

TOWN OF CAPE ELIZABETH  
MINUTES OF THE PLANNING BOARD

JULY 20, 2004

7:00 P.M. TOWN HALL

Present: John Ciraldo, Chair  
David Griffin  
Barbara Schenkel  
Jack Kennealy  
Peter Hatem

Absent: David Sherman  
Peter Cotter

Also present was Maureen O'Meara, Town Planner.

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

Mr. Kennealy made a motion to accept the minutes. Mr. Hatem seconded the motion and passed 5 in favor, 0 opposed, 0 abstained.

Mr. Ciraldo reviewed the Agenda and correspondence.

CONSENT AGENDA

Jordan Farm Stand Addition - The Jordan Family is requesting an addition to the back of the farm stand located at 21 Wells Rd to enclose an existing cooler and prep area, Sec. 19-9-6, Site Plan Amendments.

Mr. Ciraldo reminded the Board that if there were to be substantive discussion the item would have to be removed from the Consent Agenda to the regular Agenda. He asked if anyone would like to have discussion on the item or had a motion.

Mr. Griffin 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 William Jordan Sr. to extend the roof of the farm stand located at 21 Wells Road, and possibly add walls, for a cooler and a prep area, be approved as a consent agenda item.

Mr. Kennealy seconded the motion and passed 5 in favor, 0 opposed, 0 abstained.

OLD BUSINESS

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, Sec. 19-8-3, Resource Protection Permit.

Steven Blais, Pinkham & Greer, distributed a handout to Board members. He described changes made to the plan from the prior meeting. They have added fences to lots 4, 5, &

6 to discourage future owners from disturbing wetlands. They have added a 30ft wide drainage easement to lot 1. They will not be adding a pedestrian easement, however, there will be a sidewalk along roadway to South Street. A concrete weir has been placed in front of the culvert to maintain the existing pond. He asked if there were any questions from the Board.

Mrs. Schenkel asked if there had been any discussion with the Turnrose's concerning the pond and protection of that.

Mr. Blais stated that Mr. Cloutier had discussed the wall that will be protecting the pond earlier that day and the Tornrose's had liked that. There will be a little bit of the pond lost due to road grading.

Mr. Kennealy asked about the status of lot 1 and it's being buildable.

Mr. Blais discussed the RP2 wetland and how it's delineated. What they did was adjust lines from the grandfathered lot to create a buildable lot.

Mr. Ciraldo asked about the wildlife habitat that may need to be protected as referenced in the report from Woodlot Alternatives.

Ms. O'Meara stated that wildlife and habitat is addressed in the ordinance. She said the applicant could provide information regarding wildlife habitat.

Mr. Ciraldo stated he would like to see something in writing from the applicant and strongly encouraged that all outstanding materials be submitted prior to the next meeting.

Mr. Griffin 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 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 tabled to the regular August 17, 2004 meeting of the Planning Board.

Mrs. Schenkel seconded the motion and passed 5 in favor, 0 opposed, 0 abstained.

## NEW BUSINESS

Autumn Tides Subdivision - Request by Wyley Enterprises, LLC for Minor Subdivision Review, a Resource Protection Permit and a Private Accessway Permit for Autumn Tides, a 5 lot subdivision located off Wells Rd (R5-33), Sec. 16-2-3, Minor Subdivision Application Completeness, Sec. 19-8-3, Resource Protection Permit Completeness, and Sec. 19-7-9, Private Accessway Permit Completeness.

Nancy St. Clair, Sebago Technics, reviewed application materials that have been submitted. The parcel is 15.86 acres and is located on the southerly side of Wells Road.

They are proposing a 5-lot single-family residential subdivision. She stated the parcel is predominantly a field area and slopes gently towards the Spurwink River. She described access to the lots and stated the parcel had been mapped for wetlands and is noted on the plan. She stated that with the mapping of the wetland they also did soils evaluation, which included separated laundry systems. They have requested a waiver to change the plan scale to 60ft so they can record the entire plan on one plat. They are also asking for a waiver for the high intensity soils survey due to the information submitted by Mark Hampton Associates, Soil Scientists.

Mr. Ciraldo reminded the Board that they are looking at completeness of the application.

Mr. Kennealy stated he is uncomfortable with the waiver for soils tests due to the close proximity of the wetlands and the marsh.

Ms. O'Meara stated that it is up to the Board to require individual soils test for each lot. She also stated that the HHE-200, which will be submitted for each lot, contains much more specific information about soils. The HHE-200 requires digging 5 test pits for each septic system on each lot to determine soil suitability.

Mrs. St. Clair added that in reviewing the soils data that was submitted, it appeared that the majority of the soils profiles are consistent in the lots throughout the site.

Mr. Hatem asked why they were applying for a Private Accessway Permit.

Ms. O'Meara stated that one lot did not have the required amount of road frontage.

Mrs. Schenkel wanted on the record that she would prefer to see the subdivision on public sewer.

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

Mr. Hatem 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 LLC for Minor Subdivision Review, a Resource Protection Permit and a Private Accessway Permit for Autumn Tides, a 5-lot subdivision located off Wells Rd (R5-33) across from Cross Hill Rd be deemed complete.

Mr. Griffin seconded the motion and passed 5 in favor, 0 opposed, 0 abstained.

Mr. Ciraldo asked if the Board would like a Public Hearing and/or Site Walk. It was unanimous vote for both and a site walk was scheduled for July 29<sup>th</sup>.

