

TOWN OF CAPE ELIZABETH
MINUTES OF THE PLANNING BOARD

March 15, 2005

7:00 pm Town Hall

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

Absent: John Ciraldo
David Sherman
Paul Godfrey

Also present was Maureen O'Meara, Town Planner.

Mrs. Schenkel opened the meeting and asked for a motion on the February minutes.

Mr. Griffin made a motion to accept minutes as submitted.

Mr. Kennealy seconded the motion. 4 in favor, 0 opposed.

Mrs. Schenkel reviewed correspondence and proceeded to the first item on the agenda.

CONSENT AGENDA

Blueberry Ridge Lot 7 Subdivision Amendment - Deb and Steve Richio are requesting an amendment to the previously approved Blueberry Ridge Subdivision to increase the size of the building envelope for lot 7 (U34-17-7), Sec. 16-2-5, Amendments to Previously Approved Subdivisions.

Mrs. Schenkel reminded the Board that for any substantive discussion, a motion should be made to move the item to the regular agenda. She stated a letter had been received from an abutter.

Mr. Kennealy asked if an item was normally moved off the agenda if a letter had been received from an abutter.

Ms. O'Meara stated it was at the Board's discretion. The Board usually allows someone who has written a letter an opportunity to speak. There has been one exception when the letter was determined not applicable and the item remained on the Consent Agenda. She had told the abutters they did not need to be present for the meeting as they would not get an opportunity to speak.

Deb Richio, 12 Eastfield Road, stated that they were looking to gain 5' for a 15' setback versus a 20' setback.

Mrs. Schenkel asked if she had spoken with the abutter.

Mrs. Richio stated that she had talked with the abutter after the workshop and the abutter seemed agreeable, however, he was under the impression there would be a buffer in place, which has not been done.

Mr. Hatem made a motion to move the item to the regular agenda.

Mr. Griffin seconded the motion. 4 in favor, 0 opposed.

Mr. Griffin made a motion to move the item to the next Planning Board meeting.

Mr. Hatem seconded the motion. 4 in favor, 0 opposed.

Ms. O'Meara asked that the motion be amended to specify a Public Hearing so there would be proper noticing.

Mr. Griffin amended the motion to include a Public Hearing.

Mr. Hatem seconded the motion. 4 in favor, 0 opposed.

OLD BUSINESS

Bigelow Way Private Accessway Permit - Graham Pillsbury is requesting a Private Accessway Permit to construct a driveway to access a lot located off Katahdin Rd, (U12-5C), Sec. 18-7-9, Private Accessway Permit Public Hearing.

Mr. Griffin noted for the record that his son worked for the architect doing the project but does not feel he should be recused and would remain unbiased.

The Board agreed that Mr. Griffin did not have to recuse himself.

Mr. Les Berry, Engineer at BH2M, and was at the site walk with the Planning Board and has been able to review some of the issues involved with this project. Since the last Planning Board meeting, the applicant has added 5 trees to the back of the lot as a buffer. They are proposing a 14ft paved accessway in the 50ft wide public right of way with 2ft gravel shoulders. The total length is 186ft ending with a hammerhead turnaround. The biggest issue from the site walk appeared to be drainage. Last fall he did a complete site walk prior to the snow and wrote a drainage report. There is an existing drainage problem with large amounts of runoff so water does flow into a neighbors yard. He determined the best solution would be to replace the 8" pipe with a 12" pipe, which would give more than twice the drainage capacity. They will also enlarge the ditch to give more storage volume. They used figures from the 10 & 25-year storm and determined this would accommodate the drainage. There will also be a ditch running beside the proposed new home, toward the road to a new pipe to help alleviate drainage flow issues. He has proposed a road that slopes to one side. The Public Works Director stated that he wanted a crowned road. He stated, since this is a private

accessway, they would prefer have it sloped in one direction as it is difficult to plow.

Mrs. Schenkel thanked the applicant and opened the Public Hearing. She asked the public to limit their comments to three minutes.

