

TOWN OF CAPE ELIZABETH  
MINUTES OF THE PLANNING BOARD

July 15, 2008

7:00 p.m. Town Hall

Present:	Barbara Schenkel, Chair	Scott Collins
	Peter Hatem	Thomas Dolan
	James Huebener	Elaine Falender
	Beth Richardson	

Also present was Maureen O'Meara, Town Planner.

Mrs. Schenkel called the meeting to order and called for discussion or corrections of the minutes of May 20, 2008. Mrs. Richardson moved to accept the minutes, and Mr. Dolan seconded. The minutes were approved without amendment, 7-0.

NEW BUSINESS

**Hannaford Field Bleachers Site Plan** - The Town of Cape Elizabeth is requesting an amendment to the previously approved site plan for the School campus to construct bleachers for 1400± seats adjacent to Hannaford Field, located at the rear of the High School at 345 Ocean House Rd, Sec. 19-9, Site Plan Completeness.

Mr. Tom Greer, of Pinkham and Greer, engineer for the project, introduced the project. He showed the Board an aerial photo of the entire school campus. He showed where the proposed bleachers would be located, and said they will be aluminum bleachers with a press box at the top of the bleachers.

Mr. Greer also noted that an application to the DEP is in process, concerning site location and storm water management.

The project will relocate 7 parking spaces and will add trees. 16 spaces will be wheelchair accessible. The fence at the back of the bleachers will be redone.

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 an amendment to the previously approved Site Plan for the school campus for a 1400 seat bleachers and parking at Hannaford Field located behind the High School located at 345 Ocean House Rd be deemed complete.

The Board all decided that a site walk was not needed. Mr. Dolan seconded the motion and it was approved 7-0.

Mr. Hatem made the following motion:

BE IT ORDERED that the above application be tabled to the regular August 19, 2008 meeting of the Planning Board, at which time a public hearing will be held.

Mrs. Richardson seconded.

There was a lengthy discussion as to whether a public hearing was needed. Mr. Huebener raised the issue of whether the Town needs approval tonight in order to order the bleachers. There is concern about the possibility of the cost of the bleachers will go up if the process is delayed.

Mr. Michael McGovern, Town Manager, said that if possible they will order the bleachers right away.

Mrs. Schenkel noted that there has only been one email about this project, and that was from an abutter concerned about the noise generated by the fans in the proposed bleachers.

Mr. Dolan said he wants a public hearing.

Mrs. Richardson noted that the crowds will be there even if there are no bleachers.

Mr. Collins said the noise of people stomping their feet on the bleachers is loud.

A vote was taken and the motion passed, 7-0.

**Pond Cove School Shade Structure Site Plan** - The Town of Cape Elizabeth is requesting an amendment to the previously approved site plan for the School campus to construct a shade structure located at the southern end of the playground for the Pond Cove Elementary School located at 6 Scott Dyer Rd, Sec. 19-9, Site Plan Completeness.

Mr. Michael McGovern, Town Manager, presented the project to the Board. He said it will be a gazebo for use as an outdoor learning center. It will be an open structure. The materials will be all natural, and the structure will be between the Pond Cove School and the Fire and Police stations. This will be a covered structure to be used for outdoor learning.

There was no discussion by the Board, so 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 to amend the previously approved school campus site plan to construct a shade structure in the southeast corner of the Pond Cove Elementary School playground, located at 6 Scott Dyer Rd, be deemed complete.

The motion was seconded by Mrs. Richardson and was approved, 7-0.

Mr. Hatem then 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 to amend the previously approved school campus site plan to construct a shade structure in the southeast corner of the Pond Cove Elementary School playground, located at 6 Scott Dyer Rd, be approved.

There was no discussion and Ms. Falender seconded and the motion passed 7-0.

#### OTHER BUSINESS

**Bed and Breakfast Zoning Amendments** -The Planning Board will consider amendments to the Zoning Ordinance that will make Bed and Breakfasts a permitted use in the Business A District (B&B's are already permitted in the Town Center District) and redefine renting of rooms as a homestay, Sec. 19-10-3, Amendments to the Zoning Ordinance Public Hearing.

Ms. O'Meara introduced the amendments by reading the changes from the ordinance currently in effect. She read the definition of a homestay, which is new, and noted that it can be for a period of one day to several months or years. She also called attention to the changes in the Bed and Breakfast provisions. She said the maximum number of rooms permitted is now proposed as 9, and B & B's will only be permitted in the Town Center district. She said the Business A District is now under review for other changes and the proposal to add Bed and Breakfasts to that district will be taken up by the Ordinance Committee when they rewrite that section of the Zoning Ordinance.

