

MEMORANDUM

TO: Cape Elizabeth Planning Board
FROM: Maureen O'Meara, Town Planner
DATE: November 21, 2017
SUBJECT: 75 Ocean House Rd Private Road

Introduction

KTO LLC (Kevin O'Donovan) is requesting review to construct a Private Road, to be named Edgecomb Way, to provide access to a new lot located at the rear of 75 Ocean House Rd, which will also need a Private Accessway Permit. The application was deemed complete and a public hearing has been scheduled for this evening. The plan will be reviewed under Sec. 16-2-3 of the Subdivision Ordinance and Sec. 19-7-9, Private Accessways.

Procedure

- The applicant will summarize any changes made to the plans since the last meeting.
- The Board should then 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.

Discussion

In response to a request from the town, the applicant agreed to upgrade the portion of Edgecomb Way originally proposed as a private accessway to private road. This was done to provide a road frontage benefit to a potential future lot located north of the Edgecomb Way. Private Accessways create an approved access when there is insufficient frontage for a lot and do not require a minimum length of frontage on the accessway for the lot. Private roads create frontage that can be used to meet the minimum lot frontage requirement. When the applicant agreed to switch from an accessway to a road, it triggered a minimum road frontage requirement, which the new lot does not meet. To cure this deficiency, the lot should also be granted a Private Accessway over Edgecomb Rd.

Subdivision Review (Sec. 16-3-1)

- (a) Pollution

The proposed road construction has been designed in compliance with best practices to avoid water pollution.

(b) Sufficient Potable Water

Public water will be provided to the proposed lot and will not be located in the road right-of-way. The applicant should create easement rights for lot 2 over lot 1 for the proposed public water connection.

(e) Erosion

The plan includes an erosion control plan including placement of silt fencing and a sediment barrier installed down gradient of disturbed areas.

(d) Traffic

1. Road congestion and safety. Edgecomb Way connects to Ocean House Rd, which has the capacity to accept traffic from an additional lot.
2. Comprehensive Plan. The proposed road provides access to undeveloped land and the Comprehensive Plan supports infill development in existing neighborhoods.
3. Connectivity. Adjoining property has been developed with access roads and no additional access is needed.
4. Safety. The very low volumes anticipated on the proposed road are not expected to create a safety hazard.
5. Through traffic. Edgecomb Way is proposed as a dead-end.
6. Topography. There is little opportunity to vary the location of the road because it is proposed within an existing right-of-way. Both the existing topography and road alignment are compatible to avoid cuts and fills.
7. Block Length. Not applicable.
8. Lot Access. Edgecomb Way has been upgraded from a Private Accessway to a Private Road to facilitate access for a potential lot located north of the road.
9. Sidewalks/pedestrian connections. No sidewalks are proposed or required on a private road.

10. Road Name. The name Edgecomb Way has been approved by the Police Chief.

11. Road Construction Standards. The road is located within an existing 35' wide right of way, which will require a waiver of the 50' wide right-of-way requirement. The gravel road base and pavement meets the standards for a private road.

(e) Sewage Disposal.

The road will include a force main to connect the new lot to public sewer and the size of the main has been increased to accommodate a potential future lot. The Town Engineer is recommending that additional materials information be provided.

(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. The road has been designed to preserve an existing beech tree located at the intersection with Ocean House Rd.

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

(h) Conformity with local ordinances

1. Comprehensive Plan. No portion of the application appears in direct conflict with the Comprehensive Plan.

2. Zoning Ordinance. The proposed lot exceeds the 20,000 sq. ft. lot requirement.

3. Multiplex Housing. Not applicable.

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

(i) Financial and Technical Capability

The applicant has provided a letter from Milk Street Capital recommending that there is financial capacity to complete the project.

(j) Surface Waters

Not applicable.

(k) Ground Water

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

(l) Flood Areas

The road is not located in the floodplain.

(m) Wetlands

No wetland alteration is proposed.

(n) Stormwater

The Town Engineer has reviewed the stormwater plan and supports this approach.

(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 lot will have access to sunlight.

(s) Buffering

Not applicable.

(t) Open Space Impact Fee

Not applicable.

(u) Utility Access

The proposed lot will have utility access via the proposed road, except for water which will be provided by a separate easement.

(v) Phasing

Not applicable.

