

MINUTES OF THE PLANNING BOARD  
TOWN OF CAPE ELIZABETH

October 18, 2022

7:00 p.m.

Town Hall

Present: James Huebener, Chair  
Andrew Gilbert  
Alton Palmer  
Matthew Caton  
Derek LaVallee  
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 amended minutes of September 20, 2022. Mr. Caton made a motion to approved the minutes, seconded by Mr. LaVallee, and they were approved 5-0-1 (Palmer abstain).

OLD BUSINESS

**Fresh Pickins Farm Site Plan** – Fresh Pickins Farm is requesting site plan review to construct a permanent, 440 sq. ft. farm stand located at 192 Bowery Beach Road (R09-5B), Sec. 19-9 Site Plan Review.

Robert Metcalf, Mitchell and Associates, representing applicant Dan Marion, reviewed changes to the plans. The plan has been revised to reduce the *active* parking spaces to 6 along the tree line parallel to Bowery Beach Road. The gravel base of the parking area has been extended past the handicapped accessible parking space so that a vehicle can back out and remain on the gravel base. The remainder of the parking lot will be grassed and include timber wheel stops. Posts to delineate the parking area will be installed.

Mr. Caton asked why the Town Engineer does not support the gravel base limitations in the parking lot. Ms. O'Meara said that the town engineer will not make recommendations that are inconsistent with general engineering standards, however the Planning Board has the authority to approve a temporary grassed parking lot based on expected use.

Mr. Sahrbeck clarified that a public hearing was held last month.

Mr. Gilbert asked for the largest number of vehicles parked at the farm stand now? Mr. Metcalf said the most is 5-6 on a Saturday. Mr. Gilbert asked about the gravel base detail? Mr. Metcalf said the plan has been revised to address the town engineer's comment on the composition of the gravel base.

Mr. Palmer is supportive of the grassed parking lot due to the limited expected use, but questions how the handicapped space will be striped to reserve it for handicapped parking? Mr. Metcalf said that a handicapped parking sign will be installed at the head of the space. Mr. Palmer wants to make sure both the space and the aisle next to the space are appropriately signed and reserved and the applicant agreed.

Mr. Huebener was envisioning how a handicapped person would navigate from the space, on gravel and sloped grade, over grass to the building. Mr. Metcalf explained that there would be a transition grade at the building.

Mr. Palmer noted the 3 parking lot condition options in the staff memo and suggested that 2 "a" and "b" be combined so that the applicant would not need to return to the Planning Board if they want to expand gravel in the parking lot.

Mr. Sahrbeck supports keeping most of the parking as grass, noting that at the site walk, the area is essentially a farm field. It was also noted that the Fire Chief has agreed that emergency vehicles can reverse the short distance onto Bowery Beach Road instead of constructing a turnaround onsite.

Mr. Gilbert questioned how mobility challenged seniors would access the building and perhaps a path for entry from the parking lot to the building should be provided. Mr. Metcalf clarified a stone dust path and there was consensus that would be sufficient.

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

1. Dan Marion of Fresh Pickins Farm is requesting site plan review to make a temporary, 440 sq. ft. farm stand located at 192 Bowery Beach Road permanent which requires review under Sec. 19-9, Site Plan Regulations.
2. The Planning Board discussed the project at the June 7, 2022 workshop, deemed the application complete and held a public hearing on September 20, 2022, and reviewed revised plans on October 18, 2022.
3. The plan for the development reflects the natural capabilities of the site to support development.
4. Access to the development will be on roads with adequate capacity to support the traffic generated by the development. Access into and within the site will be safe. Parking will be provided in accordance with Sec. 19-7-8, Off-Street Parking.
5. The plan does provide for a system of pedestrian ways within the development.
6. The plan does provide for adequate collection and discharge of stormwater.

7. The development will not cause soil erosion, based on the erosion plan submitted.
8. The initial phase of the development will not include water service. In a future phase, the development will be provided with an adequate quantity and quality of potable water. The development will provide for adequate sewage disposal. The development will be provided with access to utilities. The development will provide for adequate disposal of solid wastes.
9. The development will not adversely affect the water quality or shoreline of any adjacent water body.
10. The development will provide a vegetative buffer throughout and around the site and screening as needed.
11. The site will only be open to the public during daylight hours.
12. Signs will meet the requirements of the Sign Ordinance.
13. The development will not substantially increase noise levels and cause human discomfort.
14. Storage of exterior materials on the site that may be visible to the public will be screened by fencing or landscaping.
15. The applicant has demonstrated adequate technical and financial capability to complete the project.
16. 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 Dan Marion of Fresh Pickins Farm for site plan review to make a temporary, 440 sq. ft. farm stand located at 192 Bowery Beach Road permanent be approved, subject to the following conditions:

1. That the plans be revised to address the comments of the Town Engineer in his letter dated October 12, 2022;
2. That the parking area parallel to Bowery Beach Road be revised to add a note that the applicant can expand the gravel base of the parking lot to the remaining parking areas when use degrades the grass surface;

3. That a sanitary wastewater system and hand washing station be designed in compliance with the state plumbing code and submitted to the Code Enforcement Officer for his approval;
4. That letters of approval be provided from the Portland Water District, Central Maine Power and the Maine Department of Transportation prior to water line and electrical connections, respectively;
5. That a 5' wide stone dust path extend from the handicapped space to the entry of premises; and
6. That there be no alteration of the site nor issuance of permits until the plans have been revised to address the above conditions and submitted to the town planner for review.

There were friendly amendments to the original motion to revise condition #2, and to add condition #5, both of which were accepted and reflected above. The motion passed 6-0.

#### PUBLIC COMMENT

Chair Huebener noted that there were no members of the public present

#### UPDATE

Chair Huebener asked what was coming up for the Planning Board. Ms. O'Meara said that the November 1<sup>st</sup> workshop would include a subdivision amendment that might require a joint meeting with the South Portland Planning Board.

The board asked if and when they would see LD 2003 amendments? Ms. O'Meara updated the board that draft amendments have been developed by the Ordinance Committee and sent to the Town Council as part of its October 12<sup>th</sup> meeting. The draft is available online under the October 12<sup>th</sup> Town Council meeting. The Town Council will be scheduling a workshop. In response to a question, Ms. O'Meara said it is likely that the Town Council will send the amendments to the Planning Board and the Housing Diversity Study Committee at some point. Board members questioned when is the state deadline for adoption, what happens if the town does not meet the deadline, and how can the town not be in compliance with state law?

Mr. Palmer asked about a brochure he received that said 126 units could be built under LD 2003. Ms. O'Meara declined to comment on the brochure. She said the multifamily bonus for affordable housing in LD 2003 is calculated on base density, not layered onto other affordable housing density bonuses, which, for example, have different affordable housing definitions.

Board members asked about committee appointments. Ms. O'Meara said the Town Council typically makes appointments at its December meeting, and she has no involvement in appointments.

Chair Huebener said he would not be attending the December workshop.

Mr. Sahrbeck made a motion, seconded by Mr. Caton to adjourn and it passed unanimously at 7:50 p.m.