

TOWN OF CAPE ELIZABETH
MINUTES OF THE PLANNING BOARD

August 21, 2007

7:00 p.m. Town Hall

Present: Barbara Schenkel, Chair
James Huebener

Beth Richardson
Jack Kennealy

Also present was Maureen O'Meara, Town Planner.

Mrs. Schenkel called the meeting to order and called for comments or corrections of the minutes of July 17, 2007. Mr. Kennealy made a motion to accept the minutes and Mrs. Richardson seconded. The minutes were approved without amendment 4-0.

CONSENT AGENDA

Elliot Private Accessway/Resource Protection Permit Extension - Don Elliot is requesting an extension of 1 year for the Resource Protection Permit granted on August 15, 2006 for a lot located at 43 Hannaford Cove Rd, Sec. 19-8-3, Resource Protection Permit.

There were no questions or discussion by the Board. Ms. O'Meara noted that a letter had been received from Tom Egan, an abutter, who did not object to the extension but did not want the approved plans to be changed without an opportunity for public comment. No changes to the plans are proposed. Mr. Huebener made the following motion:

BE IT ORDERED that, based on the plans and materials previously approved and the request submitted, the application of Don Elliot for a one-year extension of the Resource Protection Permit granted for the lot located at 43 Hannaford Cove Rd to build a private accessway be granted.

Mr. Kennealy seconded the motion and the motion was approved 4-0.

Thompson Rd Private Accessway Amendments - Kenneth Ray would like to request an amendment to the previously approved plan that reduces the size of Lot 2 and conveys vacant land to abutting property owners, Sec. 19-7-9, Private Accessways.

Since there were no questions or discussion from the Board, Mr. Huebener made the following motion:

BE IT ORDERED that, based on the plans and materials approved and submitted and the facts presented, the application of Kenneth Ray for an amendment to the previously approved Private Accessway Permit for Thompson Rd to reduce the size of Lot 2 and convey land to abutters be approved.

Mr. Huebener seconded the motion and it was approved, 4-0.

OLD BUSINESS

Crescent Beach Retirement and Assisted Living Community LLC Site Plan - Canyon Creek Development LLC would like to request Site Plan review of the redevelopment of the Viking nursing home located at 126 Scott Dyer Rd (U45-4)) to a 60 bed assisted living and 40 unit eldercare housing facility, Sec. 19-9, Site Plan Public Hearing.

Chris DiMatteo, Sebago Technics, presented the application on behalf of the applicant Canyon Creek. He noted the following main changes in response to items in the Town Engineer's July letter.

- Per paragraph 5, the plans have been changed by adjusting grades and curbing to direct drainage away from the southern end of the building into a field inlet.
- Per paragraph 12, the propane tanks are being relocated to the rear of the building and will include bollards and a planting buffer.
- The main entrance to the building has been realigned, resulting in the removal of a large tree and creation of a small seating area.
- The electrical engineer has also pulled back the lighting so that lighting levels do not exceed .5 footcandles at the property line.

Mrs. Schenkel opened the public hearing.

Norman Whitaker, property owner at 132 Scott Dyer Rd, asked if there would be any changes to the brook that separates his property from the applicant's property or any changes on that side of the building. Mr. DiMatteo responded that the only change would be some trimming of shrubs in the Scott Dyer Rd right-of-way for sight distance.

Ellie Whitaker, property owner at 132 Scott Dyer Rd, asked if there would be any parking on the side of the property abutting her property. Mr. DiMatteo responded that they will only be adding a walkway in the lawn area.

Norman Whitaker asked if the Planning Board considered the problems this company has had in California.

Mrs. Schenkel responded that if the development meets the land use code and has financial capability, then the Planning Board does not have a say on what happened in California. She does hope the company will do things right in Cape Elizabeth.

There were no further questions, and the public hearing was closed.

Mr. Huebener asked if the applicant could cut back on the number of propane tanks. Mr. DiMatteo said that they are working on that but are not there yet. Once they know the exact load, they may be able to have fewer, but larger tanks.

Mrs. Sckenkel asked for discussion on the parking.

Mr. Huebener asked if the applicant wanted to receive approval for 2 shared spaces. Mr. DiMatteo agreed.

Mrs. Schenkel asked if they preferred that to creating some compact spaces. Mr. DiMatteo said they prefer the shared spaces and are not sure they could create 2 more spaces with more compact spaces.

