

**DRAFT TOWN OF CAPE ELIZABETH  
MINUTES OF THE PLANNING BOARD**

February 25, 2013

7:00 p.m. Town Hall

Present: Victoria Volent, Chair  
Josef Chalot  
Peter Curry  
Elaine Falender

Carol Anne Jordan  
Liza Quinn  
Henry Steinberg

Also present was Maureen O'Meara, Town Planner.

Ms. Volent opened the meeting and called for the approval of the January 15, 2013 minutes. After a minor correction, the minutes were approved, 6-0 (one absent).

Town Planner's Report: Ms. O'Meara said there were a lot of recommendations from the FOSP Committee being forwarded to the Planning Board, the Conservation Commission, and the Ordinance Committee. The Town Council will also be creating a Town Center Committee and they have asked the Planning Board to designate a representative to that committee. They are also soliciting five members of the public for the committee. The Council is also creating a Library Committee consisting of mostly Town Councilors, but part of the charge is to collaborate with the Town Center Committee. The Conservation Commission is working on an update of the 2001 Greenbelt Plan. Lastly, there are boat racks at Great Pond for which the Town issues seasonal permits. They are now accepting applications through March 22 for a place in the lottery for those spots. She noted that there are 32 slots and they now have 35 applications.

**NEW BUSINESS**

**10 Clinton Rd Private Accessway Permit** - Winslow Pillsbury is requesting a Private Accessway Permit to create a buildable lot located at 10 Clinton Rd, Sec. 19-7-9, Private Accessway Permit.

Ms. O'Meara gave an overview, saying that there is a 4.2 acre lot owned by Winslow Pillsbury at the end of Clinton Road. It is in the RC District, which has a minimum lot size of 20,000 sq. ft. There is a pond in the middle of the lot, but it is less than an acre in size and is classed as an RP2 Wetland. If you are not going into that area there are no setbacks required around it. Since there is not 100 ft. of frontage on Clinton Rd, there needs to be a private accessway permit for the new lot. You can only get one private accessway per lot, or you would need a private road to serve more than one lot.

Jim Fisher with Northeast Civil Solutions gave the presentation on behalf of the applicant. He said there is 130 ft. of frontage on Clinton Rd, and the parcel will be divided into two lots. 100 ft of frontage will be retained by Mr. Pillsbury with his remaining parcel and the new lot will need a private accessway. They are only applying for the lot division and the accessway permit. No other improvements are proposed.

The pond is in the middle of the property. They have had the DEP out to look at the property and Albert Frick and Associates to review this. They have a letter from Mike Mullen at the DEP stating that this is not a jurisdictional wetland as far as the DEP is concerned. It is not a pond, and has no setback requirements. They are proposing a 10 ft. setback from that area.

Both properties will have cross easements for access and utilities (sewer, water and sub grade electric). The accessway will go over the existing driveway with very little impervious surface will be added. They will re-grade the driveway at its intersection with Clinton Rd to make it a shallower grade. The surface drainage will be better than it is now. The property has been delineated for wetlands and the only wetlands are the pond itself. They have no plans to do any alteration in that area, so the DEP is not concerned with this project.

Mr. Fisher then addressed some of the comments from the reviewing engineer and the Planner. In the matter of the turning radius, the Fire Chief has been out to the site and has indicated that he does not have a problem with the overall grade. There is a problem with the steep grade at the intersection with Clinton Road because the long fire truck scrapes the road at that turn. They have flattened out the grade where the accessway intersects with Clinton Road. They have measured the longest fire truck and calculated what grade is needed to accommodate that vehicle. They re-graded the road on that basis. The Fire Chief wants to check that out after the construction of the accessway is completed, and if it does not meet his approval, he wants the new house to be sprinklered.

There will be public water and sewer, which will come from Clinton Rd. They are not changing the drainage that exists now. They are proposing deed restrictions that will prohibit further division of this lot. There are mutual maintenance agreements for both lots.

Mr. Chalot asked about the end of the accessway and its width of only 12-1/2 ft. He noted that the Fire Chief wanted it to be wider.

Mr. Fisher said they have increased that to 18 ft. wide which is the overall width of the accessway.

Mr. Curry asked about the angle of the road from its intersection with Clinton Road.

Mr. Fisher noted that the problem is the grade at that point. A large vehicle scrapes the pavement when it goes up at a sharp grade. They have flattened out that grade so that will no longer happen. He explained how they have calculated what that grade should be according to the length of the longest fire truck.

Mr. Chalot asked about having the Fire Chief inspect the road after it is built.

Mr. Fisher said there should be no problem, but that the chief will inspect before the top coat goes on.

Mr. Steinberg wondered why the hammerhead is curved and not a straight line.

Mr. Fisher replied that it is typical to have a curve, and it would mean a lot more impervious surface if they straightened out that line.

Ms. Volent opened the public comment period on the issue of completeness. Since no one came forward, the public comment period was closed.

Ms. Quinn asked about the deed restriction.

Mr. Fisher replied that the deeds are not in the packet. There is a note on the plan about that restriction.

Ms. Volent was concerned about the possibility of the deed restriction being changed at a later date.

