

MINUTES OF THE PLANNING BOARD
TOWN OF CAPE ELIZABETH

October 16, 2018

7:00 p.m. Town Hall

Present: Carol Anne Jordan, Chair James Huebener
 Josef Chalot Victoria Volent
 Peter Curry
 Andrew Gilbert

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 September 18, 2018. They were approved as presented, 5-0.

OLD BUSINESS

Haines Private Accessway - Stephen and Jennifer Haines are requesting a Private Accessway Permit to create frontage for an existing lot located at 28 Woodland Rd, Sec. 19-7-9, Private Accessway Permit Public Hearing.

Bob Metcalf of Mitchell and Associates outlined the changes since the last meeting of the Planning Board. He said they have made all the changes called for in the letter from the staff. He said that in the vegetated buffer, 5 trees can be saved. Some of the other trees cannot be saved because they would be blown down if left in place. He showed a photo of the existing conditions. He identified the building window, the dimensions for the paved area and the sewer connections. They have made changes to the notes on the plan regarding access over the private accessway, the sewer manhole and the change in grade.

He showed the landscape plan and showed where the fence will be, the proposed evergreens and the variety of trees to be planted. Proposed plantings will be native species. He mentioned a large maple tree with significant core rot on the property boundary line. It will have to be removed because it will be vulnerable to blow down. He responded to comments by the Town Engineer and Ms. O'Meara. He also said the Water District waiver is no longer needed because a letter from the Portland Water District has been submitted.

Ms. Jordan opened the public hearing.

Brad Norris of 26 Woodland Road quoted the definitions in the Code 19-1-2. He doesn't know how this applies to this development. They will lose property

values and open space, so this does not conform to the Code. It will be in everyone's backyard. It will produce an undesirable character of the neighborhood. The Planning Board should promote sound neighborhood development. He has concerns about the water drainage. There are no official studies of what will happen. What recourse will he have if this floods his property? He is concerned about the waiver granted by the Planning Board. He said the neighborhood wanted to go in together to buy this property, but Mr. Haines bought it. He is also concerned about the landscaping. Privacy is a major issue.

Mark Mersereau of 17 Charles Road wants to know what options do homeowners have if the rain garden can't handle the water flow? Is there any recourse? Any town responsibility?

Derek Converse of 11 Charles Road is concerned about the surface water, and whether the rain garden will work.

Rene Norris of 26 Woodland Road said the neighborhood wanted to buy that land to have as a common space, a free space. She is concerned if they lose this space, how many other spaces in town will be broken up? They want to keep their privacy. They have been maintaining that property since they have lived there.

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

Ms. O'Meara said it is the town's responsibility to make sure it is built according to the approved plans. After it is determined that the project is completed as approved, the town's responsibility ends. If you feel you have been damaged by the property, it is a civil matter between property owners.

She said Mr. Norris cited the Zoning Ordinance. He cited the general purpose statement, which is not a statement that is enforced. The open space provision applies to subdivisions, not a private accessway. If you have a lot of record that was legally created before current zoning, it is a nonconforming lot. The zoning allows them to be built on and to minimize, not eliminate the impacts.

Mr. Huebener said the Comprehensive Plan encourages building on infill lots.

Ms. O'Meara agreed that promoting infill can save the open space and building of new subdivisions.

Mr. Huebener also said he sees that the drainage seems well addressed.

Mr. Curry said he sympathizes with the neighbors, but there needs to be a balance of owner's rights. He feels there needs to be buffering to help the impact on the neighbors.

Mr. Chalot said he agrees that the drainage will be improved by this project. He would like to see more buffer for Mr. Norris along the right of way.

Ms. O'Meara said Mr. Norris has said he wants to maintain his access to the driveway.

Mr. Metcalf said that the Norris property drains towards the Haines property. He showed the drainage plan. He said that if Mr. Norris accesses the driveway, it may have an adverse effect on the drainage swale there. If Mr. Norris wants to drive onto the driveway, it would require a culvert, which is not the responsibility of this applicant. He said the decision to put in a fence at the Norris property was made because there was only lawn in that area. It would take a long time to fill in if they put in plantings.