Mrs. Schenkel noted the parking demand information provided by the applicant and said that when she was a frequent visitor there, she never noticed a lack of parking.

Mrs. Richardson asked if the applicant had seen the Town Engineer's letter of August 13th. The applicant has read the letter and accepts the comments.

The Board had no further questions for the applicant, so Mr. Huebener made the following motion:

Findings of Fact

1. Canyon Creek Development LLC is requesting Site Plan Review of a eldercare facility composed of 55 assisted living beds and 40 eldercare apartments located at the former Viking Nursing Home site at 126 Scott Dyer Rd, which requires review under Sec. 19-9, Site Plan Regulations.
2. The Town Engineer has identified design issues that should be addressed to assure implementation of the proposed plan.

3. Two spaces may be counted as shared spaces between the guest spaces allotted for the assisted living wing and two spaces for the eldercare apartment wing.
4. Lighting levels at the two entrances should not exceed 0.5 footcandles at the property line.
5. The application substantially complies with Sec. 19-9, Site Plan Regulations.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Canyon Creek LLC for site plan review of the Crescent Beach Retirement and Assisted Living Community, including 55 assisted living beds and 40 eldercare apartments, located at 126 Scott Dyer Rd be approved, subject to the following conditions:

1. That the plans be revised per the Town Engineer's comments dated 8/13/07;
2. That the applicant submit a revised lighting plan for the two entrances that limits the amount of light at the property line to 0.5 footcandles or less;
3. That there be no alteration of the site, nor issuance of a building permit until the above conditions have been met.

The motion was seconded by Mrs. Richardson and approved 4-0.

Maskewitz/McMullin Resource Protection Permit - Diane Maskewitz and Scott McMullin are requesting that their application for a Resource Protection Permit for 4,191 sq. ft. of previously filled wetland and pond for landscaping located at 221 Fickett Street be tabled to the regular September 18, 2007 meeting, at which time a public hearing will be held, Sec. 19-8-3, Resource Protection Permit.

The applicant has requested that the project be tabled to the September meeting.

Mrs. Richardson made the following motion:

BE IT ORDERED that, based on the request of the applicant, the application of Dianne Maskewitz and Scott McMullin for an after the fact Resource Protection Permit to fill 4,191 sq. ft. of wetland and pond for landscaping, located at 221 Fickett Street, be tabled to the regular

September 18, 2007 meeting of the Planning Board, at which time a public hearing shall be held.

The motion was seconded by Mr. Kennealy and it was approved 4-0.

NEW BUSINESS

Jonesy's Convenience Store Site Plan - Gregg Jones would like to request Site Plan Review to convert the gas/service station located at 298 Ocean House Rd (U22-78) to a Convenience Store/gas station, Sec. 19-9, Site Plan Completeness.

Ron St. Pierre, Vision Project Services Inc., made a presentation on behalf of the applicant. He has made changes and additions to the plan and hopes the Board will accept the plan for approval at the next meeting. He reviewed the requirements for submission.

Mrs. Schenkel complimented Mr. St. Pierre on his effort covering the submission items and working with staff.

Mr. Kennealy reviewed the letter from the Town Engineer dated August 13, 2007 and asked if the minor items noted, such as adding back in the sight distances, paragraph 8 curb removal notes, erosion control notes, wall pak lights, and catch basin detail would be addressed. Mr. St. Pierre agreed to put that information on the plans.

Mr. Kennealy made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Gregg Jones for Site Plan Review to convert the existing gas/service station located at 298 Ocean House Rd to a gas station/convenience store be deemed complete.

Mrs. Richardson seconded the motion and it was approved 4-0.

Mr. Huebener asked about the exceedingly wide southern curb cut. Mr. St. Pierre said it was 39' wide and designed for access for a tanker delivering fuel.

Mr. Huebener asked if the tanker is using the northern curb cut. Mr. St. Pierre said that the curb cut was shortened 3'. He is concerned with creating an S curve. For convenience and safety, 36' is recommended. He understands that the intersection may be redesigned and perhaps the curb cut can be changed by MDOT at that time.

Ms. O'Meara explained that the town has appointed a Road Safety Working Group which is working with MDOT right now to try and get public input into

the intersection design. The intersection is being designed now and the applicant should get ahead of that and make a reasonable effort to reduce the curb cut as much as feasible so that no further changes will be imposed as part of the intersection redesign. The applicant agreed to look at the curb cut width.

