

**Town of Cape Elizabeth
Ordinance Committee Minutes**

October 24, 2012

8:00 a.m. Town Hall

Present: Jim Walsh, Chair
Kathy Ray
Dave Sherman

Staff: Neil Williams, Police Chief
Maureen O'Meara, Town Planner

Mr. Walsh opened the meeting and asked for action on the minutes of the September 20th meeting. Mrs. Ray made a motion for approval, seconded by Mr. Sherman, and passed by a vote of 3-0.

Public Comment

Dr. Ginger Browne Johnson, resident of Ledgewood Ln, is now owner of the Vet center on Ocean House Rd. The vet center is a grandfathered nonresidential use in a residential zone. She would like to install a larger sign than is currently allowed. If she keeps the same size sign as has been grandfathered in, she would be limited to 1" letters in order to fit the name "Cape Elizabeth Veterinary and Rehabilitative Center." Right now, she has 2" letters, which provides limited visibility. Her sign maker has recommended 3" letters for optimum visibility. She shared a mock-up of the proposed sign in an oval shape, but could also use a rectangle shape.

Mr. Walsh asked if the sign would be lit and Dr Browne Johnson said no.

Mr. Sherman asked how big the sign would need to be for 3" letters. She said she would like a 6' x 4' sign, or it could be 3 1/2' x 4 1/2' if rectangular.

Steve Schmidt, 5 Seabarn Rd, would like to comment on the short term rental amendments. It affects larger houses because of the limit of 8 tenants. He has a larger home and if there will be no adjusting his taxes, he would prefer basing tenant number on 2 per bedroom without a limit.

Miscellaneous Offenses

Chief Williams explained that the amendments were drafted per Ordinance Committee comments using the nighttime hours approach. In response to a

question, Chief Williams said that this still relies on the judgment of the officer, and is similar language to other southern maine towns.

Mr. Walsh also noted the change regarding utilities recommended by Mr. Malley.

Mr. Sherman suggested the draft be adjusted to clarify that responsibility for making noise should be the property owner *in addition to* the originator of the noise.

Chief Williams said he is not sure how holding the property owner will be handled in court. In the hypothetical situation, the police officer would work with the owner of a troubled property at the first complaint. With the second complaint, there would be a summons. Mr. Sherman said he is concerned with the second complaint.

The committee discussed paragraph b. Chief Williams said there are situations where an officer could determine that daytime noise was excessive and the offending party will demand where that was written down. The committee agreed paragraph 2 needed to be redrafted for clarity and staff will work on it.

The committee agreed to send the draft to the Town Attorney for “polishing” and review it at the next meeting.

Mrs. Ray said it was beneficial to involve others.

Mr. Dunham made a comment that a reference to daytime noise should be in the ordinance.

Signs

The committee tried to summarize the changes requested to the Sign Ordinance. Mr. Walsh said the issue is the duration and permit costs for a temporary permit.

Mrs. Ray said we do not have enough information. The committee agreed to ask the Good Table to attend the next meeting. Putting their concerns in writing would also be helpful, as well as a photograph.

The committee discussed the vet sign issue. Mrs. Ray suggested reviewing the definition of visible in the Sign Ordinance. The committee discussed the possibility of carving out a narrow allowance for larger signs fronting on an arterial. Route 77 is the only road classified as an arterial.

Mr. Walsh noted that the hedge wall and fencing on the vet property also reduce visibility.

Mrs. Ray asked how speed gets introduced into sign sizes. Staff said that speed may have been considered when the maximum sign sizes were adopted in the ordinance.

Mr. Walsh asked what is the right size sign. Dr. Browne Johnson said that her sign consultant, the Salt Water Workshop, recommended minimum 2" letters, which would convert to a 4 x 6 or 24 sq. ft. sign.

Ms. O'Meara noted that the maximum business sign allowed in the business district is 20 sq. ft., and the committee could consider allowing businesses in residential districts and fronting on an arterial the same size allowed for businesses in a business district.

