

MINUTES OF THE PLANNING BOARD  
TOWN OF CAPE ELIZABETH

February 26, 2018

7:00 p.m. Town Hall

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

Also present was Maureen O'Meara, Town Planner.

CALL TO ORDER

Ms. Jordan called the meeting to order and asked for the approval of the minutes of January 16, 2018. The minutes were approved as presented, 6-0.

OLD BUSINESS

Ms. Jordan recused and Mr. Chalot stepped in as acting Chair.

**19 Wells Rd Telecommunications Tower** - Global Signal Acquisitions IV, LLC (Crown Castle) is requesting Site Plan review, a Resource Protection Permit, and Shoreland Zoning review to construct a 180' tall telecommunications tower to be constructed at 19 Wells Rd (R5-30), Sec. 19-9 Site Plan, Sec. 19-8-3, Resource Protection Permit and Sec. 19-8-2, Shoreland Zoning Performance Standards Request to Table.

Mr. Huebener made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Global Acquisitions IV LLC for Site Plan Review, a Resource Protection Permit, and Shoreland Zoning review to construct a 180' tall telecommunications tower to be located at 19 Wells Rd be tabled to the March 20, 2018 meeting of the Planning Board.

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

Ms. Jordan returned as Chair.

NEW BUSINESS

**1200 Shore Rd Private Accessway Amendments** - Alex and Brianne Fisher are requesting amendments to the previously approved private accessway for a lot located at 1200 Shore Rd(R2-4E-2) to allow a perimeter fence to be installed

along the property boundary and a gate for the accessway, Sec. 19-7-9, Private Accessways review.

Ben Trout, President of Trademark, Inc. spoke on behalf of the applicants. The applicants want to have a split rail fence around the property. There is a 30 ft. buffer. They are creating a farm. The Land Trust owns the surrounding property. They plan to have horses. Wildlife can travel under, over or through the fence. They will leave all the trees. No trees will come down. They would like to add more trees to the buffer. They want to delineate the buffer.

Ms. Jordan opened the public comment.

Chris Bowman of 47 Stonybrook Road, a member of the Board of the Land Trust said he has no issues with the proposal. He wants to know if the gate will be at Shore Road. Mr. Trout said the gate will be on their land.

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

Mr. Sahrbeck asked if the fence will be on the driveway.

Mr. Trout said they will not put the gate on Shore Road.

Ms. O'Meara pointed out that if they decided to put the gate at Shore Road, it would require a return to the Planning Board.

Ms. Volent asked if the plan will be filed in the Registry of Deeds.

Ms. O'Meara said it does not need to be filed.

Ms. Volent then asked Mr. Trout about the markers. She would like to see boulders marking the buffer.

Mr. Trout said they do not want the boulders, but would like to install granite posts flush with the ground. They want to put more trees in the buffer. They want to put a piece of granite flush with the ground and it has a metal rod through it. The boulders won't work with the aesthetic of the farm. The owners are going to want to maintain the buffer. This place is cleared right now. There is blasting going on.

Ms. Volent said she would prefer boulders because of past projects we have worked on.

Mr. Sahrbeck said he would normally want boulders, but the land is surrounded by the Cape Land Trust, and they will be the watching over this. He does want something permanent there.

Mr. Curry agreed that in this instance he thinks the permanent markers will be a good idea.

Ms. Jordan asked what is in the buffer now.

Mr. Trout said there are scrub trees, grass and blueberries. He said that area will not be mowed. He will install the flush markers at each corner of the buffer and one in between each corner. He wants permission to plant inside the buffer.

Ms. O'Meara said they may plant in the buffer. They must preserve the duff layer by removing it and pushing it aside and then putting it back when the planting is finished. The addition of trees and plantings should not be used as a way to expand the lawn area.

Mr. Trout said there will be surveyor markers outside the fence, granite posts at the corners of the fence and flush mounted granite markers with steel posts inside (surveyors markers) to mark the corners of the buffer, and the middle of the line between the corners of the buffer.

Ms. Volent asked about lighting.

Mr. Trout said it would just be a light on the mailbox.

Mr. Trout said they have a permit to build the house.

Ms. Jordan asked if they are abiding by the 10 ft. setback rule.

Mr. Trout said the building will be 4 ft. from the setback line.

Mr. Chalot said the 30 ft. setback is already there and the building was approved on that basis.

Ms. O'Meara said it has been the board's experience that when you build so close to the buffer, you disturb the buffer in the process. Then you have to come back to the Planning Board with a planting plan.

Mr. Curry asked if the foundation was already in.

Mr. Trout said they haven't put in a foundation, but the ledge is what determines the location of the house.

Several members of the Board warned that if you play with fire, you can get burned. You may have to come back with a planting plan and it can get

expensive. If you have a tree growing right up next to the house, you will not be able to get rid of it. Mr. Chalot showed a sketch of where the buffer might be removed to construct the home within 4' of the buffer. The Board agreed that the barn will need to be at least 10 ft. from the buffer.

The Board did not need a site walk.

Mr. Sahrbeck made the following motion:

#### Findings of Fact

1. Alex and Brianne Fisher, are requesting amendments to the private accessway granted July 21, 2015 for a lot located at 1200 Shore Rd to add installation of fencing to the allowed activities in the 30' buffer, which requires review under Sec. 19-7-9, Private Accessways.
2. Removal of natural vegetation within the buffer strip must be minimized to preserve the integrity of the buffer strip as a visual screen from other properties.
3. The applicant has demonstrated that a perimeter fence can be installed without removing trees in the buffer strip.
4. The applicant substantially complies with the Private Accessway standards, Sec. 19-7-9.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Alex and Brianne Fisher for amendments to the Private Accessway Permit granted for 1200 Shore Rd to install a fence along the property line and in the buffer be approved, subject to the following conditions:

1. That the barn structure and any other structure permitted after this date be located a minimum of 10' from the edge of the building envelope;
2. That the extent of driveway and utility installation within the buffer be shown on the plans and be limited to no more than 750 sq. ft. of area disturbed within the buffer;
3. That the fence posts placed at the property corners be installed just inside the property line to avoid disturbing property pins;
4. That a flush mounted granite marker with iron post be installed at the 30 ft. setback along each corner and in the middle between each corner of the building envelope;

5. That the plans be revised to satisfy the above conditions and be submitted to the Town Planner.

Mr. Chalat seconded the motion and it passed, 6-0.

No one came forward for public comment.

The board voted 6-0 to adjourn at 8:00 p.m.

Respectfully submitted,

Hiroshi Dolliver  
Minutes Secretary