

**Town of Cape Elizabeth  
Ordinance Committee Minutes**

October 5, 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

Councilor Straw notified the committee that he would not be able to attend due to work commitments.

Staff: Maureen O'Meara, Town Planner

Councilor Penny Jordan called the meeting to order. The minutes of the September 2, 2020 meeting were approved 2-0.

Public Comment

No members of the public were in attendance.

Fence regulations

Chair Jordan introduced the discussion with reference to an email sent by a resident to the Town Council requesting that fence regulations be adopted. She asked if the town needs fence regulations?

Councilor Garvin is not sure. He was surprised there are no dig safe requirements when digging post holes deep enough to support an 8' high fence. The burden is on the property owner to meet dig safe requirements. He is not in favor of fence regulations based on aesthetics, but would consider safety based regulations. He personally does not care for large fences.

Chair Jordan confirmed with Ms. O'Meara that the Cragmoor fence was measured at 8' high.

Chair Jordan favors less regulation. Fences can block views but folks should be able to do things on their property. The fence research information provided suggests that an average of 8' high fence is common, so she would not support a 10' -15' high fence on the property line. The likelihood of that is slim, and she does not want to go overboard with detailed regulations.

Councilor Garvin noted the Newton Massachusetts ordinance measured fence height from grade. Ms. O'Meara explained that the research was intended to show a range of detail on fence regulations and most nearby communities have minimal regulations similar to Cape Elizabeth. Town staff do receive calls on fences, but most are questions about any fence height limit before a fence is installed. A smaller number of calls are complaints about fences.

Chair Jordan asked for something that was not complex and limited to fence height. This would apply to residential properties with exemptions for baseball, agriculture, deer fences, etc. She does not want to regulate fence materials.

Ms. O'Meara offered that the existing Sec. 19-7-12, Corner Clearances, could be retitled "Fences" and then a provision on height limit added. No permit would be required but there would still be enforcement.

The committee would like to see this amendment drafted. The committee agreed that a height definition would be included, the height limit would be 8', the posts could be additional 1' higher and the gate could be higher. The committee agreed not to include a variable height for the front, side, and rear and no variable height tied to specific roads.

The committee will review the draft at the next meeting. Councilor Garvin observed that it was entirely possible that the majority of the Town Council would not support the amendment.

### Town Farm Parking Amendment

Chair Jordan introduced this item and noted that the Cape Elizabeth Land Trust (CELT) holds an easement on the Town Farm. Ms. O'Meara reported that Town Manager Matt Sturgis notified CELT of this proposal and Executive Director Cindy Krum acknowledged that there is an existing parking area on the property.

Chair Jordan referenced comments from Councilor Gabrielson about the best location for the parking area, potentially lining up with the trail connection on the east side of Spurwink Ave.

Councilor Garvin asked if moving the parking area south of its current location is feasible? What parking improvements will trigger compliance with ADA? The existing area is unmaintained. Once we make improvements, what encumbrances may be beyond the current scope?

Chair Jordan asked if we can make the zoning change and then consider these other issues? Should the Conservation Committee look at this in order to coordinate with the trail system? Ms. O'Meara agreed to both.

The committee agreed to recommend the zoning change and consider the implications of physical improvements at a later date.

Councilor Garvin made the following motion, seconded by Chair Jordan:

That we recommend that parking be an approved use for the property in a manner consistent with its current status and use.

The motion passed 2-0.

#### Public Comment

No member of the public was in attendance.

#### Next meeting

The committee agreed to meet on either October 26th or 28th, dependent on availability of Chief Fenton and Councilor Straw. The next meeting agenda will include the Kettle Cove Traffic Amendments and Fence regulations. If available, the committee may also include any recommendations from the Conservation Committee on Traffic Ordinance amendments.

The meeting adjourned at 7:45 p.m.