

TOWN OF CAPE ELIZABETH  
MINUTES OF THE PLANNING BOARD

MAY 18, 2004

7 PM, TOWN HALL

David Griffin  
Barbara Schenkel  
Jack Kennealy

Peter Hatem  
John Ciraldo

Absent: David Sherman, Peter Cotter.

Also present was Maureen O'Meara, Town Planner.

Mr. Ciraldo opened the meeting by asking for comments of the prior meeting's minutes. Hearing none, he asked for a motion.

Mr. Griffin made a motion to accept the minutes. Mrs. Schenkel seconded the motion and passed 5 in favor, 0 opposed.

Mr. Ciraldo reviewed correspondence. He stated that the application for the Inn by the Sea, which had been scheduled for that night, had asked to be tabled until further notice.

NEW BUSINESS

**Purpoodock Club Irrigation System Site Plan & RP Permit** – The Purpoodock Golf Club is requesting Site Plan Review and a Resource Protection Permit to install a new irrigation system and pump building at the Purpoodock Club located at 300 Spurwink Ave (R4-3), Sec. 19-9, Site Plan Completeness and Public Hearing, Sec. 19-8-3, Resource Protection Permit and Public Hearing.

Darius Iranpour, Superintendent of the Purpoodock Golf Club, discussed the 20-year-old irrigation system currently in place and the updated system they hope to replace it with.

Jeff Berman, Irrigation Consulting Inc., described the existing system, which was installed in 1985. He stated the modern system allows the golf course staff to manage its resources from a central location. They are planning to put in a new pump station with a larger capacity. He discussed the two methods of crossing the waterways, which are trenching or directional drilling. The Purpoodock Club would prefer the trenching, as it is more cost effective. He stated that all trenches would be restored to preconstruction condition. Thorough erosion control will be in place with direction from the Maine Department of Environmental Protection. The only building permit proposed is for the enclosure for the pump station. This would be an 8' x 7'6" placed on a 14' x 14' concrete slab. The sum of area impacted is 500 sq. ft., which will be returned to its original condition.

Mr. Ciraldo asked the Board for a motion 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 the Purpoodock Club to install a pump building and new irrigation system at the Purpoodock Club located at 300 Spurwink Ave be deemed complete.

Mr. Kennealy seconded the motion and it passed 6 in favor, 0 opposed.

Mr. Ciraldo opened the Public Hearing.

With no one coming forward, Mr. Ciraldo closed the Public Hearing.

Mr. Ciraldo asked if there was a DEP permit involved.

Mr. Iranpour stated that he had been speaking with Doug Burdick, of the Maine DEP. A fee has been sent in and they should be receiving a permit by rule.

Mr. Griffin asked that a condition be added to the approval that they have the Permit by Rule from the DEP.

Mr. Ciraldo stated that the Planner had asked that the applicant submit the total area of wetland disturbance prior to issuance of a building permit.

Mr. Ciraldo acknowledged a memo received whereas the Conservation Commission supports the issuance of a Resource Protection Permit.

Mr. Ciraldo asked if there were any other questions or concerns. Hearing none, he asked for a motion.

Mrs. Schenkel made the following motion for the Board to consider.

#### Findings of Fact

1. The Purpoodock Club located at 300 Spurwink Ave, is requesting Site Plan Review and a Resource Protection Permit to install a pump building and new irrigation system at the golf course, some of which will cross wetlands, which requires review under Sec. 19-9, Site Plan Regulations and Sec. 19-8-3, Resource Protection Regulations.
2. The project will temporarily disturb wetland areas.
3. The application substantially complies with Sec. 19-9, Site Plan Regulations, and Sec. 19-8-3, Resource Protection Regulations.

THEREFORE, BE IT ORDERED that, based on the plans materials submitted and facts presented, the application of the Purpoodock Club to install a pump building and new irrigation system at the Purpoodock Club located at 300 Spurwink Ave be approved, subject to the following condition:

1. That the total area of temporary wetland disturbance be calculated and submitted to the Town Planner prior to issuance of a building permit or any alteration of the site.

Mr. Hatem seconded the motion. There was a unanimous vote in favor.

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**GALLANT PRIVATE ACCESSWAY PERMIT** – Erin Grady Gallant is requesting a Private Accessway Permit to construct a driveway for a lot located at 364 Mitchell Road (U31-9A), Sec. 19-7-9, Private Accessway Permit Completeness and Public Hearing.

