

MINUTES OF THE PLANNING BOARD  
TOWN OF CAPE ELIZABETH

March 19, 2019

7:00 p.m. Town Hall

Present: James Huebener, Acting Chair  
Daniel Bodenski  
Peter Curry

Andrew Gilbert  
Carol Anne Jordan  
Jonathan Sahrbeck

Absent: Josef Chalot

Also present was Maureen O'Meara, Town Planner.

CALL TO ORDER

Mr. Huebener called the meeting to order and asked for the approval of the minutes of March 5, 2019 special meeting. The minutes were approved as presented, 6-0.

He thanked Ms. Jordan for her service as Chair for the past two years.

NEW BUSINESS

**51 Ocean House Rd Private Rd/Accessway** - Jay Cox, dba Maxwell Cove LLC, is proposing a private road and private accessway to create lot frontage for a new lot to be located at the rear of 51 Ocean House Rd (U28-9), Sec. 19-7-9 Private Road and Private Accessway completeness.

Jay Cox of Sawyer Road and Bill Royall own Maxwell Cove, which owns this lot. Mr. Cox also introduced Dale Brewer, Licensed Surveyor and soil scientist of Statewide Surveys and Peter Biegel of Land Design Solutions, a Licensed Surveyor.

The property is 1.1 acres in the RC District. It had a single family home which burned last year. The garage still stands. The utilities are in place. They will move the power and cable underground. He showed the survey and said the property slopes and is mostly clear with lawn. There are single family homes surrounding the property. There is a small RP-2 wetland at the back of the lot and they propose no alteration of that.

Mr. Cox then showed photos of the property and the proposed drive. He also showed the site plan and the proposal to split the lot into two 20,000 sq. ft. lots. They propose a Private Road for the first 75 ft. and a Private Accessway for the rest of the way. The right of way for the Private Road will be 35 ft. versus 50 ft. The travelled way is proposed to be 18 ft. versus 22 ft. in the

ordinance. The rationale is the extremely low level of traffic expected. Those reductions are subject to waiver requests. The Private Accessway meets the standards of the ordinance. They propose a hammerhead turnaround to meet the Town standards. They will plant Serbian Spruce to block possible headlights.

They have written to all the abutters and urged them to contact us with suggestions. He said they will work hard to make the neighbors happy.

The driveway is designed to direct the flow of water onto the property. The utilities for the back lot are proposed to be underground within the driveway. They will put a buffer around the RP-2 wetland, and place stones so it is a clear boundary.

Mr. Cox addressed the items in the memo dated March 19, 2019 and the letter from the Town Engineer dated March 11, 2019. They will make the suggested changes in their next submission.

He said he has asked the neighbor, Mrs. Rosendo, what she wants for buffering. Since she has not made a decision yet, he will wait for her direction.

Mr. Huebener opened the public comment period.

Matthew Moretti of 156 Spurwink Avenue said he did not get a letter (from the developer).

No one else came forward, so the public comment period was closed.

There were no questions or comments from the Board.

Mr. Sahrbeck made the following motion:

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 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 be deemed complete.

Ms. Jordan seconded and the motion passed, 6-0.

A site walk was scheduled for 6:00 p.m. March 26, 2019.

Ms. O'Meara said her record shows that 156 Spurwink Avenue did get the notice of this meeting.

Ms. Jordan noted that this was one of the most thorough initial applications she has seen.

Mr. Sahrbeck made the following motion:

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 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 be tabled to the regular April 22, 2019 meeting of the Planning Board, at which time a public hearing will be held.

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

**69 Beach Bluff Terrace Private Accessway** - Peter Weare is proposing reapproval of a private accessway to create lot frontage for a new lot to be located at the rear of 69 Beach Bluff Terrace (U10-37), Sec. 19-7-9 Private Accessway completeness and public hearing.

Dustin Roma, of D.M. Roma consulting Engineers presented the project. He said the project was submitted and approved by the Planning Board last year. There were a number of conditions on the project. They have cleaned up a lot of those conditions now. He apologized for the omission of the documents from the prior submission, but said that the engineer had access to those documents.

He showed the plan and noted that they will place stones to delineate the wetlands. The property is served by public water.

Jim Logan said they had obtained the permit from the DEP. The subsurface waste water permit does say the system can be placed under the turnaround.

Mr. Huebener opened the public comment period. No one came to speak, so the public comment period was closed.

Mr. Gilbert said he was not on the Board when the prior approval was granted, and does not have those documents, so he cannot deem it complete.

Mr. Bodenski said he also was not present at that time.

Mr. Sahrbeck said he was on the Board at the time of that approval, but he can see that it is important for the two members to have access to those documents, so he hesitates to call it complete.

Mr. Roma said there was not much left out of this submission.

