

MINUTES OF THE PLANNING BOARD
TOWN OF CAPE ELIZABETH

July 18, 2023

7:00p.m.

Town Hall

Present: Jonathan Sahrbeck, Chair
Matthew Caton
Derek LaVallee

Daniel Bodenski
James Huebener
Alton Palmer

Absent: Andrew Gilbert, and Lucy Bauer, Minutes Secretary

Also present was Maureen O'Meara, Town Planner

CALL TO ORDER

Mr. Sahrbeck called the hybrid meeting (in-person and virtual) to order at 7:00p.m. and briefly reviewed the rules for public comment. He began the meeting by recognizing the members of the Planning Board and reminding the public that the members of the Planning Board serve in a voluntary capacity.

Ms. O'Meara noted the absence of the Meeting Secretary and stated that the minutes of the meeting would be transcribed by the Minutes Secretary from the CETV videotape.

Mr. Sahrbeck asked for comments or edits on the meeting minutes of June 20, 2023. Mr. Huebener moved to approve the minutes and Mr. Bodenski seconded. With no further comments, the minutes were approved by a vote of 5 in favor, none in opposition, and one abstention by Mr. Palmer.

OLD BUSINESS

Carr Woods – Shore Road Development Partners LLC is requesting final subdivision review and a Resource Protection Permit for Carr Woods, a 16 unit condominium and 1 single family home lot located on Deep Brook Drive (U6-91, 91A, 92, 94A, 95), Sec. 16-2-4 Final Subdivision Completeness and Sec. 19-8-3, Resource Protection Permit Completeness.

Andrew Carr, Debra Carr, Ena Hanson and Shore Road Development Partners LLC are requesting Final Subdivision Review and a Resource Protection Permit for Carr Woods, a 16 unit condominium and 1 single family home lot located on Deep Brook Drive. The application was deemed complete on June 20, 2023, and a public hearing has been scheduled for this evening's Planning Board meeting. Comments from the Town Engineer have been provided to members of the Planning Board. A site visit was completed on July 5, 2023 when a quorum was present.

Mr. Palmer disclosed to the Board that, since the Carr Woods project was granted preliminary approval, Mr. Palmer's firm, at the request of the Maine DOT, hired Northeast Civil Solutions to

be the surveyor for the Mountain Trail (Westbrook to Windham) project that is being designed by Mr. Palmer's firm. Mr. Palmer stated that there is no financial gain to his firm and feels there is no conflict of interest. He is not directly involved with the Mountain Trail project. Mr. Sahrbeck acknowledged the disclosure and asked if either Board members or the Town Planner had concerns about a potential conflict of interest. No concerns were raised.

Bill Gerrish of Northeast Civil Solutions addressed the Board, representing the co-applicants on the Carr Woods project. Mr. Gerrish thanked the Board members for their feedback during the site walk. Having previously presented the timeline for the project, he provided a summary of the changes to the project documents based on discussion at the last Planning Board meeting.

- ☐ Additional documents have been provided to the Board pertaining to the deed overlap area in the southwest corner of the site. The applicant has drafted quit claim deeds to deed the property to the respective abutters. This area is not part of the open space calculations.
- ☐ A note was added to the condo plat identifying units 3 and 4 as moderate income affordable units. A signature block and required note regarding the performance guarantee have been added to the documents.
- ☐ The plan now includes illustration of optional rear decks and patios for units that have space for them. Construction of all allowable patios would add approximately 1600 square feet to the overall impervious area. While the additional area is negligible, the change impacted the runoff curve number for one of the stormwater sub-catchment areas. The Stormwater Management plan has been updated to reflect the revised calculations and still meets Town standards.
- ☐ The landscaping plans have been revised to include tree protection barriers around the entire site. The landscaping plans now coincide with the erosion control plans.
- ☐ During the site walk, it was noted that potential damage to large trees located outside of the tree protection limits is likely and should be addressed. The landscape architect has added a note to the landscaping plan stating that the trees located outside of the clearing limits, with root structures extending into the construction limits will need to be removed by the contractor as directed by both the landscape architect and Town staff. Mr. Gerrish noted that the plan includes a significant amount of new landscaping designed to create a visual buffer for the development. Mr. Sahrbeck asked for clarification of the visual height of the new evergreens that will be planted. Mr. Gerrish responded that some are in the 5-6 foot high range and others in the 6-7 foot range.
- ☐ A legend describing proposed building materials has been added to the building elevations which coincides with information previously submitted.
- ☐ Regarding open space restrictions, language specific to agricultural structures and athletic fields will be removed from current documents. Use of mechanical equipment will be restricted to trail maintenance. It is the applicant's intent to preserve the open spaces and not allow development for either agricultural or athletic uses.
- ☐ Regarding recommendations of the Conservation Committee:

