

**City of Ellsworth
Planning Board Meeting Minutes
Wednesday, September 2, 2020
6:00 PM**

Chairman John Fink, Vice-Chairman John DeLeo, Members Rick Lyles, Nelson Geel, Marc Rich and Alternate Member Molly Friedland attended the regular meeting of the Ellsworth Planning Board.

Six board members present

The meeting was held using ZOOM webinar technology, in accordance with *An Act To Implement Provisions Necessary to the Health, Welfare and Safety of the Citizens of Maine in Response to the COVID-19 Public Health Emergency*, Sec G-1 1 MRSA §403-A.

City Planner Theresa Oleksiw, Code Enforcement Officer Dwight Tilton, Fire Inspector Mike Hangge, and Development Services Coordinator Kerri Taylor attended the meeting.

Four staff members present

1.) Call to Order

Chairman Fink called the meeting to order at 6:04 PM.

Call to Order

2.) Roll Call

Chairman Fink conducted roll call for the Planning Board members and all were present.

Roll Call

3.) Adoption of Minutes from the August 5, 2020 meeting. Rick Lyles moved to approve the minutes. Nelson Geel seconded the motion, and with no discussion, the motion passed unanimously **(5-0)**.

Adoption of minutes

4.) Election of Officers

John DeLeo moved to elect John Fink as Chairman of the Planning Board. Rick Lyles seconded the motion, and with no discussion, the motion passed unanimously **(5-0)**.

Election of Officers

Rick Lyles nominated John DeLeo as Vice-Chairman of the Planning Board. John Fink seconded the motion, and with no discussion, the motion passed unanimously **(5-0)**.

John Fink nominated Rick Lyles as Secretary of the Planning Board. Nelson Geel seconded the motion, and with no discussion, the motion passed unanimously **(5-0)**.

5.) The board discussed the acceptance of the decommissioning bonds for the Mariaville Road Ellsworth Solar –West Site for Mariaville Road Ellsworth Solar, LLC. and the Mariaville Road Ellsworth Solar-East Site for Industrial Road Ellsworth Solar, LLC. Attorney Ed Bearor explained the bonds are a way to ensure there are adequate funds to decommission the project when necessary. The bond for each site will require a yearly renewal. Failure to renew the bond each year will result in a violation of the Planning Board’s approval. The board agreed to accept the the decommissioning bonds for both projects.

Acceptance of Mariaville Road Ellsworth Solar East and West Sites Decommissioning Bonds.

Mr. Fink began discussion of the Beechland Terraces IIA by stating that the Planning Board must determine that a ruling was in error to the Beechland Terraces application at the August 5, 2020 meeting. The error was that the Planning Board must determine if notes can be removed from the previous Subdivision Plans of Beechland Terrace.

6.) Final Plan Review for a Revision to a Previously Approved Major Subdivision Plan entitled Beechland Terraces IIA for Associated Builders Inc. The proposal is to divide Lot 5 (Tax Map 15, Lot 33-2), a 1.84-acre parcel, into two parcels, creating Lot 5A (.92-acres) and Lot 5B (.92-acres) to create a total of 13 lots in the subdivision located on the Beechland Road. All of the subject property is located in the Neighborhood Zone.

Rick Lyles made a motion acknowledging the Planning Board's error on August 5, 2020 for the Final Plan Review for a Revision to a Previously Approved Major Subdivision Plan entitled Beechland Terraces IIA for Associated Builders Inc. and the intent to correct that error at the current meeting. John DeLeo seconded the motion and with no further discussion, the motion passed (4-1).

Steve Salsbury joined the meeting to represent the applicant.

A discussion ensued in regards to the error made at the previous meeting. Attorney Ed Bearor explained to the board that in addition to dividing lot 5 of Beechland Terraces into Lot 5A and Lot 5B, the applicant sought to establish access to both lots, one from Beechland Road and one from Grand View Road. However, the original Planning Board approval of this subdivision only allows access for Lot 5 from Grandview Road. The applicant will need that condition removed from the subdivision plan in order to gain access from both roads. Also, the original subdivision plan had a condition that the minimum lot size is 40,000 square feet. This condition is not on the 2004 amended subdivision plan. Attorney Bearor explained that there is no legal requirement that the lots need to be 40,000 square feet. The applicant is requesting that the restrictions to the lot size and the access to lot 5 be removed from the plan. Mr. Bearor stated that there was more to the original request at the August Planning Board meeting than simply dividing the lot in two.