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

BE IT FURTHER ORDERED that the above application be tabled to the regular August 17, 2004 meeting of the Planning Board, at which time a public hearing shall be held.

Mrs. Schenkel seconded the motion and passed 5 in favor, 0 opposed, 0 abstained.

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Cape Elizabeth Family Medicine Addition - Dr. Craig Johnson would like to request Site Plan Review of a 1,400 sq. ft. addition to the existing medical building located at 1226 Shore Rd (U11-14), Sec. 19-9, Site Plan Completeness.

Mark Wilcox, Architect, has been revising plans for an addition that was approved two years ago. The addition to the building is in the same location, consisting of an addition to the east of the existing house, as well as an ell that would extend towards Shore Road. The landscaping plan is the same as previously approved plan with the exception of a 10ft. side yard loss. The grading is different as it includes a split-level stairway on the east side of building, which would access a storage area in the lower part of the building. The new grading scheme is to match existing grade. The new addition will be connected to sewer. The garage location has been changed due to setback line change on the east of the property; this has also saved 2 parking spaces. He asked the Board for their reaction to changes in plan.

Mr. Ciraldo reminded the Board the first order of business is to review application for completeness.

Mr. Ciraldo questioned the drainage area at rear of site and lack of information regarding how it will be affected from the change of the garage relocation.

Mr. Wilcox stated they would be getting this information but only have the 1991 stormwater drainage report at this time.

Mrs. Schenkel asked why financial information had not been provided.

Mr. Wilcox stated that they had the signed letter from the Town Manager from 2 years ago.

Mrs. Schenkel asked Ms. O'Meara if they needed to resubmit a financial capabilities letter.

Ms. O'Meara recommended there be a current letter substantiating this.

Mr. Kennealy had concerns about the applicant's intentions for buffering. He asked if the applicant had received a copy of the letter from the abutting neighbor.

Mr. Wilcox stated only dead and dying material would be removed. He stated they could get a letter verifying this.

Mr. Ciraldo asked if the buffering were deemed insufficient, would his client be amenable to revisiting the landscape plan.

Mr. Wilcox stated yes.

Mr. Ciraldo asked if there were any questions on completeness. Hearing none, he asked for a motion.

Mr. Griffin 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 Dr. Craig Johnson to construct a 1,543 sq. ft. addition to the existing medical office building and two-car garage located at 1226 Shore Road be deemed complete.

Mr. Ciraldo seconded the motion and failed 2 in favor, 3 opposed, 0 abstained.

Mr. Hatem 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 Dr. Craig Johnson to construct a 1,543 sq. ft. addition to the existing medical office building and two-car garage located at 1226 Shore Rd be deemed incomplete.

Mr. Kennealy seconded the motion and passed 3 in favor, 2 opposed, 0 abstained.

#### OTHER BUSINESS-

Open Space Zoning Amendment - The Town Council has referred to the Planning Board a request to amend the Zoning Ordinance to allow the phasing of Open Space Zoning Subdivisions with an amendment to Sec. 19-7-2 of the Zoning Ordinance, Sec. 19-10-3, Zoning Ordinance Amendments.

Mr. Ciraldo asked Ms. O'Meara to give a brief summary of the request.

Ms. O' Meara stated that people with parcels in the RB district of the Town must comply with cluster zoning provisions. This means they must meet not only a minimum lot size requirement but an average lot size as well. This would provide people in the RB district the ability to develop only a portion of their property and to reserve the remaining portion for future development. It also protects the Town by requiring them to develop a concept level design so the Town can allow them to develop in the future in conformance with standards.

Mr. Ciraldo opened the public hearing.

John Mitchell, representing Steve, Pat and Robyn Bothel, stated his applicant is in the process of estate planning, which includes 14 acres off of Ocean House Road. He has reviewed the language of the proposed amendment with the Bothels and they approve the

language as stated. This would allow the Bothels to continue their estate planning with the land without having to fully finalize a design for it. They encourage a favorable recommendable to the Town Council.

Mr. Ciraldo closed the Public Hearing.

Mr. Hatem stated he was in favor for this amendment.

Mr. Ciraldo would endorse this with comments by the Town Attorney.

Mr. Griffin asked if there would be any other potential lots in town that could take advantage of this.

Ms. O'Meara stated that all of the RB lots are large lots, so there would definitely be potential for others to take advantage of this. Farming families are an excellent example of this. They may want to propose a small development but not develop the total parcel that they own.

Mr. Hatem asked what level of detail would be asked from an applicant to be considered a concept plan.

Ms. O'Meara stated the list she wrote was an exhaustive list; there might be a circumstance where Board might want to ask for more, but there would have to be justification for that.

Mr. Ciraldo asked for a motion.

Mr. Kennealy made the following motion.

BE IT ORDERED that, based on the information submitted and the facts presented, the Open Space Zoning Amendment (Sec. 19-7-2 (B)) to allow phasing of developments with submission of a concept plan be recommended to the Town Council for adoption pending any additional comments by the Town Attorney.

Mr. Griffin seconded the motion and passed 5 in favor, 0 opposed, 0 abstained.

Mr. Hatem made a motion to adjourn.

Jack Kennealy seconded and was unanimous.

Meeting adjourned at 8:45 p.m.

Respectfully Submitted,

Laurie Palanza