- 10' wide buffers have been added to the RP2 wetlands, outside of the alteration areas. Mr. Huebener asked for clarification from Ms. O'Meara about the need to designate the buffer areas, for example, with boulders. Ms. O'Meara replied that most of these areas are within designated open space, therefore, not requiring additional designation.
- Language referencing athletic fields has been removed from the condominium documents.
- The applicant is willing to install a Greenbelt sign at the intersection of Shore Road and Deep Brook Dr. The sign will meet Town requirements for signage.
- The land located west of units 8 and 9 is currently configured as open space for the adjacent condominiums. Mr. Gerrish stated that, given the topography of the area, this configuration makes the most sense, as it provides a clear delineation between the open space for the condominium and the public open space.
- Amendments to the open space design standards have been made that remove language around agricultural structures and athletic fields. The plan complies with Section 19-7-2.

Mr. Gerrish then addressed questions that were raised during the site walk.

- ☐ Questions about the large trees have been addressed.
- ☐ The intent of the retaining wall is to strike a balance between minimizing soil disturbance, maintaining usable space behind the condo units, and providing a visual buffer between the landscaping and abutting properties. There are no proposed changes to the retaining wall.
- ☐ All setback requirements have been met. Building heights and spacing between buildings comply with Town Ordinance.
- ☐ No changes have been made to the proposal specific to supplemental stormwater detention in the Casino Beach area; the current proposal complies with Town Ordinance.

Laurie Bachelder of Shore Road Development Partners addressed the Board, introducing herself and Ron Goddard as the co-applicant developers of the project. Shore Road Development Partners was formed specifically for the Carr Woods project. Ms. Bachelder and Mr. Goddard are also partners in Maine Development and Excavation based in Falmouth, Maine. Ms. Bachelder stated that she owns a boutique investment firm specializing in non-traditional assets for retirement accounts such as real estate development. Within her business, she has developed a platform to allow clients to be passive investors in real estate development projects. Her entire career has focused on private capital investment. For the Carr Woods project, her focus is on the financial side, to include underwriting, budgeting, following the project, and securing bridge loans. The choice to work with Titan rather than a local bank is consistent with the applicant's experience with use of private capital. Titan is a national private lender.

Mr. LaVallee asked for clarification about the size of the Carr Woods project relative to other projects Ms. Bachelder has managed and specifically with Titan. Ms. Bachelder replied that Carr Woods is on the bigger side relative to the build out but not the infrastructure. Titan is prepared to fund the entire build out; however, it is anticipated that Titan will not be used for the full funding, just the site work.

Ron Goddard addressed the Board, introducing himself as a Mainer with experience in construction. He described his subcontracting crews as based in Maine and fully licensed, bonded, and insured. Mr. Goddard has experience building high-end private homes in Cape Elizabeth, the Lakes regions, and North Yarmouth, among others.

Mr. Sahrbeck opened the meeting for the public hearing, reminding participants of the three-minute time limit and noting that those participating virtually would be heard after those in attendance.

Attorney Brandon Mazer of Perkins Thompson, representing Erik and Jennifer Johansson of 2 Rocky Hill Road, Cape Elizabeth, as abutters to the project, addressed the Board. Attorney Mazer referenced the most recent letter submitted to the Board by the Johanssons and cited the concern that Town might be left with a half-finished project. Attorney Mazer stated that the applicant has not met the standard for demonstrating financial and technical capacity. Private funding is not FDIC insured and is volatile. Furthermore, the performance guarantee is not high enough and does not include required language by Town standards.

