and the 1-foot space and then the proposed sidewalk. Ms. Keller stated that 1-foot space she assumed would be graveled or grassed and explained she would be looking for something with a vertical separation due to the existing cape cod berm. Ms. Keller asked for more detail regarding design. Discussion followed with board members, applicant's team and Mr. Vogel. An updated landscape plan has been received. Retaining walls were discussed – it was confirmed that any retaining wall under four feet does not require a building permit; therefore, does not warrant discussion at this hearing. Retaining walls at or over four feet are proposed and will be discussed with Merrill for final review. Ms. Keller did state specifically on Units 19 and 20, the retaining walls are directly behind the building and she was looking for clarification as to how those would be connected. Mr. Casey explained that the reason the retaining wall is there and so close to the building is due to the 25-foot buffer bordering vegetative wetlands. Mr. Casey stated he feels that the marketplace will resolve that issue. The affordable units are listed as Units 3, 8, 13, 16, 20 and 22. Mr. Bucchere also addressed the topic of roof drain leader systems. Ms. Keller described this type of system and asked for clarification on plan detail for this project. Ms. Keller also requested in her letter an update to the excavation and quantity plan, amount of fill that would have to come into the site, traffic management for construction vehicles (routes etc.). Mr. Casey suggested that a traffic engineer establish routes, start times, quitting times, weekend hours etc. Attorney De Lisi stated that should the board approved this project, it may be conditioned upon a prior construction meeting with Mr. Vogel and an agreement reached. **Page 3** – proposed stop signs. Ms. Keller stated that the two proposed stop signs are at the entrance and at the T at the end, which have been addressed. Additional utility connection information has been requested by Merrill. Mr. Bucchere stated that should be discussed prior to next meeting. **Page 4** – Emergency vehicles and leaching fields. The emergency vehicles issue has been discussed and the issue of leaching fields. Mr. Bucchere stated that he and the board would like to know after discussion of the engineering specifics of both sides regarding the leaching fields, if the two sides are apart on the proposal, what Merrill thinks

could be better and a response from the applicant's engineer and/or as to why it would not be feasible. **Page 5** – Board of Health. Mr. Bucchere noted that Scituate Zoning Board of Appeals has all the decision-making power of the Board of Health. Mr. Bucchere stated the board will rely on Merrill to tell them what they should decide. Ms. Keller questioned if the project would be required to obtain a Title V septic design permit, which would be through the Board of Health. Ms. Keller stated it was her understanding that the applicant would be filing with the Board of Health for the Title V septic permit and she did not want to speak for the board or say she had reviewed it as it has not been reviewed in the sense of looking at it for the Board of Health. Mr. Bucchere added that this explanation was more of a disclaimer. Mr. Casey and Attorney De Lisi also commented. Jeremy Lake also added that he does not typically provide interior details for ZBA and Planning Board hearings, the main concern is usually the exterior. Mr. Bucchere stated that the board's concern would be that if the interiors were not consistent throughout; however, upgrades would be available. Mr. Carchia asked if this project would fall under the new energy code and whether gas would be installed. Mr. Vogel stated the new energy code would apply. Mr. Vogel commented that any "exclusive use areas" should be noted on the plan (condominium unit plan and/or condominium site plan with exclusive use areas/common areas). **Page 6** – Septic system details. Ms. Keller explained she was seeking clarification on the difference in elevations of the septic leaching profile vs. the section. **Page 7 through Page 10** – Water shed plans. Ms. Keller stated after reviewing the area calculations, it appeared the post watershed was more than the existing so was again seeking clarification on that matter. Mr. Bucchere again stated that these issues should be discussed between the parties and where the issues fall short and/or are not feasible. **Page 11** – Construction plan. Mr. Bucchere did confirm with applicant's attorney that a construction plan would be developed but pending a final determination on what exactly will be built first. **Page 12** – Mr. Bucchere stated that it appeared this section was an analysis of the applicant's requirement to comply with the states 40B regulations. Ms. Keller confirmed this statement and stated that she had not received a response on this matter from her initial review letter. Mr. Bucchere noted that he would review this section with town counsel regarding the bylaw or what additional may be needed from the applicant for documentation. Mr. Bucchere also noted nothing further from Merrill would be required from this section. **Page 14** – "Clean-up" and driveway turnaround. Mr. Bucchere and Ms. Keller discussed the driveway turnaround for Units 1, 12 and 18, similar to the turnaround for Unit 11. Mark Casey stated he would review this and additional stormwater matters.

