



TOWN OF FREEPORT, MAINE
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TO: FREEPORT TOWN COUNCIL

FROM: CAROLINE PELLETIER, TOWN PLANNER

RE: Zoning Ordinance Amendments (Sections 104 & 201)

DATE: TUESDAY, JANUARY 19, 2021

ITEM II: Zoning Ordinance Amendment (Sections 104 & 201) – PUBLIC HEARING

This will be a public hearing regarding amendments to Section 104 (Definitions) and Section 201 (General Restrictions). A new definition of “Lot, oversized” will be added, in addition to standards to allow oversized lots, within certain zoning districts and partially in the Shoreland Zone, but that do not have sufficient shore frontage or lot width (under Section 507.I.1), to possibly be divided. *Note: This amendment is being brought forward by staff with input from the Town Attorney and the Maine Department of Environmental Protection.*

Background: This amendment is being brought forward by staff with input from the Town Attorney and the Maine Department of Environmental Protection (DEP). It is intended to address situations when parcels are partially located in the Shoreland Area but unable to meet the actual shore frontage and/or lot width requirements. There are some lots that were previously created and are in this situation, and there are some large lots that cannot be divided due to this same issue.

This happens in cases when parcels are located within 250 feet of a regulated resource (ie: highest annual tide line on tidal waters), however the parcels are located mostly outside of the Shoreland Zone on the upland side; in some cases there is a public road between the parcel and the shore. Since these parcels are partially located within the Shoreland Zone, but do not abut the shore, they physically cannot comply with the minimum shore frontage and/or lot width requirements for Shoreland Zoning.

The interpretation of both the Codes Enforcement Officer (CEO) and DEP is that such lots would be considered non-conforming lots even though they are located on the upland side of a road and even if most of the lot area is located outside of the Shoreland Zone. This amendment, which has been reviewed by the DEP, would add a new definition for “lot-oversized” and allow such lots (in certain zoning districts) that do not have sufficient shore frontage and/or lot width to potentially be divided when certain conditions can be met. It will also affect any “lot - oversized” inadvertently split on or after January 1, 1990 (or a lot previously created from a lot - oversized) and which did not meet shore frontage and/or lot width requirements, to become conforming if the applicable conditions can be met.

A letter from the Town Attorney, a letter from DEP and draft amendment language are attached.

Process: The Board had a discussion and public hearing on the item at the January 6, 2021 Planning Board meeting. Legal ads ran in the Brunswick Times Record on 12/23/20 & 12/29/20. One property owner spoke in favor of the proposed amendment at the meeting.

Public Notice

PUBLIC HEARINGS

The Freeport Planning Board will hold public hearings on Wednesday, January 6, 2021 at 6:00pm to discuss the following proposed amendments:

1) Amendments to Section 104 (Definitions) and Section 201 (General Restrictions) of the Freeport Zoning Ordinance. A new definition of "Lot, oversized" will be added, in addition to standards to allow oversized lots, within certain zoning districts and partially in the Shoreland Zone, but that do not have sufficient shore frontage or lot width (under Section 507.I.1), to possibly be divided.

2) Amendments to Section 602.C.1.i of the Freeport Zoning Ordinance and Article 6.2.D.1, Article 7.1.C.1, and Article 8.1.H of the Freeport Sub-division Ordinance to require that additional notification be published in another paper of circulation within the Municipality in cases where legal public hearings are schedule to be held.

The public is welcome to attend. Information on how to participate can be found on the meeting agenda posted on the meeting calendar of the Town's website at www.freeportmaine.com Submitted materials are available for viewing on the website or by contacting the Planning Office at the Freeport Town Hall at (207)865-4743 option 5.

Abutter notification was sent in accordance with the notification requirements outlined in the Rules of Order and Procedure of the Freeport Planning Board.

Recommendation from the Planning Board: The Planning Board made the following motion:

MOVED AND SECONDED: Be it ordered that the Freeport Planning Board recommend to the Freeport Town Council amendments to Section 104 and 201 of the Freeport Zoning Ordinance pertaining to the possible division of oversized lots in the Shoreland Zone, in that the Board finds that based upon the letter from the Town Attorney and the letter from the Maine Department of Environmental Protection, the proposed amendments would be consistent with the State of Maine Mandatory Shoreland Zoning Act. (Canaan & Savona) **ROLL CALL VOTE** (6 Ayes) (1 Excused-Child) (0 Nays)