

**Town of Cape Elizabeth  
Ordinance Committee Minutes**

May 13, 2020

7:00 p.m.

Remote meeting

As a result of the COVID-19 virus, the Ordinance Committee conducted the meeting via remote access as provided by Maine law. The Ordinance Committee used Zoom meeting to conduct the meeting and allowed the public to remotely attend and participate. Zoom allowed all Ordinance Committee members and members of the public to hear all discussion and hear votes, which were taken by roll call, as required by law. A meeting link was provided to access the meeting by video/audio.

Present: Penny Jordan, Chair  
Jamie Garvin  
Chris Straw

Staff: Maureen O'Meara, Town Planner

Councilor Penny Jordan called the meeting to order. The minutes of the April 29, 2020 meeting were approved 3-0.

Public Comment

No member of the public attended the meeting.

Nonconforming Lot Size (2019 Comprehensive Plan recommendation #30)

Councilor Jordan introduced the discussion. Councilor Straw disclosed that the amendments under consideration would include his lot. Committee members should proceed as they see fit as he is not in support of the amendments.

The committee revisited the map depicting potential lots in the 5,000 - 10,000 sq. ft. size (estimated 24) and Councilor Garvin observed that the amendment has limited scope. Ms. O'Meara emphasized that the actual number of lots that would be made buildable would need to go through the existing process.

Councilor Jordan reviewed the text amendment and the reference to the low-income affordability.

Councilor Garvin doesn't disagree with the affordability requirement, but his support for the amendment is separate from the affordability. Assuming 24 lots will become buildable, he supports the increase in municipal valuation and potential net increase in tax revenue with low service cost impact. Even if the lots are not developed, the potential lot value increase may add 5 million in valuation. These lots are also in parts of town already developed.

Councilor Jordan finds the draft acceptable and is ready to move it to the Town Council.

Councilor Jordan moves to recommend the nonconforming lot amendment to the Town Council, seconded by Councilor Garvin. The motion passed 2-1 (Straw).

Ms. O'Meara will prepare a cover memo for Councilor Jordan to review for submission to the Town Council. The committee consensus is that the Town Council should review this in workshop prior to referring it to the Planning Board.

#### Nonconforming Lot Setbacks (2019 Comprehensive Plan recommendation #82)

Councilor Garvin said he does not support reducing setbacks at this time. Councilor Jordan concurred.

Councilor Jordan made a motion for the Town Council not to change setbacks and Councilor Straw seconded. The motion passed 3-0.

#### Pesticides (2019 Comprehensive Plan recommendation #51)

Councilor Jordan would like to start by discussing "what is the purpose and what problem we are trying to resolve?"

Councilor Garvin offered that pesticide use is part of town sustainability goals.

Councilor Jordan identifies the problem as a concern with health and safety, with pesticides on water resources, and referenced Falmouth's efforts.

Councilor Straw understands the rationale and desire for action, but he supports regional or state lead on pesticides. The town does not have the expertise. He does not want draconian measures and understands the desire to remove Japanese barberry and paint the remaining stem with an herbicide. There should be a reasonable approach by the state.

Councilor Jordan noted a universal pesticide bill has been considered by the state and not passed. There is concern with overreach. She also has concerns that if a pesticide ordinance is adopted, this is additional work for the Code Enforcement Officer.

Councilor Garvin agrees with public health concerns. He would like state leadership on this, but this makes sense for our region and we can be consistent with neighboring communities.

Councilor Straw noted that Scarborough had no ordinance, and we have received the South Portland ordinance.

Councilor Jordan questioned if there is a problem that needs to be solved. She understands concerns with abutting lawns treated with pesticides but many lawn services are now organic. Councilor Garvin clarified that "non-toxic" is not "organic."

Councilor Straw suggested the problem may be that, while he does not treat his lawn and it may be annoying when nearby lawns are treated, he is more concerned with algal blooms and water runoff into the bay. Would this action solve that problem? We don't have a lake problem, but do have the Spurwink River.

Councilor Garvin supports a slow, exploratory effort by the committee. He would like to hear presentations from groups like the Friends of Casco Bay, is and not looking to draft an ordinance at this time. Councilor Straw concurred.

Councilor Garvin would like to hear from Julie Rosenbach, South Portland Sustainability Coordinator. Harpswell is similar to Cape's relation to the ocean.

The committee consensus was to host some presenters at future meetings to educate the committee. A commercial applicator should be invited, as well as the Cumberland County Soil and Water Conservation District Healthy Yardscapes presenter, the town tree warden, a master gardener, the Cooperative Extension service, and someone from DEP. Presenters will be invited as schedule permits.

A speaker should be scheduled for the next meeting.

#### Next meeting

The next item in the Ordinance Committee work queue is a review of vernal pool regulations. The committee agreed to put this on the next committee meeting agenda. In preparation for the discussion, the committee would like a Fact Sheet, and a summary of existing state and local rules.

The next meeting of the committee will be held on Thursday, June 18, 2020, beginning at 7:00 p.m.

The meeting adjourned at 7:55 p.m.