

TOWN OF CAPE ELIZABETH
MINUTES OF THE PLANNING BOARD

February 16, 2010

7:00 p.m. Town Hall

Present: Peter Hatem, Chair
James Huebener
Beth Richardson
Victoria Volent

Elaine Falender
Liza Quinn
Barbara Schenkel

Also present was Maureen O'Meara, Town Planner.

Mr. Hatem called the meeting to order and called for additions or corrections to the minutes of the January 19, 2010 meeting. Mrs. Schenkel moved to approve the minutes as presented and was seconded by Mrs. Richardson. The motion passed, 7-0.

OLD BUSINESS

Woodlands Assisted Living of Cape Elizabeth Site Plan - Lon Walters of Woodlands Assisted Living of Cape Elizabeth LLC is requesting Site Plan Review of the redevelopment of the site located at 126 Scott Dyer Rd to a 72 bed assisted living facility, Sec. 19-9, Site Plan Public Hearing.

Ms. O'Meara spoke to the audience to inform them that the Town web site has been changed, but any emails sent to her are forwarded on to the entire Planning Board. She encouraged the public to email her and to feel confident that all their comments will be heard by the Board.

Peter Bethanis then spoke for the applicant. He addressed the items in a letter to Elliot Thayer dated January 29, 2010. He went through the items outlined in that letter one by one, and in detail. He said the name of the project will be changed to Evergreen Memory Care. He says he will also change the name on the plans even though the Board does not require him to do so.

Mr. Elliot Thayer engineer for the project then addressed the flood plain mapping. The applicant has applied for map revision to FEMA about a month ago and is hoping to have that resolved soon.

Then Mr. Bethanis addressed the letter by OEST. Once again he addressed each one by number and responded to each concern. All of the concerns have been addressed and plans modified in order to correct the concerns of the engineer.

He spoke about the snow removal from the upper deck. He said that when there is snow up there, the deck will be closed.

Mr. Hatem then opened the public hearing. There were no comments from the public, so the public hearing was closed.

Mrs. Schenkel has a concern about snow removal and wants it added to the site plan.

Mr. Huebener said that he sees that as an operational question.

Ms. Quinn agrees that it would be too restrictive to put that on the plan.

Ms. Falender pointed out that snow removal was on the letter from the Town Engineer, dated February 9, 2010, which is a condition of approval. She also was concerned that some of the points in that letter are requirements and some are only suggestions.

Mr. Bethanis then replied that all the items that were recommended have been incorporated into the plans.

Mr. Thayer then addressed each of the points in the letter item by item. They will comply with each recommendation.

Mr. Huebener asked about the floodplain maps and how long it will take for the map to be amended.

Mr. Thayer replied that the current map shows the end of the building in the flood zone, so they have to have the map amended. Their elevations show that they are out of the 100 year flood zone.

Ms. Volent asked if the Town Manager has said the applicant has financial capability.

The Town Manager has not commented as yet. The Board has received a letter from the bank.

The Board had a discussion about whether to wait for the letter from the Town Manager, or to move ahead with approval based on the letter from the bank. In the end after the debate by all the Board members expressing reservations about proceeding, they decided to proceed based on what they have. It was noted that there is a bonding requirement to protect the Town before construction begins.

Mrs. Richardson made the following motion:

Findings of Fact

1. Woodlands Assisted Living of Cape Elizabeth, LLC is proposing to redevelop the vacant facility located at 126 Scott Dyer Rd to a 72 bed assisted living facility, which requires review under Sec. 19-9, Site Plan Review.
2. The Town Engineer is recommending revisions to the plans.
3. The Town Public Safety personnel have stated that public safety may be compromised if the proposed facility uses a name similar to an existing apartment complex called the Woodlands.
4. The plans indicate that existing and new buildings will be located in the 100 year floodplain without evidence of floodproofing.
5. The application substantially complies with Sec. 19-9-5, Site Plan Standards.

THEREFORE BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Woodlands Assisted Living of Cape Elizabeth, LLC for Site Plan Review of the redevelopment of the vacant facility located at 126 Scott Dyer Rd to a 72 bed assisted living facility be approved, subject to the following conditions:

1. That the plans be revised per the Town Engineer's letter dated 2/9/10;
2. That the project be renamed Evergreen Memory Care;
3. That a floodplain map amendment be obtained indicated that no existing or proposed building is located in the 100 year floodplain and that the site plans be revised to show the new floodplain location; and
4. That there be no alteration of the site nor issuance of a building permit until the above conditions have been met and revised plans submitted to the Town Planner to confirm compliance with the conditions.

