

MEMORANDUM

TO: Cape Elizabeth Planning Board
FROM: Maureen O'Meara, Town Planner
DATE: September 18, 2018
SUBJECT: Old Mill Rd Private Road Amendments

Introduction

Malcolm Poole, Manager of the Poole family property, is proposing amendments to the previously approved Old Mill Rd Private Road. The amendments include formalizing the septic system location for lot 3, creating frontage for lot 2 and creating a public access easement to the ocean for the benefit of the lots. The plan will be reviewed under Sec. 16-2-3 of the Subdivision Ordinance.

Procedure

- The Planning Board should have applicant introduce the project.
- The Board should then open the meeting to public comment regarding completeness.
- The Board should 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 further discussion of the application should occur. If the application is deemed complete, review may begin.
- The Board should decide if a site walk will be scheduled.
- The Board should also open the public hearing, which has been scheduled for this evening.
- 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 completeness checklist and the comments of the Town Engineer are attached. The private road specifications are in the Subdivision Ordinance, so only the applicable items from Minor Subdivision Review are used to determine completeness. Below is a summary of possible incomplete items:

No items appear incomplete. The applicant has requested a waiver from providing an erosion control plan or stormwater information because no disturbance of soil is proposed as part of this approval.

Subdivision Review (Sec. 16-3-1)

(a) Pollution

No disturbance of soil is proposed as part of this application.

(b) Sufficient Potable Water

The prior approval included a public water line, which is not changed by this application.

(e) Erosion

No disturbance of soil is proposed.

(d) Traffic

1. Road congestion and safety. No change to the road is proposed.
2. Comprehensive Plan. The proposed road provides access to existing and proposed lots.
3. Connectivity. No change to connectivity is proposed. Old Mill Rd has an existing connection to Boat Cove Rd.
4. Safety. The very low volumes anticipated on the proposed road are not expected to create a safety hazard.
5. Through traffic. This is a private road with limited connectivity, so the potential for through traffic is minimal.
6. Topography. No disturbance of soil is proposed.
7. Block Length. Not applicable.
8. Lot Access. Old Mill Rd was originally laid out as a logical access for the family property as new lots are created. The road layout is not changing, and new lots are establishing frontage on the private road when the right-of-way for the road is extended.
9. Sidewalks/pedestrian connections. No sidewalks are proposed or required on a private road.

10. Road Name. This road name is the same name that is used to a road located immediately south. Town staff are suggesting that two roads with the same name is not consistent with the Addressing Ordinance. Staff are suggesting that the Poole family work with the Addressing Officer to select a new, distinct name for this road.

11. Road Construction Standards. No new road construction is proposed.

(e) Sewage Disposal.

Because the Planning Board's review is limited to the private road, this is not applicable.

(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 construction is proposed.

4. Farmland. No farmland alteration is proposed.

(h) Conformity with local ordinances

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

2. Zoning Ordinance. Following the original private road approval granted by the Planning Board in 2005, the Poole family continued to do estate planning. Additional lots were created that did not trigger subdivision review. The submitted plan includes these changes. In two cases, the plan as currently drawn appears to create 2 illegal lots. The "septic lot" is less than 80,000 sq. ft. and cannot be legally created as a "lot." The Zoning Ordinance does allow a lot to be bisected by a road as long as the minimum required lot size is on at least one side of the road. The purpose of the "septic lot" is to convey the area of the septic system currently

serving lot 3 to lot 3. To comply with the Zoning Ordinance, the "septic lot" should not be labeled as a lot, but rather a portion of lot 3.

A similar situation exists with the "pond" lot. The pond lot was not a separate lot in 2005. At 20,722 sq. ft., it is not a legal lot in a zone where the minimum lot size is 80,000 sq. ft. It is currently owned by the owner of lot 1 and lot 7. Staff have recommended that the pond lot and lot 1 be merged. The property owner prefers that the pond lot be shown as part of lot 7, which is also in compliance with the bisected lot provision.

The tennis court on lot 5 is encroaching on the front yard setback. This was not raised when the road right-of-way was created in 2005, therefore staff are not recommending any changes to an existing situation.