City Planner, Theresa Oleksiw explained that only the Planning Board can remove the previous conditions from the plan. The board will need to make a formal decision if they wish to remove them from the plan.

Vice-Chairman DeLeo voiced that splitting lot 5 into two lots and allowing access from both Beechland and Grandview Roads would not create lots that do not fit into the existing subdivision. The proposed lots are basically mirror images of all the lots that currently exist and does not appear to cause any hardship for any of the other property owners in the subdivision.

Rick Lyles questioned why the original subdivision only allowed access to Lot 5 by Grandview Road only. Ms. Oleksiw answered that the previous Minutes for

**Final Plan
Beechland
Terraces IIA**

**Motion of Error
to Final Plan
Review for
Beechland
Terraces IIA
Approved**

Introduction

**Deliberations
and Findings of
Fact**

the subdivision do not state why the Planning Board put that condition on the plan.

Mr. Geel asked if the other subdivision lot owners had been notified of the intent to divide Lot 5. Ms. Oleksiw answered that yes, abutter notices were sent to all abutters as well as all property owners within the subdivision.

Chairman Fink opened a public hearing for the removal of the 40,000 square foot lot requirement for Beechland Terraces IIA for Associated Builders Inc. at 6:27 PM. With no comments submitted through ZOOM or through email/phone, the public hearing was subsequently closed.

Public Hearing

John DeLeo made a motion to remove the 40,000 Square Foot Lot requirement for the Beechland Terraces IIA Subdivision. Rick Lyles Seconded the motion and with no further discussion, the motion passed unanimously (5-0).

**Motion
Approved to
Remove 40,000
Square Foot Lot
Requirement**

Mr. Fink added that the motion is based off the 40,000 square feet not being a requirement in the City's ordinance and both lots will meet current standards.

A brief discussion ensued in regards to the access of proposed Lot 5a from Beechland Road. Mr. Fink inquired if the applicant wishes to have access from Beechland Road or if both lots can be accessed from Grandview Road. Mr. Salsbury responded that access for Lot 5a from Beechland Road is desired. He has verified the sight distance and it does meet the current requirements of 450 feet in each direction. Access to Beechland Road for Lot 5a will be consistent with the existing lots in the subdivision.

John DeLeo made a motion to grant access to Lot 5a from Beechland Road and access to Lot 5b from Grandview Road for the Beechland Terraces IIA Subdivision. Rick Lyles Seconded the motion and with no further discussion, the motion passed unanimously (5-0).

**Motion
Approved to
Allow Access to
Lot 5a From
Beechland Road**

Chairman Fink opened a public hearing for granting access to Lot 5a from Beechland Road for Beechland Terraces IIA for Associated Builders Inc. at 6:33 PM. With no comments submitted through ZOOM or through email/phone, the public hearing was subsequently closed.

Public Hearing

There was a brief discussion in regards to a final motion of removal of the 40,000 square foot requirement and the access to Lot 5 from Grandview Road only requirement. Attorney Bearor stated that it would be best for the board to make a motion clearly stating the removal of both conditions from the plan.

John Fink moved to approve the removal of the 40,000 square foot requirement and the condition that Lot 5 can only be accessed from Grandview Road from the Final Plan Review for a Revision to a Previously Approved Major Subdivision Plan entitled Beechland Terraces IIA for Associated Builders Inc. John DeLeo seconded the motion and with no further discussion, the motion passed unanimously (5-0).

**Motion to
remove
previously
approved
conditions from a
Previously**

7.) Final Plan Review for a Revision to a Previously Approved Major Subdivision Plan entitled Tinker Hill Subdivision for Lisa Whittemore. The proposal is to adjust the property line between lot 7 (Tax Map 21, Lot 3-7) and lot 11 (Tax Map 21, Lot 3-11) of the subdivision located off of the Bayside Road in the Rural and Limited Residential Zones.

Steve Salsbury joined the meeting to represent the applicant. Chairman Fink recused himself from discussion of this application because of a conflict of interest. Vice-Chairman DeLeo stepped in for Mr. Fink.

Mr. DeLeo commented that it is a straightforward application, with both lot owners in agreement.

Mr. Salsbury added that nothing had changed on the plan from the previous meeting.

Chairman DeLeo opened a public hearing at 6:37 PM. With no comments submitted through ZOOM or through email/phone, the public hearing was subsequently closed.

Nelson Geel moved to approve the Final Plan Review for a Revision to a Previously Approved Major Subdivision Plan entitled Tinker Hill Subdivision. Rick Lyles seconded the motion and with no further discussion, the motion passed unanimously (5-0).

