



Maureen O'Meara <maureen.omeara@capeelizabeth.org>

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## 27 Fowler Rd BB Rezoning

2 messages

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**Maureen O'Meara** <maureen.omeara@capeelizabeth.org>  
To: Benjamin McDougal <benjamin.mcdougal@capeelizabeth.org>

Wed, Sep 13, 2017 at 2:28 PM

Ben,

As part of the Planning Board's review of the BB rezoning request for 27 Fowler Rd, questions have been asked about the current Zoning Ordinance compliance of the property. As you know, the property is currently in the RA District. Would you please review the Building file for the property and provide a summary of any outstanding issues and/or violations.

The Planning Board will be holding a public hearing on the rezoning request September 19th. I would appreciate a response from you by **September 13th** so that the board may consider your comments prior to the meeting.

Please let me know if you have any questions and thank you.

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Maureen O'Meara  
Cape Elizabeth Town Planner  
320 Ocean House Rd  
Cape Elizabeth, Maine 04107  
(207) 799-0115  
[maureen.omeara@capeelizabeth.org](mailto:maureen.omeara@capeelizabeth.org)

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**Benjamin McDougal** <benjamin.mcdougal@capeelizabeth.org>  
To: Maureen O'Meara <maureen.omeara@capeelizabeth.org>

Wed, Sep 13, 2017 at 2:29 PM

Maureen,

Per your request, there are two potential issues that I am aware of.

1. There is an unresolved Notice of Violation relating to a large expansion that was done on the house 6-8 years ago. A Certificate of Occupancy was never issued for the space. My Notice of Violation dated 2/23/15 also contains an unresolved Notice of Violation issued by the prior Code Enforcement Officer on 6/26/12.
2. The business activity on the property has increased over the past several months. On several occasions I observed trucks and excavating equipment on the property. General business activity on the property seems to have increased compared to years past. While legal occupants of the property can drive their business vehicles home, it crosses the line to business activity when employees of the business are coming and going, and when materials and equipment are being stored on the property. I am not positive this is occurring, but it is a concern.

Ben

Benjamin McDougal  
Code Enforcement Officer  
Town of Cape Elizabeth  
320 Ocean House Road  
P.O. Box 6260  
Cape Elizabeth, ME 04107  
(207) 799-1619  
[benjamin.mcdougal@capeelizabeth.org](mailto:benjamin.mcdougal@capeelizabeth.org)  
[Quoted text hidden]

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**27 Fowler Building Violation.pdf**  
1041K



## TOWN OF CAPE ELIZABETH

Code Enforcement Office  
P. O. Box 6260  
320 Ocean House Road  
Cape Elizabeth, Maine 04107-0060

Phone: 207-799-1619

Email: [benjamin.mcdougal@capeelizabeth.org](mailto:benjamin.mcdougal@capeelizabeth.org)

February 23, 2015

Carl Pearson  
27 Fowler Road (Map U20 Lot 10)  
Cape Elizabeth, ME 04107

### NOTICE OF VIOLATION AND ORDER FOR CORRECTIVE ACTION

Dear Mr. Pearson,

I recently became aware of the unsettled violations at your property on 27 Fowler Road. On February 18, 2015, I met with your son, Casey Pearson, at the property. We walked through the house and discussed the violations that stem from a building permit and correspondence that predates my tenure as Code Enforcement Officer. Casey and I came to an impasse with regard to the resolution of these violations. While at the property, I observed 2 distinctly separate dwellings. The original portion of the house has 4 bedrooms, a kitchen, and a bathroom. The new dwelling unit, located above the garages, has 3 bedrooms, a kitchen, and a bathroom. There was a vehicle parked in the garage. Both dwelling units appeared to be occupied.

#### **Background:**

On April 14, 2009, Building Permit #090371 was approved (Attachment 1). The basic scope of work was to add a 3 car garage with living space above and to convert the space above the existing 2 car garage into living space.

On June 26, 2012, then Code Enforcement Officer Bruce Smith sent you a Notice of Violation (Attachment 2) stating that the new living space was being occupied without a Certificate of Occupancy and he ordered that the space be immediately vacated and remain vacant until a Certificate of Occupancy is issued. Mr. Smith also made you aware that continuing to violate the ordinance in this manner could result in fines ranging from \$100.00 to \$2,500.00 per day that the violation persists.

On July 10, 2012, Bruce Smith performed a Certificate of Occupancy inspection.

On July 27, 2012, Bruce Smith wrote you a letter detailing the findings of his inspection (Attachment 3). In that letter he details 4 violations of the building code and one violation of the electrical code. He also

states that one of the kitchens must be removed and a new septic system must be permitted and installed. In this letter, Mr. Smith also reiterates the fact that the new living space must remain vacant until these issues are resolved.

On August 16, 2012, you sent an email to Bruce Smith responding to his letter (Attachment 4). In this email you state that the area in question has been vacated. A couple of emails are exchanged with the last being an email from Bruce Smith on August 22, 2012. I am not aware of any additional correspondence regarding this matter.

**Present:**

After my inspection of the property, I have determined that the zoning violations have not been remedied and all of the code violations still exist except for the workmanship on the electrical outlets, which has been corrected.

