

Town of Scarborough

Planning Board

June 20, 2011

AGENDA

1. Call to Order (7:00 P. M.)
2. Roll Call
3. Approval of Minutes (May 9, 2011)
4. The Planning Board will conduct a public hearing to receive input regarding an amendment to the space and bulk standards of the Industrial Zone*
5. Cornerstone Baptist Church requests site plan amendment review for the addition of a canopy at the existing church at 415 U. S. Route One*
6. Windward Subdivision, Thomas and Anne Ollmann request amendment to Lot 12, 21 Ridgeway Road, for wetland delineation*
7. Beachwalk Subdivision, John Wiggins and the Beachwalk Association request amended subdivision plan for drainage, street trees and a fence on site at Pine Point*
8. Carter Brook Subdivision, the Grondin Family requests final subdivision review for 6 additional lots in previously approved subdivision on Carter Brook Drive*
9. Mitchell Hill Heights and Fengler Woodlands, Michael Martell requests subdivision amendment review for lots 50 and 51*
10. Administrative Amendment Report
11. Town Planner's Report
12. Correspondence
13. Planning Board Comments
14. Adjournment

*Public comments will be allowed on these items.

NO NEW ITEMS SHALL BE TAKEN UP AFTER 10:30 P. M.

Town of Scarborough

Planning Board

June 20, 2011

MINUTES

Members Present

Mr. Bouffard
Ms. Corthell
Mr. Fellows
Mr. Mazer
Mr. Thomas

Staff

Mr. Chace, Assistant Town Planner
Ms. Logan, Recording Secretary

1. Call to Order

Mr. Fellows called the meeting to order at 7:00 P. M.

2. Roll Call

The Recording Secretary called the roll; Messrs. Chamberlain and Paul were absent. Mr. Fellows authorized Mr. Bouffard and Ms. Corthell to vote.

3. Approval of Minutes (May 9, 2011)

Mr. Mazer moved to approve the minutes of May 9, 2011 as written; Mr. Thomas seconded.

Voted 5-0

4. The Planning Board will conduct a public hearing to receive input regarding an amendment to the space and bulk standards of the Industrial Zone*

Mr. Harvey Rosenfeld, of Scarborough Economic Development Corp., explained that he was approached by a business in the Scarborough Industrial Park who wanted to add manufacturing space but had reached their building coverage of 35%. He noted that the other business zones allowed 50% coverage. He stated this request was moved ahead because the proposal is a reasonable use of limited Industrial Zoned land. Mr. Rosenfeld stated that any business would still have to meet all the other requirements before being approved and there were a lot of controls with site plan review.

Mr. Fellows opened the public hearing; no one spoke for or against the amendment; Mr. Fellows closed the public hearing.

Mr. Mazer stated that he was in favor of this request because of the corporation that needed to expand and another that may have avoided Scarborough because of the restriction; he stated that there were enough regulations to keep businesses in check. He stated that it was important that Scarborough bring good, profitable businesses to town to broaden the tax base. Mr. Thomas agreed and stated that the town needed to be business-friendly.

Mr. Bouffard stated that the town needed a balance between commercial and residential uses. To questions from Mr. Bouffard, Mr. Rosenfeld replied that the rope company left the Industrial Park because they could not expand on their lot and that the Running Hill and TVC2 Zones allowed a combination of impervious surface and building up to 85%. Mr. Rosenfeld stated that other towns had industrial zone

coverages from 50% up to 70% or 80%. Mr. Bouffard stated that 50% in the Industrial Zone seemed sensible.

Ms. Corthell stated that when she received the original memo she had a lot of questions and was provided additional information by Mr. Rosenfeld. She stated that she thought impacts of what would happen if every business wanted to expand to this amount should be addressed. She stated that simply to keep a business was not enough information for her to do her fiduciary duty. Ms. Corthell stated that she supported this amendment based on the information provided by Mr. Rosenfeld. Mr. Rosenfeld stated that 35% coverage did not make much sense when the other zones allowed 50%.

Mr. Fellows stated that he, too, appreciated the additional information and was in favor of the request; he stated that he recognized that ordinances sometimes needed to be adjusted and this seemed to be done thoughtfully and brought the Industrial Zone in line with other zones.

Mr. Fellows stated that the Board sent a favorable opinion to the Town Council.

