

TOWN OF CAPE ELIZABETH
MINUTES OF THE PLANNING BOARD

November 16, 2004

7:00 pm Town Hall

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

Absent: Jack Kennealy

Also present was Maureen O'Meara, Town Planner.

Mr. Ciraldo called the meeting to order. The first order of business was approval of the minutes.

Mr. Griffin made a motion for approval of the minutes. Mr. Hatem seconded the motion. **6 in favor, 0 opposed.**

Mr. Ciraldo reviewed the agenda and correspondence.

CONSENT AGENDA

Autumn Tides Subdivision Approval Extension - Joel FitzPatrick, on behalf of Wyley Enterprises, LLC, is requesting a 90 day extension of the Subdivision Approval for the Autumn Tides Subdivision, located off Wells Rd (R5-33), Sec. 16-2-4(e), Subdivision Action upon Approval.

Mr. Ciraldo reminded the Board that for any substantive discussion this item would need to be removed from the Consent Agenda. With no discussion from the Board, he asked for a motion.

Mr. Hatem made the following motion:

BE IT ORDERED that, based on the materials submitted and the facts presented, the request of Joel FitzPatrick of Wyley Enterprises to extend for 90 days the Subdivision Approval of Autumn Tides, a 5-lot subdivision located off Wells Rd, be approved as a Consent Agenda Item.

Mr. Sherman seconded the motion. **6 in favor, 0 opposed.**

Karu Subdivision Amendment - Candace Karu is requesting an amendment to the previously approved subdivision located on Arlington Lane (U23-1) to add to the

conserved open space located at the end of Arlington Lane instead of conveying the land to the abutter, Sec. 16-2-5, Amendments to Previously Approved Subdivisions.

Mr. Ciraldo identified the amendment and asked for a moment to read a letter from an abutter concerning this request. He stated that if anyone from the Board wanted substantive discussion, the item would be removed from the consent agenda.

Mr. Sherman stated that, normally, when the Board receives this type of objection, the item would be removed from the agenda. However, he recalls when they approved the subdivision plan, the 3300 sq.ft. strip of property was not to be conveyed to the abutter. At a subsequent meeting, as a consent agenda item, the Board had agreed to allow the conveyance, however, the original plan that the Board approved did not convey the property. He does not feel the need to take the item off the consent agenda and he would vote in favor of moving forward with it as a consent agenda item.

Ms. O'Meara confirmed Mr. Sherman's account, and, stated that she had a full size plan of the subdivision if the Board wanted to see it.

Mr. Ciraldo stated that what was before the Board was an amendment to the previously approved subdivision, to add the conserved open space as opposed to conveying the property to the abutter. Hearing no request for the Board to take it off the consent agenda, he asked for a motion.

Mr. Griffin mad the following motion.

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Candace Karu to amend the Karu Subdivision, located at 246 Ocean House Rd and Arlington Lane, be amended to delete the conveyance of a strip of land to the abutter be approved as a Consent Agenda item.

Mr. Cotter seconded the motion. **6 in favor, 0 opposed.**

OLD BUSINESS

U.S. Cellular Tower Site Plan - U.S. Cellular, represented by LCC International, is requesting Site Plan Review to construct a 180 ft. tall telecommunications tower located off Bowery Beach Rd (R6-29), Sec. 19-9, Site Plan Public Hearing, Sec. 19-8-3, Resource Protection Permit, and Sec. 19-8-12, Tower Performance Standards.

Mr. Shaw, representing LCC International, asked to be tabled to next month.

Mr. Ciraldo stated that there was a public hearing scheduled for that evening. He asked him to summarize the application for the benefit for anyone who may be there for the hearing.

Mr. Shaw stated that there was a site walk with the Planning Board and it was apparent that less than 300 sq. ft. area of wetland was being impacted by the original design that would require a Resource Protection permit. He stated there are quite a few items that need to be put together for that application to be reviewed by the Planning Board. He then went back to the engineers to see if they could change the equipment location at base of the tower and rotate it and not interfere or impact wetlands area. They have determined that can be done and will be presented on new plans that will be submitted for the application. He stated that he had received a letter from the F.A.A. stating that a tower, in that location and that height, did not require lighting and that letter will be submitted. He has also talked to a forestry expert and will be transplanting 15 trees strategically located in the area to block the view from the road.

Mr. Ciraldo opened the public hearing. With no one coming forward, he closed the public hearing. He asked Mr. Shaw to discuss how the application will proceed.

Mr. Shaw stated that he had been told by all the people involved that this application will be accurate and complete by the submission deadline. He asked that the application be tabled until the following month.

Mr. Sherman asked Ms. O'Meara if the applicant had been prepared with plans, would the plans been available to the public prior to the meeting.

Ms. O'Meara stated the reason for the submission deadline is because after notices are sent out, any member from the public could come to the Town Hall to review plans.

Mr. Sherman asked if they should schedule a public hearing for the next month so members of the public could review the newly submitted plans.

Ms. O'Meara stated that the issue with plans submitted last month did not have information concerning the wetlands impact. Since the applicant is stating that the plans will be revised and there will not be a wetland impact, they will not need a resource protection permit and the plans before the Board are fairly close to what will be submitted. There probably will be some minor adjustments to the new plans that the public may be interested in. The Board could schedule another Public Hearing if deemed necessary.

Mr. Hatem wanted to go on record for the public to have an opportunity for another public hearing if they are seeing a new set of plans.

Mr. Ciraldo stated that it is not unusual for plans to change after a public hearing.

Mr. Sherman asked Ms. O'Meara if anyone had come to the Town Hall to look at the plans.

Ms. O'Meara stated no.

Mr. Sherman stated since no one had come in to look at the plans, that, he believed there would not be a need for another public hearing.

Mrs. Schenkel made the following motion.

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of U.S. Cellular to construct a 180' tall telecommunications tower located at 95 Bowery Beach Rd be tabled to the regular December 21, 2004 of the Planning Board.

Mr. Sherman seconded the motion. **6 in favor, 0 opposed.**

Mr. Hatem made a motion to adjourn.

Mr. Sherman seconded the motion. **6 in favor, 0 opposed.**

Meeting adjourned at 7:25 p.m.

Respectfully Submitted,

Laurie Palanza

Minutes Secretary