There will also be off street parking requirements for both the Homestay and Bed and Breakfast uses.

Mrs. Schenkel opened the public hearing and told the audience that there have been many responses to this draft. She said that 179 people signed a petition in support, and 19 emails in support were received. 14 emails against the proposals were received.

Catherine Miller of 7 Crescent View Avenue spoke against allowing Bed and Breakfasts in residential areas. She feels the Homestay provision is okay for residential areas. She would like the Board to consider reducing the number of rooms allowed from 9 to 6.

Ms. Miller made some comparisons between what is allowed in similar towns such as Falmouth, Cumberland and Yarmouth (they don't allow B&B's). She said Freeport does allow them. Ms. Miller said it is poor precedent to expand the Business District into a residential neighborhood such as Crescent View. She spoke of a property which was an original part of the subdivision, and doesn't want it rezoned. She also said the ordinance, as drafted doesn't require the owner of the property to live there, only a permanent resident.

Mike Duddy of 11 Crescent Avenue, endorses the idea of the owner being the primary resident. He also feels that 9 rooms is acceptable on main roads, but only 6 should be the maximum allowed in a residential area.

Mr. Duddy is against the expansion of a Business District into a residential area. He cited the example of the Zoning Board's denial of his porch. The Zoning Board had said changing the setback for his porch would change the character of the neighborhood. He is pleading for uniformity among the various boards in the Town.

Mrs. Schenkel stated that this hearing has nothing to do with changing the lines of the BA District. This is only about Bed and Breakfasts, not about the Crescent View property.

Tom Tinsman of 2 Emerald Way said he uses B & B's as he travels, and that most of them are in residential zones, not business zones. He hopes the Town allows B&B's, but does not expand the zones to do it. He noted that every business zone abuts a residential zone. He wants the ordinance updated, but without changing the commercial zone lines.

Mr. Hatem asked how many rooms were in a typical B&B ?

Mr. Tinsman replied that most are 5-10 rooms. They are definitely under 10 rooms. 10 is very big.

Tara Bucci of 4 Kettle Cove Road is concerned about safety, especially in the summer. She wants 6 rooms to be the maximum allowed.

Nancy Irving of 27 Crescent View Avenue said she often stays in B&B's. She wants the Board to consider 9 rooms as too many. She thinks 6 rooms may be okay, but smaller would be better.

Karen Duffy of 23 Columbus Road said that B&B's started in homes. She does not feel they need to be in a commercial district. She thinks this would be good business for the Town, since there are not many such options here in town. She said it is usually grand old houses that are Bed and Breakfasts, and does not want the town to isolate them into a business zone.

Mrs. Schenkel read the proposed amendments for Homestay and proposed Bed and Breakfast amendments. She stressed that the Board is not reviewing any specific project tonight.

Rick Licht of Stantec wants the Board to change the limit of 9 rooms to 14 rooms. He cited the Breakwater in Pine Point as a successful example of a B&B of that size. He feels that design guidelines would take care of neighborhood preservation. He feels that the nature of the project is not a numbers issue, but a design standard issue. He wants the Board to allow up to 14 rooms.

There being no further comment, the public hearing was then closed.

Mr. Dolan opened the board discussion by proposing that the Homestay and Bed and Breakfast provisions be changed to require them to be owner occupied.

Mrs. Richardson objected on the grounds that it would restrict the owner's use of the property.

The Board had a long discussion of the merits of owner occupation vs. resident manager. They cited many examples of staying in a B&B and how having an owner in residence makes them more responsive to the guests complaints etc.

Ms. Falender reminded the Board that they are not concerned with the guest's experience of the B&B, but with the impact on the area of Town where it would be located.

Mrs. Richardson continued to bring it to the attention of the Board that the proposal restricts the existence of a B&B to a business district, not a residential area. She is therefore opposed to requiring the owner to occupy the property.

The Board also discussed how many rooms would be allowed, and all realized that they had no clear consensus on this entire proposal.

Mr. Huebener made the following motion:

BE IT ORDERED that, based on the materials and the facts presented, the Planning Board recommends the Bed and Breakfast amendments be tabled to the Planning Board Workshop on August 5, 2008 for further consideration.

Mrs. Richardson seconded and the motion was passed 7-0.

Mrs. Richardson the moved to adjourn, seconded by Mr. Hatem. The motion passed 7-0, and the meeting was adjourned at 8:25pm.

Respectfully submitted,

Hiroshi Dolliver