Mr. Bucchere – noted that the proposal for the project is for 24 single family three-bedroom homes and that traffic is an issue in the neighborhood. Mr. Bucchere voiced his opinion that he felt that the town would not have any opportunity to deny the permit or limit the number of uses due to the traffic concerns. He went on to state that he believed that once the recommended site lines are met for the entrance and exit, the opportunity to lessen the number of units would be extremely limited. If the public had any ideas on something that could be done to this particular area of Old Oaken Bucket in connection with this development that the public felt would make the traffic situation noticeably better, other than limiting the number of units, the board would love to hear from them. Mr. Xixis noted that this project was approved by the state for 34 units, originally proposed as 32 units and are currently proposing 24 units.

Meeting was opened for public comment – no public comments.

Mr. LaCivita – is in receipt of the second peer review from Muller and commented that most of the unresolved issues are on the site plans but are not of technical issues regarding traffic. One thing was a site distance plan, which Vanasse is waiting for a ground survey to pull that together and show where vegetation needs to be trimmed and where an embankment needs to be removed. Radar speed signs are going to be proposed and the applicant is amenable to putting these in on Old Oaken Bucket, specifically at the Maple Street/Winter Street intersection to control speeds approaching the driveway and the rotary. A radar feedback sign would be directly to the east of Maple Street/Winter Street and another westbound on Old Oaken Bucket (past the cranberry bog and into the densely packed residential area) on the north

side toward the project site driveway to slow people down. Mr. Bucchere responded that these signs more than likely would fall within the town's right of way and this more than likely could be accomplished without the approval of the abutting property owner, Scituate DPW would be installing the signs that would be under their purview. Mr. Carchia commented that it was his understanding that this was already being discussed within town departments. Mr. Bucchere requested Mr. LaCivita to obtain DPW's thoughts and copy the police department and/or traffic rules within the police department and forward the board the exact location for the proposed signs (at what APN). The type of radar sign would be comparable to the one that currently is at the Congregational Church across from the Scituate Senior Center and/or at the corner of Curtis Street and Branch Street by the Egypt Garage (solar operated and lights up current speed). Previously abutters brought up the issue of installing speed signs similar to these being proposed.

Ms. Braun – Mr. LaCivita covered most of her questions. She did review she is also waiting on the site plans, specifically sight lines at the driveway and sight line profile. He agreed that all of the improvements Vanasse are suggesting will help improve safety (improving sight lines approaching the intersection of Maple and Winter Streets, making the stop signs more visible with reflective red tape and relocating some of the stop signs so they are closer to the intersection to watch for oncoming traffic). The intersection of Old Oaken Bucket at Route 123 – and after discussion with Vanasse, that intersection was included in the Scituate Rotary Road Safety Audit (RSA). The RSA is still in draft form and a number of improvements were listed that would specifically improve that intersection. Muller did suggest that applicant look through the low-cost improvements to improve safety and to suggest that the town consider requiring the applicant to further investigate some of those improvements and/or within the RSA. Mr. Bucchere stated he did see sight lines marked on the plan. Ms. Braun stated that Muller would like confirmed what specific distances and dimensions were used. Mr. Bucchere commented that he felt it would be inappropriate to ask the applicant to do further traffic research on the Route 123 intersection. No further comments from Mr. Vogel.

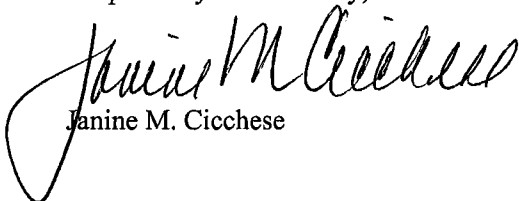
Mr. Bucchere – stated that for the next meeting he would like the engineers to discuss what they feel the outstanding items are and the suggested changes that are not agreed upon and why. Mr. Bucchere specifically requested from Merrill why the engineers should have come further towards ideal and from the applicant's engineer that Merrill is wrong and why and/or why it is not feasible. Mr. Bucchere addressed the public regarding economic feasibility and concerns. Additionally, a "more polished waiver list" was requested. Should Merrill provide approval on drainage, septic and DPW and Scituate Police decisions regarding traffic and a more confirmed waiver list are available at the next hearing, the discussion of a vote will be proposed. Engineering portion and waiver list requested to be presented to the board by approximately February 22-24 for review prior to the next meeting. Attorney De Lisi will prepare an extension to March 8, 2023 and a final decision to be provided by March 31, 2023 in writing. Mr. Bucchere made a motion that this hearing be continued to March 8, 2023. Motion seconded by Mr. Carchia, all in favor, unanimous.

ADJOURNMENT

Motion to close the hearing made by Mr. Bucchere and seconded by Mr. Carchia, all in favor, unanimous.

Meeting adjourned at 8:52 p.m.

Respectfully submitted by,



Janine M. Cicchese