

# **BOARD OF APPEALS**

## **PACKET OF MATERIALS**

### **MEETING JANUARY 12, 2016**

✓ Cover page with date

✓ Staff report for meeting

✓ Agenda

✓ Minutes for approval

✓ Applications      *Binder*

## BOARD OF APPEALS

### RELOCATION OF NONCONFORMING STRUCTURE REVIEW FORM

#### APPLICATION INFORMATION

Date: December 22, 2015

Board of Appeals Application Number: AB-15-05

Applicant: Greg and Anne Dalton

Property Address: 16 Holland Avenue (Tax Map 104, Lot 036 - 000)

Application: Applicant Requests that the Board of Appeals approve a request to relocate a nonconforming structure within the boundaries of the lot and make findings as outlined in section 125-55C of the Bar Harbor Land Use Ordinance.

#### FINDINGS

Based on the evidence of the administrative record, and after conducting their review, the Town of Bar Harbor Board of Appeals finds:

1. The Bar Harbor Board of Appeals finds that the proposed new location and design are more appropriate with regard to location.

*Agree* \_\_\_\_\_, *Disagree* \_\_\_\_\_, *Not Applicable* \_\_\_\_\_.

2. The Bar Harbor Board of Appeals finds that the proposed new location and design are more appropriate with regard to character and natural features.

*Agree* \_\_\_\_\_, *Disagree* \_\_\_\_\_, *Not Applicable* \_\_\_\_\_.

3. The Bar Harbor Board of Appeals finds that the proposed new location and design is more appropriate with regard to fencing and screening.

*Agree* \_\_\_\_\_, *Disagree* \_\_\_\_\_, *Not Applicable* \_\_\_\_\_.

4. The Bar Harbor Board of Appeals finds that the proposed new location and design is more appropriate with regard to landscaping and topography.

*Agree* \_\_\_\_\_, *Disagree* \_\_\_\_\_, *Not Applicable* \_\_\_\_\_.

5. The Bar Harbor Board of Appeals finds that the proposed new location and design with regard to traffic and access is more appropriate.

*Agree* \_\_\_\_\_, *Disagree* \_\_\_\_\_, *Not Applicable* \_\_\_\_\_.

6. The Bar Harbor Board of Appeals finds that the proposed new location and design with regard to signs and lighting is more appropriate.

*Agree* \_\_\_\_\_, *Disagree* \_\_\_\_\_, *Not Applicable* \_\_\_\_\_.

7. The Bar Harbor Board of Appeals finds that the proposed new location and design with regard to potential nuisance is more appropriate.

*Agree* \_\_\_\_\_, *Disagree* \_\_\_\_\_, *Not Applicable* \_\_\_\_\_.

8. The Bar Harbor Board of Appeals finds that the relocation meets the setback to the greatest practical extent after considering the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, (the subject property is not on a septic system) and the type and amount of vegetation to be removed to accomplish the relocation.

*Agree* \_\_\_\_\_, *Disagree* \_\_\_\_\_, *Not Applicable* \_\_\_\_\_.

**TOWN OF BAR HARBOR**  
**Board of Appeals**

93 Cottage Street, Suite I  
Bar Harbor, Maine 04609-1400  
Tel. 207-288-3329 Fax 207-288-3032

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**DECISION**

**Date:** December 22, 2015  
**Board of Appeals Application Number:** AB-15-05  
**Applicant:** Greg and Anne Dalton  
**Property Address:** 16 Holland Avenue (Tax Map 104, Lot 036 - 000)  
**Application:** Applicant Requests that the Board of Appeals approve a request to relocate a nonconforming structure within the boundaries of the lot and make findings as outlined in section 125-55C of the Bar Harbor Land Use Ordinance.

Under the authority of 125-55C of the Bar Harbor Land Use Ordinance, the Board of Appeals at its January 12, 2016 meeting, by a motion duly made and seconded, and by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ against, found that the nonconforming structure may be relocated within the boundaries of the lot on which the structure is located based on the below noted findings.

**FINDINGS**

Based on the evidence of the administrative record, and after conducting their review, the Town of Bar Harbor Board of Appeals finds:

1. The Bar Harbor Board of Appeals finds that the proposed new location and design are more appropriate with regard to location.
2. The Bar Harbor Board of Appeals finds that the proposed new location and design are more appropriate with regard to character and natural features.
3. The Bar Harbor Board of Appeals finds that the proposed new location and design with regard to fencing and screening is not applicable.
4. The Bar Harbor Board of Appeals finds that the proposed new location and design is more appropriate with regard to landscaping and topography.
5. The Bar Harbor Board of Appeals finds that the proposed new location and design with regard to traffic and access is more appropriate.

