

## MEMORANDUM

TO: Cape Elizabeth Planning Board  
FROM: Maureen O'Meara, Town Planner  
DATE: February 25, 2013  
SUBJECT: 10 Clinton Rd Private Accessway Permit

### Introduction

Winslow Pillsbury is requesting a Private Accessway Permit to create a new lot located at the end of Clinton Rd (U24-22). The application will be reviewed for compliance with Sec. 19-7-9, Private Accessway Permit Completeness.

### Procedure

- The Board begins with an overview of the applicable ordinance provisions from the Planner.
- The Board should then ask the applicant for a presentation.
- The Board next opens the meeting to public comment, which is limited to the completeness of the application.
- At the close of the completeness comments, the Board should make a determination of completeness. If the Board determines the application incomplete, Board members should identify the information needed to make the application complete and no substantive discussion of the application should occur. No further action or motion by the Board is required. If the application is deemed complete, the Board may begin substantive discussion.
- The Board should decide if a site walk and/or public hearing will be scheduled.
- At the close of discussion, the Board has the option to approve, approve with conditions, table or deny the application.

### Summary of Completeness

The comments of the Town Engineer and the completeness checklist are attached. Below is a summary of possible incomplete items:

c(1). The plan is based on a survey. A conflict has been called out with abutting deed, however, the Planning Board typically does not try to resolve boundary disputes with abutters when a boundary survey has been prepared.

The deed references a conveyance to an abutting lot which is not shown on the plan.

c(2). The application does not state how sanitary waste for the new lot will be handled. The plan does show a sewer line to the new lot. No determination from the Cape Elizabeth Sewer Superintendent has been requested for connection to the public sewer system, or confirmation provided that there is adequate capacity in the public sewer system to serve the new lot.

c(5). The plans do not show the outlet of the pond. The Code Enforcement Officer has requested that the area of the pond be calculated and submitted to confirm jurisdiction of environmental regulations.

c(6). The proposed plan locates the private accessway on lots A and B. No reciprocal easements have been submitted to allow the owners of the each lot to pass over the land of the other. A draft Road Maintenance Agreement has been submitted.

c(7). The nearest fire hydrant location has not been shown on the plan.

c(8). A readiness to serve letter from the Portland Water District also has not been provided.

c(9). No building envelope has been labeled on the plan. A dashed line that might be an building envelop includes a portion of the private accessway and driveway, and if intended to be a building envelope, needs to be completed and not include areas where a building cannot be built.

- Purpose statement. Sec. 19-7-9 C, Private Accessways, states that “...this section allows the Planning Board to approve the development of an individual lot lacking the required street frontage if adequate access is provided to the lot, the development is carried out in a manner that minimizes the impact of adjacent properties, and *is consistent with sound neighborhood development.* (emphasis added).

The lot owned by Winslow Pillsbury is 4.28 acres (186,436 sq. ft.) in the RC District where the minimum lot size is 20,000 sq. ft.. There is potential for further division of lots beyond what is proposed at this time.

The Planning Board should consider requiring the applicant to create a master plan for the entire property that includes a layout for vehicular access and building envelopes. This plan should then be used as the basis for laying out the access for the current lots proposed. No additional development beyond the 2 proposed lots need be approved at this time.

In this way, the Planning Board will less likely be presented with development proposals in the future where the most logical development layout had been precluded by decisions made as part of this approval. Alternately, the applicant could elect to permanently eliminate the option for future development by placing deed restrictions with enforcement mechanisms on the two proposed lots.

Motion for the Board to Consider

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Winslow Pillsbury for a Private Accessway Permit to create a new lot at 10 Clinton Rd be deemed (complete/incomplete).

BE IT FURTHER ORDERED that the application be tabled to the March 19, 2013 meeting of the Planning Board, at which time a public hearing will be held.