

**TOWN OF CAPE ELIZABETH
MINUTES OF THE
PLANNING BOARD WORKSHOP
January 7, 2025**

(Minutes of a Planning Board workshop are prepared for an item when the Planning Board takes a vote. Votes are restricted to holding an executive session, scheduling a public hearing, or deciding a potential conflict of interest. These meeting minutes were prepared as a reasonable summary of the essential content of the meeting, not a transcription.)

January 7, 2025 7:00 p.m. Town Hall

Present: Andrew Gilbert, Chair Natalie Burns
 Dan Bodenski Matthew Caton
 Jim Huebener Derek Lavallee
 Al Palmer

Also present: Maureen O'Meara, Town Planner

Chair Gilbert called the meeting to order at 7:00 p.m.

2. **Cape Community Arena/Gull Crest Site Plan Amendments.** The Cape Community Area Group would like to discuss amendments to the Gull Crest site plan related to the Cape Community Arena located on Gull Crest Drive (R5-2).

Mr. Huebener disclosed that he is a volunteer for the Cape Community Arena Group as a Zamboni driver. He feels he can be impartial in reviewing this site plan amendment and was exacting in his review as a board member when the project initially received site plan approval. The Planning Board agreed by consensus that Mr. Huebener did not have a conflict and could participate in the review.

3. **Supplemental LD 2003 Amendments.** At the December 9, 2024 meeting, the Town Council has referred to the Planning Board Supplemental LD 2003 Amendments.

The Board continued with review of the Supplemental LD 2003 Amendments, beginning with Sec. 19-7-8 Off-Street Parking. Committee members agreed that the amendments should generally defer to language provided by the state Guidance document. The Planning Board agreed to reword the reference to multifamily development in this section for clarity and to replicate the edit throughout the amendments. The new wording is "Multifamily development consisting of a structure containing four (4) or more dwelling units ..."

Deleted: multifamily

The board discussed how small multifamily buildings, included in the law as "Dwelling unit allowance," should not be held to standards that are in addition to what would otherwise be

required for single family homes. Language is included in the draft to preserve local requirements for multifamily buildings that are not included in the LD 2003 requirements.

The board reviewed the new Sec. 19-7-17, which has been drafted to meet the LD 2003 requirements for small multifamily buildings and the affordable housing density bonus. Under the purpose statement, the MRSA citation should be added to the LD 2003 statement. The Board discussed how the additional land requirements result in very few lots able to create a small multifamily building. The Board reviewed the "LD 2003 Lot – Analysis Small Multifamily building" chart prepared in the later half of 2023. In the commercial districts, the provisions will result in no new dwelling units because the existing density in the Town Center and Business A District exceeds what is allowed by the LD 2003 amendments. The phrase "subject to the following requirements" has been added to this section and references to Article VI shall include the title "District Regulations." Ms. O'Meara emphasized that the table showing the Small Multifamily development Density Requirements will not be included in the Zoning Ordinance because those standards are written into the section and depicting the same standard multiple ways is problematic for interpretation.

The Board reviewed the Affordable Housing Density Bonus section, again noting that the language predominantly mirrors the state guidance document. Under location, the text is tailored to existing local planning documents. The board reviewed and confirmed that the density bonus applies to *base density*, which is depicted in a chart. The line weight separating sewer and subsurface wastewater disposal will be made heavier for clarity.

The Planning Board then reviewed items referred in the Town Council memo dated 11-25-2024.

They discussed and accepted a suggestion by Code Enforcement Officer Ben McDougal to add a sentence to the Multifamily dwelling definition, "Multifamily dwelling development may contain detached dwelling units."

The board discussed the ADU maximum size, which they had revised from 1,100 sq. ft. to 1,600 sq. ft at the December 17th special workshop. Board members reviewed some graphics depicting existing homes in the 1,600 sq. ft. range, and decided to remain at 1,600 sq. ft.

The Board discussed the suggestion to increase the maximum size of ADUs for existing spaces suggested by the CEO. They did not accept this recommendation, in part because of the revised 1,600 sq. ft. ADU size discussed above.

The Board agreed that the exemption from the ADU size cap for existing accessory structures made sense.

The Board discussed the CEO suggestion to increase the Maximum Building coverage for nonconforming lots. Ms. O'Meara gave an example of how an ADU addition required removing the outside access to the basement of the primary dwelling, which is a typical outcome for these caps. There is no maximum building coverage for conforming lots. The Planning Board

agreed to increase the maximum building coverage for nonconforming lot to 40% (current is 25%) for lots served by public sewer and 30% (current is 20%) for lots served by subsurface wastewater disposal. Ms. O'Meara noted that the caps were established several decades ago and there have been substantial improvements in subsurface wastewater system design since that time. The Board would like the CEO to provide additional backup information on the coverage numbers he is recommending.

The Planning Board reviewed the teardown policy and that the current draft supports private property owner choice. The Board did not make further changes.

The Planning Board proceeded to review of the draft LD 2003 Amendments, page 1. The Board reconfirmed that definitions should, for the most part, be the state definitions, and identified some typos.

The single family dwelling unit definition will be revised to add a reference to the Town Center and Business A District where it references a mixed use structure.

The Planning Board reviewed the District Regulations and agreed to the wording of the divided treatment of multifamily dwellings because it was included in the November 13, 2023 version.

The board discussed the Town Center sidewalk language and agreed to defer revising that for clarity, hopefully addressing it if Town Center District will be reviewed this year.

The board reviewed the Mandatory Affordable Housing section to make sure the use of "and" and "or" was appropriate. There was a discussion about changing the provisions to also apply to rental units. Because this is a policy change beyond the general scope of LD 2003 amendments, it was deferred to a later amendment package.

In its second review of the ADU provisions, Sec. 19-7-5, under Requirements, the reference to applicable deed restrictions was deleted because these apply regardless. Under subsection 4, setbacks, the Planning Board revised the text to use the state language. Under subsection 6, Size, the board discussed the requirement that the ADU must be smaller than the primary dwelling because twin structures can blend within the neighborhood. The board agreed that a small decrease of one building could be accomplished without compromising the "twin" appeal. The Board discussed the option for a landowner to build a new, larger home on a lot and then retain the existing, smaller home as an ADU. The board supports this option and accepted town staff's position that this already occurs and the current language continues to allow this. Under Subsection 8, ownership, the Board discussed allowing the primary structure and ADU to be separately owned as long as the ownership arrangement complies with the Maine Condominium Act. The Planning Board agreed to revisit this with no amendment at this time.

The Planning Board concluded its review and discussed scheduling a public hearing at the next Planning Board meeting on January 21, 2025. Mr. Palmer made a motion to hold a public

hearing on the Supplemental LD 2003 amendments at the January 21, 2025 meeting. The motion was seconded by Mr. Huebener and the motion passed 7-0.

The Workshop adjourned at 9:55 p.m.