

TOWN OF CAPE ELIZABETH
MINUTES OF THE PLANNING BOARD

February 23, 2015

7:00 p.m. Town Hall

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

Also present was Maureen O'Meara, Town Planner.

Mr. Curry opened the meeting and called for the approval of the January 20, 2015 minutes. There was one correction, and the minutes were approved as amended, 6-0.

OLD BUSINESS

Petersen Hidden Court Subdivision Amendment - Nathalie and Alexander Petersen are requesting amendments to the Hidden Court Subdivision, located at 340 Ocean House Rd, to change the lot lines for lots 4-1 and 4-3, Sec. 16-2-5, Amendments to Previously Approved Subdivisions Public Hearing.

Ms. O'Meara said this is an application to change the lot lines of 2 lots in a 4 lot subdivision. They are located in the RA District and the changes are well within the minimum lot size requirements. There have been several approvals of this subdivision, the first in January 1989, with several conditions. There was an amendment in June 1989 and another in 1995. Some of the January 1989 conditions were never met, and were not mentioned in the subsequent approvals.

Ms. O'Meara said this project could include a road maintenance agreement that would address the Board's current concerns about the "loop road" and cure some of the conditions remaining from the 1989 approval.

Stephen Mohr presented on behalf of the Hidden Court, LLC. He passed out plans to the Board members and showed that plan on the screen. He said he had incorporated all the corrections suggested in the January 20, 2015 meeting.

He spoke about the view easement and that most of it will no longer be in effect because it will be incorporated into the Garden Lot. There will still be a very small piece of easement in effect.

They have added language regarding vegetation outside the building envelope to preserve the right to maintain the existing gardens. He also noted that the building

envelope is now smaller than the original, and the setback is 50 ft. from the lot line instead of 30 ft.

They have addressed the emergency access and turnarounds. They will add a note to keep the driveway connected to the Stone House Lot. The two lots need to keep their interconnectivity for emergency access for both lots. There are 4 existing gates that are 12 ft. wide. They will have a 16 ft. driveway with all four gates kept open of snow and each will have an adequate width on either side to accommodate the fire truck's need to go through each gate straight on. They are adding a second turnaround to meet the WB-40 standard.

Ms. Falender asked if leaving all 4 gates in place would leave a 16 ft. access, or will some areas go down to 12 ft.

Mr. Mohr said that at all those gates it will be 12 ft. They can get through those gates straight. On one gate they will have to widen out the area so the fire truck can get through going straight with no bend in the road.

Ms. Volent asked about whether the drive will be gravel, and may need to be paved for the first 40 ft.

Mr. Curry opened the public comment. No one came forward to speak, so the public comment was closed.

The discussion from the Board centered on the road and details of its width and construction. The construction of the road as it affords access for the fire truck was discussed. When asked, Mr. Mohr said the reason for keeping those 12 ft. wide gates was because they were historical structures.

The Board agreed to delete the conditions a through e of the January 1989 approval.

Ms. Falender made the following motion:

Findings of Fact

1. Hidden Court LLC, owned by Nathalie and Alexander Petersen, is requesting amendments to the previously approved (1989) Hidden Court subdivision, located at 340 Ocean House Rd, to adjust lot lines and building envelopes, and separate driveway access rights, which requires review under Sec. 16-2-5, Amendments to previously approved subdivisions.
2. The Fire Chief has provided comments regarding emergency access.

