TOWN OF KITTERY, MAINE
BOARD OF APPEALS
Council Chambers – 6:30PM

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UNAPPROVED
September 10, 2019

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MEETING MINUTES

1. **CALL TO ORDER; INTRODUCTORY; ROLL CALL**

   Chair Jeff Brake called the meeting to order at 6:30PM and asked that the roll be called.

   Board Members Present: Jeff Brake, Vern Gardner, Louis Leontakianakos, Charles Denault III, Suzanne Dwyer-Jones, Barry Fitzpatrick

   Board Members Absent: April Timko

   Staff Present: Adam Causey, Director of Planning and Development, Craig Alfis, Code Enforcement Officer

2. **PLEDGE OF ALLEGIANCE**

3. **AGENDA AMENDMENT AND ADOPTION**

4. **EXECUTIVE SESSION**

5. **PUBLIC HEARINGS**

6. **UNFINISHED BUSINESS**

   a. **Timothy Phoenix, applicant and Christopher Miller, owner of 1 Coleman Avenue (Map 26 Lot 5), request a Miscellaneous Variation Request per LUDC Section 16.7.3.5.A.(1), and seeking approval for the expansion of a non-conforming structure.**

   Mr. Gardner disclosed that he has worked for and with the applicant in various capacities over the past 25 years and therefore has a conflict and will recuse. Chair Brake asked Ms. Dwyer-Jones, Acting Secretary, if the Board has the authority to hear this application. Ms. Dwyer-Jones replied in the affirmative. Mr. Alfis read from the staff report that this request was for a miscellaneous variation involving the replacement of a non-conforming structure with a less non-conforming structure. The miscellaneous variation involves relaxation of front yard setback due to the corner lot. It was noted that the staff recommends approval. Mr. Leontakianakos asked if it was the garage that was in non-conformance and Mr. Alfis replied in the affirmative. Mr. Phoenix took the podium to discuss the project details further. Mr. Fitzpatrick asked if the "widows watch" is high enough to see Pepperrell Cove over the

adjacent buildings. Mr. Miller took the podium and responded that the "widows watch" in question was actually to add natural light to the building and it is unclear at this time if it will be accessible.

- Motion by Mr. Fitzpatrick to grant the appeal of Timothy Phoenix, requesting a miscellaneous variation request for the replacement of a non-conforming structure at 1 Coleman Avenue. Motion was seconded by Ms. Dwyer-Jones. Motion passed 5-0-0 by roll call vote [Aye: Denault, Dwyer-Jones, Fitzpatrick, Leontakianakos, Brake; Nay: --; Abstain: --].

  Ms. Dwyer-Jones read the following Findings of Fact and Conclusions of Law into the record:

  Findings of Fact – (1) The Code Enforcement Office recommended approval in accordance with 16.6.6, (2) Mr. Gardner recused himself, (3) the wetland setback required by code is 100 feet, the proposed structure will be located 94 feet from the wetland, (4) the required setback from Coleman Ave is 40 feet, the proposed structure will be located 15 feet from the property line, (5) the applicant provided evidence and the Board accepted said evidence meeting the conditions set forth in 16.6.6.A and (6) the Board approved the applicant's Miscellaneous Variation Request by a vote of 5-0-0.

  Conclusions of Law – (1) The Board heard the Administrative Appeal under Town code section 16.7.3.5.C, which allows the Board to review miscellaneous variation requests (2) the Board considered the basis for decision the conditions set forth in 16.6.6.A & also considered the factors for consideration in making its determination set forth in 16.6.6.B, inclusive (3) the Board granted the appeal.

- Motion by Mr. Leontakianakos to accept the Findings of Fact and the Conclusions of Law. Motion was seconded by Mr. Fitzpatrick. Motion passed 5-0-0 by roll call vote [Aye: Denault, Dwyer-Jones, Fitzpatrick, Leontakianakos, Brake; Nay: --; Abstain: --].

7. NEW BUSINESS

a. Title 16 Re-codification Discussion

Mr. Causey provide an update on the Title 16 re-codification and requested that the Board review the documents and submit any comments to the Chair to be forwarded to the Planning Department. Mr. Fitzpatrick asks who the consultant was. Mr. Causey replied that the consultant is NorthStar Planning out of Windham Maine. Mr. Leontakianakos asked if this was part of the same effort that had met at the community

center months ago and Mr. Causey confirmed. Mr. Gardner confirmed that the Planning Office would like to see comments submitted through the Chair, Mr. Causey confirmed. Mr. Gardner asked what the next steps were an Mr. Causey explained that there will be meetings held in October with selected groups of stakeholders.

It was also confirmed that the workshop for October 22 at 5:30 was still planned to take place. A poll was taken by the Chair to confirm attendance an all members present responded they could attend.

8. ACCEPTANCE OF PREVIOUS MINUTES

Motion by Mr. Leontakianakos to approve the minutes for February 26, 2019, July 23, 2019 and August 13, 2019. Second by Mr. Denault. Motion passed 5-0-1 by roll call vote [Aye: Denault, Dwyer-Jones, Fitzpatrick, Leontakianakos, Brake; Nay: ; Abstain: Gardner]

9. BOARD MEMBER OR CEO ISSUES OR COMMENT

It was noted by Chair Brake, for the record that Mr. Gardner re-joined the Board at 7:05.

Issues with the emails sent prior to the meeting were brought up. Mr. Alfis responded that he would meet with the affected Board members after the meeting and the issues would be corrected prior to the next meeting.

10. ADJOURNMENT

Motion by Mr. Gardner to adjourn. Second by Ms. Dwyer-Jones. Motion passed 6-0-0 by voice vote [Aye: Denault, Gardner, Dwyer-Jones, Fitzpatrick, Leontakianakos, Brake; Nay: ; Abstain:].

The Kittery Board of Appeals meeting of September 10, 2019 adjourned at 7:17 p.m.

Submitted by Craig Alfis, Code Enforcement Officer

Disclaimer: The preceding minutes constitute the author's understanding of the meeting. While every effort has been made to ensure the accuracy of the information, the minutes are not intended to be a verbatim transcript of comments at the meeting but only a summary of the discussion and actions that took place. For complete details, please refer to the video of the meeting on the Town of Kittery website at http://www.townhallstreams.com/locations/kittery-maine.