



TOWN OF CAPE ELIZABETH

MEMORANDUM

Date: June 1, 2023

To: Matthew Sturgis, Town Manager

From: Benjamin McDougal, Code Enforcement Officer *BTM*

Subject: 287 Ocean House Road Litigation

In response to your request for a status report, the history goes back to December of 2018 when Mr. Friedland was a prospective buyer of this property and asking me informal questions.

2019:

In February of 2019, at Mr. Friedland's request, the Town Planner and I met with him to discuss the Zoning and Building Code requirements based on how he proposed to use the property. He proceeded to purchase the property then appealed my decision to require a Site Plan Approval prior to opening his business. The Zoning Board of Appeals upheld my decision to require Site Plan Approval on April 23, 2019.

2020:

Mr. Friedland obtained a Site Plan Approval on 7/21/20. As his business plans changed, he had a hard time complying with his Site Plan Approval. In order to adapt his Site Plan, the Planning Board approved de minimus changes on 8/28/20 and 10/5/20. On 11/10/20 the site was granted a Conditional Certificate of Occupancy. Within a week, he had a large delivery of lumber delivered that violated the outside storage/display standards contained in his Site Plan Approval.

2021:

In April 2021 Mr. Friedland went back to the Planning Board to amend his Site Plan Approval and changes were approved July 20, 2021. He remained in violation throughout the summer and fall before getting his fence installed to provide screening for the outside storage/display.

2022:

In the Spring of 2022, there was a lot of storage/display outside of the fenced area and a banner that did not meet the requirements of the sign ordinance. After not receiving responses to emails, I issued a formal Notice of Violation on May 3, 2022.

After failing to gain compliance for throughout the 2022 season, our then Town Attorney, Laura Maher, filed a Land Use Complaint in District Court. On December 13, 2022, Attorney Maher and I had a meeting with Mr. Friedland and his attorney, Jamie Wagner. In this meeting, we came to an agreement that the Town would put the litigation on hold if Mr. Friedland came into compliance with his Site Plan approval and pursued another amendment to his Site Plan approval to accommodate what he planned to do in the Spring of 2023.

2023:

Mr. Friedland was scheduled to be at the 1/17/23 Planning Board meeting but he withdrew. He made submissions and attended the February and March Planning Board meetings. At the March meeting, he said he would be back in April with a complete application. He did not resubmit to be on the Planning Board agenda in April or May.

On April 6, 2023 Mr. Friedland began getting large deliveries and keeping them outside of the fenced area. He initially told me they would be relocated in compliance no later than April 10. This did not happen. I emailed back and forth with Mr. Friedland trying to gain compliance but he and his attorney stopped responding and the property continued to get further out of compliance with his approved Site Plan. As it became apparent Mr. Friedland was not working with us, the next step to gain compliance was to pursue relief through the District Court. On May 19, 2023, Attorney Maher filed a motion for an expedited hearing with the District Court. On May 26, 2023, Attorney Wagner filed a motion opposing the expedited hearing. This is now in the hands of the court to decide.