

**Town of Cape Elizabeth  
Ordinance Committee Minutes**

June 26, 2014

8:00 a.m., Town Hall

Present: Kathy Ray, Chair  
          Jamie Wagner  
          Jim Walsh

Staff: Maureen O'Meara, Town Planner

The minutes of the May 29, 2014 meeting were approved. The committee also thanked Peter Slovinsky for his presentation at the meeting.

Public Comment

No public comment was made.

Business A District 100-seat amendment

Victoria Volent, Planning Board Chair, gave a presentation on the Planning Board's recommendation to amend the Zoning Ordinance to increase the limit on the number of seats a restaurant in the BA District may have from 80 to 100 seats. She explained that the planning board reviewed notes from its 2008 work to update the BA District. They also reviewed the existing BA District zoning, Sec. 19-6-5. In their discussions, the planning board agreed that there should be a seating cap. They considered the newest site plan approved in the BA District, Rudy's 80-seat restaurant, and it looked like 100 seats could be accommodated on that site with no significant impact. They reviewed both BA Districts, including the size of the lots, considered how 100-seat restaurants might be proposed and felt that parking standards would limit restaurants on many sites. They generally agreed that 100 seats was a good limit district-wide, although a minority of board members considered increasing the limit to 100 seats only in the Route 77 BA District.

Mr. Walsh asked how the planning board looked at parking. Ms. Volent said the planning board did discuss the long-term impact of the limit and the potential for the Irving Station to be converted to a restaurant. Mr. Walsh confirmed that restaurants would need to show they can meet the current standards.

Mr. Wagner also inquired about parking. He noted the Planning Board looks carefully at parking. Some commercial areas have no parking capacity. Mr. Walsh noted the situation with the Elsemere BBQ in South Portland.

Mr. Walsh made a motion to approve the 100 seat amendment and refer it back to the Town Council for a decision. Mr. Wagner seconded and the motion passed 3-0.

### Normal High Water Line Zoning Amendment

The town planner presented a map showing the approximate location of the Highest Astronomical Tide plus 3' with an aerial map and parcel lines. The committee briefly discussed plus 3' as an option and Mr. Wagner expressed comfort with +3'.

### Public Comment

Deb Murphy, 24 Pilot Point Rd - She said HAst is not what Cape Elizabeth has today. Thirty years ago the town rejected the standard of one size fits all. The data file that overlays our data is very good. A text change is also a map change and she supports the accuracy of the current map. In Shore Acres, lots will be removed from the Shoreland Zone with this change. The purpose of Shoreland Zoning is to protect water bodies from pollution and rocky coastlines have thin soils. She noted that LD 1602 is looking at acidification of oceans.

Mr. Wagner said he has looked at the interplay and wants a map without an asterisk. It is not our intent to relax the current regulations. The goal is to go from imprecise to more precise and this amendment gives the code enforcement officer more precision.

Mr. Walsh wants to answer the question if this is less restrictive. He wants the note on the map to be legal.

Mr. Walsh made a motion to accept the Planning Board recommendation of HAst +3' and send it to the Town Council for a public hearing. He also wants a communication plan in place to notify property owners. Mr. Wagner seconded the motion and it was approved 3-0. The committee instructed staff to prepare a presentation for the town council and to mail public notices.

### Next meeting

As there are no pending items before the committee, no future meeting was scheduled.

The meeting was adjourned at 9:30 a.m.

