

TOWN OF CAPE ELIZABETH, MAINE
MINUTES OF PLANNING BOARD MEETING

February 18, 2003

7 P.M., TOWN HALL

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

Also present was Maureen O'Meara, Town Planner

Chair John Ciraldo opened the meeting and asked for action on the minutes of the previous meeting. With no amendments requested, Mr. Griffin made a motion to accept the minutes. Motion was seconded by Mr. Charles and carried 7 in favor and 0 opposed.

Mr. Ciraldo reviewed correspondence and proceeded to old business.

OLD BUSINESS

Leighton Farms Subdivision - Request by Joel Fitzpatrick of Wyley Enterprises, LLC for Preliminary Subdivision Review and a Resource Protection Permit for Leighton Farms, a 16-lot subdivision located off Wells Rd (R5-32/30), Sec. 16-2-4, Major Subdivision Review and Sec. 19-8-3, Resource Protection Permit Public Hearing.

Owens McCullough, of Sebago Technics, representing Wyley Ent., LLC, stepped forward to review the project and present a supplemental site plan with the following changes:

1. Clarification of the monumentation of the right-of-way.
2. Modifications to the farm pond.
3. Adjustment of the road size to allow for a widening of the esplanade to accommodate the planting of street trees. The sidewalks are allocated closer to the right-of-way line.
4. The fire hydrant relocated at the request of the fire chief.
5. At the request of the Town Engineer, separate plans were presented for grading and utilities.
6. Notes were added to the plans to clarify details with regard to pipes and incidental facilities.

In addition to the changes presented in the plans, Mr. McCullough noted that Joel Fitzpatrick had approached the Town Council for conditional municipal acceptance of the open space, roads, and sewer infrastructure. A letter from Michael McGovern to the Board was enclosed in the submission package and references that process.

Mr. McCullough also noted a letter received from the Portland Water District stating a confirmation of capacity upon their review of the sanitary pump station.

Mr. Ciraldo opened the public hearing.

Robert Howe, 9 Steeplebush Road, wanted to approach the Board with his personal concerns as well as professional input with regard to the development. He referenced two letters which had been forwarded to the Board. Mr. Ciraldo confirmed that those letters were reviewed. Mr. Howe reiterated issues addressed in the correspondence. Elevation and topography were a concern and he questioned whether the ordinance standards could be met in an effort to make the landscape viable for development. He considered the lots too small and ordinary to warrant the amount of blasting and reconfiguration necessary. He felt that the open space easement was superficial in that a CMP easement already existed. A sewer connection which will pass through the easement to the Cross Hill Development will require blasting very close to two existing properties. Preservation and reclamation of trees over the easement was requested. In closing, Mr. Howe stated that in his opinion, the development did not support the notion of “the great American neighborhood”, and he asked for the Board’s diligence in creating a development that would provide the same types of amenities and benefits as seen in Cross Hill.

Cindy Collins, 8 Steeplebush Road, introduced herself as a 6th Grade teacher in Cape Elizabeth and a resident of Cross Hill. As a member of the community for twenty years, she had always been struck by the beauty of the area. As a former resident of Kansas, she expressed a special fondness for the trees. Mrs. Collins made a plea to the Board to make an effort to preserve the trees and vegetation in the new development and approve a plan that is attractive and well conceived.

Larry Collins, 8 Steeplebush Road, requested that the Board take into serious consideration the utility easement into the Cross Hill Development. Although he recognizes that the plan meets many specifications, he has concerns about the high density of homes for the area and the amount of tree removal and blasting required for its development. He suggested that alternative plans for utility hook-up be explored to minimize the impact on the homes in Cross Hill. He criticized the lot and open space layout and considered the development unequal in aesthetics and planning to the Cross Hill Development.

With no further persons coming forward, Mr. Ciraldo closed the public portion of the meeting and invited the applicant to address comments from the public and the Board.

Mr. McCullough reviewed the following layout and design elements:

1. The development is situated in the growth zone. Lot size and density are consistent with zoning standards. In comparison, many of the lot sizes are one and a half times larger than the lots in the Hemlock Hill Development.

2. The open space is contiguous to existing open space, and in addition to the CMP easement which currently exists.
3. The developer concept was to preserve the farmhouse as a significant statement to the development and then to work with the landscape in planning the layout and open space.
4. Clearing will occur with consideration.
5. The land across the street is not part of the development and no plans are pending.
6. Alternate options were considered for the sewer hook-up, but the Water District preferred not to have additional pump stations and infrastructure to maintain. Their preference was to consolidate with Cross Hill. Further study and analysis of the pump station confirmed capacity.
7. With regard to the utility easement, a topographic study was done in consideration of vegetation removal. A thirty-foot clearing will be necessary, but plans are to preserve trees on the upper hillside and do supplemental plantings on the lower hillside. The plantings are depicted on the plans.

