

TOWN OF CAPE ELIZABETH
MINUTES OF THE PLANNING BOARD

February 27, 2006

7:00 p.m. Town Hall

Present: David Sherman, Chair
Paul Godfrey
John Siegfried

Peter Hatem
Barbara Schenkel
David Griffin

Absent: Jack Kennealy

Also present was Maureen O'Meara, Town Planner.

Mr. Sherman opened the meeting with approval of the minutes for the December 20, 2005 meeting.

Mr. Griffin made a motion for approval.

Mrs. Schenkel seconded the motion. 6 in favor, 0 opposed.

Mr. Sherman asked for comments on the January 17, 2006 meeting. With noted amendments, he asked for a motion.

Mr. Godfrey made a motion to accept minutes with amendments.

Mr. Siegfried seconded the motion. 6 in favor, 0 opposed.

Mr. Sherman reviewed correspondence and encouraged anyone who questioned if his or her email made it into public record to contact the Town Planner's office.

Normally the Board would proceed with Old Business first, however, a suggestion was made to hear New Business first as it should take less time. He asked for a motion.

Mrs. Schenkel moved to take the items out of order.

Mr. Hatem seconded the motion. 6 in favor, 0 opposed.

NEW BUSINESS

LIONS FIELD DUGOUTS/SHED SITE PLAN - The Town of Cape Elizabeth is requesting an amended Site Plan and Resource Protection Permit to construct 2 new dugouts and a storage shed adjacent to lower Lions Field off Ocean House Rd (U24-1), Sec. 19-9, Site Plan Completeness and Public Hearing, Sec. 19-8-3, Resource Protection Permit Completeness and Public Hearing.

Steve Harding, Town Engineer, described the area for the proposed dugouts, including the wetland areas. The proposed dugouts would be 8' x 20', and are basically a concrete pad with screen enclosure. They are also proposing to remove an existing shed and replace with another 8' x 10' shed behind the backstop. The proposal includes sloping the concrete floor away from the fields to drain away from the dugouts. There will be some underdrains installed by Public Works. They are asking for some waivers, including a waiver for the topography as there minor changes to the site plan, high intensity soils, stormwater calculations and site plan with lot line dimensions, which were addressed in the original Site Plan application.

Mr. Sherman stated the first order of business was to determine completeness.

Mr. Hatem made the following motion.

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of the Town of Cape Elizabeth for a Resource Protection Permit and Amended Site Plan approval to construct 2 new dugouts and a storage shed on the lower athletic field at Lions Field be deemed complete.

Mrs. Schenkel seconded the motion. 6 in favor, 0 opposed.

Mr. Sherman asked the Board if they would consider approval after the Public Hearing considering the limited scope of the project. There was agreement from the Board.

Mr. Sherman opened the Public Hearing.

Christopher Bond, 213 Ocean House Rd, stated there is significant amount of traffic during baseball season. He thinks the fields are wonderful resources for the Town, however, he believes there are two issues that need to be addressed. First, road is very narrow, and when a game is over, he is unable to access his driveway when the existing traffic stacks up. Second, the road in the spring becomes a small pond and the vehicles try to avoid the pond and tear up his lawn and get it muddy. Before approval, he would like to see this issue get equal attention.

Mr. Sherman closed the Public Hearing and allowed Board discussion.

Mr. Griffin asked for clarity concerning the drainage.

Mr. Harding stated that the new dugouts would be elevated and place an underdrain placed to carry the water towards the pond.

Mrs. Schenkel asked what could be done to assist Mr. Bond.

Ms. O'Meara stated that this would not be an easy fix for Mr. Bond, and that this is something the Town Council should be made aware of.

Mrs. Schenkel stated that the proposal before the Board would not make his situation worse, or better, but remains concerned for his concern.

Mr. Sherman agreed with Mrs. Schenkel and suggested that this be referred to the Town Council.

Mr. Griffin made the following motion.

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of the Town of Cape Elizabeth for a Resource Protection Permit and Amended Site Plan approval to construct 2 new dugouts and a storage shed on the lower athletic field at Lions Field be approved.

Mrs. Schenkel seconded the motion. 6 in favor, 0 opposed.

Mr. Sherman asked for a motion to refer Mr. Bond's issue to the Town Council.

Mr. Griffin made a motion to refer Mr. Bond's issue to the Town Council.

