

TOWN OF CAPE ELIZABETH
MINUTES OF THE PLANNING BOARD

June 16, 2015

7:00 p.m. Town Hall

Present: Peter Curry, Chair
Josef Chalot
Carol Anne Jordan
Jonathan Sahrbeck
Victoria Volent

Absent: Elaine Falender and Henry Steinberg

Also present was Maureen O'Meara, Town Planner.

Mr. Curry opened the meeting and called for approval of the minutes of the May 19, 2015 meeting. The minutes were approved as presented, 5-0.

CONSENT AGENDA

Mitchell Highlands Subdivision Amendment - Eric Hilse is requesting an amendment to the previously approved Mitchell Highlands Subdivision to correct mathematical bearings and distances on a plan previously signed by the Planning Board and recorded April 17, 2014 for a lot located at 27 Killdeer Rd (U32-6-46), Sec. 16-2-5, Amendments to Previously approved subdivisions.

There was no discussion by the Board, so Ms. Volent made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Eric Hilse for an amendment to the Mitchell Highlands Subdivision to correct mathematical bearings and distances on a plan previously signed by the Planning Board and recorded April 17, 2014 for a lot located at 27 Killdeer Rd (U32-6-46), be approved.

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

OLD BUSINESS

Inn by the Sea 500 building Site Plan Amendment - The Inn by the Sea is requesting amendments to the previously approved site plan for the Inn by the Sea located at 40 Bowery Beach Rd (U17-40) to replace the 12-unit "500 building" with a new 12-unit building, Sec. 19-9, Site Plan Public Hearing.

Ms. O'Meara said the project is in the Business B District and is a permitted use. The plan is to replace an existing 12 unit building with a new 12 unit building.

Eric Dube of Casco Bay Engineering spoke on behalf of the applicant. He said they have added the note to the landscaping plan as requested at the site walk. There are no other changes to the plans. They are replacing a 12 unit building with a 12 unit building and the utilities, drainage etc. are all remaining the same. Their volume and lot coverage are both within requirements.

Ms. Volent said she was very pleased with the applicant for restoring wildlife habitat and the landscaping plans.

Mr. Curry asked about a tree between the 500 and 600 buildings.

Mr. Dube said it was going to be replaced with another tree.

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

Mr. Sahrbeck made the following motion:

Findings of Fact

1. The Inn by the Sea LLC is requesting Site Plan review for the replacement of the 12-unit "500 building" with a new 12-unit building, located at 40 Bowery Beach Rd, which requires review under Sec. 19-9, Site Plan Regulations.
2. The Town Engineer is recommending that the plan set be updated with professional seals and lighting information transferred to the plans.
3. 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 Inn by the Sea LLC for Site Plan review for the replacement of the 12-unit "500 building" with a new 12-unit building, located at 40 Bowery Beach Rd be approved, subject to the following conditions:

1. That the plans be revised and submitted to the town planner to add professional seals and to transfer lighting information to the plan set;
2. That there be no issuance of a building permit nor alteration of the site until a performance guarantee has been provided to the town in a form acceptable to the Town Attorney, an amount acceptable to the Town Engineer and all acceptable to the Town Manager.

Mr. Chalot seconded the motion and it passed, 5-0.

NEW BUSINESS

C-Salt Market Site Plan Amendments - KMC Properties, LLC is requesting amendments to the previously approved site plan located at 349 Ocean House Rd to remove a tree and change signage, Sec. 19-9 Site Plan Completeness and Public Hearing.

John Mitchell spoke about the plans. They want to remove a very large oak tree that overhangs a portion of Route 77 and the front of the building. The original plan called for its removal, but they revised the plans to retain the tree. Now the owners are getting feedback that it detracts visually and makes it hard to see the signage. They propose to replace that tree with a smaller flowering deciduous tree and shrubs and perennials.

