

MINUTES OF THE PLANNING BOARD
TOWN OF CAPE ELIZABETH

December 20, 2022

7:00 p.m.

Town Hall

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

Absent: Daniel Bodenski

Also present was Maureen O'Meara, Town Planner.

CALL TO ORDER

Mr. Huebener called the meeting to order, then called for approval of the minutes of October 18, 2022. Mr. Sahrbeck made a motion to approve the minutes, seconded by Mr. Gilbert and they were approved 6-0.

NEW BUSINESS

Highland Meadows Phase V Subdivision Amendment – Charlene Maietta is requesting a waiver from municipal joint review of a subdivision amendment to merge a lot located in Cape Elizabeth (R04-61) with lot 45 of the Highland Meadows Phase V subdivision located at 199 Elderberry Drive, Chapter 16 Subdivision Ordinance.

Vinnie Maietta, representing his wife Charlene who is the applicant, presented the waiver request. The Maiettas' have lived at 199 Elderberry Drive since 1999 and own an abutting 19 acres in Cape Elizabeth. Their home is on a lot located in South Portland, in the Highlands Meadows Phase V subdivision, abutting the South Portland/Cape Elizabeth municipal boundary. They want to add a first floor master bedroom suite to age in place, which would be located 12' from the existing lot rear property line where the rear setback requirement is 20'. The City of South Portland has advised that if they merge their lots to meet the setback requirement, that would include a subdivision amendment, and result in a portion of the subdivision being located in Cape Elizabeth, triggering the state subdivision statute requirement for joint review unless waived. He will still need to submit a subdivision amendment application to the City of South Portland.

Chair Huebener opened the meeting to public comment and no one was present.

Mr. Sahrbeck noted that the request was discussed at length in workshop, including the uniqueness of the situation, protections already in place, setbacks and that the back lot can't currently be built upon in Cape Elizabeth. Mr. Maietta confirmed that, when he received a

building permit for the shed on the Cape Elizabeth lot, a restriction on the lot was recorded in the Registry.

Mr. Caton concurred this was discussed at the workshop. He wants the applicant to know that it will be complicated to undo this in the future.

Mr. Palmer suggested that some adjustments to the line weights on the plan be made before it is approved by South Portland. He wants the lines to clearly show the lot merger does not change the municipal boundary, which will divide the lot. The applicant agreed to make these changes.

Mr. Palmer also asked about potential construction in Cape Elizabeth and how it related to an RP2 zoning district. The wetland delineation dates to 2005, which would not be acceptable to the DEP or Army Corps because the mapping is more than 5 years old. The record should note that no RP2 permit is required. In response to a question, Ms. O'Meara said that RP2 as a district only exists in Cape Elizabeth and would therefore not impact the proposed construction.

Mr. Caton also noted that the legend on the left side should accurately identify the lines on the plan. Chair Huebener concurred that the plan should be amended to accurately present lines.

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. The applicant agreed to make the town line clear and will note no construction in Cape Elizabeth.

Mr. Sahrbeck cautioned the applicant to be careful with the "no construction" note in case he wants to work on the barn.

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

Findings of Fact

1. Charlene Maietta is requesting a waiver from joint municipal review of her proposal to merge a lot located in Cape Elizabeth (R04-61) with an abutting lot in South Portland located at 199 Elderberry Drive, which is part of the Highlands Meadows Subdivision.
2. The Cape Elizabeth Planning Board received a presentation regarding the lot merger proposal at the November 1, 2022 workshop and reviewed the request at the December 20, 2022 meeting.
3. The applicant supports the recommendation of the City of South Portland Corporation Counsel.

4. The Planning Board determines that the waiver will not have the effect of nullifying the intent and objectives of the Comprehensive Plan or the Subdivision Ordinance (Sec. 16-3-6, Waivers).

THEREFORE, BE IT ORDERED that, based on the information submitted and the facts presented, the Planning Board waives joint municipal review of the merger of a lot R04-61 located in Cape Elizabeth owned by Charlene Maietta with a lot located at 199 Elderberry Drive in South Portland, which is part of the Highlands Meadows Phase V subdivision.

The motion passed 6-0.

OTHER BUSINESS

Mr. Sahrbeck recognized Chair Huebener for his leadership of the Planning Board. Chair Huebener thanked him, said it was an honor and a pleasure, and this is a great group to work with.

Mr. Sahrbeck made a motion to adjourn, seconded by Mr. Gilbert and the motion passed 6-0. Meeting adjourned at 7:20 p.m.