

MEMORANDUM

TO: Cape Elizabeth Planning Board
FROM: Maureen O'Meara, Town Planner
DATE: November 20, 2012
SUBJECT: Survey Zoning Amendment

Introduction

The Cape Elizabeth Town Council has referred to the Planning Board an amendment crafted by the Ordinance Committee that would require a standard boundary survey for some building permits. The amendments (see attached) will be reviewed under Sec. 19-10-3, Amendments.

Procedure

- The Board should begin with a brief summary of the amendment.
- The Board should then open the public hearing scheduled for this evening.
- At the close of the public hearing, the Board may begin discussion of the amendment and consider revisions at any time.
- At the close of discussion, if the Planning Board wants to move the amendment forward, it should make a recommendation to the Town Council. If the Planning Board would like to rework the amendment, it should table the amendment to the next workshop.

Background

Currently, an applicant must show the location of property boundaries on a building permit application, but there is no minimum requirement of property line accuracy. Consequently, some building permits are issued on faulty location of property line information. Errors are usually uncovered when the property is being sold. Options to cure the problem and clear the title are limited.

The property owner can remove the portion of the structure in violation of the setback. This is almost never desired as it can be costly and devalue the property. The property owner can apply for a variance from the Zoning Board of Appeals. The Zoning Board must find that the variance standards have been met. Further, the Zoning Board cannot grant a variance to allow a setback of less than 10', so the variance option is not always available. Finally, the property owner can seek a Consent Agreement with the Town Council essentially agreeing not to enforce minimum setbacks where the violation occurs. This option is also costly and the Town Council is reluctant to enter into Consent Agreements.

Following a Consent Agreement item on the February, 2012 Town Council agenda, the Ordinance Committee reviewed the existing building permit requirements, a range of survey options, and recommended that the property boundary information required be upgraded to a standard boundary survey quality.

Draft Amendment

The amendment to the Zoning Ordinance, Sec. 19-3-3, would require a standard boundary survey for projects of \$10,000 or more in value where construction will be located within 5' of the minimum setback. Provision of only the property boundaries closest to the construction is an option. A definition of a standard boundary survey is also added.

Motion for the Board to Consider

BE IT ORDERED that, based on the draft amendment and the facts presented, the Planning Board (recommends/does not recommend) the Survey Zoning Amendments to the Cape Elizabeth Town Council for consideration.