



TOWN OF FREEPORT, MAINE
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TO: FREEPORT TOWN COUNCIL

FROM: CAROLINE PELLETIER, TOWN PLANNER

RE: AGENDA ITEMS #194-21 (SHORELAND ZONING) AND #196-21 (BOARD OF APPEALS)

DATE: TUESDAY, OCTOBER 5, 2021

Before the Council on this agenda, are multiple public hearings which would result in changes to the Freeport Zoning Ordinance. Both agenda items #194-21 and #196-21 contain proposed amendments to the existing language in Section 601. For clarification, if the Council takes action on item #194-21 first, the following text is included in those amendments, in Section 601.G.4.j:

j- h. When a building or structure is erected pursuant to a variance or a limited setback reduction approved by the Board of Appeals, the Board may require the location of the foundation to be set and pinned by a professional land surveyor.

i. Shoreland Zoning Variances: A copy of all variances granted by the Board of Appeals to all land areas within the Shoreland Zone shall be submitted to the Department of Environmental Protection within ~~fourteen~~ seven (14/7) days of the decision.

j. Shoreland Zoning Variance Reconsideration: In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

k. Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

Note: The text changes proposed in this Section 601, would need to get incorporated into the recommended amendments the Planning Board recently suggested to the Town Council.

For clarification and clear documentation, these proposed amendments should be incorporated into the proposed amendments for consideration as part of item #196-21. I would offer the following

recommendation, that if you move to adopt the proposed amendments for item #196-21, that Section 601.G.4.b be amended to include the following text, noted in yellow (and as recommended as part of the Shoreland Zoning updated):

- b. Variance ~~requests~~ appeals within a shoreland zone. A copy of each variance ~~request~~ appeal, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals prior to taking action on the variance appeal.

If a variance appeal within a shoreland zone is approved, a copy of the variance granted by the Board of Appeals to all land areas within the Shoreland Zone shall be submitted to the Department of Environmental Protection within seven (7) days of the decision.

Shoreland Zoning Variance Reconsideration: In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.