

MINUTES OF THE PLANNING BOARD
TOWN OF CAPE ELIZABETH

February 24, 2020

7:00 p.m. Town Hall

Present: Josef Chalot, Chair Peter Curry
 Daniel Bodenski Carol Anne Jordan
 James Huebener Jonathan Sahrbeck
 Andrew Gilbert

Also present was Maureen O'Meara, Town Planner.

CALL TO ORDER

Mr. Chalot called the meeting to order and asked for the approval of the minutes of January 21, 2020. The minutes were approved as presented 6-0.

NEW BUSINESS

School ADA access ramp Site Plan Amendment - The Town of Cape Elizabeth is requesting an amendment to the previously approved school campus site plan to upgrade an existing access ramp to the school athletic fields located behind the Cape Elizabeth Middle School at 12 Scott Dyer Rd, Sec. 19-9, Site Plan Completeness and Public Hearing.

Bob Malley, Director of Public Works, said the town had engaged the services of Steve Harding of Sebago Technics.

Mr. Harding showed a plan of the project. He said they want to add pavement to currently gravelled areas to ensure access. He said they are asking for a couple of waivers; right title and interest and a boundary survey. Both documents are on file with the town.

They are adding 2150 sq. ft. of impervious surface, and the stormwater runoff will be the same as it is today. The town has budgeted for the construction. The utilities will be located before they begin construction. Mr. Harding then addressed the comments of Todd Gammon of Blais Civil Engineers, who did a peer review of the project. They will make the suggested changes.

Mr. Chalot opened the public comment on completeness.

Andy Strout, Physical Education Teacher at the middle school, wants to know if there is any plan to add accessibility to the tennis courts for middle school students. He thought we were going to gain that access with this proposal. He

then spoke about the time it takes for one of his students to get to the tennis courts from the middle school in a wheelchair using an existing access.

No one else came to speak, so the comment period was closed.

Mr. Sahrbeck joined the meeting.

Ms. Jordan made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of the Town of Cape Elizabeth for an amendment to the previously approved site plan for the school campus to install a paved ADA access ramp to the athletic fields located behind the middle school, located at 6 Scott Dyer Rd, be deemed complete.

Mr. Huebener seconded the motion and it passed 7-0.

The Board agreed that they do not need a site visit.

Mr. Gilbert would like to see a plan of the area so he could see how far it is to the tennis courts and Mr. Harding provided a google earth image showing the school campus.

Mr. Curry said that there is no proposal before us that connects to the tennis courts. That is up to the school department to work out.

Mr. Malley said that he and Mr. Harding met with the School Superintendent and Athletic Director to review the plan and there was no mention of access to the tennis courts on this project.

Mr. Gilbert said thanks for the overview of the area.

Mr. Sahrbeck made the following motion:

Findings of Fact

1. The Town of Cape Elizabeth is requesting an amendment to the previously approved site plan for the school campus to install a paved access ramp to the athletic fields located behind the middle school, located at 6 Scott Dyer Rd, which requires review under Sec. 19-9, Site Plan Regulations.
2. The school ramp improvement reflects the natural capabilities of the site to support development.

3. The school ramp improvement includes parking lot changes that will be in accordance with Sec. 19-7-8, Off-Street Parking.
4. The school ramp improvement does provide for a system of pedestrian ways within the development.
5. The school ramp improvement does provide for adequate collection and discharge of stormwater.
6. The school ramp improvement will not cause soil erosion, based on the erosion plan submitted.
7. The school ramp improvement, with confirmation using Digsafe protocols, will not disrupt existing site utilities.
8. The school ramp improvement will not locate, store or discharge materials harmful to surface or ground waters.
9. The applicant has demonstrated adequate technical and financial capability to complete the project.
10. The school ramp improvement does not include exterior lighting.
11. The school ramp improvement does not include any vegetative buffer removal.
12. The development will not substantially increase noise levels and cause human discomfort.
13. The application substantially complies with Sec. 19-9, Site Plan Regulations.