6. The Bar Harbor Board of Appeals finds that the proposed new location and design with regard to signs and lighting is not applicable.
7. The Bar Harbor Board of Appeals finds that the proposed new location and design with regard to potential nuisance is not applicable.
8. The Bar Harbor Board of Appeals finds that the relocation meets the setback to the greatest practical extent after considering the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, (the subject property is not on a septic system) and the type and amount of vegetation to be removed to accomplish the relocation.

## CONCLUSION

Based on the findings stated above, and the provisions of the Land Use Ordinance cited, the Board concludes that:

1. Based on the above noted findings, the Bar Harbor Board of Appeals approves the request to remove the existing residential structure and replace it with a similar sized 28 ft. by 36 ft. residential structure as shown in the application AB-2015-05 and permitted under 125-55C of the Bar Harbor Land Use Ordinance.

## DECISION

Based on the findings and conclusions above the Board of Appeals voted to approve this application.

Any interested party is entitled to request a reconsideration of this decision by the Board of Appeals within 10 days from the hearing date when the decision was made.

Signed as a witness to the proceedings:

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Ellen L. Dohmen, Chair

Date

**Agenda**  
**Bar Harbor Board of Appeals**  
**January 12, 2016**  
**Council Chambers - Municipal Building**  
**93 Cottage Street**  
**7:00 PM**

**I. CALL TO ORDER**

**II. ADOPTION OF THE AGENDA**

**III. EXCUSED ABSENCES**

**IV. APPROVAL OF MINUTES**

- a. July 14, 2015

**V. REGULAR BUSINESS**

- a. **Public Hearing** - AB-2015-05 – Relocation of Nonconforming Structure  
**Applicant** – Greg and Anne Dalton  
**Project Location** – 16 Holland Avenue, Bar Harbor, Maine 04609  
**Application** – The applicant requests that the Boards of Appeals approve a request to relocate a nonconforming structure within the boundaries of the lot and make findings as outlined in section 125-55C of the Bar Harbor Land Use Ordinance.

**VI. ADJOURNMENT**

*Application materials are on file with the Bar Harbor Planning Department, 93 Cottage Street, Bar Harbor, and can be viewed during regular business hours, Monday-Friday, 8:30 a.m. to 5:00 p.m.*

*The Board of Appeals strives to hold meetings that are accessible to all. Please contact the Bar Harbor Planning Department by calling 288-3329 or by e-mail to [planningdirector@barharbormaine.gov](mailto:planningdirector@barharbormaine.gov) if you have any questions about this process or to let us know what you may require to facilitate your participation.*

**Minutes**  
**Bar Harbor Board of Appeals**  
**July 14, 2015**  
**Council Chambers – Municipal Building**  
**93 Cottage Street**  
**7:00 P.M.**

**I. ELECTION OF OFFICERS**

*Bob Osborne, Planning Director opened the meeting at 7:00 pm and stated that in accordance with the Town's Charter the Board would begin its July meeting with election of officers.*

a. Chair

*Mr. Osborne asked the Board for nominations for the Chair. Ms. Martin nominated Ellen Dohmen as chair. There were no other nominations. Mr. Osborne called for a vote. The Board voted four in favor and none against for Ellen Dohmen to serve as Chair. Mr. Osborne then handed the meeting off to the Chair.*

b. Vice Chair

*Chair Dohmen asked the Board for nominations for the Vice Chair. Ms. Dohmen nominated Roger Samuel as vice chair. There were no other nominations so Chair Dohmen called for a vote. The Board voted four in favor and none against for Roger Samuel to serve as Vice Chair.*

c. Secretary

*Chair Dohmen asked the Board for nominations for the Secretary. Ms. Dohmen nominated Linda Martin as secretary. There were no other nominations so Chair Dohmen called for a vote. The Board voted four in favor and none against for Linda Martin to serve as Secretary.*

**I. CALL TO ORDER**

*The meeting was called to order at 7:02 PM. Members present: Ellen Dohmen, Chair; Linda Martin, Secretary, Roger Samuel, Vice Chair, Linda Stretch, Member and Kay Stevens-Rosa, Member.*

*Also present: Bob Osborne, Planning Director, Angela Chamberlain, Code Enforcement Officer; Dan Pileggi, legal counsel for the Board of Appeals, Lee Bragg legal counsel for the CEO, Scott and Pamela Allen and their attorney Mike Ross and professional engineer Greg Johnston.*