John Mitchell, Mitchell and Associates, representing Erin Grady Gallant, discussed the lot requiring the Private Accessway Permit. He stated the Cynthia Grady, the applicant's mother and abutter, would grant a 10ft strip of land to create a 30ft wide right of way. She also granted a 30ft strip for a turnaround and stormwater management. Fire Chief McGouldrick has approved turnaround. He stated they had addressed all the comments made by the Town Engineer. He concluded by stating that they would like to be granted approval for that evening.

Mr. Ciraldo asked if there were any questions or concerns of completeness.

Mr. Griffin made the following motion.

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Erin Grady Gallant for a Private Accessway Permit for a lot located behind 364 Mitchell Road(U31-9C) be deemed complete.

Mrs. Schenkel seconded the motion. There was a unanimous vote in favor.

Mr. Ciraldo opened the Public Hearing.

Muzzy Barton, 3 Gordon's Lane, had concerns about water drainage. He also is concerned about blasting due to the amount of ledge around the project. He stated he wanted a buffer of trees to maintain privacy between the residences and that setbacks were adhered to.

Cynthia Grady, 364 Mitchell Road and mother of Erin Gallant, stated that they would be happy to have their caring daughter living there and also concerned with trees and conservation.

Erin Grady Gallant, 52 Columbus Road, is planning to design the house so there is as little blasting as possible. She stated that she wants privacy as well and will only be removing trees from where the house will be located.

Mr. Ciraldo closed the Public Hearing. He asked if there were any questions or concerns from the Board.

Mrs. Schenkel stated that it appears there is a slight drop in the topography so Mr. Barton would not have drainage on his property.

Mr. Mitchell stated that was correct. Ms. Gallant is working towards the best options to have as minimal blasting as possible.

Mr. Ciraldo asked for a motion.

Mr. Hatem made the following motion for the board to consider.

#### Findings of Fact

1. Erin Grady Gallant, on behalf of Cynthia Grady Gallant, is requesting a Private Accessway Permit to construct a driveway for a lot located behind 364 Mitchell Rd (U31-9C), which requires review for compliance with Sec. 19-7-9, Private Accessways.
2. The Town Engineer has reviewed the plans and made recommendations for revisions and additions.
3. The Town Attorney is reviewing the proposed easement and maintenance agreement.
4. The application substantially complies with Sec. 19-7-9, Private Accessways.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and Facts presented, the application of Erin Grady Gallant for a Private Accessway Permit for a lot located behind 364 Mitchell Rd(U31-9C) be approved, subject to the following conditions:

1. That the plans be revised per the Town Engineer's comments in his letter dated 5/12/04;
2. That the maintenance agreement and proposed easement be approved by the Town Attorney, signed by the applicant and recorded in the Registry of Deeds; and
3. That there be no issuance of a building permit or alteration of the site until the the above conditions have been met.

Mr. Griffin seconded the motion. There was a unanimous vote in favor.

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**Hamlin Street Subdivision-** Cloutier Construction is requesting Subdivision Review of a reconfigured 9 lot subdivision to be located at the end of Hamlin Street, Sec. 16-2-5, Amendment to a previously approved Subdivision.

Mr. Ciraldo stated to the Board that they were first to determine completeness and then determine if a site walk and/or Public Hearing would be necessary.

Steve Blais, Pinkham & Greer Consulting Engineers, discussed the upgrading of the road and combining of lots to create a 9 lot subdivision. They are proposing 1,000 ft of roadway from Spurwink Ave, which will include public sewer and water. There will be a small neighborhood feel, with the houses close to the street and a sidewalk that will connect the neighborhood. There will be blasting. He has met with the MDEP, which stated they did not need a stormwater management permit but did need a NRPA(National Resource Protection Acts) permit for the upgrades of the existing road culverts. Locally they need a Resource Protection Permit. He met with the Town's Engineer and the Public Works Director for input on plans and changing a culvert to withstand the 25yr storm. He indicated they would be renaming part of the street as requested from the Police Department.

Mr. Ciraldo asked Ms. O'Meara if her concerns had been addressed.

Ms. O'Meara stated that the biggest concern is wetlands and the applicant has agreed to do additional wetlands mapping at the site. She said there is a plan in-house that shows the immediately abutting property is in RP1, which would have a large buffer attached to it and could alter design of the subdivision. She stated that the applicant has been asked to provide information depicting wetlands and boundaries. She said the applicant is willing to comply.

