

# CAPE ELIZABETH TOWN COUNCIL MINUTES

## Special Meeting # 16-00/01

June 4, 2001

7:30 p.m.

### Roll Call by the Town Clerk

Present

Absent

Penelope P. Carson, Chairman	36 Trundy Road	799-8029	6/2003	X
Henry N. Berry III	110 Two Lights Rd.	799-6500	6/2003	X
Carolyn M. Fritz	1 Stirrup Road	767-3737	6/2003	X
John W. McGinty	86 Brentwood Road	767-0139	6/2004	X
John E. "Jack" Roberts, Jr.	185 Fowler Road	767-4526	6/2002	X
Anne E. Swift-Kayatta, Chairman	14 Stone Bridge Road	767-5754	6/2004	X
Ruth E. McCleery Watson	7 Winding Way	799-3559	6/2001	X

Michael McGovern

X

Debra Lane

X

Note: The meeting was preceded by a Town Council workshop at 6:00 p.m. The workshop's topic was Cumberland County government. The County Commissioners asked to meet with the Town Council to discuss the strategic planning process for the county.

### Pledge of Allegiance to the Flag

#### Item # 113-00/01

Chairman Carson indicated Dr. Glenn Prentice asked whether Councilor Watson has a conflict voting on this issue. Councilor Watson responded that she is a real estate agent, working out of her home. She stated she has no pecuniary interest in this issue. She is affiliated with ERA Agency One, owned by John Harmon, Sr., Scarborough. Although Councilor Watson had an office last year at ERA, Cape Elizabeth branch, she never worked under the direction of Tom Tinsman. Mr. Tinsman sold his property on Ocean Avenue to Paul Vose in 1996.

Councilor Berry indicated that he is an attorney and in the past, he has done some legal work for property owners who own some of the non-conforming lots. However he stated he does not have a conflict, because he has no financial gain in voting on this matter.

It was a consensus of the Town Council that neither councilor be recused from discussion and voting on this item.

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Intro – Chairman Carson explained the sequence of events leading up to this evening's public hearing.

Chairman Carson opened the hearing for public comments at 7:41PM.

Chris & Daphne James, 1008 Sawyer Road, owner of non-conforming lot  
Mr. & Mrs. James support restoration of rights. Their plan to build a smaller retirement home on the lot is now "in jeopardy."

Mary Ellen Whiteman, 1185 Shore Road  
Member of S.P.A.C.E. Supports the compromise drafted by Tricia Naddaff and Dan Spratt, 11 Fessenden Road dated May 15, 2001.

Diane Eldredge, 24 Ocean Avenue  
Mrs. Whiteman read a letter written by Diane Eldredge supporting the Planning Board's recommendation to deny the variance.

Andrea Adams Dunphey, 25 Algonquin Road, owner of non-conforming lot  
Mrs. Dunphey was never notified of a potential change. She would like to maintain the right to perhaps, someday, build on the lots.

Paul Lennon, 54 Cranbrook Drive  
Mr. Lennon supports S.P.A.C.E.

Rosemary Reid, 1 Dean Way, member of Town Council in 1997  
Ms Reid stated she did not know, nor did she intend to take anyone's rights away. Property rights were taken away without warning or notice, and should be restored. Ms Reid provided, for the record, a copy of the Memorandum to the Town Council from the Ordinance Committee dated March 8, 1999 Subject: Ordinance Amendments. She suggests perhaps this omission could have been avoided if proposed text changes underline new, proposed text and text to be deleted be struck through.

Alex Johnson, 3 Pond View Road  
Mr. Johnson believes in limiting development and protecting property rights. "I would want the support of neighbors to restore rights," if they were taken without notice.

Bob Fissmer, 20 Cunner Lane, owner of non-conforming lot  
Mr. Fissmer purchased the lot as a buffer, although the lot may never be built upon, it is "wrong to have rights removed."

William Jordan, 21 Wells Road, Member of ZORC and 1997 Town Council  
Mr. Jordan doesn't recall a ZORC or Town Council discussion regarding this issue, nor did he intend to take rights away. Rights should be restored.

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Jim Schoonover, 14 Linwood Street  
Supports rights being restored.

Paul Strout, 1006 Sawyer Road  
Supports rights being restored.

Frank Marsden, Mitchell Road  
Supports rights being restored.

Diane Moez(sp?), Mountain View Park  
Mr. Moez supports S.P.A.C.E. "Zoning protects the community at large."

Alan Baillie, 52 Kettle Cove Road, owner of non-conforming lot  
Supports rights being restored.