Private Accessway Standards (Sec. 19-7-9(D)(4))

a. One dwelling unit

A single family home is proposed on lot 2.

b. Access

1. 30' right of way - Edgecomb Way exceeds the 30' wide right-of-way requirement.
2. Accessway - The gravel base and pavement exceed the minimum requirements for a private accessway. A turnaround is included. A road maintenance agreement has been submitted and reviewed by the town attorney, who has recommended revisions.
3. Sight Distance - The applicant has confirmed there is "excellent" site distance on Ocean House Rd.
4. One lot - One new lot is created as part of this approval.
5. Lesser standard - No reduction in standards is requested.

c. Sewage Disposal

Lot 2 will be served by public sewer via a force main located in Edgecomb Way.

d. Building envelope

The building envelope is delineated by a "do not disturb" line. Activities allowed outside the "do not disturb" line are limited to installation of a driveway, utilities and removal of dead and diseased branches and trees with the approval of the Code Enforcement Officer.

The Planning Board may want to consider an additional requirement that no building be constructed within 10' of the "do not disturb" line. It has been the town's experience that any vegetation within 10' of a building is removed during construction. The 10' setback requirement allows the Code Enforcement Officer to pre-emptively reinforce the "do not disturb" line by not issuing a building permit for a structure within 10'. The area can still be used for lawn.

Motion for the Board to Consider

Findings of Fact

1. KTO LLC (Kevin O'Donovan) is requesting approval of Edgecomb Way, a private road, and a Private Accessway Permit, to provide access to a new lot located at the rear of 75 Ocean House Rd which requires review under Sec. 16-2-3 of the Subdivision Ordinance.
2. Edgecomb Way (will/will not) result in undue water pollution. The subdivision (is/is not) located in the 100-year floodplain. Soils (will/will not) support the proposed uses. The slope of the land, proximity to streams, and state and local water resource rules and regulations (will/will not) be compromised by the project.
3. Edgecomb Way (will/will not) cause soil erosion, based on the erosion control plan provided.
4. Edgecomb Way (will/will not) cause unreasonable road congestion or unsafe vehicular and pedestrian traffic. It (provides/does not provide) for road network connectivity to Ocean House Rd and eliminating through traffic because it is a dead end. Edgecomb Road (is/is not) laid out to conform to existing topography as much as is feasible. The proposed lot 2 (is/is not) provided with vehicular access. Edgecomb Road (is/is not) designed to meet town standards, except that the existing road right-of-way is 35' wide.
5. Edgecomb Way (will/ will not) include a force main connection to public sewer.

6. Edgecomb Way (will/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.
7. Edgecomb Way (is/is not) compatible with applicable provisions of the Comprehensive Plan and town ordinances.
8. The applicant (has/has not) demonstrated adequate technical and financial capability to complete the project.
9. Edgecomb Way (will/will not) adversely impact surface water quality.
10. Edgecomb Way (will/will not) adversely impact the quality or quantity of ground water.
11. Edgecomb Way (is/is not) in compliance with the Town wetland regulations in the Zoning Ordinance.
12. The design of Edgecomb Way (will/will not) provide for adequate stormwater management.
13. Lot 2 (will/will not) be provided with access to utilities.
14. The applicant has substantially addressed the standards of the Subdivision Ordinance, Sec. 16-3-1.
15. The project (complies/does not comply) with the Private Accessway standards, Sec. 19-7-9).

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of KTO LLC (Kevin O'Donovan) for a Private Road, to be named Edgecomb Way, and a Private Accessway Permit, to provide access to a new lot located at the rear of 75 Ocean House Rd, be approved subject to the following conditions:

1. That the plans be revised to address the recommendations in the Town Engineer's letter dated November 15, 2017;
2. That there be no issuance of a building permit for a building within 10' of the do not disturb line on lot 2;

3. That a road maintenance agreement be submitted in a form acceptable to the town attorney, signed by the applicant and recorded in the Cumberland County Registry of Deeds.
4. That an easement be submitted in a form acceptable to the town attorney that conveys rights for lot 2 on lot 1 for the turnaround, driveway and water line;
5. That a note be added to the plan that there shall be no road construction until a performance guarantee has been provided to the town in accordance with Sec. 16-2-6 of the Subdivision Ordinance; and
3. That the plans be revised and submitted to the Town Planner for review and approval prior to recording the subdivision plat.