

TOWN OF CAPE ELIZABETH  
MINUTES OF THE PLANNING BOARD

August 15, 2006

7:00 p.m. Town Hall

Present: David Griffin, Acting Chair  
Paul Godfrey  
Peter Hatem

Barbara Schenkel  
Jack Kennealy

Absent: David Sherman

Mr. Griffin opened the meeting as acting chair and asked for comments on the minutes. With no comments forthcoming, he asked for a motion.

Mr. Kennealy made a motion to accept the minutes.

Mr. Hatem seconded the motion. 5 in favor, 0 opposed.

Mr. Griffin reviewed correspondence and proceeded to the first order of business.

OLD BUSINESS

Elliot Private Accessway Permit/Resource Protection Permit - Donald Elliot is requesting a Private Accessway Permit and Resource Protection Permit to make the lot buildable and construct a driveway for a lot located at 43 Hannaford Cove Rd, Sec. 19-7-9, Private Accessway Permit, Sec. 19-8-3, Resource Protection Permit.

Mr. Herbert Gray, consulting engineer for Mr. Elliot, gave a summary of changes since the prior meeting. He stated that there has been an increase in the culvert pipe size from 12" to 15", and field inlets will be installed at the low point in the road to collect stormwater. Geotextile bags will be installed to prevent sediment from going downstream onto abutting properties. They have added a note that the contractor will follow the erosion control methods stated in the Best Management Practices by the Cumberland County Soil and Water Conservation District.

Snow removal will be taken care of by having snow blown into a dump truck and hauled away.

Mr. Gray stated that he measured site distance with Bob Malley, Director of Public Works, and determined that they had more than 150' of sight distance to the right, and, with clearing, on the east side there was more than sufficient sight distance.

Steve Bradstreet, Vice President of Edwards & Kelsey, has over 25 years of experience in civil engineering and currently is involved in 5 communities in the greater Portland area. He is also serving as a stakeholder for the Maine DEP in rewriting the Chapter 500 Stormwater Regulations.

Mr. Bradstreet addressed the report from Gorrill Palmer Consulting Engineers dated August 14, 2006. He stated that the calculations of the impervious area that are included in the submission were reviewed by the Town Engineer, and approved.

The 25 yr. and 100 yr. storm calculations show that the existing culvert downstream creates backup during these storm events. With submitted improvements to the proposed culvert, there will be a slight decrease in existing stormwater flow. Proposed conditions concentrate flow into one area and with the increase flow from storms, the water will dissipate within 24 hours. Stormwater will not adversely affect areas to be built upon or abutting properties.

The geotextile fabric bags stop coarse sand and not fine silts. The finer sediment can be controlled by berms, hay bales, erosion mix or a silt fence to protect abutting properties. This can be added as a note to the final plan.

The low flow channels are shown on the plan. On the retaining wall is predrain material. A note can be added to the plans stating they need to follow the erosion control best management plans. Many contractors are certified to follow such plans.

He confirmed Mr. Gray's earlier statement that the Public Works Director had confirmed adequate site distance could be achieved.

Mr. Griffin thanked Mr. Bradstreet and opened the floor to questions from the Board.

Mr. Godfrey asked what kind of maintenance is required for the geotextile bags.

Mr. Bradstreet stated that there are routine procedures after storm events and during construction. Sedimentation buildup determines when they need to be cleaned out or replaced. There are manufacturer's recommendations concerning maintenance.

Mr. Godfrey asked what would occur if the geotextile bags were not maintained.

Mr. Bradstreet answered that sediment would transport downstream.

Mr. Godfrey asked staff for clarification of Town standards for site distance for a local road.

There was discussion concerning the speed limit. It is 25 mph.

Ms. O'Meara stated that the Private Accessway Standards need to meet site distance standards in the Subdivision Ordinance. In the Subdivision Ordinance it states it needs to meet designs in the road classifications table. She stated this application would be classified as a local road. Prior to the creation of a classification table in the Subdivision Ordinance, the standards in place created what a Councilor referred to what looked like a "highway through the woods". The road standards were revised to what the Planning

Board would like to see in subdivisions. This is a local road and the range of site distance is 125-150'.

Mrs. Schenkel asked if Mr. Bradstreet would visually show how the surface water would flow.

Mr. Bradstreet demonstrated on the map the flow of the surface water.

Mrs. Schenkel asked why, with two reputable engineering firms, we are presented with two with different answers concerning this property.

