

**Town of Cape Elizabeth
Ordinance Committee Minutes**

January 4, 2013

8:00 a.m., Town Hall

Present: Kathy Ray, Chair
David Sherman
Jessica Sullivan

Staff: Michael McGovern
Matt Sturgis
Maureen O'Meara

Mrs. Ray opened the meeting and asked for action on the minutes of November 19, 2012. The minutes were approved by a vote of 2-0-1 (Sullivan abstaining as she was not a member of the committee at that time).

Public Comment

Jay Chatmas, 5 Wabun Rd - Mr. Chatmas referred to the letter from the Zoning Board regarding a recommendation to provide notice of issued building permits. The Zoning Board denied the recent appeals. He served on the Zoning Board for 5 years. There may be an occasional need for more public notice, but do not overregulate based on the experience in one neighborhood. Who will pay for a mailed notice? A homeowner is already burdened by construction costs. He is against further mailings. What needs to be advertised? Interior remodels are of no interest or effect to the neighbors. The new survey requirements will prevent future problems. If you send out too many notices, it will result in code enforcement by neighborhood committee. The Code Enforcement Officer maintains a permit book and permits are listed on the website. The onus should be on individual property owners to look for building permit issuance information. The passive approach is excellent and solves problems.

Deb Murphy, 24 Pilot Point Rd - Mrs. Murphy is glad the town is looking at this issue and the Zoning Board is glad too. The website has information but problems have still occurred. There is also a situation when one is told that there is no expansion but that did occur. She has researched New England/ State of Massachusetts laws requiring notification and they have forms we can reference. She also referenced a letter from Sheila Mayberry and the York, Maine process. Some ideas include putting the burden on the owner/applicant, such as in Massachusetts and New Hampshire. Posting in the newspaper is required, as well as notifying abutters within 300' to 500'. The up side is if the applicant provides notice up front, we can minimize appeals because discussions can happen first.

Having the applicant go through the ordinance and describing the ordinance provisions that allow the expansion is better than doing that at the tail end. If there is an appeal, the appellant has to do the work. Doing the work at the front end is less cumbersome and saves the code enforcement officer time.

Building Permit Notification

Ms. O'Meara explained the public notice process currently used for mailed notice for the Planning Board, Zoning Board, etc.

Mr. Sherman expressed support for the mailed notice as he feels it is too much to expect property owners to randomly check the website.

Mr. McGovern clarified that the appeals to the Zoning Board were not denied on the merits, but on the timeliness of the appeals, and then the town was sued.

Mr. Sherman noted that the Zoning Board's hands were tied on timeliness.

Mr. McGovern said he had received an email query regarding a permit for a shed.

Mrs. Sullivan noted that building permits are issued for interior as well as exterior changes.

Mr. Sherman generally supports the mailed notice, but we should look at differentiating on the types of building construction, maybe limit notice to exterior changes. He is interested to hear the new Code Enforcement Officer's experience in York.

Mrs. Ray concurred.

Mrs. Sullivan also concurred. She sympathizes with what is occurring and citizens' concerns. She has looked at the Planning Board procedure and Zoning Board comments. We might avoid problems with better notification. She does not want neighborhood issues on homeowners, but there should be better visibility on website, perhaps a notification board.

Mrs. Ray commented that she does expect homeowners to routinely check the website for building permits in their neighborhood.

Ms. O'Meara noted that the notice would increase staff burden some, but staff is experienced with the current noticing, so the extra time is not much more and then we would know the notice has been done.

The committee briefly discussed certified mail, which would have higher burdens on cost and staff time, and concluded regular mailed notice, which is the current process, would be sufficient.

When asked about consequences of mailed notice beyond staff burdens, Mr. McGovern said that more individual property owners would be upset when they received the notice and that there might be more Zoning Board appeals, resulting in delay for some projects.

Mrs. Ray said it would more of an adjustment initially.

Mr. McGovern noted that folks have lost confidence in the system so there are more appeals right now.

The committee discussed ways to limit which types of building permits merited a mailed notice, such as the value of the construction, if the permit involves exterior changes, and if the project was not part of a previously approved subdivision. For the next meeting, the committee would like information on what is done in comparable communities, examples of building permit notices, and a sample Planning Board notice.

The committee agreed to table the discussion to the next meeting when the new Code Enforcement Officer could attend and provide some insight.

Property Tax Deferral

1. Matthew Sturgis, Town Assessor explained the parameters of the property tax deferral program.
2. Matthew Sturgis, briefly explained the other local option tax relief program that is similar to the State's Property Tax and Rent Refund program.
3. The Ordinance Review Committee discussed the merits of the deferral program. There was some discussion of the reasons for the program, and the points below summarizes them.
 - a. This is an issue of where the property owner's income may not be able to support the cost of the taxes associated with their home.
 - b. The Committee also discussed being torn, or conflicted in a person having to pay the costs of living in a particular property vs. the desire to stay there with an outstanding bill that is growing.
 - c. Also some discussion as to the program not having any participants in the one community it has been enacted as an ordinance in. Is there really a compelling need?

- d. There may be a need as the once small property tax bill has grown to be larger than the original mortgage bills were, and the tax bills have outgrown the owner's capacity to pay.
- e. How much risk is the Town taking in having this as a tool? It does not seem that great, while the repayment interest offsets that concern.
- f. Some concern that the outstanding bill will outgrow the value of the property.
- g. There was some discussion on not being able to apply if already delinquent on taxes. Would have to come to a remedy for this in the ordinance if enacted, similar to the Wells model.
- h. There was some concerns expressed on providing relief to a property owner with a high value asset who wants to defer taxes, while there may be other property owners who are under 70 with modest properties who have equal difficulty in paying their bills as well. Concerns of equity by adopting this ordinance.

4. Deliverables: Matt Sturgis will provide a redlined version of Wells' ordinance for the February 8, 2013 meeting for the Committee to discuss and review.

Respectfully submitted,

Maureen O'Meara, Town Planner
Matt Sturgis, Town Assessor