Board members discussed whether the application should be deemed incomplete until the wetland information is submitted. The Board decided that they wanted to move ahead with a public hearing and would deem the application complete. If the wetland information is not submitted, they would still be able to deny approval.

Mr. Ciraldo asked the Board for a motion.

Mr. Griffin made the following motion.

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Cloutier Construction for amendments to the previously approved Hamlin Street Subdivision and a Resource Protection Permit to reconfigure the road and lots into a 9-lot subdivision located at the end of Hamlin Street be deemed complete.

Mrs. Schenkel seconded the motion. There was a unanimous vote in favor.

Mr. Ciraldo stated that they were all in agreement for a public hearing and asked the Board if they would like a site walk. All members agreed for a site walk on May 24<sup>th</sup> at 5:30p.m.

Mr. Griffin made the following motion.

BE IT FURTHER ORDERED that the above application be tabled to the regular June 15, 2004 meeting of the Planning Board, at which time a public hearing shall be held.

Mr. Kennealy seconded the motion. There was a unanimous vote in favor.

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**Shore Acres Tower Overlay District-** The Town Council has referred to the Planning Board a request to consider a proposed Tower Overlay District on the Water Tower Site in Shore Acres, located at 11 Avon Rd, (U12-12), Sec. 19-10-3, Zoning Map Amendment Public Hearing.

Mr. Ciraldo asked Ms. O’Meara give a brief synopsis of this issue.

Ms. O’Meara stated that the Town Council wanted the Planning Board to revisit the water tower site at 11 Avon Road, following a meeting on a proposed Tower Overlay District on Fowler Road.

Mr. Ciraldo opened the Public Hearing.

Priscilla Armstrong, 18 Avon Road, stated she appreciates the Boards understanding the limitation of service from the proposed Tower. She stated that if this was truly an issue to support communication for Public Safety, she would be all for it. Since it is not, and has limited coverage, plus the reduction of property values, she urges the Board to not support this.

Penny Parson, 9 Avon Rd, stated her home would be in the “fall down zone” if a tower would be placed there. She stated there were very few areas that AT&T doesn’t reach. She mentioned that the road is very narrow and with the increase of traffic from service people for the tower antennas, traffic could be a concern. She mentioned a Legislative Analysis Report sent to the San Francisco County Board of Supervisors, where they had designated the most preferred location for a Tower, be located on a publicly used structure. The least favored were buildings in residential zoned districts.

Bob Cronin, 7 Avon Rd, thought this had been put to rest when introduced 4 years ago. He stated that it is an introduction of a commercial enterprise into a residence zone and not compatible with the Comprehensive Plan. He stated he couldn’t find a dead spot with his cell phone in Cape Elizabeth.

Joe Parson, 9 Avon Rd, stated there is negative impact and does not want to revisit this item. He urges the Planning Board and the Council to look at properties owned by Seth Sprague that would not adversely affect others with traffic or valuation. He encouraged the Planning Board “to put this to bed” for the last time and find a site elsewhere.

Mr. Ciraldo asked if anyone else would like to speak. Hearing none, he closed the Public Hearing. He stated that he appreciated hearing from the residents. He asked for Board comment.

Ms. Schenkel stated that her vote was against this.

Mr. Kennealy agreed and stated the gain would be negligible compared to changing the zoning in that residential neighborhood.

Mr. Ciraldo stated that it didn't make sense to vote for an Overlay District that would not accomplish what it is supposed to do

Ms. Schenkel made the following motion.

BE IT ORDERED that, based on the information submitted and the facts presented, the Planning Board does not recommend the designation of a Tower Overlay District On the Portland Water District Water Tower site located at 11 Avon Rd(U12-12).

Mr. Kennealy seconded the motion. The motion passed, 4 in favor, 1 opposed.

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**Shore Acres Paper Street Vacation-** The Town Council has referred to the Planning Board a request to review the paper streets located in the Shore Acres neighborhood north of Trundy Rd for possible vacation, Public Hearing.

Mr. Ciraldo asked Ms. O'Meara to summarize this request.

Ms. O'Meara directed the Board to the last page of the memo, which contained a map of the area. The Town has asked the Board to look at the paper streets north of Trundy Road, which would include Katahdin Road extension, a portion of Overlook Lane, and a portion of Elizabeth Road. She stated that Mr. Pinansky had initiated the request to vacate the portion of Overlook Lane and gave an overview of what that would entail. She stated that Katahdin Road Extension is wholly a paper street and the Conservation Commission would request some pedestrian access to connect the High View Road neighborhood with Shore Acres. Elizabeth Road is a paper street and could be vacated without issue.

