

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

August 16, 2016

7:00 p.m. Town Hall

Present: Peter Curry, Chair Jonathan Sahrbeck  
Henry Steinberg  
Carol Anne Jordan

Absent: Victoria Volent, Elaine Falender, Josef Chalot

Also present was Maureen O'Meara, Town Planner.

Mr. Curry opened the meeting and called for the approval of the minutes of the July 19, 2016 meeting. The minutes were approved as presented, 4-0.

OLD BUSINESS

**Old Mill Road 4-lot subdivision** - Mark Jordy is requesting Minor Subdivision Review of a 4-lot subdivision located on Old Mill Rd (R02-16), Sec. 16-2-3, Minor Subdivision Public Hearing.

John Mitchell of Mitchell and Associates spoke on behalf of Mark Jordy. He outlined the changes since the last meeting. He said they have addressed all the comments from Steve Harding, Town Engineer. The plan revisions regarding the notes and declaration have been made. Note 23 has been amended to identify the no clearing line. Monuments have been placed and there will be no clearing or mowing southerly of that line. They have established an area labeled groomed lawn area. This is an area outside the building envelope that has been mowed as part of the meadow, and will continue to be maintained as mowed. There is a small area on the northeast corner of Lot 2 that is labeled as a tree trim area. The homeowner of that lot will be allowed to trim or clear trees in this small area. It is about 30 ft. by 40 ft. and the trees can block the views to the ocean. Note 29 was added to the plan regarding road maintenance.

They are requesting 4 waivers. Reduce the road width from 22 ft. to 14 ft., plan scale, HHE-200 form and road alignment.

Mr. Sahrbeck wants to know the idea behind the no clearing line.

Ms. O'Meara said she was the one behind this. In the RP-1 buffer you are allowed to maintain existing lawn area. Where there is natural vegetation, you want to preserve it in its natural state. The usual progression of most property owners is that the mowed area starts to encroach into the natural area. It's very

hard to enforce that in the field if you don't do a good job of identifying it before you grant the approval.

Mr. Curry asked if the goal is to protect Alewife Brook.

Ms. O'Meara said it is, and to put some teeth behind the expectation that what the current regulations are will be enforced. She also explained the evolution of the language about having the Code Officer verify that a tree may be removed and then not removing the stumps. In the past, many very healthy trees were removed and more lawn area was mowed in a buffer zone.

Mr. Steinberg wanted to clarify that the common area is not for the public, but only for the residents.

Mr. Mitchell said it is not for public use.

Mr. Sahrbeck asked about the tree trim area.

Ms. O'Meara said that to meet the subdivision buffering standard, it is common to leave a vegetated buffer in place so you do not have to plant new vegetation. In this case the applicant wants to remove trees outside the building area so they are identifying them as able to be removed.

Mr. Steinberg asked about the road width and how cars can pass each other.

Mr. Mitchell said they are widening the current width to 14 ft. with 2 ft. wide grass shoulders, so there is a total of 18 ft. width.

Mr. Curry opened the public comment period.

Barbara Wickham of 20 Old Mill Road wanted to know how the road is deviating from the center line. She wants to know if it will deviate into her property.

Mr. Mitchell said the alignment of the roadway will be exactly the same. Where it deviates from the center line is where the large ledge outcrop is. He showed it on the plan to illustrate the area.

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

Mr. Curry summarized all the submissions, the meetings, the comments, letters etc.

Mr. Sahrbeck said the applicant did a good job complying with the ordinances.

Mr. Steinberg said he was impressed with the keeping of the natural look of the site.

Ms. Jordan said she agreed with both comments.

Mr. Curry commended them for maintaining the beauty of the site.

Ms. Jordan made the following motion:

#### Findings of Fact

1. Mark Jordy is requesting Minor Subdivision Review of a proposed 4-lot subdivision located at 41 Old Mill Rd, which requires review under Sec. 16-2-3 of the Subdivision Ordinance.
2. The subdivision will not result in undue water pollution. The subdivision is located in the 100-year floodplain, however no alteration is proposed within the floodplain. Soils will support the proposed uses. The slope of the land, proximity to streams, and state and local water resource rules and regulations will not be compromised by the project.
3. The subdivision lots will have a sufficient quantity and quality of potable water through connection to a proposed public water line to be installed in Old Mill Rd.
4. The subdivision will not cause soil erosion, based on the erosion control plan provided.
5. The subdivision will not cause unreasonable road congestion or unsafe vehicular and pedestrian traffic. The subdivision road network connectivity is not a concern in this application because there are no large abutting parcels. Roads are laid out to conform to existing topography as much as is feasible. A waiver from the road width and road alignment will be granted to avoid a topographical change by removing a ledge knoll and minimize the removal of trees. All lots are provided with vehicular access. Roads are designed to meet town standards with the above approved waiver.
6. The subdivision will provide for adequate sewage disposal. Final HHE-200 subsurface wastewater disposal forms will be reviewed by the Code Enforcement Officer prior to issuance of a building permit for the lots.
7. The subdivision will provide for adequate solid waste disposal.

8. The subdivision will not have an undue adverse impact on scenic or natural areas, historic sites, significant wildlife habitat, rare natural areas, or public access to the shoreline. Greater specificity is provided on the location of the natural vegetation line adjacent to Alewife Brook to prevent encroachment of the groomed vegetation area.
9. The subdivision is compatible with applicable provisions of the Comprehensive Plan and town ordinances.
10. The applicant has demonstrated adequate technical and financial capability to complete the project.
11. The subdivision will not adversely impact surface water quality, with preservation of the naturally vegetated area adjacent to Alewife Brook.
12. The subdivision will not adversely impact the quality or quantity of ground water.
13. The subdivision will comply with the Floodplain Regulations, Chapter 6.
14. The subdivision is in compliance with the Town wetland regulations in the Zoning Ordinance, with the preservation of the naturally vegetated area adjacent to Alewife Brook.
15. The proposed subdivision will provide for adequate stormwater management.
16. The subdivision is not located in the watershed of Great Pond.
17. The subdivision is not located in more than one municipality.
18. The subdivision is not located on land where liquidation harvesting was conducted.
19. The subdivision does provide for access to direct sunlight.
20. The subdivision does provide a vegetative buffer throughout and around the subdivision and screening as needed.
21. The subdivision will comply with the open space impact fee with the preservation of lot 4, common land (13.6 acres).
22. The subdivision lots will be provided with access to utilities.
23. The subdivision plan will not be phased.

24. 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 Mark Jordy for Minor Subdivision Review of a proposed 4-lot subdivision located at 41 Old Mill Rd be approved, subject to the following conditions:

1. That all lots shall be served with public water through connection to the water line to be installed in Old Mill Rd;
2. That the Declaration of Easements, Restrictions, Covenants, and conditions be reviewed and approved by the town attorney for adequacy of road maintenance, and access for lots in the subdivision for vehicles.
3. The Planning Board grants waivers, as authorized in the Subdivision Ordinance Sec. 16-3-5, for road width and road alignment, as shown on the subdivision plans.
4. That the plans be revised and submitted to the Town Planner for review and approval prior to recording the subdivision plat.
5. That a performance guarantee be submitted to the town prior to beginning construction of the road.

Mr. Sahrbeck seconded the motion and it passed, 4-0.

No one came forward to comment on other matters.

The board voted unanimously to adjourn at 7:55 p.m.

Respectfully submitted,

Hiroshi Dolliver  
Minutes Secretary.