You are in violation of Section §19-3-6 of the Town of Cape Elizabeth Zoning Ordinance because this space is being occupied prior to a Certificate of Occupancy being issued. You are hereby ordered to immediately vacate the space permitted by Building Permit #090371 until these issues are remedied and a Certificate of Occupancy is issued. Any use of this space by any person is a continued violation of our Zoning Ordinance. Failure to abide by this order may result in fines ranging from \$100.00 to \$2500.00 per day that the violation persists.

You have the right to appeal this decision to the Zoning Board of Appeals within thirty (30) days of the date of this letter, as outlined in Article V of the Cape Elizabeth Zoning Ordinance. Please contact me if you have any questions regarding this process.

Sincerely,



Benjamin McDougal  
Code Enforcement Officer

CC: Michael McGovern, Town Manager

APPROVED  
4/14/09



Final  
Base  
ATTACHMENT 1  
8 PAGES

### TOWN OF CAPE ELIZABETH

Code Enforcement Office  
P.O. Box 6260  
320 Ocean House Road  
Cape Elizabeth, Maine 04107-0060

Phone: 207-799-1819  
Fax: 207-799-5598  
Email: bruce.smith@capeelizabeth.org

#### BUILDING PERMIT APPLICATION #090371

MAP U20 LOT 010 LOT SIZE 1 acre

LOCATION 27 Fowler Road

OWNER Carl & Angela Pearson

OWNER ADDRESS 27 Fowler Road, CE

TELEPHONE HOME 207-756-5460 WORK \_\_\_\_\_ CELL \_\_\_\_\_

APPLICANT Shore Enterprises LLC

APPLICANT ADDRESS 541 Ocean House Road, CE

TELEPHONE WORK 207-767-3036 CELL 207-807-1353 EMAIL cpearson@shoreenterprisesllc.cc

CONTRACTOR Shore Enterprises LLC

ADDRESS 541 Ocean House Road, CE

TELEPHONE WORK 207-767-3036 CELL 207-807-1353 JOB SITE \_\_\_\_\_

EMAIL cpearson@shoreenterprisesllc.com

#### APPLICATION TYPE:

- NEW PRINCIPAL STRUCTURE
- ADDITION
- RELOCATION
- EXPANSION
- NEW ACCESSORY STRUCTURE
- ALTERATION
- REPAIR
- REPLACEMENT

ESTIMATED COST \$ 75000

TOTAL ESTIMATED VALUE \$ 75000

PERMIT FEE \$ 500.00 (\$750-\$250) PAID: CASH \_\_\_\_\_ CHECK # 852

Minimum fee up to \$2500.00 = \$25.00  
Over \$2500.00 = 1% of estimated value (\$10.00 per thousand)

PROJECT DESCRIPTION:  
BRIEFLY EXPLAIN SCOPE OF WORK TO BE DONE:  
SEE ATTACHMENT #1

MAPU20 LOT010

DIMENSIONS OF PROPOSED STRUCTURE N/A

PROPOSED FOUNDATION TYPE:

FULL 10'  FULL 8'  4' FROST WALL  PIER  SLAB

SETBACKS

PROPOSED STRUCTURES

FRONT N/A /N/A SIDES N/A /N/A REAR N/A

BUILDING HEIGHT

THE VERTICAL DISTANCE FROM THE AVERAGE ORIGINAL GRADE TO THE TOP OF THE HIGHEST ROOF BEAMS OF A FLAT ROOF, OR TO THE MEAN LEVEL OF THE HIGHEST GABLE OR SLOPE OF GABLE OR HIP ROOF. (MAX 35' ALLOWED)

EXISTING STRUCTURES N/A PROPOSED STRUCTURES N/A

FOR STRUCTURES TO BE OCCUPIED OR FOR AN INCREASE IN THE # OF BEDROOMS:

SERVICED BY:  PRIVATE SEPTIC SYSTEM  PUBLIC SEWER

# OF EXISTING BEDROOMS 0 # OF ADDITIONAL BEDROOMS 0

*Remove 3 in existing  
Replace w/ 3 new*

NO BUILDING HEREAFTER ERECTED SHALL BE OCCUPIED OR USED, IN WHOLE OR IN PART, UNTIL A CERTIFICATE OF OCCUPANCY SHALL HAVE BEEN ISSUED BY THE CODE ENFORCEMENT OFFICER CTP

APPROVED PLANS MUST BE RETAINED ON JOB ALONG WITH PERMIT UNTIL FINAL INSPECTION HAS BEEN MADE.

MINIMUM OF THREE INSPECTIONS REQUIRED FOR ALL CONSTRUCTION WORK. PLEASE SCHEDULE INSPECTIONS WITH THE CEO SECRETARY. 1. FOUNDATIONS (FOOTINGS, WALLS, DRAINAGE, WATER PLUG) 2. FRAMING (PRIOR TO COVERING STRUCTURAL MEMBERS) 3. FINAL INSPECTION BEFORE OCCUPANCY.

WHERE APPLICABLE, SEPARATE PERMITS ARE REQUIRED FOR ELECTRICAL, PLUMBING, AND MECHANICAL INSTALLATIONS.

THIS PERMIT APPLICATION DOES NOT PRECLUDE THE APPLICANT(S) FROM MEETING APPLICABLE STATE AND FEDERAL RULES.

THIS PERMIT WILL BECOME NULL AND VOID IF CONSTRUCTION IS NOT STARTED WITHIN SIX MONTHS OF PERMIT ISSUE DATE.

