

## MEMORANDUM

TO: Cape Elizabeth Planning Board  
FROM: Maureen O'Meara, Town Planner  
DATE: November 15, 2016  
SUBJECT: Town of Cape Elizabeth Cottage Brook Boardwalk RP Permit

### Introduction

The Town of Cape Elizabeth is requesting a Resource Protection Permit to construct up to 250' linear feet of 4' wide boardwalk on an existing trail located on the Cottage Brook open space. The application will be reviewed for compliance with Sec. 19-8-3, Resource Protection Regulations.

### Procedure

- The Board may want to begin by having the applicant summarize the project.
- The Board should make a finding of completeness. If the application is deemed incomplete, Board members should identify the information needed to make the application complete and no substantive discussion of the project should occur. If the application is deemed complete, the Board may begin review of the project.
- If the application is deemed complete, a public hearing should be held which has been advertised for this evening.
- At the close of discussion, the Board has the option to approve, approve with conditions, deny or table the application.

### Summary of Completeness

The completeness checklist and the comments of the Town Engineer are attached. The applicant has requested a waiver from providing 1' topographic contours, but has provided 2' contours. A waiver from providing a stormwater plan prepared by a professional engineer has also been requested, due to the small amount of impervious surface proposed.

### Resource Protection Permit Standards (Sec.19-8-3(B))

Below is a summary of the Resource Protection Permit standards of review and how they may be met.

1. Flow of surface/subsurface waters

The purpose of the project is to elevate foot and bike traffic off the surface of the trail, which has become muddy. Surface waters will be able to freely flow underneath the elevated boardwalk.

2. Impound surface waters

The boardwalk will be elevated to allow free flow of surface waters.

3. Increase surface waters

The boardwalk will add no more than 1,000 sq. ft. of impervious surface. The deck boards will be spaced to allow flow through to the ground underneath. The addition of no more than 1,000 sq. ft. of impervious surface will not measurably increase stormwater flows.

4. Damage to spawning grounds

The trail is located on the edge of of the wetland complex and the boardwalk will prevent further encroachment into the wetland. When trail users encounter muddy conditions, they tend to walk on the trail edge, which quickly becomes muddy. In this way, the trail width expands and impact on the wetland increases.

5. Support of structures

The boardwalk will be installed using a technique common in wet areas, where supports elevate the boardwalk decking.

6. Aquifer recharge/groundwater

The boardwalk is limited in size and will not obstruct any water flows.

7. Coastal dunes

No work in coastal dunes or back dune areas is proposed.

8. Ecological/aesthetic values

The boardwalk is proposed in an existing trail which has become muddy with increased use. The boardwalk will replace the muddy surface and allow the vegetation adjacent to the trail to recover.

9. Wetland Buffer

The project is located in the RP2 wetland and within 250' of an RP1 wetland.

10. Erosion Control

The existing conditions have erosion potential as a greater amount of area loses vegetation. Installation of the boardwalk will reduce impact on the wetland vegetation.

11. Wastewater discharge

No discharge of wastewater is proposed as part of the project scope.

12. Floodplain Management

The project is not located in a floodplain.

Motions for the Board to Consider

**A. Motion for Completeness**

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of the Town of Cape Elizabeth for a Resource Protection Permit to construct up to 250' linear feet of 4' wide boardwalk on an existing trail located on the Cottage Brook open space be deemed (incomplete/complete), and the following waivers are granted:

1. A waiver from providing 1' topographic contours; and
2. A waiver from providing a stormwater management plan prepared by a professional engineer.

**B. Motion for Approval**

Findings of Fact

1. The Town of Cape Elizabeth is requesting a Resource Protection Permit to construct up to 250' linear feet of 4' wide boardwalk on an existing trail located on the Cottage Brook open space, which requires a Resource Protection Permit.

2. The proposed boardwalk (will/ will not) materially obstruct the flow of surface or subsurface waters across or from the alteration area;
3. The proposed boardwalk (will/ will not) impound surface waters or reduce the absorptive capacity of the alteration area so as to cause or increase the flooding of adjacent properties;
4. The proposed boardwalk (will/ will not) increase the flow of surface waters across, or the discharge of surface waters from, the alteration area so as to threaten injury to the alteration area or to upstream and/or downstream lands by flooding, draining, erosion, sedimentation or otherwise;
5. The proposed boardwalk (will/ will not) result in significant damage to spawning grounds or habitat for aquatic life, birds or other wildlife;
6. The proposed boardwalk (will/ will not) pose problems related to the support of structures;
7. The proposed boardwalk (will/ will not) be detrimental to aquifer recharge or the quantity or quality of groundwater;
8. The proposed boardwalk (will/ will not) disturb coastal dunes or contiguous back dune areas;
9. The proposed boardwalk (will/ will not) maintain or improve ecological and aesthetic values;
10. The boardwalk (will/ will not) maintain an adequate buffer area between the wetland and adjacent land uses;
11. The boardwalk (will/ will not) be accomplished in conformance with the erosion prevention provisions of Environmental Quality Handbook Erosion and Sediment Control, published by the Maine Soil and Water Conservation Commission dated March, 1986, or subsequent revisions thereof;
12. The boardwalk (will/ will not) be accomplished without discharging wastewater from buildings or from other construction into Wastewater Treatment Facilities in violation of Section 15-1-4 of the Sewage Ordinance; and
13. The proposed boardwalk (is/ is not) located in a floodplain.

14. The application substantially complies with Sec. 19-8-3, Resource Protection Regulations.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of the Town of Cape Elizabeth for a Resource Protection Permit to construct up to 250' linear feet of 4' wide boardwalk on an existing trail located on the Cottage Brook open space be approved, subject to the following conditions:

1. That, prior to construction of the boardwalk, the Town obtain any necessary permits from the Department of Environmental Protection and the Army Corps of Engineers.