

TOWN OF CAPE ELIZABETH, MAINE  
MINUTES OF PLANNING BOARD MEETING

September 17, 2002

7 P.M., TOWN HALL

Present: David Griffin, Chair  
John Ciraldo  
Andrew Charles  
Peter Cotter  
Karen Lowell  
Barbara Schenkel  
David Sherman

Also present was Maureen O'Meara, Town Planner.

Chair David Griffin opened the meeting and asked for a short delay in order to review correspondence. He then requested action on the minutes of the previous meeting. With no amendments requested, Mr. Sherman made a motion to accept the minutes. Motion was seconded by Mr. Charles and carried 7 in favor and 0 opposed.

Mr. Griffin reviewed correspondence and proceeded to old business.

Mr. Sherman stated that although he had not attended the July meeting, he had reviewed the videotape of that meeting and so was aware of all the presentations made.

Mrs. Schenkel stated that while she had not reviewed the videotape of the previous meeting, she had read the minutes and all related correspondence. She also had made a site visit to the Shore Road property.

Mr. Griffin stated that he also had done an independent review of the Shore Road property.

**OLD BUSINESS**

**Blueberry Ridge Subdivision and Resource Protection Permit** - Request by Joe Frustaci to table review of Blueberry Ridge, a 19-lot subdivision located off Metcalf Rd (U34-22-4/17), to the October 15, 2002 Planning Board meeting, Sec. 16-2-4, Subdivision Review and Sec. 19-8-3, Resource Protection Permit.

Mr. Charles made a motion for the Board to consider.

**BE IT ORDERED** that, based on the plans and materials submitted, the application of Joseph Frustaci for Final Subdivision Review and a Resource Protection Permit for Blueberry Ridge, a 19-lot subdivision located off Metcalf Rd, be tabled to the regular October 15, 2002 meeting of the Planning Board

Mr. Cotter seconded the motion which carried 7 in favor and 0 opposed.

**Cape Health Center Site Plan** - Request by Dr. Craig Johnson for Site Plan Review to convert the existing building located at 1226 Shore Rd (U11-14) to a medical office and construct additions and a garage, Sec. 19-9, Site Plan Public Hearing.

Ms. Lowell consulted the Board as to whether or not she should recuse herself from the discussion. She and her family use the services of Dr. Johnson, but she felt that she could be objective in her consideration of the project. Board Members felt there would be no conflict of interest and therefore no need to abstain from the discussion.

Mr. Griffin asked the applicant to bring the Board up to date on the project.

Mark Wilcox introduced himself and explained the changes made to the plans since the initial project review.

1. Meets and bounds have been added to the plans.
2. An area diagram of the additions in the different phases of the project was laid out to depict how each would affect the existing building footprint.
3. The garage was enlarged one foot in width and two feet in length and the overhead door has changed from a double door to two single doors.
4. Biohazard waste will be attended to by an independent contractor and will be handled in proper containers and disposed of at an approved biohazard incinerator site.
5. A letter has been submitted from the Portland Water district confirming an adequate water supply for the building requirements.
6. The wooded area to the east of the building has been designated as a vegetative buffer zone and will be augmented with plantings in the landscaping plan. A note on the plan states that the work outlined on the plan would preclude the removal of any dead vegetation. An arborist will review the vegetation along the edge of the clearing to help determine what should be removed.
7. A design for a new septic system has been received by the applicant, but not yet submitted to the Board. The system would be implemented in Phase II of the project should the property not be connected to Town sewer.
8. The applicant continues to feel that the construction of a sidewalk along the front of the property is inappropriate. Dr. Johnson considers the location and appearance of the building to bear a more residential character than Town Center appearance. He felt that a sidewalk would conflict with the rural character of the property across the street as well as the residential homes beyond his property.

Mr. Wilcox then presented Dr. Johnson to make additional comment.