Mr. Godfrey seconded the motion. 6 in favor, 0 opposed.

AVON RD PRIVATE ACCESSWAY PERMIT - Graham Pillsbury of the Early Bird Group is requesting a Private Accessway Permit for a lot located on Avon Rd (U12-14), Sec. 19-7-9, Private Accessway Permit Completeness.

Jim Fisher, Northeast Civil Solutions, described the lot in Shore Acres with 2 scenarios. One is with the conventional scenario, and the other is with the Private Accessway Waiver. This lot predates zoning, and since it is part of a subdivision that was created in 1911, it does not have the frontage to meet today's standards. The required Private Accessway would take up a large portion of the lot. This would not fit in with the character of the road. They are seeking a Private Accessway Permit to allow a simple driveway, which will also preserve a great amount of trees.

Mr. Sherman stated the first order of business would be completeness.

Mr. Sherman asked if the sewer and water lines would be placed on the final plan.

Mr. Fisher stated yes.

Mr. Godfrey made the following motion.

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Graham Pillsbury of the Early Bird Group for a Private Accessway for a lot located at 5 Avon Rd be deemed complete.

Mr. Siegfried seconded the motion.

Mrs. Schenkel was concerned about a letter from a neighbor concerning the changing of the property lines due to a garage straddling the lines and that the lots had been combined for tax purposes.

Mr. Fisher stated that property line was changed decades ago, and doesn't apply to this lot. He did meet with the Codes Enforcement Officer and this wasn't an issue.

Ms. O'Meara stated that there were actually 3 separate lots, functioning until recently as one home lot, but legally was considered three separate lots.

Mr. Sherman stated they still needed to vote. 6 in favor, 0 opposed.

Mr. Sherman stated that since there was correspondence concerning this property there should be a public hearing. A site walk was scheduled March 4, 2006 at 8:00 a.m.

Mr. Griffin made the following motion.

BE IT FURTHER ORDERED that the above application be tabled to the regular March 21, 2006 meeting of the Planning Board, at which time a public hearing shall be held.

Mr. Godfrey seconded the motion. 6 in favor, 0 opposed.

Elizabeth Park Drainage Resource Protection Permit - The Town of Cape Elizabeth is requesting a Resource Protection Permit and Amended Site Plan to install drainage pipes extending from Longfellow Drive to the School property and to the Spurwink Marsh, Sec. 19-8-3, Resource Protection Permit Completeness and Public Hearing, Sec. 19-9, Site Plan Amendment Completeness and Public Hearing.

Mr. Harding, Town Engineer, stated this was part of the town wide sewer rehabilitation program. The Elizabeth Park area has a difficult situation dealing with drainage on Longfellow Drive. The neighborhood is densely developed and the Town does not have an easement for the drainage pipes. He described the rerouting of the drainage down Longfellow Drive and to the school campus. The new plan will reduce drainage velocity currently in place into the marsh. There is a pending DEP permit and are requesting waivers for the written description of the parcel, the high intensity soils mapping and lot line dimensions.

Mr. Sherman asked the Board to determine completeness.

Mr. Griffin asked why they were requesting a waiver for the high intensity soils mapping.

Mr. Harding stated that mapping had been done for the High School project and that the project will not involve significant construction.

Mr. Griffin made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of the Town of Cape Elizabeth for a Resource Protection Permit and Amended Site Plan approval to install drainage in Elizabeth Park be deemed complete.

Mr. Siegfried seconded the motion. 6 in favor, 0 opposed.

Mr. Sherman opened the Public Hearing. With no one coming forth, he closed the Public Hearing.

Mrs. Schenkel recommended moving forward with the application.

It was verified that there had not been any interest from the Public.

Mr. Hatem made the following motion.

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of the Town of Cape Elizabeth for a Resource Protection Permit and Amended Site Plan approval to install drainage in Elizabeth Park be approved.

Mr. Godfrey seconded the motion. 6 in favor, 0 opposed.

OLD BUSINESS

Spurwink Woods Subdivision - Spurwink Woods LLC is requesting preliminary Subdivision Review and a Resource Protection Permit for Spurwink Woods, a 42-unit/lot subdivision located between Killdeer Rd and Dermot Drive, Sec. 16-2-4. Preliminary Subdivision Review, and Sec. 19-8-3, Resource Protection Permit.

