

MEMORANDUM

TO: Cape Elizabeth Planning Board
FROM: Maureen O'Meara, Town Planner
DATE: April 22, 2019
SUBJECT: 51 Ocean House Rd Resource Protection Permit

Introduction

Jay Cox and Bill Royall, doing business as Maxwell Cove LLC, are requesting a Private Road approval and Private Accessway Permit for a shared access for an existing lot located at 51 Ocean House Rd and a new lot to be located at the rear of 51 Ocean House Rd. They are also requesting a Resource Protection Permit to provide a gravity sewer connection to the rear lot. The application will be reviewed for compliance with Sec. 19-7 Private Road and Private Accessways, and Sec. 19-8-3, Resource Protection Permit.

Procedure

- The Planning Board should begin by having the application summarize the changes made to the plan since the last meeting.
- The Board should then open the public hearing scheduled for this evening.
- After closing the public hearing, the board may begin discussion.
- At the end of discussion, the Board has the option to approve, approve with conditions, table or deny the application.

Private Road, Subdivision Review (Sec. 16-3-1)

The first 75' of Caydens Way as it extends from Ocean House Rd is proposed as a private road, which requires review under applicable standards in the Subdivision Ordinance.

(a) Pollution

The proposed "Caydens Way" is not expected to general undue water pollution. The construction is not located in a floodplain and no proposal for subsurface waste disposal is submitted for approval in this application. The slope of the land has been incorporated into the applicant's stormwater management plan and no direct discharge to a stream is proposed. Applicable state and local health and water resource regulations are addressed in more detail below.

(b) Sufficient Potable Water

The Caydens Way private right-of-way will include a 1" water line, installed off the north edge.

(e) Erosion

The plan includes an erosion control plan to install temporary measures to prevent sediment leaving the site.

(d) Traffic

1. Road congestion and safety. Caydens Way will serve 2 home lots. The traffic volume turning from Caydens Way onto Ocean House Rd will not exceed the capacity of Ocean House Rd.
2. Comprehensive Plan. Caydens Way provides access to land in an existing neighborhood and the Comprehensive Plan supports infill development in existing neighborhoods.
3. Connectivity. Caydens Way will provide shared access for 2 lots to Ocean House Rd.
4. Safety. The very low volumes anticipated on Caydens Way are not expected to create a safety hazard.
5. Through traffic. Caydens Way is a dead end.
6. Topography. Caydens Way extends from Ocean House Rd along the southern boundary of the property, follows existing topography, and will not require significant cuts and fills for construction.
7. Block Length. Not applicable.
8. Lot Access. No additional lot access is expected.
9. Sidewalks/pedestrian connections. No sidewalks are proposed or required on a private road.
10. Road Name. The road name Caydens Way has been approved by the Police Chief.

11. Road Construction Standards. The road design includes some waivers from the local road standards. The applicant is requesting that the right-of-way width be reduced from 50' to 35', primarily due to the private road providing access for 2 homes. Full depth construction with an 18" deep gravel base is consistent with town standards. Width construction has been modified from 22' wide to 18' wide.

(e) Sewage Disposal.

Both lots will be served by public sewer. Lot 1 will reuse an existing sewer line and lot 2 will either connect to public sewer via Ocean House Rd with a force main and pump or connect to the sewer line at the rear of the property with a gravity feed.

(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 area of both lots is predominately lawn of the former home.
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. A new lot is proposed and will exceed the minimum lot size of 20,000 sq. ft. in the RC district. Lot 2 will obtain necessary road frontage from the Private Accessway permit included in this application.
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 the Town Manager that there are financial resources to complete the project. The applicants have completed similar developments in the town.
- (j) Surface Waters
- Not applicable.
- (k) Ground Water
- The development is not proposed within a significant aquifer recharge area.
- (l) Flood Areas
- The subdivision is not located in the floodplain.
- (m) Wetlands
- Up to 500 sq. ft. of RP2 wetland, located at the rear of lot 2, may be altered to provide a gravity sewer connection option. A Resource Protection Permit has been requested as part of this application.
- (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

Both lots have potential for construction that will maximize solar gain.

(s) Buffering

The applicant will be installing 7 boulders to mark the 10' setback from the RP2 wetland located at the rear of lot 2. Ten serbian spruce are also proposed on the side lines to provide buffering for abutters.

(t) Open Space Impact Fee

Not applicable.

