

Agenda — Bar Harbor Board of Appeals
August 9, 2022 — 4:00 PM
Remote Meeting – Via Zoom

Under the Board's Remote Participation Policy, this meeting will be conducted fully remotely (via the online video meeting platform Zoom) due to the urgent issue of the continuing COVID-19 pandemic and the declarations of a public health emergency by both the United States and Maine departments of Health and Human Services.

Members of the public may view the proceeding by watching Spectrum channel 7 (in Bar Harbor) or by visiting <https://www.townhallstreams.com> and selecting Bar Harbor from the dropdown menu. Instructions on how to join the Zoom webinar and to offer comment during the public hearing portion of the meeting are posted online at: <https://www.barharbormaine.gov/216/Appeals-Board>.

The application listed below is also posted there for public review, and a copy is also available in the Planning Office in the Municipal Building at 93 Cottage Street (office hours are Monday-Friday, 8:30 AM to 5 PM).

In order to assure your full participation in this meeting, please inform Planning Department staff of any special requirements you might have. Please call (207) 288-3329.

- I. CALL TO ORDER**
- II. ADOPTION OF THE AGENDA**
- III. EXCUSED ABSENCES**
- IV. ELECTION OF OFFICERS**
 - a. Chairperson
 - b. Vice-chairperson
 - c. Secretary
- V. APPROVAL OF MINUTES**
 - a. February 8, 2022
- VI. REGULAR BUSINESS**
 - a. **Public Hearing - AB-2022-02 – Administrative Appeal**
Applicant – Jennifer Paigen Wales
Project Location – 47 Greeley Avenue
Application – The applicant requests that the Board of Appeals hold a public hearing for an administrative appeal of the Code Enforcement Officer's denial on June 8, 2022 of a vacation rental (short-term rental) registration application, pursuant to §125-103 of the Bar Harbor Land Use Ordinance.
- VII. OTHER BUSINESS**
- VIII. ADJOURNMENT**

Minutes — Bar Harbor Board of Appeals
Tuesday, February 8, 2022 — 4:30 PM — via Zoom

Under the Board's Remote Participation Policy (adopted August 30, 2021), this meeting was conducted fully remotely — via the online video meeting platform Zoom — due to the urgent issue of the continuing COVID-19 pandemic and the declarations of a public health emergency by both the US and Maine departments of Health and Human Services.

Members of the public were able to view the proceeding by watching Spectrum channel 7 (in Bar Harbor) or by visiting <https://www.townhallstreams.com> (where it is also archived for future viewing). Members of the public were also able to join the Zoom webinar and to offer comment during the public hearing portion of the meeting by following instructions that were posted online at: <https://www.barharbormaine.gov/216/Appeals-Board>.

Chairperson Ellen Dohmen, Vice-chairperson Anna Durand, Secretary Robert Webber, Member Heather Peterson and Associate Member Michael Siklosi were all present. The fifth regular member seat on the Board is presently vacant. Associate Member Siklosi served as a voting member during the meeting.

Town staff present were Planning Director Michele Gagnon, Code Enforcement Officer Angela Chamberlain, Deputy Code Enforcement Officer Michael Gurtler and Assistant Planner Steven Fuller. Daniel Farrenkopf and Misha Mytar were present as the applicants.

I. CALL TO ORDER

Chairperson Dohmen called the meeting to order at 4:31 PM.

II. ADOPTION OF THE AGENDA

Mr. Siklosi moved to adopt the agenda as presented, and Vice-chairperson Durand seconded the motion. The motion carried unanimously, 5-0, on a roll-call vote.

III. EXCUSED ABSENCES

As all appointed Board members were present, there were no absences to excuse.

IV. APPROVAL OF MINUTES

a. January 11, 2022

Mr. Siklosi moved to approve the minutes from the January 11, 2022 meeting, and Vice-chairperson Durand seconded the motion. The motion carried without opposition, 4-0, on a roll call vote (Secretary Webber did not vote as he was not at the January 11 meeting).

Before going on to the next item of business, Chairperson Dohmen invited Secretary Webber to speak. Secretary Webber explained that he was a noticed abutter for the application the Board would be considering next in the meeting, and he asked that he be allowed to recuse himself for that agenda item. He said he felt that he would have been able to make a fair and just decision, but said he felt recusal was the right thing for both him and the Board.

Secretary Webber moved that he be allowed to step down (recuse himself, by turning off his audio and video) for the review and hearing and then be allowed to return to the meeting for agenda item 6 a. Mr. Siklosi seconded the motion, which then carried without opposition, 4-0, on a roll-call vote (Secretary Webber did not vote on the motion). As a result of the vote, the voting membership of the Board was reduced from five to four members.

Chairperson Dohmen said she did not feel Secretary Webber had an actual conflict on the upcoming agenda item, but that the town's Ethics Ordinance was very specific on that issue.

V. REGULAR BUSINESS

a. Public Hearing: AB-2022-01 — Relocation of a Nonconforming Structure

Applicant: Dan Farrenkopf and Misha Mytar

Project Location: The property is located at 18 Newton Way, Bar Harbor, Tax Map 104, Lot 473, and within the Downtown Village Transitional zoning district.

Application: The applicant requests approval to relocate a non-conforming, single-family dwelling footprint on the property at 18 Newton Way, doing so in such a manner that while not eliminating all non-conformity will reduce it to the greatest practical extent and improve access on an adjacent, shared right-of-way.

