

MEMORANDUM

TO: Cape Elizabeth Planning Board
FROM: Maureen O'Meara, Town Planner
DATE: December 19, 2017
SUBJECT: Weare Private Accessway Permit

Introduction

Peter Weare is requesting a Private Accessway Permit to create access for a lot located at the rear of 69 Beach Bluff Terrace. The application will be reviewed for compliance with Sec. 19-7-9, Private Accessways.

Procedure

- The Board may want to begin by having the applicant briefly summarize any changes made to the plans.
- The Board may then want to open the public hearing scheduled for this evening.
- At the close of the public hearing, the Board may begin discussion of the application.
- At the end of discussion, the Board has the option to table, deny, approve or approve with conditions.

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

a. One dwelling unit

A single family home is proposed.

b. Access

1. 30' right of way - The applicant is proposing a 30' right-of-way across 69 Beach Bluff Terrace to access the rear lot.
2. Accessway - The driveway is proposed with an 18' wide gravel subbase and 18' wide gravel surface.

Two turnaround designs are under consideration. The applicant has provided a turnaround on the new lot. The Town Engineer has noted that the applicant has not provided evidence that the turnaround will be sufficient for a WB40 class vehicle. In addition,

the turnaround is located on top of the subsurface wastewater disposal system. Build up needed for subsurface wastewater system and then additional cover to support a vehicle like the ladder truck results in a 2'-3' increase in grade, compounding the functionality of the turnaround.

The turnaround option preferred and under discussion by the town is for a turnaround to be established at the end of Beach Bluff Terrace. This turnaround would be close enough to the new lot to satisfy the Fire Chief's needs and also provide turnaround capabilities for all of Beach Bluff Terrace, and for public works vehicles. The land at the end of Beach Bluff Terrace is currently in negotiation for purchase by the Cape Elizabeth Land Trust (CELT) from the Robinson family. CELT has requested a contribution toward the purchase price from the Town of Cape Elizabeth. The Town has informally approached both the land owner and CELT about creating a turnaround, but no formal commitment has been made. If this turnaround is created, an easement will be needed from the applicant along the frontage of the lot located at 69 Beach Bluff Terrace. This area is loosely represented on the applicant's plans and the applicant supports this approach. It will be several months or longer before a formal response to the town's request for a turnaround from CELT/Robinson will be provided.

The applicant has provided a draft road maintenance agreement. This should be signed and recorded. An easement for the town turnaround should also be considered on Parcel A (69 Beach Bluff Terrace).

3. Sight Distance - The proposed accessway is at the end of Beach Bluff Terrace, so a measurement of sight distance may not be needed.
 4. One lot - One new lot is created as part of this approval. A deed transferring the land formerly in the Thompson Rd paper street from Parcel A to Parcel B should also be executed.
 5. Lesser standard - No reduction in standards is requested.
- c. Sewage Disposal

The applicant has submitted an HHE-200 form depicting a septic system design which is under review by the Code Enforcement Officer. There

remain concerns that the proposed septic system design may be damaged by the weight of a ladder truck.

d. Building envelope

The plans suggest the location of a building envelope, set back from the edge of wetland, and boulders marking the edge of the building envelope adjacent to the wetland. The plans should be revised to clearly mark the boundary of the building envelope and label it. The applicant should consider relocating the boulders to the edge of the wetland as their recent use has been to mark in the field the edge of the wetlands boundary so that wetland alterations are avoided. A note prohibiting structures outside the building envelope, with perhaps an exception for sheds not exceeding 100 sq. ft. in size, should be added to the plans.

Motions for the Board to Consider

A. Motion to Table

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Peter Weare for a Private Accessway Permit to create access for a lot located at the rear of 69 Beach Bluff Terrace be tabled to the regular January 16, 2018 meeting of the Planning Board.

B. Motion for Approval

Findings of Fact

1. Peter Weare is requesting a Private Accessway Permit to create access for a lot located at the rear of 69 Beach Bluff Terrace, which requires review for compliance with Sec. 19-7-9, Private Accessways.
2. The Planning Board conducted a site visit on Wednesday, November 29, 2017 at 7:30 p.m attended by a majority of the Planning Board and representatives of the applicant.
3. The town requires a turnaround for emergency vehicles and establishing a turnaround at the end of Beach Bluff Terrace may be a better option for public safety needs.
4. Parcel B will include the full 25' width of the Thompson Rd paper street vacated by the Town.

5. Public safety and protection of property is enhanced when wetlands are not altered and their absorptive capacity is preserved by maintaining their natural vegetation.
6. Clear delineation and labeling of a building envelope is needed for future construction and protection of wetlands.
7. The application substantially complies with Sec. 19-7-9, Private Accessways.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Peter Weare for a Private Accessway Permit to create access for a lot located at the rear of 69 Beach Bluff Terrace be approved, subject to the following conditions:

1. That the plans be revised to address the comments of the Town Engineer in his letter dated December 13, 2017;
2. That the boundary of the building envelope be clearly marked and labeled.
3. That a road maintenance agreement be provided in a form acceptable to the Town attorney, signed by the applicant and recorded in the Cumberland County Registry of Deeds;
4. That a transfer deed conveying from Parcel A to Parcel B the entire width of the vacated Thompson Rd be provided in a form acceptable to the Town Attorney, signed by the applicant and recorded in the Cumberland County Registry of Deeds;
5. That rights of access for Parcel B over Parcel A be created in a form acceptable to the Town Attorney, signed by the applicant and recorded in the Cumberland County Registry of Deeds;
6. That the applicant may eliminate the proposed turnaround located on Parcel B if the Town obtains permission to create a turnaround at the end of Beach Bluff Terrace. If the applicant elects to eliminate the Parcel B turnaround, a turnaround easement of sufficient size to accommodate a WB40 class vehicle shall be provided to the Town by the owner of Parcel A.

7. That no building permit for Parcel B be issued until the subsurface wastewater system design has been approved by the Code Enforcement Officer.
8. That there be no issuance of a building permit, nor alteration of the site until the plans have been revised to satisfy the above conditions have been submitted to the town planner and the plan has been signed by the Planning Board and recorded in the Cumberland County Registry of Deeds.