They also want to change the signage. The current 2 ft. x 3 ft. oval sign is proposed to be replaced by a 3 ft. x 4.5 ft. oval sign. The wall sign that is now on the building is proposed to be moved to the side of the dumpster. They proposed to have a 12 ft. x 18 in. rectangular sign on the back side of the building. The total signage would equal 73.9 sq. ft., and the maximum allowed is 75 sq. ft.

Mr. Curry opened the public comment period on completeness. No one spoke, so the public comment period was closed.

Ms. Volent made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of KMC Properties, LLC for amendments to the previously approved site plan located at 349 Ocean House Rd to remove a tree and change signage be deemed complete.

Mr. Chalot seconded the motion and it passed, 5-0.

Mr. Concannon commented that he has said so many people tell him that people tell him they cannot find his business because the tree blocks the signage.

Mr. Curry opened the public hearing, and since no one spoke, he closed it.

Ms. Jordan has a question about the plants.

Mr. Mitchell said the tree will not look like the plan for a few years. Also they are adding 5 dwarf spirea.

Mr. Chalot made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of KMC Properties, LLC for amendments to the previously approved site plan located at 349 Ocean House Rd to remove a tree and change signage be approved.

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

Cottage Brook Subdivision Amendment - Cottage Brook LLC is requesting amendments to the previously approved Spurwink Woods Subdivision to change the design of the 19 condominium units, adjusted related drainage and change the project owner, Sec. 16-2-5, Amendments to Previously Approved Subdivisions, Completeness and Public Hearing.

Ms. O'Meara said Cottage Brook was approved as the Spurwink Woods Subdivision. It was approved as a part single family and part condominium project. The portion that was the condominium was sold to Cottage Brook, LLC. The proposal is to change the footprints and design of the condos.

Owens McCullough of Sebago Technics introduced the project. Joel Fitzpatrick has acquired the last phase of the Spurwink Woods project. It consists of 19 units, 18 duplex and 1 single unit. He wants to bring the same unit types to this project as he has used in the Eastman Meadows project. They intend to amend the plan for a minor change in the floor plans of the units. The roadways, the utilities and the stormwater all will remain the same. He showed pictures of the units at Eastman Meadows. They will be all single stories with a full basement. He also showed a plan of the footprint both the original and the proposed. The new footprint will be slightly smaller than the original.

Mr. Curry opened the public comment period. Since no one came to speak, the public comment period was closed.

Mr. Curry asked if there were grading changes.

Mr. McCullough replied that they have reduced the amount of the grading from the original plan.

Mr. Sahrbeck made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Cottage Brook LLC for amendments to the previously approved subdivision (approved as Spurwink Woods, now

known as Cottage Brook) to change the footprints of the condominium units located off Aster Lane be deemed complete.

Ms. Jordan seconded the motion and it passed, 5-0.

Mr. Curry then opened the public hearing on the merits of the project. No one came forth, so the public hearing was closed.

Ms. Volent asked for confirmation that the plans and notes would be updated in regards to the names of the roads etc.

Mr. McCullough agreed that they would do those changes.

Ms. Volent then asked Mr. Fitzpatrick why he wanted to take on this project when there seems to be a strong sentiment in the town that multiplex housing is not wanted or needed.

Mr. Joel Fitzpatrick said there is a need and want for this project. There is a strong demand in this town for housing for empty nesters and parents and grandparents of town residents.

Ms. Jordan made the following motion:

Findings of Fact

1. Cottage Brook LLC is requesting amendments to the previously approved subdivision (approved as Spurwink Woods, now known as Cottage Brook) to change the footprints of the condominium units located off Aster Lane, which requires review under Sec. 16-2-5, Amendments to Previously Approved Subdivisions.
2. Road name changes authorized under the Addressing Ordinance should be reflected in the updated plans.
3. 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 Cottage Brook LLC for amendments to the previously approved subdivision (approved as Spurwink Woods, now known as Cottage Brook) to change the footprints of the condominium units located off Aster Lane be approved, subject to the following conditions:

1. That the plans be revised to update the name of Aster Lane; further that the condominium private roads located north and south of Aster Lane each be individually renamed in accordance with the Addressing Ordinance. The plans should then be updated with the new road names;
2. That the plans be revised and submitted to the Town Planner for review and approval prior to recording the subdivision plat.
3. That there be no issuance of a building permit, nor alteration of the site until a performance guarantee has been submitted in a form acceptable to the Town Attorney, an amount acceptable to the Acting Town Engineer, and all acceptable to the Town Manager.