## II. ADOPTION OF THE AGENDA

*Ms. Martin moved to adopt the agenda as revised July 6. Mr. Samuel seconded the motion and the Board voted 5-0 to approve the motion.*

## III. EXCUSED ABSENCES

*There were no excused absences.*

## IV. APPROVAL OF MINUTES

### a. June 10, 2015

*Chair Dohmen indicated that the minutes were not in the packet and would be deferred to the next meeting.*

## V. REGULAR BUSINESS

### a. **Public Hearing** - AB-2015-03 – Administrative Appeal

**Applicant** – Scott and Pamela Allen

**Project Location** – 907 State Highway 3, Bar Harbor, Maine 04609, Tax Map 207, Lot 003-000

**Application** – The applicant requests that the Boards of Appeals hold a public hearing for an administrative appeal of the Code Enforcement Officer's denial of a building permit on April 16, 2015 pursuant to 125-103 of the Bar Harbor Land Use Ordinance.

*Chair Dohmen opened the public hearing and asked for the Appellant to proceed:*

*Mr. Ross spoke as legal counsel to the Allens. He indicated that they are present to appeal the denial of a building permit for a foundation. The two primary issues are how much was spent and was it done in a timely manner?*

*Mr. Ross discussed provisions of Chapter 125-90 B. He stated that the determination of how much was spent and was it done in a timely manner is the job of the Planning Board. He stated that there was a procedural issue with the determination that the subdivision approval has expired requiring the Planning Board to notify the Registry of Deeds.*

*“Upon determining that a developer's approval has expired under this subsection the Planning Board shall have a notice to that effect placed in the Hancock County Registry of Deeds”. He stated that he is not able to determine that the Planning Board has done that. He stated that the Planning Board's failure to determine the development's approval is expired and failure to notify the Registry that the approval is voided makes the question of the Board of Appeals review of the substantial completion question moot. The approval is valid until the Planning Board says otherwise.*

*Mr. Ross indicated that the Allens were not apprised that the subdivision approval was at issue for eight years. Mr. Ross stated that the Town continues to tax the property as an approved subdivision. The proper procedure for notification of the violation is a threshold issue and we contend that it may make the other issues in front of the Board of Appeals not pertinent.*

*Mr. Allen described his issues with the project. He indicated that he is paying taxes on an eight-lot subdivision. He noted that he was not aware of an issue until they went in for the building permit, and he stated that they had not been notified of the violation. He indicated that he has built two dwelling units and sold two dwelling units.*

*Lee Bragg, attorney for the Code Enforcement Officer indicated his legal opinion that tax treatment is irrelevant to this issue and is between the tax payer and assessor to sort out. Tax issues do not trump the land use ordinance.*

*Mr. Bragg stated that on the calculation of 30%, it would follow that, 30% of ten units is three units. There are representations on what the applicant has spent but on a 10 lot subdivision that is three lots.*

*Mr. Bragg noted that the LUO says that upon determining that the approval has expired the Planning Board shall have a notice placed in the Registry. But it does not place a burden on Codes or the Planning Board to police completion of projects. Should the Planning Board become aware they would place something in the Registry.*

*Chair Dohen asked Mr. Pileggi if he wanted the Board to take up separate issues or wait until all of the issues were out there and deal with them together. Attorney Pileggi stated that in his opinion that the Board of Appeals should consider all of the issues together and not immediately move to the question about the Planning Board notification. Hearing from both sides on all of the issues would be appropriate.*

*Attorney Ross started a detail of the timeline stating; July 14, 2005 a permit for a septic system was issued for a two-unit building, September 21, 2005 a foundation permit was issued. May 17, 2006 Sketch Plan was submitted, July 19, 2006 application was made for a ten unit subdivision. September 6, 2006 the Planning Board approved the application. November 1, 2006 the plan was recorded. 2007 a certificate of occupancy was issued for the two-unit building. October 3, 2014 a foundation building permit was issued but noted at that time that the issuance of the permit was not related to the Acadia Reach subdivision and explained why. On April 16, 2015 a second foundation permit application was denied and that is what they are appealing tonight.*

*Greg Johnston, PE was introduced to speak regarding the costs of the subdivision.*

*Chair Dohmen questioned what the Board would learn from that given that those are the details of the sort that the Planning Board would review under their approval criteria. She noted that they have Mr. Collier's breakdown of expenses.*

*Mr. Pileggi questioned what is the relevance of the proposed testimony? Section 125-100 gives Code Enforcement Officer exclusive authority over enforcement, notice of*

violations, inspections, investigations and records. If Mr. Ross can demonstrate where the Planning Board has such authority perhaps he could provide that or we can move on from the Planning Board discussion.

