

TOWN OF CAPE ELIZABETH  
MINUTES OF THE PLANNING BOARD

September 16, 2008

7:00 p.m. Town Hall

Present: Barbara Schenkel, Chair

Scott Collins

Peter Hatem

Thomas Dolan

Beth Richardson

Elaine Falender

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 August 19, 2008. Ms. Falender moved to accept the minutes, and Mrs. Richardson seconded. The minutes were approved without amendment, 5-0.

OLD 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 Public Hearing.

Mr. John Mitchell, of Mitchell and Associates, spoke about the project. He noted that there have not been many changes since the last Planning Board meeting. They will have an 8 inch water line in from Spurwink Avenue with a hydrant, as requested by the Fire Chief. They have submitted additional lighting, on the building and at the parking lots. Other minor notes and details have been added to the plans. There will be additional landscaping by the parking lot.

Mrs. Schenkel opened the public hearing.

No one came forth with questions or comments, so the public hearing was closed.

Mr. Dolan asked how many total parking spaces.

Mr. Mitchell replied that there are 173 parking spaces.

Mr. Dolan inquired of Ms. O'Meara how many were required and was satisfied that the requirements have been met.

Mr. Collins asked about the landscaping on the islands.

Mr. Mitchell noted that they have added trees and flowering trees.

Mr. Dolan made the following motion:

#### Findings of Fact

1. The Purpoodock Club is proposing a 1,250 sq. ft. addition to the clubhouse and parking lot reconfiguration located at 300 Spurwink Ave, 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 Purpoodock Club for a 1,250 sq. ft. expansion of the clubhouse and reconfiguration of the parking lot located at 300 Spurwink Ave be approved.

Ms. Falender seconded the motion and it was approved 5-0.

#### 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 on lots with frontage on Route 77 and Shore Rd, Sec. 19-10-3. Amendments to the Zoning Ordinance Public Hearing.

Mrs. Schenkel introduced the amendments by stating that these are proposals for the Town Council to consider. We will have a public hearing and make changes or amendments, then the Town Council will have a public hearing.

Mrs. Schenkel then went through the proposed amendments. First she outlined what constitutes a Homestay, and the rules governing that. Then she defined a Bed and Breakfast and the rules that will apply to that.

Mrs. Schenkel opened the public hearing.

Diane Dussault of 19 Crescent View Avenue strongly supports the amendment. She says it is a low impact business which can provide reasonably priced accommodations.

Ms. Lynn Lovett of 31 Broad Cove Road said she thinks this will be a wonderful addition to our part of town. She is in favor of this proposal, and feels it would provide an affordable place to stay. She is in favor of a bed and breakfast on Crescent View Avenue.

Carl Dittrich of 500 Ocean House Road asked if both measures will pass or fail together in the Town Council?

Mrs. Schenkel said the Town Council can do what it chooses; the Planning Board only makes the recommendations.

Karen Dunfey of 23 Columbus Road said she has stayed in bed and breakfasts in residential areas in the Portland Oregon area. She said there were no noise or traffic problems there. She urged the Board to limit density rather than limiting to two streets. She said allowing them will add to the tax base, and we need to do that.

Katherine Miller of Crescent View Avenue spoke about the idea of putting bed and breakfasts in residential neighborhoods. She said the towns of Scarborough, Cumberland, Falmouth and Yarmouth don't allow bed and breakfasts in residential neighborhoods. She said that, like Cape Elizabeth, the people moved there to live in a residential neighborhood. Residential neighborhoods should be free from businesses. We need to compare ourselves to the other towns. The Comprehensive Plan preserved residential neighborhood and confined businesses to the business zones. The current plan is well thought out and keeps bed and breakfasts out of residential areas. She cited an informal survey she conducted in her neighborhood and an analysis of the impact of a bed and breakfast, all to bolster her contention to keep bed and breakfasts out of residential neighborhoods.