Dr. Johnson addressed the requirement for a traffic intersection report and inquired as to how to make an assessment of visitations to the site. Ms. O'Meara explained that the Institute of Traffic Engineers had formulated tabulations for different business types and sizes and provided the information in the Trip Generation Manual which could be accessed through a traffic engineer. Dr. Johnson asked

whether the traffic report would be required for Phase I approval. Mr. Griffin replied that the traffic information was a standard requirement for Site Plan Approval and since the information was relatively easy to obtain, the Board would adhere to its requirement pending approval. Mr. Sherman suggested that if all the other standards for Site Plan Approval are met, a condition could be made with regard to the information required for the traffic issue.

Dr. Johnson stated that a timely approval was crucial so that he could accommodate his staff and patients. He felt that the project was on track and that the Board must move to approve the plan that evening. To table the project would put off proposed plans until spring. He saw the sidewalk requirement as the only issue unsettled in the application, and stated that he considered that requirement unreasonable and impractical. He resented the burden of cost associated with the sidewalk requirement, and maintained that even regardless of cost, he would not support the requirement. Dr. Johnson felt that the construction of a sidewalk would create runoff problems for his neighbors, the Rands.

Dr. Johnson reviewed the chronology of the Town Center Plan draftings and presented the Board members with printouts of example visionary layouts from those sessions. He maintained that none of the draftings depicted a sidewalk in the proximity of the Shore Road property. He also maintained that the language of the ordinance stated that a sidewalk "should" not "shall" be constructed. He cited the insistence of the Board that he continue the required sidewalk across the entire frontage of his property to the detriment of vegetation. He also stated that while the Town had previously owned the property, they had not met any obligation of constructing a sidewalk.

Dr. Johnson went on to read a letter which the Board members also had reviewed from the Rands voicing their support of Dr. Johnson project and joining in his argument and concerns with the construction of a sidewalk.

Mr. Griffin opened the meeting to a public hearing.

Henry Berry, 110 Two Lights Road, introduced himself as a Town Council member speaking as a citizen. He made reference to a proposal put before the Town Council with regard to connecting the public sewer to the Shore Road location, and the proposal being turned down because of the existing system servicing the property. He did not support the Town requirement for a sidewalk and echoed Dr. Johnson's concerns with runoff issues impacting the Rand property. Mr. Berry asked that consideration be given with respect to the fact that Dr. Johnson was misled in his knowledge public sewer already connected to the property.

Susan Berry, 110 Two Lights Road, was asked by a friend, Patricia Austin, to read a letter dated 9/17/2002. In her letter, Ms. Austin voiced an objection to the required sidewalk, calling the construction unnecessary and an obstacle to the project's contribution to the community. Speaking for herself, Mrs. Berry felt that Dr. Johnson had presented sound argument for deterring the requirement for the sidewalk. It was her interpretation of the ordinance that there was leeway within the Town Center Plan and she hoped that consideration be given in Dr. Johnson's favor.

Gary Punsky, 34 State Ave., inquired who was responsible for requiring a sidewalk on Dr. Johnson's property. Mr. Griffin responded that the sidewalk requirement was part of the Town Zoning Ordinance and that the change in use of the Shore road property initiated compliance with that ordinance.

Mr. Punsky considered the sidewalk unnecessary. He questioned the requirements placed on the Town when they owned the Shore Road property, and felt the Board capricious in their demands of applicants.

Becky Farnsworth, 7 Wentworth Road, felt that an unjust burden was placed on Dr. Johnson with regard to the construction of a sidewalk. She felt that his medical building was an asset to the center of town and hoped that the Board could overlook the obstacle of the sidewalk.

Carl Pearson, 8 Russet Lane, introduced himself as a former member of the Town Council and Town Center Planning Committee. He wanted to impart the importance of moving forward with Dr. Johnson's project in order to alleviate the difficult conditions at the doctor's current location. It was his opinion that Cape Elisabeth lacked a cohesive town center and therefore loopholes existed in the requirements placed on a business. Regarding the traffic report required in the ordinance standards, Mr. Pearson felt that the burden of submitting that information should fall on the Town and not the applicant.

