

Minutes
Bar Harbor Board of Appeals
February 14, 2017
Council Chambers - Municipal Building
93 Cottage Street
7:00 PM

I. CALL TO ORDER

The Chair called the meeting to order at 7:00 PM. Members present: Ellen Dohmen, Chair; Linda Martin, Secretary; Kay Stevens-Rosa, Member; and Roger Samuel, Vice Chair.

Also present: Angela Chamberlain, Code Enforcement Officer; Jason Barrett, legal counsel for the appellant; Dan Pileggi, legal counsel for the Appeals Board; Peter and Ursula Shertenleib, appellants; Jeff Young, appellee; Eben Salvatore, representative for the appellee; and Lynne Williams.

II. ADOPTION OF THE AGENDA

Mr. Samuel moved to adopt the agenda as prepared. Ms. Martin seconded the motion and the Board voted 4-0 to approve the motion.

III. EXCUSED ABSENCES

Ms. Stretch was absent.

IV. APPROVAL OF MINUTES

a. December 13, 2016

Ms. Dohmen noted her recusal because she was not present at the December 13, 2016 meeting.

Ms. Martin moved to approve the December 13, 2016 minutes as prepared. Ms. Stevens-Rosa seconded the motion and the Board voted 3-0 to approve the motion.

V. REGULAR BUSINESS

a. **Public Hearing** - AB-2016-02 – Administrative Appeal
Applicant – Peter and Ursula Schertenlieb
Project Location – 47 & 49 Rodick Street, Bar Harbor, Maine 04609

Application – The applicant requests that the Appeals Board hold a public hearing for an administrative appeal of the Code Enforcement Officer's issuance of a building permit on November 14, 2016 pursuant to section 125-103 of the Bar Harbor Land Use Ordinance.

Ms. Stevens-Rosa disclosed that she had prepared plans for a project at the appellants home several years ago and she also disclosed that she recently bought property near the appellant which would make her an abutter.

The Chair asked their attorney to weigh in on that matter and he stated that Ms. Stevens-Rosa should recuse herself because she was technically an interested party by owning land as an abutter.

Ms. Stevens-Rosa asked the Board to recuse her the Board voted unanimously for her to be recused.

Ms. Dohmen began by stating that the first issue the Board needed to deal with was the timeliness of the appeal. The appeal was submitted on December 29, 2016 and the building permit was issued on November 14, 2016. She noted that it was clear from the appellants own documents they were aware of the project on November 9, 2016 yet did not appeal until the 29th of December 2016, more than 30 days after the issuance of the permit. Ms. Dohmen read from section 125-103 of the Bar Harbor Land Use Ordinance which describes the authority of the Board of Appeals to hear appeals and the time frames for submitting an appeal. She noted that there were no good cause exception contained in that section which would allow the Board to hear an appeal beyond the 30 day time period. Ms. Dohmen stated that the Land Use Ordinance applies to the applicant, but also applies to what the Appeals Board is allowed to do, and there is no language in Land Use Ordinance which allows the Appeals Board to act differently from the dictates of Land Use Ordinance in not allowing them to hear an appeal which is more than 30 days after the file date.

Mr. Samuel moved that the appeal was untimely and should be denied. Ms. Martin seconded the motion and the Board voted 3-0 to deny the appeal.

VI. OTHER BUSINESS

There was none.

VII. ADJOURNMENT

Mr. Samuel moved to adjourn at 7:07 PM. Ms. Martin seconded the motion and the Board voted 4-0 to approve the motion.

Signed as approved:



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

Date