Jim Logan said the first approval was very thorough and he felt the Board would rely on that.

Ms. O'Meara showed how much was left out of this submission and that it was bigger than what they did submit. She said the missing documents include the deed showing ownership of the property. The Board is in a vulnerable position if they approve the project without all the necessary information.

Mr. Sahrbeck made the following motion:

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 for a new lot located at the rear of 69 Beach Bluff Terrace be deemed incomplete.

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

**Portland Water District Ultraviolet disinfection upgrade** - The Portland Water District is proposing site plan review of ultraviolet disinfection upgrades for the water treatment plant located at 488 Spurwink Ave (R5-10A), Sec. 19-9 Site Plan completeness and public hearing.

Paul Rodriguez, senior project engineer with Portland Water District presented the project. He showed photos of the site. He said UV is a more efficient way to disinfect the wastewater. It will involve a small, 615 sq. ft. channel. The equipment will go in there. The equipment is essentially a very powerful light bulb. There will be no noise, and will not be visible from the road.

He showed the plan and said there will be no impact on traffic or access. Stormwater is handled by the underdrain systems. They updated the lighting design by combining the lights into a mass, so the light at the edge of the property will be .1 lumens or less.

Mr. Huebener opened the public comment period. No one came forth, so the public comment period was closed.

The board had no comments on completeness.

Ms. Jordan 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 upgrades to the Wastewater Treatment Facility located at 488 Spurwink Ave to add

ultraviolet disinfection be deemed complete. Completeness shall include granting the following waiver:

1. A waiver from submitting traffic access and parking information due to the lack of anticipated new traffic generated or parking required for the proposed upgrade and the available capacity in Spurwink Ave.

Mr. Sahrbeck seconded the motion and it was approved, 6-0.

Mr. Huebener opened the public hearing on the merits of the project. No one came forward to speak, so the public hearing was closed.

Ms. Jordan said her concern was the lighting and they have addressed that by designing a new system.

Mr. Sahrbeck noted that they had spent quite a bit of time on this project in workshops. Also, the fact that this is all inside the fenced in area of the private property mitigates impacts.

Mr. Gilbert said this is a good thing to support because it is meant to improve public health.

Ms. Jordan asked about whether they need a waiver from the stormwater calculations. Ms. O'Meara said they don't need a waiver because they are adding less than 10,000 sq. ft.

Mr. Sahrbeck made the following motion:

#### Findings of Fact

1. The Portland Water District is proposing upgrades to the Wastewater Treatment Facility located at 488 Spurwink Ave to add ultraviolet disinfection that requires review under Sec. 19-9, Site Plan Regulations.
2. The project upgrades reflect the natural capabilities of the site to support development.
3. Access to the site will be on roads with adequate capacity to support the traffic generated by the development. Access into and within the site will be safe. Parking will be provided in accordance with Sec. 19-7-8, Off-Street Parking.

4. The project upgrades do not change any pedestrian ways within the development. The site is fenced for public safety and health reasons and does not allow public access.
5. The project upgrades do provide for adequate collection and discharge of stormwater.
6. The project upgrades will not cause soil erosion, based on the erosion plan submitted.
7. The project upgrades do not require an adequate quantity and quality of potable water because the function of the site is to treat municipal wastewater.
8. The project upgrades do not require adequate sewage disposal because the function of the site is to treat municipal wastewater.
9. The project upgrades will be provided with access to utilities.
10. The project will not locate, store or discharge materials in a manner harmful to surface or ground waters.
11. The project upgrades will provide for adequate disposal of solid wastes.
12. The project upgrades will not adversely affect the water quality or shoreline of any adjacent water body.
13. The applicant has demonstrated adequate technical and financial capability to complete the project.
14. The project upgrades will provide for adequate exterior lighting without excessive illumination, subject to supplementing lighting levels at the fence line information with lighting levels at the property line information.
15. The project upgrades will maintain a vegetative buffer throughout and around the site and screening as needed.
16. The project upgrades will not substantially increase noise levels and cause human discomfort.
17. The project upgrades will not include storage of exterior materials on the site.

18. The application substantially complies with Sec. 19-9, Site Plan 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 upgrades to the Wastewater Treatment Facility located at 488 Spurwink Ave to add ultraviolet disinfection 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 March 11, 2019;
2. That the applicant provide information that the lighting levels at the property line will not exceed 0.5 footcandles; and
3. That there be no alteration of the site nor issuance of a building permit until the plans and materials have been revised to address the above conditions and submitted to the town planner.

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

**Ocean House Common site plan** - Dr. David Jacobson is proposing a 7,144 sq. ft. mixed use office/2 apartment unit building and village green located at 326 Ocean House Rd and a Resource Protection Permit to fill 3,500 sq. ft. of RP2 wetland located at 326 Ocean House Rd (R2-4-6), Sec. 19-9 Site Plan completeness.

