

July 31, 2020

Ms. Maureen O'Meara, Town Planner
and Planning Board Members
Town of Cape Elizabeth
P.O. Box 6260
Cape Elizabeth, Maine 04107

**RE: Stewart Private Accessway
19 Fessenden Road**

Dear Maureen and Board Members:

We have prepared the following responses in regards to comments received from Mr. Harding, PE, of Sebago Technics, dated July 14 2020, and Maureen O'Meara, Town Planner, dated July 21, 2020. Our responses are in bold text.

Staff Report

Summary of Completeness

The completeness checklist and comments of the Town Engineer are attached. Below is a summary of items which may be incomplete:

- (6) Easements. The applicant will need to convey by easement access rights to benefit lot 1 over lot 2. A draft easement can be submitted for the next meeting.
 - **The Private Accessway easement description has been prepared and included in the “Declaration of Covenants with Respect to Private Accessway Maintenance”.**



- (9) Building envelope. The plans depict a building envelope but it should be labeled such.
- **The plan has been revised and notes referencing building envelope limits.**

Discussion

Beyond the level of completeness, the Planning Board may want to discuss the following:

1. Private Accessway easement. The private accessway benefitting lot 1 (rear lot) crosses over lot 2 (front lot, 19 Fessenden Rd). Easement rights over lot 2 for the benefit of lot 1 should be created either as a separate easement document or within the road maintenance agreement.
 - **Refer to previous response to number 6 above.**
2. Lot 2 driveway. In order to avoid creating a shared driveway for lots 1 and 2 and triggering private road standards, the applicant is proposing to move the existing driveway for lot 2 to the west side of the lot. Establishing a private road right-of-way would reduce the size of lot 2, which is already an undersized lot. A note should be added to the plan that requires the timed construction of the new driveway. For example, the lot 2 driveway must be constructed prior to the issuance of a certificate of occupancy for lot 1. If ownership of lot 2 will transfer to anyone who does not own lot 1, the driveway must be installed prior to transfer of ownership.
 - **Conditions of Approval Notes 2 and 3 have been add to the plan to address requirements for construction of the proposed driveway for Lot 2.**
3. Landscaping species. The plan includes a generous planting (54 shrubs and 7 trees) of "native shrubs and trees" around the perimeter of lot 1. The actual species of plantings and size at time of planting should be identified on the plan.
 - **The plant schedule identifying plant material and size has been added to the plans. Plant Schedule for the Rain Garden has also been revised and added to Plan Sheet 4 Detail 2.**
4. Stormwater. The Town Engineer is recommending revisions to the rain garden location and additional information added to the plan specifying maintenance of the stormwater infrastructure. Most of the stormwater infrastructure is located in the Private Accessway area, so reference to maintenance in roadway maintenance agreement may be the most streamlined approach.

- **Refer to responses below under Engineers Review Comment
Engineers Review Comments**

1. The applicant is requesting a review of a proposed private accessway to create frontage for the development of a lot located to the north (behind) an existing residence at 19 Fessenden Road. The 0.77-acre rear parcel to be developed is referred to as Parcel 1 within the narrative, but is indicated as Parcel B on the boundary survey plan. Access to the property to be developed will be provided through a 30-foot wide private access right of way connection to Fessenden Road which will cover 0.15 acres along the east side of the 0.44-acre southerly (front) parcel referred to as Parcel 2 within the narrative, but is indicated as Parcel A on the boundary survey plan.

The total area of the two lots is 1.21 acres. In order to provide a dedicated access to the new single-family home on the rear lot, the applicant is proposing to relocate the existing driveway on the east side of the front lot to the west side of the front lot. A new wastewater septic system is proposed for the new home to be located on the rear lot and a new wastewater septic field is proposed for the front lot.

- **No Response required**

2. We understand that the Board will be conducting a completeness review for this project at their upcoming meeting. Many of our following comments should be considered beyond the completeness level and have been provided here to facilitate future submissions and reviews of the project. It should be noted that additional submitted information may result in additional review comments.

- **No Response required**

3. The Boundary and Existing Conditions Plan should be signed and stamped.
 - **A stamped copy of the survey has been included with this submission.**
4. The plan should include a note that indicates that the new westerly driveway to serve the existing home on the front parcel shall be in place when the private accessway is completed.
 - **Conditions of Approval Notes 2 and 3 have been add to the plan to address requirements or construction of the proposed driveway for Lot 2.**

5. The applicant is requesting a waiver of the standard 14-foot wide private accessway with 2-foot grassed shoulders to a 12-foot wide private accessway with 2-foot grassed shoulders. Historically, we typically have not supported such waivers in past projects, however, we do understand that the Planning Board does have the right to grant these types of waivers so we defer to the Planning Board for a final decision on this waiver.

- **No Response Required**

6. A Private Accessway Build-up Detail has been included on the Site Details plan (Sheet 4) of the drawing plan set. With the exception of the waiver request as discussed in the previous comment, the detail meets the Ordinance requirements for a Private Accessway.

