

TOWN OF CAPE ELIZABETH
MINUTES OF THE PLANNING BOARD

August 19, 2008

7:00 p.m. Town Hall

Present: Barbara Schenkel, Chair
Scott Collins
Elaine Falender
James Huebener

Absent: Thomas Dolan, Peter Hatem and Beth Richardson.

Also present was Maureen O'Meara, Town Planner.

Mr. Hatem called the meeting to order and called for discussion or corrections of the minutes of August 5, 2008. Mr. Huebener moved to accept the minutes, and Ms. Falender seconded. The minutes were approved without amendment, 4-0.

CONSENT AGENDA

Crescent Beach Retirement and Assisted Living Community Site Plan Extension - Canyon Creek Development Inc. is requesting a one-year extension of the Site Plan approval granted for an eldercare facility composed of 55 assisted living beds and 40 eldercare apartments located at 126 Scott Dyer Rd, Sec. 19-9 Site Plan procedures.

There was no discussion by the Board. Ms. Falender made the following motion:

BE IT ORDERED that, based on the plans and materials previously approved and the request received, the application of Canyon Creek Development Inc. for a one year extension of the Site Plan approval for the Crescent Beach Retirement and Assisted Living Community, located at 126 Scott Dyer Rd, be approved with a new expiration date of August 19, 2009, subject to the following condition:

1. That electrical power, fire sprinkler, fire alarm, landscaping maintenance and snow plowing be maintained at the site in order to preserve a minimum level of public safety access and protection until construction begins.

Mr. Huebener seconded and the Board voted 4-0 to approve.

OLD 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 Public Hearing.

Tom Greer, of Pinkham and Greer spoke on behalf of the Town. He updated the Board on developments since the last meeting. He has submitted the plans to the DEP, and has had a reply from the review engineer. He has submitted a response to the DEP, and believes that this will lead to a prompt permit from the DEP.

He said they have also responded to the Town Engineer's comments and have addressed those concerns. The bleachers have been ordered, and they will review the handicapped entry from the sidewalk onto the bleachers. He said the overall project is the same as when they last presented it to the Board in July.

He did note that the nearest home is 240 ft. from the corner of the field and 500 ft. from the bleachers themselves.

Mrs. Schenkel opened the public hearing. There were no comments from the public, so the public hearing was closed.

Mr. Collins questioned whether the Board needs to make a condition of the 2nd item in the Town Engineers letter.

Ms. O'Meara noted that the Town itself is the applicant, and Mrs. Schenkel added that the Board can indeed make such a condition.

Mr. Collins made the motion as follows:

Findings of Fact

1. The Town of Cape Elizabeth is requesting an amendment to the previously approved Site Plan for the School campus to construct a 1400 seat bleachers and parking located at Hannaford Field, behind the High School located at 345 Ocean House Rd, which requires review under Sec. 19-9, Site Plan Regulations.
2. 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 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 approved, subject to the following condition:

1. That the applicant adhere to the requests of the August 12, 2008 letter from Oest Associates to Maureen O'Meara, Town Planner.

Ms. Falender seconded the motion and the Board voted 4-0 to approve.

NEW BUSINESS

Purpoodock Club Site Plan Amendment - The Purpoodock Club is requesting a Site Plan amendment for the expansion/renovation of the clubhouse and parking lot located at 300 Spurwink Ave, Sec. 19-9, Site Plan Completeness.

John Mitchell, of Mitchell and Associates represented the applicant. He outlined the project to the Board. The applicant is proposing to renovate the existing clubhouse and build a small addition. They will upgrade the exterior of the building and the parking lot.

The parking lot will be redesigned to meet Town requirements. 173 parking spaces are required, 125 of those are required for normal operation of the club facility.

The applicant also proposes to replace the existing water line. They will install a new 8 in. water line to the new sprinkler system and a new hydrant. The landscaping in front of the clubhouse will be redone with additional plantings.

Mr. Mitchell addressed the waivers that are being requested. He said the storm water waiver was requested because the flow from the parking lot is sheet flow onto the golf course and then to the existing pond on the 18th fairway. He noted that Steve Harding has agreed with this waiver. He said he has received an email from Mr. Harding, Town Engineer, that he is satisfied.

Mrs. Schenkel asked about the lack of a letter of financial capability.

Ms. O'Meara said that she had a memo from the Town Manager, dated August 4, 2008, which she had failed to include with the Board packet.

Mr. Collins asked if the DEP needs to review the project.

Mr. Mitchell said there is no need for DEP approval since there is neither a site location nor storm water review necessary.

