

**TOWN OF CUMBERLAND
PLANNING BOARD MEETING MINUTES
Tuesday, April 17, 2018 - 7:00 pm**

A. Call to Order: Chairman Moriarty opened the meeting and noted that Item 1 for a public hearing regarding Heritage Village has been tabled by the applicant and will not be heard.

B. Roll Call: Present: Steve Moriarty - Chair, Paul Auclair, Jeff Davis, Bill Kenny, & Peter Sherr. **Staff:** Carla Nixon - Town Planner & Bill Shane, Town Manager **Absent:** Gerry Boivin, Joshua Saunders & Christina Silberman - Administrative Assistant.

C. Approval of Minutes of the March 20, 2018 Meeting: Mr. Auclair moved to accept the minutes of the March 20, 2018 meeting as written, seconded by Mr. Kenny and **VOTED, 4 yeas, 1 abstained (Davis) - motion carries.**

D. Staff Site Plan Approvals: None.

E. Minor Change Approvals: None.

F. Hearings and Presentations:

1. TABLED BY APPLICANT ~~Public Hearing: Site Plan Review for site preparation of Heritage Village, Cumberland Foreside Village Subdivision, Skyview Drive, Tax Map R01, Lot 11-7, Owner and Applicant; Heritage Village Development Group, LLC, Representative; Stephen B. Mohr, Mohr & Seredin Landscape Architects.~~

2. Public Hearing: Recommendation to Town Council for approval of a Contract Zone Agreement for John Paynter, 445 Greely Road Extension.

Town Manager Bill Shane explained that this is the next to final step in the contract zone process and is a public hearing for a recommendation from the Planning Board. Mr. Shane said that Mr. Paynter approached the Town about acquiring his property that is between 20-24 acres on Knights Pond. This is the final piece that the Town does not own within the Town of Cumberland. Mr. Paynter, as part of his retirement plan, may wish to have access to develop his rear property. Mr. Shane displayed an aerial view of the property. Two small challenges are an existing garage and an existing shed. The garage and the shed would both be within the setback required area. The Contract Zone Agreement requests that these two structures be exempt from the setback requirements. All other applicable lot standards will apply to any future development.

Chairman Moriarty opened the public hearing. There were no public comments and Chairman Moriarty closed the public hearing.

Mr. Sherr moved that the Planning Board make a recommendation to the Town Council for approval of the Contract Zone Agreement for property located at 445 Greely Rd. Ext. currently owned by John Paynter, seconded by Mr. Auclair and **VOTED, 5 yeas, unanimous - motion carries.**

3. Public Hearing: Recommendation to Town Council on proposed amendments to Chapter 229, Site Plan Review of the Cumberland Code.

Mr. Shane said that the Ordinance Committee has been working on this for several months. This is a request to clean up the tables with relation to review authority. It used to be that all non-residential development would be reviewed under site plan. Now the Town is looking to require that, at some level, all development be reviewed.

Mr. Shane noted that an update that the Board has on paper before them tonight is the Town Attorney's recommendation that the numbering system be revised.

Mr. Shane outlined the proposed changes to the table. The biggest change is that the placement of fill or removal of earth or rock materials over 1,000 cubic yards would come to the Planning Board under site plan review. Staff can review minor issues. 1,000 cubic yards is about 100 dump trucks, which is a substantial amount of material. The material can often not be placed properly or improperly excavated and could cause impacts to neighbors.

Mr. Shane noted that the proposed changes would not apply to homes within subdivisions because the Board will already review these. The changes would apply to single family lots that typically fall through the cracks for any type of review. Mr. Shane said there should be some type of review for environmental impacts.

There are two types of activities, non-residential and residential. Site preparation activities related to any type of development including single family or duplex development consisting of up to 1 acre of disturbed area including clearing, grubbing, grading and the construction of driveways and entrances, including the installation of driveway culverts will be reviewed. Site plan review will not be required for any previously approved subdivision. These type of activities that are less than 5 acres may require a DEP Notice of Intent/NRPA permit because typically wetlands are involved and can be reviewed fairly easily under staff review. Activities greater than 5 acres should go to the Planning Board for review.

Ms. Nixon noted that there is a letter from former Planning Board member Teri Maloney-Kelly regarding this proposal that should be read during the public hearing.

Chairman Moriarty opened the public hearing and read the following letter from Teri Maloney-Kelly:

April 17, 2018

Cumberland Planning Board
Cumberland, Maine

Re: Recommendation to Chapter 229, Site Plan Review

Good evening,

I am Teri Maloney-Kelly a resident at 29 Maloney's Ridge Way. Unfortunately I am unable to attend tonight's public hearing regarding changes to Chapter 229, Site Plan Review. I also understand this is a recommendation only and the Town Council has the free will to decide on how to proceed regardless of your recommendation.

The need for this adjustment has come from the real life situation that has occurred in West Cumberland. Specifically having a resident take out a single family dwelling building permit then operating a gravel pit under the loophole of our current ordinance. We have been living with this

active unregulated gravel pit in our residential neighborhood for over 5 years with no end in sight. This never should have happened to us and should never happen again.

I urge you to adopt the language changes being presented. Although this change to the ordinance will not help our existing neighborhood situation in West Cumberland it could prevent the destruction of the quality of life in another Cumberland residential neighborhood in the future.

Thank you.

Teri Maloney-Kelly

There were no additional public comments and Chairman Moriarty closed the public hearing.

Mr. Auclair noted that Teri's letter emphasizes the importance of accepting these changes.

Mr. Sherr moved that the Planning Board recommend to Town Council the proposed amendments to Chapter 229 - Site Plan Review of the Cumberland Code, as presented tonight, second by Mr. Kenny and **VOTED, 5 yeas, unanimous - motion carries.**

4. Public Hearing: Recommendation to Town Council on proposed amendments to Chapter 226, Shoreland Zoning of the Cumberland Code.

Mr. Shane noted that there is a change from the Town Attorney which is on the last page of the Board's handout for table 1, attachment 1. The proposed change is only to take bridges out of the authority of the Coastal Waters Commission and put it into the hands of the Code Enforcement Officer (CEO). The CEO is trained in dealing with wetlands in tidal and non-tidal areas. The Coastal Waters Commission would like not to deal with bridges, as this is outside of their purview under most conditions. The Town Attorney believes this is the best way to deal with bridges.

Chairman Moriarty opened the public hearing. There were no comments. Chairman Moriarty closed the public hearing.

Mr. Sherr moved that the Board recommend to Town Council the proposed amendments to Chapter 226 - Shoreland Zoning of the Cumberland Code, as presented tonight, seconded by Mr. Auclair and **VOTED, 5 yeas, unanimous - motion carries.**

G. Administrative Matters/New Business: None.

I. Adjournment: Mr. Kenny moved to adjourn the meeting at 7:18 pm, seconded by Mr. Auclair and **VOTED, 5 yeas, unanimous - motion carries.**

A TRUE COPY ATTEST:

Stephen Moriarty, Board Chair

Christina Silberman, Administrative Asst.