- **No response required**

7. The Private Accessway standards require a 20-foot radius be provided for the edges of the drive connection to the public street. The Layout, Utilities, & Planting Plan view on Sheet 2 indicates that 10-foot radii are proposed for the new accessway. The applicant should request a waiver of the 20-foot radii standard if the 10-foot dimension is preferred.

- **The applicant is requesting a waiver to reduce the required 20-foot radius to 15 feet. The plan has been revised to indicate a 15-foot radius.**

8. We understand that the project team has received an approval from the Fire Chief to install a new sprinkler system within the new home to be built on the rear parcel in lieu of constructing a turnaround at the end of the new private accessway.

- **No response required**

9. The application documentation refers to a waiver request regarding the private accessway being centered within the 30-foot right of way for a majority of its 392+/- linear foot length. We believe that the requirement to center the roadway within the right-of-way is an Ordinance road standard and not a private accessway requirement. Further, it appears that the proposed accessway is centered throughout the entire 217+/- linear foot length and the portion of the accessway not centered in the right-of-way would be considered to be the driveway on the new lot. Therefore, we do not believe that this waiver request is necessary.

- **The initial length of the Private Accessway included a portion of the driveway serving Lot 1. After discussions with Maureen**

O'Meara and Ben McDougal the length of the Private Accessway was reduced eliminating the need for a Waiver.

10. The provisions of the Private Accessway review focus on restricting drainage into the public roadway. In order to meet this standard, the design features a cross-sloped accessway surface toward the east where surface flow will be collected in a swale with two rain gardens to intercept and treat the surface water prior to reaching Fessenden Road. Given the loamy sand underlying site soils conditions, the rain gardens are intended to collect and infiltrate stormwater collected in the swale. In doing so, runoff from the new driveway will be collected into the swale before entering the public street. The designer should clearly dimension the length of these rain gardens and relocate the southerly rain garden from the Fessenden Road right-of-way so as not to be impacted from the Fessenden Road plowing operations.

- **The portion of the rain garden located within the Fessenden Road right of way has been removed. Dimensions for the two rain gardens have been added to the plan.**

11. As the functionality of the swales and rain gardens are directly correlated to ongoing timely and efficient maintenance, rain garden and swale maintenance plan steps should be noted on the drawings along with the party responsible for their upkeep.

- **Note 9 regarding maintenance of the drainage swale and rain gardens has been added to the plan. In addition, Maintenance Requirements for the Rain Garden have been added to Plan Sheet 4 Detail 2.**

12. The applicant has also requested a waiver of a formal Stormwater Management Report, however, we believe that this waiver request is likely not necessary as the submission package includes a narrative describing the project's Stormwater Management and the provisions of the Private Accessway review focus on restricting drainage into the public roadway which this project will follow.

- **No response required**

13. The application documentation also refers to a waiver request regarding the installation of an enclosed stormwater system in lieu of the proposed open swale/rain gardens approach. Again, we believe that the requirement to construct an enclosed drainage pipe system is an Ordinance road standard and not a private accessway requirement. Therefore, we do not believe that this waiver request is necessary.

- **No response required**

14. The application materials also include a request for a waiver of the ability to serve letter from the Portland Water District (PWD) for a new water service connection into the 6-inch water main in Fessenden Road. The designer has stated that while the PWD has indicated that the water service can be made from the 6-inch Fessenden Road water main, however, the PWD will not release such a letter until a review of the water design for the new home has been completed. Since the new house has not been designed with its new sprinkler system, this aspect of the project cannot be reviewed at this time.

The application materials suggest that this item be provided prior to the issuance of a building permit as a condition of the Planning Board's approval of this Private Accessway application. We can confirm that a formal ability to serve letter has become increasingly difficult to receive from the PWD at a preliminary stage of a project. Given that implementation of any PWD required stipulations regarding the design and construction of the water service to the new home from Fessenden Road would very likely have little impact on the proposed private accessway plan, we would support the request of a waiver of this item with the condition that the PWD approval documentation be provided before the new home's building permit has been granted.

- **No response required. Conditions of Approval Note 1 addresses PWD letter.**

15. The proposed plans do not indicate the location of new granite monuments to be installed to delineate the private accessway the road right-of-way. The plans should be revised to indicate how the right-of-way will be physically defined in the field.

- **The plan has been revised by adding two granite monuments to the two northerly corner points of the easement.**

In addition to staff to staff review comments, the following revisions were made to the plan.

- The buffer planting between Lot 1 and Lot 2 was revised to show planting to occur on Lot 2.
- The grading along the proposed driveway to serve Lot 2 has been revised to address comments received from the Planning Board during the site walk.

Included for your review is the revised plan set, stamped boundary survey prepared by Titcomb Associates and revised Declaration of Covenants with Respect to Private Accessway Maintenance. Should you have any questions or comments, please do not hesitate to contact me. We look forward to our meeting with you and the Planning Board on August 18, 2020 public hearing to discuss this application. Should you have any questions, please do not hesitate to contact me.

Sincerely,
Mitchell & Associates

A handwritten signature in black ink, appearing to read "R. B. Metcalf", written in a cursive style.

Robert B. Metcalf, Principal
Maine Licensed Landscape Architect

Enclosures

cc: Paul Stewart