Lise Pratt of 32 Wood Road Cape Elizabeth addressed the Board and identified that her property abuts the project. Ms. Pratt expressed concern that the developers are trying to fit too many units on the parcel. She referenced the site and layout plan and questioned the setbacks for a number of condo units, particularly as the setbacks pertain to the open space area. In addition, the retaining wall may represent a safety hazard. Ms. Pratt stated that a plan that provides proper setbacks, provides private outdoor space for each unit, maintains the open space corridor along the southern property line, removes the need for the retaining wall, and provides required square footage of open space is achievable. This would require relocating some units and removing others, resulting in a plan more conducive for the parcel. Reducing the scope of the project would alleviate concerns around stormwater management, the retaining wall, the extent of blasting, and compliance with applicable standards.

Katie Blackburn of 14 Rocky Hill Rd addressed the Board and identified that her property abuts the project. She thanked the applicant for moving some of the trees on the northern border. Referencing two notations within the August 2022 Planning Board meeting minutes, she requested clarification on the management of erosion control at Casino Beach.

Mylan Cohen of 21 Surf Rd addressed the Board and identified himself as President of the Cape Cottage Park Neighborhood Association, representing approximately 40 households adjacent to Casino Beach. He expressed concern about stormwater runoff at Casino Beach, not only for the Carr Woods project, but also current state. Mr. Cohen stated that he has met with Mr. Sturgis,

Town Manager, and understands that there are plans to address the current issues at Casino Beach in 2024, however, these plans are not finalized. Mr. Cohen stated that he doesn't understand how the Carr Woods project could be approved when existing issues at Casino Beach have not yet been remediated. He also stated that he does not believe that there has been an environmental impact study for how additional freshwater runoff would affect the cove at Casino Beach.

Amory Houghton of 265 Spurwink Avenue addressed the Board. He asked for clarification on the utilities for the project, to include, power, cable, generators, and street lights. He noted that many heritage trees would be cut down and asked about the impact of sewer and gas lines to the current landscape. He expressed concern about the generation of radon as a result of disturbance to the bedrock. He advocated for further study of potential impacts of the project.

Sheila Wellehan of 24 Rocky Hill Road Cape Elizabeth addressed the Board, expressing concern about the destruction of wetlands in the development of Cadens Way by Ron Goddard. To the builder's credit, he repaired the damage. She requested assurance from the applicant that there will not be similar problems at the more complicated Carr Woods project site.

With no further comment from either the public or from virtual attendees, Mr. Sahrbeck closed the public hearing.

Mr. Palmer requested clarification from Mr. Gerrish on the removal of trees outside of the clearing limits. He noted that, while the plan addresses some of the concerns that were raised at the site walk, he questioned whether the changes, and, specifically the buffering plan, are adequate. He suggested that the clearing limits be marked in the field and that the Town tree warden, or appropriate designee, walk the site with the applicant to determine which trees need to be removed. Then, the third-party landscape architect could determine the need for any additional buffering. He noted that it's difficult to understand the extent of the tree removal from the drawings.

Mr. Gerrish replied that he concurs with Mr. Palmer's concerns and acknowledged that these types of concerns are better addressed in the field. He proposed that a condition of approval might include protocols for field decisions by the appropriate parties as conditions warrant.

Mr. Palmer asked Ms. O'Meara for any precedent on addressing landscape issues on projects "after the fact," specifically buffering. Ms. O'Meara expressed concerns regarding imposing additional landscaping requirements on the applicant after Board approval. The adequacy of buffering is a standard of review that the Planning Board is responsible for finding. She explained that there is not a perfect way to address landscaping concerns when forest areas are cut during building projects. Issues "after the fact" must be addressed as they arise. She advised against requiring an open-ended landscaping requirement of the applicant; she noted the importance of making sure that the planned landscaping is installed and, if necessary, replaced if it does not thrive. She acknowledged that the applicant has made an effort to address concerns specific to natural growth at the edge of the development window.

Mr. Caton suggested that the Town arborist might identify trees that were at risk of falling, and that the applicant could be required to replace, one for one, trees that do not survive.

Mr. Palmer stated that the landscape plan feels open ended and suggested the plan include reassurance that removal of any tree outside of the clearing limits require pre-approval from Town staff. He expressed concern that it is unclear how many trees outside the clearing limits will need to be removed and, therefore, unclear what the impact to the visual landscape will be. He requested that the plan be tighter.