I HEREBY CERTIFY THAT I AM THE OWNER OF RECORD OF THE NAMED PROPERTY, OR THAT I HAVE BEEN AUTHORIZED BY THE OWNER TO MAKE THIS APPLICATION AS THEIR AGENT. I AGREE TO CONFORM TO ALL APPLICABLE LAWS OF THIS JURISDICTION. IN ADDITION, IF THIS PERMIT IS ISSUED, I CERTIFY THAT THE CODE OFFICIAL OR HIS REPRESENTATIVE SHALL HAVE THE AUTHORITY TO ENTER ALL AREAS COVERED BY SUCH PERMIT AT ANY REASONABLE HOUR FOR THE PURPOSES OF INSPECTING SAID WORK.

PRINTED NAME Casey Pearson OWNER / AUTHORIZED AGENT

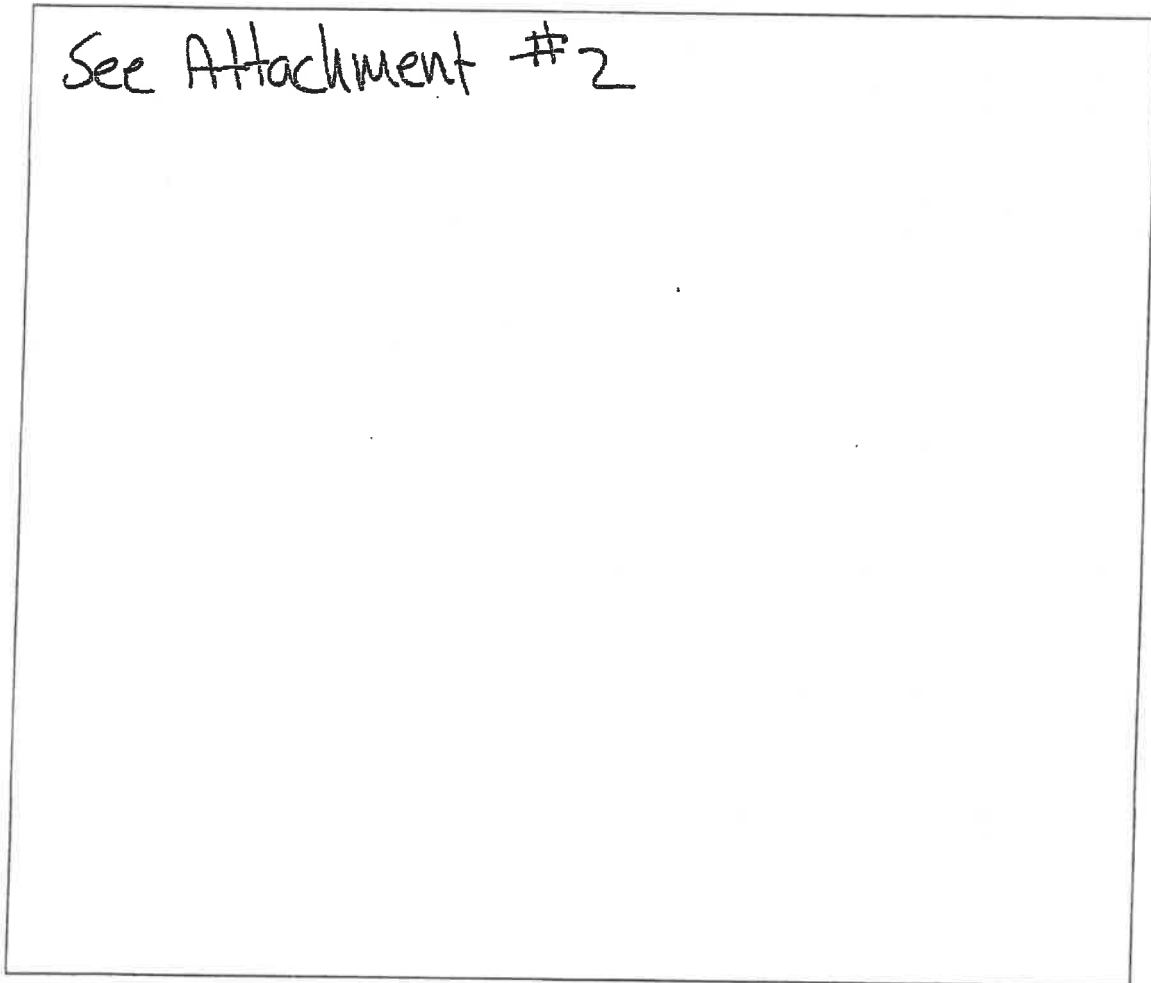
SIGNED  DATE 04/13/09  
OWNER / AUTHORIZED AGENT

**TOWN OF CAPE ELIZABETH  
SEC.19-3-3 BUILDING PERMITS**

**C. APPLICATIONS FOR PERMITS MUST BE ACCOMPANIED BY THE FOLLOWING:**

A site plan drawn to an indicated scale and showing the location and dimensions of all buildings to be erected, the sewage disposal system, driveways and turnarounds, and abutting lot and street lines. The site plan shall accurately represent the relationship between any proposed building or structure or addition to an existing building and all property lines to demonstrate compliance with setback requirements of the Ordinance. If there is any doubt as to the location of a property line on the ground or if the Code Enforcement Officer cannot confirm that all setback requirements are met from the information provided, the Code Enforcement Officer may require the applicant to provide a boundary survey or mortgage inspection plan.