Chair Dohmen read into the record: Section 125-100 B states: "Enforcement and notice of violation. The Code Enforcement Officer shall enforce the provisions of this chapter and the terms and conditions of any permit or approval granted under this chapter, including approvals from the Planning Board, the Design Review Board, the Board of Appeals, the Planning Department and the Code Enforcement Officer. If after investigation, the Code Enforcement Officer finds that any provision of this chapter or any term or condition of any permit or approval granted under this chapter is being violated, he/she shall give written notice by certified mail, return receipt requested, of such of such violation to the owner and to the occupant of such premises, and to any other person responsible for such violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings, and abatement of nuisance conditions, be taken within some designated reasonable time. A copy of such notice shall be submitted to the Town Council and shall be maintained as a permanent record". This clearly gave the Code Enforcement Officer the authority to do what she did.

Mr. Ross stipulated that the Code Enforcement Officer had the authority to do what she did but that the proper procedure was not followed by the Planning Board. He also noted that Section 125-89 Inspections part B states that the CEO inspects to ensure satisfactory completion of improvements and utilities required by the Planning Board. This makes sense that the CEO reports to the Planning Board that something is amiss and the Board puts notice in the Registry.

Chair Dohmen read the section into the record: 125-89 B. "At least five days prior to commencing each major phase of construction of required improvements, the developer or builder shall notify the Code Enforcement Officer in writing of the time when he/she proposes to commence construction of such improvements, so that the municipal officers can cause inspection to be made to ensure that all municipal specifications and requirements shall be met during construction of the required improvements and to ensure the satisfactory completion of improvements and utilities required by the Planning Board."

Mr. Ross indicated that section 90 B calls for the Planning Board to put on record that the approval has expired.

Mr. Ross spoke about the lack of definition of total cost as it relates to completion. He noted that the approval did not specify the buildings to be built. The cost of construction was lower than the initial estimates. The Town does not have evidence that the 30 percent was not expended.

Angela Chamberlain, Code Enforcement Officer spoke about the timeline of the subdivision approval and construction. September, 2005 a foundation permit for a two-family dwelling was issued, In May 2006 subdivision sketch plan was filed and September

*1, 2006 the subdivision was approved for 8 additional dwelling units. The Planning Board considered the existing two units in their process. She noted that the subdivision remains unconstructed with no additional units, no additional septic systems, no additional driveways and no road improvements beyond the two units originally constructed. The ordinance states that work must commence within six months and 30% completion within 18 months. Applicant's own review indicated that there was about \$20,000 of work done after the Planning Board approval nowhere near the \$300,000 that would represent 30%. The regulation helps the Town assure that projects will be constructed to the current standard. Ask that the Board uphold the denial of the permit.*

*Lee Bragg indicated that the subdivision must be substantially complete within 18 months of commencement. Based on investments made during that time frame and does not include prior activity prior to commencement. During that 18 month period virtually nothing happened.*

*Chair Dohmen opened the public hearing and asked for comments.*

*Ms. Martin indicated that she is concerned that no one would know that a subdivision would lapse and we have a very complicated ordinance.*

*Mr. Samuel asked about the reported expenses prior to the Planning Board approval. Mr. Ross explained that he contends that all of the cost from the first two dwelling units count toward the overall cost.*

*Ms. Stevens-Rosa asked about the right to build on a piece of land and the time frame involved. She also asked about the work done prior to approval and what can be counted.*

*Mr. Pileggi indicated that you are bound to what the ordinance says. Start by a certain number of months, 30% completion by a certain number of months. There was a building permit for a two unit but it was not part of the substantial completion calculation because it preexists the approval.*

*Greg Johnston, PE indicated 125-90 that the Planning Board makes a determination that this is not optional. Also ongoing in nature would include such things as units and septic systems are ongoing in nature.*

*Mr. Bragg indicated that from November 1, 2006 to a date 18 months later May 1, 2008 that zero was done or spent related to what the Planning Board approved.*

*Mr. Ross stated that the Planning Board approved 10 units and the approval allows the developer to sell a unit that is not built.*

*Chair Dohmen closed the public hearing and the Board proceeded to deliberate the issues:*

*The Board discussed the question of substantial completion and on the basis of expenses 30 percent of what exactly? It was argued that the first two units were not part of the 30% because they commenced prior to the approval of the subdivision and they were not a requirement of the subdivision approval.*