Nancy Witwicki, 56 Cottage Farms Road  
Mrs. Witwicki supports some compromise to meet the needs of non-conforming lot owners and abutters.

Ken Rogers, 14 Bayberry Lane, abutter of a non-conforming lot  
Mr. Rogers is concerned about septic systems. A solution for what is best for all should be worked out.

Patricia Naddaff, 11 Fessenden Road, drafted a letter to the Town Council dated May 15, 2001 recommending a "compromise" See attachment.

Bruce Dunphey, 25 Algonquin Road, owner of non-conforming lot  
Mr. Dunphey stated that this issue is being "misrepresented." Supports rights being restored.

Faye Lakeman, 22 Beacon Lane  
The two issues for Ms Lakeman are fairness and "disregard" for the Comprehensive Plan. A compromise to "minimize damage" on both sides.

B.J. Nicholson, 243 Mitchell Road  
Mr. Nicholson asked the Town Council to consider additional public input when a permitted use is recommended to change and more discussion for the grandfathered lots.

Marguerite Prentice, 18 Ocean Avenue, member of S.P.A.C.E.  
Mrs. Prentice is opposed to the recommended change. It is "bad public policy to go against the Comprehensive Plan."

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Diane Dussault, 19 Crescent View Avenue, abuts a non-conforming lot

Mrs. Dussault supports the compromise as drafted by Tricia Naddaff and Dan Spratt dated May 15, 2001. She is concerned about failing septic systems on abutting properties.

Dana Crovo, 3 Fox Hill Road

Mr. Crovo encouraged the Town Council to consider the rights of abutters. The Town "is not bound by previous language." Supports the compromise as drafted by Tricia Naddaff and Dan Spratt dated May 15, 2001.

Cynthia Doucette, 43 Richmond Terrace

Ms Doucette supports the restoration of property rights and suggested those property owners could obtain the necessary permits to build on the lot(s) within a certain time frame, then go back to a minimum lot size of 20,000 square feet.

Dr. Glenn Prentice, 18 Ocean Avenue, member of S.P.A.C.E.

Dr. Prentice feels the "process has been rushed, as it reverses the Planning Board's recommendation." He encouraged the Town Council to look at the compromise as drafted by Tricia Naddaff and Dan Spratt dated May 15, 2001, and adopt it.

David Volin, 17 Lawson Road

Mr. Volin suggests that abutters help to determine whether a non-conforming lot is buildable.

Donna Lambert, 11 Hampton Road

Ms Lambert read a letter written by Barbara Hall, 4 Bayberry Lane. Ms Lambert and Mrs. Hall are concerned about failed septic systems. Appropriate building would be welcome at the time sewer systems are extended.

Tom Tinsman, Cape Elizabeth resident

Mr. Tinsman sold a buildable lot on Ocean Avenue to Paul Vose in 1996. The state minimum lot size waiver was inadvertently left out of the zoning ordinance. Supports restoration of rights.

Charles Higgins, 26 Stonegate Road

A compromise for all is needed. A matter of fairness.

Erin Grady Gallant, 52 Columbus Road

Supports restoration of rights. Rights were unintentionally taken away.

Joel Sabeau, 1113 Shore Road

Dr. Sabeau recommended additional notification by mail procedures when a potential change is being considered. The Town Council should look at a compromise that will answer the needs of both sides.

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Paul Vose, 21 Linwood Street, owner of non-conforming lot

Mr. Vose purchased a buildable lot on Ocean Avenue in 1996 from Tom Tinsman. The state minimum lot size was inadvertently omitted. Supports restoration of rights.

After hearing no further comments, the hearing was closed at 9:10PM.

Chairman Carson asked for comments from the Town Council.

Chairman Carson, Councilors Fritz, McGinty and Swift-Kayatta referenced the consistency of this amendment with the Comprehensive Plan as it relates to fill in growth.

Moved by J. Roberts and Seconded by R. Watson

Ordered the Cape Elizabeth Town Council approves proposed amendments to Sec. 19-4-3 of the Cape Elizabeth Zoning Ordinance relating to non-sewered, non-conforming lots as outlined Sec. 19-4-3 dated May 15, 2001 Nonconformance Outside of Shoreland and Resource Protection Districts. See attachment.

(7 yes) (0 no)

Moved by R. Watson and Seconded by A. Swift-Kayatta

Ordered the Cape Elizabeth Town Council adjourns at 9:46PM.

(7 yes) (0 no)

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Debra M. Lane, Town Clerk