

**Planning Board Meeting - Minutes
Tuesday, April 15, 2008
Cumberland Town Hall
290 Tuttle Road, Cumberland, Maine
7:00 PM**

A. Call to Order

The meeting was called to order at 7:00 p.m.

B. Roll Call

Present: Bill Ward, Board Chair, Bill Richards, Vice-Chair, Bob Couillard, Mark Robinson, Chris Neagle, Pam Russell, Bob Vail

Staff: Carla Nixon, Town Planner, Pam Bosarge, Board Clerk

C. Approval of Minutes of March 18, 2008

Mr. Robinson moved to approve the minutes of March 18, 2008 with technical corrections.
Mr. Vail seconded. VOTE: Unanimous

D. 1. Consent Calendar / De minimus Change Approvals:

There were no consent calendar items.

E. Hearings and Presentations:

1. Public Hearing: Minor Subdivision Review: Brookwood Subdivision a one (1) lot subdivision at 2 Sophie's Way; Tax Assessor Map R06, Lot 18 D, (portion of), Rural Residential 2 (RR2) district; Roger Brooks, Applicant, James Nadeau, LLC, Surveyor, Representative.

Mr. Ward stated there have been several issues with this item. One of which the subdivision revision was advertised as a minor subdivision when it should have been advertised as a major subdivision revision. He would recommend tabling the application pending proper notice.

Ms. Nixon presented background information as follows: This is an unusual application. A 4-lot subdivision was approved by North Yarmouth in 1988, but one of the 4-lots was in Cumberland. Cumberland never reviewed the plan. Now the owner of Lot # 4 (in Cumberland) wants to split off a 3.5 acre piece to give to his daughter. This couldn't be done as a revision to a subdivision because Cumberland never approved the original subdivision. This was classified as a minor subdivision review, but with the focus of Cumberland's review being only Lot #4 and the future split. Lot # 4 is off from Greely Road Extension the road is not paved as required by subdivision standards. This could be waived however, a road waiver has not happened in her tenure. The road is technically a private way, with two houses. The Board will need to consider this request.

Mr. Ward suggested the Board conduct a site walk and look at the existing road.

Mr. Richards asked about the start of construction on the house.

Ms. Nixon stated Mr. Brooks was not aware of the subdivision. Mr. Longley issued the necessary building permits, he too, was not aware of the subdivision. Mr. Brook's daughter's title company discovered the 4-lot subdivision during a title search. Mr. Brook's children had sold their house and it was necessary for the construction to begin. In consultation with Mr. Longley and Natalie Burns (Town Attorney) the lot split was undone, and the building permit was issued to Roger Brooks. His lot has adequate acreage to accommodate two houses.

Mr. Neagle stated this is a unique situation. The State statute requires all hearings to review or amend a subdivision in two towns to be reviewed as a joint meeting of both boards. That law was adopted in 1997; it was not a mistake in 1988. Statute didn't require Cumberland to review the plan. The portion of land in Cumberland is a single-lot conveying a gift lot to a daughter which defined by Statute is not a lot. The gift lot to the daughter makes 2 lots in Cumberland, and 3-lots in North Yarmouth which are far removed from Cumberland. He would support an amendment for a 4-lot subdivision. He agreed paving could be waived showing an undue hardship by the applicant.

Mr. Richards asked about subsequent sale of the house and property.

Mr. Neagle stated the gift lots can't be sold for five years.

Ms. Russell asked what would be involved to amend the subdivision in North Yarmouth to remove the Cumberland lot.

Mr. Neagle stated the lot already exists and cannot be removed.

Ms. Russell stated the driveway is a substantial dirt road and would be costly to pave.

Mr. Neagle stated it would be up to the owner of the property to request the waiver and prove a hardship.

Mr. Robinson agreed this is an unusual situation, which he has never encountered in his tenure on the Planning Board. He hasn't driven down the road, but the tract of land could be problematic and wet in nature, he would agree with a site walk. In reviewing the maps his first instinct is to question the septic design, it is unfortunate the Engineer is not here this evening. He asked Mr. Brooks who was Michael Brooks.

Mr. Brooks stated Michael is his son.

Mr. Robinson asked if he had intentions to convey a piece of land to his son.

Mr. Brooks stated there are currently no plans. His oldest daughter has three children and wants to move to Maine and help with the farm. Her husband is fortunate and can telecommute from any location.

Mr. Vail stated the land was formerly the Glazier farmstead, irrigated farm land. He questioned if the plan was accurate as it exists today. Mr. Vail referenced Mr. Kerr's subdivision off Greely Road (Stirling Way), which wasn't reviewed by the Planning Board. He didn't want to be more stringent with this applicant.

Mr. Neagle stated he was not familiar with Stirling Way, and couldn't comment. The provision on the North Yarmouth Plan states further splits would require review; this is a fifth lot which is changing the plan.

Mr. Couillard asked if the road was sufficient in 1988 would the requirements for asphalt be grandfathered.

Mr. Neagle said he didn't think in 1988 North Yarmouth cared about a driveway in Cumberland.