(u) Utility Access

The Portland Water District has provided an ability to serve letter. All the utilities serving the house recently removed from the lot remain.

(v) Phasing

Not applicable.

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

More than 75' from Ocean House Rd, Caydens Way (135') will provide access to only one lot and is therefore proposed as a Private Accessway.

a. One dwelling unit

A single family home is proposed to access the private accessway portion of Caydens Way.

b. Access

1. 30' right of way - The proposed right of way width is 30'.
2. Accessway - The driveway is proposed with an 18' wide gravel subbase and a 14' wide traveled way flanked with 2' wide grassed shoulders. Stormwater will sheet flow to the end of Caydens Way,

where it should dissipate into a vegetated area. A culvert will be installed under the turnaround and an extended (2') riprap apron should protect against erosion (recommended by the Town Engineer).

3. Sight Distance - Sight distance on Ocean House Rd exceeds 500' in both directions.
 4. One lot - One new lot is created as part of this approval.
 5. Lesser standard - No reduction in Private Accessway standards is requested.
- c. Sewage Disposal

Both lots will be connected to the public sewer system.

- d. Building envelope

The plans include a building envelope and a note prohibiting construction of structures outside the building envelope.

Resource Protection Permit Standards (Sec.19-8-3(B))

Lot 2 abuts an existing sewer line and a gravity sewer connection is possible if temporary alteration of the wetland is permitted to install the sewer line.

1. Flow of surface/subsurface waters

The application is requesting to temporarily alter up to 500 sq. ft. of wetland to install a sewer line connection. The disturbed area will be restored to original grade and revegetated, so no permanent disturbance in the flow of surface waters is expected. The Town Engineer is recommending that dewatering notes be added to the plans.

2. Impound surface waters

Original grade will be restored so no impoundment of surface waters should occur.

3. Increase surface waters

- The sewer line will be installed underground so there will be no increase in impervious surface that might also increase surface water volume.
4. Damage to spawning grounds
No spawning grounds have been identified in the wetland mapping.
 5. Support of structures
No structures are proposed in the wetland.
 6. Aquifer recharge/groundwater
The wetland alteration should be restored to preconstruction conditions, so no changes to recharge is expected.
 7. Coastal dunes
No work in coastal dunes or back dune areas is proposed.
 8. Ecological/aesthetic values
The wetland alteration should be restored to preconstruction conditions.
 9. Wetland Buffer
A ten foot wide buffer from the RP2 wetland is proposed to be marked with spaced boulders.
 10. Erosion Control
Erosion control notes are included in the plan to stabilize the ground and minimize sediment discharge.
 11. Wastewater discharge
Wastewater discharge will be via a sewer line connection, so no discharge into the wetland should occur.
 12. Floodplain Management
No floodplains are located in the project area.

Motion for the Board to Consider

Findings of Fact

1. Jay Cox and Bill Royall, doing business as Maxwell Cove LLC, are requesting Private Road and Private Accessway Permit approval for Caydens Way to provide access for 2 lots located at 51 Ocean House Rd and a new lot to be located at the rear of 51 Ocean House Rd, as well as a Resource Protection Permit for up to 500 sq. ft. of temporary alteration to an RP2 wetland to provide a gravity sewer connection to lot 2, which requires review under Sec. 19-7-9 Private Road and Private Accessways, and Sec. 19-8-3, Resource Protection Permit.
2. Caydens Way (will/will not) result in undue water pollution. The private road (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 construction of Caydens Way.
3. Caydens Way (will/will not) cause soil erosion, based on the erosion control plan provided.
4. Caydens Way (will/will not) cause unreasonable road congestion or unsafe vehicular and pedestrian traffic. Caydens Way (provides/does not provide) for road network connectivity while discouraging through traffic. Caydens Way (is/is not) laid out to conform to existing topography as much as is feasible. Caydens Way (is/is not) designed to meet town standards, which waivers granted for a right-of-way reduction from 50' to 35' and a traveled way reduction from 22' to 14' with 2' wide shoulders. The waivers are granted because the private road will serve no more than 2 lots and the waiver will allow the scale of the development to be more compatible with the adjacent neighborhood.
5. Caydens 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.
6. Caydens Way (is/is not) compatible with applicable provisions of the Comprehensive Plan and town ordinances.
7. The applicant (has/has not) demonstrated adequate technical and financial capability to complete the project.

