

MINUTES OF THE PLANNING BOARD
TOWN OF CAPE ELIZABETH

December 21, 2021

7:00 p.m. Remote meeting

Present:	Jonathan Sahrbeck, Acting Chair Andrew Gilbert Alton Palmer	Carol Anne Jordan Mary Ann Lynch
----------	---	-------------------------------------

Absent: James Huebener, Daniel Bodenski

Also present was Maureen O'Meara, Town Planner.

CALL TO ORDER

Mr. Sahrbeck called the meeting to order and called for the approval of the minutes of November 16, 2021. The minutes were approved as presented, 5-0. The minutes of the December 7, 2021 workshop were amended to remove 5 paragraphs. They were approved as amended 5-0.

OLD BUSINESS

Turkey Hill Farm Site Plan and Conditional Use Permit - The Cape Elizabeth Land Trust is requesting Site Plan review and a Conditional Use Permit to expand institutional uses including organization meetings, educational programming and events on Turkey Hill Farm, located at 120 Old Ocean House Rd (R3-20), Sec. 19-9 Site Plan and Conditional Use Public Hearing.

The Planning Board held a site walk on December 4, 2021.

Philip Mathieu, Program Coordinator of the Cape Elizabeth Land Trust, said they plan a number of activities in the future. They have 26 acres off Old Ocean House Road. 12-15 acres are fields and the rest is forest. They are proposing general organizational meetings of up to 20 people. They are also proposing educational events up to 5 days per week. Those are for groups of students, up to 50 students at a time. They will arrive predominantly by bus. They propose up to 12 events per year. Four of those are larger events would require parking. There would be up to 100 participants, most arriving in cars. They propose up to 4 smaller programs of up to 50 people. And the last are large educational events of up to 100 participants, with most of them arriving via bus.

John Mitchell of Mitchell and Associates spoke of the responses they have submitted to the comments from Steve Harding and Maureen O'Meara. They have lengthened the parking spaces in the one way drive and widened the curve

for the fire vehicles. They have also widened the 2-way drive to 18 ft. for the fire vehicles. There will be 4 handicap spaces with one van accessible. They have relocated the existing toilet and added an additional alternative toilet. They will construct a gray water system that will meet all State and local codes.

The Land Trust has reached out to the neighbors with letters and phone calls to address their concerns. They have made revisions to the plan to address the latest comments from Steve Harding and Maureen O'Meara.

They are requesting a waiver from the stormwater calculations. They have added only 4,784 sq. ft. of impervious surface.

Mr. Sahrbeck opened the public hearing:

Lisa Gent of 1026 Sawyer Road said she is a Land Trust Board member. The collaboration between the Land Trust and the schools has been going on for close to 20 years. She enumerated how many various programs there are. We believe that it is very important to have the educational and community programming. This will honor Peter Eastman's legacy. She hopes you will approve this project.

Patrick Babcock of 6 Phantom Farm Road is right next door to this property. His chief concern is that he has become accustomed to what Peter Eastman was providing for the Town and the Land Trust. He supports the Land Trust and its mission to teach the next generation. He purchased 6 Phantom Farm Road particularly for its privacy and the quiet nature of the neighborhood. He believes Mr. Eastman was providing a day camp. It seems that the Land Trust is planning to provide something more like a school than a day camp. His concern is that he will have a school in his backyard. When he walks out on his back porch, there is more and more a school environment in his backyard than in the 12 years he has lived there. He wonders why there would be a permitted use of a property in a very private part of the community.

Priscilla Armstrong of 18 Avon Road said she abuts Turkey Hill Farm. She has no issues with what is being proposed. She is concerned that it may limit the use of the farm. She has lived there for 30 years and there have been a lot of kids playing there, which she loves. She thinks that is exactly what Peter Eastman wanted. She is happy with the plan.

No one else came forward to speak, so the public hearing was closed.

Cindy Krum, Executive Director of the Land Trust Said she knew Peter (Eastman) quite well. They brought people out from Portland to do farming. There was the summer camp. There were weddings, and the Boy Scouts were also there.

She said those programs were of a longer duration than what they are proposing.

Ms. Lynch said they are proposing to have students there 5 days a week, 52 weeks a year.

Mr. Mathieu said they cannot use the bathrooms all year long. There is a functional cap on what they can do. The intent is to have enough flexibility built in so they could have a class every morning during the fall or the spring. Given the school calendar, that will be September through November and April, May and June.

Ms. Lynch noted that if they did not put a limit in, they would be free to put in something more intensive. She is also concerned about the CEO's comments about the sewage and the water for groups of 100.

Mr. Mathieu said the issue is that they proposed having no sink, but they will include sinks. They are working with the CEO.

Mr. Palmer said as proposed, it appears you are providing 25 gallons per day for up to 100 guests. Per the plumbing code for that duration of use, it would be 3-10 gal/day per attendee plus staff. Even if we go with the low range it's at least 300 gal/day. At the high range, it would be closer to 1000 gal/day. It's not just a matter of plumbing and adding sinks. You do not meet the plumbing code relative to wastewater disposal. There is nothing in the package that represents the capacity to handle that wastewater.

Mr. Mathieu said they are only proposing 4 days a year for the large events. Temporary toilets will be provided for those events. For the day to day, we are talking about up to 50 participants.

Mr. Palmer said that Ms. O'Meara's memo says additionally there will be up to 100 participants arriving by bus.