John Mitchell, Mitchell & Associates, representing Spurwink Woods, LLC, summarized changes to the project. The revised stormwater management plan will be utilizing existing vegetation to improve the stormwater quality and will also be eliminating 3 retention basins. They are adding a evergreen buffer behind condo units 11 & 12. They met with the Public Works Director, who has agreed that they will be able to access the level lipspreaders by way of the proposed trail system, which they have modified. The Public Works Director also asked for granite curbing at the intersection of Chicory Way and Killdeer Rd. He agreed to reducing the amount of pavement on Franklin Circle, but wants to be contacted prior to laying the base coat of asphalt so Public Works may do a test drive with their equipment. A note will be added to the plan on sheet 5.

The 3.3 contiguous acres of Open Space conforms to the Ordinance as useable Open Space.

The Spurwink Woods Subdivision plan will preserve the entire area of RP1 wetland, 94% of the RP2 wetland, the stream in the northerly part of the property, and prominent ledge outcrops. Though trees will be cut down to develop the project, the project meets the intent of the Subdivision Ordinance pertaining to natural features.

Mr. Mitchell stated that blasting specification will be included with the project, in which L.P. Murray have more than 60 years of background and experience with blasting. They have supplemented their application with amendments to two subdivision plans, including Mitchell Highlands and South Portland Estates. Lot 39 of Mitchell Highland will now be lot 11 of Spurwink Woods. Lots 36 & 37 located off South Street, of the South Portland Estates are being incorporated into the project. He addressed the access to lots 2,3,4,5, & 11, with 2 common drives off of South Street, which will access lots 2,3,4 &5. The other access will be off Chicory Way.

Tom Gorrill, Gorrill & Palmer, stated he would be responding to traffic questions from the Board. He stated that the connectivity of the project is an overall benefit because of public safety concerns; efficient routing of traffic, and a host of other issues recognized by the State Planning Office and is why they promote interconnection. The primary concern is cut-through traffic. He stated the numbers presented would be during “peak hours”. He summarized the number of additional cut-through traffic for trips to the mall area and Fort Williams.

Mr. Gorrill discussed potential traffic calming methods. They are proposing a stop sign at Columbus and Killdeer Roads, and at Killdeer and Chicory Way. Chicory Way will inhibit speed, as it is only 22’ wide with curbing so it makes people feel there is not a lot of room. There is a proposed raised crosswalk on South Street, which is designed for cars to travel at 15mph. There is a sharp curve onto Hamlin Street where there is another stop sign at Stephenson Street. He doesn’t believe there will be much cut-through traffic with the curves and number of stop signs proposed. He discussed multi-street stop signs and constructing chicanes in Columbus Road.

Mr. Sherman asked for photos of chicanes, which Mr. Gorrill stated he would provide.

Mr. Gorrill stated landscaping made be used for slowing traffic. Speed humps and speed tables may also be used to slow traffic. Sidewalks, when combined with esplanades, can contribute to slowing traffic. “Chokers” which only allow one-way traffic, while dramatic, does work. He does not recommend a one-way loop section at Stephenson Street, as one-way streets may actually increase speed. . He addressed the site distance deficiency at Spurwink Ave. and Stephenson St. Removing vegetation could make site distance improvements, however, this is important to neighbors. He recommends a 3-way stop positioned at the intersection of Stephenson and Spurwink Ave. He also recommends a light that would flash when a oncoming vehicle approaches. The sight lines at Mitchell and Columbus Roads could be improved by removing some of the woods and stonewall. The peer review that was done agreed with these findings.

Mr. Mitchell gave a recap of the history of the planning for this project, including the peer reviews. He is seeking Preliminary Subdivision Approval and a Resource Protection permit this evening.

Mr. Siegfried asked Mr. Errico if the roads in place could handle the projected additional traffic.

Mr. Errico, Wilbur Smith Associates, stated he believes the roads can handle the traffic. With the proposed traffic calming measures, he does not see significant cut-through traffic.

Mrs. Schenkel stated that the projected 1060 cars seem to be enormous. These are tiny little streets and she would not want to live on them.

Mr. Errico does not believe this will create capacity or safety problem, and the Town can explore other traffic calming issues.

Mrs. Schenkel stated that the Town has nixed everything on traffic calming. They nixed chicanes, they nixed the sidewalks because they have to clear them, and they don't want speed tables.

Mr. Errico stated a lot of communities balk at trying new treatments, however, there are a host of options.