Mr. Ward stated there are several issues:

- Joint review with North Yarmouth
- A site walk
- Road Paving

Mr. Robinson asked Mr. Brooks how was he able to start construction.

Mr. Brooks reviewed the chronology as follows: In 2006 they talked with the Town, applied for, and received approval for the Private Way (Sophie's Way). He then gifted the lot to his daughter. A building permit was issued, and his daughter's Title Company discovered the subdivision plan during a title search. Alan Wolf of Terry Snow's office suggested the lot be gifted back to him, until the subdivision could go through the Planning Board for review.

Mr. Robinson stated he wanted to make this happen, but the Board had to take time to make sure they get it right.

Ms. Russell stated she misspoke there is a 50' right of way to North Yarmouth.

Mr. Neagle reviewed State Statue regarding waiver of joint review by both Towns.

Ms. Nixon stated she had talked with Barbara Skelton North Yarmouth's CEO and North Yarmouth had no interest in dealing with the review. They requested a decision be forwarded to the Town for filing. Ms. Nixon had classified the subdivision as minor because it was a gift lot. Ms. Nixon stated she had visited the site and the building envelope appeared to be high and dry. The septic system was designed by Dick Sweet of

Sweet Associates. Ms. Nixon questioned if a site walk was necessary to check the wetness of the lot.

Mr. Brooks stated he has owned the property for twenty years, there is a portion of wetlands northwest of the house and northwest of Greely Road. Some years the streams and brooks are bone dry and other years wet.

Mr. Robinson moved to table the application until the May meeting and to conduct a site walk to review the road.

Mr. Neagle seconded.

VOTE: Unanimous

2. Public Hearing: Subdivision Revision: Castlerock Business Park, revisions relative to infrastructure design; Tax Assessor Map R07C, Lot 1A, in the VOI / LB districts; Elvin Copp, Owner, Jeff Amos, P.E. Terradyn Consultants, Representative.

Ms. Nixon presented background information as follows: As you will recall, this project received approval in September 2007. Now that public water is being installed (this summer) the applicant is ready to begin construction; however the plan needed to be revised to show the new road cross-section including the water line, a closed drainage system, and sidewalk.

Mr. Vail disclosed he is friends with the Copp family.

Mr. Ward stated the entire Board would have to step aside with that disclosure. The Board did not feel Mr. Vail should be recused.

Mr. Jeff Amos, of Terradyn Consultants, Representative reviewed the proposed change as follows:

- The road section was changed to an urban cross section. The new cross section features an 11' wide travel lane, 4' paved shoulder and sloped bituminous curbing. There will be a 5' wide esplanade and 5' wide bituminous sidewalk on one side of the road.
- The project datum was modified to allow proper coordinates with the Route 100 Design Plans by Gorrill Palmer Consulting Engineers.
- The landscaping has increased in caliper by 1".
- The project zoning has been revised to reflect the new VOC I standards.
- The stormwater design was updated to reflect the datum change as well as the slight increase in impervious area resulting from the change in road cross section. A copy of the revised stormwater calculations has been provided to the town engineer for review and approval.

The applicant would like to request a waiver of the application fee due to the minor scope of the proposed changes.

Mr. Couillard asked for clarification on the detention pond, and that the 18" of clay on the bottom would be removed and changed to gravel.

Mr. Amos stated the clay in the bottom of the detention pond was needed when the pond was to provide fire protection, but will be changed to gravel.

Mr. Vail asked for clarifications on the landscaping plan will the trees be 1" caliper.

Mr. Amos stated yes.

Mr. Robinson stated the improvements are fine and more desirable.

Ms. Russell asked about how many lights would be in the development.

Mr. Amos stated at the entrance and the end, there may be more at individual site plan reviews.

Mr. Richards had no questions.

Mr. Neagle seconded Mr. Robinson's comments.

Mr. Couillard stated he is pleased with the limited lighting.

The public portion of the meeting was opened.

Ms. Lynda Jensen of 5 Mill Road an abutter asked about the detention ponds.

Mr. Amos reviewed the plan stating the ponds will be 150' long and 50' wide, the back pond will not hold water.

The public portion of the meeting was closed.

Mr. Neagle moved to waive the reading of the findings of fact and approve the findings with re-numbering.

Mr. Richards seconded.

VOTE: Unanimous

1. Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:
 - A. The elevation of the land above sea level and its relation to the flood plains;
 - B. The nature of soils and subsoil and their ability to adequately support waste disposal;
 - C. The slope of the land and its effect on effluents;
 - D. The availability of streams for disposal of effluents; and
 - E. The applicable state and local health and water resource rules and regulations;

The subdivision will utilize septic systems; test pit locations are shown on the plan. A high intensity soil survey was conducted by Mark Hampton, Certified Soils Scientist. Based on the information provided the standards of this section have been met.

2. Sufficient Water. The proposed subdivision has sufficient water available for the reasonable foreseeable needs of the subdivision;

The Town and the Portland Water District have reviewed the plans and are prepared to serve the subdivision once water is available in that location. The water supply will be in place prior to the issuance of any building permits.

Based on the information provided the standards of this section have been met.