Joe Unnold, 47 Stonybrook Road, introduced himself as a patient of Dr. Johnson and was of the opinion that the sidewalk requirement made no sense and was unfair.

With no other persons coming forward, Mr. Griffin closed the Public hearing and opened discussion to the Board.

Mrs. Schenkel wanted to go on record that she agreed with all of Dr. Johnson's arguments regarding the sidewalk. She felt that the ordinance was irrational with regard to the Shore Road property, and that vegetation would suffer with its enactment. She also wanted to make the point that the Town had also owned the property and never had the undertaken the responsibility of constructing a sidewalk.

Mr. Sherman stated his appreciation for all the comments received but took exception to the implication that the Town Planner was not helpful to applicants in the review process. He maintained that the Planner was very helpful and did not consider the Board as being obstructionist or unfair. He maintained that his obligation was to adhere to the ordinances and cited that as his focus. He then referred to the language of the ordinances with regard to landscaping and site development and the distinction in the wording of "should" and "shall." The sidewalk was, in his opinion, an issue, which should be strongly encouraged but not required.

Mr. Ciraldo pointed out that the ordinance regarding sidewalks in the Town Center District was adopted in 1995. He dismissed any argument that a property owner within that zoning could be unaware of the requirements and obligations therein. He noted that properties existing prior to the ordinance are under no obligation to comply with those requirements unless or until modification. He maintained that the property owned by Dr. Johnson was clearly in the Town Center Zone and therefore subject to the requirements stated in the ordinance whether it be sidewalks, lighting, etc. He stated that Board rulings needed to be consistent with the ordinance, otherwise arguments would arise in the future regarding distinction allowed to properties in the Town Center.

Mr. Charles wished to echo Mr. Sherman's sentiments regarding the efforts provided by the Town Planner and the level of professionalism and dedication Ms. O'Meara brought to her position. He wished to clarify the requirement for the traffic count by stating that the issue was not the comings and goings from the business threshold, but rather the increase of vehicular traffic which would impact the intersection of Rt. 77, Shore Road, and Scott Dyer Road. That information would decide whether or

not more planning might be required for a determination of level of service and safety at that intersection. Mr. Charles agreed with Mr. Ciraldo's comments concerning consistency with rulings on ordinance standards. He allowed that discretion can be granted in some areas and made the point that if the Board wanted to apply the ordinance 100 per cent, then the Shore Road property would have to not only provide a sidewalk but also an esplanade planted with trees. Further adherence to the ordinance would require the applicant reconstruct their façade to comply with a front entrance. He dismissed the Town Center Plan drawings which Dr. Johnson had presented as hypothetical and held with the language written in the Ordinance requiring sidewalks throughout Town Center Zone. He saw no distinction in the Shore Road property and took the position that a sidewalk should be installed there. With regard to drainage, he stated that the issue was never previously brought to the Board's attention and if there were genuine concerns, the project should be tabled until that matter was reviewed. Mr. Charles also addressed the question regarding the absence of a sidewalk during the period the property was owned by the Town. He made the point that application of the Town Center Ordinance standards was a "patchwork" process, whereby properties were not liable to adopt those standards unless they underwent a modification or site plan review.

Ms. Lowell voiced support of a sidewalk at the Health Center site but suggested a concession to end the construction prior to reaching the vegetation near the property boundary.

Mr. Griffin agreed with Board members that as a Board they were obligated to determine that the conditions of the ordinances are met. He was uncomfortable making concessions which might be viewed as inconsistent with past or future rulings.

Mr. Cotter stated that, against his own common sense, he felt an obligation to uphold the ordinance requirement for a sidewalk at the Health Center site. He had issue with the fact that the Town had not instated a sidewalk at the time of their ownership of the Shore Road property, but then conceded that the Town had met the obligation of sidewalks with respect to the renovations at the Pond Cove School and the new Community Center site.

Mr. Ciraldo raised discussion regarding the existing septic system and an update of information regarding an upgrading of that system pending Phase II of the project. Mr. Wilcox replied that a design for a new system had been submitted. Ms. O'Meara stated that a condition of approval was that the applicant, prior to the completion of Phase II, implement an approved system or connect into the Town sewer system.

