

**TOWN OF CAPE ELIZABETH  
MINUTES OF THE  
SPECIAL PLANNING BOARD MEETING**

September 7, 2021

7:00 p.m.

Jordan Conference Room, Town Hall

|          |                                                                              |                                                   |
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| Present: | Jim Huebener, Chair<br>Andrew Gilbert<br>Mary Ann Lynch<br>Jonathan Sahrbeck | Daniel Bodenski<br>Carol Anne Jordan<br>Al Palmer |
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Also present was Maureen O'Meara, Town Planner.

Mr. Huebener called the meeting to order at 7:00 p.m.

**Remote meeting policy** - The Planning Board will consider adopting a policy to allow remote meetings, which is supported by the Town Council adoption of a Limited Emergency on August 30, 2021 effective through October 15, 2021.

Chair Huebener asked Ms. O'Meara to introduce the Remote meeting policy item. Ms. O'Meara explained that the Town Council held a special meeting on August 30<sup>th</sup> and adopted a Limited Emergency Declaration, due to increasing rates of Covid infections, as well as a Remote Meeting Policy. Boards are allowed under the Emergency Declaration to hold remote meetings as long as they first meet in person to adopt the Remote Meeting Policy, which should be the same policy adopted by the Town Council.

Mr. Sahrbeck asked about the October 15<sup>th</sup> expiration date. Ms. O'Meara explained that the Town Council is reticent to allow boards to meet remotely and will consider extending the limited emergency at their October meeting, similar to how it was extended last year.

Ms. Jordan asked if the board would then need to readopt the Remote Meeting Policy and Ms. O'Meara said no.

Ms. Lynch would like to revise the Remote Meeting Policy to replace "body" with "Planning Board." She said the policy is not well drafted. Committee members agreed some of the language is awkward and Ms. O'Meara repeated that the instructions are to adopt the same policy as the Town Council.

Mr. Sahrbeck noted that if multiple boards must adopt the policy, it makes sense for it to be uniform.

Chair Huebener opened the meeting to public comment.

Cynthia Dill, 1227 Shore Road - She owns a multiuse building in the Town Center and did not receive public notice of the proposed Town Center Affordable Housing Amendments. There is a policy that the developer is forwarded emails regarding the project. There are not copies of these transmissions in the public file. There will be a

referendum campaign on the Town Center Affordable Housing amendments. It would be fair if the remote policy allowed the same electronic access.

The Chair and other Planning board members stated that the comments were not germane to the Remote Meeting Policy item. No additional members of the public wished to speak and the public comment period was closed.

Mr. Sahrbeck asked who decides if a Planning Board meeting will be held remotely? Ms. O'Meara said that it should be the chair, similar to the decision when a meeting is cancelled due to a snowstorm. She also recommended that the Planning Board discuss if the September 21<sup>st</sup> meeting will be remote. After discussion, the board agreed that the chair should make the decision.

Mr. Bodenski and other members supported adopting the Town Council Remote meeting policy.

The committee discussed capacity of the Town Council chambers. Ms. Jordan said the Town Council chambers are not big enough for the meeting attendance anticipated on September 12<sup>st</sup>. Ms. O'Meara shared that she attended a Town Council workshop in late June and the chambers completely filled.

Mr. Gilbert noted that the Planning Board should be careful not to flipflop between in-person and remote meetings, in order to make it easier for the public to know what to expect. There was discussion about following the in-person meeting lead of the Town Council. Ms. O'Meara suggested that the Planning Board may have a better sense of the number of attendees expected at each meeting.

Ms. Lynch made a motion, seconded by Ms. Jordan, to adopt the Remote Meeting Policy as printed. The motion passed 7-0.

Mr. Sahrbeck noted that after a year of remote meetings, the Planning Board has not received complaints about public access to meetings. After discussion, it was board consensus is to hold the September 21<sup>st</sup> meeting remotely. The board agreed to revisit the remote meeting decision for a meeting at the end of the prior meeting.

Mr. Huebener opened the meeting to Public Comment of items not on the agenda.

Cynthia Dill, 1227 Shore Road - She repeated her comments regarding Planning Board noticing. She wants the Planning Board to review its Freedom of Access Act (FOAA) policies.

The public comment period was closed.

Mr. Sahrbeck noted that FOAA is state law and the Planning Board does not have the authority to change it, just to comply with it.

Mr. Jordan said there is confusion because we are talking about a specific project and the noticing associated with site plan review has not been done because a site plan has not yet been submitted.

Ms. O'Meara noted the Chair's preference not to comprehensively address the comments at this time, however, under Sec. 19-10-3 of the Zoning Ordinance, all the required noticing for Planning Board review of a Zoning Ordinance text amendment was done properly.

The special meeting adjourned at 7:30 p.m.