3. Multiplex Housing. Not applicable.
4. Addressing Ordinance. Town staff are recommending that a new name be selected for this portion of Old Mill Rd in order to be in compliance with the Addressing Ordinance.

(i) Financial and Technical Capability

The applicant has provided documentation of technical and financial capability.

(j) Surface Waters

Not applicable.

(k) Ground Water

No construction is proposed.

(l) Flood Areas

No construction in a floodplain is proposed. A floodplain map showing the entire area is attached.

(m) Wetlands

No wetland alteration is proposed.

(n) Stormwater

No construction 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 review is limited to the private road.

- (s) Buffering

The review is limited to the private road.

- (t) Open Space Impact Fee

Not applicable.

- (u) Utility Access

No utilities are proposed as part of the private road amendments.

- (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 Malcolm Poole, manager of the Poole family property, for amendments to the previously approved Old Mill Rd Private Rd be deemed (complete/incomplete). Waivers have been granted from submitting

an Erosion Control Plan and Stormwater information because no disturbance of soil is proposed as part of this application.

B. Motion for Approval

Findings of Fact

1. Malcolm Poole, manager of the Poole family property, is requesting amendments to the previously approved Old Mill Rd Private Road which include formalizing the septic system location for lot 3, creating frontage for lot 2 and creating a public access easement to the ocean for the benefit of the lots, and these amendments require review under Sec. 16-2-3 of the Subdivision Ordinance.
2. The private road amendments (will/will not) result in undue water pollution. No construction is proposed in the 100-year floodplain. No disturbance of soil is proposed. The slope of the land, proximity to streams, and state and local water resource rules and regulations (will/will not) be compromised by the private road amendments.
3. The private road amendments make no changes to potable water supply.
4. The private road amendments (will/will not) cause soil erosion, because no soil disturbance is proposed.
5. The private road amendments (will/will not) cause unreasonable road congestion or unsafe vehicular and pedestrian traffic. The private road (provides/does not provide) for road network connectivity while discouraging through traffic. The private road (is/is not) laid out to conform to existing topography as much as is feasible. All lots (are/are not) provided with vehicular access. No construction changes to the private road are proposed.
6. The private road amendments include an easement to connect Lot 3 to an existing septic system.
7. The private road amendments will not alter solid waste disposal.
8. The private road amendments (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.
9. The private road amendments, with conditions proposed below, (are/are not) compatible with applicable provisions of the Comprehensive Plan and town ordinances.

10. The applicant (has/has not) demonstrated adequate technical and financial capability to complete the project.
11. The private road amendments (will/will not) adversely impact surface water quality.
12. The private road amendments (will/will not) adversely impact the quality or quantity of ground water.
13. The private road amendments do not include alteration to the floodplain.
14. The private road amendments do not include alteration to wetlands.
15. The private road amendments do not include construction and will therefore not impact stormwater.
16. The private road amendments are not located within the watershed of Great Pond.
17. The private road amendments (are/are not) located in more than one municipality.
18. The private road amendments are not located on land where liquidation harvesting was conducted.
19. The private road amendments (do/do not) alter existing access to direct sunlight.
20. The private road amendments (do/do not) alter existing vegetative buffers throughout and around the subdivision and screening.
21. The private road amendments do not create a lot which might be subject to the open space impact fee.
22. The private road amendments do not include construction and consequently do not include access to utilities.
23. The private road amendments do not include a phasing plan.
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 Malcolm Poole, manager of the Poole family property, for amendments to the previously approved Old Mill Rd Private Rd be approved, subject to the following conditions:

1. That this portion of Old Mill Rd (north branch of the existing Old Mill Rd) be renamed in accordance with the Addressing Ordinance;
2. That the plan be revised to represent the "septic lot" as a portion of lot 3, rather than a separate lot;
3. That the plan be revised to represent the "pond" lot as a portion of lot 1 or 7 (choose 1) rather than a separate lot;
4. That a road maintenance agreement in a form acceptable to the town attorney be signed and recorded with this plan.
5. That the plans be revised and submitted to the town planner for compliance with the above conditions before the plan is signed by the Planning Board and recorded in the Cumberland County Registry of Deeds.