

MEMORANDUM

TO: Cape Elizabeth Planning Board
FROM: Maureen O'Meara, Town Planner
DATE: July 18, 2017
SUBJECT: 517 Ocean House Rd LLC v. Town of Cape Elizabeth Court Remand

Introduction

The Superior Court has remanded back to the Cape Elizabeth Planning Board the appeal of 517 Ocean House Rd LLC v. Town of Cape Elizabeth for more findings. The April 27, 2017 order is attached.

Procedure

- The Planning Board should provide a public comment period.
- The Board should then discuss the court order. Any additional findings must be based on the plans and materials approved by the Planning Board on May 19, 2015, as well as the facts available to the Planning Board at the time of approval. For example, a site walk was conducted on April 18, 2015.
- At the close of discussion, the Planning Board may vote to respond to the remand, or may table the discussion to the August meeting.

Discussion

The court has remanded the following for further findings or conditions:

1. Whether the lighting is adequate for safety in the parking area behind Building #3 in nighttime hours, if such use is contemplated;
2. Whether the light fixtures are sufficiently shielded so that they do not unnecessarily light the night sky; and
3. Whether the plantings between the sidewalk and the parking area will obscure the view of parking cars and parking areas from the sidewalk.

Town Attorney John Wall will attend the meeting and be available to provide advice. Attached is the July 19, 2016 Planning Board response to the first remand.

Motions for the Board to Consider

A. Motion to Make additional findings

BE IT ORDERED that, based on the plans and materials submitted by the applicant, advice provided by staff including the town planner, town engineer, and code enforcement officer, and the site visit conducted on April 18, 2015, the Cape Elizabeth Planning Board makes the following findings in response to an Order from the Superior Court and remand, dated April 27, 2017, in 517 Ocean House Rd LLC v. Town of Cape Elizabeth:

- 1.
- 2.
- 3.

B. Motion to Table

BE IT ORDERED that, based on the plans and materials submitted, and the facts presented, the Superior Court remand in the order dated April 27, 2017 in 571 Ocean House Rd LLC v. Town of Cape Elizabeth be tabled to the regular August 15, 2017 meeting of the Planning Board.