

TOWN OF CAPE ELIZABETH
MINUTES OF THE PLANNING BOARD

June 15, 2010

7:00 p.m. Town Hall

Present: Peter Hatem, Chair
Elaine Falender
Barbara Schenkel
Carol Anne Jordan

James Huebener
Liza Quinn
Victoria Volent

Also present was Maureen O'Meara, Town Planner.

Mr. Hatem called the meeting to order and welcomed Carol Anne Jordan, the new member of the Board.

Mr. Hatem then called for corrections or additions to the minutes of May 18, 2010. Ms Quinn asked the record be corrected to show that she had been the one to nominate Ms. Falender for Vice-Chair. Mrs. Schenkel moved that the minutes be approved as corrected and was seconded by Ms. Falender. the motion passed, 7-0.

OLD BUSINESS

Shore Road Private Accessway/Resource Protection Permit - MC Associates is requesting a Private Accessway Permit and Resource Protection Permit for a lot located at 1055 Shore Rd (U7-2B), Sec. 19-7-9, Private Accessway Permit Public Hearing and Sec. 19-8-3, Resource Protection Permit Public Hearing.

John Whitten of Terradyn Consultants represented MC Associates. He showed a plan of the land which is 33,000 sq. ft. The lot is 100 ft. on Shore Road and approximately 150 ft.[sic] of depth. Generally the topography slopes toward Shore Road, and there is a wetland that bisects the property. It is a narrow channel that conveys storm water from the woodland side and conveys water to an existing 24 in. culvert at Shore Road.

They are proposing a private accessway of about 160 ft. long which will be paved to a 14 ft. width, with gravel shoulders to an 18 ft. width.

To establish proper stopping sight distance they will remove some of the rock ledge. They have provided a hammerhead turnaround to a standard for a B40 vehicle.

The pavement will be porous. The plan is to have a single family house on this lot.

They are proposing to fill 243 sq. ft. of wetland. The Conservation Commission voted 3-1 to recommend that the Planning Board allow them to do so.

MC Associates will extend their blasting plan to include the ditch on Shore Road and re-direct the runoff into onto their land via a 15 in. culvert. They will grant an easement to the Town to allow public water to flow over private property.

The accessway design has been changed from the last presentation. They have shortened the length and will pave the whole length using porous pavement. The first layer will be 4 in. of porous asphalt, the second layer will be 8 in. of choker, and the third layer will be 8 in. of sand and gravel.

He noted that there were numerous letters from neighbors about the stormwater design. He feels their plan is adequate to handle a 25 year storm, which is the requirement. The volume of water is also very close to the pre-development volume of runoff. There will be a 1/2% increase in volume of runoff.

Ms. Quinn asked if that was calculated pre-construction of the house and driveway.

Mr. Whitten said the calculations include the house, driveway and private accessway.

He discussed a 500 year storm of 8 in. in 24 hours and his model showed that pre-development it would flood Shore road by 6 in.

Mrs. Schenkel asked if the porous surface will accommodate a large truck or heavy equipment.

Mr. Whitten replied that it will handle such weight.

Ms. Falender noted that the Board deliberates and has to assume the modeling used is a valid one.

Ms. O'Meara replied that the Planner and Engineer both get all the calculations, so if the Town Engineer was not comfortable with the modeling he would have said so.

Ms. Quinn agrees that we need to take the modeling on faith, but asked how you can increase the runoff by such a small amount when you are covering about 1/3 of the lot.

Mr. Huebener said that Terradyn had provided a letter that explained how that will work.

Ms. Schenkel asked where the water in the 24 in. culvert goes.

Mr. Whitten replied that it flows across the land for a distance but he does not know where it goes from there. There will only be a 1/2% increase from this parcel to what already goes through that 24 in. culvert.

Mr. Hatem opened the public hearing.

Martha Hoopes of 509 Delano Park had concerns about the porous pavement. Since they are skipping part of the sub layers she feels it will allow the water to enter the water table. She is also skeptical about the increase in water flow. She says Mr. Whitten's numbers have been variable and wondered if the town could provide something to keep the flow from going onto other properties.

Removal of wetland does increase some of the water flow. It can act as a sponge, and should not be removed.

Bill Laverty of 303 Delano Park, president of the Delano Park Association, has several concerns. He said there had never been a site visit by the Board.

Mr. Hatem said there had been a site walk at the same time they had done the site walk for the Shore Road Path. They had met the applicant at the site and any Board member who wished to walk into the site was free to do so at that time.