*The Board discussed the question of the Code Enforcement Officer's authority under Section 125-100 B to enforce the Land Use Ordinance and give notice of violations as it relates to this subdivision approval and the requested issuance of a building permit for construction of a building within this subdivision.*

*Mr. Samuel made a motion that the Board finds that the Code Enforcement Officer has the authority under 125-100 B to take the action of denial of the building permit. Ms. Stretch seconded the motion which was voted five in favor and none against.*

*Mr. Samuel made a motion that the Board finds that what the Planning Board approved was construction of four two-family buildings. Ms. Martin seconded the motion which failed with a vote of two in favor and three against.*

*Chair Dohmen questioned what the Board understands the Planning Board to have approved, was it five, two-family buildings for a total of ten dwellings?*

*Ms. Stretch indicated that it was the intention of the Planning Board to approve a ten unit subdivision.*

*Chair Dohmen indicated that the LUO does not deal with intent.*

*Attorney Pileggi cautioned that the LUO does not allow the Board of Appeals to consider intent.*

*Chair Dohmen read from the record that the Planning Board had a finding that this subdivision was exempt from the previously discussed moratorium because they found that it met the exemption criteria.*

*Chair Dohmen read from the record that the approval was for eight not ten units. Any activity that we are counting costs for must have happened in that six month and 18 month time frame after the Planning Board approval of the subdivision.*

*Mr. Samuel made a motion that the Board find that no significant activities or uses occurred within the six months after the September, 2006 approval. Ms. Martin seconded the motion which was approved unanimously.*

*After some discussion Ms. Martin made a motion to reconsider the previous finding and it was seconded by Ms. Stretch and was approved three in favor and two against (having the effect of nullifying the finding).*

*Chair Dohmen suggested that the Board determine some sort of justification for overturning the decision or vote to uphold the decision.*

*The Board discussed the cost analysis and what exactly was subject to Planning Board approval. There was consensus that clearing, landscaping and tree removal were allowable costs and that furniture was not. There was documentation that the site was cleared between September 2006 and March 2007.*

*Ms. Stevens-Rosa made a motion that the Board find activity started within the six month period after the September 2006 Planning Board approval. Ms. Martin seconded the motion which was approved five in favor and none against.*

*Ms. Stevens-Rosa made a motion that the Board find that substantial completion of activities and uses for which the Planning Board approval is required totaled at least 30 percent of total costs. Ms. Martin seconded the motion which failed with a vote of none in favor and three opposed.*

*Mr. Samuel made a motion that the Board find that based on the approved findings that the Bar Harbor Board of Appeals deny the appeal. This motion was seconded by Ms. Martin and the vote was three in favor and two against.*

*The appeal is denied.*

## **FINDINGS**

*Based on the evidence of the administrative record, and after conducting their review, the Board of Appeals finds:*

- 1. Mr. Samuel made a motion that the Bar Harbor Board of Appeals finds that the Code Enforcement Officer has the authority under 125-100 B to take the action of denial of the building permit. Ms. Stretch seconded the motion which was voted five in favor and none against.*
- 2. Ms. Stevens-Rosa made a motion that the Bar Harbor Board of Appeals finds that activity started within the six month period after the September 2006 Planning Board approval. Ms. Martin seconded the motion which was approved five in favor and none against.*
- 3. Ms. Stevens-Rosa made a motion that the Bar Harbor Board of Appeals finds that substantial completion of activities and uses for which the Planning Board approval is required totaled at least 30 percent of total costs. Ms. Martin seconded the motion which failed with a vote of none in favor and three opposed.*

*Mr. Samuel made a motion that the Bar Harbor Board of Appeals determines that based on the approved findings that the Bar Harbor Board of Appeals denies the appeal. This motion was seconded by Ms. Martin and the vote was three in favor and two against.*

## **VI. ADJOURNMENT**

*Ms. Martin moved to adjourn at 9:53 PM. Mr. Samuel seconded the motion and the Board voted unanimously to approve the motion.*

*Signed as approved:*

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**Respectfully submitted, Linda Martin, Secretary  
Board of Appeals, Town of Bar Harbor**

**Date**

RECEIVED

DEC 22 2015



TOWN OF BAR HARBOR BOARD OF APPEALS  
PLANNING APPLICATION FOR RELOCATION OF A NONCONFORMING STRUCTURE  
( as permitted in Section 125-55.C of the Bar Harbor Land Use Ordinance)

