



TOWN OF CAPE ELIZABETH

Code Enforcement Office
P. O. Box 6260
320 Ocean House Road
Cape Elizabeth, Maine 04107-0060

Phone: 207-799-1619

Email: benjamin.mcdougal@capeelizabeth.org

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Maureen O'Meara, Town Planner

Dear Maureen,

Thank you for moving forward with proposed changes to our Shoreland Zoning rules. As you are aware, policy changes at the Department of Environmental Protection have put the town in a precarious legal position.

This past February the DEP responded to a neighbor's complaint about the height of a new house under construction. The DEP determined that although the height of the structure is consistent with our Zoning Ordinance, it is not consistent with a more restrictive state law. Despite the fact that our Zoning Ordinance was legally approved and adopted, the DEP advised me that I should be enforcing the more restrictive state law. This causes us to be more exposed to legal challenges regardless of which rule I enforce.

The solution to this problem is to amend our Zoning Ordinance to be consistent with current DEP rules. I recommend that we adopt the rules nearly verbatim in order to reduce the chance of future legal issues.

Sincerely,

Benjamin McDougal
Code Enforcement Officer