



**Town of Scituate
Planning Board**

**Special Permit – Mixed Use
6 Old Country Way / 4 Union Street**

Decision: APPROVED with Conditions
Owner/applicant: John and Mary Hallin
Date: March 27, 2008
Location: 6 Old Country Way / 4 Union Street
Plans: “PROPOSED SITE PLAN FOR 6 OLD COUNTRY WAY IN SCITUATE, MASSACHUSETTS” dated June 14, 2007, with all revisions through March 14, 2008, by Ross Engineering Co., Inc. and Elevations by Anthony D’Onofrio AIA dated 3/27/2008

Members Hearing Special Permit application: Don Walter, Chairman, Mark Fenton, William Limbacher, Patricia Brennan, and Donna Chisholm.

Background: Milton J. Hallin and Mary Hallin (collectively, the “applicant”) are owners of property located at 6 Old Country Way and 4 Union Street, Scituate, MA 02066 by deed of Charles R. Fagan and Ann J. Fagan dated December 11, 2000, and recorded with the Plymouth County Registry of Deeds at Book 19164, Page 114 (collectively, the “property”). The property consists of approximately 40,213 sq. ft. of land and contains the following two existing structures consisting of both residential business uses: (i) a detached, single-family dwelling containing four bedrooms, and (ii) a building having an interior footprint of approximately 3,200 square feet in area the first floor of which is used for business purposes as a carpenter’s shop, and the second floor of which contains two one-bedroom accessory dwellings. The property is in the General Business Zoning District, the Village Business Overlay District, and the Water Resource Protection District.

The applicant is proposing to raze the existing single-family dwelling located on the property and to reconstruct a mixed use structure consisting of nine residences and approximately 2,100 sq. ft. of retail and food service uses. The existing structure containing the 3,200 sq. ft. of commercial space and two accessory dwellings shall remain unchanged, except that the accessory dwelling units shall cease to be used for accessory purposes and shall become legal residences. The applicant further proposes to designate two of the residences as “affordable” pursuant to the criteria set forth in Scituate Zoning Bylaw Section 560.7, with one affordable residence in each structure.

Procedural Summary:

This request for a Mixed Use Special Permit was filed with the Town Clerk and the Planning Board on June 15, 2007. A Public Hearing before the Planning Board was duly advertised and notices sent to all abutters in accordance with General Laws Ch. 40A. The hearing was opened

on August 16, 2007, whereupon it was immediately continued until August 29, 2007. The hearing was further continued at the request of the applicant and with the agreement of the Planning Board to November 8, 2007, December 20, 2007, January 24, 2008, and February 28, 2008. The hearing was closed on February 28, 2008, at which time the Planning Board indicated that before taking final action of the application it desired to review the final comments from the Design Review Committee. At the March 27, 2008 hearing, the Planning Board voted to approve the Special Permit with conditions.

Hearing Summary:

The applicant was represented by Attorney William H. Ohrenberger, III, of Ohrenberger Associates, 28 New Driftway, Scituate, Massachusetts and Paul Mirabito of Ross Engineering Co., Inc., 683 Main Street, Norwell, Massachusetts. At the first Public Hearing, Mr. Mirabito gave the Planning Board an overview of the project and described the proposed drainage. If needed, a septic system can be located under the rear parking lot. At the second Public Hearing, the applicant presented a new site design which separated the existing commercial building from the residential and retail use.

The Planning Board expressed preference for Low Impact Development without retaining walls and other hard structures. There was concern about lot coverage and the amount of impervious surface. Mr. Mirabito explained the need to recharge all stormwater on site because of the location in the Water Resource Protection District. This required a large area of the site to be devoted to stormwater management.

The Planning Board in general preferred more retail area although they were concerned about the number of uses and intensity of activity on the site. There was discussion of blending the mixed use proposal with new development on adjacent properties. The applicant's representatives felt this would be difficult because these proposals were in a preliminary stage. There was discussion of on-street parking and the need for noise mitigation because of the location near the train layover.

At the third Public Hearing, the applicant's representatives presented a new plan with the existing building razed, and a new larger building located closer to the street. The number of apartments had been reduced, but the number of bedrooms remained the same. There was discussion of foot traffic and location of entrances, the parking configuration and architectural detail required in the Village Business Overlay District.

At the fourth Public Hearing, there was discussion of modifications to the building to respond to comments received from the Design Review Committee. There was discussion of adding shutters on the windows. The applicant did not want to include them. There was discussion of the number of parking spaces.

Public Comment:

Charles Fagan, an abutter, asked about the side setback for the new building. Mr. Hallin replied that it is 8 ½ feet. Mr. Fagan thought this would make the two buildings, Mr. Hallin's and his own, very close together, particularly in light of their architectural differences.