3. The subdivision plan includes provisions for extensive vegetated buffers.
4. The January 1989 subdivision approval includes conditions of approval that are no longer applicable to the subdivision plan.
5. The applicant has substantially addressed 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 Hidden Court LLC, owned by Nathalie and Alexander Petersen, for amendments to the previously approved (1989) Hidden Court subdivision, located at 340 Ocean House Rd, to adjust lot lines and building envelopes, and separate driveway access rights for lots R2-4-1 and R2-4-3 be approved, subject to the following conditions:

1. That the applicant provide a signed road maintenance agreement for the loop driveway connecting Route 77 located on the stone house and garden house lots in a form and in substance acceptable to the town attorney and town manager. The road maintenance agreement shall include all standard provisions in the model agreement as provided to the applicant and shall further provide public safety concerns of the Planning Board, including without limitation the following matters. The agreement shall provide for a minimum 16' traveled way with a minimum 12' travel access way through the four gates on the property, an adequate turning radius for emergency vehicles (B-40 class), and 2 turnarounds, one located on each lot, as specified in the Subdivision Ordinance. All four gates located on the lot shall be accessible to fire department emergency vehicles at all times and the two internal gates shall be open at all times. Where improvements to the loop driveway are needed to provide an adequate turning radius and to construct a turnaround, plans shall be submitted depicting radius and turnaround improvements for review and approval by the town engineer.
2. That conditions a through e on the January 17, 1989 Planning Board approval be deleted.
3. That the plans and agreements be revised and submitted to the Town Planner for review and approval prior to recording the subdivision plat.

Ms. Jordan seconded the motion and it was passed, 6-0.

Srungavarapu Blueberry Ridge Subdivision Amendment - Srinivas Srungavarapu is requesting an amendment to the previously approved Blueberry Ridge Subdivision to replant a buffer and install fencing at the rear of 10 Blueberry Rd (U34-17-15), Sec. 16-2-5, Subdivision Amendment completeness.

Mr. Chalat stated that he had offered to help the applicants, and then had recommended that they hire a landscape architect, which they did.

The Board agreed that he need not recuse himself.

Ms. O'Meara said the property is in the RC District. This subdivision had buffering in their approval. The applicant has removed the buffering on their lot. The Board is only to consider the buffering in this location, so there is no need to review the entire subdivision.

Pat Carroll of Carroll and Associates, Landscape Architects, presented the project. He said the subdivision was approved in 2002. There was a 50 ft. stretch that was about 10 ft. wide that was designated on the plan as a no-cut buffer. There were other trees located in the yard, but the applicants were in violation for cutting the trees in that no-cut buffer.

He showed photos of the rear yard. He also showed the subdivision plan. There are other trees on the lot, and he showed pictures of the lot and the other trees.

They have noted that trees have been removed from the buffer zone. They are proposing to maintain the existing trees and fill in with some white spruce trees, which are good buffer trees, and some clump birches which will be a bit taller.

They are proposing to leave the left side as lawn area and as a later phase to install a wood fence along the rear yard.

The intent is to do the planting this spring and to follow up next year or so with the wood fencing.

He showed photos of the tree species in the proposal.

Mr. Curry opened the public comment period on completeness.

Lee Bumstead of 58 Goudy Street, South Portland said she is heartened to see that they have gotten a landscape architect. She is delighted to see an interesting mix of vegetation there. She wondered about the fir trees which have a spread of 15-20 ft. She said the plan appears to put the trees about 4 ft. from her property line, and wonders if it will fit. She wants assurance that the trees will be planted this year, and wonders about the fence.

No one else came to speak, so the public comment was closed.

Mr. Carroll said the trees keep a narrow columnar shape, and the proposed fence will also contain the branches.

Mr. Chalot made the following motion:

BE IT ORDERED that based on the plans and materials submitted and the facts presented, the application of Srinivas Srungavarapu for an amendment to the previously approved Blueberry Ridge Subdivision to replace a vegetated buffer on a lot located at 10 Blueberry Road be deemed complete.

Ms. Volent seconded the motion and it was approved, 6-0.

Ms. Volent wanted it clarified that the planting will be this spring, and the proposed timing of the fencing will be ...

Mr. Carroll said the fence will be installed next year.

Ms. O'Meara said the part of the fence on the left side is part of the buffering and could be a requirement.

A discussion of the fence ensued.