Mr. Sahrbeck acknowledged Mr. Palmer's concerns and suggested that the applicant obtain consultation from the Town tree warden on the landscape plan under review. Mr. Sahrbeck stated that this information is relevant to the Board's ability to determine compliance with the adequacy of buffering and may be needed prior to any vote. Both Mr. Palmer and Sahrbeck stated a preference for these concerns to be addressed prior to approval. Mr. Sahrbeck asked Mr. Gerrish for comment. Mr. Gerrish, acknowledging that he is not a landscape architect, stated that the landscape plan, as shown, can be maintained and that issues can be addressed in the field.

Attorney Gordon Smith, representing the landowner applicants, addressed the Board, stating that the applicant would be willing to reassess the number of trees that need to be removed. He asked for clarification on whether the canopy of the trees was required for buffering. Mr. Sahrbeck replied that the issue is the feasibility of the proposed plan for new landscaping given the topography of the site. The second issue is one of safety related to potential damage from falling trees to either the condominiums or abutting homes. Attorney Smith suggested that the applicant could provide additional documentation to the Board that the buffering plan as proposed is adequate.

Mr. Sahrbeck asked if other Board members had any concerns about the trees and buffering plan. Mr. LaVallee asked for clarification on the timing of the submission of the landscape plan. Mr. Sahrbeck stated that the notes were a recent addition to the plan, and Mr. Gerrish stated that the notes were added earlier in the day. Mr. Huebener asked Ms. O'Meara to summarize the impact of falling trees after the completion of Maxwell Woods. Ms. O'Meara clarified that the forest within Maxwell Woods was a mature forest with trees in various stages of their life cycle. Ms. O'Meara, acknowledging the challenge of the topography of the Carr Woods site, suggested that the Town tree warden should inspect the site once the buffer landscaping is installed and before the tree removal occurs. Then, during tree removal, the tree warden can be enlisted to assess conditions and make recommendations on the removal of any additional trees. Mr. Caton asked Ms. O'Meara to define the penalty for removing the wrong trees. Ms. O'Meara responded that, in the case of Maxwell Woods, the developer identified that too many trees had been cleared; he returned to the Planning Board and amended the buffering plan to replant the buffer. The plan had to be amended a second time to address trees that had been removed from the open space area.

Ms. O'Meara suggested that the goal should be to manage the plan as much as possible. She identified Jeff Tarling as the Town arborist for the current project. Mr. Tarling is the recently retired arborist for the City of Portland. He works for the Town of Cape Elizabeth on stipend as the Town's tree warden. His availability for working with the applicant prior to the next Board meeting will need to be determined.

Mr. Palmer expressed another concern about the status of the proposed sidewalk along Shore Road. He proposed that, given the uncertainty in status of the Shore Road Rehabilitation project for sidewalk installation, the applicant provide a \$50,000 surety for construction of both a sidewalk on the land side of Shore Road and formal crosswalk in the event that the Town project does not proceed within two years of completion of Carr Woods. This would address the finding of fact in the subdivision ordinance regarding pedestrian safety. Attorney Smith questioned how Mr. Palmer's proposal relates to the performance standards of the development, as the development may not necessarily increase foot traffic along Shore Rd. Mr. Palmer replied that the plan contains sidewalks that end at Shore Rd but does not include provision for allowing pedestrians to cross the road safely. Pedestrians wanting to access the trails via the open space in the development from Fort Williams, for example, would not have a safe way to cross the road. This was raised during the preliminary phase of the project, and the applicant did not respond.

Ms. O'Meara cited ordinance Section 16-3-1 of the Subdivision Ordinance which includes all the Standards of review. Subsection D-9 addresses sidewalks and connections. Attorney Smith stated that he was not representing the applicant during the preliminary phase and was unaware that the issue had been raised previously.

Mr. Palmer stated that he had also previously raised concerns about the drainage deficiencies at Casino Beach. Casino Beach improvements are tied to the Shore Rd Rehabilitation project for which, as previously identified, there is no information. The Carr Woods project will increase the total volume of stormwater runoff as compared with pre-development conditions. In lieu of negotiating a previously suggested cost-sharing arrangement with the Town for improvements at Casino Beach, Mr. Palmer proposed that the applicant make a \$50,000 contribution for Casino Beach improvements that, if not used by the Town within 10 years, would be returned to the applicant.

