



Town of Kittery  
200 Rogers Road, Kittery, ME 03904  
Board of Appeals Meeting Agenda  
**In-Person, Council Chambers**  
Tuesday, August 10, 2021  
Regular Meeting – 6:30 P.M.

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1. Call to Order; Introductory; Roll Call
2. Pledge of Allegiance
3. Agenda Amendment and Adoption
4. Executive session (if required)
5. Public Hearings
6. Unfinished Business
7. New Business
  - Election of Officers
    - Vice Chair
    - Secretary
8. Acceptance of Previous Minutes
  - April 13, 2021
  - May 25, 2021
9. Board Member or CEO Issues or Comment
10. Adjournment

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, Cameron Hamm, Rick Nohmer, Suzanne Jones (joined at but could not participate due to computer issues) April Timko

**Board Members Absent:** Jeff Brake, Charles Denault III

**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**

**7. NEW BUSINESS**

**8. ACCEPTANCE OF PREVIOUS MINUTES**

- November 24<sup>th</sup>, 2020
- December 8<sup>th</sup> 2020
  - Mr. Gardner noted a relevant comment had been omitted from the minutes. Mr. Alfis will update the minutes.

Motion by Mr. Gardner to accept the meeting minutes as amended. Second by Mr. Nohmer.  
Motion passed 4-0-0 by voice vote [Yes: Hamm, Nohmer, Gardner, Timko; No: --; Abstain: --]

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

- Mr. Alfis presented a plan to provide sample Findings of Fact & Conclusions of Law in the staff report to simplify and standardize the findings and conclusions.

- Mr. Nohmer and Chair Timko voiced their support, with the understanding that they are just suggested and that the Board would make the final determinations as to which findings and conclusions would be adopted. Mr. Gardner had several questions and concerns. Mr. Alfis explained that the findings and conclusions would be written impartially and would be applicable with no bearing on the outcome of the appeal/request.
- Chair Timko noted that Suzanne Jones joined the meeting at 6:43 pm but could not participate due to audio issues.
- Mr. Alfis presented the proposed changes to the Title 16 Medical Marijuana Licensed Caregiver approval process.
  - The process would be removed from the home occupation section and placed in its own section, with requests to be approved by the Planning Board vice the Board of Appeals. The Board had several questions. Additional questions or comments from Board members can be emailed to Mr. Alfis.
- Chair Timko opened the floor to the Board members to bring up any topics that members would like to see clarification or training on. Topics can be emailed to Chair Timko.
- Chair Timko discussed the options for meeting format available at this time. The current options are in person at the KCC or Zoom webinar. Mr. Alfis explained that hybrid meetings are not currently technologically feasible but may be available in the future.
- Mr. Nohmer requested a training on Zoom webinar and relayed to the Board that the online MMA board member trainings are very helpful and informative.

## **10. ADJOURNMENT**

Motion by Mr. Gardner to adjourn. Second by Chair Timko. Motion passed 4-0-0 by voice vote [Yes: Hamm, Nohmer, Gardner, Timko; No: --; Abstain: --]

The Kittery Board of Appeals meeting of April 13, 2021 adjourned at 7:10 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>.*

MEETING MINUTES

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

Chair Timko called the meeting to order at 6:30 p.m. and introduced the present Board members.

**Board Members Present:** Vern Gardner (lost connection at 6:31, rejoined at , Charles Denault III, Cameron Hamm, Amelia Burke, Rick Nohmer, April Timko

**Board Members Absent:**

**Staff Present:** Craig Alfis, Code Enforcement Officer

**2. PLEDGE OF ALLEGIANCE**

**3. AGENDA AMENDMENT AND ADOPTION**

Motion to amend the agenda to remove item #8, Acceptance of Previous Meeting Minutes, as the minutes are not yet available for review made by Chair Timko. Seconded by Mr. Nohmer, Motion passed 6-0-0 by voice vote [Aye: Gardner Denault, Hamm, Burke, Nohmer, Timko; No: --; Abstain: --]