Sue Guerette, 2 Katahdin Rd, handed out information for the Board to consider. She thanked the Planning Board for going to the site walk and for the Public Hearing that evening. She wants to make sure they research all the unanswered questions concerning this paper street. She asked that, forgetting about any lots in the background, would this street be developed? She stated no. The water situation at her home is nightmarish. They have had multiple water and runoff issues and have had to purchase backup insurance. The storm drain at Wabun and Katahdin is not always effective. The Public Works Director is also concerned that there would be additional water. Currently they cannot handle any more water in their yard. Removing roots, soil, gravel and trees will significantly deplete the natural drainage system that exists and is the only protection that they now have. The sewer system proposal cannot be proven sufficient and the development of the paper street should not be approved.

Her second concern is with site distance. They had a local engineer measure this and the site distance up Trundy Road is 90', 140' to Wabun Rd, 160' toward Pilot Point Rd on one side and 200' on the other. There are already multiple existing driveways and intersecting roads. Safety should be a concern without more hazards being created. They encourage the Town Engineer to measure site distances prior to any approval given. There was access to this property from the front lot, which has now been sold. Since the developer voluntarily forfeited his own accessway, the neighbors should not be burdened. The deeds submitted show that lots on the left-hand side of the paper street are prohibited from being developed. They do not know the history for the deeds for the right hand side of the street, however, the historical intent of the deeds from the Shore Acres Land Company clearly say that these lots are not intended to be built on. They would like the Board to look at these issues and unanswered questions answered before a decision is made.

Bob Crane, 2 Wabun Road, had 2 points to make. One week ago, he woke up to see 8 mature deer standing at attention waiting for their leader to give a signal for them to cross the street. A car went by and the leader gave a signal and the deer trotted across the street into the woods that are called a paper street. This property is not a street and is not appropriate to be a street and only exists on paper. Adjourning property owners had always understood that it was undevelopable. It is an open space for the enjoyment for all Shore Acres residents who have legal rights to the street. The second point was the Greenbelt, which is supposed to provide healthful outdoor activity and preserves open space for wildlife habitat and scenic beauty. He understands the paper street to be an extension of the Greenbelt and doesn't understand why it is being allowed to develop. Priorities should be established between development and extension of the Greenbelt Trail.

Betty Crane, 2 Wabun Road, stated she knows the weather by looking at the big puddle across the street exists there most of the time. She does not believe the drainage issues will be taken care of by Mr. Pillsbury's plans. She stated that she hates to see all those trees destroyed for one house, that Shore Acres is already well developed, and believes people would not continue to utilize the paper street for walking as it would appear to be a private driveway.

Bob Tripler, 10 Trundy Road, stated he can see this property from where he lives and that he appreciates its beauty. There is a potential Greenbelt connection and there does not need to be any more development.

Jan Staples, 27 Trundy Road, shares a rear property line with the lot of discussion. She stated that 20' property line setback would not be enough. Her home is historical, the first one to be built in the subdivision. There are a number of abutters who will be adversely and forever impacted by the construction of a home.

Dave Roberts, 24 Trundy Rd, is worried about water in his basement and the effects of blasting the ledge. The blasting could cause damage to surrounding foundations. He likes that his daughter can see deer in the back yard.

Joe Guerette, 2 Katahdin Road, placed a copy of the old subdivision plan on the display board. He is concerned with safety and the difficulty that already exists backing out of his driveway. He is worried about the safety of his young children that ride bikes on the street and wants to make sure that time is taken to research site setbacks.

George Entwhistle, 2 Avon Road, reemphasized the points of the first speaker. There have been a lot of questions asked of this project with a variety of answers to the same question. He does not want to deny owners property rights but wants true legal answers. The lot is awkward and would devalue 3 valuable homes. He wants the property owner's rights exercised and hopes the Board would get the answers to the questions posed.

Mrs. Schenkel closed the Public Hearing

Mr. Berry stated that the Town Engineer and the Public Works Director approved the design for drainage. The historical intent of the subdivision shows, from the subdivision plan, that there was a street intended there and anyone who had seen the subdivision plan would know that. He is not in favor of tabling the plan, they are looking for approval as they have met all the criteria required in the Zoning Ordinance. There will not be blasting, the applicant is proposing to hammer the ledge out. The site distance has been measured and is 250' or greater in both directions, which has also been reviewed by the Town Engineer and Public Works Director.

