

MEMORANDUM

TO: Cape Elizabeth Planning Board
FROM: Maureen O'Meara, Town Planner
DATE: January 14, 2014
SUBJECT: Normal High Water Line Zoning Ordinance Amendment

Introduction

Following a request from the Code Enforcement Officer, the Town Council referred to the Planning Board a request to amend the definition of normal high water line, which is integral to the administration of Shoreland Zoning. The Planning Board tabled an amendment that would have recommended adopting the state model definition back to workshop following a public hearing July 16, 2013. A revised zoning ordinance amendment has been schedule for a public hearing this evening.

Procedure

- The Board should begin by summarizing the content of the amendment.
- The Board should then open the public hearing.
- At the close of the public hearing, the board may begin discussion, including any revisions to the proposed amendment.
- At the close of discussion, the Board has the option to recommend or not recommend the amendment to the Town Council for consideration, or to table the amendment to a future workshop.

Discussion

Following the July, 2013 public hearing, the Planning Board tabled the normal high water line definition to a workshop in order to address concerns raised by the public that the draft definition was weakening Cape Elizabeth's historic strict regulation. To improve understanding of larger environmental trends, the Planning Board heard a presentation by Peter Slovinsky of the Maine Geological Survey.

The Planning Board revised the draft amendment/ definition to refer to the "Highest Astronomical Tide" instead of the "Highest Annual Tide." The highest astronomical tide is a more stable number, based on 19 years of data averaged. In addition, Maine Geological Survey is recommending that the DEP change the state normal high water line definition to reference highest astronomical tide.

The second major shift was to acknowledge the town's tradition of strict environmental regulation by building on the scientific basis of the highest astronomical tide and adding 3' of additional vertical elevation. General maps provided by Mr. Slovinsky showed the impact of the additional 3' in Cape Elizabeth, which generally adds more setback to areas already experiencing flooding challenges. The additional 3' has little impact on most of the coastline. The most current draft amendments are attached. The additional 3 feet also begins to address the trend of sea level rise.

The Board also reviewed the draft amendment language for clarity. The draft language uses the state language, except where the town differs from the state standard as noted above. While the Board generally agrees that the language could be more user friendly, it agreed to be consistent with the state language. Consistency with the state language results in greater technical support available to the Code Enforcement Officer from the DEP Shoreland Zoning Division and the ability to reference state interpretations.

Motion for the Board to Consider

BE IT ORDERED that, based on information presented, the Cape Elizabeth Planning Board (recommends/does not recommend) the Normal High Water Line Zoning Amendments to the Town Council for consideration.