**SITE PLAN**

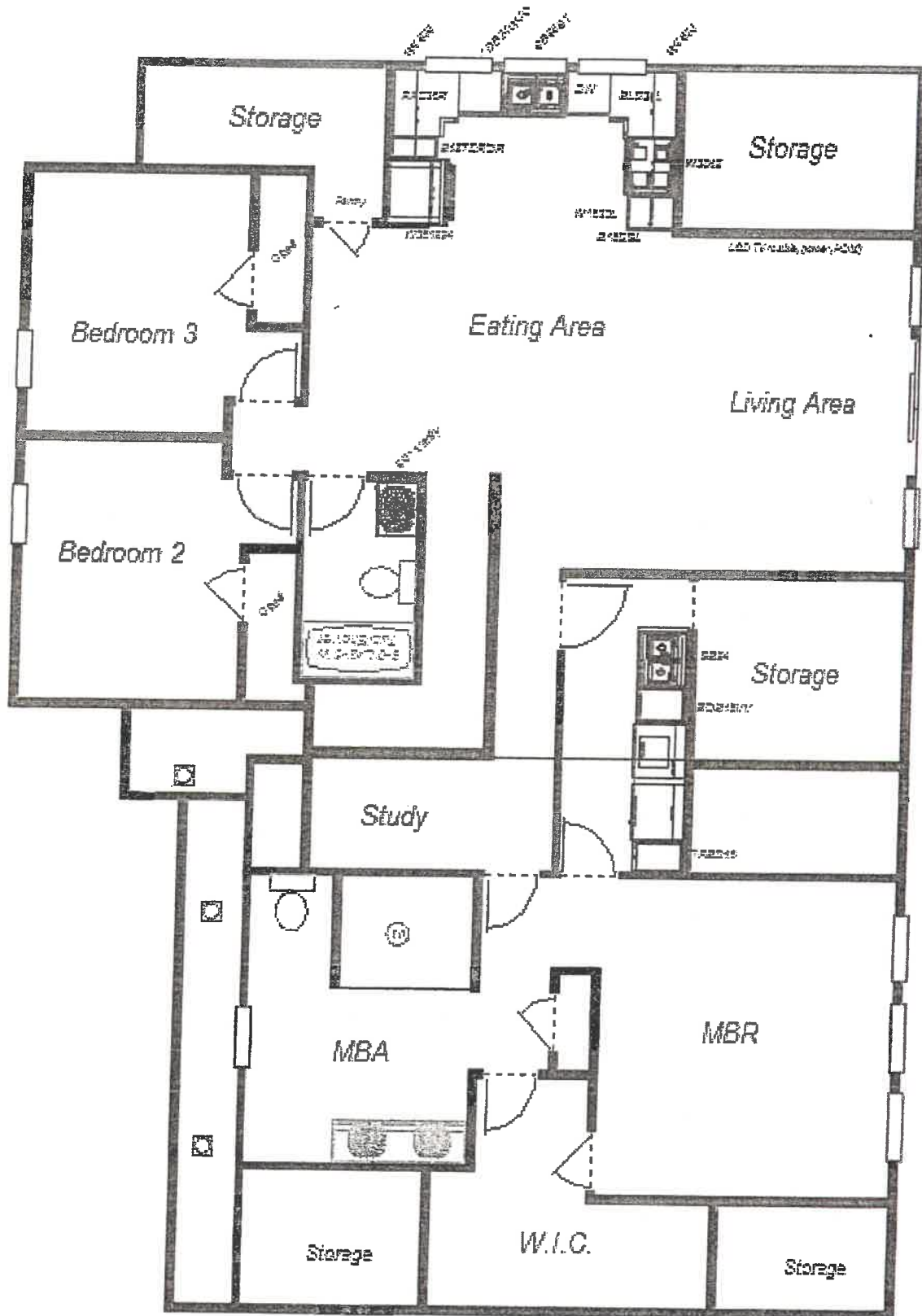


**ATTACHMENT #1**

We are finishing the unfinished spaces above the existing 5 car garages. The space above is to include 3 new bedrooms, 1.75 Baths, Laundry room, Dining room, Living Area, Kitchen. On the ground level we are creating a utility room and  $\frac{3}{4}$  bathroom. The new space will serve as the main dwelling as the existing house will be renovated, eliminating ~~2~~<sup>3 (CP)</sup> bedrooms and the full kitchen. ~~This space will be renovated into a 2 bedroom, 1.75 bath in-law apartment for seasonal use by the property owners.~~