Mrs. Schenkel seconded the motion and it was approved, 7-0.

NEW BUSINESS

Hannaford Field Concession Stand Site Plan Amendment - The Town of Cape Elizabeth is requesting an amendment to the Site Plan for the School Campus to add a concession stand to Hannaford Field, Sec. 19-9,

Site Plan Completeness.

Tom Greer, of Pinkham and Greer, engineer for the project spoke about the project. He showed a plan of the area where they want to build the concession stand. He said the boosters have been providing concessions at games over the last year or so. Serving roughly 20 games a year is the plan. Currently they have been working from tents, tarps and tables that they have been bringing in. They want a building where they can store their tables and equipment and get out of the weather.

Since the proposed location is far from the bleachers, bringing power to the site is prohibitive. This is thought of as a temporary building by the Boosters, while they continue fund raising for a more permanent concession stand. They plan to return before the Board with a new plan when they have enough money raised. In the meantime they will use a generator and get out of the weather and store their equipment in this structure.

Mr. Greer said there would be some grading of the site and some crushed stone in front of the building. He showed some elevation views of the building. The plans show a 16 ft. by 10 ft. building. It will have a door on one end and a window in the front to sell concessions. It will have vinyl siding. There will be no water and sewer, they will use hand sanitizer for food preparation.

Mr. Huebener wondered where the permanent stand would be located.

Mr. Greer said it would probably be located in a different place because getting power and water to this spot is very difficult.

Mrs. Schenkel asked about trash removal.

Mr. Greer said there will be garbage cans around the booth and the Boosters will pick up any stray trash at the site. He also reassured Mrs. Schenkel that there was no proposal to have a loudspeaker with this booth.

Ms. Quinn asked about the noise from the generator.

Mr. Greer said the generator will be on the side of the building that is furthest from the residences. He also noted that the noise of the crowd would be louder than the generator.

Ms. Quinn noted that the site plan shows a concession stand in another location on the site. She asked if that one is built.

Mr. Greer replied that that stand does not exist and it will be replaced on the site plan by this new one.

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 Town of Cape Elizabeth to amend the existing site plan approval for the school campus and Hannaford Field to add a concession stand be approved, based on the condition that the site plans be amended to show the building elevations, and the original concession stand location be removed.

Mrs. Richardson seconded the motion and it was approved, 7-0.

Rudy's of the Cape Restaurant Site Plan - Two Lights General Store LLC is requesting Site Plan Review for an 80-seat restaurant/convenience store located at the existing Rudy's establishment at 517 Ocean House Rd, Sec. 19-9, Site Plan Completeness.

Mrs. Volent wanted to disclose that she is a neighbor of Mr. Carroll who is presenting this project. Several other Board members said they too know Mr. Carroll, but did not think that would prevent them from being impartial.

Patrick Carroll of Carroll Associates, a landscape architect, said he has been working on this plan with the owner for a few years. He began his presentation by showing an aerial view of the site. He said the total impervious cover existing on the site is 21,000 sq. ft.. The buildings cover 2600 sq. ft., the paved area is 4800 sq. ft. and the gravel covers 13,000 sq. ft., The site is a little over an acre, making the total impervious surface to be 42% of the site. He also showed the boundary of the BA Zone, and the 100 ft. buffer line that delineates the 10 pm closing time.

He then talked about the proposed site plan. There will be two curb cuts, instead of the large open access that now exists at the front of the building. The majority of the parking and the outdoor dining area will be on the south side away from the residential area. There will be 25 parking spaces for a restaurant with 80 seats, and 5 staff. There will be a sidewalk connection along the front of the property that will connect to Davis Point Road. The area in the 100 ft. zone near the residences will remain a green zone with shrubs and plantings to buffer the neighbors.

They have reduced the amount of impervious covering to 41%. He says they have improved the traffic circulation from the haphazard way it has been.

He showed a grading and drainage plan and explained how that would all function. Then he showed the landscape and lighting plan. He emphasized

the 100 ft. buffer zone between the neighbors and Rudy's, and said the intent is to minimize the impact on the residences in the neighborhood. There will be a lawn where there is now a gravel area for parking, and there will be rows of trees and shrubs at the edge of the property. There will be a row of street trees along Route 77. The majority of the planting is done to minimize and mitigate the effect on the neighbors.

He also showed a photometric plan to the Board. Showing where the lighting would be located and how far it would illuminate.

Ms. Falender asked if all the driveway and the parking area will be gravel.

