

MEMORANDUM

TO: Cape Elizabeth Planning Board
FROM: Maureen O'Meara, Town Planner
DATE: June 18, 2013
SUBJECT: 10 Clinton Rd Private Accessway Permit amendment

Introduction

Win Pillsbury is requesting an amendment to the Private Accessway Permit granted for 10 Clinton Rd on March 28, 2013. He has satisfied all but 1 of 10 conditions and is requesting an adjustment to the condition requiring a conservation easement with third-party enforcement. The application will be reviewed for compliance with Sec. 19-7-9, Private Accessway Permit.

Procedure

- The Board should begin by having the applicant explain his request.
- Because this is an amendment, the Board does not need to make a finding of completeness. The Board should identify any information they will need to consider the amendment request that has not been provided.
- At any point, the Board may begin discussion of the request.
- The Board has the option, but is not required, to schedule a site walk and/or public hearing.
- At the close of discussion, the Board has the option to approve, approve with conditions, table or deny the request.

Discussion

At the March 28, 2013 meeting, the Planning Board placed a condition on the approval as follows:

That an enforceable conservation easement, or similarly enforceable restriction, be granted by the property owner to an outside third party, providing that a maximum of one single family residence and related accessory structures is permitted to be built on each of Lot A and Lot B as shown on the plans, and that no further development shall be permitted on either lot.

The applicant has tried to comply with the condition with no success. As a replacement to this condition, the applicant has added a note to the plan limiting each lot to 1 principal dwelling and associated accessory structures. Any change

to this note would require Planning Board approval. In addition, the applicant has prepared reciprocal restrictive covenants between lots A and B that also limit the lot to 1 principal dwelling and associated accessory structures.

Motion for the Board to Consider

Findings of Fact

1. Win Pillsbury is requesting an amendment to the previously approved Private Accessway Permit for 10 Clinton Rd. The amendment would revise condition number 3 requiring a third party restriction on future development.
2. The applicant has made a good faith effort to comply with condition 3 and has satisfied all the other conditions.
3. The applicant has submitted an alternative condition that addresses the concerns resulting in the imposition of the original condition 3.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Win Pillsbury for an amendment to the previously approved Private Accessway Permit Approval, Condition 3, for 10 Clinton Rd be approved with the following conditions:

- 3a. That a note be added to the plan as follows:

Lots A and B as shown on this plan are limited to one principal dwelling and associated accessory structures per lot. This restriction is agreed to by the owners of each property as a restriction imposed by the Planning Board in the approval of the private accessway. This restriction may not be amended or removed without approval of the Planning Board. No development is allowed in the conservation restriction easement area.

- 3b. That reciprocal restrictive covenants for lot A and B that limit development to 1 principal dwelling and accessory structures and be signed by the lot owners and recorded in the Cumberland County Registry of Deeds.