Mark Pendarvis of 19 Kettle Cove Road owns the Kettle Cove Takeout and Dairy Bar. He is in favor of bed and breakfasts with limitations. He thinks we have a lot of wonderful old homes along Route 77. He thinks that to develop such a plan will help to preserve the town's "feel" and history. He sees bed and

breakfasts as adding charm to the town and enhancing it. It would be nice to have a bed and breakfast available for visitors who can't afford the Inn by the Sea.

Shawn Tamir of 1 Crescent View Avenue said he is the one leading the path to allow bed and breakfasts in our town. He has attempted to get feedback from some of his neighbors on this project. His idea is to enhance the town. He feels that all the residents of this town would benefit from having a bed and breakfast here. They would have a place to accommodate friends and family at a reasonable rate.

He then spoke about his property specifically. He talked about the improvements he has made since purchasing it a year and a half ago. The property is a three family residence. He initially came up with a plan to have 24 rooms, but was encouraged to scale it back. He has decided that having 14 rooms will allow him to cover his costs, and keep up his property. He feels he is in a transitional zone with the Kettle Cove Dairy Bar just across the street and Route 77 nearby. He would like to amend the zoning to allow a bed and breakfast within 100 feet of Route 77. He spoke at length about how he could accommodate the parking needed to support 14 rooms. He also noted that he would not be adding rooms, they are already there.

He spoke about how much traffic there is on the Kettle Cove Road in the summer with people going to the beach. He would allow access across his property if necessary. He doesn't see that his proposal would create much more traffic to endanger his neighbors' children.

Within the confines of what is already allowed in a residential zone, such as day care, boat repair shop, elderly care, a cemetery etc, he feels that a bed and breakfast is the most residential use of all those cited. He wants to be able to maintain and nurture this property. He would offer a quality establishment.

Mrs. Schenkel stated that it is clear that the Board is proposing a 9 room maximum in this ordinance we are proposing. We have had extensive discussions and she believes the Board will not consider more than a 9 room limit. We are not considering an individual project, but will take into consideration including you in the bed and breakfast or in the BA district.

Evan Livada of 997 Shore Road is very much in favor of the bed and breakfast ordinance. His home used to be the Rock Hill Inn and he has spoken to many

people who have fond memories of staying in Cape Elizabeth. He feels it would be nice to have the opportunity to have a bed and breakfast.

The public hearing was closed.

Ms. Falender began the Board discussion by requesting that the ordinance be consistent with the intention of the committee to confine Bed and breakfasts to Shore Road and Route 77. She said there are several times in the proposal that name Ocean House Road is used instead of Route 77 and she requested that it be made consistent.

Ms. O'Meara replied that she would take care of it.

Mrs. Schenkel told Mr. Tamir that this was not his final opportunity. He can come to the BA Zone hearing and make his case to be included in that zone.

Ms. Falender made the following motion:

BE IT ORDERED that, based on the materials and the facts presented, the Planning Board recommends the attached Bed and Breakfast Amendments, with the changes of the references from Ocean House Road to Route 77, to the Town Council for consideration.

Mrs. Richardson seconded and it was approved 5 in favor and 1 opposed (Hatem).

**BA Zoning/Wetland Amendments** - The Planning Board will consider amendments that refocus the Business A District as a neighborhood business district, amend the BA District boundaries and reduce the RP1 wetland buffer to 100' for properties served by public sewer and water. Sec. 19-10-3, Amendments to the Zoning Ordinance.

Mrs. Schenkel noted that there has been a wetlands survey and the map of that survey will be available next month when the public hearing will be held.

Ms. O'Meara said the Comprehensive Plan had a number of recommendations. The Town Council has asked the Planning Board to rewrite the ordinance covering the BA District as one of the first steps in implementing the Comprehensive Plan. She then outlined the changes proposed. She said they are now considering this to be a neighborhood business district with retail and office

uses being added. The BA District now matches more closely to the Town Center District regulations. There will be a limit on hours of operation, design guidelines, and an emphasis on being pedestrian friendly.

Mrs. Schenkel added that they have recommended reducing the wetlands buffer to 100 ft when the property is on city water and city sewer.