Mr. Mitchell mentioned a discrepancy in impervious surface calculations raised by Mr. Harding in his letter. That discrepancy is because an existing parking lot was not shown on the existing conditions plan. That has been addressed by adding it to the existing conditions plan. There is actually a net decrease in the impervious surfaces of 410 sq. ft.

Mr. Huebener asked about the solid waste disposal.

Mr. Mitchell said the solid waste will continue to be screened in an enclosed space.

Ms. O'Meara told the Board that the applicant had submitted new plans today so their intent was to demonstrate their readiness to comply with the concerns of the Town Engineer. She noted that the Board has not seen those new plans, but may use their existence as an indication of the applicant's move towards completeness.

Mr. John Whipple, the architect for the project, talked about the plans for the structure. For the exterior, new fenestration and a new center entry are planned. There will be an addition to the building, and in keeping with the existing building, they will be adding dormers.

On the side will be access to the kitchen, a fire escape and screening of the propane tanks and recycling containers.

The deck will be extended on two sides, and new siding and roof shingles will be part of the renovation.

The Board agreed that a site walk was not needed.

Mr. Huebener made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of the Purpoodock Club for a 1,250 sq. ft. expansion of the clubhouse and reconfiguration of the parking lot located at 300 Spurwink Ave be deemed complete.

Mr. Collins seconded the motion.

Mrs. Falender questioned whether the Board needs to make a condition that refers to the plans which have been submitted to Ms. O'Meara, but not yet to the Board. She feels that since they have been discussed, they need to be referenced in the findings.

Ms. O'Meara replied that it is up to the Board to include them or not.

Ms. Falender and Mr. Huebener clarified with Ms. O'Meara that the plans that have been discussed were the ones submitted today to Ms. O'Meara and the Town Engineer.

Mr. Huebener said he guessed we could say, conditioned on the plans that we will see that incorporate all these changes.

Ms. Falender added that "based on the representation in the letter from Steve Harding".

Mr. Huebener asked if they should include that as part of the motion.

There was further discussion between Ms. O'Meara and Mr. Huebener about whether to include it. Ms. O'Meara said that she had never gotten more specific in the completeness approval, but certainly the Board has the authority to do so.

Ms. Falender said she would feel more comfortable including the email from Steve Harding to Ms. O'Meara dated August 19, 2008.

Mrs. Schenkel asked Mr. Huebener if it was okay to amend it that way, and he replied that it was.

Mr. Collins seconded the motion as amended, and the Board voted 4-0 to approve.

A brief discussion concluded that a public hearing was called for.

Ms. O'Meara noted that if the Board makes the motion for a public hearing they will be tabling the application, so if there are any further issues they wish to discuss, it should be before the motion.

Mr. Huebener made the following motion:

BE IT ORDERED that the above application be tabled to the regular September 16, 2008 meeting of the Planning Board, at which time a public hearing will be held.

Ms. Falender seconded and the motion passed 4-0.

Mrs. Schenkel then asked if there was any discussion about the waivers, the lighting and the sign. She questioned the landscaping in the parking lot.

Mr. Mitchell replied that the landscaping at the parking lot will be addressed in the next submission.

Eastman Meadows Condominium Final Subdivision Review - Wyley Enterprises, LLC is requesting Final Subdivision Review and a Resource Protection Permit for Eastman Meadows, a 46-unit condominium plus clubhouse and one single family lot, located at 68 Eastman Rd, Sec. 16-2-4, Final Subdivision Review Completeness.

Mr. Owens McCullough, of Sebago Technics, spoke on behalf of the applicant and noted that the applicant is present if the Board has any questions for him.

Mr. McCullough stated that the Board had made a comprehensive review of the plans at a meeting on May 20, 2008. At that meeting, the Board had granted preliminary approval subject to the condition that the developer work with the Town Engineer to address his review comments. Since that time we have worked through that list with Mr. Harding, and he has issued a follow-up letter which has some very minor comments.

Mr. McCullough addressed one of the comments which concerns a culvert which keeps flooding. That culvert is not a part of this project and the applicant is not prepared to do anything to this area. It is an existing condition, and the project is not adding anything to this.

The developer is adding a sewer line along Eastman Road for the use of the property owners along the route. The engineer asked the applicant to add valves at each of the stubs along the way, and that will be done.

This project is in the Trout Brook watershed. The applicant will be required to pay a fee to compensate for the added impervious surfaces. The fee will be a little over \$25,000 to go into the fund to improve the Trout Brook watershed.