**4. EXECUTIVE SESSION**

**5. PUBLIC HEARINGS**

- **Anne Whitney on behalf of Marc Halle, owner 6 Thaxter Lane, requesting a Miscellaneous Variation to expand a non-conforming structure in the Residential – Rural Conservation zone per Code Section 16.7.3.3.B(1) & 16.6.4.C(1).**
- Mr. Alfis presented the staff report. Ms. Anne Whitney, applicant, presented the details of the proposed development. Several Board members had questions for both Mr. Alfis and Ms. Whitney. Mr. Marc Halle and Ms. Mary LeClair, owners 6 Thaxter Lane, were invited to answer several questions from Board members. Chair Timko opened the public hearing at 6:57 pm. Mr. Michael Blackman, 47 Seapoint Road, spoke in favor of the project. No other members of the public wished to speak. Chair Timko closed the public hearing at 6:59 pm. The Board entered discussion. Several Board members had further questions for Mr. Alfis

Motion to follow the recommendation of the Code Enforcement Officer and deny the request made by Mr. Gardner. The motion did not receive a second. Mr. Gardner withdrew the motion.

Motion to grant the applicants Miscellaneous Variation Request to expand the non-conforming structure per Code Section 16.7.3.3.B(1) and 16.6.4.C(1) made by Mr. Denault. Seconded by Mr. Nohmer. Motion passed 4-2-0 by roll call vote [Yes: Denault, Hamm, Burke, Nohmer; No: Gardner, Timko; Abstain: --]

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

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

Findings of Fact:

1. The applicant Anne Whitney requested a Miscellaneous Variation per Code Section 16.7.3.3.B(1) and 16.6.4.C(1) for the expansion of a nonconforming structure.
2. The property is located in the Residential – Rural Conservation zone.
3. The property is a nonconforming lot of record.
4. The existing house is non-conforming due to its proximity to two wetlands and the Western side setback.
5. The applicant proposes to add three additions which will add 150 square feet of floor area.
6. The setback to the Northern wetland would be reduced from 30.8 feet to 28.0 feet.
7. The setback to the Southeastern wetland would be reduced from 32.7 feet to 29.7 feet.
8. The abutters were notified.
9. The meeting was noticed in the Portsmouth Herald on May 19<sup>th</sup>.

Motion to accept the Findings of Fact made by Mr. Hamm. Seconded by Mr. Denault. Motion passed 5-1-0 by roll call vote [Yes: Denault, Hamm, Burke, Nohmer, Timko; No: Gardner; Abstain: --]

Conclusions of Law:

1. The Board found it had the authority to hear this Miscellaneous Variation Request pursuant to Code Section 16.6.4.C(1) and 16.7.3.3.B(1).
2. The Board considered the Basis of Decision and Factors for Consideration set forth in 16.6.6.

Motion to accept the Conclusions of Law made by Mr. Nohmer. Seconded by Mr. Denault. Motion passed 5-1-0 by roll call vote [Yes: Denault, Hamm, Burke, Nohmer, Timko; No: Gardner; Abstain: --]

**6. UNFINISHED BUSINESS**

**7. NEW BUSINESS**

**8. ACCEPTANCE OF PREVIOUS MINUTES**

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

- Chair Timko welcomed Ms. Burke to the Board and announced Mr. Brake's and Ms. Jones' resignation and thanked them for their service. The Board plans to hold an election of officers soon as Mr. Brake was the Vice Chair and Ms. Jones was the secretary.
- Chair Timko announced that the Board could move to hybrid meetings held in Town Council chambers due to the new Executive Order signed by Governor Mills.
- Chair Timko invited the members of the Board to submit requests for training topics for a potential workshop via email. Mr. Gardner suggested engaging Mr. McEachern to hold a workshop. Mr. Hamm suggested potentially holding a practice request/appeal.

**10. ADJOURNMENT**

Motion by Mr. Gardner to adjourn. Second by Mr. Hamm. Motion passed 6-0-0 by voice vote [Yes: Gardner, Denault, Hamm, Burke, Nohmer, Timko; No: --; Abstain: --]

The Kittery Board of Appeals meeting of May 25, 2021 adjourned at 7:38 p.m.

*Submitted by Craig Alfis, Code Enforcement Officer*

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