

**Town of Cape Elizabeth
Ordinance Committee Minutes**

September 14, 2015

5:45 p.m., Town Hall

Present: Jamie Wagner, Chair
 Caitlin Jordan
 Jessica Sullivan

Guest: Carol Anne Jordan, Acting Planning Board Chair

Staff: Maureen O'Meara, Town Planner

The minutes of the August 4, 2015 minutes were approved.

Public Comment

No member of the public chose to speak.

Special Event Facility Amendment and Map Amendment

Planning Board Vice-Chair Carol Anne Jordan was present to answer questions about the Planning Board recommendation and asked Town Planner Maureen O'Meara to provide an overview of the recommendation.

Ms. O'Meara explained that the Town had originally drafted an ordinance amendment in cooperation with the Sprague Corporation to permit and regulate existing activities at the Wentworth Lodge. The amendment referred by the Town Council to the Planning Board defined a special event facility and made it a permitted use in the RA District with a 15 acre minimum lot size.

The Planning Board was reluctant to make this non-residential use a permitted use in the RA District, even with a relatively large minimum lot size. If this use is allowed, however, it wanted all similarly situated properties, such as those in the RB and RC Districts, to also be allowed a special event facility.

The Planning Board recommendation is to create an overlay district that requires Town Council approval, and also specific performance standards that would be applied by the Planning Board during site plan review. The Planning Board also limited the duration of Site Plan approval to 3 years, requiring event facility owners to return to the Planning Board for a renewal, at which time any conflicts in the neighborhood could be reviewed. While the Wentworth Lodge was the catalyst for the amendment, the Planning Board reviewed this as applicable to all similarly situated property owners.

In response to a question about the Planning Board changes, Planning Board Vice-Chair Jordan stated that the Planning Board had a lot of discussion and did a lot of research. This is a consensus amendment and not all Planning Board members agreed with all of the provisions. It is fair in that it is not targeted to a specific property. It is appropriate for the town to regulate this activity because 275 people are a lot to introduce into an area.

Councilor Wagner asked how the Sprague Corporation felt about the amendment? [Sprague Corporation representatives Tilly Kelly and John Greene were in attendance but did not speak at this time.]

Councilor Jordan (Caitlin) asked how this amendment would impact farming activities. Ms. O'Meara referenced the May 11, 2015 Town Council workshop where this was discussed. She repeated a discussion she had with Code Enforcement Officer Ben McDougal. Generally, it is his opinion that if a farm held occasional special events as an agriculture related use and the principal use of the property remained agriculture, then the events could be held regardless of the proposed amendment. Folks can also continue to host weddings and events for family and friends. This amendment applies to people who are holding events "for consideration" as noted in the definition.

Planning Board Vice-Chair Jordan confirmed that this amendment would not apply to the Beach to Beacon promotional events, because the property owners hosting the events are not paid for the use of the property.

Councilor Jordan noted that farmers hosted Farm Alliance events and Planning Board Vice-Chair Jordan noted those events benefit the Farm Alliance.

Councilor Jordan asked how the formation of a lot, such as the Wentworth Lodge lot, impacts the ordinance amendment. Ms. O'Meara said compliance with Zoning Ordinance provisions, such as lot size, does not vary with how a property owner created a lot. The Sprague Corporation created the Wentworth Lodge lot as part of their master subdivision plan.

Councilor Sullivan asked about the intersection with the Short Term Rental provisions. Planning Board Vice-Chair Jordan said that we do not want people pushing the envelope, such as creating a campground, but you could operate a Short Term Rental, with permitting, with a special event facility.

Councilor Sullivan also noted that the Short Term Rental provisions have special compliance provisions that are not included here. Ms. O'Meara said that the Zoning Ordinance already has violation provisions, Sec. 19-3-6, so special compliance provisions should be avoided unless there is a compelling need.

Councilor Wagner asked about an overnight limit. The ordinance limits events to 8 hours per day. Planning Board Vice-Chair Jordan said the Planning Board tried to find a balance of reasonable requirements rather than address every possible situation. We won't know until we try it if it works, which is why there is the 3-year renewal.

Councilor Wagner asked about the Short Term Rental review. That review is limited to a permit from the Code Enforcement Officer. The committee commented on the status report on Short Term rentals following implementation of the ordinance.