Ms. Jordan proposed that they table the application to next month because they haven't seen the plan changes.

Mr. Metcalf said they are only note changes.

In response to a question, Ms. O'Meara said all the changes noted in the staff memo have been captured in proposed conditions of approval.

The consensus of the Board was to continue with approval.

Ms. Jordan then called for a 10 minute recess to review the proposed motion and findings of fact.

After the 10 minute recess, Mr. Curry made the following motion:

Findings of Fact

1. Stephen and Jennifer Haines are requesting a Private Accessway Permit to create adequate road frontage for an existing lot located at 28 Woodland Rd, which requires review for compliance with Sec. 19-7-9, Private Accessways.
2. The proposed lot shall be improved with only one dwelling unit and related accessory buildings and uses.
3. The private accessway shall be located within a dedicated right-of-way having a width of 40', which exceeds the 30' wide minimum.

4. The sub-base shall be constructed with gravel meeting MDOT Spec. 703.06 Type D with a depth of at least fifteen (15) inches, and having a width of at least eighteen (18) feet.
5. The travel way shall be constructed with a minimum of three (3) inches of crushed gravel having a width of at least fourteen (14) feet, with the remaining width of gravel based loamed and seeded.
6. Within ten (10) feet of the edge of the street paving, the accessway shall be paved with 3 inches of asphalt paving. The maximum grade within the first fifty (50) feet of the edge of street paving shall not exceed five percent (5%). Pavement radius at the intersection with the street shall be twenty (20) feet.
7. Gutter drainage along the street shall not be allowed to sheet across the face of the intersection and the proposed design will keep drainage from the private accessway from running into the public street.
8. A turnaround, coupled with the requirement that the proposed home will be sprinklered, and the distance of less than 150' from the home driveway along the private accessway to the nearest public road, Woodland Rd, meets the requirements of the Fire Chief.
9. Subject to a condition that the applicant add sight distance information to the plans and based on observed conditions at the September 23rd Planning Board site visit, the accessway is located so that sight distance conforms to the requirements of the Subdivision Ordinance.
10. The private accessway shall serve only one lot.
11. The Planning Board has not reduced the requirements of Sec.19-7-9 (D)(4) to a lesser standard, and has received a letter from the Portland Water District regarding water service
12. Adequate disposal of sewage shall be provided as evidenced by connection to the public sewerage system.
13. A building envelope is depicted wherein the house and accessory buildings will be located on the lot demonstrating conformance with the setback requirements of the district in which it is located and any natural constraints and that the house site will be buffered from abutting residential properties.

- 14. The proposed buffering plan is consistent with the surrounding neighborhood properties.
- 15. The applicant has provided a stormwater management plan to adequately address drainage on the property.
- 16. 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 Stephen and Jennifer Haines for a Private Accessway Permit to create adequate road frontage for an existing lot located at 28 Woodland Rd be approved, subject to the following conditions:

- 1. That the plans be revised to address the comments of the Town Engineer in his letter dated October 10, 2018;
- 2. That sight distance measurements be added to the plans.
- 3. That the town be granted a sewer easement for the existing sewer line located within the private accessway;
- 4. That the building envelope be labeled on the plan and that a note be added to the plan requiring that principal and accessory structures must be placed within the building envelope;
- 5. That the applicant sign and record a road maintenance agreement in a form acceptable to the town attorney;
- 6. That there be no issuance of a building permit or alteration of the site until the plans and materials have been revised to satisfy the above conditions and submitted to the town planner.

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

Ms. Volent arrived.

Mr. Chalot recused himself.

NEW BUSINESS

Appletree School expansion site plan amendment - Pamela Mullin is requesting amendments to the previously approved Appletree School site plan to expand the school located at 44 Two Lights Rd from 20 to 40

children, request a Resource Protection Permit to alter RP2 wetland for installation of underground utilities and amend the lot lines between lots 2 and 3 of the Spinnaker Heights Subdivision, Sec. 19-9 Site Plan Completeness, Sec. 19-8-3, Resource Protection Permit completeness and Sec. 16-2-5, Amendments to a previously approved subdivision.