Mr. Ciraldo questioned the width of the right-of-way. Mr. McCullough replied that it was fifty feet wide. He also stated that blasting in that area would be required, but pre-blasting protocol would be strictly followed.

Mr. Sherman asked of the status of a storm water plan. Mr. McCullough replied that he was currently working with engineers at Oest and Bob Malley of Public Works to determine modification necessary to the detention basin and also examine the capacity of a culvert on Wells Road. Supplemental analysis is ongoing.

Mrs. Schenkel asked whether or not a storm water application had been filed with the DEP. Mr. McCullough replied that the applicant was waiting until after preliminary plan approval so that plans submitted to the DEP would not be subject to changes.

Mr. Charles requested a review of the open space and public access. Mr. McCullough pointed out the utility easement which serves as a link between the two developments. He also pointed out the trail system running through the CMP power line easement which would connect with the land being developed. Joel Fitzpatrick, owner of the development property, stepped forward to explain that he is working with the Conservation Commission to create a trail system. Those trails would be added to the plans after the Commission's input.

Mrs. Schenkel expressed a consideration of the issues brought forward by the residents of Cross Hill. She agreed that the compact design raised a concern for landscaping detail to minimize the close proximity of homes. Mr. Fitzpatrick stated that as the only builder for the development, he would require, and had in fact, drafted covenants to regulate plantings. He noted that in his experience, homeowners placed an importance in landscaping and vegetative buffers.

Mr. Griffin voiced concern for the sewer connection planned through the easement. Although he understood the reasoning for the connection, he requested a specification of the vegetative buffer and plantings be placed on the subsequent plans.

Mr. Griffin made favorable comment of the fact that sidewalks were laid out within the development.

Mr. Charles sympathized with homeowners in Cross Hill who were concerned about the preservation of trees within the right-of-way. Because most of their lots were totally cleared, trees in the fifty-foot ROW constituted the only buffer between the developments. He asked Maureen O'Meara to review how the ROW came to be and its original significance. Ms. O'Meara explained that in the Town Subdivision Ordinance there is a requirement that new subdivisions must set aside a stub for new road ROWs to abutting undeveloped land. When the Cross Hill Subdivision was approved, there was a condition that a new stub ROW be implemented to accommodate the abutting Leighton Farm parcel as well as the Jordan Farm parcel. Potentially the fifty-foot ROW could have been a road instead of a sewer easement.

Mrs. Schenkel asked that the affordable housing lot be designated on the plan. Mr. Fitzpatrick agreed.

Mr. Griffin asked for a response to the Town Engineers concerns regarding storm water and flow analysis. Mr. McCullough explained that those issues were currently being worked out with the Town Engineer and Public Works and further details would be forthcoming.

With no further discussion, Mr. Griffin presented a motion for the Board to Consider:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Wyley Enterprises LLC for Major Subdivision Review and a Resource Protection Permit to construct Leighton Farms, a 16-lot subdivision located off Wells road, be tabled to the March 18, 2003 meeting of the Planning Board.

Motion was seconded by Mr. Sherman and carried 7 in favor and 0 opposed.

NEW BUSINESS

Ocean House Child Development Center – Request by Laurie Grant to expand the number of children at the Ocean House Child Development Center located at 280 Ocean House Road from 12 to 32, Sec. 19-9, Site Plan Completeness and Public Hearing.

Laurie Grant introduced herself and business partner Peggy Littlefield and reviewed her request. The business is located in the Methodist Church on Rt 77 and currently is licensed to accommodate up to 12 children age six weeks to five years. She and her co-owner would like to expand their number of charges. Both are licensed and approved to increase the capacity of the program. The church and abutting residents have approved of the change. No modifications would be required of the building. An additional classroom within the Church would be utilized. A site plan was submitted detailing the use of the previously approved exits and entrances and parking area. The play area meets the standards for the Town Ordinances. Projected traffic patterns were noted as well as arrival times. Lighting would remain the same. A sign detail was enclosed in the packet as well as a profile of the business owners.

Mr. Ciraldo asked for a motion on completeness. Mr. Sherman made the following motion for the Board to consider:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Laurie Grant for Site Plan Review to expand the Ocean House Child Development Center located at 280 Ocean House Road from 12 to 32 children be deemed complete.

Motion was seconded by Mr. Hatem and carried 7 in favor and 0 opposed.

Mr. Ciraldo opened the public hearing. With no persons coming forward, Mr. Ciraldo closed the public hearing.