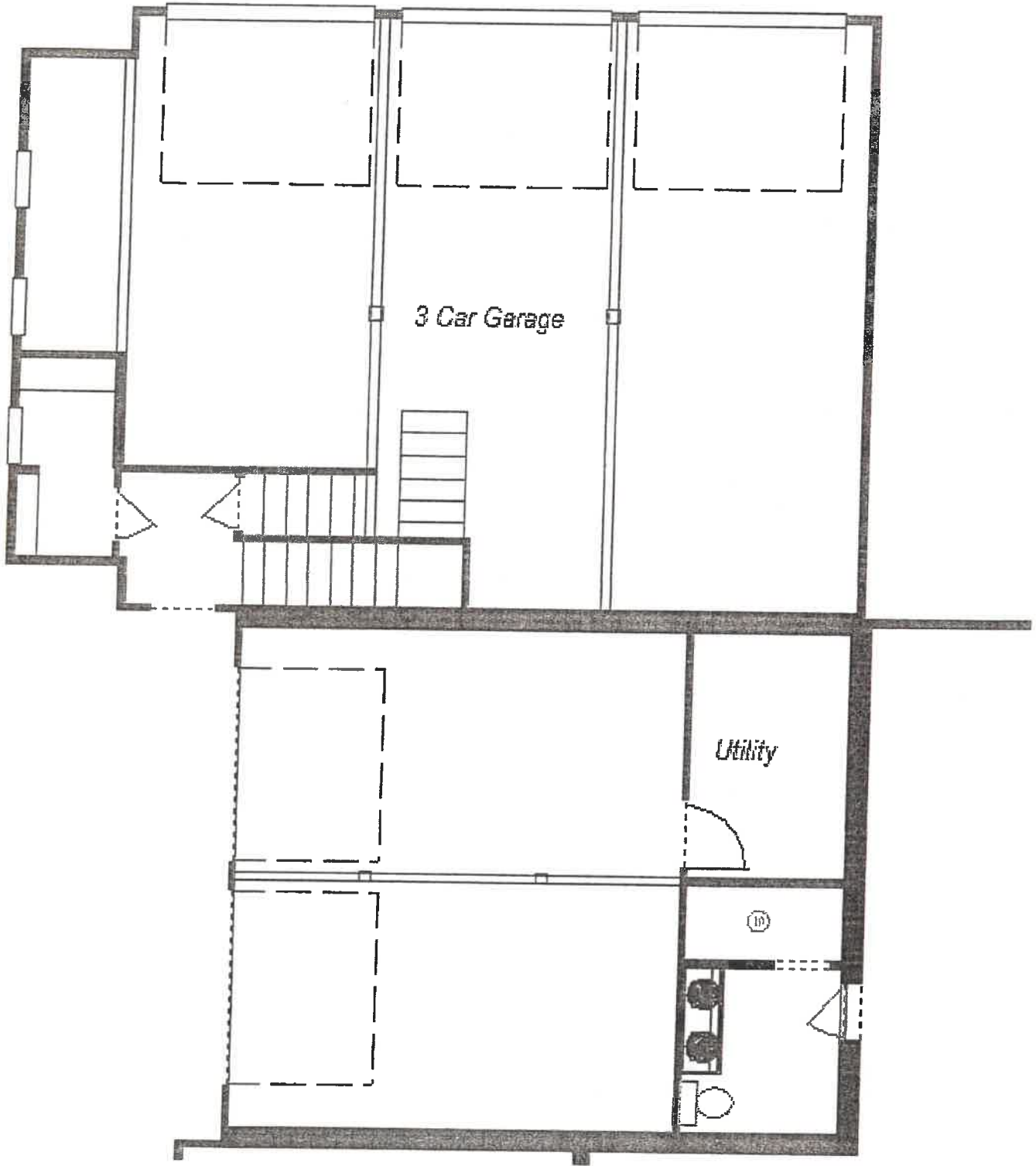
CTP 4/13/09

#2





#2a





4/15/2009

# DISPLAY THIS CARD ON PRINCIPAL FRONTAGE OF WORK

TOWN OF CAPE ELIZABETH

090371

CODE ENFORCEMENT OFFICE

This is to certify that **SHORE ENTERPRISES LLC**

MAP U20 LOT 10

has permission to **FRAME OUT & FINISH AREA ABOVE THE GARAGES FOR A NEW DWELLING UNIT.**

**Note: The existing dwelling unit will be demolished and/or renovated for additional living space for the new dwelling. The existing kitchen will be removed so that the structure will remain a single/family dwelling.**

provided that the person or persons, firm or corporation accepting this permit shall comply with all of the provisions of the Statutes of Maine and of the Ordinances of the TOWN OF CAPE ELIZABETH regulating the construction, maintenance and use of buildings and structures, and with the approval granted.

### IMPORTANT NOTICE

A certificate of occupancy must be procured by owner before this building or part thereof is occupied, unless waiving of such requirement is indicated in space below.

Waived

*BSM*  
**BRUCE A. SMITH, CEO**

### IMPORTANT NOTICE

Notification for inspection must be given and permission procured before any structure or part thereof is lathed or otherwise closed in, unless waiving of these requirements is indicated

Waived

4/15/09

**APPROVAL DATE**



## TOWN OF CAPE ELIZABETH

Code Enforcement Office  
P. O. Box 6260  
320 Ocean House Road  
Cape Elizabeth, Maine 04107-0060

Phone: 207-799-1619  
Fax: 207-799-5598  
Email:  
bruce.smith@capeelizabeth.org

### NOTICE OF VIOLATION AND ORDER TO CORRECT

June 26, 2012

Carl & Angela Pearson  
27 Fowler Road  
Cape Elizabeth, ME 04107

RE: 27 Fowler Road, Tax Map U20, Lot 10

Dear Mr. & Mrs. Pearson,

It has been brought to my attention that the area approved under Building Permit # 090371 has been finished and is being occupied without a certificate of occupancy issued by this office. This is a direct violation of the Cape Elizabeth Zoning Ordinance, Chapter 19, Article III, Section 19-3-4 and the ICC International Residential Code, Part 1, Chapter 1, Section R110, Subsection R110.1. Therefore, the area must be vacated immediately and remain empty until a final inspection has been scheduled and completed, and a certificate of occupancy is issued.