Mr. Sherman asked what Mr. Errico would recommend for Columbus Road.

Mr. Errico recommends sidewalks with landscape treatment. In Portland, the decision and design would be neighborhood based, where the neighbors help decide what traffic calming measures get implemented. He supports raised systems in roadways.

Mr. Godfrey asked if the flashing lights were a necessity.

Mr. Errico stated that any added caution could be a good thing. He would recommend not having them installed initially, monitor the traffic, and if deemed necessary, have them installed at the cost of the applicant.

Mr. Godfrey asked, that, if Mr. Gorrill's assessment of traffic was low, do the intersections have the capacity to take on additional traffic?

Mr. Gorrill stated yes, there would be additional capacity.

Mr. Siegfried asked when do you start looking at a traffic light?

Mr. Gorrill stated that there are warrants established by the Federal Highway Administration, which include, safety, accident based, and volume based. He stated this project is nowhere near that.

Mr. Sherman asked about locally based cut-through traffic.

Mr. Errico believes there will be more local cut-through traffic than for people going to the mall.

Mr. Siegfried asked how they would elicit a response from the neighborhoods on what improvements would take place on the roadways.

Mrs. Schenkel asked if the applicant had tried to meet with the neighborhood to find what they can do to make the project better.

Mr. Mitchell stated there have been several comments made to the applicant favoring speed tables in the area. They are willing to meet with the neighbors.

Mr. Griffin stated his concern with South and Dermot Streets, and the lack of a stop sign since South Street will not be improved.

Mr. Gorrill stated they are willing to put one there.

Mr. Griffin stated that there was traffic calming when the sidewalks were put in place in the Town Center and asked Ms. O'Meara to verify that.

Ms. O'Meara stated the Chief of Police was in the audience and could address that.

Neil Williams, Police Chief, stated he thought that stop signs would work best in the Columbus Rd neighborhood. It is less maintenance for the Town and a cheaper way of doing things.

Mr. Sherman asked if cost of maintenance was the issue concerning sidewalks.

Chief Williams stated he believed that Mr. Malley, Director of Public Works, concerns were maintenance issues.

Mrs. Schenkel asked Ms. O'Meara what was the meaning behind the Town not implementing "vertical traffic calming measures".

Ms. O'Meara stated that "vertical traffic calming" is speed tables. At a meeting with town staff, speed tables were discouraged because there were no policies in place for how they would be installed, and if they were installed at this project, all neighborhoods would want them. They conceded to the raised crosswalk, proposed within the development which functions as a speed table, as a test. There are long range plans to look at policies for traffic calming.

Mr. Hatem stated it is the Board's task to determine if it makes sense in this project.

Mr. Godfrey stated, from his perspective, speed humps or tables are extremely effective at controlling speed.

Mr. Sherman asked the Chief about his thoughts on the flashing lights.

Chief Williams stated his concern would be its impacts on the neighbors. The light can be turned off.

There was discussion concerning the effectiveness of stop signs in other areas of the Town. This is an enforcement issue and will be treated as such.

Mr. Sherman asked the Chief's feelings towards emergency access gates.

Chief Williams stated the lock could freeze and then the Officers or emergency unit would have travel all the way back around. It is a maintenance issue, as keys get lost, or the police could be responding to another call and not available to open for a rescue call. It is not safe as far as public safety is concerned.

Mr. Sherman asked if the Fire Department wanted to contribute.

Phil McGouldrick, Fire Chief, stated that there is a lot of equipment on fire trucks and when they go over speed bumps, equipment goes everywhere. Chicanes would not bother them.

Mrs. Schenkel asked how the 2 amendments are dealt with, pertaining to the Mitchell Highlands lot and the 2 South Street lots.

Ms. O'Meara stated that for a large project, such as this, it is common for there to be concurrent review of all issues for the project so the amendments will be added to the current review. At the time of approval, findings would be made for each approval. Even though only Major Subdivision Review includes a preliminary approval, she suggested that they keep all the reviews in motion.

Mr. Hatem wanted to confront the issue concerning public comment on the changes that have occurred. He would be in favor of another public hearing, as long it only applied to the changes made and Mrs. Schenkel agreed with him. He asked the procedure on that.

Ms. O'Meara stated that the Board may hold another public hearing, but it would have to be next month when proper noticing can be done. If the Board wanted to table this application, you may do so, but only if the applicant agrees to the tabling. She reminded the Board that it may hold another Public Hearing prior to Final Approval.