Mr. Wilcox replied that the applicant had an HHE 200 prepared for the site. At the advice of the Code Enforcement Officer, a professional septic system engineer had reviewed the existing system and drawn up a plan to augment that installation. He assured the Board that the plan was a viable design, guaranteed to accommodate the second phase of the project, and approved by a registered professional.

Mrs. Schenkel held that she was opposed to construction of a sidewalk at the Health Center site. She felt the requirement irrational and asked the Board to consider Ms. Lowell's concession to construct the sidewalk only to the point where vegetation existed along the edge toward the Rand property. Mr. Sherman commented that he would consider that concession. Mr. Ciraldo felt that if a concession was made, the language had to be very definitive with respect to the exact location and termination of the sidewalk.

Mr. Wilcox returned to the requirement of the traffic report and clarification on the information the Board was seeking. He insisted that the Board had not made an indication at the workshop that a traffic report be required, otherwise the necessary information would have been submitted

Mr. Ciraldo corrected Mr. Wilcox regarding the requirement of a traffic study, explaining that the information solicited by the Board was, in fact, a submission of evidence that vehicular traffic does not exceed the standard so that a traffic study need not be the required. Ms. O'Meara explained that the Board was subjected to accepting clear data with regard to meeting standards. Information submitted with an application had to be specific, otherwise approval could be deemed vague and capricious. In the process of clarifying standards, the Board built in specificity so that the applicant would know exactly what information the Board deemed necessary. She went on to read the section of the ordinance pertaining to vehicular traffic and parking and the specific information required in site plan review. According to Ms. O'Meara, no information had been submitted with regard to fulfilling that ordinance standard. Mrs. Schenkel recalled the discussion at the workshop where the opinion was that the traffic generated by the medical office would not exceed that generated by the community center. Mr. Charles did not perceive the traffic issue as being an obstacle to approval, but agreed with the Town Planner that valid information needed to be submitted in order to substantiate that the standard was met.

Mr. Wilcox raised the issue of the vagueness involved concerning the construction and design standards of the sidewalk. He cited an unreasonable amount of space available on Shore Road to accommodate pedestrian, shoulder and drainage considerations He felt that the Town should be held accountable for problems which might arise from the Board's insistence of what would be an improper sidewalk design. Mr. Wilcox stated that although the ordinance was well intended, the facts presented made the requirement an unreasonable burden for the applicant.

Mr. Charles made reference to a previous application submitted by the property owners across the street on Shore Road and responded that the applicant in that instance had achieved the application of the sidewalk by adopting a creative design. He then suggested an alternative to the requirement of the sidewalk running the full extent of the property, by instead running only to the extent of the buildings plus ten feet. Discussion ensued among Board members as to what extent a concession might best comply.

Mr. Wilcox proposed a design modification for a sidewalk which he felt would meet the intent of the ordinance and satisfy the concept of linking the property to the Town Center. He drafted a sketch on the submitted plan showing a sidewalk running from the front door of the building and perpendicular to the street and then turning at an angle that would eventually align with the Town Center. He felt the design satisfied both the concept of the Town Center standard and also maintained the residential flavor of the property.

Mr. Ciraldo commented that since the Johnson property was the final property considered within the Town Center Zone, the proposed design could suffice. He reprimanded Mr. Wilcox for not presenting the alternate proposal earlier in the process, especially when it was apparent at the site walk that the Board's inclination was toward the requirement of the sidewalk.

Mr. Charles concurred with Mr. Ciraldo's sentiments and felt compromised in making a ruling based on impromptu design changes not subject to review by Town Staff.

Mr. Sherman agreed to accept the design presented by the applicant but asked for guidance in drafting language to grant approval of the project given the lack of specificity of the drawing.

Mrs. Schenkel supported the proposed sidewalk design and suggested a condition be drafted within the text of the approval.

Ms. O'Meara stated that a condition could be met if the applicant would leave the altered plan as a submission drawing, and the Board approve that drawing subject to submission of construction drawings that accurately reflect that design.