Mr. Bradstreet stated one engineer can design something different than another. He stated that concerning this site, any engineer would come up with a similar design due to the topography of this parcel.

Mrs. Schenkel asked, if the parcel had the 30' easement, would the buildup of the road be necessary?

Mr. Bradstreet stated that a wider easement would be easier for construction, but 30' is still narrow. He stated there are limitations due to the slope of the land.

Mr. Vaniotis asked permission to speak to the new material since the Public Hearing.

Mr. Griffin granted permission, with the consent of Board members, to speak briefly and to the new material only.

Mr. Vaniotis, representing Mr. Egan, asked that Mr. Haskell discuss issues pertaining to the recent changes.

Will Haskell, registered civil engineer with Gorrill Palmer, does not disagree with the peak flow of stormwater, but the proposed culvert and access drive will increase flow from what exists today. He referenced a letter from Oest Associates which implied that the new drive will restrict flow transfer upstream from the new roadway.

He feels that the geotextile bags should be located in the right location and identified on the plan.

It was stated the applicant would agree to that.

Mr. Haskell had concerns about snow removal and where the snow would be removed to and a guarantee that this would happen as stated. He would like this to be included in a maintenance agreement.

The Ordinance states that measurement of site distance needs to be taken from 15' back from the road. He stated that the measurements were taken from 7-8' from the roadway. The amount of clearing would include land on Mr. Egan's property.

Lastly, he mentioned the cut section that Oest mentioned, and the feasibility of this project in the narrow easement. He suggested a letter from the contractor stating this was viable.

Mr. Yokabaskas, 45 Hannaford Cove, stated he has resided there for 15 years. He produced a before and after picture of what the property could look like.

Mr. Hatem made the following motion for the Board to consider.

### Findings of Fact

1. Don Elliot is requesting a Private Accessway Permit and Resource Protection Permit for a lot located at 43 Hannaford Cove in order to make the lot eligible for a building permit. The lot is 45,262 sq. ft and located in an RA District where the minimum lot size is 80,000 sq. ft. As a legal, nonconforming lot located in the RA District, only one single family home is permitted by the Zoning Ordinance. The proposed lot will have only one (1) dwelling unit and related accessory buildings and uses.

Mr. Godfrey seconded the motion. 5 in favor, 0 opposed.

2. Based on the project plans, the proposed accessway shall be located within a dedicated right-of-way of 20.63 feet wide. This is a reduction from the 30' requirement and, based on the final comments of the Fire Chief in his memo dated June 16, 2006, will provide adequate access for emergency vehicles.

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

3. As designed on the plans, the accessway will be improved with a paved drive constructed with a subbase constructed with gravel meeting MDOT Spec. 703.06 Type D with a depth of at least fifteen (15) inches and paved, and having a width of fourteen (14) feet, except where the wall will be constructed and a lesser width provided to accommodate a guardrail. The maximum grade within the first fifty (50) feet of the edge of street paving will be five percent (5%). Pavement radius at the intersection with the street will be twenty (20) feet to the west and ten (10) feet to the east.

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

4. Based on the project plans, gutter drainage along the street will not sheet across the face of the intersection with Hannaford Cove Rd.

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

5. Based on the plan's conformance with the turnaround design included in the Subdivision Ordinance, a turnaround is provided that meets the requirements of the Fire Chief.

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

6. The accessway is located so that 150' of sight distance is available to the west with the removal of vegetation within the Hannaford Cove right-of-way and existing sight distance exceeds 150' to the east.

Mr. Godfrey seconded the motion.

Mrs. Schenkel asked about the site distance being taken from 15' back from a commercial road, not a residential road.

Ms. O'Meara confirmed that the ordinance specifies 15' for a commercial access rather than a residential driveway.

Findings of fact carried 5 in favor, 0 opposed.

7. The Planning Board finds that reducing the right of way width from 30' to 20', reducing the gravel base from 18' wide to 16' wide, reducing the traveled way width from 14' to 11.5 feet where the guardrail is installed and reducing the pavement radius from 20' to 10' on the eastern side of the driveway promotes better neighborhood development and maintains access for any municipal emergency vehicle.

Mr. Kennealy seconded the motion. 4 in favor, 1 opposed (Schenkel).

8. Based on the memorandum from Code Enforcement Officer Bruce Smith, adequate disposal of sewage will be provided as evidenced by the submission of a completed HHE-200 form designing a septic system that meets the Town Sewage Ordinance.

