

## **CALL TO ORDER**

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

Members present: Niles Pinkham, Barry Fitzpatrick, Jeffrey Brake, Craig Wilson, Charles Denault, III, April Timko

Staff members present: Robert Marchi

## **PLEDGE OF ALLEGIANCE**

## **AGENDA AMENDMENT AND ADOPTION**

The Agenda was adopted as presented.

## **EXECUTIVE SESSION, IF REQUIRED**

There was no executive session.

## **PUBLIC HEARINGS**

Chris & Shelly Gray, 14 Ridgewood Drive, Map 20 Lot 2-9, Rural Residential zone, requesting Unbuildable Lot Appeal per Title 13.2.2.

Chair Wilson stated the hearing was advertised on December 2, 2016 in the *Portsmouth Herald*. The zone should be Residential Suburban zone.

Secretary Boyle affirmed the Board has the right to hear this administrative appeal under 13.2.2.2 Right to Unbuildable Parcel Appeal. The parcel in question is an unbuildable lot. The property is not located in the shoreland or protective overlay zone. It is located in the RS residential suburban zone. The Basis of Law is Code 13.13.2.2.2.3B which states filed applications must be accompanied by a written statement from the Code Enforcement Officer and Town Planner regarding whether the involved property is developable as defined in this section. Secretary Boyle stated this is a de-novo hearing. The Board accepted the findings of the Secretary.

Mr. Marchi reported this appeal process is uncommon and has been used one other time. Mr. Marchi explained Mr. Gray first owned Lot 10 and purchased Lot 9 this year. Lot 9 abuts Martin Road. He further explained the wetland is greater than an acre and requires a 100-ft. setback and 40 ft. setback from the road. There is no building area.

The memorandum Title 13 needs to be signed by the CEO and the Town Planner. Mr. Marchi explained the signed copy is in the office. There are no buildings on the property, no violations.

## **Testimony**

Mr. Gray was present and stated the reason for this purchase was so he could use space for extension fill.

Public Hearing

The Chair opened the public hearing. Hearing none, the Chair closed the public hearing session.

Discussion

Mr. Fitzpatrick stated in 2014, the property was a larger parcel and was divided up. Mr. Gray explained he had to pay back taxes on the property after he purchased it. Mr. Marchi reported the previous owner tried to give this parcel to the Town and to the Conservation Commission and was not wanted.

**Vice Chair Brake moved to grant Chris and Shelly Gray reprieve of the assessment fee by the assessment plan for the sewer expansion project due to the lot not being buildable with no conditions.**

**The motion was seconded by Mr. Pinkham.**

**The Motion carried 7-0.**

Findings of Fact

1. Chris and Shelly Grey owners of record of the property contested the assessment fee by the assessment plan for the sewer expansion project. The parcel is located on 14 Ridgewood Drive, Map 20, Lot 9 in the Suburban Residential zone.
2. The memorandum presented to the Board was not signed but was confirmed to be signed by CEO and Town Planner and is on file and on record.
3. The parcel has no building and no violations on the property.
4. The owner stated purchase property for extension fill only.
5. The property is too wet to walk on.
6. Previous owners tried to give it away.

**Chair Wilson moved to accept the Findings of Fact as presented.**

**Mr. Denault seconded the motion.**

**The motion carried 7- 0.**

Conclusion of Law

The Board concluded it is an unbillable lot and not subject to an assessment fee by the plan for the sewer expansion project.

**Mr. Pinkham moved to accept the Conclusion of Law.**

**Mr. Wilson seconded**

**The motion carried 7-0.**

Chair Wilson stated he does think this is appealable. This is the Town and because they were not present and did not present any opposition to the request, Chair Wilson does not expect an appeal. Mr. Wilson also explained the Board will notify the Town Manager.

**UNFINISHED BUSINESS**

None.

**NEW BUSINESS**

1. Robert and Stacey Emery, 352 Haley Road, requesting extension to Board of Appeals approval.

Mr. Marchi reported the Board previously gave approval to place a manufactured home on the property for Mr. Emery's parents. Mr. Emery came forward in May of 2016 and was granted an extension.

Mr. Wilson read the extension request into the Minutes. The letter explained why they need an extension which included septic plans and position of the home to be decided. They are looking for completion at the end of March.

Discussion ensued if there are limitations for the Board to allow extensions. The Chair explained they have the right but if the ordinance changes it would be a factor. Mr. Marchi explained the rule of the Town is a permit holder/approval must substantially start within six months and be finished within one year.

**Mr. Boyle made a motion to extend the approval of the ADU for Robert and Stacey Emery. Mr. Pinkham seconded the motion.**

**The motion carried 7-0-0- The extension is granted until November 14, 2017.**

**ACCEPTANCE OF THE AUGUST 23, 2016 MINUTES**

**The Board accepted unanimously the Minutes as presented.**

**BOARD MEMBER OF CEO ISSUES OR COMMENT**

Mr. Marchi stated there will be an administrative appeal and he needs to have the Town attorney review. This will be brought to the next meeting.

Chair Wilson stated Shelly Bishop does not have a copy of the July 23, 2016 Minutes and asked board members if they have a copy. Chair Wilson could not find a copy and does not remember reading the Minutes. Mr. Boyle will look in his file.

**Vice Chair Brake moved to adjourn the meeting at 7:30 p.m.**

**Chair Wilson seconded the motion.**

**The motion carried 7-0.**

Respectively submitted by Mary Mancini, recording secretary on December 14, 2016.