8.) Final Plan Review for a Major Use Site Development & Major Subdivision entitled Kelly Estates for Steven Grass. The proposal is to construct seven duplex buildings consisting of 14 units (a total of 17,024 square feet) on a 12.8-acre property located on the Bangor Road (Tax Map 75, Lots 16-1 & 17-1) in the Rural and Limited Residential Zones.

Jim Kiser joined the meeting to represent the applicant. Steven Grass also attended the meeting.

Mr. Kiser stated that he addressed the concerns and comments from the previous meeting. He was able to increase the T turnaround to the required 70 feet and relocated the dumpster so that it does not obstruct the driveway. He will provide a detailed drawing for the fire suppression underground tanks to the City prior to construction for review and approval. Mr. Kiser added that once the brush that

Approved Major Subdivision Plan entitled Beechland Terraces IIA: Approved

Final Plan Review Tinker Hill Subdivision

Introduction

Deliberations & Findings of Fact

Public Hearing

Final Plan for a Revision to a Previously Approved Major Subdivision entitled Tinker Hill Subdivision: Approved

Final Plan Review Kelly Estates

Introduction

Maine DOT required to be removed is cleared they will have sight visibility of up to 850 feet of sight distance. The MDOT issued waivers were included in the packets submitted for this meeting. Mr. Kiser addressed the concerns in regards to the abutting well on the adjacent property. He was unable to find any data on the well. However, he was able to determine there are several wells in the area and all are listed at 50 to 100 gallon per minute flow rates. With the flow rate information he does not predict that there will be any impact to the abutting well. Mr. Kiser mentioned the addition of a streetlight at the beginning of the access road to the development.

There was a brief discussion about the location of the 10,000-gallon fire suppression tank.

Mr. Geel inquired if the 703-foot sight distance noted on the application is the final sight distance or if that will increase once the vegetation is removed. Mr. Kiser answered that the vegetation removal should increase the sight distance to approximately 850 feet.

Chairman Fink opened a public hearing at 6:47 PM. With no comments submitted through ZOOM or through email/phone, the public hearing was subsequently closed.

Ms. Oleksiw made suggestions for the applicant to include the DOT waivers on the site plans. Mr. Kiser explained that the waivers are required to be recorded at the registry of deeds. Ms. Oleksiw referenced the required performance guarantees in the ordinance, she suggested the applicant should provide more information to address that section of the ordinance. Mr. Kiser responded that he is not proposing any public improvements with the project and did not think a bond would be required. Mr. DeLeo commented that a performance bond for non-commercial projects is not standard practice. Ms. Oleksiw suggested the installation of sidewalks for safe pedestrian access within the development. She also suggested installing screening around the dumpster and suggested to the board to ask the applicant to plant vegetation on the property although not required by the ordinance. Mr. Geel voiced concerns that the installation of sidewalks without it being required may set a precedent for future developments. Mr. Kiser noted that the development will be one-bedroom apartments and there is not a lot of concern in regards to high traffic rates within the project. Mr. Hangee added that the installation of sidewalks will change the dynamics of the road and make it difficult to achieve the 70-foot turnaround. There was further discussion in regards to the installation of sidewalks and the impact to the road.

Chairman Fink opened a public hearing at 7:00 PM. With no comments submitted through ZOOM or through email/phone, the public hearing was subsequently closed.

Marc Rich inquired about the size of each unit being 1200 square feet and how that constitutes as a small apartment. Mr. Kiser explained that square footage includes the one car garage.

Rick Lyles made a motion to approve the Final Plan Review for a Major Use

**Deliberations &
Findings of Fact**

Public Hearing

Public Hearing

Site Development & Major Subdivision entitled Kelly Estates for Kelly Way LLC. Including the MDOT highway entrance permit waiver conditions: Reconstruct existing driveway and add radii number, the driveway must be paved a minimum to state right of way and the owner must cut and maintain roadside vegetation to the northwest of proposed driveway. John DeLeo seconded the motion and with no further discussion, the motion passed unanimously. (5-0)

9.) Final Plan Review for a Revision to a Previously Approved Major Subdivision Plan entitled Meghan Fellis Subdivision for Craig T. Fellis. The proposal is to adopt and record an easement for and update the fire protection method from a residential type sprinkler system to a 10,000-gallon cistern to be installed on Lot 1 of the property located on the Mariville Road (Tax Map 117 Lot 20) in the Residential Zone.