Mr. Mathieu said that the additional 100 person events are also limited to 4 times per year. The only things that are weekdays are the up to 50 total participants of classroom visits. We are relying on the CEO for addressing the code.

Mr. Palmer said the CEO is not responsible for designing the project. He is not comfortable voting for this based on what is in front of us.

Ms. Jordan asked about the additional 100 person events, those coming by bus.

Mr. Mathieu said there are 4 events of 100 arriving by car and 4 events of 100 arriving by bus. The intent is to bring in porta-potties for events of that size.

Ms. Lynch said she doesn't think she can vote for this. There is not adequate sewage disposal. She is concerned about bringing 25- 50 kids every day. We need to have adequate sewage disposal and clean and sanitary water. The parking standards require paved parking. This is not compatible with the neighborhood.

Mr. Palmer said the wastewater needs to be considered on that peak day (of 100). He is concerned about using porta-potties on a consistent basis. He thinks the soils on the property are adequate to have a system that will handle the needs without having porta-potties.

Ms. Jordan wants to label the parking as far as usage, occasional, temporary, etc.

Mr. Gilbert said further work needs to be done on this application.

There was a discussion of whether this was the final submission and Ms. O'Meara noted that there is an 18 day submission deadline so that staff can review a submission, and prepare recommendations for the Planning Board to be available a week before the meeting.

Ms. Lynch said she doesn't want to see that area paved. She spoke about the need for an adequate supply of water and a sewage system, not this porta-potty that we have in the application.

Mr. Mathieu said it is the intent to comply with the standard. We want to minimize the impact on the site. The applicant and the Planning Board discussed how much time the applicant will need to make plan revisions. The applicant agreed that February would be the more realistic time to return to the Planning Board.

Ms. Lynch made the following motion:

THEREFORE BE IT ORDERED that, based on the plans and materials and the facts presented, the application of the Cape Elizabeth Land Trust for a Conditional Use Permit and Site Plan Review to add institutional uses of a philanthropic nature to Turkey Hill Farm, a 26 acre conservation property located at 120 Old Ocean House Rd(R3-20), be tabled to the regular February 2022 meeting.

Mr. Gilbert seconded the motion and it passed, 5-0.

OTHER BUSINESS

Technical Amendments - The Town Council has authorized the Planning Board to prepare a package of miscellaneous amendments to the Zoning and Subdivision Ordinances, Sec. 19-10-3 Amendments Public Hearing.

Mr. Sahrbeck said the Board has worked on this for at least 3 or 4 workshops. The Planning Board acknowledges that some of these could be substantive changes to the ordinance, but the Planning Board is acting in an advisory capacity to the Town Council. The Town Council is the ultimate decision maker on these issues.

Mr. Sahrbeck opened the public hearing.

Jamie Garvin wants the board to reconsider the wood storage set back requirements. He spoke about the popularity of wood as a heat source. He spoke about wood storage structures. He said there are many existing wood storage structures which do not conform to the current regulations, nor will they conform to the proposed regulations. It seems contradictory that there is no restriction on the size or scale of a pile of wood stacked without a shelter containing it. He would like you to pull this item out of your recommendations.

Julie Armstrong of 32 Lawson Road is opposed to the proposed change to Zoning Ordinance section 19-4-3 Nonconformance within all districts except the Shoreland District. She spoke about a memo that said it would clarify existing policy. The town's CEO cannot create policy that is contrary to the clear language of the Zoning Ordinance. It makes sense that the ordinance does not allow for the same increase in nonconformity in the protected districts as it allows outside of its protected districts. Why would the town consider changing the existing ordinance to reduce the protections within its protected districts so that a small number of owners of nonconforming properties can further increase the nonconformity of the properties? She would request that you decline to send the proposed changes to 19-4-3 to the council.

No one else chose to speak, so the public hearing was closed.

There was a discussion about whether they will flag those items that are considered substantive changes. There were comments and suggestions from all the Board members.

Ms. Lynch said the change to the Shoreland District is a huge substantive policy change and she does not support sending it to the Council.

Mr. Sahrbeck said he proposes that they send the amendments to the Council, but adding flags to the ones we consider substantive changes. The ones to be

flagged would be about paving, setbacks and nonconformance in Zoning Districts.

Ms. O'Meara asked the Planning Board to go through their recommendations and determine which items should be flagged. The Board looked at each item and noted if it should be flagged. Ms. O'Meara said the ordinance does not require paving for all parking lots, but does require that stormwater calculations be based on an assumption that the parking area is paved, even if it is gravel.

Ms. Jordan cited the letter from Ms. Dill about changing the affordable housing definition. It was decided that they were just changing the source of the data.

Mr. Palmer referenced the State Statute definition of affordable housing. Title 30A section 5002 chapter 22.

Ms. O'Meara said there is nothing in the statute that prohibits the town from setting its own definition of affordable for the purposes of administering local requirements.

Ms. Lynch said she is in favor of approving this except for the nonconforming issue.

Ms. Jordan made the following motion:

BE IT ORDERED that, based on the draft amendments and the information presented, the Planning Board recommends the Technical Amendments to the Town Council for consideration.

Mr. Gilbert seconded the motion and it was approved 5-0

PUBLIC COMMENT

There was no comment.

The members of the Board thanked Ms. Jordan for her service.

The Board voted unanimously to adjourn at 8:50.

Respectfully submitted,

Hiroshi Dolliver
Minutes Secretary