Mr. Laverty is concerned by the sight distance. At entrance 3, where he lives, he says it is not easy to see in one direction. He is concerned that there will be accidents on that road.

The largest issue is the water problem. The water spills onto Martha Hoopes' property and then onto the Staples property. You will be pounding more water onto someone else's property.

Models can't compute everything, they can't think of everything.

Mr. Hatem asked if the water problems exist now.

Mr. Laverty agreed that they do exist now.

Marion Guthrie of 108 Delano Park said she is not an abutter. She asked what is the purpose of the PCV pipe that is inserted into the culvert. She is also concerned about the culvert if the pathway becomes a reality. She hopes the culvert is never extended.

Dale Moreau of 4 Ironclad Road has seen the existing conditions of severe saturation. He has lost a large pine tree because of ground saturation. Any increase of water flow is unacceptable.

He has attended all the presentations on this project and has heard many differences each time the project has come forward. He would like an outside consultant to be used.

Martha Hoopes 509 Delano Park noted that the problems we are having with saturation are fairly new. About 20 trees came down in the past year. She cannot exactly pinpoint when this change happened. After they moved Shore Road, probably in the 1980's. Culverts were added at that time.

The public hearing was closed.

Mr. Whitten addressed some of the public's concerns. He cited the UNH recommendations about using the porous paving. For a driveway, UNH recommended 8 in. layer of the choker course. We put in an 8 in. choker course and an 8 in. sand and gravel course.

Ms. Falender said the plans show a 4 in. choker course. Are they being changed?

Mr. Whitten said they are planning a 4 in. pavement a 4 in. choker and an 8 in. base and a 3 in. filter blanket.

He also noted that they took no assumption of reduction of flow for the porous pavement.

Mr. Huebener noted that if the Board does nothing, there is still a problem with drainage in the area. He thinks there is such a minor increase that he would just ignore it.

Mr. Whitten said the sight distance will be up to standard after the blasting.

The PVC pipe is a foundation drain and studies show that foundation drains tend to add only a negligible amount to the flow.

Ms. Quinn asked if there are any other subdivisions in this 13 acre watershed.

Mr. Whitten said there are none.

Mrs. Schenkel said this applicant is not creating this problem. She would like the Public Works Director to look into this problem.

Mr. O'Malley, the Public Works Director also noted that the storms have been worse in the last few years. He also said that they replaced the culvert in 1989. He is not aware of the downstream water problems. He has not been contacted about them. He said there is a difference in the pattern of rain events.

Mrs. Schenkel told Mr. Malley that he is now notified since this is a public hearing. She would like him to look at the matter.

Mr. Malley said he would be happy to take a look at it but is not prepared to make any comment on a solution at this time.

Mr. Hatem asked about the re-alignment of Shore Road.

Mr. Malley said that in his 30 years with the Town he was not aware of any change in Shore Road during that time.

Ms. O'Meara noted that she has met with many people and asked for for why this problem is happening without anyone providing a specific cause.

Mr. Hatem noted that this is not a Planning Board problem to fix, and that there is a single lot proposal in front of them and the applicant has met and gone beyond the standards required. He would like to move this along to a vote.

Ms. Quinn asked if the Fire Chief has approved the turnaround.

Mr. Whitten said he has approved it.

Ms. Quinn made the following motion:

Findings of Fact

1. MC Associates is requesting a Private Accessway Permit and Resource Protection Permit for a lot located at 1055 Shore Rd, which requires review under Sec. 19-7-9, Private Accessways and Sec. 19-8-3, Resource Protection Permit.
2. As described in the June 7, 2010 submission, during a 25-year storm, 24-hour event, the water entering the 24" culvert under Shore Road will increase .015 acre-feet, which is a .49% increase in overall runoff volume.
3. The Town Engineer has recommended information be added to the plans, including confirmation of the turnaround.
4. The applicant has submitted a road maintenance agreement and drainage easement which is under review by the Town Attorney.

5. The application substantially complies with Sec. 19-7-9, Private Accessways, and Sec. 19-8-3, Resource Protection Regulations.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of MC Associates for a Private Accessway Permit to make the lot buildable and Resource Protection Permit to construct a driveway for a lot located at 1055 Shore Rd be approved, subject to the following conditions:

1. That the plans be revised per the Town Engineer's letter dated June 10, 2010;
2. That the applicant provided a signed road maintenance agreement and drainage easement in a form acceptable to the Town Attorney and Town Manager;
3. That a note be added to the plans that no structures shall be constructed outside the building envelope;
4. That the plans and materials be revised per the above conditions and submitted to the Town Planner prior to the recording of the plans.

