

**MINUTES**  
**Planning Board**  
**March 11, 2009**  
**7:00 PM**

**Members Present:** David Fowler- Acting Chair; Susannah Swihart; Donna Hovey; Lynne Potter; Elwin Thorpe – Code Enforcement Officer; James Seymour – Planning Board Consultant and Sandy Fredricks – Secretary.

**Members Absent:** William Horton and Frank Braman

**Public Present:** Larry Chute and Pat Cayer

**7:00 P.M.**

Dave calls the meeting to order.

**Donna** moves to appoint **Dave Fowler** as Acting Chair.

**Susannah** seconds.

**Any discussion?** None.

**All in favor?** 3 yes – 0 no – 1 abstain (Dave)

**Minutes from January 14, 2009**

**Donna** moves to approve the Minutes of January 14, 2009 as written.

**Dave** seconds the motion.

**Any discussion?** None.

**All in favor?** 3 yes – 0 no – 1 abstain (Susannah)

**Chute, M 6, L 6-5**

Dave states Land Services, Inc. has submitted a Final Plan on behalf of Larry R. and Elizabeth M. Chute for a 4-lot Subdivision. The property affected is a portion of Map 6, Lot 6-5, known as 42 Lilac Lane and is located in a Residential Zone. This matter was tabled at the January 14, 2009 meeting. He asks for a motion to have it removed from the table.

**Donna** moves to remove this matter from the table.

**Susannah** seconds.

**Any discussion?** None.

**All in favor?** 4 yes – 0 no

Dave asks Pat Cayer if he is up to speed. Pat states he is and would just like to cut to the chase and review Jim's Memo with the Board.

James next addresses the waiver requests, stating that three (3) of the items requested to be waived have been taken care of as part of the DEP application and he would like to see copies submitted to the Town.

Jim begins the review of issues addressed in the Memo.

First, the Board still needs a stamped and sealed Plan. Pat states they will receive same.

Second, Stormwater restrictions and easements must be noted on the plans. Pat states they are.

Third, Jim asks for clarification that there are no access rights to any of the lots in this subdivision via Higgins Hill Road. Pat states access is only from Lilac Lane.

Jim states he is concerned about the building envelope for Lot 6-9 due to the DEP restrictions and topography. Pat shows the Board, on the map, where they would have the building envelope if it were built. Pat continues and shows the Board where the driveway location would be and states the slope would be 10% or less.

Further, Jim states he is concerned about the issue of phosphorus calculations from the stormwater and wants to be certain there is full disclosure to a prospective purchaser of Lot 6-9 stating that there are DEP restrictions regarding development on this lot unless it can be shown that maintenance of no additional phosphorus can be met. Pat states there is a note on the lot.

Donna asks if this restriction should be included in the Deed to Lot 6-9. The Board discusses this issue. Elwin states most people don't look at the Plans before buying a lot. Dave states they should reference the Plan in the Deed and the Title Company should pick up the restriction. Dave states it is important that Elwin is comfortable that it will be flagged if someone comes in for a building permit on that lot. Pat states it would, most likely, have a contingency that the lot be deemed buildable before any sale is complete.

Jim states he is still concerned about the phosphorus as the Chutes had to purchase credits for the phosphorus and having 100% phosphorus removal is not possible. He states he feels it should be disclosed on the plans.

Pat states he added Note #15 that there is no deeded access from Higgins Hill Road and only access from Lilac Lane. Larry states he has written permission from the previous owner that he can use Higgins Hill Road. Jim asks if it was for use to access single-family homes or a right to cross over Higgins Hill. Jim continues that it would be beneficial for the

phosphorus runoff as it would be a shorter distance. Discussions continue regarding Higgins Hill Road access.

Dave asks if the note on the Plan could be amended and worded such that it wouldn't need to come back to the Board for dissolution. The Board and Pat discuss this and agree it can be reworded.

Larry states he wants to be sure he won't have a problem deeding lots 1 & 2 to his son. Elwin states once the subdivision is final they can deed it to anyone they wish.

Jim moves on to the next item for discussions in his Memo. The Road Commissioner wants the plan profile for Lilac Lane for the Town's files. This should include the cross section showing the profiles. Pat states he spoke to David Morton, Casco's Road Commissioner, and after discussions with him David Morton agreed that a letter from the Engineer and an "as built survey" will be acceptable and that Pat does not have to generate a complete road profile plan. The Planning Board had taken a Site Walk and everyone was okay with the road as built. Pat continues the reason they didn't generate a Plan Profile was there was no intent to upgrade the road other than to add pavement to it. Pat further states in his discussions with David Morton he pointed out they could generate a Plan Profile, but it would only show the existing grade and centerline grade and would only be an additional expense. David did tell them he wanted some assurances by letter from the engineer that the road is built to acceptable standards. Jim agrees this is reasonable and that David Morton had indicated to him that if we didn't get a Plan Profile he was comfortable with accepting the engineer's letter and an "as built" survey.