Ms. Lowell requested that the applicant leave a list of construction materials and information on dimensions. Mr. Griffin seconded that request and inquired of any regulation the Town had with regard to materials. Ms. O'Meara replied that there were no regulations in the ordinance with regard to surface treatments. Mr. Griffin asked of the type of material used for the Everett Johnson project, and Ms. O'Meara replied asphalt. Mr. Griffin wanted to go on record as saying that one of the things that pleased him as a citizen in Town was the walkway and esplanade which now exists in the center of Town and its constant use by pedestrians. He sees the Town Center beginning to take shape and the addition of sidewalks will continue to make that concept prosper.

Mr. Charles made the following motion for the Board to consider:

### **Findings of Fact**

1. Dr. Craig Johnson, also doing business as Foxtrot Properties LLC, is requesting Site Plan Review to convert the existing building located at 1226 Shore Rd to the Cape Health Center, a medical office with two proposed additions and a new two-car garage, which requires review under Sec. 19-9, Site Plan Regulations and Sec. 19-6-4(D)(3), Town Center Design Requirements.
2. No information has been provided estimating trip generation at full build-out.
3. The Town Center Design standards require that a sidewalk be constructed parallel to the front façade of the building.
4. The Code Enforcement Officer has determined that the existing septic system may fail as part of the Phase I construction and will not meet the Plumbing Code for Phase II construction.
5. The preservation of existing vegetation will provide a continuous buffer to the residential property to the east.
6. The application substantially complies with Sec. 19-9, Site Plan Regulations and Sec. 19-6-4(D)(3), Town Center Design Requirements.

**THEREFORE BE IT ORDERED** that, based on the plans and materials submitted and the facts presented, the application of Dr. Craig Johnson, also doing business as Foxtrot Properties LLC, for Site Plan review to convert the existing building located at 1226 Shore Rd to the Cape Health Center, a medical office, with two proposed additions and a new two-car garage, be approved, subject to the following conditions:

1. That trip generation information for the full build-out of the medical office building be provided. If the traffic generation exceeds 100 peak hour trips, the applicant shall submit an analysis of the Shore Rd/Rt 77/Scott Dyer Rd intersection that demonstrates that the proposed development will not reduce the current level of service of the intersection. If the level of service is reduced, the applicant shall return to the Planning Board for review of the traffic analysis. All information shall be submitted to the Town Planner for review;
2. That a sidewalk be constructed from the entrance drive to the building door facing Shore Road, located to minimize impact on existing trees and conforming substantially to the hand sketch submitted at the September 17, 2002 Planning Board meeting. Plans for the sidewalk should be submitted and reviewed by Town Staff prior to the issuance of a building permit and construction detail for the project shall take into consideration preservation of adjacent trees;
3. That the project shall be connected to the public sewer system or a replacement septic system be designed and installed prior to the construction of Phase II. The septic system design shall be in accordance with the Plumbing Code as determined by the Code Enforcement Officer;
4. That a continuous limit of clearing line be established on the plans to preserve a continuous vegetated buffer on the eastern side of the property; and
5. That there be no issuance of a building permit for the construction of Phase I or II until the plans and materials have been revised to address the above conditions and submitted to the Town Planner for review, who will distribute to other Town staff as appropriate.

Ms. Lowell seconded the motion and motion carried 7 in favor and 0 opposed.

Mr. Wilcox made additional comment regarding at what phase the sidewalk be implemented. He requested that the construction of the sidewalk align with the septic construction involved with Phase II. Mr. Griffin was of the opinion that a concession had already been made with regard to the sidewalk and stated that he would be uncomfortable if the sidewalk was not implemented in the initial phase. Mr. Ciraldo concurred and made the point that a problem could ensue should the Board grant further concession to a future phase of the project which might then never occur. He did not want the Board to establish a precedent of delaying requirements. Mr. Charles felt that a considerable amount of concessions had already been granted the project and the applicant had been given due consideration.

