

**Minutes**  
**Bar Harbor Board of Appeals**  
**July 26, 2017**  
**Council Chambers - Municipal Building**  
**93 Cottage Street**  
**7:00 PM**

**I. ELECTION OF OFFICERS**

*Ms. Martin nominated Ms. Dohmen as Chair, Mr. Samuel as Vice Chair, and Ms. Martin as Secretary. The Board voted 5-0 to approve the nomination.*

*Ms. Dohmen thanked Ms. Stretch for her three years on the Board and welcomed Mr. Siklosi.*

**II. CALL TO ORDER**

*The Chair called the meeting to order at 7:03 PM. Members present: Ellen Dohmen, Chair; Linda Martin, Secretary; Kay Stevens-Rosa, Member; Roger Samuel, Vice Chair; and Michael Siklosi, Member.*

*Also present: Robert Osborne, Planning Director.*

**III. ADOPTION OF THE AGENDA**

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

**IV. EXCUSED ABSENCES**

*There were none.*

**V. APPROVAL OF MINUTES**

a. February 14, 2017

*Ms. Martin moved to approve the February 14, 2017 minutes as prepared with the correction that the "b" in board be capitalized on page 2. Mr. Samuel seconded the motion and the Board voted 5-0 to approve the motion.*

**VI. REGULAR BUSINESS**

a. **Public Hearing** - AB-2017-01 – Administrative Appeal  
**Applicant** – Robert & Anne Bahr, Michelle & Eric Alvin, Andrew Geel  
**Project Location** – 68 Mount Desert Street, Bar Harbor, Maine 04609

**Application** – The applicant requests that the Appeals Board hold a public hearing for an administrative appeal of the Planning Board’s written decision of approval of Conditional Use CU 2016-01 on April 13, 2017 pursuant to section 125-103 of the Bar Harbor Land Use Ordinance.

*Mr. Samuel disclosed that he has been in the Bed and Breakfast business for over 20 years and recently sold his business to one of the appellants so he was requesting that he be recused.*

*Mr. Siklosi moved that Mr. Samuel be recused from this item. Ms. Stevens-Rosa seconded the motion and the Board voted 5-0 to accept the motion.*

*Mr. Samuel left the meeting.*

*Ms. Martin disclosed that she was a noticed abutter and pursuant to the ethics ordinance, she needed to be recused.*

*Mr. Siklosi moved that Ms. Martin be recused from this item. Ms. Stevens-Rosa seconded the motion and the Board voted 4-0 to approve the motion.*

*Ms. Martin left the meeting.*

*Ms. Dohmen explained the rules of how the Board would proceed and she added that any vote would require a full majority of the Board, not a majority of the quorum, so any vote would need to be unanimous to pass.*

*Ms. O’Connell introduced herself and gave an overview of her arguments. She asked the Board to focus on the interpretation of Bed & Breakfast III, particularly the piece about it being within “a dwelling unit occupied by the owner/innkeeper”. She asked the Board to look at this definition, look at the transcript of the Planning Board meeting where they discussed whether this was within a dwelling unit as required. She read the Board the purpose of the Mount Desert Street Corridor and stated that hotels and motels are not in keeping the purpose and not an allowed use in the district. She asked the Board to look at the transient accommodation definitions and to note that there were room limits on all of them.*

*Mr. Geel spoke and argued that this is not a dwelling unit as outlined in the definition and is not in keeping with the comprehensive plan.*

*Mr. Alvin also offered that there are 27 inns which are part of the Bed and Breakfast Association and the average number of rooms is 10. He said that this structure far exceeds the average.*

*Mr. Pottle introduced himself. He noted that the appellee went through a very lengthy and rigorous review process with the Planning Board and Design*

*Review Board. He also stated that he disagreed with Ms. O'Connell's assertion that B & B III must be located within an existing building and pointed out that other definitions included a reference to structures constructed prior to June 8, 2010 but B & B III did not include that requirement. He also noted that the criteria does not include a standard for the number of guest rooms. He argued that the transient accommodation definitions are not relevant to the determination of use.*

*Mr. Pottle also stated that he did not understand the assertion that the applicant was not permitted to reduce the lot coverage on the lot. He clarified that the nonconforming lot coverage was being reduced and while the existing building did not meet setbacks, the new building would as proposed. He added that the use was being changed from a nonconforming use to a conforming use.*

*He reiterated that the Planning Board had not clearly erred in approving the project.*

*Ms. Dohmen opened the public hearing.*

*Joe Cough spoke and explained that he was speaking as a citizen, not as a Planning Board member and he had not participated in the Planning Board proceedings. He asked the Board to review the lot coverage calculations and exemptions pursuant to section 125-67 B. (8). He expressed concerns that the exception was not applied to the existing site plan but only to the proposed site plan to show less lot coverage. Mr. Johnston assured the Board that the lot coverage was calculated the same way on the pre-existing site plan and the proposed site plan. Mr. Cough also stated that he felt that a loading berth was required for this use. He also asked how a tractor trailer could turn right onto Spring Street and pointed to section 125-67 E. (29).*

*Ms. Katherine Long-Lilly spoke as an abutter to the development.*

*Scott Burns spoke and identified himself as the owner of the Mira Monte Inn and he asked how stormwater was being managed and if the stormwater system had the capacity to support the development. It was noted that the Planning Board approved a stormwater plan.*

*Pat Samuel spoke and stated that she was a member of the Economic Development Task Force that developed the B&B definitions. She recalled how the uses were developed and added that there was never any intention that B&B III only be in existing structures and the Task Force deliberately did not add a room number requirement.*

*Ms. Dohmen closed the public hearing.*

*Ms. Stevens-Rosa stated that she was struggling with the dwelling unit piece of the definition. She did not feel that it met that definition.*

*Ms. Dohmen disagreed and felt that the Planning Board acted appropriately and that the use met the definition.*

*Mr. Siklosi agreed with Ms. Dohmen and added that it seemed that the biggest concern with the project was with the scale. He didn't think there would've been any opposition to the project if it were for a ten room B&B and he noted that the ordinance does not put limitations on the number of rooms nor the size of the building.*

*Mr. Siklosi moved to reject the appeal. Ms. Stevens-Rosa seconded the motion and the Board voted 3-0 to approve the motion.*

**VII. OTHER BUSINESS**

*There was none.*

**VIII. ADJOURNMENT**

*The Chair adjourned the meeting at 9:30 PM.*

*Ben A. Samuel, Vice Chair for* *9/12/17*  
**Ellen Dohmen, Appeals Board Chair** **Date**