Next item to be addressed is regarding test pit information. Jim states he is comfortable with the passing soils; however the septic cannot be located within the buffer. Pat states the passing test pits were done prior to the stormwater review and buffer requirements. The build area is outside the restricted area. He continues if the Board wants to see test pit, they will have to go back out to do so. Dave states the Board has been adamant about this for quite some time in subdivisions. Pat states he will do new test pits and provide the information to the Town.

The Board next addresses Waiver Requests. Items 18, 19 and 21 were part of the Stormwater Plan and therefore waivers are not necessary. Additionally, the applicant has requested waiver of §9.4.3, Landscaping and buffering; §9.4.5B All road angle monuments shall be constructed of 4-inch x 4-inch x 4-foot long stone (granite) and §9.4.7 Pavement width shall be 20 feet for a private minor street and include 6-foot wide gravel shoulders.

The Board agreed to decreased number of monuments at their last meeting. The Board agrees to the road width waiver as the road was existing prior to the commencement of this application for subdivision and information received from the Road Commissioner. The Board also agrees to the landscaping and buffering waiver request. Additional outstanding issues:

1. Fire Suppression - the Board has received a letter from Fire Chief, John Small, stating the department has no additional requirements for fire suppression regarding this matter.

2. Road ownership of Lilac Lane - Maintenance will be shared by the property owners. Pat states that is noted on the Plan in Note #9 and covers the costs of repair, maintenance and plowing. Pat explains the old county roadway issue stating that, over time, these roads are basically abandoned or in some cases they are formally discontinued. A road is considered abandoned if the County or Town is not maintaining it over a period of time. He continues that they are showing the boundary line down the center of what was the County road and showing the ownership to the various lots. The rights of the public are extinguished within that corridor. The abutting parcels that may have utilized this roadway still have a right of access. Donna asks what culpability the Town has to maintain that for parties beyond Lilac Lane. She is informed that the Town has no rights, they have abandoned it. The Willeys' rights are maintained by the other property owners. Dave states he is wondering if the Board has created a problem in the event the Hancocks determined to develop their land in the back of the Chutes' property. The determination is they have not. If the Hancocks decide to develop their land, they would have to come before the Board and changes could be made for allowances on the road.

3. E911 – Elwin states that it would have been better to continue Lilac Lane straight; we aren't going to change it now. The E911 has been worked out.

Jim asks if Dick Willey will maintain his rights to access Lilac Lane if he decides to divide his property. Larry states he doesn't know. Pat and Dave discuss phosphorus problems that will arise if Willey tries to develop. Dave asks if the Board has imposed restrictions on Willey and Hancock. The response is that they have not; DEP actually has imposed restrictions on Willey and Hancock for future development.

Dave explains that Casco has two types of private roads. Private Roads allow public access and are plowed by the Town. Private Ways do not provide public access and the Town does not provide plowing services.

Pat states it is his understanding that due to the abandonment of the old county road that there are no public rights to Lilac Lane. He continues that he provided wording in Note #9 that the Town has no maintenance obligation. Pat reads Note #9 on the Plan “The cost of repair, maintenance and plowing of Lilac Lane, including the associated stormdrain infrastructure, shall be shared equally amongst lot owners being served by the roadway unless Lilac Lane is offered to and accepted by the Town of Casco as a Town road”. This is satisfactory to the Board. Elwin reiterates that it can all remain Lilac Lane for E911 purposes.

4. DEP conditions of approval #7 & #8 address inspection and installation of ditch turnouts and associated drainage features, and certification by an Engineer that the converted developed areas are re-vegetated natural areas per plans has been completed. The Board requests a written report be submitted by the Engineer of record to the Town Road Commissioner stating the road and drainage infrastructure has been installed in accordance with design plans. The applicant agrees this will be submitted.

5. The Board requests duplicate copies of such design engineering inspection reports and that the final plat incorporate a note identifying that the Subdivision has acquired a MDEP Stormwater Management Permit, that is reference the application number and disclose the predicted phosphorus export (1.472 lbs/year), the permitted phosphorus export (0.876 lbs/yr, and the amount which compensation was paid (0.597 lbs/yr) be added to Note #14 on the Plan. Pat informs this has already been done.

Jim asks if we need to check setback for Lot 6-9 from Higgins Hill. Pat explains the setback from Higgins Hill was set at 25’, but increased to 50’ so it could be a front setback.

Dave states we first need a Motion that the Board waives the landscaping and buffering.

**Donna** moves that the Board grants a waiver of the Landscaping and Buffering requirements.

**Lynne** seconds.

**Any discussion?** None.

**All in favor?** 4 yes – 0 no

**Susannah** moves that the Board a) grants a waiver of the private road standards for minor street pavement width of 20 feet includes 6’ wide gravel shoulders and b) further permits a reduction of the bituminous pavement width to 18’ and the shoulders to 3’ of gravel surface as recommended by the Road Commissioner.

**Donna** seconds.

**Any discussion?** None.

**All in favor?** 4 ye s- 0 no

Dave asks for a Motion for Final Approval.

