

MEMORANDUM

TO: Cape Elizabeth Town Council
FROM: Planning Board
DATE: July 22, 2015
SUBJECT Request to assemble Technical Amendments package

Introduction

It has been the Town's practice to periodically assemble amendments to the Zoning Ordinance, and sometimes related ordinances, that clean up, clarify and update current ordinances. Unlike the last several packages of ordinances the Town has processed, a technical amendments package is not intended to include *major* policy changes. Technical Amendments are most often undertaken (1) to protect the town from unintended interpretations of existing ordinance provisions and (2) to improve customer service by adding clarity to existing regulations.

What would technical amendments include?

As town boards and staff apply ordinance provisions to specific questions or projects, potential amendments are identified. The Planning Board would like authorization from the Town Council to assemble a Technical Amendments package. The Planning Board will avoid including major policy changes in the Technical Amendments Package. The final amendments package will include a clear description of each proposed amendment so that the Town Council can make the final decision whether the amendment may be considered a major policy change.

Below is a starter list of possible amendments, but the Planning Board is requesting that the Technical Amendments not be limited to the list below.

1. **Site Plan Regulations** (Sec. 19-9). A review of the Site Plan section of the Zoning Ordinance was last done in 1997 when a new Zoning Ordinance was adopted. Revisions are recommended that align the submission list with the standards of review. Currently, some of the information requested does not have a corresponding standard to review the information. Conversely, there are standards of review where specific information is not required for submission but is needed to conduct the review. A similar alignment of submission requirements and standards of review has been completed for the Subdivision Ordinance. As part of this revision, the Planning Board should include changes in response to the *Hartwell* Law Court decision.

2. **Stormwater Post construction requirements.** As an MS4 community, the Town is subject to state and federal regulations on the control of stormwater. The most recent MS4 permit formalizes post-construction stormwater monitoring. Staff is recommending that, as part of Site Plan stormwater standard, a note be added to all plans specifying post-construction monitoring.
3. **Street Tree plantings.** Town staff is recommending changes to the street tree requirements in the Subdivision Ordinance, including increased spacing between the trees and variety in the type of trees planted.
4. **Other plantings list.** The ordinance includes a recommended street tree plantings list. The Town received a suggestion that a list of other plantings be developed and that the list not include "invasive" species.
5. **Minor Site Plan Amendments administrative approval.** Any amendment to site plan approved by the Planning Board must be submitted to the Planning Board for approval. Staff is suggesting the Planning Board consider allowing minor site plan changes to be approved by staff, with sign off by the Planning Board Chair. This amendment would need to characterize minor amendments, such as an amendment that does reduce buffering or change a condition of approval.
6. **Definition of a structure.** The definition should be clarified and updated consistent with common practice.
7. **Nonconformance.** Staff may have revisions to clarify and update nonconforming provisions. These include rewording of the three nonconforming sections to make clear that they are tied to nonconformance with ordinance provisions and not to the zoning district of the nonconforming lot, and clarifying how to treat enlargement of a nonconforming structure.
8. **As Built Drawings.** The Subdivision Ordinance requires the submission of as-built drawings when a subdivision is complete. Staff is recommending that a list of what must be included on the drawings should be added to the requirement.
9. **Building Permit notification requirement** (Sec. 19-3-3(D)(2)). Two years ago, a public notice requirement was added when a building permit is issued for a structure within 10' of the minimum property line setback. Staff is suggesting the Town consider exempting from the public notice sheds of no more than 150 sq. ft. in size.
10. **Other amendments to be identified.**

Conclusion

The Planning Board will be happy to answer any questions regarding this request.