**MEMORANDUM**

TO: Cape Elizabeth Town Council

FROM: Ordinance Committee

DATE: June 27, 2012

SUBJECT: Survey requirement Zoning Amendment

Introduction

The Town Council referred to the Ordinance Committee a request (initiated by the Ordinance Committee) to review the requirements for delineating property boundaries as part of a building permit application. The Ordinance Committee is recommending amendments to the Zoning Ordinance to improve compliance with setback requirements.

Review process

The Ordinance Committee met three times to discuss a possible survey amendment. The committee reviewed the ordinance requirements for Cape Elizabeth and eleven other southern or coastal Maine communities. They reviewed the State Board of Licensure for Professional Land Surveyors technical standards description of a standard boundary survey and Mortgage Loan Inspection Plan that were applicable until the mid 2000’s. Staff also solicited input from 5 professional surveyors.

The Ordinance Committee discussion focused on the need to balance the additional cost of a standard boundary survey with the cost to residents if a building permit is issued in reliance upon a flawed property boundary location, which can result in construction that violates town setback requirements. Typically, the error is discovered when a property is for sale. In most cases, the option to request a variance is not available and the property owner is limited to demolishing the portion of the structure in violation or petitioning the Town Council, which is uncertain and includes legal costs. The Ordinance Committee also wants to maintain the integrity of setback standards, which contribute to community character.

Recommendation

The Ordinance Committee is recommending that a standard boundary survey be required for substantial construction. Because a standard boundary survey is typically not provided for mid-range construction projects, this will increase costs. The Ordinance Committee mitigated costs in several ways. First, they are limiting the boundary survey requirement to those projects that are over $10,000 in value and are located within 5’ of the minimum setback. Even if a resident cannot move their project back another 5’, the cost may still be reduced by providing standard boundary survey information for only the nearest property boundaries instead of the entire property.

At the June 19, 2012 meeting, the Ordinance Committee voted 3-0 to recommend the attached Survey zoning amendment to the Town Council for consideration.