

MINUTES OF THE PLANNING BOARD
TOWN OF CAPE ELIZABETH

January 17, 2023

7:00pm

Town Hall

Present: Jonathan Sahrbeck, Chair Derek LaVallee
 Matthew Caton James Huebener
 Andrew Gilbert, Vice Chair

Absent: Daniel Bodenski, Alton Palmer

Also present was Maureen O'Meara, Town Planner.

CALL TO ORDER

James Huebener called the meeting to order at 7pm. The first order of business was to elect a new Chair of the Planning Board. Derek LaVallee nominated Jonathan Sahrbeck. All Board members present voted in favor. Mr. Sahrbeck was elected 5-0 and took his seat as the Planning Board Chair. James Huebener nominated Andrew Gilbert for Vice Chair. All Board members present voted in favor, electing Mr. Gilbert as Vice Chair 5-0.

Mr. Huebener requested a change to the Meeting Minutes from the December 20, 2022 meeting minutes. The change is to page 2, fifth paragraph. The sentence should read "Mr. Palmer commented that the Cape Elizabeth Planning Board is waiving joint subdivision review, not approving the plan; however, the applicant may avoid issues in the future if the plan is clarified as discussed."

With the inclusion of the requested change, Mr. Huebener made the motion to accept the meeting minutes. The change was accepted by all Board members present and the minutes were approved 5-0.

NEW BUSINESS

Carr Woods Major Subdivision and Resource Protection Permit – Bill Gerrish, on behalf of Carr Woods, an 18-unit condominium and 1 single family lot development and Resource Protection Permit located at Deep Brook Drive, is requesting an extension to February, 2023 to submit the final approval application.

Bill Gerrish of Northeast Civil Solutions is represented the Carr Woods project, Andrew Carr and Ena Hanson. Mr. Gerrish briefly summarized information from prior meetings and advised that a new attorney has been assigned to the project and needs time to become familiar with all details. Mr. Gerrish asked to delay their presentation to either the February or March Planning Board meeting. Mr. Gilbert recused himself from voting. Chair Sahrbeck asked for confirmation that the Planning Board has the

authority to extend the date on which the information will be presented and Ms. O'Meara responded that the ordinance explicitly states that the Planning Board has the authority to extend the time period.

Mr. Huebener made the following motion, seconded by Mr. LaVallee.

BE IT ORDERED that, based on the request submitted and the facts provided, the Planning Board grants to Carr Woods and extension to submit the final subdivision review application to the March 21st 2023 meeting with a submission deadline of March 3, 2023.

The motion passed 4-0.

Roots Academy Site Plan Amendment and Resource Protection Permit - Jaclyn Gallo of Roots Academy is requesting a site plan amendment to change the use for the first floor of the building located at 2 Davis Point Lane (U18-13-1) from office to school and a Resource Protection Permit to create a nature trail in an RP1 buffer, Sec. 19-9, Site Plan completeness and public hearing, and Sec. 19-8-3 Resource Protection Permit completeness and public hearing.

Bob Metcalf, Mitchell and Associates, spoke on behalf of Roots Academy and Jaclyn Gallo. Mr. Metcalf indicated that this project seeks to locate a school in a building previously used as office space. The building also contains four apartments on the second floor, which will be maintained. This submission also includes a request for a resource protection permit so a nature trail can be established on the property.

Mr. Metcalf presented a map which is part of the documents submitted. There are no plan changes or proposed site improvements except for a 4 foot high wooden fence around the perimeter. Note was made of an existing 6 foot high fence running along the abutting property and this piece of fence will remain. Fencing will also be used to separate the children's play area from the parking lot. Mr. Metcalf described that the plan includes an improvement which will be a nature trail near/along RP1 & RP2 wetland. The trail is in the abutting area but does not enter or have any effect on the wetland. It was noted that there are some invasive plants currently in the space proposed for the trail. These will not be removed immediately but may be removed later and replaced with native plants. The school and the apartments will require 21 parking spaces. 22 spaces currently exist so there is no need for additional parking beyond that which currently exists. There is an existing sign close to Route 77. Specifications for a new sign were submitted with the package. The new sign will use the existing sign's supports.

Mr. Metcalf further described details of the request. He stated that the school operates Monday- Friday 8am - 4:30pm. Students arrive between 8:15 – 8:45am. After school pick-ups occur at 2:45 – 3:15 pm. An after-care program is also offered, with all students picked-up 4:15 - 4:30pm. There are five (5) employees associated with the school. One item not previously reviewed was noise. Online research indicates that decibel levels of a grammar school are expected to be in the range of 55-65 decibels. Ms. Gallo used an app to take readings of the school's current population. The recorded readings of the existing facility average 56.2 decibels with a peak of 75.3 decibels and a low 51.6 decibels. The noise level of the current school is in line with the average. There are 3 times when children will be outdoors

– morning, midday and afternoon. Based on this information, no impact on the neighborhood is expected.