5. Cornerstone Baptist Church requests site plan amendment review for the addition of a canopy at the existing church at 415 U. S. Route One*

Mr. Chace explained that this site plan was approved a year ago but it was found that the proposed canopy would need a variance for the setback from the right of way; he stated that the Zoning Board approved that variance and the applicant was back to the Planning Board to amend the site plan to add the canopy.

Mr. Mike Richman, of Custom Concepts Architects, stated that nothing on the site plan had changed and the canopy was simply a covered entry to the building.

Ms. Corthell confirmed that it was the design of the structure the Board was approving. Mr. Chace stated that the driveway this canopy would cover was already approved. To a question from Mr. Mazer, Mr. Richman replied that 50% of the earthwork was done last fall and they were working on the rest of it presently. Mr. Richman stated that he had heard nothing from the abutter.

Mr. Fellows moved to approve the site plan amendment as presented; Mr. Thomas seconded.

Voted 5-0

6. Windward Subdivision, Thomas and Anne Ollmann request amendment to Lot 12, 21 Ridgeway Road, for wetland delineation*

Mr. Chace stated that this subdivision was approved in 1993 and in the intervening years a soils scientist had redelineated the wetlands. He stated that there were no staff comments.

Mr. Jim Fisher, of Northeast Civil Solutions, explained that they were asking for a change of the wetland line on this property. He stated that the topography and the geography was fairly steep at the rear of the lot; he stated that this was a forested wetland and was separated to a small rise. Mr. Fisher stated that it was likely that the wetlands were that way to begin with. He stated that with new technology the wetlands were more accurately defined and they were asking the Board to approve the redelineation.

The Board had no issues. Mr. Fellows stated that he had been unclear as to who had the authority to delineate wetlands, but it was someone who could use the technology.

Mr. Fellows moved to approve the request as presented; Mr. Thomas seconded.

Voted 5-0

7. Beachwalk Subdivision, John Wiggins and the Beachwalk Association request amended subdivision plan for drainage, street trees and a fence on site at Pine Point*

Mr. Chace noted that the street trees and the fence on Lot 6 were referred to in Note S-31 on the plans, which limited all fences and vegetation to 42 inches. Regarding the drainage, Mr. Chace stated that the applicant wanted to eliminate the curbs and the Town Engineer was comfortable that the stormwater would be taken care of.

Mr. Jim Fisher, of Northeast Civil Solutions, stated that they had originally created a curb at Claudia Way to channel the drainage between Lots 6 and 7 into the dunes as approved by the DEP, but following construction it was easy to attenuate the runoff on the site because of the deep, pervious sand which would absorb the water. He stated that a substantial storm would go to a dry well and would be absorbed gradually and naturally.

Mr. Fisher explained that they wanted to plant up to five trees to enhance the aesthetics. He showed the locations of the proposed trees and stated that they would be about eight feet tall when planted. Mr. Wiggins stated that the intent of the trees was for landscaping only and they were trying to plant trees that would grow vertically so they would not obstruct views and proposed ornamental pear trees that would grow to 20 or 25 feet. He stated that he would purchase a couple of trees and put them in different locations to make sure the abutters were happy. Mr. Wiggins stated that trees at the entrance or the end of the road would block no view of the ocean as there were no views through there. He stated that he would have to discuss the location of the other three trees with the neighbors; he stated that the landscaping committee thought it would be pleasing to have some taller trees; and they were willing to plant fewer trees.

Mr. Mazer asked whether landscaping was shown on the originally approved plan; Mr. Fisher replied that there was a landscaping plan with a height restriction of 42 inches in view sectors but no restriction in no-view sectors; he stated that they were trying to create an improvement to the aesthetics without blocking views.

Mr. Fisher stated that at the side of Lot 6 there was a small three foot high fence built on a patio of stones. He stated that the patio was only a few feet from the public walkway to the beach and they wanted to address the issue of the 60 inches to the top of the fence that sat on the berm. He noted that the Town had added a pergola to its abutting park which is higher than the fence, as were the tops of trucks parked in the parking lot.

Mr. Fellows opened the public hearing and asked that people keep their comments to five minutes and not repeat what someone else had said.

Ms. Judy Shirk, of Avenue Three, stated that she had no objections to the changes to the drainage; she noted that the 42 inch limitation was based on the split rail fencing in the area at the time. She stated that she was told that pear trees grew to 35 feet and they were big trees; she noted that vehicles were parked in the lot only seasonally. Ms. Shirk read her two page statement. Mr. Fellows asked her not to make character attacks and to get to the point. Ms. Shirk also read a memo from Robert Rovner who stated that approval of this request would set a precedent that would cause more problems in the future and all the meetings last fall would have been a waste of time.

