

TOWN OF CAPE ELIZABETH, MAINE
MINUTES OF PLANNING BOARD MEETING

April 15, 2003

7 P.M., TOWN HALL

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

Absent: Andrew Charles

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, Mrs. Schenkel made a motion to accept the minutes. Motion was seconded by Mr. Hatem and carried 6 in favor and 0 opposed.

Mr. Ciraldo reviewed correspondence and proceeded to old business.

OLD BUSINESS

Pillsbury Private Accessway Permit – Request by Marshall and Suzanne Pillsbury for a Private Accessway Permit for a lot located at 78 Two Lights Rd (U39-4-2), Private Accessway Permit Completeness, Sec. 19-7-9, and a Resource Protection Permit, Sec. 19-8-3. Request to be tabled.

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

BE IT ORDERED that, based on the request of the applicant, the application of Marshall and Suzanne Pillsbury for a Private Accessway Permit and a Resource Protection Permit for a driveway to access a lot located at 78 Two Lights Rd be tabled to the May 20, 2003 meeting of the Planning Board, at which time a public hearing will also be held.

Motion was seconded by Mr. Hatem and carried 6 in favor and 0 opposed.

OLD BUSINESS

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

Owens McCullough, of Sebago Technics and representing Wyley Enterprise, Inc., brought the Board up to date on any subsequent changes to the submission and addressed the requirements cited by the Town Engineer and other Town officials.

1. An Affordable Housing Deed Rider has been provided along with a quit claim deed and metes and bounds descriptions for Leighton Farm Road for Town acceptance in the future.
2. A construction cost estimate was drafted.
3. A warranty deed was presented with metes and bound for the open space which will be dedicated to the Town.
4. A drainage easement was provided to the Town for the culvert running underneath Wells Road, and an easement also was drafted for the Jordan property for the drainage into the pond.
5. A DEP permit is in process and the applicant would accept a condition of no construction until that paperwork is received.
6. Additional landscaping requested by the Town Planner will be forthcoming and the applicant asked that the subsequent plan be a condition of approval. Trees will be added to screen the riprap area of the pond. The applicant would like to work with the Town Planner to decide the type of vegetation which might best suffice.
7. At the request of the Town Engineer, a note on the plan has been clarified with regard to the iron pins set at each property line at the intersection with the Town right-of-way. Also, a leg of the Greenbelt Trail, which was omitted previously, has been added to the final plan.
8. A note on the plan states that the Open Space shall forever remain natural and undisturbed, with the exception of one disturbance necessary for the construction of trails and for drainage and utilities.
9. Lots have been designated for affordable housing.

Mr. McCullough requested comments from the Board and introduced Joel Fitzpatrick to also answer any questions or concerns.

Mr. Ciraldo asked the Board to consider the issue of completeness.

Mrs. Schenkel 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 Wyley Enterprises, Inc. for Final Subdivision Review and a Resource Protection Permit for Leighton Farms, a 16-lot subdivision located off Wells Rd, be deemed complete.

Motion was seconded by Mr. Griffin and carried 6 in favor and 0 opposed.

Mr. Ciraldo stated that a question has been raised regarding another public hearing and noted that the standard is one hearing unless there has been a substantial change to submissions since that hearing. Mr. Sherman felt that there had not been changes sufficient to warrant another public hearing. Board members in turn agreed.

Mr. Ciraldo asked of the time table in regard to the DEP permit approval. Mr. McCullough responded that the permit should be complete within the next few weeks and perhaps anytime. He was confident that the DEP approval would not change the plans as submitted.

Mrs. Schenkel asked regarding the cost incumbent of the project. Mr. McCullough answered that extra monies were built in to the performance bond in order to leave margin to cover costs for the project.

Mr. Sherman asked about the type of structure planned for the affordable housing lots. Joel Fitzpatrick explained that the housing would be typical of homes he's built but on a smaller scale. Although he had no specific plans drafted, he stated that the homes would be two-story, with two to three finished bedrooms, and an attached garage.

Mr. Griffin asked for more detail on the vegetation in the cul-de-sac. Mr. McCullough explained that two street trees would be planted in that area. Mr. Griffin commented that evergreen trees in the area screening the pond riprap would be preferred. Mr. McCullough answered that evergreens were a choice that would be reviewed with the Town Planner and further described the planting intended for that area.

Mr. McCullough addressed the issue of blasting for ledge removal. He explained that the contractor responsible for the blasting would be bonded and required to follow state mandates and protocol with regard to the process.

Mrs. Schenkel asked for specifics of the size of the street trees. Mr. McCullough replied that the trees were of a 2" diameter and 12 feet high.

With no further discussion raised, Mr. Griffin made the following motion for the Board to consider:

Findings of Fact

1. Joel FitzPatrick, doing business as Wyley Enterprises, Inc, is requesting Final Subdivision Approval and a Resource Protection Permit for Leighton Farms, a 16-lot subdivision located off Wells Rd, which requires review under Sec. 16-2-4, Major Subdivision Review, and 19-8-3, Resource Protection Permit.
2. The Town Engineer has recommended plan revisions in his letter dated 4/8/03.
3. The Town requires that any required state or federal permits must be obtained before a project is commenced.
4. Landscaping should be used to buffer necessary stormwater structures so that they blend into the neighborhood.
5. The Town requires a Performance Guarantee from developers to assure that projects are constructed in accordance with approved plans.
6. The applicant has submitted several deeds which are needed to complete the final design of the subdivision.
7. The application substantially complies with Sec. 16-2-4, Major Subdivision Review, and 19-8-3, Resource Protection Permit.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Wyley Enterprises, Inc. for Final Subdivision Review and a Resource Protection Permit for Leighton Farms, a 16-lot subdivision located off Wells Rd, be approved with the following conditions:

1. That the plans be revised to address the items in paragraphs 3 and 4 of the Town Engineer's letter dated 4/8/03;
2. That the applicant provide evidence of issuance of a DEP Stormwater Permit;
3. That 3 trees be planted on the west side of Leighton Farms Rd and placed to soften the view of the rip rap channel from the road;
4. That a performance guarantee be provided in an amount reviewed by the Town Engineer and in a form acceptable to the Town Manager;
5. That all open space, road right-of-way, and drainage easements be approved by the Town Attorney and submitted with appropriate signatures; and
6. That there be no recording of the plat until the above conditions have been met.

Mr. Ciraldo wanted to comment that the project met with a standard which the Town wanted to encourage with regard to cluster development and the creation of open space. He recognized the concerns of the abutters and welcomed their input, but deemed the project in compliance with the requirements of the Town Ordinance.

Mrs. Schenkel asked that the deed rider for affordable housing be listed in the context of the condition in paragraph #5. Board members agreed.

Mrs. Schenkel presented a motion to amend the prior motion by adding to paragraph #5 the deed rider for affordable housing. Motion was seconded by Mr. Griffin and carried 6 in favor and 0 opposed.

Motion for approval was seconded by Mr. Sherman and carried 6 in favor and 0 opposed.

Mr. Sherman commended the applicant on the configuration of open space within the new development to buffer and interact with the Cross Hill Subdivision.

Mr. Griffin made a motion to adjourn. Motion was seconded by Mr. Hatem and carried 6 in favor and 0 opposed.

Meeting adjourned at 7:45PM.

Respectfully submitted,

Barbara H. Lamson, Minutes Secretary