At the conclusion of Mr. Metcalf's presentation, the Chair sought public comment on completeness. Being no public comment, Mr. Sahrbeck asked the Board if there were any questions on completeness. Being none, Mr. Huebener made the following motion, seconded by Mr. LaVallee.

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Jaclyn Gallo of Roots Academy for amendments to the previously approved site plan for 2 Davis Point Lane to change the first floor use from office to Institutional/school and a Resource Protection Permit to alter 1,000 sq. ft. + of RP1-buffer to install a nature path be deemed complete.

The motion passed 5-0.

The Board then discussed whether a site walk was needed. Consensus was that no site walk will be done.

Mr. Metcalf discussed whether there was a need to obtain a letter from the Portland Water District indicating that there is adequate water availability. It was determined that such a letter is not needed because there would be no more use in future than what is used currently. Mr. Metcalf stated that detail of the new fence and sign will be added to the map.

It was discussed that there are two existing propane tanks on the property. These will be fenced to ensure no access by children. There was discussion about the location of the tanks, which are believed to have been installed by a prior owner. It was determined that the map provided in the plan is accurate and reflects the current layout of the property and location of tanks historically.

Jacklyn Gallo joined the presenter. She pointed out the location of tanks, drainage and buffer. Mr. Gilbert indicated this information is satisfactory.

Mr. Sahrbeck reminded the Board that the Town Engineer had asked about the water availability (discussed previously) and the propane tanks. Ms. O'Meara advised that location of propane tanks is sometimes unclear (when tanks have been present across owners). Ms. O'Meara advised that, should there be any remaining questions, a permit could still be issued by the Planning Board with a Resource Protection Permit that would cover both the nature path and the propane tanks.

Mr. LaVallee made the following motion, seconded by Mr. Huebener.

Finding of Facts

1. Jaclyn Gallo of Roots Academy is requesting amendments to the previously approved site plan for 2 Davis Point Lane to change the first floor use from office to Institutional /school and a Resource Protection Permit to alter 1,000 sq. ft. + of RP1-buffer to install a nature path, which

requires review under Sec. 19-9, Site Plan Regulations, and Sec. 19-8-3, Resource Protection Regulations.

2. The Site Plan for 2 Davis Point Lane has been previously approved by the Cape Elizabeth Planning Board to be in compliance with the Site Plan Regulations, and the findings and decisions of that approval which are not altered by the proposed amendments remain in effect.
3. The application was deemed complete at the January 17, 2023 meeting.
4. The plan for the development reflects the natural capabilities of the site to support development.
5. Access to the development 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.
6. The development will provide for adequate sewage disposal.
7. The development will provide a vegetative buffer throughout and around the site and screening as needed.
8. The development will provide for adequate exterior lighting without excessive illumination.
9. Signs will meet the requirements of the Sign Ordinance.
10. The development will not substantially increase noise levels and cause human discomfort.
11. The applicant has demonstrated adequate technical and financial capability to complete the project.
12. The nature path will not materially obstruct the flow of surface or subsurface waters across or from the alteration area.
13. The nature path 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.
14. The nature path 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.
15. The nature path will not result in significant damage to spawning grounds or habitat for aquatic life, birds or other wildlife.
16. The nature path will not be detrimental to aquifer recharge or the quantity or quality of groundwater.

17. The nature path will maintain or improve ecological and aesthetic values.
18. The nature path will maintain an adequate buffer area between the wetland and adjacent land uses.
19. The nature path will 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.
20. The nature path is not located in a floodplain.
21. The application substantially complies with Sec. 19-9, Site Plan Regulations, 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 Jaclyn Gallo of Roots Academy for amendments to the previously approved site plan for 2 Davis Point Lane to change the first floor use from office to Institutional/school and a Resource Protection Permit to alter 1,000 sq. ft. + of RP1-buffer to install a nature path and install propane tanks be approved, subject to the following conditions:

1. That the plan details referenced in the Town Engineer's letter dated January 3, 2023 be provided;
2. That there be no alteration of the site or issuance of a building permit until the above condition has been met.

The vote was 5-0 in favor of approval.

Lumberly Site Plan Amendments – Michael Friedland is requesting site plan amendments to increase outdoor storage, increase signage and expand approved uses to add classroom instruction for the property located at 287 Ocean House Rd (U22-76), Sec. 19-9, Site Plan Completeness.

The Lumberly application was withdrawn from the agenda at the applicant's request.

Public Comment

The Chair asked for any public comment. Seeing that there is no comment from the public, there was a motion to adjourn. The meeting was adjourned at 7:42pm

Respectfully submitted,

Martha Parowski,
Acting Minutes Secretary