THEREFORE BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of the Town of Cape Elizabeth for an amendment to the previously approved site plan for the school campus to install a paved ADA access ramp to the athletic fields located behind the middle school, located at 6 Scott Dyer Rd, be approved, subject to the following conditions:

1. That the plans be revised to address the comments of Acting Town Engineer Todd Gammon in his letter dated 2-12-2020; and
2. That Digsafe protocols be applied to the area of construction.

Ms. Jordan seconded the motion and it passed, 7-0.

Ms. O'Meara took a moment to recognize Mr. Malley who will be retiring. She praised his work on behalf of the town.

287 Ocean House Rd Site Plan - Yam Yams, LLC is requesting Site Plan Review for a retail lumber store, workshop, class instruction, food truck and farm market located at 287 Ocean House Rd, Sec. 19-9, Site Plan Completeness.

Mike Friedland said he recently purchased 287 Ocean House Road. His goal is to propose a new business that works for community. His primary business is called Lumbery. It will be a small building supply company with an environmental and social conscience. He wants to teach classes, and for the community, he'd love to have food trucks, a farmers market and have acoustical live music. He will not gain from those things, but will give them to the community.

Jim Fisher of Northeast Civil Solutions said they are not looking for completeness this evening. They would like to go through the project and have a discussion so they will have enough information to go for completeness next time. He showed a plan of the layout of the interior and the exterior. He said they will no longer have a storage shed behind the building.

He said the frequency of the classes in woodworking will be twice a week for 6 people after business hours. They want to have a food truck. They plan to park it on a vegetated area, not on the pavement. They would put out some picnic tables.

They are asking for a waiver of a full traffic study. The intensity of use is a lot less than the Cumberland Farms, its prior use. The storm water will not be a problem, because they will revegetate about 1/3 of the pavement that is there. The utilities are shown on the plan. There are 3 utility poles along Ocean House Road, with cobra lights on each, which provide all the lights the site needs. There will be signage on the site. As for noise, the only activities that would be generating noise would be the evening classes. They will be held inside the building. It will involve a circular saw inside the building.

He spoke about the VRAP as it applies to them. He said they are not removing any soil, only that which is on the pavement they remove.

Mike Bachman of Waterhouse Builders showed the pictures of the exterior and interior of the building. He showed the layout of the interior and the classroom area.

Ms. Jordan asked what they have for sawdust collection.

Mr. Friedland said it's all contained ducts that go to the exterior. The storage unit has been discontinued. They will have a rack to store lumber.

Mr. Chalot said they have listed 6 basic uses, farmer's market, food truck, acoustic concerts, retail, office and evening classes. He asked Mr. Fisher if they will be providing a layout of how the farmer's market, food truck and acoustic concert will be accommodated.

Mr. Fisher said they will show that when the uses will overlap.

Mr. Gilbert asked about the VRAP and a sewer line. He also asked about a waiver of the noise levels. What about the concerts?

Mr. Fisher said there will be no excavation other than the removal of the pavement.

Mr. Chalot said they cannot waive a requirement and he would not support the waiver of the noise levels.

Mr. Huebener said if they waive the traffic study based on a past use, are they setting a precedent.

Ms. Jordan said if you talk about a farmer's market etc., there will be more in and out and she would not approve a waiver of the traffic study.

The Board was unanimous against waiving a traffic study.

Adam Steinman, attorney at Woodard and Curran, said there is not a single other building nearby that complies with the 35 ft. setback. He named the Cumberland Farms, Town Hall and the IGA. He hopes they will honor what he wants to do here.

As for the noise study, how can you do a noise study for something that does not exist, such as the concerts?

Mr. Chalot said the Board has no choice but to enforce the ordinance.

Mr. Chalot opened the public comment period about completeness.

Brandon Mitchell of 6 Rocky Hill Road spoke about Michael and his vision. He has a great track record. He would love to see a farmer's market and food trucks.

