

**City of Ellsworth
Planning Board Meeting
December 6, 2017**

Vice-Chairman Darrell Wilson, Secretary Mike Howie, member Roger Lessard, member Jim Barkhouse and alternate member John DeLeo (voting tonight) attended the regular meeting of the Ellsworth Planning Board. In the absence of Chairman John Fink, Darrell Wilson chaired the meeting. The seventh seat on the board (second alternate member) is currently vacant.

City Planner Michele Gagnon and Code Enforcement Officer Dwight Tilton also attended the meeting. City Manager David Cole was in the audience.

Call to order: Chairman Wilson called the meeting to order at 7:00 PM

1. Adoption of minutes from the November 1, 2017 meeting

Mike Howie moved to adopt the minutes. The motion was seconded by John DeLeo. There was no discussion. The motion passed unanimously (5-0).

UNFINISHED BUSINESS

2. Final Plan for a Modification to an Approved Subdivision, and the creation of a Minor Subdivision and of a Major Use Site Development entitled Our Way Development/Holt Industrial Park Amendment for Danny J. and Theresa M.

Quinlan. The proposal is to: a) split a 2.56-acre parcel off the Bucksport Road (Tax Map/Lot: 26/2) into two lots both including one residential structure and add two apartment units to the existing duplex; and b) split a 3.72-acre parcel accessed off Our Way (Tax Map/Lot: 26/2-4) into two lots both including a residential structure, in the Urban Zone.

Stephen Salsbury was present to represent the applicant. He explained the proposed easement that had been worked on was being taken off the table and eliminated and that the existing easement to neighbor Isolina Meeks would remain in place.

Planning board members asked where the 3.72 acres referenced in part B of the agenda item came from. Jim Barkhouse said the two parcels appear to total 3.98 acres instead. City Planner Gagnon said there are sometimes differences between parcel sizes

**Call to Order @
7:00 PM**

**Adoption of minutes:
APPROVED (5-0)**

**Stephen Salsbury gives
update on Meeks
easement matter**

**Question about size of
parcels involved and
explanation from City
Planner Gagnon**

as listed in the county's Registry of Deeds and the city's assessing records. She said a note would be made in the minutes.

Chairman Wilson offered a proposed finding of fact that the application presented tonight meets the requirements of both the Subdivision Ordinance and the Land Use Ordinance. He also offered a number of findings related specifically to the easement issue: that the board has copies of any and all deed restrictions/rights-of-way/easements/etc. currently in place, that Meeks already has an existing right of way and utility easement as described in deeds and that the same description appears on the plan presented tonight, that any statement about extinguishing any existing easements has been removed from the application, that the applicant has withdrawn its effort to put a new easement in place and that the existing easement instead remains in place, and that a condition put forth at the previous meeting — that a new signed easement be in hand prior to approval of the application — is now null and void because the new easement is no longer proposed. Wilson offered an opinion that the board approve the project based on the plans in front of it tonight.

Wilson referenced the language about easements in the Site Development Review article in the Unified Development Ordinance, specifically Section 606.8 T (titled "Easements"). He said he believes the requirement that a developer "shall submit the proposed easement language with a signed statement certifying that the easement will be executed upon approval of the development" is intended only for new or proposed easements and is not relevant in this case because an easement already exists. Wilson said he believes the property owner and neighbor Meeks could come to an agreement outside of the Planning Board process regarding a refined and more descriptive easement agreement. Wilson said leaving the current easement in place does not diminish the benefit it affords Meeks.

City Planner Gagnon said she agreed with the points made by Wilson. Wilson and Gagnon referred to a Nov. 30 opinion from city legal counsel Ed Bearor. Bearor said the applicant's change in plans from the original submission is allowed and that the board cannot hold the applicant to its original plan. Bearor suggested the applicant could correct the record by presenting a plan showing the existing easement and "by advising the board that it will not be taking any steps as part of this subdivision review to alter Ms. Meeks easement rights." Wilson reiterated his opinion that Meeks and the applicant should discuss the matter more in the future outside of the Planning Board process.

Chairman Wilson offers finding of facts and an opinion that the board should approve the plan as presented tonight

Outline of finding of fact, that questions about the easement matter have been addressed to the satisfaction of the Planning Board

Opinion from Chairman Wilson that easement requirement in Unified Development Ordinance not applicable here

Easement questions are to be resolved outside of Planning Board process

Opinion from city legal counsel Ed Bearor offers applicant and board members guidance

Chairman Wilson opened the public hearing at 7:19 PM. Isolina Meeks asked about what changes had been made to the plan, and Wilson explained that the plan presented tonight leaves in place her existing easement, does not extinguish that easement and does not seek to replace it with a new easement. Meeks said there is not a specific description of where her easement is situated. Salsbury, in response to a question from the board, acknowledged this earlier in the meeting. Wilson agreed with Meeks but said that was beyond the scope of the Planning Board's review of the applicant's plan. Wilson said it is a civil matter. After further discussion, the public hearing was closed at 7:29 PM.

Darrell Wilson motioned that with regards to the Final Plan for a Modification to an Approved Subdivision, and the creation of a Minor Subdivision and of a Major Use Site Development entitled Our Way Development/Holt Industrial Park Amendment, that the board approve the project as represented on the plan dated Nov. 9 based on the finding of fact he presented earlier in the meeting and the fact the plan meets the requirements of both the Subdivision Ordinance and the Land Use Ordinance. The motion was seconded by John DeLeo, and after brief comments from DeLeo and Wilson the motion passed unanimously (5-0).

3. Signing of mylars/adjournment

John DeLeo moved adjourn the meeting after signing the mylars and plans. Darrell Wilson second the motion, and with no discussion it passed unanimously. The meeting was adjourned at 7:33 PM. Mylars and plans for Our Way Development/Holt Industrial Park Amendment were signed.

Minutes prepared by: Steve Fuller, Assistant City Planner

Minutes approved by:

1-12-18 
Date Mike Howie, Ellsworth Planning Board, Secretary

Public hearing opened @ 7:19 PM

Isolina Meeks inquires about easement, questions addressed by Chairman Wilson

Public hearing closed @ 7:29 PM

Final Plan for Our Way Development/Holt Industrial Park Amendment: APPROVED (5-0)

Meeting adjourned @ 7:33 PM. Mylars and plans for Our Way Development/Holt Industrial Park Amendment signed

Agendas and minutes posted on the city of Ellsworth's website: ellsworthmaine.gov