Mr. Cotter made note that the site plan was reviewed within the past year and that no physical changes were required. State licensing would regulate the increase in children and therefore, all considerations were met. Mr. Sherman praised the applicant for the attention to detail within the submittal facilitating the process.

Mr. Cotter made the following motion:

Findings of Fact

1. Laurie Grant is requesting Site Plan Review to expand the Ocean House Child Development Center located at 280 Ocean House Road from 12 to 32 children, which requires review under Sec. 19-9, Site Plan Review and Sec. 19-8-8, Day Care Standards
2. The application substantially complies with Sec. 19-9, Site Plan Regulations and Sec. 19-8-8, Day Care Standards

THEREFORE BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Laurie Grant for Site Plan Review to expand the Ocean House Child Development Center located at 280 Ocean House Road from 12 to 32 children be approved.

Motion was seconded by Mr. Charles and carried 7 in favor and 0 opposed.

Mr. Ciraldo introduced the next order of business.

Hamlin Street Resource Protection Permit – Request by Joseph Frustaci for a Resource Protection Permit to alter the RP2 wetland to construct a driveway to a lot on Hamlin Street (U29-50), Sec. 19-8-3, Resource Protection Permit Completeness.

Steve Mohr of Mohr and Seredin Landscape Architects and representing Mr. Frustaci, reviewed submittal material with the Board.

1. The parcel of concern is located at the end of Hamlin Street and measures about 10,000 square feet in area. Hamlin Street is a narrow gravel road measuring about 12’ wide. An existing culvert captures the upstream water, directs it into a downland stream and into an RP2 wetland. The wetland was mapped by Mark Hampton. Other specific details of the site were shown on a map professionally surveyed by Robert Greenlaw of Back Bay Boundary, Inc.

2. The applicant proposes to construct a house on the upland portion of the site. The Town and DEP standards with regard to RP2 wetlands were examined. Mr. Mohr explained that the Maine DEP standards are variable from 75' setback from streams down to a 25' buffer preserve. With those standards in mind, a site plan was submitted depicting a hatch line location for any structures. A deed restriction would also be imposed to prevent any structures being outside the acceptable building envelope. Another hatched out line would impose a restriction on site disturbance.
3. Full project scope would be to widen Hamlin Street and subsequently the culvert servicing the stream. The widening would accommodate vehicular access, and more specifically emergency access. A driveway would service the house on the upland knoll.
4. The residence would be serviced with public water, public sewer, and underground electric.
5. At the request of the Town Engineer, a swale would be constructed in the back in the area of a fill slope.
6. A building plan was submitted which conforms with standards for height restrictions and lot coverage and other requirements for the underlying zone. Restrictive construction buffers are also established to protect the wetlands and stream during the building process. Consideration will be made to preserve certain trees.
7. A DEP permit is in place for the natural resource protection activities.

Mr. Ciraldo asked the Board for a discussion on completeness.

Mr. Charles made a clarification that although a site plan was submitted, the Board was actually only ruling with regard to the Resource Protection Permit for the driveway and culvert. Ms. O'Meara confirmed that comment.

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

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Joseph Frustaci for a Resource Protection Permit to construct a driveway and related culvert improvements for a lot located off Hamlin Street (U29-50), be deemed complete.

Motion was seconded by Mr. Griffin and carried 7 in favor and 0 opposed.

Mr. Cotter maintained that given the concerns of residents within the neighborhood, he would recommend the application be tabled to the next regular meeting when a public hearing would be held. Board members concurred.

Mr. Charles requested more specific information and calculations regarding flooding and water runoff, particularly relative to abutters. Mr. Mohr agreed to provide a written description.

Mr. Ciraldo asked that the applicant identify the trees that would be preserved, and those to be removed. Mr. Mohr complied.

Mrs. Schenkel wanted clarification of activity within the 25' vegetation buffer. Mr. Mohr stated that there would be no activity within the 25' buffer. With regard to the stream which runs through the property, Mr. Mohr explained that it continues to flow and disperse further into the abutting neighborhood. No additional flow would be generated by the changes to the road and culvert plan.

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

BE IT FURTHER ORDERED that the above application be tabled to the regular March 18, 2003 meeting of the Planning Board at which time a public hearing shall be held.

Motion was seconded by Mr. Hatem and carried 7 in favor and 0 opposed.

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

Mr. Griffin made the motion to adjourn. Motion was seconded by Mr. Sherman and carried 7 in favor and 0 opposed.

Meeting adjourned at 8:48PM.

Respectfully submitted,

Barbara H. Lamson, Minutes Secretary