

TOWN OF CAPE ELIZABETH
MINUTES OF THE PLANNING BOARD

July 21, 2015

7:00 p.m. Town Hall

Present: Peter Curry, Chair
Elaine Falender
Carol Anne Jordan
Jonathan Sahrbeck
Henry Steinberg

Absent: Josef Chalot and Victoria Volent

Also present was Maureen O'Meara, Town Planner.

Mr. Curry opened the meeting and called for approval of the minutes of the June 16, 2015 meeting. The minutes were approved as presented, 4-1 (abstain). He then called for approval of the Minutes of the June 3, 2015 Planning Board Workshop when a Public Hearing was scheduled. The minutes were approved as presented 4-1 (abstain).

OLD BUSINESS

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 Public Hearing.

Ms. O'Meara said the lot is located in the Residence A District, which has a minimum lot size of 80,000 sq. ft. This lot is larger than the requirement. It has no frontage on a town accepted road. It has a 100 ft. wide easement that extends from Shore Road to the lot. The private accessway is proposed to be within that easement.

Stephen Mohr of Mohr and Seredin gave his presentation on behalf of the applicant. In 1997 the applicant gave to the Land Trust a parcel of land and they held the 2.34 acre parcel that is in the middle of the plan. They also kept the access, egress and utility rights in the 100 ft. wide strip. They recorded a plan at that time. They have updated that plan to reference covenants on the "Beach Lot" and added language as to what is allowed outside the building envelope.

They plan to cut only 11 trees for the road. There are 86-88 trees within the right of way. They intend to preserve the trees and not impact the wetlands. He said they will conform to all the Engineer's recommendations. They have added a note that there will be a street light at Shore road, and none along the driveway.

Mr. Curry opened the public hearing.

Paul Farrow of 1208 Shore Road said he had a question about whether the note about the lights means there will be no future lights, or just none proposed right now.

Mr. Curry responded that the approval says there will be no lights. It means that if someone wanted lights in the future they would have to come back to amend the plan.

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

Ms. Jordan commented that the Board had a site walk that answered all their questions, so that is why there was no Board discussion

Ms. Jordan made the following motion:

Findings of Fact

1. The Rudolf F. Haffenreffer IV Trust is requesting a Private Accessway Permit to construct a driveway to a lot located at 1200 Shore Rd (R2-4E-2), which requires review under Sec. 19-7-9, Private Accessways.
2. The Private accessway standards require delineation of a building envelope.
3. The Town Engineer has recommended minor clarifying revisions to the plans.
4. 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 Rudolf F. Haffenreffer IV Trust for a Private Accessway Permit to construct a driveway to a lot located at 1200 Shore Rd (R2-4E-2) be approved subject to the following conditions:

1. That the plans be revised for compliance with the Town Engineer's comments in his letter dated July 15, 2015.
2. That the building envelope be labeled and a note added to the plan describing activities allowed outside the building envelope as follows:

Activities outside the building envelope are restricted to the installation of driveway and utilities. Vegetation outside the building envelope shall be preserved. Hazard (dead or storm damaged) trees may be removed after consultation with the Code Enforcement Officer, as follows: The removal of standing dead trees, resulting from natural causes, or storm damaged trees, is permissible without the need for replanting as long as the removal does not

result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. The area shall be required to naturally revegetate and or be planted with native plants within one year if natural vegetation has not been established. For the purposes of this provision, dead trees are those trees that contain no foliage during the growing season.

3. That the plans be revised to reflect the above conditions and that there be no issuance of a building permit nor alteration of the site until the plan has been signed by the Planning Board and recorded in the Cumberland County Registry of Deeds. At the time of plan recording, the restrictions on the Beach Lot previously approved by the Town Attorney and Code Enforcement Officer and the revised plan which removes the building envelope from the Beach Lot shall also be recorded.

Ms. Falender seconded the motion and it was passed 5-0.

OTHER BUSINESS

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, Public Hearing.

Ms. O'Meara said paper streets were extended for 20 years in 1997. The Town Council has recommended a 3 step process for the review. Part 1 has been to have the Planning Board and the Conservation Commission review the paper streets and make a recommendation to the Town Council. The next phase is for the Town Council to host neighborhood meetings, which have not yet been scheduled. This phase will emphasize public comment. Part 3 will be for the Town Council to hold a public hearing. She also described optional ways to handle Thompson Road, which the Planning Board discussed.