Article III, Section 19-3-6 states that "Any owner or occupant of, or any person or entity having control or the use of, or any person or entity engaged in the construction, alteration or repair of or receiving a permit for, any building or land or part thereof, found to violate any of the provisions of this Ordinance, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punishable as provided in 30-A M.R.S.A. 4452, except as otherwise provided by State law. Each day such violation is permitted to exist after notification thereof by the Code Enforcement Officer shall constitute a separate offense." Penalties of \$100 minimum to \$2500 maximum on a per-day basis are allowed under 4452.

Clearly, it is in your best interest to comply. Please contact me immediately of your intentions.

Sincerely,

Bruce A. Smith  
Code Enforcement Officer

cc: Michael McGovern, Town Manager  
John Wall, Esq.



## TOWN OF CAPE ELIZABETH

Code Enforcement Office  
P. O. Box 6260  
320 Ocean House Road  
Cape Elizabeth, Maine 04107-0060

Phone: 207-799-1619  
Fax: 207-799-5598  
Email:  
bruce.smith@capeelizabeth.org

July 27, 2012

Carl E. Pearson  
Angela E. Pearson  
27 Fowler Road  
Cape Elizabeth, ME 04107

RE: Map U20, Lot 10 Certificate of Occupancy

Dear Mr. & Mrs. Pearson,

On July 10<sup>th</sup> I performed a Certificate of Occupancy inspection of the premises at 27 Fowler Road constructed under building permit #090371. The following noncompliant code issues were found during that inspection:

**A.) 2009 International Residential Code (IRC) as adopted in the Maine Uniform Building & Energy Code:**

- 1.) **IRC Section R302 Fire-Resistant Construction, Subsection 302.6 Dwelling/Garage Fire Separation.** *No fire separation exists between the garage and the habitable space above. The garage ceilings must have at least 5/8-inch Type X gypsum board installed on the garage side and any wall that supports floors separating all or part of the dwelling unit above the garage must have 1/2-inch gypsum board.*
- 2.) **IRC Section R311 Means of Egress, Subsection R311.7.7 Handrails.** *No handrail exists between the first and second floor. Handrails shall be provided on at least one side of each continuous run of treads or flight with four or more risers.*
- 3.) **IRC Section R310 Emergency Escape and Rescue Openings. Subsection 310.1.1 Minimum opening area.** *There are three rooms currently being used as sleeping rooms (bedrooms). None of these rooms have an emergency escape and rescue openings. Each of these rooms must have at least one operable emergency escape and rescue opening with a minimum net clear opening of 5.7 square feet.*
- 4.) **IRC Section R312, Subsection R312.1 Guards.** *The exterior door in the living area is temporarily secured from being opened. A deck with guard system or simply a guard across the opening must be installed. Guards shall be located along open-sided walking surfaces that are located more than 30" above grade.*

**B.) National Fire Protection Association (NFPA) National Electrical Code (NEC 70)**

1,) **NEC 70, Article 110, Section I General, Subsection 110.12 Mechanical Execution of Work.** *Three separate receptacle outlets in the kitchen area are not firmly attached to their respective boxes.* Electrical equipment shall be installed in a neat and workmanlike manner.

The "Notice of Violation and Order to Correct of June 26, 2012 specifically required that "the area must be vacated immediately and remain empty until a final inspection has been scheduled and completed, and a certificate of occupancy is issued". To find during my inspection that the area had not been vacated and then to find that none of the bedrooms have emergency escape is a real threat to the life safety of the occupants and should be taken seriously by you as the owner of the property. **Contact the office to schedule a time for me to re-inspect to assure that the area is not occupied.**

As agreed, the "old" kitchen will be removed. As also agreed a new septic system designed for six bedrooms will be completed and submitted to this office for review and when approved, physically installed in the ground. When the items listed are completed, the certificate of occupancy will be issued for the use of the area as an extension to the single-family dwelling and not as a separate dwelling unit.

Please contact the office to discuss a timeframe for completion of above items.

Sincerely,



Bruce A. Smith  
Code Enforcement Officer

cc: Michael McGovern, Town Manager  
John Wall, Esq.

ATTACHMENT 4  
4 PAGES

Google

Bruce Smith &lt; bruce.smith@capeelizabeth.org &gt;

**Letter of July 27, 2012 relative to Certificate of Occupancy**

4 messages

Carl Pearson &lt; notontheneyet@aol.com &gt;

Thu, Aug 16, 2012 at 12:39 PM

To: bruce.smith@capeelizabeth.org

Dear Bruce:

I apologize I missed you the other day...and no; I haven't been avoiding calling you. However, as we discussed that day that you and Matt Sturgis visited...I do not have the money to complete some of the issues you cited; not too mention, I don't really agree with same.