Mr. Joe Tedeshi, of the Sun'n Sand Motel, stated that a small committee was formed at the start of planning for this subdivision; he stated that the main issue was the height restriction of 42 inches to protect the sight lines and was put into the subdivision covenants. He stated that the neighbors were asking that this commitment be honored and for the Planning Board to deny the fence and the trees. He stated that there was a wide variety of pear trees that grew to 35 feet; he stated that 20 foot trees would close off the road

and the sight lines. Mr. Tadeshi stated that he had no objection to the drainage change.

Ms. Joan Lourie, of East Grand Avenue, stated that she thought placement of the trees in Beachwalk may be pleasing to the owners, but if there were any potential to obstruct views they should not be allowed. Ms. Mo Erickson, of 288 Pine Point Road, stated that she did not think the applicant should be able to haggle over disobeying the law. She stated that her issues were that they should adhere to the 42 inch height limit and once the trees were planted the neighbors could not move to get a better view. She stated that people used trees in lieu of fences and nothing should be planted that would block a view; she stated that she hoped the Board would abide by the original agreement.

Mr. Wiggin reiterated that the intent was not to block views and were only trying to provide a better aesthetic; he stated that they would plant fewer than five trees if necessary. He noted that since the subdivision was developed, there had been a land swap between the Town and the Lighthouse Motel and these issues were discussed at that time and there was agreement that having taller trees made for better aesthetics and that there had to be some level of privacy for Lot 6. He stated that the fence is 36 inches high and was lower than the parked cars and taking the fence down would not improve any views. He stated that it was a planned, thoughtful fence for privacy and not to impede views any more than the parked cars or the furniture on the patio. He stated that this request applied only to Lot 6.

Ms. Elaine Richer, of 28 East Grand Avenue, read the Declaration of Rights Section 4.12 View Corridors "...shall not exceed a height of 4 feet to protect the views of the abutting properties...." She stated that the neighbors were asking that the Board enforce that agreement.

Mr. Fisher stated that they empathized with the neighbors but this seemed to be blown out of proportion. He stated that this was a fence less than three feet high which met the letter of the law for the fence height but the Town measured from the original grade. Mr. Fisher distributed photos of the fence and stated that it was so nondescript one could barely tell it was there; he stated that the fence was lower than the dunes and there was no view of the ocean but of the dunes. He stated that this was one small fence on one lot, was not ostentatious and would separate the lot from people using the boardwalk six or seven feet away.

To a question from Mr. Mazer, Mr. Chace replied that the fence had been in violation for about a year and the town had been working to get it into compliance by having it removed or by approval by the Board. Mr. Mazer stated that he did not see one fence as an issue but did see the violation as an issue. Mr. Mazer stated that he agreed with Ms. Shirk's point but she should get rid of the unnecessary verbiage. He stated that the 42 inch height requirement should remain. He stated that the trees should also meet the 42 inch ruling and the Board should not set a precedent. Mr. Mazer stated that this area was not out of the way of everything and the owners had to understand that the public would be going in and out of the beach and there would be no privacy because of the location. He stated that he would not approve the trees or the fence but had no issues with the drainage.

Mr. Thomas stated that he had no issues with the drainage request. He stated that something tasteful could be done to maintain some privacy for Lot 6 but still provide a view for the public at the 42 inch height. To a question from Mr. Thomas, Mr. Fisher replied that 18 inches would have to come off the fence to bring the total height to 42 inches. Mr. Chace stated that the fence was less than 42 inches high but the earth beneath it had been graded up and therefore did not meet the approval conditions. Mr. Thomas stated that he understood that the height needed to be 42 inches and he thought that it should be at that level, which should be an easy fix.

Ms. Corthell stated that she agreed with her colleagues; she stated that the homeowner knew when he purchased the property that this was a public beach and she did not see the need for privacy. She stated that one cannot have privacy on a public beach and did not need trees to be aesthetically pleasing; she

stated that the height of the fence or landscaping should be 42 inches. She stated that she had no issues with the drainage changes.

Mr. Bouffard stated that he heard the term “public beach” mentioned, but Lot 6 is private property and he had a real problem with neighbors telling someone what he could do on his own property. He noted that he went to the area and looked down the street and had a wide view of the ocean and barely noticed the fence but thought the fence should be lowered to return to the original plan if it would please everyone.