APPLICATION # AB-15-05 DATE 12/12/15

FEE \$ 380.00 MAP 104 LOT 03b

USE OF STRUCTURE residential single family

APPLICANT :

Name Greg + Anne Dalton

Address 7 Rocky Rd

Mt Desert Me 04660

Telephone 207 288-2627

Email gdalton@bhbt.com

OWNER :

Name Same ↗

Address \_\_\_\_\_

Telephone \_\_\_\_\_

Email \_\_\_\_\_

PROJECT REPRESENTATIVES:

Name Mike Wight (Broughman Builders)

Address 6 Acadia Way

Ellsworth Me 04605

Telephone 207-460-3133



BAR HARBOR BOARD OF APPEALS  
APPLICATION FOR RELOCATION OF A NONCONFORMING STRUCTURE  
(as permitted in Section 125-55.C of the Bar Harbor Land Use Ordinance)

Email gdalton@bhbt.com

**SUBJECT PROPERTY**

Physical Location 16 Holland Ave BH

Zoning District residential C

Tax Map and Lot Number 104-636

Please describe in detail the proposal and attach an existing and proposed site plan (use additional sheets if necessary):

Old residential Unit is in disrepair and distracts from the neighborhood. We plan to replace the structure with a similar sized small residential unit. See attached site plan

Please state how this proposed new location and design are more appropriate with regard to location:

The current structure is 20' from Holland Ave and 15' from the Irving lot - currently non-conforming. Plan to reposition new structure 18' from Holland Ave essentially moving the footprint back 3' to allow for parking in front. The replacement residence would be less non-conforming.

Please state how this proposed new location and design are more appropriate with regard to character and natural features:

The current structure is close to the road (Holland Ave) and without a solid foundation and would be replaced with a small cape further improving the neighborhood.



BAR HARBOR BOARD OF APPEALS  
APPLICATION FOR RELOCATION OF A NONCONFORMING STRUCTURE  
( as permitted in Section 125-55.C of the Bar Harbor Land Use Ordinance)

Please state how this proposed new location and design are more appropriate with regard to fencing and screening:

Ultimately a fence will be erected  
if Irving decides to build on the abutting vacant lot.

Please state how this proposed new location and design are more appropriate with regard to landscaping and topography:

The property would be well landscaped with a  
nice entrance in the front and parking to  
the right of the building

Please state how this proposed new location and design are more appropriate with regard to traffic and access:

Traffic would not be impacted entering Holland  
as the property is currently a residential use.  
Parking & driveway would be defined and improved.



BAR HARBOR BOARD OF APPEALS  
APPLICATION FOR RELOCATION OF A NONCONFORMING STRUCTURE  
( as permitted in Section 125-55.C of the Bar Harbor Land Use Ordinance)

Please state how this proposed new location and design are more appropriate with regard to signs and lighting:

The property would not have signs or lighting other than external steps

Please state how this proposed new location and design are more appropriate with regard to potential nuisance:

The new smaller residence would not pose a nuisance. It would improve and upgrade the neighborhood.

If applicable, please demonstrate that the present subsurface wastewater disposal system meets the requirements of State Law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules.

Public water + sewer

In determining whether the building relocation meets the setback to the greatest practical extent, the Board of Appeals shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.



**BAR HARBOR BOARD OF APPEALS**  
**APPLICATION FOR RELOCATION OF A NONCONFORMING STRUCTURE**  
( as permitted in Section 125-55.C of the Bar Harbor Land Use Ordinance)

Please attach copies of the following:

- Your deed or other evidence of interest in the property and a letter of authorization signed by the property owner if you are not the property owner;
- A detailed diagram of subject property showing both the physical characteristics necessitating the relocation;
- A detailed diagram showing the proposed location of the relocated structure(s);
- Photographs of the subject property depicting those areas for which the relocation is sought;
- Other documentary evidence you wish to submit in order to demonstrate the requirements of the Bar Harbor Land Use Ordinance §125-55C will be met.
- List of landowners within 300 feet of the subject property (to be provided by staff upon submission).

**CERTIFICATION:**

*This application and all information submitted herewith are true and correct to the best of my knowledge.*

\_\_\_\_\_  
**Applicant**

12/12/15  
\_\_\_\_\_  
**Date**

**PROPOSED MOTION**

As required by section 125-55.C of the Bar Harbor Land Use Ordinance, the Appeals Board finds that the new location and design are more appropriate with regard to:

- a. Location;
- b. Character and natural features;
- c. Fencing and screening;
- d. Landscaping and topography;
- e. Traffic and access;
- f. Signs and lighting;
- g. Potential nuisance;

And that the site of relocation conforms to all setback requirements to the greatest practical extent.  
In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.