Ms. Falender said she has more confidence in future Planning Boards and their ability to judge a plan that may come before them in the future. She just wants a clear note on the plan. She also noted that she is reading something different in the Town Engineer's letter and the Fire Chief's letter, that do not agree with what Mr. Fisher is telling the Board. She does not like the idea that if the fire trucks cannot negotiate the road, they should put in a sprinkler system.

Mr. Fisher replied that he doesn't want that either, so they have reconfigured the road to accommodate the trucks. He then explained the "exaggerated scale" and how it figures into the problem of the grade of the road at its intersection with Clinton Road.

Ms. Volent was concerned about the turnaround and the width of the proposed roadway. She said their plans show a width of 12.5 ft and you are now saying it will be 18 ft., but the standard is 22 ft. This all means more impervious surface and that means current drainage calculations need to be revised.

Mr. Fisher noted that there are only 2 micro watersheds on this parcel. He also noted that the only physical changes to the plan are the changes to the turnaround. They are not altering the landscape as in a subdivision, they are staying within the existing driveway.

Ms. Quinn said she noticed that there are many things missing from the plans.

Mr. Fisher addressed those items, and said they will have them on the next set of plans they submit.

Mr. Chalot said he was still concerned about the angle of departure of the road. He said there is a standard for that angle and this applicant is looking to change that angle. He wants to know if they are asking for a waiver of that standard, or are they just relying on the agreement with the Fire Chief.

After a brief discussion, Ms. Volent said the Board is in the position of waiving standards they have no authority to change.

Ms. Falender said there are many items missing or incomplete, but she feels there is enough information to judge this application complete.

Mr. Chalot and Ms. Quinn said they agree with Ms. Falender.

Ms. Volent took the opposite position. She said she made a 2 page list of items that are incomplete or missing. She spoke about many of those items. She is concerned about the fact that Mr. Fisher has said he has addressed these items, but she does not have that information as yet.

Mr. Fisher said they have addressed all of the items, but the final plans are not before you.

Mr. Curry asked if they decide the application is incomplete, can they decide both completeness and the final decision in the next meeting.

Ms. O'Meara said they can do that and she can publish the notice for a public hearing. She also noted that once the Board deems the application complete, they do not get to take that up again.

Ms. Jordan, looked for clarity about this. She said she understood that if they deem it complete and there is still missing information at the next meeting, they would have no recourse except to deny the application for approval.

Ms. O'Meara agreed that that is the case.

Ms. Quinn made note of several items that she is unsure of.

Ms. Falender said she agrees that there is much missing, but feels that the applicant has the choice to bring all that information at the next meeting. If they do not, she would have no difficulty denying the project. She feels it is the applicant's risk and she would still approve the completeness.

Mr. Fisher said they have addressed every one of the comments, but they are not allowed to make another submission until the next cycle is completed, so the Board does not have the updated information to see.

Ms. Volent said she is still inclined to vote this incomplete and not chance the possibility of not having the votes to turn the project down if everything is not to the standards.

Mr. Curry asked if they vote for incomplete, can they do that at the next meeting and then judge it on the merits.

Ms. O'Meara said they can do that and she can advertise the public hearing if that is the Board's decision.

Ms. Falender made the following motion:

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.

Mr. Chalot seconded the motion and it failed by a vote of 3-4.

Ms. Quinn made the following motion:

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 incomplete.

Mr. Curry seconded the motion and it passed, 4-3.

Mr. Fisher requested that the Board have the public hearing at the next meeting and consider the application on its merits as well as the completeness.

Ms. Volent asked the Board for its opinion, and they agreed that it was okay to go ahead with the scheduling of the public hearing and they also agreed that they did not need another site walk.

## OTHER BUSINESS

**Subdivision Ordinance Overhaul** - The Cape Elizabeth Town Council has referred to the Planning Board a request to overhaul the Subdivision Ordinance as recommended in the Comprehensive Plan, Sec. 16-3-6(c) Amendments to the Subdivision Ordinance.

Ms. O'Meara said there have been so many changes to the ordinance that she suggests that the Board recommend replacing the old ordinance. She thinks it will be very difficult to follow if the changes are adopted as revisions, rather than using a complete rewrite of the ordinance.

The goal of the changes was to make the ordinance consistent with the State Subdivision Ordinance.

There are a lot of changes to improve the organization of the ordinance. There is a substantive change to major subdivision review appendix b. to allow the preliminary plan to be more of a concept plan. This is a way to save money by not having to re-engineer the same roads until the final review of the subdivision.

She also consulted with some surveyors and they suggest having the boundary survey be detailed at the beginning of the process, but the individual lots be more approximate until the final plan is ready.

She has addressed all the other outstanding issues, but they are not reflected in the draft subdivision ordinance which the board has before them.

Mr. Curry congratulated Ms. O'Meara on all her hard work on this project.

The Board requested the item be on the March workshop agenda for a final review.

Ms. Jordan made the following motion:

BE IT ORDERED that, based on the draft ordinance presented, the Cape Elizabeth Planning Board tables the draft Subdivision Ordinance to the March 5, 2013 workshop for further review and the March 19, 2013 regular Planning Board meeting, at which time a public hearing will be held.

Mr. Chalat seconded and the motion passed, 7-0

The Board voted to adjourn at 8:25 pm.

Respectfully submitted,

Hiromi Dolliver  
Minutes Secretary