8. Caydens Way (will/will not) adversely impact surface water quality.
9. Caydens Way (will/will not) adversely impact the quality or quantity of ground water.
10. Caydens Way is not located in a floodplain.
11. Caydens Way (is/is not) in compliance with the Town wetland regulations in the Zoning Ordinance.
12. The design of Caydens Way (will/will not) provide for adequate stormwater management.
13. Caydens Way is not located within the watershed of Great Pond, and therefore will have no impact on phosphorus levels.
14. Caydens Way is not located on land where liquidation harvesting was conducted.
15. Caydens Way (will/will not) include access to utilities.
16. The Caydens Way Private Accessway (shall/ shall not) provide access to more than one dwelling unit and related accessory buildings and uses.
17. The Caydens Way private accessway (shall/ shall not) be located within a dedicated right-of-way having a width of 30'.
18. The sub-base (shall/shall not) be constructed with gravel meeting MDOT Spec. 703.06 Type D with a depth of at least fifteen (15) inches, and having a width of at least eighteen (18) feet.
19. The traveled way (shall/shall not) be constructed with a minimum of three (3) inches of crushed gravel having a width of at least fourteen (14) feet, with the remaining width of gravel based loamed and seeded.
20. Within ten (10) feet of the edge of Ocean House Rd, the private road portion of Caydens Way (shall/ shall not) be paved with 3 inches of asphalt paving. The maximum grade within the first fifty (50) feet of the edge of street paving shall not exceed five percent (5%). Pavement radius at the intersection with the street shall be twenty (20) feet.
21. Gutter drainage along Caydens Way (shall/ shall not) be allowed to sheet across the face of the intersection with Ocean House Rd and the proposed

- design (will/ will not) keep drainage from the private accessway from running into the public street.
22. A turnaround (is/is not) proposed to meet the requirements of the Fire Chief.
 23. Caydens Way (is/is not) located so that sight distance conforms to the requirements of the Subdivision Ordinance.
 24. The Caydens Way private accessway shall serve only one lot.
 25. The Planning Board has not reduced the Private Accessway requirements of Sec.19-7-9 (D)(4) to a lesser standard.
 26. Adequate disposal of sewage (shall/shall not) be provided as evidenced by connection to the public sewerage system.
 27. A building envelope (is/is not) depicted wherein the house and accessory buildings will be located on the lot demonstrating conformance with the setback requirements of the district in which it is located and any natural constraints and that the house site will be buffered from abutting residential properties.
 28. The temporary wetland alteration (will/will not) materially obstruct the flow of surface or subsurface waters across or from the alteration area;
 29. The temporary wetland alteration (will/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 and should include temporary dewatering measures during construction;
 30. The temporary wetland alteration (will/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;
 31. The temporary wetland alteration (will/ will not) result in significant damage to spawning grounds or habitat for aquatic life, birds or other wildlife;
 32. The temporary wetland alteration (will/will not) pose problems related to the support of structures;

33. The temporary wetland alteration (will/ will not) be detrimental to aquifer recharge or the quantity or quality of groundwater;
34. The temporary wetland alteration (will/ will not) disturb coastal dunes or contiguous back dune areas;
35. The temporary wetland alteration (will/ will not) maintain or improve ecological and aesthetic values;
36. The temporary wetland alteration (will/ will not) restored with an adequate buffer area between the wetland and adjacent land uses;
37. The temporary wetland alteration (will/ will not) 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;
38. The temporary wetland alteration (will/ will not) 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
39. The application substantially complies with Sec. 19-7-9, Private roads and Private Accessways, and 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 Jay Cox and Bill Royall, doing business as Maxwell Cove LLC, for a Private Road and Private Accessway Permit approval for Caydens Way to provide access for 2 lots located at 51 Ocean House Rd and a new lot to be located at the rear of 51 Ocean House Rd, as well as a Resource Protection Permit for up to 500 sq. ft. of temporary alteration to an RP2 wetland to provide a gravity sewer connection to lot 2, be approved subject to the following conditions:

1. That the plans be revised to address the Town Engineer's comments in the letter dated April 10, 2019; and
2. That there be no alteration of the site nor issuance of a building permit until the plans have been revised to address the above condition, the plan

has been signed by the Planning Board and recorded in the Cumberland County Registry of Deeds, and a performance guarantee has been posted.