Mr. Sahrbeck concurred with Mr. Palmer's concerns regarding stormwater runoff at Casino Beach, citing multiple findings of fact pertaining to wetland areas and water flow. He requested comment from Mr. Gerrish. Mr. Gerrish stated that it's been well documented that there is an existing issue at Casino Beach. Mr. Gerrish described a structure on the beach that has a large-diameter storm drain entering the structure and a 16-inch storm drain, which is in poor condition, exiting the structure. In times of high peak flow, the overflow resulting from the infrastructure will erode the beach. The receiving watershed for the area includes the fairly intensely developed neighborhoods both to the north and the south of the Carr Woods site. These neighborhoods do not have any vast open space areas or stormwater detention areas. The Carr Woods site currently provides more natural detention than the adjacent

neighborhoods. In addition, the development includes detention areas which will delay the travel time of runoff as compared to the runoff from the adjacent neighborhoods. The project includes measures to mitigate runoff. The larger issues at Casino beach should not have to be addressed by this developer. Mr. Sahrbeck asked Mr. Gerrish if conversations around cost-sharing measures with the neighborhood association have occurred. He replied, "no." Ms. O'Meara noted that one of the challenges around cost-conversations is that no design solution for the issues at Casino beach has been developed. Mr. Palmer noted that it is not reasonable to hold up the Carr Woods application for the completion of a design solution for Casino beach. He stated that, asking the applicant to make a \$50,000 contribution to any solution represents a relatively small contribution to the cost of an eventual solution and would allow the project to proceed. Mr. Sahrbeck asked for additional comment from members of the Board. Discussion ensued about Mr. Palmer's proposed condition of asking the applicant to set aside \$100,000 for "off site improvements."

Attorney Kristin Collins, representing Shore Road Development Partners LLC, addressed the Board. She stated that there is no evidence that the project will contribute to the known problems and no evidence that \$50,000 would be a reasonable contribution. The contribution would be an arbitrary requirement. Mr. Palmer reiterated that the issue was raised during the preliminary approval and is a means to allow the project to move forward. The project will create a greater volume of runoff which, over time, will contribute to greater erosion at the beach.

Attorney Smith addressed the Board, stating that the applicant has demonstrated compliance with the ordinance requirements in terms of peak flow. He stated that the issue at Casino beach is one of peak flow and not total volume, and that the applicant has gone above the ordinance requirement by including measures to mitigate runoff. The proposed contribution is not tied to any of the evidence or ordinance requirement.

Mr. Palmer then directed the discussion to the performance guarantee submitted by the applicant. The ordinance requires a 5% contingency which is not included in the draft letter. Ms. O'Meara explained that a draft performance guarantee is required and must be acceptable to the Town Engineer, the Town attorney, and the Town Manager. However, Town staff do not finalize the figure until the applicant is ready to start construction. The Town Engineer will review the estimate and make recommendations on any adjustments. The Town attorney would review the instrument for financing, and the entire plan is reviewed by the Town Manager, at which time, documentation of a funded performance guarantee is obtained.

Mr. Palmer then asked for clarification on affordable housing requirements, noting no mention of this detail in either the findings of fact or conditions of approval. Mr. Palmer requested that this detail should be reinforced in the findings and the conditions.

Ms. Bachelder was invited to the podium to respond to Mr. Huebener's request for clarification on available funding and whether the applicant had spoken to the Town Manager to

demonstrate financial capability. Mr. Sahrbeck clarified that it had been previously identified that the applicant intended to address the Board rather than meeting with the Town Manager.

Mr. Sahrbeck asked Ms. Bachelder to address the concern raised during the public comment regarding the potential loss of funding after the project had started, resulting in irreparable changes to the landscape and an unfinished project. Ms. Bachelder explained that the purpose of the performance guarantee is to provide security. Private lenders operate similarly to a bank. Titan, for example, would gather in-house money or money from investors and place the funds in an escrow account, from which funds would be drawn to pay for the construction.

Mr. Caton requested clarification on the parcel acreage and deeds. Mr. Gerrish addressed the Board, stating that the entire parcel is 14.3 acres. 10.7 acres of this total is the condo parcel. 67,000 square feet (+/-) is the public open space conveyed to the Town. There are smaller parcels conveyed to the abutters. The final amount is the road portion of Deep Brook Road which goes up to the parcel being retained by the applicant. Apparent discrepancies in acreage are likely due to easements that are described within some of the individual deeds.