**Donna** moves to grant final approval based on the following:

The Planning Board of the Town of Casco has reviewed the following subdivision requirements under Article 8 of the Town of Casco General requirements in accordance with M.R.S.A. Title 30, Section 4956, Subsection 3 for the Chute Subdivision located off Lilac Lane for 4 lots as shown on submitted drawings dated 2/11/09:

8.1.1 Is in conformance with goals, policies and recommendations of the Comprehensive Plan of the Town.

8.1.2 Will not result in undue water or air pollution.

- A. The project is not located in a mapped floodplain.
- B. The project has evidence of suitable soils as provided by test pit information submitted and with a condition that a passing test pit on lot 6-12 be shown outside of the restricted stormwater buffer.
- C. The slope of the land and its effect on effluent will meet all State of Maine and local waste disposal rules and regulations.
- D. The subdivision meets State and local health and water resource regulations.

8.1.3 Has sufficient water available for the reasonably foreseeable needs of the subdivision based on what the water needs will be for domestic use with private well only. Two existing homes within the subdivision have wells that have adequately supplied potable water and are evidence that a reasonable supply of water is present to serve the subdivision.

8.1.4 Will not cause unreasonable burden on an existing water supply based on the subdivision providing private wells for two single family wells on land with an apparent satisfactory well yield based on historical use of private wells already in place within the subdivision.

8.1.5 Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result. Based on the Maine DEP Stormwater Permit approval and submitted documents, an acceptable erosion and sedimentation plan has been provided for the subdivision.

8.1.6 Will not cause unreasonable highway or public roads existing or proposed. The subdivision will only provide a potential for two new

single family homes which will have no burden on highway or public roads.

8.1.7 Will provide for adequate sewage disposal; based on designs approved by the Code Enforcement Officer prior to the issuance of building permits as noted on the record drawing.

8.1.8 Will not cause an unreasonable burden on the ability of the Town to dispose of solid waste and sewage if municipal facilities are to be utilized. The site will not have a burden on municipal services with the potential for two new homes.

8.1.9 Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historical sites, rare and irreplaceable natural areas, or any public rights for physical or visual access to the shoreline. The subdivision has no visual or access to a shore, and will not alter the natural beauty of the area and has no impact on historical sites or natural areas.

8.1.10 Is in conformance with the Casco Zoning Ordinance including Shoreland Zoning Standards and with other pertinent state and local codes and ordinances: based on the proposed subdivision the applicant meets the current zoning regulations for the Residential District and has acquired a Stormwater Management Permit through the Maine DEP.

8.1.11 The subdivider has adequate financial and technical capacity to meet the standards. The owner has completed Phase 1 of the road construction and has utilized the service of Mark Gray PE and Patrick Cayer LLS.

8.1.12 Whenever situated, in whole or in part, within 250' of any pond, lake or river, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water. The development is not within 250' of a lake, pond or river.

8.1.13 Will not alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater. The subdivision will provide adequate separation of septic systems from existing drilled wells and meet state codes to assure adequate groundwater protection exists with wells on proposed or on adjacent lots as shown on the plan. All wells must be located outside restricted buffer areas.

8.1.14 In all instances, the burden of proof shall rest upon the applicant (A) to make all required submittals and (B) to demonstrate compliance with all applicable standards. Based on submittals and conditions if the Board so elects, the applicant will have to provide proof of compliance

meeting all submittal requirements and standards. Until such conditions are deemed to be met the Board will not sign such recording plats, or issue any building permits.

Standard conditions of approval: This approval is dependent upon, and limited to, the proposals and plans contained in this application and supporting documents submitted and affirmed by the applicant, as well as any oral representations made to the Board during the final review of the project. Any variation from the plans, proposals and supporting documents is subject to review and approval by the Planning Board, except for de minimus changes, which the Code Enforcement Officer may approve

Special conditions of approval:

- a. To meet the requirements of the: Plan and Profile Design of the Private Road, Lilac Lane, the applicant shall submit to the Town of Casco Road Commissioner, an "As built plan" with centerline profile of the constructed private road, as prepared by a State of Maine Surveyor.
- b. A standard cross section of amended road shall be shown on the "As Built Plan" and noted as the required cross section.
- c. Revise Plan to show passing test pits outside restricted buffer areas and within the buildable area.
- d. The status of the Private Road to include abutters' rights shall be the burden of the applicant. This has relevance, in that it will affect the type of Private Road rights, and maintenance necessary. The Board recommends and requests a Homeowners Association be established for the road prior to the issuance of any additional building permit.
- e. A report to be submitted to the Town of Casco from an engineer stating that the road has been constructed in accordance with Maine DEP approvals along with stamped design plans.

**Susannah** seconds.

**Any discussion?** None.

**All in favor?** 4 yes – 0 no

Pat asks the Board to look at the Plans of February 11, 2009 as they originally didn't show the contours. He would prefer to remove the 2' contour increment lines from the Plan to clean it up and make it more readable. The Board would like the contours to be a second page titled "Topographical Survey" as this will still show the information while cleaning up the Plan for signature.

Elwin asks if the new Plan will show the test pits. The Board advises that it will as that is a condition of approval.

**Susannah** moves to adjourn.

**Donna** seconds.

**Any discussion?** None.

**All in favor?** 4 yes – 0 no