Ms. Falender made the following motion:

Findings of Fact

1. Srinivas and Sumana Srungavarapu are requesting an amendment to the previously approved Blueberry Ridge Subdivision to replant a vegetated buffer on a lot located at 10 Blueberry Rd that was removed in error, which will be reviewed for compliance with Sec. 16-2-5, Amendments to previously approved subdivisions.
2. The applicant has prepared a plan to scale depicting existing and proposed vegetation and fencing.
3. The subdivision amendment substantially complies with Sec. 16-3-1, Subdivision Standards.

THEREFORE, BE IT ORDERED, that based on the plans and materials submitted and the facts presented, the application of Srinivas Srungavarapu for an amendment to the previously approved Blueberry Ridge Subdivision to replace a vegetated buffer on a lot located at 10 Blueberry Rd be approved subject to the following condition:

1. That all new plantings shown on the plan be completed not later than 6 months after the date of this approval, and the first 20 ft. of the fencing from the westerly corner of the property, shown on the rear lot line shall be completed within 24 months of the date of this approval.

Ms. Volent seconded the motion and it was passed. 6-0.

NEW BUSINESS

Brothers Way/Legacy Way Private Rd Amendment - Kristine Murray is requesting an amendment to the previously approved Brothers Way Private Road approval, now renamed Legacy Way, to alter lot lines to create a second buildable lot with access to Brothers Way (U20-11-1), Sec. 19-7-9, Private Road Approval Completeness and Public Hearing.

Ms. O'Meara said the project has received several Planning Board approvals. Brothers Way has been approved as a private way. They want to change the name to Legacy Way, but no other changes to the road are being proposed. They want to add a second lot fronting on Legacy Way and deed a small parcel to the abutter. The proposal was to serve the new lot with a well. Staff has strongly urged the owners to serve the new lot with public water and they have agreed to do so.

John Mitchell of Mitchell Associates was representing Kristine Murray. He showed the previously approved plan of the road in 2004.

They have two objectives. The first is to rename the road to Legacy Way. The second is to reconfigure some of the property lines to establish a third lot. The third lot (parcel C) is proposed to be transferred to the abutter, Kristine Murray.

The applicant intends to complete the final road improvement by the end of this year. They have addressed all the comments they received from staff in a letter dated February 17.

There will not be a well on Parcel B as had been proposed. They will have public water. They have enlarged the building envelope on Parcel B.

They have addressed the buffer plantings and will be keeping those plants in place.

They will have a signed maintenance agreement upon transfer of Lot A or B.

Mr. Steinberg asked if it was permissible to add wetlands into a lot in order to make it up to 80,000 sq. ft. He knows they can't build on the wetlands, but can it be part of the lot.

Ms. O'Meara said it was permissible to do that.

Mr. Curry opened the public comment period. No one came forth to speak, so the public comment period was closed.

Ms. Jordan made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Kristine Murray for an amendment to the previously approved Brothers Way Private Rd, located off Fowler Rd, to add a second lot and also change the name to Legacy Way be deemed complete.

Mr. Chalot seconded the motion and it was approved, 6-0.

Mr. Curry opened the public comment and no one spoke, so he closed the public comment.

Ms. Volent asked about the water connection, and to show it.

Ms. O'Meara assured the board that it must be done according to Town Standards.

Ms. Jordan made the following motion:

Findings of Fact

1. Kristine Murray is requesting an amendment to the previously approved Brothers Way Private Rd approval to add a second lot and also change the name to Legacy Way, which requires review under Sec. 19-7-9 of the Zoning Ordinance and Sec. 16-3-1 of the Subdivision Ordinance.
2. The water supply for Parcel B needs clarification.
3. The building envelopes for Parcel A and Parcel B should be clearly labeled.
4. The applicant has substantially addressed 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 Kristine Murray for an amendment to the

previously approved Brothers Way Private Rd, located off Fowler Rd, to add a second lot and also change the name to Legacy Way be approved, subject to the following conditions:

1. That the plans be revised to show that Parcel B will be served by public water, with information on how that connection will be constructed;
2. That the plans be revised to show one labeled building envelope for each of Parcel A and Parcel B;
3. That road maintenance and access agreements for Parcel B be submitted in a form acceptable to the Town Attorney and Town Manager and signed by the applicant; and
4. That the plans be revised and submitted to the Town Planner for review and approval prior to recording the subdivision plat.