Please understand, as I told you and Matt...it's not a personal issue with you; but, more a disagreement with the codes and applications thereof. I appreciate the fact that you have to adhere to what's adopted; but, as we discussed...it doesn't mean that it makes much sense from a practical as well as a common sense approach.

Under Section A; Paragraph 1. We are proceeding as resources allow to provide the fire separation materials. As you observed, it has been started and you also noticed that the area is not being used for car storage as it's too full of other junk! Basically, although it has garage doors; it's nothing more than a ground level basement and/or a storage area. I mentioned that I could replace the garage doors with sliding glass doors and it wouldn't need the fire separation. Of course, that would raise the issue as to the number of houses in Cape that have basements with double doors and/or overhead garage type doors and therein they store their motorcycles; lawn tractors; and gas grilles. BUT; you stressed that it wasn't your jurisdiction to acknowledge those potential violations.

Under Section A; Paragraph 2. We've rarely installed handrails at any of our houses as they tend to be removed to allow for furniture moving and aren't re-installed until it's time to sell. Here again, I won't list the number of properties I visit every day without handrails...because it's not relative to this particular location.

Again, once I have the time and funds; I will install said rails.

Under Section A; Paragraph 3. I'll continue to disagree with the National Code as it's unfair to existing houses and buildings and I am quite sure that it wasn't an issue when we received our 'close-in' inspection as the windows were already in and are in fact tilt in/easily removable and said opening would exceed the required 5.7 square feet. I'm not sure how the language of code reads; but, I believe the windows meet the intent of same. Here again; I guess I'm not allowed to state that the code and restrictions (although these windows operate easily and are indeed larger than probably 90% of the current inventory of windows in bedroom throughout Cape Elizabeth...that too would be outside of your jurisdiction as it relates to this matter. Yet; since I'm sure the Town Manager and perhaps Town Attorney will be copied on this letter and consequently this matter...that perhaps it's high time that the issue is looked at a bit more closely! (Yup!

I'm venting as here too...the number of residences I could show you that have inoperable windows in bedrooms; NO WINDOWS in bedrooms; and/or BEDROOMS in basements with only basement windows and NO DOORS to EXTERIOR...it would make your head spin!

Under Section A; Paragraph 4. The door is secured so that it can't be opened, EXCEPT as an EMERGENCY EXIT; until I can afford to install proper deck with proper guard rails and stairs to ground level.

Under Section B; Paragraph 1. We did discuss the loose outlets and they are easily adjusted. They are installed in a workmanlike manner and they simply need some adjustment.

As far as the reference to the Notice of Violation and Order to Correct, and the specific requirement that area be vacated; it has been done. Here again, I questioned the rationale as it is "...okay to move persons into the older part of my existing house which has a non-conforming stairway; non-conforming windows; and is overall more of a health and safety issue than the newly renovated areas..." and again; not faulting you personally; but, merely the lunacy of the codes. HOWEVER; I do take personally your reference that I don't take seriously the life safety of my homes occupants! In fact, I am offended by the allegation and by default that of the Town Council; Manager, and any and all other municipal officials who would suggest and/or support such crazy codes with new construction while allowing and in fact; acknowledging that such deficiencies are prevalent throughout the existing housing stock here in Cape Elizabeth and for that matter

the entire country! Yup! Again, I'm editorializing and demonstrating against an unrelated fact although said facts are relative if these deficiencies are known and notice to homeowner's aren't given with tax bills and that there's no goal to correct same...Why is that? Here, Bruce; I'm not asking you personally as you're merely upholding the codes as written and for which you are required to adhere. My questions here should be directed to the Manager; Legal Counsel; and perhaps the Town Council, including the Fire Chief!

Per the final paragraph as to the old kitchen being removed; I believe we decided that it would be maintained and that the old part of the house designated as an in-law apartment. I also do not recall agreeing to having a new septic system designed; let alone installed as I feel it's premature considering that there are typically only four persons occupying this space! As for the CO being issued; I guess I'll have to wait until time and resources become available so that I can complete the list. However; I reserve the right to argue the installation of a new septic system until such time as there are actually six bedrooms in use. Here I'll make a final comment, which is derived from comments made on site and/or in context to a similar situation when I asked: What defines a bedroom? The answer I was given is: Any room with a bed! So, if I put a bed in the kitchen...it's no longer a kitchen; but, a bedroom? Conversely, if I removed a bed from a room and put in a desk...THEN; it's no longer a bedroom; but an office? SO; if I brought my table saw; and other work shop equipment upstairs and into the finished space...and call it a workshop? Can I get a CO to occupy the space as a workshop? THUS, avoiding the first 3 paragraphs under Section A; as said area is not living space; but, working space?

Thank you for your diligent efforts enforcing the Town's Codes and Ordinances. You know that I don't take too personally your actions as you are doing the job as required by the Town's Codes and Ordinances...besides which; I'm just omery!  
Sincerely,

Carl Elliott Pearson

PS. Still any chance as to who 'brought the matter to your attention'? Just curious, as I am not admitting nor denying any actions, simply trying to figure out timing and potential conflict of interests based upon certain circumstances which may or may not have legal implications.

Bruce Smith <bruce.smith@capeelizabeth.org>  
To: Carl Pearson <notonthenetyet@aol.com>  
Cc: Michael McGovern <michael.mcgovern@capeelizabeth.org>

Wed, Aug 22, 2012 at 7:58 AM

[Quoted text hidden]

Good Morning Carl,

First and foremost, I want to thank you for complying with the order to vacate the area. This demonstrates that you do take seriously the life safety of your homes occupants.