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

9. Based on the project plans, a building envelope is depicted wherein the house and accessory buildings will be located on the lot demonstrating conformance with the setback requirements of the district in which it is located and any natural constraints and that the house site will be buffered from abutting residential properties.

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

Mr. Godfrey made the following Findings of Fact:

10. Based on the plan components including installation of a 15” culvert under the proposed driveway and underdrain pipes to collect “micro” channel water flows, the project will not materially obstruct the flow of surface or subsurface waters across or from the alteration area.

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

11. Based on the analysis of impervious area to be created and the estimated increase in flows, the project will not impound surface waters or reduce the absorptive capacity of the alteration area so as to cause or increase the flooding of adjacent properties.

Mr. Kennealy seconded the motion.

Mrs. Schenkel stated she respects both firms’ opinions and will vote against #11.

Findings of Fact #11 carried 4 in favor, 1 opposed (Schenkel).

12. Based on the storm water calculations submitted by the Edwards and Kelcey Engineering for the 2, 25 and 100 year storm events , the project will not increase the flow of surface waters across, or the discharge of surface waters from, the alteration area so as to threaten injury to the alteration area or to upstream and/or downstream lands by flooding, draining, erosion, sedimentation or otherwise.

Mr. Kennealy seconded the motion. 4 in favor, 1 opposed (Schenkel).

13. Based on rare plant and animal habitat maps prepared by the State of Maine, the project will not result in significant damage to spawning grounds or habitat for aquatic life, birds or other wildlife.

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

14. Based on the plans, which included details on the construction of retaining walls for the proposed driveway, the project will not pose problems related to the support of structures.

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

15. Based on significant aquifer maps prepared by the State of Maine, the project will not be detrimental to aquifer recharge or the quantity or quality of groundwater;

Mr. Hatem seconded the motion. 5 in favor, 0 opposed.

16. The project area does not include coastal dunes or contiguous back dune areas.

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

17. Based on the building envelope placement and size delineating the portion of the site that will potentially be developed and the plans for the driveway construction, the project will maintain or improve ecological and aesthetic values.

Mr. Kennealy seconded the motion.

Mrs. Schenkel does not believe that the driveway will improve the neighborhood.

Findings of Fact #17 carried 4 in favor, 1 opposed (Schenkel)

18. Based on the plans indicating a minimum 60' setback of any proposed structures and the wetland, the project will maintain an adequate buffer area between the wetland and adjacent land uses.

Mr. Hatem seconded the motion. 5 in favor, 0 opposed.

19. Based on the plans indicating the use of silt fencing and hay bales, the project will be accomplished in conformance with the erosion prevention provisions of Environmental Quality Handbook Erosion and Sediment Control, published by the Maine Soil and Water Conservation Commission dated March, 1986, or subsequent revisions thereof.

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

20. Based on the HHE-200 form depicting the design of a septic system that was approved by the Code Enforcement Officer, the project will be accomplished without discharging wastewater from buildings or from other construction into Wastewater Treatment Facilities in violation of Section 15-1-4 of the Sewage Ordinance.

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

21. The project is not located in a floodplain area as depicted on federal FEMA floodplain maps.

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

22. The application substantially complies with Sec. 19-7-9, Private Accessways, and Sec. 19-8-3, Resource Protection Regulations.

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

Mr. Hatem made the following motion for the Board to consider:

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Don Elliot for a Private Accessway Permit to make the lot buildable and Resource Protection Permit to construct a driveway across a wetland for a lot located at 43 Hannaford Cove Rd be approved, subject to the following conditions:

1. That the plans be revised per the Town Engineer's letter dated August 9, 2006;
2. That a note be added to the plan limiting activities outside the building envelope to installation of the driveway and utilities;
3. That the plans be revised to show the locations of the geotextile bags and that hay bales and silt fencing be added to supplement the geotextile bags to prevent transport of fines to abutting properties; and
4. That there be no alteration of the site nor issuance of a building permit until the plans have been revised and submitted to the Town for approval.

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

Mr. Griffin asked for a motion to adjourn.

Mr. Kennealy made a motion to adjourn.

Mr. Godfrey seconded the motion. 5 in favor, 0 opposed.

Meeting adjourned at 8:10 p.m.

Respectfully submitted,

Laurie Palanza  
Minutes Secretary



