

MEMORANDUM

TO: Cape Elizabeth Ordinance Committee
FROM: Maureen O'Meara, Town Planner
DATE: May 7, 2012
SUBJECT: Boundary Survey amendments

Introduction

The Ordinance Committee has requested and received authorization to consider possible amendments to existing requirements for property boundary determinations prior to receiving a building permit for new construction.

Goal

The Ordinance Committee may want to begin with a discussion of what problem they perceive needs to be addressed, constraints to be aware of and ultimate goals.

Survey types

A discussion of boundary surveys is aided by a common understanding of survey terminology. Probably the two most common survey terms are the "standard boundary survey" and the "mortgage inspection plan/class D survey."

Unfortunately, I cannot provide you with standard definitions for the above terms because the survey profession discontinued specific survey standards in the mid-2000's. They now rely on more subjective standards such as "true and correct," and "prudent effort." I spoke with two surveyors and have attached the old standards provided by one of them.

Both professional surveyors state that the so-called "mortgage inspection plan" or formally referred to "Class D survey" is really not a survey. It is an opinion of property boundaries formed by walking around the property and noting no obvious issues. The mortgage inspection plan is commonly provided during real estate sales and is widely used with building permit applications because it is available with no extra cost. If you want something that can be reasonably expected to accurately represent property boundaries however, you need a standard boundary survey.

The standards for a standard boundary survey are determined by the surveyor and the property owner. A standard boundary survey should be a “true and correct” representation of property boundaries, done under the “direct supervision” of a registered Maine surveyor. It should include research of deeds, measurement of boundaries to a certain level of accuracy, certification of the product, and should include existing and proposed improvements. A standard boundary survey is a much more reliable representation of property boundaries. Cost can vary widely depending on the complexity of the property ownership, age of the lot, size, and whether only 1 property line needs to be surveyed (\$1,500 - \$6,000).

Cape Elizabeth Standard

Below is the Town of Cape Elizabeth standard for a Building Permit, from Sec. 19-3-3 of the Zoning Ordinance.

C. Applications for Permits

All applications for Building Permits shall be submitted in writing to the Code Enforcement Officer on forms provided for the purpose. The application shall be accompanied by the following information:

1. 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 the setback requirements of this 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.
2. Approval by the Local Plumbing Inspector of any private sewage disposal system proposal for the building, together with the plans for the approved system.
3. Information required to determine compliance with the terms and conditions for building and development in flood hazard areas as set forth under Chapter 6, Article VI, Floodplain Management Ordinance if the building is located within a flood hazard area.
4. All applications shall be signed by an owner or individual who can show evidence of right, title, or interest in the property or by an agent of the owner

with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
(Effective October 15, 2009)

5. Such other information as the Code Enforcement Officer may require to determine compliance with this Ordinance or the Building Code.

When a building permit is issued for construction that has also received Planning Board review, a standard boundary survey is available that can be used as part of the building permit.

Even when a boundary survey is available, however, a new home may be built in violation of the setback requirements. Some builders will hire a surveyor to stake the setbacks of a lot in the field when the proposed building is located close to the minimum setback.

When new construction has not been reviewed by the Planning Board, such as a single family home addition, neither a standard boundary survey nor a mortgage inspection plan is provided.

Practices in area municipalities

Attached is a collection of ordinance requirements for property boundary identification from several communities. Except for Ogunquit, all the communities require that property boundaries be identified, but do not require a survey to bolster the accuracy of the represented boundaries.

In addition to reviewing ordinance standards, I also spoke directly with staff in other communities regarding administration of the property boundary requirement. In both instances, standard boundary surveys are commonly used when they have been prepared before the building permit stage. Major new construction and new subdivisions commonly include standard boundary survey information. For the typical addition to a single family home, however, a standard boundary survey is not provided. When a major addition (for example, a footprint expansion of 40%) is proposed or when the addition is within 5' of the minimum setback, code enforcement officers will sometimes require a standard boundary survey. Many times, they just use the mortgage inspection plan.

Next Steps

The Ordinance Committee should decide how they want to proceed.

Attachments: Old survey standards

Area municipal standards