Zev Myerowitz of Hill Way can sympathize with the applicant. It is a challenge. He is concerned about the lack of transparency on the noise levels. We are a

direct abutter. We had to comply with the rules about noise and no light pollution on the abutters.

Victoria Volent of 58 Cottage Farms Road said the application is not complete. There is not enough information about manufacturing or noise. What are you producing? Asked to see the picture of the front of the building, she sees 2 food trucks. It wasn't clear that there would be 2 food trucks. She sees this as a very busy site. She saw on the internet that there will also be a surf shop on the site. She wants more information on that. She is happy to hear that the VWRAP is being looked at.

Nelle Hanig of 2 Great Pond Drive is concerned about the aesthetics of the food trucks and the outdoor storage rack. The DEP wanted a Phase 2 environmental study when a dental office was proposed. Is there contamination on the site? She thinks a Phase 2 environmental study would be in order before people are sitting on the grass during a concert. She noted that outside storage is proposed, and perhaps a small building addition would be better to store things inside.

Chris Rauscher of 53 Beach Bluff Road. He would like to have places to stop in Cape Elizabeth rather than go to South Portland.

No one else came forward so the public comment was closed.

Mr. Friedland said they are not manufacturing anything and that the Code Enforcement Officer told him to apply for manufacturing. The saws are for the classes and to cut a piece of lumber to fit a small car. The surf shop would be rentals inside the building. The goal now is the store.

Ms. O'Meara said the Code Officer said that if you are using any saws or other equipment to make something for your contracting business, you need to call it cottage industry manufacturing.

Mr. Friedland said the saws are for the classes, and to cut a piece to size for a customer. He said his contracting business will not be located on the site.

Mr. Chalot said if he wants to move the lumber business forward, he would be better off to drop the other uses from his application.

Mr. Sahrbeck said they have to enforce the requirements of the Town Center District. He also said the 2 food trucks are shown parked in the 35 ft. setback zone. There is no parking allowed there.

Mr. Friedland said they are trying to make this work. It would be what the community wants. He said they are working with the DEP.

Mr. Curry said maybe he could get some of the ancillary uses at a later time.

Mr. Sahrbeck said he wants to see more information about the noise levels from the dust collection system, and from the circular saw.

Mr. Fisher said they are requesting a waiver of a storm water study because we are decreasing the amount of pavement. He is also requesting a waiver of the lighting study because the cobra lights provide so much light that no more is needed.

Ms. O'Meara said there is a sign that will be "lightly illuminated" and it was left off the illumination study. The Town Center also requires a sidewalk along the road. The town has built a sidewalk along the Scott Dyer Road and there is a sidewalk along Ocean House Road which is in very poor condition. They are not requiring the applicant to rebuild that sidewalk, but there must be pedestrian lighting along the sidewalk. No separate lighting study is requested.

There was a brief discussion between Mr. Fisher and the Board about the need to provide lights along the sidewalk.

Mr. Gilbert said the parking does not really reflect how many vehicles will be there for the farmer's market.

Mr. Chalot asked about portable toilets for the farmer's market and the concerts.

Mr. Fisher said they would use the indoor toilet. That is not what the application proposed. Mr. Chalot was concerned that 1 restroom would not be sufficient during concerts.

Mr. Huebener said they need to make up their mind about the site. It won't support food trucks and a concert. You need to focus on your business.

Ms. Jordan made the following motion:

BE IT ORDERED that, based on the plans and the materials submitted and the facts presented, the application of Yam Yams LLC for site plan review to include a retail lumber store, with a business office, workshop and class space, food truck, farmers' market and live music located at 287 Ocean House Rd be deemed incomplete.

Mr. Huebener seconded and the motion passed, 7-0.

OTHER BUSINESS

Public comment: no one came forth.

The board voted unanimously to adjourn at 8:45 p.m.

Respectfully submitted,

Hiroshi Dolliver
Minutes Secretary