

TOWN OF CAPE ELIZABETH  
MINUTES OF THE PLANNING BOARD

December 21, 2004

7:00 pm Town Hall

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

Also present was Maureen O'Meara, Town Planner.

Mr. Ciraldo called the meeting to order. The first order of business was approval of minutes. With one correction submitted, Mr. Ciraldo asked for a motion.

Mr. Griffin made a motion for approving minutes as revised. Mrs. Schenkel seconded the motion. **7 in favor, 0 opposed.**

Mr. Ciraldo reviewed the agenda and correspondence.

CONSENT AGENDA

**Johnson Scout House Site Plan Amendment** - Everett Johnson is requesting an amendment to the previously approved site plan for the building located at 1231 Shore Rd (U22-82) to realign the front walk, eliminate a sidewalk along the side of the building and replace rosa rugosa to be planted on the eastern side of the parking lot with 2 maple trees, Sec. 19-9-6, Site Plan Amendments.

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. Sherman made the following motion.

BE IT ORDERED that, based on the plan and materials submitted and the facts presented, the application of E.F. Johnson to amend the Site Plan approval for the building located at 1231 Shore Rd (U22-81/82) to realign the front walk, eliminate a sidewalk along the side of the building and replace rosa rugosa with 2 maple trees by approved as a Consent Agenda item.

Mr. Griffin seconded the motion. **7 in favor, 0 opposed.**

**Blueberry Ridge Subdivision Affordable lots amendment** - Joe Frustaci is requesting an amendment to the previously approved Blueberry Ridge Subdivision located off Mitchell Rd to change the affordable housing designated

lots from lots 2 and 12 to lots 10 and 13, Sec. 16-2-5, Amendments to Previously Approved Subdivision Plans and Sec. 19-7-4, Mandatory Affordable Housing Provisions.

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. Griffin made the following motion.

BE IT ORDERED that, based on the materials submitted and the facts presented, the application of Joseph Frustaci for an amendment to the previously approved Blueberry Ridge Subdivision, located off Mitchell Rd, to change the affordable housing designated lots from lots 2 and 12 to lots 10 and 13 be approved as a Consent Agenda item.

Mr. Kennealy seconded the motion. **7 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' tall telecommunications tower located off Bowery Beach Rd (R6-29), Sec. 19-9, Site Plan, Sec. 19-8-3, and Sec. 19-8-12, Tower Performance Standards.

Mr. Shaw, representing LCC International, reviewed changes from the prior meeting. They have received a final determination from the F.A.A. that a 180' tower at that location would not require lighting. The F.A.A. determination provides for a 190' tower for the allowance of a lightning rod on top of the Tower. The lightning rod would shoot a lightning strike to the ground without damaging equipment. He stated that they have adjusted the site plan so as not to disrupt wetlands. They will be relocating 15 trees for buffering the site from the road. He has a verbal agreement with the Police Chief for placement of two antennas on the highest point of the Tower. The equipment for those antennas will be housed in a weatherproof building. Electricity for Public Safety will have a generator backup for power failure provided by U.S. Cellular.

Mrs. Schenkel asked the size of trees to be transplanted.

Mr. Shaw stated they would be 2'-4' trees transplanted in the spring.

Mrs. Schenkel verified that the applicant wanted to use gray cable in the Tower instead of black.

Mr. Shaw stated yes, the gray is a special order and since the cable will be running inside the Tower it didn't seem necessary. They would use black cable if the Board wanted.

Mr. Ciraldo asked about the additional 10' in height added to the Tower for the lightning rod.

Mr. Shaw stated the attached lightning rod would be 5-6' tall. The Tower will be 180' tall. They are requesting the 190' height so they would not have to appear before the Board for an additional request in height for the rod.

Mr. Kennealy asked if the 8' antennas for Public Safety would be mounted off to the side.

Mr. Shaw stated they would be mounted next to the lightning rod.

Mr. Kennealy stated that if the Public Safety antenna were higher than the lightning rod, they would attract the lightning.

Mr. Shaw stated that they would make sure the lightning rod, when placed on the Tower, is higher than the Public Safety antennas.

Mr. Griffin asked how the power supply would reach the Tower.

Mr. Shaw stated that there will be overhead power running from CMP pole #65 on Bowery Beach Road. There will be a meter bank that will have up to six meters in the bank to service the individual carriers.

Mr. Griffin made the following motion.

#### Findings of Fact

1. U.S. Cellular, represented by LCC International, is requesting Site Plan Review to construct a 180' tall telecommunications tower located off Bowery Beach Rd (R6-29), which requires review under Sec. 19-9, Site Plan Regulations and Sec. 19-8-12, Tower Performance Standards.
2. The transmissions from the new tower must not interfere with existing transmissions.
3. The application substantially complies with Sec. 19-9, Site Plan Regulations, and Sec. 19-8-12, Tower Performance Standards.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of U.S. Cellular for Site Plan Review to construct a 180' tall telecommunications tower located off Bowery Beach Rd (R6-29) be approved, subject to the following condition:

1. That a statement of non-interference by a certified engineer be submitted to the Code Enforcement Officer prior to issuance of a building permit.

Mrs. Schenkel seconded the motion. **7 in favor, 0 opposed.**

NEW BUSINESS

**Grover Rd Subdivision Amendments and Private Accessway Permit** - Leland P. Murray, III and Stephen Murray are requesting amendments to the previously approved Grover Rd Subdivision to reconfigure existing lots, build a public road and construct a private accessway for lot 1, all located at the end of Grover Rd (U20-7), Sec. 16-2-5, Amendments to Previously Approved Subdivision Plans, and Sec. 19-7-9, Private Accessways.

