

MEMORANDUM

TO: Cape Elizabeth Planning Board
FROM: Maureen O'Meara, Town Planner
DATE: February 23, 2015
SUBJECT: Brothers Way/Legacy Way Private Rd Amendment

Introduction

Kristine Murray is requesting an amendment to the previously approved Brothers Way Private Rd approval to add a second lot and also change the name to Legacy Way. The application is submitted for completeness and a public hearing this evening. The plan will be reviewed under Sec. 16-3-1 of the Subdivision Ordinance.

Procedure

- The Planner will provide a summary of the project within the context of town regulations.
- The applicant will present the project.
- The Board should then make a finding of completeness. If the application is deemed incomplete, board members should identify the information needed to make the application complete and no substantive discussion or further action on the application should occur. If the application is deemed complete, substantive review may begin. A public hearing has also been advertised for this evening.
- The Board should open the public hearing.
- Once the public hearing is closed, the Board may begin discussion of the application.
- At the end 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.

The only potentially incomplete item may be the water supply. Lot B is proposed to be served by a well, but no information on quality and quantity has been provided.

Subdivision Review (Sec. 16-3-1)

(a) Pollution

Because the road has mostly been constructed, very little additional construction will occur as part of the creation of a second lot.

(b) Sufficient Potable Water

Brothers/Legacy Way includes a 2" water line to serve Parcel A. Parcel B is proposed to be served by a private well. No information on adequate quality and quantity of the proposed well has been submitted.

In a conversation with the applicant's representative, staff questioned why parcel B will not be connecting to the existing water line in Brothers Way. The 2" water line was installed to serve one lot, parcel A. The Portland Water District standards would require that a 6" line be installed to serve more than 1 lot. This would require replacing approximately 250' of 2" water line with a 6" water line. The applicant intends to bring more information on a water line connection to the meeting.

(e) Erosion

The original road approval included an erosion control plan and no changes to that plan are proposed.

(d) Traffic

1. Road congestion and safety. The increased traffic generated by 1 additional lot will not create a safety or congestion issue for Fowler Rd.
2. Comprehensive Plan. This is an infill project, which is supported by the comprehensive plan.
3. Connectivity. There is informal access road connectivity between this development and the adjacent Grover Rd neighbor, however, creating a formal right-of-way would not make it possible for the owner to create a lot meeting minimum lot size requirements.
4. Safety. No new road is proposed.
5. Through traffic. No new road construction is proposed.
6. Topography. No new road construction is proposed and parcel B's building site is mostly flat.
7. Block Length. Not applicable.
8. Lot Access. Parcel B will obtain access from the existing Brothers/Legacy Way.

9. Sidewalks/pedestrian connections. No sidewalks are proposed or required on a private road.
10. Road Name. The new road name, Legacy Way, has been approved by the Police Chief.
11. Road Construction Standards. No change is proposed to Brothers Way. The Town Engineer has recommended that a performance guarantee for work on Brothers Way be provided. The town currently holds a performance guarantee for Brothers Way that is administered by the Town Manager. Staff recommends that no additional requirements for a performance guarantee be applied and instead rely on administration of the current performance guarantee.

(e) Sewage Disposal.

Parcel B is proposed to be served by a subsurface disposal system. The Code Enforcement Officer has reviewed and approved the system design.

(f) Solid Waste Disposal.

Not applicable.

(g) Aesthetic, cultural and natural values

1. Scenic. The site is not located in a vista or view corridor as identified in the Visual Impact Study conducted by the town.
2. Wildlife. No significant wildlife habitats have been identified.
3. Natural features. No significant natural features are included within the building envelopes. The Board may want to require that the depiction of building envelopes be clarified on the plans.

At this time, each lot has a functional building envelope depicted with a dashed line, which is not labeled. Within this functional building envelope is a "Proposed Building Envelope," depicted with a heavy dashed line, which is functionally a general building footprint or maybe a building envelope. Unless the applicant is committing to the "Proposed Building Envelope," staff recommends that the smaller "Proposed Building Envelope" be removed and the larger dashed polygon be labeled as the

building envelope. A note restricting activities outside the building envelope is included on the plan.

4. Farmland. No farmland is included in this application.

(h) Conformity with local ordinances

1. Comprehensive Plan. The use of the land north of Brothers Way to create an "infill" lot is consistent with the Comprehensive Plan.

2. Zoning Ordinance. The proposed new lot is at least 80,000 sq. ft, the minimum lot size in the RA District, located on one side of a public or private road.

3. Multiplex Housing. Not applicable.

4. Addressing Ordinance. The Police Chief has approved the road name change.

(i) Financial and Technical Capability

The Town Manager has confirmed the applicant's financial capability of the project and the applicant and project team have demonstrated technical capability on other projects in Cape Elizabeth.

(j) Surface Waters

Not applicable.

(k) Ground Water

The development is not proposed within a significant aquifer recharge area.

(l) Flood Areas

The building envelope portions of the parcels are not located in the floodplain.

(m) Wetlands

No wetland alteration is proposed.

(n) Stormwater

No change is proposed.

- (o) Lake Phosphorus concentration

The proposed construction is not within the watershed of a great pond.

- (p) Impact on adjoining municipality

Not applicable.

- (q) Land subject to Liquidation Harvesting

Not applicable.

- (r) Access to Direct Sunlight

The proposed Parcel B is predominantly an open field with extensive solar access.

- (s) Buffering

Parcel B includes a building envelope and restrictions on removal of vegetation outside the building envelope. The subsurface disposal system will be located partially outside the building envelope, which will result in removal of vegetation. Generally, the area of Parcel B does not include substantial existing vegetation and the Planning Board may want to consider the need for supplemental plantings.

- (t) Open Space Impact Fee

Not applicable.

- (u) Utility Access

Possible coordination with the Portland Water District regarding extension of a public water line to Parcel B may be needed.

- (v) Phasing

Not applicable.

Motions for the Board to Consider

A. Motion for Completeness

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Kristine Murray for an amendment to the previously approved Brothers Way Private Rd, located off Fowler Rd, to add a second lot and also change the name to Legacy Way be deemed (complete/incomplete.)

B. Motion for Approval

Findings of Fact

1. Kristine Murray is requesting an amendment to the previously approved Brothers Way Private Rd approval to add a second lot and also change the name to Legacy Way, which requires review under Sec. 19-7-9 of the Zoning Ordinance and Sec. 16-3-1 of the Subdivision Ordinance.
2. The water supply for Parcel B needs clarification.
3. The building envelopes for Parcel A and Parcel B should be clearly labeled.
4. The applicant has substantially addressed the standards of the Subdivision Ordinance, Sec. 16-3-1.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Kristine Murray for an amendment to the previously approved Brothers Way Private Rd, located off Fowler Rd, to add a second lot and also change the name to Legacy Way be approved, subject to the following conditions:

1. That the plans be revised to show that Parcel B will be served by public water, with information on how that connection will be constructed;
2. That the plans be revised to show one labeled building envelope for Parcel A and Parcel B;
3. That road maintenance and access agreements for Parcel B be submitted in a form acceptable to the Town Attorney and Town Manager and signed by the applicant; and
4. That the plans be revised and submitted to the Town Planner for review and approval prior to recording the subdivision plat.