Mr. Caton asked how language in the Purchase & Sales agreement would be reconciled with deed descriptions. Mr. Gerrish replied that the Town attorney and Title attorney would be reviewing the language and deeds for purposes of reconciliation.

Mr. Caton asked who will be responsible for snow plowing on portions of Deep Brook Rd that include the Carr lot, the condominium road, and the portion from Shore Road to the Carr lot. In an effort to avoid disagreements between the condo association and the owners of the Carr lot, language should be included in the condo documents outlining the responsibility. Mr. Gerrish stated that there is no intention of petitioning the Town to maintain any portion of the road. It is a private road with a public right-of-way. Ms. O'Meara stated that the Town has a road maintenance agreement that she can provide to Mr. Gerrish as a reference for clarifying the language.

Mr. Sahrbeck asked Mr. Gerrish to comment on the concerns expressed in the public hearing regarding the setback on Unit 14 and the retaining wall. Mr. Gerrish validated that the setback for Unit 14 does not extend into the buffer. The retaining wall is designed to address the concerns regarding the embankment slope. The proposed gravity retaining wall offers the appropriate balance between usable space behind the condominiums and the limitation of soil disturbance and tree removal. Mr. Caton requested a description of the blocks that will be used for the wall. Mr. Gerrish replied that larger blocks which have no difference in appearance on the face will be used.

Mr. Sahrbeck requested clarification on whether the applicant was committed to transferring the "horseshoe" open space area on the plan to the Town. Attorney Smith replied, "yes."

Mr. Sahrbeck expressed concern about the number of conditions of approval that might be written into an approval tonight given the number of questions specific to the deeds, a

pedestrian crosswalk, stormwater drainage, and tree removal. He questioned whether additional information should be requested of the applicant.

Attorney Collins addressed the Board seeking clarification on required plan changes, particularly with regard to the retaining wall, tree removal, open space, and sidewalks/crosswalks ahead of the next submission deadline of July 31, 2023. Mr. Sahrbeck stated that he was comfortable with the plan for the retaining wall. He stated that deeds needed to be reviewed. Discussion ensued on the other items. The Board requested that the applicant consult with the Town tree warden, conduct a site walk, stake the clearing limits, and identify any additional trees that should be removed. The applicant should address any additional buffering that would be needed due to additional tree removal. The feasibility of the installation of the proposed buffering should be assessed by the tree warden. A letter from the tree warden outlining his assessment of these details would suffice as evidence. Regarding the open space, attorney Collins asked for direction from the Board on whether the members are making a recommendation, as opposed to suggestion, that the Town accept the donation of the horseshoe parcel. The Town Conservation Committee recommended that the applicant donate this parcel. The consensus of the Board was that the Town accept the parcel as part of the application, with all but Mr. Caton in favor. Regarding the sidewalks and crosswalks, attorney Collins stated that the applicant would not concede to a contribution for sidewalks and a crosswalk due to the arbitrariness of the request and the lack of guidance on the issue. Mr. Palmer suggested that the traffic engineer, who consulted during the preliminary phase of the package, could render an opinion. Under the ordinance, the Board can require a sidewalk along Shore Road unless the applicant can demonstrate an alternative that provides a safe crossing. Mr. Gerrish stated that there was a crosswalk on the original plan, and the applicant was advised that the Town would take care of it. Ms. O'Meara stated that, with respect to Mr. Palmer, it was the recommendation of Town staff that the issue of sidewalks and crosswalk be incorporated into the Shore Road Rehabilitation Plan. The Town could ask the applicant for an easement for construction. Mr. Palmer was asked to provide suggested language to the Town Planner around posting surety for a contribution to sidewalks and crosswalks in the event that the Rehabilitation Plan does not move forward.

Mr. Sahrbeck asked for clarification from the Town Planner regarding the need for another public hearing. Ms. O'Meara replied that the Board could provide for public comment, but that no additional public hearing would be held.

Mr. Huebener made a motion for the Board to consider:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Andrew Carr, Debra Carr, Ena Hanson and Shore Road Development Partners LLC for Final Subdivision Review and a Resource Protection Permit for Carr Woods, a 16 unit condominium and one single family home lot subdivision located on Deep Brook Rd be tabled to the August 15, 2023 Planning Board meeting.

