

TOWN OF CAPE ELIZABETH  
MINUTES OF THE PLANNING BOARD

January 15, 2013

7:00 p.m. Town Hall

Present:	Elaine Falender, Chair	Liza Quinn
	Josef Chalot	Henry Steinberg
	Peter Curry	Victoria Volent
	Carol Anne Jordan	

Also present was Maureen O'Meara, Town Planner.

Ms. Falender opened the meeting and called for the approval of the November 20, 2012 minutes. The minutes were approved as presented, 6-0 (1 abstain).

Ms. Falender opened the public comment period for anyone who wanted to speak on any topic other than those on tonight's agenda. No one came forward so the public comment period was closed.

OTHER BUSINESS

**Election of Officers** - The Planning Board will elect the Chair and Vice-Chair for 2013.

Ms. Falender called for nominations for the position of Chair. Ms. Quinn nominated Ms. Volent and Ms. Jordan seconded. There was no discussion from the public or the Board, and she was elected, 7-0.

Ms. Falender then called for nominations for Vice-Chair. Ms. Volent nominated Ms. Quinn, and Mr. Chalot seconded. There was no discussion, and she was elected, 7-0.

Ms. Volent then took her seat as Chair. She began by thanking Ms. Falender for her time and energy and her contributions to the Board.

Ms. Volent then introduced some changes in the format. When a new application is presented, the Town Planner will offer a summary of the project within the context of the Town regulations. Then the applicant will make their presentation. Any questions or comments from the Board will follow the applicant's presentation.

There will also be a Planner's report to present any information of interest to the Planning Board and to the public.

After the approval of the minutes the Chair will provide the order of the agenda.

Ms. Volent is hopeful that these changes will be effective in promoting and improving communications.

## NEW BUSINESS

**Lot 20 Cross Hill Subdivision Amendment** - Joseph and Michele Kane are requesting an amendment to the previously approved Cross Hill Subdivision to change the building envelope for the lot located at 10 Cross Hill Rd (U58-20), Sec. 16-2-5, Amendment to previously approved subdivision plans, Public Hearing.

Ms. O'Meara began her summary by noting that Dominicus Crossing was approved as a 97-lot subdivision in 1997. In 1999 the subdivision was amended to give it the name of Cross Hill and change the names of some of the roads in the subdivision. Cross Hill is in the RB District, which is the growth area, and requires a minimum of 40% of open space to be set aside. Lot 20 is at the corner of Cross Hill Road and Appletree Lane and is across from an open space. The building envelope for Lot 20 was skewed to the east in order to preserve a view of the Spurwink marsh from the green. A change to the building envelope requires an amendment to the subdivision plan.

Joseph Kane of 32 Kettle Cove Road gave each member of the Board a copy of the plan of the proposed building envelope and current building envelope, (which was outlined in red). He noted that they have taken into considerations suggestions made by the Board at a prior workshop. He also pointed out that they have moved the building envelope further away from the corner of Cross Hill Road to give better visibility at the intersection. He said they are within all the setbacks required by the Town.

Ms. Jordan asked if the proposed envelope has the same square footage as the current one.

Mr. Kane replied that it is a bit larger, and they did that in order to optimize their building layout of the house they want to build.

Ms. Volent said the existing envelope is 7540 sq. ft. and the proposal is for 9762 sq. ft.

Ms. Falender asked about the easement along the boundary with Lot 21. She noted that there is a small line on the plan that looks like it encroaches into the easement.

Mr. Kane replied that they do not encroach on the easement, the boundary of the envelope runs along the easement.

Ms. Quinn asked Ms. O'Meara if there is enough room for a driveway.

Ms. O'Meara replied that Mr. Malley has said there is enough room for a driveway.

Mr. Chalot asked if Lot 21 has an easement that continues the view easement that is on Lot 20.

Ms. O'Meara replied that there is no view easement on lot 21.

Ms. Falender asked if they should designate that the driveway should be from Appletree Lane, not from Cross Hill Road.

Ms. O'Meara replied that some lots do have such a restriction when there are limits on where the driveway should go, such as wetlands. If the Board chooses to do it, they can.

Ms. Volent opened the public hearing, and since no member of the public came forward, the public hearing was closed.

Ms. Jordan commented that she does not wish to encumber someone unnecessarily by restricting where they can put their driveway.

Mr. Curry, Mr. Steinberg, Mr. Chalot, and Ms. Quinn all agreed that they were not anxious to restrict the location of the driveway.

Mr. Chalot made the following motion:

#### Findings of Fact

1. Michelle and Tom Kane are requesting an amendment to the previously approved Cross Hill Subdivision to change the building envelope for lot 20, located at 10 Cross Hill Rd, which requires review under Sec. 16-2-5, Amendments of previously approved subdivisions.
2. The applicant substantially complies with the standards of the Subdivision Ordinance, Sec. 16-3-1.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Michelle and Tom Kane for an amendment to the previously approved Cross Hill Subdivision to change the building envelope for lot 20, located at 10 Cross Hill Rd be approved.

Ms. Jordan made an amendment to change the applicant's name from Tom Kane to Joseph Kane.

Mr. Chalot approved the amendment and Ms. Jordan seconded the motion.

Ms. Falender wished to add a point to the record. The location of the original building envelope was thought preserve a view corridor. Since no restriction on growth of vegetation was made at the time of the original plan, there is now no view corridor to protect. The Board did go out to the site and they did determine that even in winter when there are no leaves on any trees, the original intended view is mostly obscured. The addition of a house on this lot will not in any way affect the view that now exists. Ms. Falender wanted to make it clear that the Board is not disregarding the earlier decision to protect that view.

Ms. Falender made the following condition to the approval:

That the boundary of the building envelope runs along the Northerly boundary of the sewer easement shown on the property and does not go into the easement area.

Ms. Quinn seconded and the Board approved the motion 7-0.

The Board voted to adjourn at 7:25 pm.

Respectfully submitted,

Hiroimi Dolliver  
Minutes Secretary