Mr. Hatem questioned the process on determining site distance.

Mr. Berry stated that it is called intersection site distance. It is 10' back from the edge of pavement and looking with an eye at 3.75' high at an object at 4.25' high with 7 seconds of site distance.

Mr. Griffin asked Mr. Berry if he had a license.

Mr. Berry stated yes, he is a professional engineer registered in the State of Maine.

Mr. Griffin asked how he calculated the numbers for drainage.

Mr. Berry stated there are standard calculations defined in the State of Maine's Best Management Practices Manual. These calculations determine whether drains and culverts can handle storms. The existing culverts could not handle the storm, however, with the proposed improvements, it will increase drainage capacity.

Mr. Griffin asked if there were problems associated with hammering ledge.

Mr. Berry said hammering is a lot of work but does not send shockwaves as blasting does.

Mr. Kennealy asked if they would videotape the foundations prior to hammering the ledge as a precaution.

Mr. Berry stated no, hammering the ledge is the precaution they are taking.

Mr. Kennealy asked how they would respond to an abutter who stated they had new or enlarged cracks.

Mr. Berry stated the contractor would be insured for that purpose.

Mrs. Schenkel asked if they would be willing to put hammering the ledge on the plans.

Mr. Berry stated yes.

Mrs. Schenkel asked Ms. O'Meara to address paper streets and the Shore Acres Subdivision.

The Town Planner read from the 1997 Paper Streets Study.

Mrs. Schenkel asked how many trees would be removed and how that would affect water flow.

Mr. Berry stated they have not counted the number of trees and explained the increase from calculations of the 2, 5, 10, and 25 yr storm and the capacity of the culvert and drain.

Mr. Griffin reviewed the Town Engineer's statements concerning bringing the road standards to support other homes and he did not endorse that.

Mrs. Schenkel asked Ms. O'Meara the history of this lot being buildable.

Ms. O'Meara stated that it had been a recorded lot since 1911 and quoted from the 1968 and current Zoning Ordinance.

Mr. Berry stated that Mr. Pillsbury was willing to do a pre-blast survey.

Mrs. Schenkel asked how many other buildable lots on the streets.

Ms. O'Meara stated some, and without going to the Registry of Deeds and reviewing each deed for each lot, there are easily 4-6 buildable lots.

Mrs. Schenkel asked if the Board thinks there should be more buffering.

Mr. John Griffin, Mitchell & Associates, identified the trees that would be planted for buffering.

Mr. Griffin made the following motion.

Findings of Fact

1. Graham Pillsbury is requesting a Private Accessway Permit to construct a driveway within a road right-of-way to access a lot located off Katahdin Rd (U12-5C), which requires review under Sec. 19-7-9, Private Accessways.
2. The Town Engineer is recommending revisions to the plans consistent with Town design standards.
3. The application substantially complies with Sec. 19-7-9, Private Accessways.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Graham Pillsbury for a Private Accessway Permit to construct a driveway to access a lot located off Katahdin Rd (U12-5C) be approved, subject to the following condition:

1. That the plans be revised per the comments of the Town Engineer's letter, paragraphs 6 [maximum grade], and 7 [surveyor stamp] dated 3/7/05.

2. That there be no issuance of a building permit nor alteration of the site until the plans have been revised and approved by the Town Planner.
3. That no construction shall start until the owner does a pre-blast survey.

Mrs. Schenkel wanted an amendment to prohibit blasting.

Mr. Griffin amended condition #2.

2. That there be no issuance of a building permit nor alteration of the site until the plans have been revised and approved by the Town Planner and a note be placed on the plans that there will be no blasting on the site.

Mr. Hatem seconded the motion. **4 in favor, 0 opposed.**

Mr. Hatem moved that they adjourn.

Mr. Griffin seconded the meeting. **4 in favor, 0 opposed.**

Meeting adjourned at 8:25pm.

Respectfully submitted,

Laurie Palanza
Minutes Secretary