Mr. Carroll said yes they will be. He also showed how they will have guard rails along the green space to prevent any parking there. He also said the guard rails will be low enough that they can store snow in that area during the winter snow season.

Ms. Quinn asked about parking for large trucks.

Mr. Carroll said they think the large trucks will be able to park along the driveway.

Mrs. Schenkel asked about the number of spaces. She said the plan is confusing since it looks like there are supposed to be 15 spaces in one location but there are only 9 spaces there.

Mr. Carroll said he would revise the plan to more accurately show the numbers of the spaces.

Mr. Carroll also said the outdoor dining area is designed to hold 30 seats in the summer. The indoors will hold 50 seats in the summer and 80 seats in the winter time. There will be a maximum of 80 seats total. There will be a loft upstairs to accommodate an office and storage, but no public access above the first floor.

Ms. Quinn wondered how Rudy's plans to manage the setups between the winter seating and the summer seating. Will there be two setups or how will that work?

Mr. Carroll noted that ultimately it is an enforcement issue for the Code Officer.

Several Board members noted concerns as to how that seating limit will be managed, and are looking for more information at the next meeting.

Mr. Carroll showed the building elevations. There will be no second floor but there will be a loft area for an office and storage.

Ms. Quinn made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Two Lights General Store LLC for Site Plan Review of Rudy's on the Cape, an 80-seat restaurant located at 517 Ocean House Rd, be deemed complete.

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

A site walk was scheduled for February 28, 2010 at 11:00.

Mrs. Schenkel noted that the lighting plan seems to show more light than is permitted, and asked Ms. O'Meara what the standards are. Ms. O'Meara replied that the plans will need to be adjusted in order to conform to the ordinance.

Mrs. Richardson made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Two Lights General Store LLC for Site Plan Review of Rudy's on the Cape, an 80-seat restaurant located at 517 Ocean House Rd, be tabled to the March 16, 2010 meeting at which time a public hearing will be held.

Mrs. Schenkel seconded the motion and it was approved, 7-0.

Mrs. Schenkel encouraged members of the public to attend the site walk.

Patrick Babcock of 503 Ocean House Road asked how he could get his comments heard if he is unable to attend the public hearing.

Ms. O'Meara said he could send a letter or an email to her and she would distribute it to the Board members. It will be added to the file which is open to the public to read.

OTHER BUSINESS

Agricultural Amendments - The Town Council has forwarded to the Planning Board a request to prepare amendments to the Zoning Ordinance that implement recommendations in the Comprehensive Plan related to promoting agriculture, Sec. 19-10-3, Zoning Ordinance Amendments Public Hearing.

Ms. O'Meara introduced the amendments with a brief overview of the history of this proposal. She said the Town had adopted a new Comprehensive Plan in 2007 with 33 high priority recommendations, which were broken down into 5 different ordinance amendment packages. The Planning Board was asked by the Town Council to process those amendments.

The agricultural goals set out in the Comprehensive Plan were to provide more flexibility in the Zoning ordinance, to develop an agricultural profile and to identify and modify Town regulations that hamper the flexibility needed to make farming economically viable.

The Planning Board has worked with the Comprehensive Plan and with the Cape Elizabeth Farm Alliance to formulate a set of amendments to accomplish these goals.

Mr. Hatem opened the public hearing.

Penny Jordan, one of the owners of Jordan's Farm and Chair of the Cape Elizabeth Farm Alliance thanked the Board for all the time and effort and thought they have put into this ordinance.

She feels the Cape Elizabeth is an example of a community that values and demonstrates a commitment to agriculture. She thanks the Board for their commitment and she and the farmers are aware of how much time has been put into this project. As she travels the state she is proud to say she lives in Cape Elizabeth.

Since there were no other people wishing to speak, the public hearing was closed.

Mrs. Schenkel noted a letter from Jay Cox requesting a change in the portion of a Farm Market space that could be displayed outdoors.

Ms. Quinn proposed a change in the definition of a Farm Market.

After a group discussion the wording in the proposed definition was changed from:50%of the total building floor area devoted to retail... It was changed to read: 50% of the total display area devoted to retail...

Mrs. Richardson made the following motion:

BE IT ORDERED that, based on the draft amendments and the facts presented, the agricultural amendments be recommended to the Town Council for consideration.

Mrs. Schenkel seconded the motion and it was passed, 7-0.

Mr. Huebener moved to adjourn the meeting and was seconded by Mrs. Richardson. The board voted 7-0 to adjourn, and the meeting was adjourned at 8:50 pm.

Respectfully submitted,

Hiroimi Dolliver