Mr. Griffin moved to continue on to the next item on the agenda.

## **NEW BUSINESS**

**Flocatoulos Private Accessway Permit** – Request by Costas and Lisa and Flocatoulas for a Private Accessway Permit to create a second lot located at 142 Metcalf Road (U34-18), Sec. 19-7-9, Private Accessway Permit Completeness.

Bob Metcalf, Mitchell & Assoc., representing Mr. & Mrs. Flocatoulos, came forward to present the details of the application. He stated that the Flocatoulos property is a 45,953 sq./ft. lot which is surrounded on three sides by the proposed Blueberry Ridge Subdivision. The applicants would like to construct an accessway to extend beyond their existing circular drive and create a new lot to the rear of their parcel. A waiver to reduce the radius of the turn-around has been requested from the Fire Chief. Other standards of the accessway have been met. The property would be serviced by public sewer, public water and existing overhead utilities.



Mr. Metcalf provided an example of the building envelope for the proposed lot showing twenty- foot side, rear, and front setbacks, and the accommodation made for the emergency vehicle turn- around area. In addressing comments by the Town Engineer, Mr. Metcalf noted:

1. A fire hydrant located near the property had been added to the plan.
2. The turning radius onto Metcalf Road was changed from fifteen to twenty feet, and the pavement area for the accessway would be a minimum of fifty feet from the edge of the existing roadway. The applicant is unsure whether the entire accessway will be paved.
3. Details for a sewer cleanout and sewer connections to the public sewer have been added to the plans which will be resubmitted.
4. Drainage is being reviewed with the Town Engineer in consideration of the system being proposed for the Blueberry Ridge Site Plan.
5. A certified boundary survey is currently being reviewed by Owen Haskell.

Mr. Metcalf solicited questions from the Board.

Mr. Charles asked if a plan was submitted for buffering. Mr. Metcalf replied that the applicants had not decided whether or not they might build on the new lot and wished to wait until they had made a decision before presenting anything specific. Some existing spruce will be transplanted during construction of the accessway and they will serve as some screening.

Mr. Sherman made a motion for the Board to consider:

Mr. Ciraldo seconded the motion and motion carried 7 in favor and 0 opposed.

Mr. Griffin questioned the Board regarding a site walk or public hearing with regard to the project.

Ms. O'Meara had received one response. Since the applicant was returning for the next meeting, a public hearing was scheduled. Mr. Charles requested a buffering plan be submitted prior to the final plan review. He also suggested a drainage plan be presented aside from the Blueberry Ridge proposal. Mr. Metcalf agreed.

Mr. Griffin asked that the new accessway be named and Mr. Metcalf stated that the name Delphi Road had been selected by the applicant and approved by the Police Chief.

Mr. Sherman made the following motion:

**BE IT ORDERED** that, based on the plans and materials submitted and the facts presented, the application of Costas and Lisa Flocatoulos for a Private Accessway Permit to create a second lot located at 142 Metcalf Rd (U34-18) be deemed complete.

**BE IT FURTHER ORDERED** that the above application be tabled to the regular October 15, 2002 meeting of the Planning Board, at which time a public hearing shall be held.

Motion was seconded by Mrs. Schenkel and carried 7 in favor and 0 opposed.

**Golf Course Zoning Amendment** – Request by the Town Council to amend the Zoning Ordinance to make golf courses a permitted use in the RA and RB District and to add a definition of golf course, Sec. 19-10-3, Text amendment to the Zoning Ordinance Public Hearing.

Mr. Griffin reviewed the discussion regarding the agenda item at the September Planning Board Workshop where two zoning amendment options were drafted with regard to golf courses as a permitted use in the RA and RB districts. Before Board discussion, Mr. Griffin opened a public hearing.

Ken Keller, 291 Spurwink Ave., stated that he prefer Option 2 which would recognize Purpoodock Club as a permitted use existing in the RA district, but not allow its expansion across the street in the RB district. He felt that the definition of golf courses as written in the amended ordinances as too loose and was concerned about the possibility of unfavorable expansion within the interpretation. Mr. Keller also was concerned with the traffic and safety impact of expanding the Purpoodock Club across the street. He felt that an effort to accommodate the Purpoodock Club with language which would allow them to expand into both residential zones would be seen as spot zoning and create problems in the future.