Mr. Kennealy recused himself as he is an abutter to one of the paper streets.

Mr. Ciraldo opened the Public Hearing.

Mr. Thelin, Attorney for Mr. Thomas Pinansky, stated that on a 1911 plan, the skinny portion that is Overlook Lane was not even denoted as a street. He stated that they are agreeable to not have the building envelope increase if the street is vacated.

Mr. Thomas Pinansky, Seoul, Korea, stated that he grew up in the neighborhood and it is important that it remains a nice neighborhood. He stated that he would work with

neighbors and would also combine the two lots he owns to ensure that there could only be one home built on property in an effort to preserve neighborhood.

Gary Lawsure, 18 High View Road, stated he was in agreement with the Town Manager in vacating all of those paper streets in neighborhood. He is worried about anything being built on Katahdin Extension as it is a high hill and any drainage would run down into his yard.

Steve Goldstein, 9 High View Road, said his main concern is that Katahdin Road Extension is not developed due to water. He was in favor of a greenbelt easement if the road is vacated.

Margie Kelly, 9 Overlook Lane, is concerned that not the entire stretch of Overlook Lane to be vacated. She would appreciate to keeping it a viable roadway.

Eric Copperman, 10 High View Road, wants to keep High View Road a cul-de-sac. He would like to see Katahdin Road vacated and is agreeable to a greenbelt trail there.

Douglas Spicer, 26 Trundy Road, stated he abuts Katahdin Ext. with two properties and is very much in favor of the vacating that street.

Sheila Mayberry, 30 Trundy Road, described how her property is surrounded by Overlook and Katahdin Rd Ext to be vacated. Their main concern is that the building envelope remains the same on lot 106 if a vacation is granted. There is habitat there, with different animals occurring. She concurs with vacating Katahdin with the addition of a walking path. She also hopes that the Conservation Committee would consult with neighbors.

Ted Ousback, 20 High View Road, stated he would be fine with vacating Katahdin Road Extension and would not like to see anything else there, including a trail, due to water drainage problems.

Mary Pinto, 9 High View Road, had concerns with the wet area on Katahdin Road Ext. She would like to see an engineer be consulted if a trail were to be placed there due to existing water problems.

Mr. Ciraldo stated the item before the Board is street vacation. Any trail implementation is separate and would not come before this Board unless located in a RP1 district.

Mr. David Lambert, 14 High View Road, echoed his concern of traffic that High View Road could be exposed to if the Katahdin Road Extension were opened.

Mr. Ciraldo asked if there was anyone else who would like to speak. Hearing none, he closed the Public Hearing. He asked Mr. Pinansky to clarify that all the accommodations they have made were addressed in the comments for Overlook Lane.

Mr. Thelin stated concerns of Overlook were maintenance of the loop. He stated that Mr. Pinansky is willing to continue to grant access roadway so the loop would remain. He



said his client is also agreeable to the condition that his building envelope does not increase. They also were agreeable to put a condition that they would never seek access over Katahdin Road.

Mr. Pinansky stated he agreed with the collective view of the people concerning Katahdin Road Extension. He also stated that he worked overseas and it is difficult for him to return to another meeting.

Mr. Hatem stated that there are 3 separate street vacations before the board and he thought they should be looked at individually. He also stated that he was not comfortable making a recommendation at this time for Overlook Lane and would like to table that until next month.

Mr. Ciraldo agreed with Mr. Hatem. He would like to make sure they passed something that was accurate and they may need more time to get the recommendation correct.

Mr. Thelin stated that they wanted to get this accurate as well. He would speak with the Town Attorney to get details correct.

Mrs. Kelly was concerned because the first workshop notice had shown that she may not have access to the roadway. She also is concerned with who would be liable on that road.

Mr. Ciraldo suggested that they go back to a workshop to get all details accurate surrounding the vacation of Overlook Lane.

Mrs. Schenkel made the following motion.

BE IT ORDERED that, based on the maps and facts presented, the review of paper Streets in Shore Acres north of Trundy Rd be tabled to the regular June 1, 2004 Workshop of the Planning Board.

Mr. Griffin seconded the motion. There was a unanimous vote in favor.

Mr. Ciraldo asked for a motion to adjourn.

Mrs. Schenkel made a motion to adjourn

Mr. Griffin seconded the motion. There was a unanimous vote in favor.

Meeting adjourned at 9:40 p.m.

Respectfully Submitted,

Laurie Palanza