Ms. Falender seconded the motion and it was passed, 6-0.

OTHER BUSINESS

Land Use Amendments - The Town Council has referred to the Planning Board the fifth package of amendments, known as the Land Use Amendments, to implement several recommendations predominantly from the Land Use Chapter of the Comprehensive Plan, Sec. 19-10-3, Schedule Public Hearing.

Mr. Curry asked Ms. O'Meara to summarize the proposed amendments. Ms. O'Meara explained that the Land Use Amendments are the fifth package of amendments to implement recommendations from the comprehensive plan. In addition, the Town Council also referred recommendations from the Future Open Space Preservation Committee (FOSP) to the Planning Board for inclusion in the Land Use Amendments package. The amendments are primarily from recommendations in the Land Use Chapter of the comprehensive plan, hence the name, however there are also a few amendments to the Subdivision Ordinance and the Sewer Ordinance.

Why adopt these amendments? First, they implement the comprehensive plan. The comprehensive plan was adopted after an extensive public process. It has been deemed consistent with state goals and is the legal basis for land use regulations. Without a comprehensive plan, the town cannot adopt land use regulations such as the Zoning Ordinance and Subdivision Ordinance. Second, the Land Use Amendments respond to changing town demographics. Third, the amendments promote town goals to preserve open space preservation, agricultural lands and sensitive environmental areas.

The amendments are explained in a cover memo that lists each recommendation and describes the proposed amendment. The package is 29 pages, including 2 maps.

Highlights of the amendments include preservation and enhancement of clustering of development and beefed up open space requirements. The amendments promote public sewer connections. New sections devoted to multiplex development create architectural design standards and enhanced public benefits for open space, agricultural lands, public sewer connections and housing diversity. The TDR provisions, which are not expected to be heavily used, align open space to be preserved with open space goals identified by FOSP. Finally, added to the package are amendments to address section references in the Zoning Ordinance that were changed in the Subdivision Ordinance and text that clarify the process used with nonconforming lots with insufficient road frontage.

Ms. O'Meara explained that the amendment package is at the 95% stage, which means the Planning Board may table the amendments to the March meeting, when a public hearing would be held. This would keep the Planning Board to its deadline of March to refer this to the town council. It would also provide an opportunity to do some minor tweaking at the March 3rd workshop. She identified the illustrations in the architectural standards as an area that needs some revision to convert to line drawings.

Mr. Curry asked Ms. O'Meara to walk through the density provisions for multiplex housing and she noted the chart in the Open Space Zoning provisions and the density bonuses option.

Ms. Volent said that she wanted the multiplex density provision based on bedroom number to apply to all multiplex, not just those with a density bonus. Ms. Jordan concurred. The board agreed to this amendment and Ms. O'Meara explained that the provision would be moved to just beneath the chart in the open space zoning provisions.

Mr. Steinberg asked about the building materials used in relation to height. Mr. Chalut said a wood structure could be four stories with a loft in the top level. Ms. Falender asked how many stories would equate to 50 feet. Ms. O'Meara noted that the height calculation is complicated by sloping ground, but at 50' would generally equate to 5 stories.

The Board agreed to schedule a public hearing at the March meeting and also review the amendments at the March 3rd workshop.

Ms. Jordan made the following motion:

That the Board move the regularly scheduled March meeting to Monday, March 23, 2015.

Ms. Volent seconded the motion and it passed 6-0.

Mr. Curry said there is a vacancy on the Board. Ms. Quinn has resigned and they thank her for her service to the Board. Board members and the public who may know someone who would be a good planning board member should encourage them to apply.

The Board voted 6-0 to adjourn at 9:40 p.m.

Respectfully submitted,

Hiroimi Dolliver
Minutes Secretary