**QUITCLAIM DEED WITH COVENANT**

**CHAUNCEY A. MCFARLAND, JR.**, having a mailing address of 8 Holland Avenue, Bar Harbor, ME 04609, for consideration paid, **GRANTS** to **GREGORY W. DALTON** and **ANNE A. DALTON**, both having a mailing address of 7 Rocky Road, Mount Desert, ME 04660, as **JOINT TENANTS**, with **QUITCLAIM COVENANT**, a certain lot or parcel of land, together with the buildings thereon, situated in Bar Harbor, Hancock County, Maine, more particularly bounded and described in **EXHIBIT A** attached hereto and incorporated herein.

**WITNESS** his hand this *28<sup>th</sup>* day of February, 2001.

*Chauncey A. McFarland Jr*  
\_\_\_\_\_  
Chauncey A. McFarland, Jr.

MAINE REAL ESTATE  
TRANSFER TAX PAID

**STATE OF MAINE**  
**HANCOCK, ss.**

February *28*, 2001

Personally appeared the above-named Chauncey A. McFarland, Jr. and acknowledged the foregoing instrument to be his free act and deed.

*Nathaniel R. Fenton*  
\_\_\_\_\_  
Notary Public/Attorney

**NATHANIEL R. FENTON**  
\_\_\_\_\_  
Printed name

**EXHIBIT A**

A certain lot or parcel of land together with the buildings thereon situated in Bar Harbor, Hancock County, Maine, and being more particularly bounded and described in a deed from Walter F. Bird to Chauncey A. McFarland, Jr. and Nancy M. McFarland, dated June 1, 1964, and recorded in the Hancock County Registry of Deeds in Book 960, Page 37 as follows:

"Beginning at a drill hole in the top of a stone set in the ground on the east side of Holland Avenue, at the northwest corner of land of Mary A. Small; thence running north 6° 45' east along said Holland Avenue to land of Gertrude S. Rice; thence south 83° east one hundred and sixty nine and nine tenths feet to a cedar post set in the line of land formerly of W. B. Rice; thence south 6° 45' west ninety nine feet to an iron pipe driven in the ground; thence north 81° 35' west, sixty two and five tenths feet to a drillhole in the top of a stone post set in the ground and marking the northeast corner of said land of said Mary A. Small; thence north 80° west one hundred six and seventy five one hundredths feet to the point of beginning and containing 16200 square feet, more or less together with the buildings thereon."

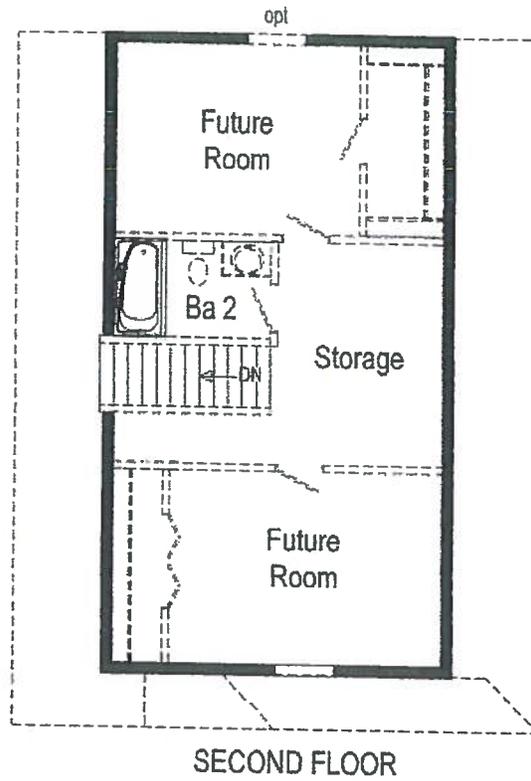
Nancy A. McFarland died on November 26, 1979, leaving the Grantor as the sole surviving joint tenant.