Mr. Kennealy expressed concerns with the design of the front façade. Mr. St. Pierre explained that the exterior has been changed to wood clapboard. He noted that Cumberland Farms had painted out their windows and adding windows will show the backs of coolers, etc. He suggested increasing the height of the proposed windows from 4' to 6.5' and then adding more windows to the side of the Freshies and Jonesy's signs. This would gain up to 470 sq. ft. The building would look colonial with filmed out windows.

Mr. Kennealy asked about Freshies and was told it was a fresh vegetable program from Bangor.

Mrs. Schenkel said she felt the landscaping was minimal. Mr. St. Pierre explained that there was not a lot of opportunity for landscaping. The planner had suggested some benches in front and landscaping is proposed on town property in front of the lot. The rear has a tree buffer. The applicant could add some plantings to the grass on the side, but they would probably die with snow plowing. Plantings could be expanded at the base of the sign, but there is very little green space. Seasonal plantings will provide color.

Mrs. Richardson asked if window boxes were considered and Mr. St. Pierre said they would consider that.

Mr. Huebener said the title of plans C2 and C3 is confusing. Mr. St. Pierre said the plans show existing and existing/proposed on the same plan.

Mr. Huebener requested that all plans be included in the plan list and that all plans have a title block. Mr. St. Pierre agreed.

Mrs. Schenkel wanted to hold a site walk and the Board agreed. The applicant agreed to bring a revised elevation plan to the site walk. The Board scheduled a site walk for Tuesday, September 4th, at 6:00 p.m.

Mr. St. Pierre asked if the plans were revised and the Planning Board was satisfied, would it be possible to receive approval at the next meeting.

Mrs. Schenkel said yes, but it is not guaranteed.

Mr. Kennealy made the following motion:

BE IT FURTHER ORDERED that the application be tabled to the regular September 18, 2007 meeting of the Planning Board, at which time a public hearing shall be held.

Mrs. Richardson seconded the motion and it was approved 4-0.

Cardinal Lane Private Road Approval - Suzanne Gabriel is requesting Private Road Approval for Cardinal Lane, located off Cross Hill Rd, which has previously received a Private Accessway Permit, in order to create frontage for a new lot, Sec. 16-3-2, Subdivision Ordinance Road Design and Construction Standards.

John Mitchell, Mitchell and Associates, presented the application for Suzanne Gabriel. Mr. Mitchell explained that the applicant would like to extend Cardinal Lane to provide road frontage for a new lot. This requires an upgrade from the Private Accessway approval of Cardinal Lane to a Private Road approval. Mr. Mitchell said the applicant proposes to add granite curb at the entrance and to regrade the road to create a crown. The applicant is requesting a waiver to allow the intersection slope to be 4% rather than 3%, and to have an open rather than closed drainage system.

Mrs. Richardson questioned if the stormwater information was partially complete. The partial designation was because of the open drainage system. The board agreed to address that issue as part of the road review.

Mrs. Richardson made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Suzanne Gabriel for Private Road approval for Cardinal Lane, a previously approved private accessway located off Cross Hill Rd, to create frontage for a new lot 3, be deemed complete.

The motion was seconded by Mr. Kennealy and it was approved 4-0.

Mrs. Schenkel asked about the waivers. Ms. O'Meara indicated a 1% grade increase was not significant but that an open drainage system on a road that could become public in the future could be an incentive for developers to propose private roads. Once the lots are sold, it is common for home owners to petition the Town Council to accept the road. The road standards had then been revised so that there was little difference between the public and private road standards. Open drainage systems have been problematic.

Mrs. Schenkel suggested the applicant speak with Public Works Director Bob Malley.

Mrs. Richardson agreed that open swales invite problems and noted they can be inviting for invasive plants.

The Planning Board agreed to schedule a site walk on Tuesday, September 4th, at 5:30 p.m., at Cardinal Lane.

Mrs. Richardson made the following motion:

BE IT FURTHER ORDERED that the application be tabled to the regular September 18, 2007 meeting of the Planning Board, at which time a public hearing will be held.

The motion was seconded by Mr. Kennealy and it was approved 4-0.

Mrs. Richardson made a motion to adjourn, seconded by Mr. Huebener, and it was approved 4-0.

Respectfully submitted,

Maureen O'Meara
Acting Planning Board Secretary