Ms. O'Meara added that there are proposed map amendments. On Shore Road, the Planning Board has proposed adding one lot on Shore Road. The BA district on Route 77 is proposed to be reduced by returning remnants of two lots to residential zoning.

Mr. Dolan asked about the sidewalk proposal and meandering sidewalks.

Ms. O'Meara responded by outlining the two areas and how they are envisioning the sidewalks in each. On Shore Road, sidewalks already exist. They may need to be upgraded, but they are already there. On Route 77, there are no sidewalks and a series of connecting paths is what is proposed instead of formal sidewalks.

Ms. Falender noted the sketches included in the proposal and said they are very helpful and she hopes they will be included in the final ordinance.

Ms. O'Meara said she is intending to keep those sketches in the ordinance.

There was a brief discussion about editing some small errors in the proposal and a discussion about the differences in the bed and breakfast rules for the residential district and the BA district.

Mrs. Schenkel made a proposal to add Mr. Tamir's property to the BA District because he has made such an impassioned plea.

Mr. Hatem said he is not interested in doing that because we haven't heard anything new here to change his mind. He said there is a public hearing coming up and he would like to hear the comments from that before he changes his mind.

Mrs. Richardson said she would like to hear more. We've had additional letters and feedback in support of that property and some against, and she'd like to hear more public input.

Ms. Falender said if she were a member of the public she would not think this is on the table for discussion. We need to make it clear that it's up for discussion if we want public feedback. She is personally not in favor of including this property now.

Mrs. Schenkel wanted to take a vote on this topic.

Mr. Hatem does not want to add this property and he says they have hashed this out in two workshop sessions and he doesn't want to revisit the topic. He also noted that the Chair cannot make a motion. He does not see any value in this and it is not on the table right now.

Mrs. Richardson asked a question of Ms. O'Meara about the notices for public hearing.

Ms. O'Meara replied that when there is a text amendment you do not need to send a mailed notice. When you have a map amendment you have to send mailed notices to all the abutters. For this amendment she proposes to send notices to all the property owners in the BA districts and to the abutters. She also noted that the proposals are on the Town website.

Ms. Falender made the following motion:

For purposes of our next meeting and our public hearing that we add to the proposed BA District the lot that is shown as the Tamir lot in order that we can get public comment explicitly on that that issue.

Mrs. Richardson seconded the motion.

Mr. Dolan commended Mr. Tamir for his efforts and said he is not in favor of the motion. He would be more in favor of amending the B & B ordinance we have just adopted to include the lot. He feels that would all be a stretch to include that lot and he restated that he is not in favor of including this lot in the BA District.

Mr. Hatem said we have already had a discussion and a vote on this issue, and the decision was not to include this lot in the BA zone.

Mr. Collins noted that the Board can change this if they choose to.

Mrs. Schenkel wants the Board to change its mind based on the public hearing they have just held. She feels the Board has that power to make changes.

Mr. Hatem asked Ms. Falender what was the purpose of the motion. Is it to change the proposed amendment to include it or is it to add it for the purpose getting input from the public?

Ms. Falender replied that her motion is to include the Tamir lot in the BA Zone. She wants to hear the public input both for and against. She is personally not sure whether she will be for or against that particular amendment, but she wants it to be aired.

Mr. Richardson still agrees to second the motion.

The vote was 3 in favor and 3 against. This means the motion does not pass, and the revision to add the Tamir lot to the BA District does not go on the public hearing.

Mrs. Richardson made the following motion:

BE IT ORDERED that, based on the materials and facts presented, the BA District Zoning overhaul text and map amendments be tabled to the October 21, 2008 meeting of the Planning Board, at which time a public hearing will be held.

Mr. Dolan seconded the motion. The Board approved 6-0.

Mrs. Richardson moved to adjourn and was seconded by Mr. Dolan. The board voted to adjourn 6-0.

The meeting was adjourned at 8:20 p.m.

Respectfully submitted,

Hiromi Dolliver