Andrew McCullough joined the meeting to represent the applicant. Mr. McCullough explained that a change in ownership occurred and the new owner would like to change the originally approved residential sprinkler systems to an underground fire suppression tank. The proposed tank will be installed at the corner of Lot 1 of the Meghan Fellis subdivision.

Mr. Hangge addressed the board and explained that the location of the tank is satisfactory. Mr. McCullough will have to supply the shop drawings of the tank prior to installation. After review, the Fire Department has accepted the changes to the fire suppression system for the subdivision. Mr. McCullough confirmed that he will provide the shop drawings to the City for review.

Mr. Fink asked if there will be an easement recorded for the tank and access to it. Mr. McCullough confirmed that an easement will be recorded. He explained that Lot 1, the location for the tank has not yet been transferred. Once the proposed plan is recorded and once the Lot 1 is transferred it will have the easement.

Mr. DeLeo asked who will be responsible for the maintenance of the tank. Mr. Hangge explained that the ordinance states that either a homeowners association, a road association, or the developer is responsible for the tanks maintenance. Mr. DeLeo suggested that the responsible party should be delegated prior to approval of the plan. Mr. McCullough commented that it is the developers intent to maintain the tank. Mr. Fink questioned if the developer intends to maintain the tank even after all lots in the subdivision are sold. Mr. McCullough replied that yes he intends to maintain it even after all the lots sell. Mr. DeLeo expressed concern about the developer maintaining the tank. Mr. McCullough suggested adding a note to the plan stating that the developer will maintain the tank until a homeowners association is formed. Mr. Fink questioned what would happen if the lot owners decide that they do not want a homeowners association. Mr. McCullough reiterated that a homeowners association required to maintain the tank can be added to the plan and he can make the change and submit the updated plans to the City. Mr. DeLeo stated concerns that the lots may not sell for several years. Mr. McCullough stated that the applicants intent is to install the tank upon approval of the final plan and approximately at the end of September.

**Final Plan for a Major Use Site Development & Major Subdivision entitled Kelly Estates:
Approved**

Final Plan Review Meghan Fellis Subdivision

Introduction

Deliberations and Findings of Fact

Mr. Fink suggested that the board could approve the change with the condition that the requirement of a homeowners association be included on the plan. Mr. Lyles questioned if it is appropriate for the board to request a homeowners association. Mr. Geel asked Mr. Hange about the maintenance requirements for the tank. Mr. Hange explained that the visible attachments to the tank that are above ground can be easily maintained and monitored by an inspection. The two biggest concerns are making sure that the tank is full and snow removal in the winter to make sure that the tank is accessible. Mr. Geel noted that there does not seem to be a significant cost associated with the required maintenance. Mr. Hange added that the Fire Department can use the tank in the event of an emergency at adjacent properties.

Mr. Lyles read the notes on the proposed plan, as "The fire protection maintenance of the fire protection option shall remain the responsibility of the developer, property owner or road property owners association." Mr. McCullough state that the original intent at this point was for the developer to maintain the tank. Mr. Fink suggested that if a homeowners association is formed that it can be limited to the maintenance of the tank. Mr. Hangee stated that the Planning Board cannot require a homeowners association, but it is a requirement in the Fire Prevention Ordinance and the language on the plan is derived from that ordinance.

Chairman Fink opened a public hearing at 7:27 PM. With no comments submitted through ZOOM or through email/phone, the public hearing was subsequently closed.


Rick Lyles made a motion to approve the Final Plan Review for a Revision to a Previously Approved Major Subdivision Plan entitled Meghan Fellis Subdivision for Craig T. Fellis. John Fink seconded the motion and with no further discussion, the motion passed unanimously (5-0).

10.) Adjournment

Rick Lyles moved to adjourn the meeting, John DeLeo seconded the motion, and it passed unanimously (5-0). The meeting was adjourned at 7:29 PM.

Minutes prepared by: Kerri Taylor, Development Services Coordinator.
Minutes approved by Ellsworth Planning Board on September 2, 2020.

Date



**John Fink, Chairman
Ellsworth Planning Board**

12/20/20

Public Hearing

**Final Plan
Review for a
Revision to a
Previously
Approved Major
Subdivision Plan
entitled Meghan
Fellis
Subdivision:
Approved
Vote to adjourn
at 7:29 PM**

*Agendas and minutes posted on the city of Ellsworth's website: ellsworthmaine.gov
A video transcript of this meeting is also available on YouTube.*