

## **Town of Cape Elizabeth Ordinance Committee Minutes**

January 26, 2022

7:00 p.m.

Remote

Public proceedings by remote access for Town Council meetings are authorized by the Town of Cape Elizabeth's Remote Participation Policy adopted August 30, 2021 and the Order Declaring a Limited Emergency extended to March 31, 2022.

Members Present: Penny Jordan, Chair  
Gretchen Noonan

Staff: Maureen O'Meara, Town Planner

Councilor Penny Jordan called the meeting to order at 7:00 p.m.

### Minutes

The minutes of the January 12, 2022 meeting were approved 2-0.

### Public Comment

Jamie Garvin, 76 Oakhurst Rd - He sent an email and prefers the Technical amendments version the Planning Board reviewed at the December 7, 2021 workshop. It is reasonable and narrow focus on regulation of wood storage structures. He asks the committee to pull the wood storage provisions out of the Technical Amendments and consider them separately. The neighborhood around his property has many examples of nonconforming storage structures, and there is no setback for stacks of wood.

Tony Armstrong, 32 Lawson Rd - He has concerns with the nonconforming provisions in the Technical amendments, which threaten viewsapes near the shorefront. He disagrees with staff that the amendments are clarifying existing policy. An expansion of a garage to add a second floor will knock out some of his water view. The town should take a more conservation approach to save viewsapes. The Planning Board did not have enough time to delve into this issue and passed it onto the Town Council.

Chair Jordan clarified that the Technical amendments are from the Planning Board, not staff, and the Planning Board did their due diligence.

### Food Trucks

Ms. O'Meara updated the committee on Town Attorney Mike Hill's comments on the Food truck amendments draft. He recommends that the town council have specific standards to review an application, and standards require that information is in the record to show that the

standards have been met, which becomes a type of site plan review, and the committee did not want to require site plan review. Ms. O'Meara suggested that if there is some kind of site plan review, it is best done by the Planning Board because of its experience and expertise in conducting the review, although no one wants to do site plan review of food trucks. Mr. Hill noted the approach used by the City of Portland, which is essentially a "pre-approved site plan review" with eligible sites identified for administrative permitting.

Councilor Noonan confirmed that she does not want to take the Portland approach. She only wants food trucks to help community groups, not to promote food truck activity.

The committee began review of the food truck memo from staff with the staff food truck policy outline. The committee agreed to 1 - food trucks at private parties, and 2 - food trucks at community events, but wanted to scale back 3 - food trucks to promote commercial and pedestrian activity.

The committee began to discuss what level of food truck activity within the town is wanted, and then to structure the town council permit.

Chair Jordan suggested that only town owned property would be eligible for a special use permit. What should they consider? Ms. O'Meara suggested that if a food truck is parked in a parking lot space, a lot of the site impact issues are addressed.

Councilor Noonan used the fire station as an example that food trucks should not be parked in municipal parking lots so that it compromises municipal functions.

The committee agreed the food truck should be parked in a parking space, and the operation hours should be limited in alignment with the Miscellaneous Offenses Ordinance (like the accessory use amendment).

The committee discussed and agreed that the food truck must be sponsored by a local community group. What if a food truck operator approaches a community group and wants to partner? The committee then began to question how many trucks on a site should be allowed at one time. For the next meeting, staff will send the committee a list of town owned properties and each member will assign the maximum number of trucks they recommend.

The committee discussed scenarios where different food trucks would receive a permit for different days of the week on the same property. Examples included behind the Town Center Fire Station, at Community Services and at Gull Crest.

Councilor Noonan clarified that her objective is not to have food trucks for food trucks. Food trucks should only be allowed to enhance other activities. Staff noted that Freeport operated a similar food cart program affiliated with community groups, but ended the program because they became more of a commercial enterprise. The committee wants to require the community group sponsor.

Councilor Noonan suggested just expanding the accessory use from 5 to 10 days and eliminate the town council issued Food truck special use permit.

Chair Jordan questioned how many town owned property locations would not have community sponsors for a food truck? Perhaps the accessory use is increased to 10 days and the town council permit is limited to 28 days, with a sponsor. Councilor Noonan wants the community group sponsor requirement.

Ms. O'Meara tried to summarize the committee's interest is allowing a food truck special use permit issued by the town council on town owned land, lots of 10 acres or more in size and on property in commercial districts, with a community group sponsor. The committee agreed to have this drafted. The food truck must be operated in a parking space.

Staff will draft language for committee review at the next meeting. The special event permit will be limited to 15 calendar days per calendar year. A fee amount was discussed in the range of \$25- \$50, which would be included in the fee schedule.

#### Technical Amendments

The committee began review of the Technical amendments. Chair Jordan noted that using the amendments and explanatory memo together was helpful.

The committee reviewed the first 10 pages of the amendments and did not propose any changes.

Chair Jordan noted the change to "site manager" on page 3, line 40 made sense. On pages 7 and 8, Chair Jordan asked if the base gravel and pavement standards were developed with input from technical staff. Ms. O'Meara confirmed that these standards were recommended by the Town Engineer and Public Works Director based on industry standards.

The committee agreed to stop review on page 10, where the Zoning Ordinance amendments begin.

#### Next meeting

The committee agreed to meet on February 9, 2022 beginning at **6:30 p.m.** (Chair Jordan confirmed with Councilor Caitlin Jordan that she was available for that meeting date and time).

No one wanted to make any public comments and the meeting ended at 8:34.