Mr. Griffin recused himself.

John Mitchell, Mitchell & Associates, represents Skip & Stephen Murray. He gave an overview of the layout of the subdivision. The existing subdivision, which was approved in 1959, contained a 40' right of way with 5 approved lots. They are proposing an extension of Grover Road from the dead end, approximately 445', and terminating with a hammerhead turnaround in accordance with the Town standards. The 3 lots on the easterly side of the road will be reconfigured to two lots. The average lots size of the 4 lots will be 12,300 s.f. Public water will be extended from Grover Road and a fire hydrant will be located to provide fire service for the 4 lots as well as the other residences on Grover Road. Al Frick has designed each of the private septic systems, which are included in the submission. Underground electric, telephone and cable will be extended to provide service for the 4 lots. The road is being designed in accordance with standards for a public road. They are proposing an enclosed storm drainage system, which is on an abutter's property. There is a draft easement and letter of intent from the abutter agreeing to the easement.

Mr. Ciraldo reminded the Board that they were reviewing completeness of the application. He asked Mr. Mitchell about a road maintenance agreement.

Mr. Mitchell stated that they are offering the road to the Town as a public road so there would not be a requirement for that.

Mrs. Schenkel made the following motion.

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Leland and Steve Murray for amendments to the previously approved Grover Rd Subdivision to reconfigure existing lots, build a public road and construct a Private Accessway for lot 1, all located at the end of Grover Rd (U20-7) be deemed complete.

Mr. Sherman seconded the motion.

Mr. Ciraldo stated there would be a Public Hearing scheduled for the following month. He asked if there would be interest in a site walk.

Ms. O'Meara stated that some residents on Grover Road had come to her office concerning this application. She clarified that Grover Road would be the access to this project.

Mr. Sherman stated he would be happy to have a site walk, however, this is a previously approved subdivision of reconfiguring 3 lots to 2. There was agreement from the Board not to hold a site walk.

Mrs. Schenkel made the following motion.

BE IT FURTHER ORDERED that the above application be tabled to the regular January 18, 2005 meeting of the Planning Board, at which time a public hearing shall be held.

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

#### OTHER BUSINESS

**BA Wetlands Zoning Amendment** - The Town Council has forwarded to the Planning Board a request to consider an amendment to the Zoning Ordinance that would reduce the RP1 Buffer from 250' to 100' for properties in the BA District which are served by public sewer, Sec. 19-10-3, Amendments.

Mr. Ciraldo stated there had been discussion in the workshop concerning the text in the recommendation to the Town Council and asked for any other changes.

Mrs. Schenkel stated she had received a call from a resident with concern on this amendment. She wanted to verify a notice would be published in the Cape Courier.

Ms. O'Meara stated yes, a notice will be drafted for the Cape Courier and information will be available on the Cape Elizabeth website.

Mr. Griffin stated he had been contacted also on this issue.

Mr. Sherman made the following motion.

BE IT ORDERED that, based on the materials and facts presented, the BA District Wetlands Amendment is tabled to the January 18, 2005 regular meeting of the Planning Board, at which time a public hearing shall be held.

Mr. Kennealy seconded the motion. **7 in favor, 0 opposed**

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**Undersized lots Zoning Amendment** - The Town Council has forwarded to the Planning Board a request to consider an amendment to the Zoning Ordinance that would reduce the minimum buildable lot size for lots served by public sewer to less than 10,000 sq. ft. The draft amendment would reduce the minimum lot size from 10,000 sq. ft. to 7,500 sq. ft. and require that lots comply with the Mandatory Affordable Housing Provisions, Sec. 19-7-4 and will be reviewed in compliance with Sec. 19-10-3, Amendments.

Mr. Ciraldo stated this had been discussed at length in the Planning Board Workshop. The recommendation will include mandatory affordable housing provisions. If there were any recommendations to change the text, they could be heard. Otherwise, the Amendment would be tabled to a Public Hearing.

Mr. Hatem wanted to verify that changes could be made to the text at the Public Hearing if needed.

Mr. Ciraldo verified that.

Mr. Griffin asked if a developer proposed a subdivision of 7,500 s.f. lots, would they have to be affordable housing.

Ms. O'Meara stated that in the R.C. District, developed under the Open Space Zoning Provisions, lots are allowed to be 7500 s.f. This provision would not require all lots to be affordable. In a cluster subdivision, a developer would be required to have either 5% affordable housing or 10% moderate-income affordable housing.

Mr. Griffin wanted to go on record that he is not in favor of restricting a landowner to comply with the affordable housing provisions because it restricts the landowner from getting the best return on his investment.

Mr. Ciraldo stated that they are offering the ability for someone to develop lots that were not allowed prior to this amendment.

Mrs. Schenkel made the following motion.

BE IT ORDERED that, based on the materials and facts presented, the Undersized lots Amendments are tabled to the January 18, 2005 regular meeting of the Planning Board, at which time a public hearing shall be held.

Mr. Sherman seconded the motion. **7 in favor, 0 opposed.**

Mr. Ciraldo wanted to recognize Mr. Cotter for his services and time spent on the Board and that he would be missed.

Mr. Cotter made a motion to adjourn.

Mr. Kennealy seconded the motion. **7 in favor, 0 opposed.**

Meeting adjourned at 7:50p.m.

Respectfully submitted,

Laurie Palanza