The developer is here now to start working through the final approval process. They submitted updated plans on August 1, 2008. They also updated the landscape plans. It's a fairly aggressive landscape plan. There will be about \$75,000 of landscaping in Phase I only, and that does not include the plantings at the units themselves.

The condominium documents have been submitted to the Town Attorney for review. The deeds have also been submitted. These include the deeds for the open space and the easements. Part of the open space will be deeded to the Town and part will be retained by the Condo Association, with a pedestrian easement to the Town.

As part of the DEP Site Location review, the applicant has submitted a blasting plan, and has included a copy for the Board to review. The developer has received comments from the engineer at the DEP and will respond to that this week. They are hopeful to receive approval late in September or October.

The applicant would like to start to move through the final review process starting tonight. We are looking for a finding for completeness tonight.

Mr. Huebener asked if the Board can grant approval before the DEP grants its permit.

Ms. O'Meara replied that it has been the practice to condition the approval upon the DEP permit. The project cannot go forward without the DEP approval. The Board can choose not to go forward until the DEP has acted. The Board's own rules require final approval of a project within 6 months of preliminary approval, so you will be asked to grant extensions of that time if you require the other permits to be in place before Board approval.

Ms. Falender read the portion of the ordinance which states that all permits shall be in place before we deem an application complete. She is troubled about ignoring the ordinance. If as a routine practice, the Board wants to grant approval subject to a condition, then we need to change the ordinance, not ignore it. She hates to make any particular project bear the brunt of a change in policy, but her lawyer's background says we must follow the ordinance.

Mr. Huebener asked Mr. Collins about the practice in other towns.

Mr. Collins said that in 90-95 % of the towns, you can get final local approval without first having DEP approval. It tends to be a conditional approval. Maybe we need to look at the language in our ordinance, and maybe change it. He also asked Mr. McCullough where they were with the DEP process.

Mr. McCullough responded that the engineer from DEP had some technical questions, but nothing that would change the layout of the project. Nothing that would materially change the project is under discussion. They wanted to start the process now because of the 6 month deadline from preliminary approval, May 20, 2008. Maybe the Board can grant an extension of that timeline. That would be fine with the applicant.

Mrs. Schenkel asked if a six month extension from today would create a hardship for the developer.

It's fine with the applicant.

Mrs. Schenkel said that we need to change the ordinance. She feels we should grant an extension tonight.

Ms. Falender wanted to know if granting an extension was an available option since it was not on the agenda.

Ms. O'Meara said it is within the range of actions available to the board when it considers approval.

Mr. Huebener made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Wyley Enterprises LLC for Major Subdivision Review, a Private Road Review and a Resource Protection Permit for Eastman Meadows, a 46 unit condominium with clubhouse and 1 single family lot, located at 68 Eastman Rd be granted an extension from final approval to the regular February 2009 meeting.

Ms. Falender seconded and the motion was passed 4-0.

Ms. Falender questioned whether the easement deeds and Condominium documents were approved by the Town.

Ms. O'Meara responded that the documents have been submitted to the Town Attorney for his review.

Ms. Falender also requested clarification of the sidewalk easements.

Mr. McCullough showed on the plan what is intended to be conveyed, and said he would review the documents to be sure they are clear.

Mr. Collins asked if anyone from the Town has reviewed the blasting plan.

Ms. O'Meara said she will make sure somebody has reviewed the blasting plan.

Mrs. Schenkel wants a change to the blasting plan to make all the language to be consistent. The language should all be "shall", not the more ambiguous "should". She also noted that in the Condo Documents page 3, paragraph 3.2 it states there are 25 building, but there are actually 23 buildings.

After a brief discussion of the actual acreage in the open space, Mr. McCullough agreed that he will add the acreage to the plans.

Mrs. Schenkel questioned the fact that the developer is only paving half of Eastman Road in connection with the sewer line.

Mr. McCullough noted the fact that paving materials have skyrocketed in cost lately.

Mrs. Schenkel wants money withheld as a guarantee for the traffic study if the project is not mostly owned by people over 55.

Mr. McCullough noted that most of the traffic calming measures would be pretty inexpensive, passive measures. And it might be possible to tie this to the building permits.

Ms. Falender noted that she appreciates the applicant's assumption that there will be a public hearing. Some members of the public have expressed concern that the Board will act without another public hearing. She said the Board intends to hold another public hearing when we do reach the stage of completeness.

There was no further discussion and Mr. Huebener made a motion to adjourn, seconded by Mr. Collins. The Board voted 4-0 to adjourn. The meeting was adjourned at 8:30pm.

Respectfully submitted,
Hiromi Dolliver

Planning Board Minutes Secretary