3. Municipal Water Supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;

As stated above, the Town and the PWD are prepared to provide public water to the subdivision once the water line is extended to the area.

Based on the information provided the standards of this section have been met.

4. Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;

An erosion and sedimentation control plan was prepared by Terradyn Consultants and has been reviewed and approved by the Town Engineer.

A letter of approval from the Cumberland County Soil and Water Conservation District is on file.

Based on the information provided the standards of this section have been met.

5. Traffic. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed;

Traffic information has been reviewed and approved by the Town Engineer. An MDOT Driveway Entrance Permit, dated 6/6/05, is on file.

Based on the information provided the standards of this section have been met.

6. Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services, if they are utilized;

Test pit locations are shown on the plan. A high intensity soil survey was conducted by Mark Hampton, Certified Soils Scientist.

Based on the information provided the standards of this section have been met.

7. Municipal solid waste disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;

A letter from a Pine Tree Waste is on file.

Based on the information provided the standards of this section have been met.

8. Aesthetic, cultural, and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

Letters are in file from the Dept. of Inland Fisheries and Wildlife and the State Historic Preservation Commission indicating that there are no significant wildlife habitat or historic sites on the property.

Wetland fills are limited to less than 1/10th of an acre.

The building envelopes have been shifted to the south to preserve the scenic site line looking down from Mill Road near the Mr. Copp's new home.

Based on the information provided the standards of this section have been met.

9. Conformity with local ordinances and plans. The proposed subdivision conforms to a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;

The plan has been reviewed and approved by the Town Engineer and Department Heads. The proposed subdivision is in compliance with local ordinances and plans.

Based on the information provided the standards of this section have been met.

10. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section;

A commitment letter from Border Trust in on file.

Based on the information provided the standards of this section have been met.

11. Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38 chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of the body of water;

Wetlands delineation and high intensity soils mapping has been done by Mark Hampton Associates, Inc. There is no adverse impact on the small wetland area on the site.

Based on the information provided the standards of this section have been met.

12. Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;

Test pit locations are shown on the plan. A high intensity soil survey was conducted by Mark Hampton, Certified Soils Scientist.

Based on the information provided the standards of this section have been met.

13. Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

According to the National Flood Insurance Program, the property is located in Floodplain Overlay C-areas of minimal flooding. No special precautions are necessary in Zone C.

Based on the information provided the standards of this section have been met.

14. Storm water. The proposed subdivision will provide for adequate storm water management;

A Stormwater Management Report was prepared by Terradyn Consultants and reviewed and approved by the Town Engineer.

Based on the information provided the standards of this section have been met.

15. Freshwater wetlands. All potential freshwater wetlands, as defined in 30-A M.R.S.A. §4401 (2-A), within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

Wetlands delineation and high intensity soils mapping has been done by Mark Hampton Associates, Inc. Wetland impact is limited to less than 1/10th of an acre.

Based on the information provided the standards of this section have been met.

16. River, stream, or brook. Any river, stream, or brook within or abutting the proposed subdivision has been identified on any map submitted as a part of the application. For purposes of this section, "river, stream, or brook" has the same meaning as in Title 38, Section 480-B, Subsection 9. [Amended; Effective. 11/27/89]

No rivers, streams, or brooks have been found on the site.

Based on the information provided the standards of this section have been met.

17. Aquifer Protection: If the site is located within the Town Aquifer Protection Area a positive finding by the Board that the proposed plan will not adversely affect the aquifer is required.

The site is located in the Aquifer Protection District, but the findings relative to suitable soils for septic systems allows a positive finding that the plan will not adversely affect the aquifer.

Mr. Neagle moved to approve with the standard and proposed conditions of approval the revisions to the Castlerock Business Park subdivision plan relative to infrastructure design; Tax Assessor R07C, Lot 1A, in the VOCI / LB districts; Elvin Copp, Owner, Jeff Amos, P.E. Terradyn Consultants, Representative.

Mr. Robinson seconded.

VOTE: Unanimous

Standard Conditions of Approval

This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals and supporting documents, except de minimus changes as so determined by the Town Planner which do not affect approval standards, is subject to review and approval of the Planning Board prior to implementation.

Recommended Conditions of Approval

1. Article V c. needs language added that reflects the fact that the Town Council may or may not choose to accept the subdivision road as a public road.
2. That no certificates of occupancy shall be issued until the connection to the public water supply is made.
3. That a preconstruction meeting be held prior to start of construction.
4. That a performance guarantee in a form and amount acceptable to the Town Manager be provided prior to the preconstruction conference.
5. That all fees be paid as required.

F. Administrative Matters:

1. Sign Mylar for Castlerock
2. Site walk for Brookwood to be Monday, April 29th at 5:00 p.m.
3. May Meeting changed to May 13th because of school vote.

G. Adjournment:

Mr. Robinson moved to adjourn at 8:00 p.m.

Mr. Neagle seconded.

VOTE: Unanimous

The meeting was adjourned at 8:00 p.m.

A TRUE COPY ATTEST:

William P. Ward, Board Chair

Pam Bosarge, Board Clerk