Mr. Sahrbeck wanted to know if the Board has heard from any residents of Beach Bluff Terrace re Thompson Road.

Ms. O'Meara replied that they have had one resident who expressed support for Thompson Road to be eliminated.

Mr. Curry opened the public hearing.

Chris Boulos of 60 Edgewood Road said he owns a lot on Stone Drive. If Stone Drive were abandoned it would put him close to having a buildable lot. He feels that a pedestrian easement could be worked out. (The paper street in question is U1-1a). He admitted he would still be about 200 sq. ft. short of the 10,000 sq. ft. minimum.

Mr. Sahrbeck noted that Mr. Boulos will have an opportunity to comment at the neighborhood meeting and the Town Council public hearing.

Sue Murray Guerette of Katahdin Road thinks it is important to retain these paper streets on behalf of all the community and all the children to come.

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

Mr. Curry said the Planning Board has had some very long discussions going through these parcels one at a time.

Mr. Sahrbeck also noted that they were looking at the parcels from a planning standpoint, which was different from the Conservation Commission and the Town Council who will have the final say.

He also said that if Thompson Road was vacated, it would make a lot hard to access. We could vacate the back stretch.

Ms. O'Meara said the first 200 ft. is in use as a driveway and is a private accessway. If you retained the next 425 ft. it would be to the Quinlans who asked for it to be retained. It would be about 900 ft. from Shore Road to the end of their lot. If you vacate Thompson Road after 625 ft. the road would be divided in half, with each half going to the property owners on each side.

Ms. Falender asked if the people who bought back lots wanted to develop those back lots, where would the access be?

Ms. O'Meara said the access would be from Beach Bluff Terrace.

Ms. Falender thinks it would be better from a planning perspective to retain the Thompson Road. She thinks it is short sighted to abandon it.

Ms. O'Meara explained some of the limitations of Thompson Rd in comparison to Beach Bluff Terrace. Beach Bluff Terrace is a 40 ft. wide Road, and Thompson Road is a 25 ft. wide road. It is very marginal for getting access, and would never be accepted by the Town. New construction must meet setbacks from Thompson Rd.

Mr. Sahrbeck said it was his impression that people bought the back lots to increase their lots. He recommends retaining the first 625 ft. and vacating the rest of Thompson Road.

Ms. Jordan said she would not vacate the street at all. She would leave it for the Council and to the other residents of Beach Bluff Terrace to make their preferences known.

Ms. Falender would not vacate the street at all. She would rather retain more options.

Mr. Steinberg and Mr. Curry both said they agree.

Mr. Sahrbeck said he thinks we should vacate the back half of the road.

Mr. Steinberg made a motion that the Planning Board remove note 3 from the Thompson Road U10-1 plan, which would have the effect of a recommendation to retain the paper street.

Ms. Jordan seconded the motion and it was passed, 4-1.

Ms. Jordan suggested that we not change the recommendation (re: Stone Drive) but to encourage Mr. Boulos to continue to speak to the Town Council in the next phase.

Ms. Falender made the following motion:

BE IT ORDERED that, based on the meeting materials and the facts presented, the Planning Board recommends that the paper streets shown on the Paper Streets Inventory Chart, as amended at this meeting, be vacated or retained. Where paper streets are recommended to be retained, the Planning Board's recommendation is based on the features found in and adjacent to the paper street as identified on the Paper Street Inventory Chart.

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

Technical Amendments Request - The Planning Board is requesting that the Town Council refer to the Planning Board preparation of a package of miscellaneous technical amendments for consideration.

Ms. O'Meara said it is the practice for the Town to put forth a series of amendments to clean up and clarify various ordinances. The Planning Board is asking for authorization from the Town Council to assemble a technical amendment package. The intent would be to assemble the package and hold a public hearing and send it to the Council for adoption. There would not be a limit on the number of amendments.

Mr. Curry made the following motion:

That the memorandum based upon this draft with any changes proposed by Ms. O'Meara and approved by the Chair be submitted to the Town Council.

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

The public comment period was opened and since no one was there to speak, it was closed.

The board voted unanimously to adjourn at 8:05 pm.

Respectfully submitted,

Hiroimi Dolliver
Minutes secretary