

1. Call to order: Introductory; Roll Call

Present: Craig Wilson, Charles Denault, III, April Timko, Judy Spiller, Louis Leontakianakos, Barry Fitzpatrick

Absent: Jeffrey Brake

Staff Present: Robert Marchi, Code Enforcement Officer

2. Pledge of Allegiance

3. Agenda Amendment and Adoption

Chair Wilson requested the February 28, 2018 Minutes to be reviewed by email due to the Board not having them tonight. No objections were made.

4. Executive Session

None.

5. Public Hearings

Item 1 Jeremy Reynolds, J & J Development, Inc., 12 Bridge Street, Map 3 Lot 72, Residential – Urban R-U, requesting Miscellaneous Variation Request to remove existing 4-unit structure and construct new 4-unit structure in new location.

Chair Wilson noted this item was to be heard at the March 13, 2018 meeting but was postponed due to the snowstorm.

As Secretary, Chair Wilson affirmed the Board has the power and duty to hear this item in Code 16.1.5.2(F)(4)(A) the Board is to hear Miscellaneous Variation Requests of Nonconformance as described in Article III, Chapter 16.7.

Testimony

Mr. Reynolds explained the plan is to remove the current 4-unit structure, which is currently nonconforming and does not meet current setbacks and rebuild in a new location on the lot. Mr. Reynolds also explained the proposed 4-unit structure is approximately 1,000 sq. ft. larger than the current building and will meet all setbacks and will be more appealing for the Town. He added the zone allows for up to 20% building coverage and his plan is less. Mr. Reynolds explained parking includes one garage with one additional space. The applicant will try to maintain as much greenspace as possible.

Mr. Marchi stated this is an existing nonconforming 4-unit building which is nonconforming because of the setbacks and use. Currently, the Town would not now allow this type of development. He added it is existing and the applicant could build without coming to the Board if the same footprint was used and rebuild it as in-kind. Mr. Marchi added, if this was done, it would not meet the setbacks. Mr. Marchi has no issues with the proposed plan because it is a better situation. He added there are no violations on the property and it is not in the Shoreland Zone

The Chair opened the public hearing. There being none, the Chair closed the public hearing.

Ms. Spiller pointed out Note 6 of the plan stated Town of York. The applicant will change to Town of Kittery. She also asked the age of the current building and the applicant replied it was built in the late 1800's and is not salvageable. Mr. Marchi added the new building will be sprinkled making it a safer structure.

Mr. Fitzpatrick commented replacing the current building with a contemporary one will be a benefit to the neighborhood.

Mr. Reynolds reviewed the design of the units and reiterated the new footprint will be approximately 1,000 ft. larger and will meet the code other than being four units.

Chair Wilson asked the applicant about the right of way noted on the site plan. Mr. Reynolds replied Mr. MacDonald owns the land in the back of the lot and a right of way has been in use for many years. Mr. Marchi read over the owners' deeds regarding the right of way. There are no restrictions on the use of the right of way. Chair Wilson expressed his concern of headlights and building lights disturbing the two homes in the back of the property and suggested the lighting should be downcast with no horizontal leakage. Mr. Reynolds testified he is not changing the traffic configuration and added the proposed heating and cooling units will be interior and air conditioner condensers, if added, will be screened. Chair Wilson also requested a grading and stormwater plan. After reviewing Code 16.6.6.2(m) Factors for Consideration, the Board was in consensus to require the applicant provide a landscaping, erosion and stormwater plan, which is acceptable by code enforcement who will submit for review to the appropriate agencies.

Mr. Denault moved to grant to Jeremy Reynolds, doing business as J & J Development, Inc., for property located at 12 Bridge Street, Map 3 Lot 72, Residential – Urban R-U, a Miscellaneous Variation Request to remove an existing 4-unit structure and construct a new 4-unit structure in a new location as per Easterly Surveying Plan project No. 18603 with the following condition of a stormwater and erosion control management plan taking in account 100 year storm values be presented before construction begins and found acceptable to the CEO.