To address the non compliant code of:

A.1 - You have started applying Type X Sheetrock for fire separation between the garage and proposed living space and are working towards completing that task.

A.2 - As time and funds allow, you will install handrails on the stair well walls.

A.3 - You have stated the following: "I am quite sure that it wasn't an issue when we received our 'close-in' inspection as the windows were already in and are in fact tilt-in/easily removable and said opening would exceed the required 5.7 square feet. You continued by saying that you believe the windows meet code. When I performed a 'rough-in' inspection of the plumbing, electrical and heating for Caron & Waltz on 4/7/09, I found that the construction taking place within the structure exceeded the scope of work approved under Building Permit # 090318 (finish unfinished areas - no additional bedrooms). I then put a



stop work order on the construction. As a result, that building permit was suspended on the following day. Subsequently, Casey filed a new permit application that reflected the three bedrooms. That permit (Building Permit # 09037) was approved on 4/15/12. Unfortunately, no one called to schedule a 'rough-in' based on what was allowed under that permit and the area was 'closed-in' without my blessing. The code states that "the net clear opening dimensions required shall be obtained by the normal operation of the emergency escape and rescue opening". (R310.1) The action required for a tilt-in/easily removable window is not part of the "normal operation and therefore, in order to occupy those three rooms as bedrooms, emergency escape and rescue openings must be installed in each.

Your letter of 4/9/09 stated that you would be in touch with Skip Murray relative to the potential issue with the septic system and would be included in the new permit application. But when Casey came in with the application, he had an attachment that stated that: "The new space will serve as the main dwelling as the existing house will be renovated, eliminating 3 bedrooms and the full kitchen". Therefore, permit was issued with that understanding.

You could apply to the Zoning Board for an accessory dwelling unit (in-law apartment), but it cannot be larger than 600 square feet in size and would require a design of a new septic system or expansion of the existing.

Yes, you could obtain a CO to occupy the space as a workshop.

Bruce  
Bruce A. Smith  
Code Enforcement Officer  
320 Ocean House Road  
PO Box 6260  
Cape Elizabeth, ME 04107

Email: [bruce.smith@capeelizabeth.org](mailto:bruce.smith@capeelizabeth.org)  
Office: 207-7991619  
Cell: 207-2320183

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Carl Pearson <[notonthenetvet@aol.com](mailto:notonthenetvet@aol.com)>  
To: Bruce Smith <[bruce.smith@capeelizabeth.org](mailto:bruce.smith@capeelizabeth.org)>

Wed, Aug 22, 2012 at 8:32 AM

Hi again Bruce-

I'll start with an apology for not realizing under what conditions the permits were applied and what specifics were stated. It was a turbulent time in my business and homelike and so certain 'details' may not have been 'shared' in a completely open manner. However, I'll still take issue and offense at the suggestion that I have ever NOT taken seriously the life safety of my home's occupants! As stated quite clearly in my previous email as to my being offended by any suggestion contrary to same! I'll repeat the same sentiment herewith... By removing someone from an area that has a stairway with risers and treads conforming to current codes; windows which (although may not be as large as the current BOCA codes suggest) are larger, in better condition; and thus much safer than the existing house; and with hard-wired smoke; heat and CO detection systems...BUT; for which existing conditions aren't covered by current codes...it's actually bassakwards...as our the majority of current codes considering the number of 'code violations and life safety issues' which do in fact exist in the majority of Cape's housing stock! YET; it's okay for people to inhabit these spaces; it's okay for these homes to be bought and sold, effectively having them knowingly and willingly put the occupants of these households at serious risk to life and limb!!! Againn, I'd be very happy for you to pass this on to the Town Manager; Town Attorney; Fire Chief and any others who feel that these circumstances are okay!?

Meanwhile, as stated; and now knowing what the revised permits included, I'll continue working to make my 100 plus year old farmhouse more compliant than those of the majority of my Cape neighbors. I'll also (as time and resources allow) prepare to apply to the Zoning Board for use of part of my residence as an accessory dwelling unit (specifically an in-law apartment) Thus I'm left with a few questions:

1. When was the code/ordinance changed to 'grandfather' multi-unit dwellings on areas with less than 10 acres of land?
2. Are there certain areas/zones which allow multi-family dwellings besides the Town Center zone? I'm just curious as there seem to be many multi-family dwellings (or at the very least; dwellings which have more than one occupied living unit) in areas far away from the Town Center zone and/or exceeding the 600 square foot rule as well as being sited upon lots much smaller than 10 acres.

Thanks again for your time. I'll keep you posted as to my progress.  
Carl

[Quoted text hidden]

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**Bruce Smith** <bruce.smith@capeelizabeth.org>  
To: Carl Pearson <notonthenetyet@aol.com>  
Cc: Michael McGovern <michael.mcgovern@capeelizabeth.org>

Wed, Aug 22, 2012 at 11:40 AM

[Quoted text hidden]

As near as I can tell, the ordinance changed after 1968 but before 1976 to require a minimum of 10 acres in the RA District for multifamily dwellings (two or more units).

The Ordinance allows multi-family dwellings only in the Town Center and Business A Districts.

Bruce

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