

**Minutes  
Bar Harbor Board of Appeals  
March 9, 2010**

**I. CALL TO ORDER — 7 PM**

*Members present: Ellen Dohmen, Chair; Roger Samuel, Vice-Chair; Michael Siklosi, Member; Donald Bell, Member; Rachel Moses, Associate Member.*

*Also present: Anne Krieg, Planning Director; Brian Madigan, Staff Planner.*

**II. EXCUSED ABSENCES**

Ms Dohmen stated that Mr. Devore was an excused absence for the evening.

**III. APPROVAL OF MINUTES**

November 10, 2009

*Mr. Bell moved to approve the minutes from the November 10, 2009 meeting. Ms. Moses seconded the motion and the Board voted 3-0-2 in favor of the motion with Mr.*

**IV. ADOPTION OF THE AGENDA**

*Mr. Siklosi moved to adopt the agenda as written. Mr. Samuel seconded the motion and the Board voted unanimously to approve the motion.*

**V. PUBLIC HEARINGS:**

- A. AB-10-01 –Request for change in nonconforming use – Kathleen Field - 3 Wayman Lane, Bar Harbor, ME 04609.** Request for change of nonconforming use for property at 7 Stephens Lane, Bar Harbor (Assessor Map 105, Lot 005).

Ms. Dohmen discussed the current application. She noted the property had previously been used a restaurant and commercial space. The applicant stated that she planned to have a total of three to five rentable bedrooms, but would only advertise three parking spaces.

Ms. Dohmen reviewed Section 125-54 of the Land Use Ordinance aloud. She indicated that in this case, the Board is tasked with making a determination that the use proposed would have no greater adverse impact than the current use of the property. She noted the property is currently used a commercial retail space.

The Board debated Section 122-54(G) of the Land Use Ordinance. Mr. Samuel questioned whether the change in use from commercial use to a Vacation Rental would also imply that the property is a nonconforming Vacation Rental, and therefore would assume the protections in Section 125-54(G).

Ms. Krieg, Ms. Moses, Mr. Siklosi and Mr. Samuel debated this question at length. Ms. Dohmen stated that the more pertinent question for the Board to consider is whether or not the change in use would cause a greater adverse impact on the property or its surroundings.

*Mr. Siklosi moved to allow the current non-conforming use of the property to become a Vacation Rental in that no greater adverse impact would occur as a result of this change. Ms. Moses seconded the motion and the Board voted unanimously to approve the motion.*

**VI. OTHER BUSINESS**

**A. Foss appeal update**

Ms. Krieg stated that the Code Enforcement Officer is currently working with the Town Attorney to determine how the project might come back to her directly without involving the Board of Appeals. Ms. Krieg also stated that the Town Council elected not to appeal the judge's decision.

**VII. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA**

Mr. Siklosi, Ms. Moses, and Ms. Dohmen debated the implications of the Foss decision at length. Ms. Moses stated that she did not feel the judge ruled correctly. Ms. Dohmen and Mr. Siklosi stated that they both felt this particular case was a unique situation, and the resulting decision would not set precedent.

**VII. ADJOURNMENT**

*Mr. Samuel moved to adjourn the meeting. Mr. Siklosi seconded the motion and the Board voted unanimously to approve the motion. The meeting was adjourned at 7:40 pm.*

*Minutes approved by the Board of Appeals:*

*Ellen L. Dohmen*  
Ellen L. Dohmen; Chair, Board of Appeals *10 May 10*