

To: Cape Elizabeth Town Council
Fm: Jay Cox, Cape Farm Alliance

9/26/16

Ladies and Gentlemen:

I am writing on behalf of the Cape Farm Alliance to comment on the proposed amendments to the zoning ordinance, specifically the definition of “accessory building or structure” under 19-1-3. In 2009 and 2010, the Alliance, then a town committee charged with - among other things - suggesting changes to the town’s ordinances to support agriculture in Cape Elizabeth. One of the suggested, supported and adopted changes was the expansion of the definition of agriculture to include “agriculture related use” defined as “use that is incidental and subordinate to the primary use of agriculture, that complements the primary agricultural use and which will help sustain the primary use of agriculture on the property.” In other words: ancillary activities which hopefully improve a farm’s profitability by leveraging the land in some way. We envisioned things such as horseshoeing at a riding stable, food service at a vegetable farm, and tours of the town’s working farms. Activities such as these were a permission explicitly granted to agriculture operations by a supportive town to try to improve these operations’ profitability.

The proposed amendment to the definition of an accessory building or structure causes problems for farms in at least the following two ways:

- Although permission to engage in creative money-generating activities is granted in one section of the ordinance, this wording limits how accessory buildings may be used and, in our opinion, creates a conflict within the town’s zoning regulations. I’m not aware of any operations that currently provide public overnight accommodations in their out buildings; however I can certainly envision a situation where one might want to. I, for example, have been asked many times if I would rent a small camp-like building on my property for skiing; though I have no plans to do this, I would certainly like to keep the right to do so if a reasonable situation arose, and as far as we can see, if this change is made, there would be no mechanism available. These outbuildings cannot be “accessory dwelling units” as these must be contained within the principal structure. These buildings – normally used for storage, sales or other purposes - also cannot be “dwelling units” as “dwelling units” must be “...designed and equipped *exclusively* for use as permanent, seasonal, or temporary living quarters....”
- There are farmers in our town who provide housing for seasonal workers. For the same reasons stated above, this change to the definition would be problematic, primarily due to the conflict with the dwelling unit definition’s requirement that they be for “...one (1) family at a time....”

At the same time, we understand that town’s desire to control potentially disruptive activities in neighborhoods, specifically conversion of garages or other structures for AirBNB-type housing arrangements. We feel that the town could accomplish this by being a little more specific. We suggest and request that the prohibition on providing overnight accommodations in accessory buildings be limited those buildings which are accessory to *residential* uses, only. We feel that this would solve the town’s current problem without unnecessarily restricting agricultural operations’ ability to provide worker housing and to innovate. Failing this change, we ask that you strip this amendment from the package of changes or send the entire package back to workshop so we have more time to work with the ordinance committee regarding a solution.

Thank you and best regards,

Jay Cox
Cape Farm Alliance