Mr. Leontakianakos seconded the motion.

The motion carried 6-0-0.

Findings of Fact

- Appearing before us was Mr. Jeremy Reynolds, representing J & J Development, Inc., for a development at 12 Bridge Street, Map 3 Lot 72 in Residential – Urban R-U.
- Mr. Reynolds is requesting a Miscellaneous Variation Request to remove an existing 4-unit structure and construct a new 4-unit structure in a different location on Lot 72.
- The existing structure is nonconforming in front and rear setbacks and in the number of units allowed.
- The Code Enforcement Officer reported there are no violations on the property.
- The property is not in the Shoreland Zone.
- Sprinklers will be required in the building.
- The existing building has Town sewer and water and the same will be applied to the new building.
- The proposed new building footprint is 27,112 sq. ft. which is 1,000 sq. ft. more than the existing building.
- There is a 20 ft. existing right of way and the lot has the rights of way and will use them.
- There was testimony that parking will be supplied on site and adequate to Code.
- There will be no disturbance of the Workman and Blanchette homes by lights from cars using the new building.
- There will be a submission of a stormwater, erosion control and landscaping and grading plan before construction begins.
- The Code requirement is 20% maximum coverage and the actual coverage will be slightly less.
- The building height will be slightly less than the maximum of 35 ft.
- There are 130.9 ft. of street frontage where 100 ft. is required.
- The new building will be an existing nonconforming use because it is a multi-family.

**Ms. Spiller moved to accept the Findings of Fact as presented.
Mr. Fitzpatrick seconded the motion.**

The motion carried 6-0-0.

Conclusions of Law

The code section governing the Board's decision is 16.7.3.3.1 - Nonconforming Structure Relocation - on Page 161. The property is not located in the Shoreland Zone and would go to the Planning Board if it were. The Board of Appeals determined the structure relocation meets the setbacks to the greatest extent practicable and meets them all. The Board considered the size of the lots, slope of land and potential of soil erosion and the location of other structures on the property and adjacent properties. There is no septic and it has sewer. The type and amount of vegetation to be removed to accomplish relocation found that the proposal satisfied all those conditions and, therefore, the Board voted to approve the application.

The Board had no objections and the Conclusions of Law were accepted 6-0-0.

6. Unfinished Business

Election of Officers

Chair Wilson explained Vice Chair Brake has volunteered to be Chair.

**Chair Wilson nominated Jeffrey Brake as Chair for the calendar year 2018.
Ms. Spiller seconded the motion.**

The motion carried 6-0-0.

**Chair Wilson nominated Judy Spiller for Vice Chair for the calendar year 2018.
Mr. Leontakianakos seconded the motion.**

The motion carried 6-0-0.

**Chair Wilson nominated April Timko as Secretary for the calendar year 2018
Mr. Leontakianakos seconded the motion.**

The motion carried 6-0-0.

Mr. Marchi will have the information changed on the Town's website.

7. New Business

On May 22, 2018, the Board will have a presentation with an attorney recommended by Southern Maine Planning and Development Corporation as requested by the Town Manager.

Mr. Fitzpatrick would like the person's qualifications and background before the meeting. Board members discussed the topics they would like to review, which Chair Wilson will list and distribute. He also suggested members look at the topics from the Maine Municipal Association.

8. Acceptance of Previous Minutes

Tabled.

9. Board Member or Code Enforcement Issues or Comments

Mr. Denault – none

Mr. Leontakianakos - none

Ms. Timko - none

Ms. Spiller - none

Mr. Fitzpatrick referred to a case he would like to discuss with the attorney on May 22nd which is the variance for the nonconforming lot on Route 1 for the gas station.

10. Adjournment

Mr. Denault moved to adjourn the meeting at 7:26 p.m.

Submitted by Mary Mancini, recording secretary.