Mr. Chalot seconded and it was approved, 5-0.

1200 Shore Rd Private Accessway Permit - Rudolf F. Haffenreffer IV Trust is requesting a Private Accessway Permit for a lot located at 1200 Shore Rd, Sec. 19-7-9, Private Accessway Permit Completeness.

Ms. O'Meara said the project is in the Residence A District. The lot in question is large enough to be a conforming lot in the RA District. It does not have any frontage on a town road, but it does have a right to create a driveway to Shore Road. This lot was on a plan that also has an undersized lot, the beach lot. Town staff has proposed that there be a written agreement regarding the beach lot and that the building envelope shown on the earlier plan be eliminated.

Stephen Mohr presented the project on behalf of the applicant. He showed the 1997 plan that created the lot. He explained the history of the conveyances that created the lot in question and the small beach lot. The small lot is unbuildable, and will be subject to restrictions. The subject lot is 2.34 acres, with a long driveway access. The applicant is proposing a private accessway permit to construct the driveway. They do not want to fill the wetland and want to minimize the tree removal. They also want to minimize the cut and fill, so will add 3.5 ft. of fill at the intersection with Shore Road. The driveway is proposed to be 14 ft. wide with 1 ft. shoulders. It will serve only one house. The utilities will be underground. There will be only one streetlight at the intersection, and no lighting along the driveway. They want to drill a well because they are 710 to 740 ft. from the road and don't want to disrupt the area so much.

Mr. Mohr said the engineer's letter is mainly housekeeping items and they will take care of all of those.

Mr. Curry opened the public comment period.

Paul Farrow of 1208 Shore Road is an abutter to the property. He thanked the applicant for not putting lights along the driveway. He is concerned that the headlights of cars might shine into their windows. He wonders if they need to have any other buffers besides the trees. Will this be built right away, or only when the lot is sold. He is concerned that it not be an access for people to go in there and party.

No one else came forward, so the public comment period was closed.

Mr. Sahrbeck asked if the turnaround was a permitted use on the easement, or if it needs to be on the lot itself.

Mr. Mohr said it can be in the easement area because it is part of the access and egress. They have sited it there because there is an opening in the trees there, and will minimize the damage to the area.

Ms. Jordan asked for an assessment of the drainage.

Mr. Mohr then itemized where the drainage comes from and said they have put in culverts where needed to keep the flow going in the direction it already goes.

Mr. Curry asked Mr. Mohr to show where the Farrow house is.

Mr. Mohr said that at the closest point their house is 112-114 ft. from the driveway, and at the turnaound it is 532 ft. away. It looks like their house is 8-9 ft. higher than the driveway.

Mr. Curry asked if the beach lot was part of this project. It seems as if they are only addressing the private accessway.

Ms. O'Meara said they need to show right title and interest, and the beach lot is on the plan that created this lot and was also on the deed to this lot. The presence of that beach lot may cloud the title, and needs to be resolved. The applicant is willing to clear this issue in this plan.

Ms. Volent made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Rudolf F. Haffenreffer IV Trust for a Private Accessway Permit to construct a driveway to a lot to be located at 1200 Shore Rd (R2-4E-2) be deemed complete.

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

The board decided to have a site walk, and scheduled it for Monday June 29, 2015 at 7:30 am.

Ms. Volent asked about the drainage that was mentioned in the engineer's letter.

Mr. Mohr said that it was suggested to move those culverts deeper, and that he was in agreement with all those items.