Mr. Sherman questioned whether we should consider allowing a 24 sq. ft. sign in the business districts. Staff was asked to measure the following signs for the next meeting: Dr. Trussell's, Walnut Hill Stables, Bothel's, Tara, The Good Table, Inn by the Sea, Cookie Jar, Cape Memory Care, Purpoodock Club. Staff should also draft an amendment that allows businesses fronting on an arterial to be allowed the same sign size as businesses in business districts.

The committee considered a request by the Little League to be allowed temporary signs at Plaisted Park, similar to what is now allowed at Lions Field. Mr. Walsh stated that he was involved with Dan Sullivan in 2005 in the program to allow temporary signs at Lions Field as a revenue generating measure for the Little League.

Mrs. Ray asked where the signs were placed. They are on the inside of the fence surrounding outer field facing the field. No signs are placed on the outside of the fence facing the neighborhood. Mr. Sherman noted that you can see the signs when you drive by, but that he would support allowing signs at Plaisted Park under the same restrictions as Lions Field.

Mrs. Ray said she is interested in how the signs look. Mr. Sherman said the signs are 2'-3' apart and tied down to the fence so they don't flap. The committee would like the Little League to put the signs up, take a photo and then take them down so they can see what the signs will look like.

During the Public Comment period, Mr. Dunham said that signs should be allowed as it is only a 6-week period.

Short Term Rental Policy Discussion

Mr. Walsh introduced this as an update and policy discussion of the short term rental amendments intended for a public hearing on November 14th.

Ms. O'Meara summarized the outcomes of the meeting between Mr. Walsh, Town Attorney Tom Leahy and herself. On the suggested revision to the Short Term Rental amendments banning rentals by subleasing, it was the conclusion that this change would not be included in the draft amendments scheduled for public hearing. The Town Council would still have the option to make this change after the public hearing. The concern is that land use amendments should focus on regulating the activity, not whom is conducting the activity. A further statement will be added to the draft that the property owner is responsible for short term rental activity.

A second suggested revision to expand the "3-strikes" provisions to further revocation if a permit is revoked for a year and then reissued was also not added to the amendments. This amendment is anticipating actions that could be 3 years out and revocation of a permit for 1 year is a significant penalty in the amendments now.

The last item concerns implementation of the amendments and their applicability to existing contracts. The approach recommended by the Town Attorney is to have the amendments apply to existing contracts to the extent that they otherwise do not nullify the contract. Two options open to the town would be to set the date of existing signed contracts as the effective date of the ordinance (30 days from the vote) or the date of the vote.

Mr. Sherman said he would be willing to not address the sublessor issue and agreed to leave the "3-strikes" provision as is. He would convey that if problems persist, the Town Council will deal with it then.

Mr. Sherman also expressed concern with neighborhood conversion to short term rentals. There was general discussion that someone was approaching Lawson Rd neighborhood property owners inquiring about purchasing their property and operating it as a short term rental. Mr. Sherman said we should give the ordinance a chance to work. The amendments allow property owners to make some rental income and the property owner is still responsible.

The committee generally agreed to support the effective date of the ordinance as the deadline for existing contracts. Mr. Sherman expressed his hope that short term rental owners would act in good faith and not sign contracts inconsistent with the draft amendments.

During the Public Comment period, Tom Dunham expressed his feeling that it was time to wrap up the amendment process. Sandy Dunham said 30 days should not make much difference. Most properties are not an issue although there are some problem properties.

Mr. Sherman made a motion, seconded by Mrs. Ray, to recommend to the Town Council that short term rental contracts signed before the effective date of the ordinance (30 days after the Town Council vote to adopt) should comply with the amendments to the fullest extent without nullifying the contract. The motion passed 3-0.

Next meeting

The Ordinance Committee scheduled the next meeting for Monday, November 19th, beginning at 8:00 a.m. At the next meeting, the committee agreed to review the Miscellaneous Offenses Ordinance draft amendments, and the Sign Ordinance.