From: **Greg Dalton** [gdalton@bhbt.com](mailto:gdalton@bhbt.com)  
Subject: 16 holland  
Date: December 16, 2015 at 4:05 PM  
To: Greg Dalton [gdalton@bhbt.com](mailto:gdalton@bhbt.com)

-----Original Message-----

From: Greg Dalton  
Sent: Wednesday, December 16, 2015 2:02 PM  
To: Greg Dalton  
Subject:





Proposed Second Floor:  
All design materials and work to be the responsibility of the builders on site to local codes. Light, vent, eg heating and plumbing are the responsibility of the bu

HP108-A 2836 Approx . 606 Sq. Ft. Second Floor

Nantucke

Builder: PENNWEST	Title: 2836 Literature	Drawn By: OY Revision #: #####	Date: 8/3/2009 Date: 7-15-10	Scale: 1'-0" = 1'-0" Ref: #####	Model: HP108-A Customer: -
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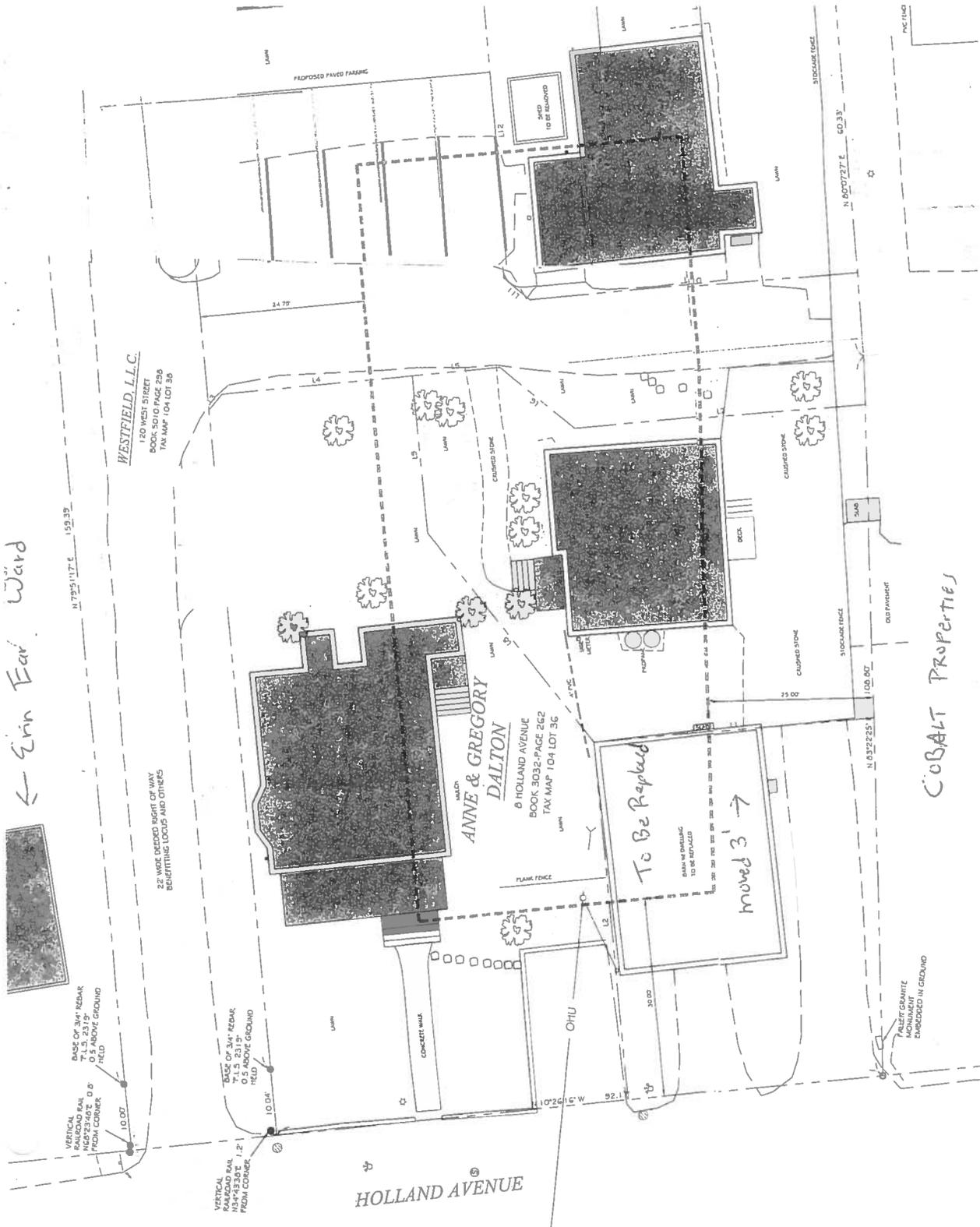




← Erin Far Ward

Westfield LLC

Town of  
Bar Harbor



COBALT PROPERTIES

HOLLAND AVENUE

AND AVENUE

