

Town of Scituate



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Town of Scituate Planning Board Findings and Decision

Common Driveway Special Permit for 556 – 562 First Parish Road

Applicant/Owner: Pamela Gray-Prescott Et Al, Trustees, 556 First Parish Road Realty Trust

Address: 50 Littles Lane, Marshfield, MA 02050

Request: Approval of special permit for a common driveway under Scituate Zoning Bylaw Section 720

Location: 556 – 562 First Parish Road

Zoning District: R-1 and Water Resource Protection District

Public Hearings: July 28, 2011

Planning Board
Members
hearing
special permit
application: William Limbacher, Daniel Monger, Eric Mercer, Robert Vogel and Dr. Nico Afanasenko

Decision: APPROVED with conditions by unanimous vote

Background:

The property is an approximately 197,998 sq. ft. or 4.55 acres partially wooded parcel improved with a single family home at 556 First Parish Road and a second single family home at 562 First Parish Road. It is shown on Assessor's Maps as parcel 31-1-42. It contains all upland and is located in a well-established neighborhood of single family homes. Access is from First Parish Road.

A Form A Plan dividing this property into two lots, Lots 1 and 2, was endorsed by the Planning Board on February 23, 2011. This plan shows Lot 1 with an area of 31,156 sq. ft. and 74.02 feet of frontage. Lot 2 was shown with 3.83 acres and 168.08 feet of frontage. Lots 3, 4 and 5 shown on the special permit plan are contained in the area shown on this Form A Plan as Lot 2. The Zoning Board of Appeals granted a special permit for a 50 foot lot for Lots 3 and 4 combined as one buildable lot which was filed with the Town Clerk on April 14, 2011.

The applicant requested a common driveway special permit under Section 720 of the Scituate Zoning Bylaw. The common driveway is proposed to serve three lots, Lot 1, Lot 3 and 4 combined as one buildable lot, and Lot 5.

Procedural Summary:

An application for a common driveway special permit was filed with the Town Clerk on June 22, 2011. A public hearing on the common driveway special permit was duly advertised and notices sent to all abutters in accordance with MGL Chapter 40A. The public hearing on the common driveway was opened on July 28, 2011. The hearing was closed and the special permit was approved with conditions on July 28, 2011.

Hearing Summary:

When the public hearing was opened on July 28, 2011, the Planning Board Chairman Mr. William Limbacher explained the process for the hearing. Mrs. Pamela Gray Prescott was present along with her legal representatives Mr. Bill Ohrenberger and Mr. Jeff Delisi. Paul Mirabito, PLS, of Ross Engineering Co. Inc. also represented the applicant. Mr. David Johnson of Beals and Thomas, Inc., peer review consultants for the Town and Ms. Laura Harbottle, Town Planner were also present.

Mr. Ohrenberger gave an overview of the development. Mr. Mirabito gave an overview of the stormwater management system proposed as well as the access and turnaround which were indicated as approved by the Fire Chief and Traffic Rules and Regulations Committee. They indicated that the existing stone wall is on the property and a scenic road public hearing will not be sought.

Mr. Johnson told the board he focused his review of the adequacy of the access and the stormwater management system requirements of DEP and the Town's Stormwater Bylaw. He indicated the location is good for a common driveway and the vegetation to the east along the stonewall should be kept clear to maintain sight lines. He indicated the stormwater management is thorough for a common driveway and the stormwater report complies with the DEP requirements and the stormwater bylaw.

Ms. Harbottle agreed with Mr. Johnson that the proposed common driveway is good for this location and preservation of vegetation would be good for the Water Resource Protection District. It would also be desirable to preserve the stone wall in this area.

The board thought that the stormwater system was adequate for three houses. The use of Low Impact Development techniques is advantageous. They agreed that the easement needs to include the full length of the common driveway, and that should be included in the maintenance responsibilities of the common driveway agreement. They determined the entry width, driveway width, shoulders and turnaround were acceptable for access and the Fire Department and Traffic Committee were satisfied.

Discussion on the findings and conditions resulted in consensus amongst the Board and the Applicant.

Public Input:

At the July 28 public hearing, the following public comment was received:

Katie O'Malley, 27 Pheasant Hill Drive, asked for clarification of the septic location and setback on Lot 4. It was indicated the setback would be 40 to 50 feet and vegetation would remain.