Findings of Fact: Based on the submission of evidence and the testimony given during the Public Hearing on this Special Permit, the Planning Board makes the following as Findings of Fact:

1. John and Mary Hallin own the property, which is located in the Business Zoning District, the Village Business Overlay Zoning District, and the Water Resources Protection District.
2. An Accessory Dwelling Special Permit dated July 9, 2004, and recorded with the Plymouth County Registry of Deeds at Book 29026, Page 325, was approved and filed with the Town Clerk on July 20, 2004.
3. A new mixed use building is proposed. This building will contain approximately 2,135 sq. ft. of retail space and/or food service on the first floor. There will be three one-bedroom units and six two-bedroom units on the first, second and third floors.
4. The design of the building was revised in response to several meetings with the Design Review Committee. In the process of these revisions, other changes were made including bringing the building forward towards the street and adding large windows on the street front.
5. Two affordable rental units are proposed, one in the existing commercial structure, the second in the new mixed use building.
6. A Site Plan Administrative Review approved 3/28/2001 restricted the use of the building facing Union St. to a carpenter shop. No outdoor storage of materials or equipment was permitted.
7. The applicant's proposal meets the purpose and criteria for the Village Business Overlay Zoning District set forth in Section 560 of the Scituate Zoning Bylaws.
8. The applicant's proposal meets the general design review standards set forth in Section 950 of the Scituate Zoning Bylaw and the design review standards set forth in Section 560.8 of said Zoning Bylaw.

Decision: Based upon the findings, the Planning Board approves the Special Permit with the following terms and conditions:

1. All construction shall be completed according to a plan entitled "PROPOSED SITE PLAN FOR 6 OLD COUNTRY WAY IN SCITUATE, MASSACHUSETTS" dated June 14, 2007, revised August 1, 2007, September 12, 2007, October 5, 2007, December 10, 2007, and March 14, 2008, respectively, prepared by Ross Engineering Company, Inc., 683 Main Street, Norwell, Massachusetts 02061, with the exception of any modifications needed to conform to these conditions (collectively, the "Plan") and elevations by Anthony D'Onofrio AIA dated 3/27/2008.
2. All construction shall comply with requirements of the State Building Code and of the Fire Chief and DPW.
3. Any change of the proposed retail, residential or carpentry shop uses shall require an amendment of the Mixed Use Special Permit.
4. The applicant must obtain all necessary approvals for the use of sewer or comply with Title V, the State Environmental Code.

5. The DPW will require a determination as to the adequacy of the existing water and proposed sewer services for the proposed use. Any modifications or connections to these services shall be at the Owner's expense with connection fees to be determined at the time of filing the application for tying in.
6. All parking will be constructed as shown on the Plan, as shown in the Table below. The applicant is encouraged to pursue on-street parallel parking. The sidewalk shall be extended to align with the proposed crosswalk.

USE	PARKING SPACES
3200 sq. ft. commercial space in carpenter shop	8 spaces
5 1 BR units (2 existing at 4 Union St. + 3 proposed at 6 Old Country Way)	5 spaces
6 2 BR units (all proposed at 6 Old Country Way)	9 spaces
2135 sq. ft. of retail space in 6 Old Country Way	8 spaces
TOTAL PARKING	30 spaces

7. A deed restriction shall be recorded limiting the initial and subsequent rental prices on the affordable rental unit to low- or moderate-income households as defined US Dept of Housing and Urban Development, in perpetuity; a monitoring agent shall be designated for approval by the Planning Board and an affirmative marketing plan shall be submitted, all prior to the issuance of the first occupancy permit.
8. The applicant shall submit to the Town Planner a final landscape plan prior to issuance of the first occupancy permit. This plan shall include foundation plantings as well as screening for abutting properties, to hide storage units and buffer train noise. Landscaping to soften the impact of the drainage structures is strongly recommended.
9. The hours of construction shall be limited to 7 AM to 7 PM weekdays and 8AM to 4 PM Saturdays, with no work to occur on Sundays or holidays, except in the case of emergencies. The name and phone number of a contact person who is available at all times, in case of emergency, shall be provided.
10. Noise mitigation and proper dust controls shall be used, with clean-up of all areas of the site as needed, and any trucks shall keep idling to a minimum with no idling permitted off-site.
11. The recording of this decision shall have the effect to supersede in its entirety the terms and conditions of the previously issued Accessory Dwelling Special Permit dated July 9, 2004, and recorded with the Plymouth County Registry of Deeds at Book 29026, Page 325. The Planning Board's Site Plan Administrative Review decision of March 28, 2001, attached to this decision, and its conditions remain in full effect.
12. The dormers on the front façade of the proposed building shall be constructed with "double" windows. The building design shall conform with the revised 3/2/08 memo and exterior elevations dated 3/27/08.

13. Landscaping, sidewalks, and bicycle rack(s) shall be installed prior to the issuance of the first final occupancy permit for the reconstructed mixed-use building or by the next growing season.
14. The components of the drainage system shown on the Plan shall be maintained according to an Operation & Maintenance Plan approved by the DPW or Conservation Commission.
15. Before a building permit is issued, letter of confirmation will be obtained from the town's consulting engineer regarding compliance with the town's drainage requirements.

Vote: All members present voted in favor of granting the Special Permit with conditions.

SCITUATE PLANNING BOARD:
