

TOWN OF CAPE ELIZABETH, MAINE
MINUTES OF PLANNING BOARD MEETING

December 18, 2001

7 P.M., TOWN HALL

Present: David Griffin, Chair
John Ciraldo
Peter Cotter
Karen Lowell
David Sherman
Mark Wilcox

Absent: Andrew Charles

Also present was Maureen O'Meara, Town Planner

Chairman David Griffin opened the meeting and called for a short delay in order for Board members to catch up on some additional correspondence. He then asked for action on the minutes from the previous meeting of November 20, 2001. With no amendments suggested, Mr. Sherman made the motion to accept the minutes. Motion was seconded by Mr. Cotter and carried 6 in favor and 0 opposed.

Mr. Griffin next reviewed correspondence.

OLD BUSINESS

Blueberry Ridge Subdivision – Request by Joseph Frustaci for Major Subdivision Review and a Resource Protection Permit for the 19 lot Blueberry Ridge Subdivision located off Mitchell Road, Sec. 16-2-4, Major Subdivision Public Hearing, and Sec. 19-8-3, Resource Protection Permit Public Hearing.

Joseph Frustaci, 8 Rosewood Drive in Cape Elizabeth, introduced himself as the owner and applicant of the Blueberry Ridge Subdivision, and reviewed the particulars with regard to the 19-lot subdivision located off Mitchell Road. Access to the subdivision would be on Blueberry Road, which would end in a cul-de-sac. Two other short streets, Fernwood Drive and Red Oak Drive, would also service the lots. Sidewalks are proposed for one side of Blueberry Road and Fernwood and none on Red Oak Drive. The development will be serviced by public sewer and water. A drainage system is being designed by Ross Cudlitz, a drainage expert, and Mr. Frustaci has hired Tom Emery with Land Use Consultants, Inc., to design a vegetation plan which will enhance the buffer area between properties. All trees within the twenty-foot rear setback area are to be preserved. Two pedestrian easements, one from Stone Drive and accessing the property and one from Red Oak Drive via Fernwood, would still be in place although altered. Mr. Frustaci reviewed the open space allotment, which he had calculated in accordance with the requirements of the Open Space Provisions. The pond area had been previously established as a Town easement, but Mr. Frustaci was now prepared to sign over ownership for that parcel to the Town thereby satisfying the percentage for open space within the new subdivision.

Mr. Frustaci noted that most of the concerns brought to his attention were about drainage and vegetation. He wanted to emphasize that he has retained experts to deal with both of those issues.

Chairman David Griffin opened the meeting to a Public Hearing and asked that participants keep their comments within a three-minute time frame.

Robert Crawford, 441 Range Road, Cumberland, introduced himself as a Portland attorney representing So. Portland residents Mr. and Mrs. Tom Peterson, Lee Bumsted, Yolande Fogg, and David and Elizabeth Sawyer. He stated that the major concern of his clients is the distance of the rear setback, and maintenance of existing vegetation within those buffer areas. There is a fear that the proposed drainage system would destroy mature trees and other physical characteristics of the land.

Thomas Peterson, 54 Goudy Street, So. Portland, is an abutter of the proposed subdivision and requested that the Board listen to the concerns of the neighboring So. Portland properties as if they were Cape Elizabeth residents. He reminded the Board that Town Manager Mike McGovern had made assurances to So. Portland residents that their considerations with regard to development would carry "full weight". Mr. Peterson also addressed the issue of reducing the fifty foot setback and its impact on the So. Portland lots, which are not very deep. He hoped that the Board would strictly abide by the fifty-foot setback established in the Subdivision Ordinance.

Lee Bumsted, 58 Goudy Street, So. Portland, has lived approximate to the proposed development area for fifteen years and requested the Board use close scrutiny with regard to the issues raised pertaining to the established ordinances. The issues noted were the requirement for a fifty foot rear setback for the building envelopes, the preservation of existing vegetation within the buffer areas, stormwater management, and the proper mapping of the wetlands. She hoped that a plot plan might be provided to insure the salvaging of the majority of trees which provide a privacy buffer as well as aesthetic characteristics. She also asked that the Board make choices to adopt developments with a functional and acceptable design which will safeguard the characteristics of existing neighborhoods.