John Mitchell, representing the Purpoodock Club, wanted to review the purpose for the amendment request was first, to allow golf courses to be a permitted use in the ordinances. Currently the golf course is a non-conforming use. Second, a definition was requested that would describe golf courses and their ancillary uses so that if the club chose to utilize their land located across the street and in the RB district, they could prescribe to those ancillary uses. Mr. Mitchell also noted that any expansion or development would have to come to the Board for Site Plan Review and so issues of noise, traffic, and lighting would be addressed.

Mr. Griffin closed the public hearing and opened discussion to the Board.

Mr. Ciraldo felt strongly that the issue presented concerns for spot zoning and was at a loss to find a solution which would recognize the Purpoodock Club as a permitted use in the RA district as well as allow for their expansion only within their property located in the RB district. He maintained that the only fair option was to grandfather the Purpoodock Club as it currently exists or to allow golf courses as a permitted use in both districts. Mr. Ciraldo was of the opinion that he did not have enough quantitative information to make a recommendation that golf courses should be allowed as a permitted use in all of Cape Elizabeth. He supported Option 2 in order to address the more specific request brought to the Board, but would defer to the Council regarding a more universal change to the Town Zoning Ordinances.

Board members concurred with those sentiments, agreeing that too little review had been given to the implications involved in approving a sweeping change to the ordinance. Recognition was given to the Purpoodock Club for its service to the community and the opportunities which would be granted with its expansion. The consensus of the members was that although they would prefer to grant an option that would accommodate the Purpoodock Club, too many implications were involved in granting a broader zoning concept.

Mr. Sherman made the following motion for the Board to consider:

**A. Motion to Recommend to Town Council**

**BE IT ORDERED** that, based on the facts presented, the Planning Board recommends Option 2 of the Golf Course Zoning Amendment to the Town Council for consideration.

Motion was seconded by Mr. Charles and carried 5 in favor and 2 opposed (Griffin, Cotter).

**Open Space Zoning Amendment** – Recommendation by the Planning Board to consider amending the Zoning Ordinance to clarify how the Open Space Zoning provisions in Sec. 19-7-2 are applied to a subdivision that includes more than one zoning district, Sec. 19-10-3, Text amendment to the Zoning Ordinance Public Hearing.

Mr. Griffin read the text of the proposed amendment and opened the public hearing.

Kevin Keller, 291 Spurwink Ave., spoke in favor of the amendment, stating that its application would be good incentive for developers to grant more open space.

With no one else coming forward, Mr. Griffin closed the public portion of the meeting and opened discussion to the Board.

Mr. Ciraldo felt that the amendment was important in promoting cluster development within the Town by allowing some flexibility with subdivisions incorporating two or more zoning districts. He considered the amendment appropriate and consistent.

Mrs. Schenkel asked how the amendment proposal originated. Ms. O’Meara referenced a recent court decision concerning a development in Southern Maine. She explained that in light of that case and a proposed similar project on Wells Road, the Planning Board decided to address the issue. Mr. Griffin suggested that the intent was a to clarify the language in Open Space Zoning requirements and Ms. O’Meara agreed.

Ms. Lowell made the following motion for the Board to consider:

**BE IT ORDERED** that, based on the facts presented, the Planning Board recommends the Open Space Zoning Amendment (Sec. 19-7-2) to the Town Council for consideration.

Motion was seconded by Mrs. Schenkel and carried 7 in favor and 0 opposed.

With no further business, Mr. Griffin asked for a motion to adjourn.

Mrs. Schenkel made a motion to adjourn. Motion was seconded by Mr. Ciraldo and carried 7 in favor and 0 opposed.

Meeting adjourned at 9:55PM.

Respectfully submitted,

Barbara H. Lamson, Minutes Secretary