Mr. LaVallee seconded the motion. With no further discussion, the motion passed 6-0.

NEW BUSINESS

4 Balsam Rd Resource Protection Permit – David and Stacy Calabrese are requesting a Resource Protection Permit to alter 3,965 sq. ft. of RP2 wetland to construct a single family home located at 4 Balsam Rd, Sec. 19-8-3, Resource Protection Permit completeness. (The application may also want to add a concurrent application to amend the subdivision approval to reflect the current lot lines.)

Peter Biegel, landscape architect with Landscape Design Solutions in Cumberland, Maine addressed the Board, representing the applicants. Mr. Biegel reminded the Board that the applicant had appeared at the February, 2023 Planning Board meeting to outline the design challenges of the site, to include wetlands, one location for a septic system, and the Balsam Rd hammerhead. Based on feedback from the Board, the design plan incorporates a rain garden into the stormwater management design for purposes of mitigating impact to the wetlands. The wetlands impact did not meet the threshold for obtaining a permit from the DEP. A vernal pool investigation was completed by Statewide Surveys, Inc. The applicant obtained a permit from the Army Corps of Engineers. The applicant then met with Jay Reynolds, the Town Public Works Director. With respect to the hammerhead located off the driveway, Mr. Reynolds recommended that the applicant provide an easement to the Town to allow for snow removal and maintenance. Mr. Reynolds shared that he had been called to the site by neighbors located at 2 Balsam Rd for purposes of assessing drainage issues. The drainage proposed for the plan should improve the drainage situation for the property at 2 Balsam Rd. An abutter located in Hannaford Cove provided site information that proved helpful in determining the analysis point for stormwater design. A draft plan set was sent to the Town peer review engineer, and his feedback has been incorporated into the design plan.

Mr. Biegel acknowledged that a plan amendment will be necessary to address the area of lot 1 and portion of lot 2. The applicant requests that this subdivision amendment be joined to the RP2 application. Mr. Sahrbeck asked if there were any objections to this proposed amendment. None were raised. The applicant had hired Sebago Technics to review the proposed amendment. Ms. O'Meara queried the Board about the need for a third party engineer to review the amendment, given a potential conflict of interest. The Board waived the potential conflict, allowing the review by Sebago Technics to stand.

Mr. Biegel reviewed the boundary survey, the high intensity soil survey, the wetland delineation & drainage plan, the site plan with wetlands impact, and the grading & drainage plan. He requested a waiver from the Board for the purpose of using the existing 2-ft. contours on the grading & drainage plan. Mr. Sahrbeck asked if there were any objections to this requested waiver. None were raised. Mr. Biegel acknowledged the recommendation for an operational maintenance program for the rain garden for the homeowner; this has been written.

Mr. Sahrbeck opened the meeting for public comment on the issue of completeness of the application. With no public comment, either in person or virtually, Mr. Sahrbeck closed the

public hearing. With no further comment from the Board, Mr. Huebener made a motion for completeness of the application.

BE IT ORDERED that, based on the plans and materials submitted and the fact presented, the application of David and Stacy Calabrese for a Resource Protection Permit to alter 3,965 sq. ft. of RP2 wetlands to construct a home at 4 Balsam Road be deemed complete. A finding of completeness includes the following waiver:

1. Provision of 1' contours of the wetland alteration in favor of 2' contours.

Mr. LaVallee seconded the motion. With no further discussion, the motion passed, 6-0.

Mr. Sahrbeck asked the Board if there was any interest in a site walk. No interest was expressed.

Mr. Huebener made a motion to table (with public hearing).

BE IT ORDERED that, based on the plans and materials submitted and the fact presented, the application of David and Stacy Calabrese for a Resource Protection Permit to alter 3,965 sq. ft. of RP2 wetlands to construct a home at 4 Balsam Road be tabled to the August 15, 2023 meeting of the Planning Board, at which time a public hearing will be held.

Mr. LaVallee seconded the motion. With no further discussion, the motion passed, 6-0.

Mr. Sahrbeck opened the meeting for public comment on the project. With no comments, either in person or virtually, Mr. LaVallee made a motion to adjourn. Mr. Huebener seconded. The motion passed unanimously, 6-0.

The meeting adjourned at 10:02 p.m.

Respectfully submitted,
Lucy E. Bauer
Minutes Secretary