David Sawyer, 10 Charlotte Street, So. Portland, referenced a letter dated December 10, 2001, which he had submitted to the Board. As a member of the So. Portland Planning Board, and an abutter to the proposed development, he was familiar with the debate on both sides. While he applauded the Cape Elizabeth Planning Board for addressing a solution to issues associated with sprawl development, he did not consider the proposed subdivision a "reasonable" development and felt it would damage the "viability" of the existing neighborhoods. He cited the failure to recognize the importance of the fifty foot setback, the impact of additional traffic onto Edgewood Road because of the potential of it becoming a cut-through from Mitchell Road, little consideration paid to the natural characteristics of the land, and no recent review pursuant to the wetlands.

Elizabeth Sawyer, 10 Charlotte Street, So. Portland, elaborated on the traffic study which was done for the Blueberry Ridge Subdivision, noting that the study was done with consideration only for Mitchell Road, and not the potential for a continuance road through to Edgewood Road.

She also asked for clarification of Mr. Frustaci's calculations of 40% land dedication to open space for this development since she was of the opinion that the area had already been considered dedicated in the Rosewood Plan. Mrs. Sawyer also stated that So. Portland residents were agonizing over ways to accept development in this area and had allocated funds to pay for mediators to work with the town and developers. She also stressed the shallowness of the So. Portland lots at 87' (feet) and their close proximity to the proposed development.

Robert Crawford stepped forward to address setback conflicts with building envelopes proposed for lot #7, and lot #12 and requested an opportunity to discuss any changes relative to the drainage plan once it's drafted.

John Shoos, 83 Goudy Street, So. Portland, had been a resident along with his wife and sons for seven years. They had been attracted to the So. Portland neighborhood because of the quiet afforded by the dead end street and the proximity of the woods. Mr. Shoos was shocked to hear that the subdivision would contain 19 lots, which he felt would compromise the density of the area. He voiced concern for the alterations to the landscape caused by blasting and vegetation removal, and strongly believes that the development would have an adverse affect on the character of the Goudy Street neighborhood. He asked that the Board abide by the established setbacks and pay particular attention to drainage issues. Traffic increases and loss of open space were also noted as important concerns.

Sue Ellen Roberts, 25 Edgewood Road, So. Portland, has been a resident since 1977, and has cherished the quiet and sanctity provided by the neighborhood. She has concerns with the increase of traffic should her street become connected with Red Oak Drive.

Patricia Cobb, 37 Stone Drive, Cape Elizabeth, has attended So. Portland meetings regarding the Blueberry Ridge Development , and wanted to underscore the fact that free mediation has been offered to both parties to resolve issues and allay stress between the towns.

Julianne Eberl, 54 Edgewood Road, has resided with her husband Carl in the neighborhood for a short period but concurs with the concerns expressed with regard to alteration of the quiet and safety afforded their dead end street. She raised the question of radon testing in the development area. In closing, she asked that the Board give careful consideration that the development be "appropriate to the history and the nature of the neighborhood".

Ed Seymourian, 136 Mitchell Road, was concerned that the low elevation of his driveway might present a danger factor for children or individuals cutting through the development. He suggested lighting or buffer planting to safeguard that happening.

With no other participators coming forward, Mr. Griffin closed the Public Hearing and opened discussion to the Board members.

Mr. Frustaci stated that on July 21, 2001, Richard Sweet Associates did a wetlands study of the development area. He responded to the question raised by Elizabeth Sawyer regarding pedestrian easement by referencing the original Rosewood Subdivision approval, which allowed alteration to the pedestrian easements within reason. He also mentioned the fact that under the ordinance

for Open Space Zoning, the Board has the authority to modify the building envelopes to a certain degree to accommodate the capability of building structures of a comparable type to those preferred by Cape Elizabeth residents.

Ms. Lowell asked about the status of Red Oak Drive with regard to its actually connecting to Edgewood Road, or whether it was proposed to exist as an alternate route of egress to a public road. Mr. Frustaci stated that at first Red Oak Drive was simply designed as a right-of-way, but had since been proposed as a paved way. An easement exists between the Town of So. Portland and Cape Elizabeth lot owners Christopher Boulos and Steven Gagnon who currently access their properties from Edgewood Road in So. Portland, but who also would be inclusive of the Blueberry Ridge subdivision via access to Red Oak Drive should they connect. Maureen O'Meara made the clarification that the Cape Elizabeth Planning Board had extended Edgewood Road for a private right-of way to accommodate an access to the Boulos and Gagnon properties, but a 25' strip abutting the municipal boundary line has been vacated by the City of So. Portland. Although physically the road exists, legally it does not. Should Red Oak Drive connect with the easement onto Edgewood Road, there would be no jurisdiction to block a through way into So. Portland, because that would interfere with the easements granted by the City of So. Portland to Mr. Boulos and Mr. Gagnon. Mr. Boulos had expressed a desire to have access from his property to the Blueberry Ridge subdivision, but nothing had been heard from Mr. Gagnon on this matter.

Mr. Wilcox questioned Mr. Frustaci about the drainage basins depicted in the initial draft plans and Mr. Frustaci responded that no sub-surface drainage was deemed necessary. Some damaged trees would be removed in the drainage swail but overall grading and placement of culverts should control surface water. Ross Cudlitz, a civil engineer working with Mr. Frustaci, made a statement to support the limited alteration to vegetation to provide adequate drainage.

Mr. Sherman requested a specific depiction of what trees might be salvaged and Mr. Frustaci stated that Tom Emery had already plotted the trees in the twenty foot buffer area and he would provide exact information to the board, as well as, the vegetation enhancement plan for the development.

David Griffin asked about corroboration with the Town Engineer with regard to road design. Mr. Frustaci responded that Dick Manthorne had been working to address issues raised by Steve Harding. Mr. Griffin especially wanted the Fire Chief consulted with regard to access by emergency vehicles.

Mr. Ciraldo had concerns with the implications involved with the connection of Red Oak Drive through the easement to Edgewood Road. He expressed the importance of a traffic study to gage the impact on Edgewood Road. He also asked Mr. Frustaci to comment on his request for a setback variance. Mr. Frustaci responded that the setback reduction would enable him to construct the size and type of residence to support the cost of the project as well as provide a type of residence in proportion to comparable homes throughout Cape Elizabeth.

Mr. Ciraldo felt it was critical to provide landscape buffering and screening to minimize the impact on the abutting neighborhoods. Mr. Griffin asked Ms. O'Meara whether she knew what

the set back allocations for the So. Portland neighborhoods and she replied 20 feet for principal buildings and 6 feet for accessory structures.

Mr. Griffin stated a continued concern with Red Oak Drive and hoped that some conclusions could be reached before a future meeting. Discussion ensued among Board members with regard to the through street issue and suggestions were raised to satisfy those concerns.

Mr. Sherman questioned the waiver requested pertaining to sidewalks on Red Oak Drive and Mr. Frustaci replied that it was his intention to downplay the area as a road. He wanted to provide more grass area than pavement.

When questioned about the Open Space allotment to meet the ordinance requirements, Ms. O'Meara explained that initially Mr. Frustaci had reserved title in the pond area easement but now would be deeding ownership to the Town. That parcel would be subtracted out from the overall square footage of the development and the percentage of additional allocated land easement should then satisfy the open space requirement of 40%..

Mr. Griffin suggested that in redesigning the swail areas within the development, Mr. Frustaci take advantage of new design ideas which have a more pleasing impact on appearance.

Ms. Lowell advised attaining a Resource Protection Permit for lots #1 and #2 where wetlands would need to be addressed in landscaping. Mr. Frustaci replied that applications had been submitted.

Mr. Cotter made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Joe Frustaci for Major Subdivision Review and a Resource Protection Permit for the 19-lot Blueberry Ridge Subdivision located off Mitchell Rd be tabled to the regular February 19, 2002 meeting of the Planning Board.

Before the motion was seconded, Chairman Griffin thanked the residents of South Portland for their participation and made assurance that their concerns would not go unheeded.

Mr. Sherman seconded the motion. Motion passed 6 in favor and 0 opposed.

Off Site Parking Zoning Amendment – The Cape Elizabeth Town council is requesting that the Planning Board review an amendment to the Zoning Ordinance, Sec. 19-7-8, that would permit uses in the BB Zoning District to provide for required parking off-site within one (1) mile of the site, Sec. 19-10-3, Zoning Ordinance Amendment Public Hearing.

Mr. Griffin asked that Maureen O'Meara give the Board a review of the particulars involved in the amendment and then opened the meeting to a Public Hearing. With no participants stepping forward, he then opened discussion to Board members.

Ms. Lowell made the following motion:

BE IT ORDERED that, based on the materials provided and the facts presented, the Planning Board recommends the amendment to Sec. 19-7-8 of the Zoning Ordinance allowing off site parking in the BB District up to one (1) mile away.

Mr. Ciraldo seconded the motion which passed 6 in favor and 0 opposed.

With no further business, Mr. Cotter made a motion to adjourn. Motion was seconded by Mr. Sherman and motion carried 6 in favor and 0 opposed.

Meeting adjourned at 8:50PM.

Respectfully submitted,

Barbara H. Lamson, Minutes Secretary