Bob Metcalf of Mitchell Associates showed the plan of the proposed dental building and village green. There is a protective easement at the rear of the property. The entire parcel is mostly wooded with predominantly white pine and spruce. There is a drop of about 8 ft. from Ocean House Road about 8 ft. into the site. There is an existing freshwater wetland in the center of the site. It has been evaluated and considered a non-significant wetland area. The wetland area is about 3565 sq. ft.

The public water and sewer are from Ocean House Road and there is overhead power. The sight distance for the access road on Ocean House Road exceeds 400 ft. in either direction. The access road will be 24 ft wide and will be paved to just past the parking area in this phase. The utilities will be all underground. The parking for the dental practice is the only parking being constructed at this time. He spoke about the lighting which will be along the roadway.

The building will be 2 story, with the dental practice on the first floor and residential on the second floor. The 20,000 square ft. village green has been laid out with plantings and landscaping. The sidewalks will be pervious pavers.

The entire area will be cleared of trees. He showed the detailed stormwater plans for the full build out. He also showed the floor plans and materials for the proposed building.

Mr. Huebener opened the public comment period. No one came forth to comment, so the public comment period was closed.

Mr. Curry was concerned about the parking for the proposed building. The parking is in the front and he thinks it may need to be in the rear of the building.

Ms. O'Meara said a village green development in the Town Center is not required to place parking in the rear, but the Planning Board may determine that is needed to meet the village green standard, which she read aloud. She said that in the discussions about a village green, they wanted the buildings to face the village green. If the parking is in the rear, the tendency would be to face the parking, not the village green. She referenced the survey of New England village greens, where it is common for there to be parking or a road separating the green from significant buildings.

Ms. Jordan asked Mr. Metcalf to address the completeness issues from Ms. O'Meara's memo.

Mr. Metcalf addressed each item and said they will comply with them.

Mr. Gilbert asked if they need to determine if the parking will be in the front or the back of the building. Ms. O'Meara said completeness only requires that the information is included, not whether changes will need to be made.

Mr. Sahrbeck asked about wet areas on the property.

Mr. Metcalf said it is a small isolated pocket which will drain.

Ms. Jordan made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of David S. Jacobson for Site Plan Review and a Resource Protection Permit for Ocean House Commons, a 7,144 sq. ft. mixed use office/2 apartment unit building and village green located at 326 Ocean House Rd and a Resource Protection Permit to fill 3,500 sq. ft. of RP2 wetland be deemed complete. Completeness shall include granting the following waiver:



1. A waiver from submitting a high intensity soil survey and instead submitting medium intensity soil survey information and wetland mapping by Stockwell Environmental Consulting, Inc.

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

Mr. Bodenski asked why a 25 year storm was chosen. Why not a 50 year or a 75 year?

Steve Bradstreet of Bradstreet-Ransom Consulting said they had chosen a longer period than a 1 or 2 year storm event.

Mr. Huebener said he does not think it would look good to have a detention basin there. He does not think it would give a welcoming impression as a village green. He'd like to see it built up and have regular catch basins.

Mr. Metcalf said the DEP does not allow sending untreated stormwater off site. You can't have more runoff than you had predevelopment. The DEP has never granted a waiver to allow such runoff. He talked about the question of sending the runoff into the Town system. They will have to consult with the DEP.

Ms. O'Meara said they are looking at the Town's capacity and possible improvements to the Town's system.

Mr. Curry said a portion of the water is coming off the Town parking lot.

Mr. Gilbert would propose that we embrace the wetland and create a pond like the one at Fort Williams.

Mr. Metcalf said it is not always wet. Most of the time it would be dry. Ms. O'Meara concurred that, when the concept plan was developed, the designer said to keep a pond on that spot would require pumping water into it.

A long discussion concerned the parking. If it is in front of the buildings, it is a bit ugly, but if you put the parking in back, it will look more closed in. Also, if the parking is in the back, it will look more like the village green is a private space for the buildings. The discussion also included possible restrictions on parking, hours, capacity etc.

The street trees, traffic and number of parking spaces were also discussed.

The Board scheduled a site walk for 6:00 p.m. on April 2, 2019.

Mr. Sahrbeck made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of David S. Jacobson for Site Plan Review and a Resource Protection Permit for Ocean House Commons, a 7,144 sq. ft. mixed use office/2 apartment unit building and village green located at 326 Ocean House Rd and a Resource Protection Permit to fill 3,500 sq. ft. of RP2 wetland be tabled to the regular April 22, 2019 meeting of the Planning Board, at which time a public hearing will be held.

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

The Board voted 6-0 to adjourn at 9:30 p.m.

Respectfully submitted,

Hiromi Dolliver  
Minutes Secretary