Mrs. Schenkel doesn't believe they are ready for Preliminary Approval because of traffic. There hasn't been any response from the abutters and there is negativity from the staff. She stated there is a speed bump on a private road in town and it works very well. She believes that the abutters should be able to speak to the traffic issues.

Mr. Hatem stated that in principle, there would be traffic calming measures put in place.

Mr. Griffin stated that in effect, the Town Officials agree with what is currently on the plan.

Mr. Mitchell cited all the items they have addressed. They have proposed traffic calming measures, however, the Town does not agree with them. These issues will work themselves out.

Paul Driscoll, attorney for the applicant, stated that the criteria for Preliminary Approval have been satisfied at this point. There will be a Public Hearing as part of the final process and has shown their willingness to meet with the neighbors for traffic calming measures. He believes it is time for Preliminary Approval.

Mr. Griffin wanted to make a motion, but wanted to know if the amendments were to be done separate.

Ms. O'Meara suggested that the motion be kept all as a package. The vote taken now has no bearing on the subdivision amendments.

Mr. Griffin made the following motion.

Findings of Fact

1. Spurwink Woods LLC is requesting Preliminary Subdivision Review and a Resource Protection Permit for Spurwink Woods, a 42 unit subdivision, proposed for the area between Dermot Drive and Killdeer Rd, which requires review under Sec. 16-2-4, Subdivision Regulations and Sec. 19-8-3, Resource Protection Regulations.
2. The application was deemed complete in November 2005 and a public hearing was held December 20, 2005.
3. The Town Council is currently considering a Zoning Ordinance Amendment that would restrict the applicability of the Bisected Lots Provision to single family home lots.
4. The application substantially complies with the provisions of Sec. 16-3-1, Subdivision Regulations and Sec. 19-8-3, Resource Protection Permit Standards.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Spurwink Woods LLC for Preliminary Subdivision Review and a Resource Protection Permit for Spurwink Woods, a 42 unit subdivision, proposed for the area between Dermot Drive and Killdeer Rd be approved, subject to the following condition:

1. That the extension of South Street to the common property line with the Maxwell property be deleted if the Town Council does not adopt the Bisected Lots Amendment that makes that connection a violation of the Zoning Ordinance.

Mr. Godfrey seconded the motion.

Mrs. Schenkel stated she would be voting against the motion because of the subdivision density. Even though the project complies with Open Space Zoning, she feels it is too dense for the area. Although the traffic engineers have said that it will not be too much traffic, she can only imagine how the abutters will feel with all the traffic going by. 16-1-1-E, in terms of traffic, this could be viewed as a violation. They are eliminating an area of enormous beauty. Most of the trees will be eliminated, and she believes that is a violation of 16-1-H. She questions that, although it maybe legal in fact, if it is legal in intent, to take a home from an existing subdivision and turn it into an access to another subdivision. She has reviewed everything and cannot vote in favor of preliminary approval.

Mr. Sherman understands her sentiments, however, he looks at the comparison of the Mitchell Highlands Subdivision, and Spurwink Woods. They are virtually the same in terms of acreage, and Mitchell Highlands has 5 additional lots, which would be 47, versus the 42 lots proposed at Spurwink Woods. Mitchell Highlands has one acre of open space preserved versus the 10 acres in Spurwink Woods, which will preserve more trees and have less roadway. He wanted to raise those issues for the record. He can sympathize with the residents.

Mr. Sherman asked the following amendment be added to the motion.

2. That the applicant hold a meeting with the residents of the abutting neighborhoods to obtain their input regarding the traffic calming measures prior to submission for final subdivision approval.

Mr. Sherman would like a letter from the applicant summarizing the meeting and what the feedback was and perhaps town staff could poll the neighborhood.

Ms. O'Meara suggested that the applicants hold the meeting first, with a full range of options, with the neighborhood, and if there is not a clear consensus of what comes from the meeting, her office could do the polling.

It was agreed to add the amendment to the motion.

Mr. Sherman called for a vote. 5 in favor, 1 opposed. (Schenkel)

Mr. Hatem made a motion to adjourn.

Mr. Godfrey seconded the motion. 6 in favor, 0 opposed.

Meeting adjourned at 9:42 p.m.

Respectfully submitted,

Laurie Palanza
Minutes Secretary