Julia Frederick of Mitchell and Associates introduced the project and said the applicant wants to expand her school from 20 to 40 students. She showed a plan of the subdivision including this property at 44 Two Lights Road. They will purchase a small sliver of land from the abutter. She showed a plan of the existing conditions and pointed out a RP-2 wetland and that there is an RP-1 wetland and buffer. She showed the drainage system and the parking lot. They propose a 225 sq. ft. expansion of the barn. She showed the proposed expansion plan with the triangle of land to be purchased from the Wardes.

Ms. Frederick said there will be a temporary disturbance of the wetland for the expansion of the barn. They proposed 20 parking spaces and separate entry and exit only lanes. Native shrubs will buffer the parking lot from the street. The lighting will be downward facing. The septic connection will be in back of the barn. A rain garden is proposed to mitigate the disturbance of the wetland. The parking lot drainage was shown. She said the sight distance meets Town and State standards.

Ms. Frederick showed the architectural illustrations and pictures. The proposed new addition will have the same siding and coloring as what exists now.

Ms. Jordan opened the public comment on completeness. No one spoke, so the public comment was closed.

Mr. Gilbert was concerned about the lack of a traffic study.

Ms. O'Meara said there have been studies of traffic on Two Lights Road and that road has the capacity to handle the increased traffic.

Ms. Jordan asked about item 6. in the Engineer's letter.

Ms. Frederick said they will be providing a more detailed plan of the drainage.

Ms. Volent made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Pam Mullin for expansion of the Appletree School, located at 44 Two Lights Rd, from 20 to 40 children, which requires a Site Plan Amendment, Resource Protection Permit and Subdivision Amendment, be deemed complete. The Planning Board grants

a waiver from submitting a stormwater runoff plan prepared by a professional engineer, as required by the Resource Protection Permit requirements, due to less than 10,000 sq. ft. of added impervious surface proposed and the limits of stormwater modeling software that do not capture this amount of impervious change and the submission of a stormwater management plan.

Mr. Curry seconded the motion.

Mr. Huebener questioned the lack of a traffic study.

Ms. O'Meara said she has no expectation of any problem from an increase in traffic, but it would nice to have in the record a determination about the capacity of Two Lights Rd.

Ms. Frederick said they will be providing a trip study.

Mr. Curry asked if they need additional information before deciding completeness.

Ms. O'Meara cited the engineer's letter which said the project information was complete, and that there are other issues and items needed for review beyond the level of completeness.

The Board voted 5-0 to pass the motion.

Ms. Volent asked if they are putting in a new septic system.

Ms. Frederick said they are keeping the septic tank, and adding a new line and a pump station.

Ms. Volent said it seems that the current system is not large enough, but the applicant will not replace it until it fails. She then asked if there is any other business being operated on this property.

Ms. Frederick said that are none.

Ms. Volent asked about short term rentals and the ads for them.

Ms. Pamela Mullin said she is not renting it out.

Ms. Volent suggested that she take down the ads for short term rental.

There was more discussion about the septic system and it was pointed out that Al Frick had said the system is fine now and with the proposed addition to the

school. If the residents of the house change (or the amount of wastewater increases with new residents), then the septic system may need to be expanded.

Ms. Frederick said the new design will be in the next submission.

A site walk was scheduled for 5:30 p.m. October 23, 2018.

Mr. Huebener made the following motion:

Based on the plans and materials and the facts presented, the application of Pam Mullin for expansion of the Appletree School, located at 44 Two Lights Road, from 20 to 40 children, which requires a Site Plan Amendment, Resource Protection Permit and Subdivision Amendment, be tabled to the November 20, 2018 Planning Board meeting at which time a public hearing will be held.

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

Mr. Chalot rejoined the Board.

The Board voted 6-0 to adjourn at 8:35 p.m.

Respectfully submitted,

Hiroshi Dolliver
Minutes Secretary