Mr. Huebener seconded the motion.

Ms. Falender wants to add another condition:

That the applicant submit plans showing adequate turnaround radius to accommodate emergency vehicles.

Ms. Quinn and Mr. Huebener agreed to the amendment and the motion passed, 7-0.

NEW BUSINESS

Shore Road Path Site Plan/Resource Protection Permit - The Town of Cape Elizabeth is requesting Site Plan Review and a Resource Protection Permit to construct the Shore Road Path, a 2 mile long off-road path located on Shore Rd from the old entrance to Fort Williams (next to the pond) to the Town Center, Sec. 19-9, Site Plan Completeness, and Sec. 19-8-3, Resource Protection Permit Completeness.

Mr. John Mitchell of Mitchell and Associates represented the Town. He showed a power point presentation of 20 slides that run from the beginning of the

pathway at Fort Williams and extend to the town center. There are photographs of existing conditions and photo simulations of what the path will look like in a 3 dimensional form. He said this has been a challenging task to try to create pedestrian safety and preserve the character of the area.

A portion of the fence at Fort Williams will be moved to allow pedestrians to use the path when the Fort is closed. There will be a crossing of Shore Road with pedestrian activated signals that will flash before the pedestrian crosses the crosswalk.

Mr. Mitchell noted that there is a metal guardrail that will be replaced with a timber guardrail, and a small retaining wall.

Where the pathway comes right up next to the road, they will put in a 6 in. vertical curb.

There will be a raised boardwalk to traverse some culverts. The culvert at 1055 Shore road is in that area and will have a boardwalk elevated over it.

There will be a footbridge over culverts at Pond Cove. There will no impact on the wetlands there.

Just past Pond Cove, there was a homeowner at the site walk who was concerned about what would be facing her home. It will be a retaining wall of precast concrete segments that will have a more decorative than commercial look. It won't be all gray or brown but will be a mixture of colors. The wall facing this homeowner's property will be about 4 ft. 6 in. high.

There are several areas where they have shifted the route of the pathway in order to preserve existing trees and ledges or other natural features.

The Barber family has agreed to allow the pathway to cross part of their land in order to save some vegetation.

The second pedestrian crossing of Shore Road occurs just past Julie Ann Lane.

At the Rand property, the existing lilac hedge will be removed and a new lilac hedge will be planted to replace it.

The pathway ends at the existing sidewalk at the doctor's office building in the village.

Mrs. Schenkel has a question about financial capability. She feels it is very loose and could leave problems.

Mr. Hatem noted that the Town is the applicant and there is no danger of them going bankrupt.

Mr. Mitchell commented that in a lot of private development, the financial information is loose.

Ms. Falender is concerned that the project could be stopped in an unsafe location if funding stops.

Mrs. Volent asked about phasing the project.

Mr. Mitchell said that if that happens, they would have to come back to the Board with a phasing plan.

Ms. Quinn is not concerned about the Town of Cape Elizabeth. This is not Portland.

Ms. Falender has questions about access and parking. She feels the assumption has been made that this will generate no additional traffic or parking. She thinks people would come from other parts of town and want to park and use the pathway. She wants them to provide that information on how to deal with that.

Ms. Falender was concerned as to why they had no information on drainage and flow.

Mr. Mitchell said there is such information in the packet. He says it is complete.

Ms. Falender is troubled by the lack of specificity included.

Ms. O'Meara noted that there is no letter from the Town Engineer for the Board to rely upon as they usually have. It is possible to have a review from an independent engineer.

The Board agreed that it was a good idea to have an independent engineering review.

Ms. Falender 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 Site Plan Review and a Resource Protection Permit to construct the Shore Road Path, a 2 mile long off-road path located adjacent to Shore Road from the old entrance to Fort Williams (near the pond) to the Town Center be deemed complete.

Ms. Quinn seconded the motion and it was passed, 7-0.

The Board agreed to hold a public hearing and that they did not need to have another site walk.

Ms. Falender made the following motion:

BE IT ORDERED that the above application be tabled to the regular July 20, 2010 meeting of the Planning Board, at which time a public hearing will be held

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

Mr. Mitchell agreed to provide a copy of the power point presentation for Mr. Hatem and other Board members.

Mr. Huebener then made a motion to adjourn and was seconded by Ms. Jordan. The board voted 7-0 to adjourn at 9:30 pm.

Respectfully submitted,

Hiroimi Dolliver
Minutes Secretary