Mr. Fellows stated that the drainage was not an issue. He stated that no one was entitled to a view but it was clear that the previous Planning Board process was very thorough and led to the height limits. He stated that he agreed with the tenet of buyer beware when buying the site and the fence was built in a deliberate way but was in violation of the height restriction. Mr. Fellows stated that he had thought a site walk might be in order but it was clear that the Board was unanimously against permitting the fence to remain at its current height and the 42 inch limit should be honored.

The Board members stated that they had viewed the site, had heard the input from the public and were prepared to vote. To a question from Mr. Fellows, Mr. Chace replied that the approval for amending Note S-31 would not change so a revised plan would need to have the trees removed.

Mr. Fellows moved to approve the amended plan for drainage as presented; Mr. Thomas seconded.

Voted 5-0

Mr. Fellows moved to approve the amended plan for street trees as presented; Mr. Thomas seconded.

Voted 1-4 – Mr. Bouffard voted in favor of the motion.

Mr. Fellows moved to approve the amended plan for the fence to remain at Lot 6; Mr. Thomas seconded. Mr. Bouffard asked whether the boardwalk was in place when Note S-31 was approved; Mr. Chace replied that it was not and there was parking for the motel at the boardwalk site and the Town right of way was to the left of the parking.

Voted 0-5

The drainage was approved; the street trees and the fence were denied.

8. Carter Brook Subdivision, the Grondin Family requests final subdivision review for 6 additional lots in previously approved subdivision on Carter Brook Drive*

Mr. Bouffard recused himself from this item because he lives at Carter Brook.

Mr. Chace noted that preliminary approval had been granted; he stated that there were memos from Mr. Wendel and Mr. Tubbs and staff was comfortable with the plan. He noted that the applicant had addressed the Board’s concerns and had shown how the site would look when completed.

Mr. Shawn Frank, of Sebago Technics, stated that he had provided an overall grading plan; he stated that they proposed six lots and would extend the road 700 feet and move the hammerhead to the end. He stated that the road would be conveyed to the Town. He stated that 20 acres of open land would remain and the treatment pond would be maintained by an association of these six lots. Mr. Frank stated that a new fire tank would be installed at the beginning of the new road extension and the light pole would be moved 50 feet down and drainage would be adjusted to accommodate the fire tank. He stated that they had started leveling the lots.

Ms. Corthell stated that as long as the technical details were worked out and there was nothing in the codes about the elevations, she saw no reason not to approve this. Mr. Thomas stated that everything had been addressed and he was satisfied. Mr. Mazer stated that Scarborough had the best planning staff in the State and if the staff was satisfied with the slopes, he was too. Mr. Fellows stated that he had no issues.

Mr. Fellows moved to approve the second amended subdivision plan with the following conditions:

1. The subdivision shall be constructed in accordance with the subdivision plans entitled “2nd Amended Subdivision Plan of Carter Brook Subdivision” prepared by Sebago Technics dated March 29, 2011 and revised June 17, 2011.
2. Prior to the release of the attested subdivision plan to the applicant for recording, the Payne Road Impact Fee amount of \$2,826.82 shall be paid to the Planning Department. (District 1 - \$149.43; District 2 - \$584.84; District 3 – \$1,996.20; District 4 - \$96.35; District 5 - \$0)
3. A recreation contribution in the amount of \$250.00 shall be paid on a lot by lot basis prior to the issuance of a building permit.
4. Prior to release of the mylar, the applicant shall execute and record all documentation necessary to comply with the Town’s post-construction Stormwater Infrastructure Management Ordinance.

Mr. Thomas seconded.

Voted 4-0

9. Mitchell Hill Heights and Fengler Woodlands, Michael Martell requests subdivision amendment review for lots 50 and 51*

This item was tabled at the request of the applicant.

10. Administrative Amendment Report

There was no report.

11. Town Planner’s Report

Mr. Chace noted that the Oak Hill Pedestrian Committee held a public workshop and would meet next week to review their draft report for the Town Council. Ms. Corthell stated that she was very disappointed that the Committee did not address bicycling.

12. Correspondence

There was no correspondence.

13. Planning Board Comments

Mr. Fellows noted that a public workshop had been held regarding the Dunstan Improvement Plan. Mr. Chace stated that the DOT ran the meeting and extensive notes had been delivered to Mr. Bacon today.

14. Adjournment

The meeting was adjourned at 9:00 P. M.

