

MEETING MINUTES

1. CALL TO ORDER; INTRODUCTORY; ROLL CALL

Chair Timko called the meeting to order at 6:30 p.m. and asked that the roll be called.

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

Board Members Absent: None

Staff Present: Craig Alfis, Code Enforcement Officer

2. PLEDGE OF ALLEGIANCE

3. AGENDA AMENDMENT AND ADOPTION

4. EXECUTIVE SESSION

5. PUBLIC HEARINGS

6. UNFINISHED BUSINESS

- a. Per email dated 1/15/2020 Mr. Vern Gardner requests reconsideration of the vote of the Miscellaneous Variation Request concerning Harrison E. Lemont Management Co. Inc. taken at the Kittery Board of Appeals on January 14th, 2020.**

Motion by Mr. Gardner to reconsider of the decision taken by the Kittery Board of Appeals on January 14th, 2020 regarding Harrison E. Lemont Management Co. Inc. Seconded by Vice Chair Leontakianakos. Motion passed 7-0-0 by roll call vote [Yes: Gardner, Denault, Brake, Fitzpatrick, Jones, Leontakianakos, Timko; No: --; Abstain: --]

- Chair Timko advised the Board and the public that as this is a reconsideration of a previous vote that there must be five like votes to change or reverse the original decision. Mr. Alfis was invited to present the staff report. Mr. Brake explained that he did recuse himself at the January 14th meeting, but has since reviewed the requirements on recusal and found that he did not have any conflict or bias and would not be recusing himself tonight. The applicant's representative, Mr. Tom Emerson, was invited to present details of the request and noted that the error was due to an incorrect survey that was used to prepare the site plan. The Board had several questions for both Mr. Alfis and Mr. Emerson. The Board entered discussion.

Motion by Ms. Jones to approve the Miscellaneous Variation Request to approve a non-conforming structure in the Mixed Use zone per Code Section 16.6.4.C(1) and Section 16.7.3.3.A. Seconded by Vice Chair Leontakianakos. Motion passed 7-0-0 by roll call vote [Yes: Denault, Brake, Fitzpatrick, Jones, Leontakianakos, Timko, Gardner; No: --; Abstain: --]

Chair Timko and Vice Chair Leontakianakos read the following Findings of Fact and Conclusions of Law into the record:

Findings of Fact: (1) The applicant requested a Miscellaneous Variation Request to approve a non-conforming structure in the Mixed-Use zone per Section 16.6.4.C(1) and Section 16.7.3.3.A. (2) The Board allowed the Miscellaneous Variation Request. (3) The Board found that the structure would be less non-conforming. (4) The Board found that the issue was that the addition to the restaurant was permitted based on documents that were provided prior to the development and the restaurant was existing. (5) The Board found that there was already a plan in place to build another structure prior to the demolition of the previous building. (6) The previous dwelling unit was built one foot from the east property line and 28-feet from the north property line where a 30-foot setback is required for both. (7) The current survey reveals that the new building infringes on the rear setback resulting in a 28.3-foot setback where 30-feet is required so the new building is less non-conforming than the previous building. (8) The Board voted seven in the affirmative, zero in the negative and the motion passed.

Motion to accept the Findings of Fact made by Vice Chair Leontakianakos. Seconded by Mr. Denault. Motion passed 7-0-0 by roll call vote [Yes: Gardner, Denault, Brake, Fitzpatrick, Jones, Leontakianakos, Timko; No: --; Abstain: --]

Conclusions of Law: (1) The Board had the authority to hear the Miscellaneous Variation Request pursuant to section 16.6.4.C(1) and section 16.7.3.3.A. (2) The Board allowed the Miscellaneous Variation Request. (3) The Board considered the factors set forth in section 16.6.6 in making its decision. (4) The Board found that all those factors were met. (5) The Board approved the Miscellaneous Variation Request.

Motion to accept the Conclusions of Law made by Vice Chair Leontakianakos. Seconded by Mr. Denault. Motion passed 7-0-0 by roll call vote [Yes: Gardner, Denault, Brake, Fitzpatrick, Jones, Leontakianakos, Timko; No: --; Abstain: --]

7. NEW BUSINESS

8. ACCEPTANCE OF PREVIOUS MINUTES

- January 14, 2020
 - As not all members present had reviewed the minutes the acceptance was continued to the following meeting.

9. BOARD MEMBER OR CEO ISSUES OR COMMENT

10. ADJOURNMENT

Motion by Vice Chair Leontakianakos to adjourn. Second by Mr. Denault. Motion passed 7-0-0 by voice vote [Aye: Gardner, Denault, Brake, Fitzpatrick, Jones, Leontakianakos, Timko; Nay: --; Abstain: --]

The Kittery Board of Appeals meeting of January 28, 2020 adjourned at 7:03 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>.