Ms. Volent also asked about the buffering as suggested by Mr. Farrow.

Mr. Chalot cited the ordinance and asked Mr. Mohr how they would address this issue.

Mr. Mohr said he will rely on the site walk to convey to the Board that the driveway will not have an impact on the Farrow's lot. Lighting will only be a downlight at the road to illuminate the address.

Mr. Sahrbeck made the following motion:

BE IT ORDERED that the above application be tabled to the regular July 21, 2015 meeting of the Planning Board, at which time a public hearing will be held.

Mr. Chalot seconded the motion and it passed, 5-0.

OTHER BUSINESS

Special Event Facility Overlay District Zoning Amendment and Zoning Map

Amendment - The Planning Board has drafted an amendment in response to a request from the Town Council creating a Special Event Facility Overlay District where land area of at least 15 acres may operate a special event facility. A Zoning Map amendment creating a Special Event Facility Overlay District in the area of Old Proprietor Rd, Winters Ln, and Lower River Rod is also proposed (Lots R8-1-1, R8-1-2, R8-1-3 and R8-1-4), Sec. 19-10-3, Zoning Amendment and Map Change Public Hearing.

Ms. O'Meara said this item was referred to the Planning Board from the Town Council. The task was to look at some kind of special event ordinance to deal with an ongoing situation where we have weddings in a residential district that are not in compliance with current zoning. The area in consideration is the Wentworth Lodge on the Sprague Corporation land. The proposed amendment is now an overlay district. We will also have a map amendment showing the lots where this can apply. The site plan approval would only last for three years, so they can see if there are complaints, etc.

Mr. Curry opened the public hearing.

Marianne Schuman of 11 Eastfield Road said she is in favor of this. There is nowhere else in town to get married. She said that vendors may need to set up the day before. She feels that people who grew up in town should have a place to get married in town.

No one else wanted to speak, so the public hearing was closed.

Mr. Chalot said he thinks the renewal every three years takes care of problems which can arise.

Ms. Jordan thinks the 8 hour duration would not include the set up of tents etc.

Ms. Volent suggested that they change the wording to say the 8 hour event excluding the set up and break down.

Ms. Schuman spoke again about having a rehearsal dinner on the day before. That would be within the 24 hour period.

The Board agreed to change the wording to say on 8 hour event in a calendar day. And they agreed that if there was a rehearsal dinner, that would count as 2 events.

Ms. Jordan said we need to move this forward.

Ms. Volent said she is not going to recommend this. She feels that this proposal has gotten larger than the original request. She does not support this issue.

Mr. Curry said this ordinance is broader than the Sprague Corporation.

Ms. Jordan made the following motion:

BE IT ORDERED that, based on the materials prepared and the facts presented, the Planning Board recommends the Special Event Facility Overlay District Zoning Ordinance Amendment, as revised and Zoning Map Amendment to the Town Council.

Mr. Chalot seconded the motion and it was approved, 4-1.

Paper Street Public Engagement Plan Recommendations - The Town Council has referred to the Planning Board review of the 2015 Paper Street Report for recommendations as part of the Public Engagement Plan, Schedule Public Hearing

Ms. O'Meara said this is a 3 step process. The Board has recommended that the Town retain all but 6 of the paper streets. It was the intent of the Council that the majority of the public comment come in parts two and three.

Mr. Curry opened the public comment period. No one offered any comment, so the public comment period was closed.

Ms. Jordan made the following motion:

BE IT ORDERED that, based on the meeting materials and the facts presented, the Planning Board tables the Paper Street Public Engagement Plan draft recommendations to the regular July 21, 2015 meeting of the Planning Board, at which time a public hearing shall be held.

Ms. Volent seconded the motion and it passed, 5-0.

Mr. Curry then opened the public comment period, and since there was no comment, he closed it again.

The board voted 5-0 to adjourn at 9:00 pm.

Respectfully submitted,

Hiroshi Dolliver
Minutes Secretary