

**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, Louis Leontakianakos, April Timko

**Board Members Absent:** Barry Fitzpatrick, Suzanne Jones

**Staff Present:** Craig Alfis, Code Enforcement Officer; David Evans, Assistant Code Enforcement Officer

**2. PLEDGE OF ALLEGIANCE**

**3. AGENDA AMENDMENT AND ADOPTION**

- Chair Timko advised the applicant that there are only five Board members present and in order for an appeal to pass, four like votes are required. Chair Timko gave the applicant the opportunity to postpone the appeal to a later date. The applicant declined.
- Chair Timko proposed that Item a. under Public Hearings be changed to indicate that it is a Miscellaneous Variation Request rather than an Administrative Appeal and that both Code Enforcement and the applicant agree to the change. Discussion ensued and several questions were asked of Mr. Alfis.

Motion by Chair Timko to change Item A. under Public Hearings to indicate that it is a Miscellaneous Variation Request rather than an Administrative Appeal. Seconded by Vice Chair Leontakianakos. Motion passed 4-1-0 by roll call vote [Yes: Denault, Brake, Leontakianakos, Timko; No: Gardner; Abstain: --]

**4. EXECUTIVE SESSION**

**5. PUBLIC HEARINGS**

- a. David Arnold, Owner, 95 Old Dennett Road in the Residential Suburban (R-S) zone, requesting a Miscellaneous Variation Request in accordance with Town of Kittery Code 16.6.4.C.1**

- Chair Timko stated that the public hearing was noticed on Saturday February 29, 2019 and confirmed the Board has the authority to hear the request. Mr. Alfis presented the staff

report. Mr. David Arnold, applicant, made a presentation on their proposed development. Mr. Arnold read three letters from abutters in support of the proposed garage. The Board had several questions for Mr. Arnold. Three members of the public spoke in support of the proposal. Chair Timko closed the public hearing at 7:03 PM. The Board entered discussion.

Motion by Mr. Gardner to approve the Miscellaneous Variation Request. Seconded by Mr. Brake. Motion passed 5-0-0 by roll call vote [Yes: Gardner, Denault, Brake, Leontakianakos, Timko; No: --; Abstain: --]

Chair Timko notified the Board of their right to reconsider and the public of their right to appeal.

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

Findings of Fact: (1) The Board found that David Arnold and his wife, owners of 95 Old Dennett Road in the Residential Suburban zone submitted a Miscellaneous Variation Request related to a non-conforming lot of record. (2) The request is to build a garage that would meet a side yard setback of 10 feet in relation to a right of way for a private street that runs along the property line. (3) The Board heard a presentation from David Arnold, heard letters of support from three neighbors along Old Dennett Road and heard support from three neighbors in person in support. (4) The Board heard no opposition to the request. (5) The Board considered the Basis for Decision set forth in Section 16.6.6 including the Factors for Consideration set forth in Section 16.6.6.B. (6) 95 Old Dennett Road is an existing non-conforming lot. (7) The 10 foot side yard setback would be allowed based on Section 16.7.3.3.B(3)(b) which allows for ½ the side yard setback in zones other than the Village. (8) The square footage of the proposed garage does not exceed maximum set forth in Section 16.7.3.3.B(3)(b).

Motion to accept the Findings of Fact made by Vice Chair Leontakianakos. Seconded by Mr. Denault. Motion passed 5-0-0 by roll call vote [Yes: Gardner, Denault, Brake, Leontakianakos, Timko; No: --; Abstain: --]

Conclusions of Law: (1) The Board of Appeals approved a Miscellaneous Variation Request in accordance with Section 16.6.4.C(1) for a non-conforming lot of record in accordance with Section 16.7.3.5.

Motion to accept the Conclusions of Law made by Vice Chair Leontakianakos. Seconded by Mr. Brake. Motion passed 5-0-0 by roll call vote [Yes: Gardner, Denault, Brake, Leontakianakos, Timko; No: --; Abstain: --]

**6. UNFINISHED BUSINESS**

**7. NEW BUSINESS**

**8. ACCEPTANCE OF PREVIOUS MINUTES**

- January 14, 2020
- January 28, 2020

Motion by Chair Timko to approve the meeting minutes of January 14, 2020 and January 28, 2020. Second by Vice Chair Leontakianakos. Motion passed 4-0-1 by voice vote [Aye: Denault, Brake, Leontakianakos, Timko; Nay: --; Abstain: Gardner]

**9. BOARD MEMBER OR CEO ISSUES OR COMMENT**

- Mr. Alfis gave an update on the Major Home Occupation at 120 State Road, in response to the letter sent by Mr. Ed Wilson dated March 4, 2020.
- Mr. Alfis noted that there are no items on the agenda for the March 26<sup>th</sup> meeting.
- Mr. Gardner discussed potential changes that could be made to the way the Board handles Findings of Fact. Specifically, as long as the Findings of Fact are in written form they are acceptable and that the staff report could be adopted as Findings of Fact. Discussion ensued and seeing no objections Chair Timko stated the Board will try this method in the future.

**10. ADJOURNMENT**

Motion by Vice Chair Leontakianakos to adjourn. Second by Mr. Brake. Motion passed 5-0-0 by voice vote [Aye: Gardner, Denault, Brake, Leontakianakos, Timko; Nay: --; Abstain: --]

The Kittery Board of Appeals meeting of March 10, 2020 adjourned at 7:22 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>.*