

TOWN OF CAPE ELIZABETH
MINUTES OF THE PLANNING BOARD

November 15, 2016

7:00 p.m. Town Hall

Present: Peter Curry, Chair
Josef Chalot
Carol Anne Jordan
Elaine Falender
Jonathan Sahrbeck
Victoria Volent

Absent: Henry Steinberg.

Also present was Maureen O'Meara, Town Planner.

Mr. Curry opened the meeting and called for the approval of the minutes of the October 18, 2016 meeting. The minutes were approved without a change, 5-0. (1 abstain)

NEW BUSINESS

Spurwink Pump Station Resource Protection Permit - The Portland Water District is requesting a Resource Protection Permit to install drainage structures for the Spurwink Pump Station located at 445 Spurwink Ave (R5-11A), Sec. 19-8-3, Resource Protection Permit Completeness and Public Hearing.

Paul Rodriguez, senior project engineer with the Water District, did a review of their request. He said ground water is getting into a vault with the electrical gear. They propose a drain that will run along the side of the structure. There are storm surges and sea levels are rising, but their goal is to alleviate the ground water that happens 99% of the time. In 20-30 years, they will need to look at what to do then, but this pump station only lasts 20-30 years.

Norman Twadell, right of way assistant for the Water District, said the area of the drain is outside of the lease area. They have an agreement from the Town to install the drain pending approval of the Planning Board.

Mr. Chalot asked for clarification of details of the plans.

Mr. Curry asked if there would be a swale.

Mr. Rodriguez replied that they are keeping the area level, no swale and the piping will be underground. They do not care about what's at ground level, but what is under the surface.

Ms. Jordan asked for explanations of the waivers requested.

Mr. Rodriguez said the 1 ft. Contours seemed appropriate to them. The stormwater impact is very small. They are not impacting or altering wetlands.

Ms. Falender noted that the engineer's letter talks about the waivers and supports them. Mr. Curry noted that 1' contours were provided.

Mr. Curry opened the public comment period on completeness and no one came forward to speak, so the comment period was closed.

Mr. Sahrbeck made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of the Portland Water District for a Resource Protection Permit to install a groundwater underdrain for the pump station located at 445 Spurwink Ave be deemed complete.

1. Waivers from providing information on wetland plants and wetland soils;
2. Waiver from providing a stormwater management plan prepared by a professional engineer.

Mr. Chalot seconded and the motion passed, 6-0.

Ms. Falender questioned the use of the erosion control handbook standards mentioned in Findings of Fact number 11.

Ms. O'Meara said this handbook is used in our Zoning Ordinance.

There was brief discussion of the need for a floodplain permit and it was added as a condition of approval.

Ms. Jordan noted that the address on the plan was Spurwink Road, which is in Scarborough, and it needs to be Spurwink Avenue, which is in Cape Elizabeth.

Mr. Curry opened the public hearing, and no one came forward, so the public hearing was closed.

Mr. Chalot made the following motion:

Findings of Fact

1. The Portland Water District is requesting a Resource Protection Permit to install a groundwater underdrain at the pump station located at 445 Spurwink Ave, which requires a Resource Protection Permit.

2. The proposed underdrain will not materially obstruct the flow of surface or subsurface waters across or from the alteration area;
3. The proposed underdrain will not impound surface waters or reduce the absorptive capacity of the alteration area so as to cause or increase the flooding of adjacent properties;
4. The proposed underdrain will not increase the flow of surface waters across, or the discharge of surface waters from, the alteration area so as to threaten injury to the alteration area or to upstream and/or downstream lands by flooding, draining, erosion, sedimentation or otherwise;
5. The proposed underdrain will not result in significant damage to spawning grounds or habitat for aquatic life, birds or other wildlife;
6. The proposed underdrain will not pose problems related to the support of structures;
7. The proposed underdrain will not be detrimental to aquifer recharge or the quantity or quality of groundwater;
8. The proposed underdrain will not disturb coastal dunes or contiguous back dune areas;
9. The proposed underdrain will maintain or improve ecological and aesthetic values;
10. The underdrain will maintain an adequate buffer area between the wetland and adjacent land uses;
11. The underdrain will be accomplished in conformance with the erosion prevention provisions of Environmental Quality Handbook Erosion and Sediment Control, published by the Maine Soil and Water Conservation Commission dated March, 1986, or subsequent revisions thereof;
12. The underdrain will be accomplished without discharging wastewater from buildings or from other construction into Wastewater Treatment Facilities in violation of Section 15-1-4 of the Sewage Ordinance; and
13. The proposed underdrain will in the case of Resource Protection Permits in the Resource Protection-Floodplain District, also comply with Section 6-6-6 of the Floodplain Management Ordinance.

14. The application substantially complies with Sec. 19-8-3, Resource Protection Regulations.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of the Portland Water District for a Resource Protection Permit to install a groundwater underdrain for the pump station located at 445 Spurwink Ave be approved, subject to the following conditions:

1. That the plans be revised to address the comments in the Town Engineer's letter dated November 7, 2016, paragraphs 6, 7, and 8.
2. That the site be inspected after construction to confirm the area has been restored to original grade and revegetated.
3. That a Floodplain Permit be obtained from the Cape Elizabeth Code Enforcement Officer.