Findings of Fact:

Based on information submitted by the applicant and testimony given during the public hearing, the Planning Board voted to make the following Findings of Fact:

1. Scituate Zoning Bylaw Section 720, Common Driveways, authorizes the Planning Board to approve a special permit for a driveway serving as common access to two or three lots.
2. Paul Mirabito PLS of Ross Engineering Co., Inc. filed an application for a special permit for a common driveway serving three lots at 556-562 First Parish Rd. with the Town Clerk on June 21, 2011.

3. The plan shows existing or proposed homes on Lot 1, Lots 3 and 4 combined as one buildable lot, and Lot 5. These contain 31,156 sq. ft., 2.85 acres and .97 acres of upland and are located in the Residential R-1 and Water Resource Protection Zoning Districts. Lot 3 contains the majority of the common driveway.
4. Section 720.3, Application Requirements, states that the Common Driveway Plan must contain a common driveway easement. The easement is shown on the plan. The plan will be changed to make it more visible.
5. A Common Driveway Agreement is found in the Stormwater Report submitted with the application. The common driveway meets the requirements of Section 720.5.
6. Soil disturbance and vegetation removal has been limited to those necessary for construction of the common driveway, septic systems and new home on the rear lot. A note on the plan shows the limit of clearing will be staked prior to construction. The proposed stormwater management system has been reviewed by the Town's consulting engineer, Beals & Thomas, Inc. whose comments indicate their concerns have been satisfactorily addressed. The common driveway meets the requirements of Section 720.7 A.
7. The common driveway has a surface width of 14'. A Memo was received from the Fire Chief indicating that he approved this width. The common driveway meets the requirements of Section 720.7 B.
8. The common driveway is accessed from First Parish Rd., a major public road in Scituate. The common driveway meets the requirements of Section 720.7 C.
9. The applicant has agreed to show an easement on the plan prior to release of the special permit for recording. The common driveway Plan shows water lines and their appurtenances. The common driveway meets the requirements of Section 720.7 D.
10. #7, Common Driveway Permeable Pavement Section Detail on Sheet 2 of the Common Driveway Plan, Construction Details, shows construction of the common driveway including 4" of porous asphalt as a top course, a 4" choker course, and 12" filter course bank run gravel. The common driveway meets the requirements of Section 720.7 E.
11. The common driveway is approximately 360' in length. The common driveway meets the requirements of Section 720.7 F.
12. The proposed stormwater management system has been reviewed by the Town's consulting engineer, Beals & Thomas, Inc. whose comments indicate their concerns have been satisfactorily addressed. The common driveway meets the requirements of Section 720.7 G.
13. No driveway, parking area, turning area or other impervious area is located above the major components of the proposed septic systems. The common driveway meets the requirements of Section 720.7 H.
14. The common driveway will not be required to be screened from abutting properties, which may be required by Section 720.7 I.
15. A turnaround of 30' in length and 20' in width is provided. The common driveway meets the requirements of Section 720.7 J.
16. The applicant agreed to cut back vegetation to improve sight distance. Maintenance of this cut area is to be included in the Common Driveway Agreement. The common driveway meets the requirements of Section 720.7 K.
17. Based on these findings and information submitted by the applicant and reviewed by the Board, this common driveway meets the requirements of Section 720 of the Scituate Zoning Bylaw.

Decision:

Based upon the Findings of Fact and the testimony provided at the Public Hearing, the Planning Board approved the Special Permit with the following conditions:

1. The common driveway shall be constructed according to plans prepared by Paul Mirabito, PLS of Ross Engineering Co., Inc., titled Common Driveway Special Permit Plan, 556-562 First Parish Rd., dated June 15, 2011, revised 7/12/11 and 7/22/11, except as revised to conform to the conditions below.
2. Where the proposed construction requires approval, permitting or licensing from any local, state or federal agency, this approval, permitting or licensing will be deemed a condition of the Planning Board's approval.
3. No common driveway shall be connected or attached to this common driveway. This common driveway shall not be extended without prior approval of the Planning Board.
4. The following must be completed prior to the start of construction:
 - a. The plan shall be modified to include An access and utility easement located over, under and upon the common driveway including the turnaround, to provide for access and extension of utilities to Lot 1, Lots 3 and 4 combined as one buildable lot, and Lot 5.
 - b. The revised plan shall be provided to the Planning Board prior to release of the special permit to the applicant for recording.
 - c. A street opening permit must be obtained from the DPW.
 - d. Prior to the start of construction, a pre-construction conference shall be held. The property owner's engineer and contractor, the Town Planner, the Planning Board's consulting engineer and a representative of the DPW shall attend this conference.
 - e. A check must be submitted to the Planning Board to cover the cost of inspections by the Town's consulting engineer.
 - f. The property owner shall post a bond for \$5,000 to guarantee finishing site work and clean-up of the site. After the Department of Public Works has inspected the site and found all work including clean up to be complete, it shall so certify to the Planning Board. Thereafter, the Planning Board may release these funds to the property owner.
5. 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 following approval of this Special Permit, unless the Planning Board has granted an extension of time prior to expiration of such 90 days.
6. Copies of the recorded special permit, plan and Common Driveway Agreement shall be provided to the Planning Board within six months of the approval of the special permit.
7. Construction work shall not begin prior to 7 AM weekdays and 8 AM weekends, and shall cease no later than 5PM weekdays and weekends.
8. Noise mitigation and proper dust controls shall be used, with clean-up of all areas of the site as needed, and there shall be no truck idling on the site or adjacent streets. There shall be no off-site parking or standing of construction vehicles.
9. Construction of the common driveway shall be supervised by a registered professional engineer who shall certify in writing to the Building Commissioner/ Zoning Enforcement Officer 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. As-built plans must be provided to the Department of Public Works, with a copy to the Planning Board, within three months of the completion of construction of the common driveway.

10. The deeds for Lot 1, Lots 3 and 4 combined as one buildable lot, and Lot 5 shall include a restrictive covenant stating that the common driveway shall never be considered for acceptance as a town road and that all maintenance and repair of the common driveway and drainage facilities shall be the responsibility of the owners of these lots.
11. The property owner shall maintain the common driveway and stormwater management system shown on the plan until such time as maintenance is performed by the homeowners. The property owner shall inform the Planning Board within seven (7) days of the date that these responsibilities are assumed by the homeowners.
12. The Building Commissioner shall not issue a final Certificate of Occupancy for new construction served by the common driveway unless the Building Commissioner is satisfied that access, construction of the common driveway, installation of necessary utilities and site restoration are in full compliance with the approved plans and the Special Permit.
13. All utilities in the utility easement area shall be located underground for the length of the common driveway, except a pole may be located at the entrance if required.
14. The property owner shall supplement the Common Driveway Agreement with a revised Common Driveway Agreement subject to the approval of the Planning Board or Town Planner and which meets the criteria of Section 720.5. The Common Driveway Agreement shall include a requirement for regular maintenance of areas shown on the plan where vegetation was removed to improve sight distance on First Parish Rd. by trimming or pruning.
15. The Common Driveway shall be used to access Lot 1, Lots 3 and 4 combined as one buildable lot and Lot 5. No direct access to these lots from First Parish Rd. shall be permitted.
16. 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 M.G.L. Chapter 40A, Section 9.
17. All time periods referenced in this document for completion of conditions shall be tolled in case any appeals are taken.


Vote: Dr. Nico Afanasenko, Daniel Monger, Eric Mercer, Robert B. Vogel and William Limbacher voted in favor of the motion to approve with conditions.

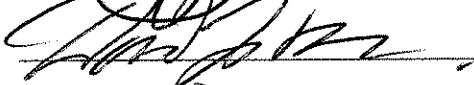
Appeal of this special permit may be made pursuant to M.G.L. Chapter 40A, Section 17, and shall be filed in a court of competent jurisdiction. Proof of that filing shall be provided to the Town Clerk within twenty (20) days of the date of the filing of the decision with the Town Clerk.

Project: Common Driveway Special Permit
556-562 First Parish Rd.

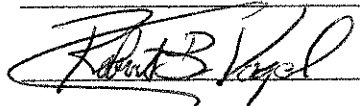
Date: August 4, 2011

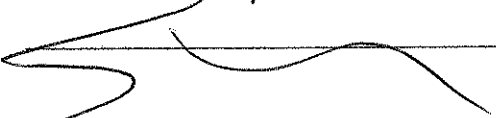
SCITUATE PLANNING BOARD





William Dubochet





Note: This document will not become effective until such time as an attested copy of the Decision has been filed with the Plymouth County Registry of Deeds, following the expiration of the appeal period of 20 days.

DATE FILED WITH TOWN CLERK: _____