Councilor Jordan confirmed that Site Plan review of special event facilities would require all events to be held in the same manner, such as tents in the same place, parking in the same place every time, etc. She asked how long it would take a property to obtain approval and staff estimated 1 year, which she found too long.

To provide context for the estimated time frame of one year, Ms. O'Meara noted that this amendment was referred by the Town Council in December. Residents do not take the addition of commercial uses into residential areas lightly. They expect the town to think it through.

Councilor Wagner would like to hear from the Sprague Corporation. Planning Board Vice-Chair Jordan noted that the ordinance allows the corporation to host events, but in fairness it should not be just for them.

Councilor Sullivan agreed this was an accommodation dealing with a reality. When you conduct a business like this, you should not be upset that it will take time to review.

Councilor Wagner said he would reject the amendment if the Sprague Corporation does not want it.

Councilor Jordan does not think this is a business use. A property owner hosts an event to make money. There is not that much demand to hold these events, so not that many lots would be hosting them. She generally questioned the need for this level of review. What would be the basis of a Town Council decision to designate an area a Special Event Facility Overlay District?

Ms. O'Meara said the purpose statement provides direction for the Town Council.

Councilor Sullivan noted that this would not apply to property owners who allow family and friends to host events, which is much more random than people who host events on a regular basis.

Councilor Jordan suggested that the overlay district be removed and that all 15 acre lots could operate a special event facility with Site Plan Review by the Planning Board.

Councilor Sullivan noted that the amendment deals with an interested party and more economical review instead of a massive zoning change. Councilor Wagner commented that the amendment makes the special event facility more difficult, but also more purposeful.

Councilor Jordan questioned the need of the overlay district designation by the Town Council. What will the Town Council find that the Planning Board will not find? Councilor Sullivan confirmed that she is suggesting only Planning Board review. Councilor Wagner observed that this use could be opposed by abutters, and there are few abutters to the Sprague Corporation land. Councilor Jordan countered that the use be allowed if there are only 2 abutters rather than add extra steps.

Planning Board Vice-Chair Jordan repeated that the Planning Board found the overlay district approach acceptable. It does not open up the entire town and is not written specifically for the Sprague Corporation. The overlay district is another level of scrutiny to satisfy those who want to limit commercial use as much as possible.

Councilor Wagner suggested that eliminating the overlay district step may not be acceptable to the Town Council. The Planning Board review will make this more difficult to start, so there will be infrequent events to raise hackles. Like the multiplex ordinance changes, less of a change reduces opposition.

Councilor Sullivan asked about the 3 year limit on Site Plan approval. Planning Board Vice-Chair Jordan said that 5 years was too long if there were problems and 1 year is ridiculously short. Councilor Sullivan complimented the Planning Board on the thoroughness of the site plan review standards. She supports a large lot size.

The committee thanked Planning Board Vice-Chair Jordan for her attendance and began a line by line review of the amendment text.

The committee discussed the definition and made no changes. They noted a clean-up amendment unrelated to special event facilities on page 4, line 7.

The committee reviewed the purpose statement. Councilor Sullivan felt the statement was good and gives the Town Council guidance to consider future overlay district requests. Councilor Jordan questioned the Site Plan Review referral language and the committee agreed to keep the draft as is because it is the standard language used for all districts.

The committee ended review in order to have time for public comment.

Public Comment

Tilly Kelly, 96 Breakwater Farm Rd, representative of the Sprague Corporation, thanked the committee for the review. Her aunt has been hosting events for a long time. We learned we can't do this in a residential zone and we want to continue. We want others who are similarly situated to be able to do this as well.

John Greene, Sprague Corporation, has only some minor concerns with the language. It is difficult that the focus is the Wentworth Lodge. Others may want to ride our coattails.

Councilor Wagner suggested others within the Sprague Corporation may want this use. Mr. Greene noted people elsewhere in town should be able to do this. It is not something we want everywhere either. He will prepare written comments.

Next Meeting

The next meeting of the Ordinance Committee will be held on Monday, September 28, from 4:00 p.m. from 5:00 p.m., at which time they will continue discussion of the Special Event Facility Overlay District map and zoning amendments.

The meeting adjourned at 6:45 p.m.