Ms. Jordan seconded the motion and it was approved, 6-0.

Cottage Brook Boardwalk Resource Protection Permit - The Town of Cape Elizabeth is requesting a Resource Protection Permit to construct 250' of 4' wide boardwalk on an existing trail located on the Cottage Brook open space off Spurwink Ave ((U49-59A). Sec. 19-8-3, Resource Protection Permit Completeness and Public Hearing.

Jeremy Gabrielson is representing the Town on behalf of the Conservation Committee. The Town is seeking to install 250 ft. of boardwalk on an existing trail. The trail is in a trail right of way. The trail was not formally designed and there is some brading and running through the mud. The purpose of this application is to provide a better user experience and putting a 4 ft. wide trail will eliminate that brading and allow the natural vegetation to grow up on either side. There is not an upland location on this site for the trail to be aligned. The entire trail is within an RP -2 wetland, and this is the shortest distance from one side to the other.

Mr. Gabrielson addressed the waivers requested. The boardwalk will not be on the ground, so the one foot contours will not be applicable. The stormwater runoff is the same reasoning. The ground will not be impacted by less than 1000 sq. ft. of boardwalk.

Mr. Curry opened the public comment period on the issue of completeness. No one came up to speak, so the comment period was closed.

Mr. Sahrbeck made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of the Town of Cape Elizabeth for a Resource Protection Permit to construct up to 250' linear feet of 4' wide boardwalk on an existing trail located on the Cottage Brook open space be deemed complete, and the following waivers are granted:

1. A waiver from providing 1' topographic contours; and
2. A waiver from providing a stormwater management plan prepared by a professional engineer.

Ms. Volent seconded the motion and it carried, 6-0.

Mr. Sahrbeck asked for clarification about the experience on other trails in town that have boardwalks.

Mr. Gabrielson said the use of a boardwalk keeps most people on the trail and out of the wetlands that it crosses. It also allows the vegetation to regrow along the edges of the trail.

Ms. Falender asked about a ramp to access the boardwalk.

Mr. Gabrielson said the gradation of the approach is shallow. You will be able to access it on a bike.

Ms. Volent asked about the time frame for this project.

Mr. Gabrielson said the project needs other permits, and he does not imagine it will happen before the snow comes.

Mr. Curry opened the public hearing, and no one wished to speak, so the public hearing was closed.

Mr. Sahrbeck made the following motion:

Findings of Fact

1. The Town of Cape Elizabeth is requesting a Resource Protection Permit to construct up to 250' linear feet of 4' wide boardwalk on an existing trail located on the Cottage Brook open space, which requires a Resource Protection Permit.

2. The proposed boardwalk will not materially obstruct the flow of surface or subsurface waters across or from the alteration area;
3. The proposed boardwalk will not impound surface waters or reduce the absorptive capacity of the alteration area so as to cause or increase the flooding of adjacent properties;
4. The proposed boardwalk will not increase the flow of surface waters across, or the discharge of surface waters from, the alteration area so as to threaten injury to the alteration area or to upstream and/or downstream lands by flooding, draining, erosion, sedimentation or otherwise;
5. The proposed boardwalk will not result in significant damage to spawning grounds or habitat for aquatic life, birds or other wildlife;
6. The proposed boardwalk will not pose problems related to the support of structures;
7. The proposed boardwalk will not be detrimental to aquifer recharge or the quantity or quality of groundwater;
8. The proposed boardwalk will not disturb coastal dunes or contiguous back dune areas;
9. The proposed boardwalk will maintain or improve ecological and aesthetic values;
10. The boardwalk will maintain an adequate buffer area between the wetland and adjacent land uses;
11. The boardwalk will be accomplished in conformance with the erosion prevention provisions of Environmental Quality Handbook Erosion and Sediment Control, published by the Maine Soil and Water Conservation Commission dated March, 1986, or subsequent revisions thereof;
12. The boardwalk will be accomplished without discharging wastewater from buildings or from other construction into Wastewater Treatment Facilities in violation of Section 15-1-4 of the Sewage Ordinance; and
13. The proposed boardwalk is not located in a floodplain.
14. The application substantially complies with Sec. 19-8-3, Resource Protection Regulations.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of the Town of Cape Elizabeth for a Resource Protection Permit to construct up to 250' linear feet of 4' wide boardwalk on an existing trail located on the Cottage Brook open space be approved, subject to the following conditions:

1. That, prior to construction of the boardwalk, the Town obtain any necessary permits from the Department of Environmental Protection and the Army Corps of Engineers.

Mr. Chalot seconded the motion and it passed, 6-0.

Mr. Curry called for public comment on items not on the agenda, and no one spoke so the public comment was closed.

The Board voted unanimously to adjourn at 7:45.

Respectfully submitted,

Hiroshi Dolliver
Minutes Secretary