Mr. Farrenkopf and Ms. Mytar were present as the applicants. Chairperson Dohmen introduced the application, and commended the applicants for their "thorough, straightforward and uncomplicated presentation." Chairperson Dohmen said it was so complete she did not think the applicants needed to make a separate presentation, particularly because the applicants were seeking to reduce the existing nonconformity — which is always the underlying goal, she said.

Chairperson Dohmen asked for questions from the Board. Ms. Peterson asked how the shed noted on the survey factored in to the application. Ms. Mytar explained that although that space is labeled as a shed, it is actually integrated into the structure itself (it shares a connection with the kitchen). Ms. Mytar said it was shown in the application because of the "if viewed from above" language in the definition of "footprint area" in the Land Use Ordinance. She said the footprint area in question here is approximately 660 square feet, and she said the new building will be built to that same footprint area. The old building will be completely removed, she said.

At 4:40 PM, Chairperson Dohmen opened a public hearing. Assistant Planner Fuller explained how people who might wish to comment on the application had been notified of the opportunity to do so, and read aloud the contact information posted in advance of the meeting on the Board of Appeals website. No one from the public was present in, or joined, the Zoom webinar, and as such Chairperson Dohmen closed the public hearing at 4:43 PM.

Chairperson Dohmen then led the Board through the staff report for the application, prepared and provided to the Board in advance of the meeting. She read aloud findings of fact 1-5 on the bottom of page one of the staff report, and said that because they were matters of fact already established in the town's records the Board did not need to vote on them.

Those findings 1-5 are as follows:

1. The owners of the subject property are Dan Farrenkopf and Misha Mytar.
2. The subject property is located at 18 Newton Way, Bar Harbor Tax Map 104, Lot 473.
3. The subject property is located in the Downtown Village Transitional district.
4. Currently on the subject property is a single-family dwelling.
5. Portions of the existing single-family dwelling are within the 5' setbacks on three of the four sides of the subject property.

Chairperson Dohmen then moved on to page two of the staff report and findings of fact 6-13, as required by §125-55 C. of the Land Use Ordinance. She read them aloud, as presented below (findings 11 and 13 are the only ones that differ in wording from how they were originally presented in the staff report, with finding 11 changed to not applicable vs. more appropriate, and with the removal of language relating to septic systems from finding 13 as originally proposed):

6. The proposed new location and design are more appropriate with regard to location.
7. The proposed new location and design are more appropriate with regard to character and natural features.
8. The proposed new location and design are more appropriate with regard to fencing and screening.
(Note: Chairperson Dohmen said that although the applicants indicated they believed this specific criteria was not applicable, she saw it as applicable and explained why.)
9. The proposed new location and design are more appropriate with regard to landscaping and topography.
10. The proposed new location and design are more appropriate with regard to traffic and access.
11. The proposed new location and design, with regard to signs and lighting, are not applicable.
12. The proposed new location and design are more appropriate with regard to potential nuisance.
13. The relocation does meet the setbacks 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, and the type and amount of vegetation to be removed to accomplish the relocation.

Mr. Siklosi moved to approve findings 6-13, as presented by Chairperson Dohmen. Vice-chairperson Durand seconded the motion, which carried 4-0 on a roll-call vote.

Mr. Siklosi moved to approve the request to relocate a nonconforming structure to a more appropriate location within the boundaries of the lot as shown in application AB-2022-01 and as permitted under section 125-55 C. of the Bar Harbor Land Use Ordinance, noting that the relocated structure will reduce the existing nonconformities with respect to the setbacks to the greatest extent possible, as depicted in application AB-2022-01. Vice-chairperson Durand seconded the motion, which then carried 4-0 on a roll-call vote.

Ms. Mytar thanked the Board and staff for their work on guiding and moving them through the process. She said she and Mr. Farrenkopf were excited about moving ahead with the project.

At this point in the meeting, Secretary Webber returned (by turning his audio and video back on). With his return, the voting membership of the Board went from four back to five members.

VI. OTHER BUSINESS

a. Discussion of level of review for nonconformity matters (Board vs. staff)

Chairperson Dohmen explained that she had raised this issue and asked for it to be included on the agenda. She said the last two applications the Board had reviewed were straightforward and non-controversial with “nothing at all questionable” about them. She said the process of having the Board meet to review the applications cost both the town and the applicants money, and she wondered if it might be simplified by having town staff handle such applications in the future.

She referred to a memo prepared by Planning Director Gagnon and shared with the Board in advance of the meeting, in which Planning Director Gagnon recommended the authority on such applications remain with the Board of Appeals. Chairperson Dohmen said the Land Use Ordinance could be amended to accomplish the change (shift to staff) that she was suggesting.

Mr. Siklosi said he had initially had the same concern as Planning Director Gagnon, but was also persuaded by Chairperson Dohmen’s position. Code Enforcement Officer Chamberlain shared some concerns about Chairperson Dohmen’s suggestion and how the change might play out. Code Enforcement Officer Chamberlain said questions of what is appropriate are best handled by the Board: “I don’t feel personally comfortable saying something’s more appropriate or not.”

Vice-chairperson Durand said she was initially intrigued by Chairperson Dohmen’s suggestion, but then had heard points raised by others. Chairperson Dohmen said she would withdraw her idea, in light of one particular point made by Code Enforcement Officer Chamberlain: “If she says she’s not comfortable with it, that overrides anything I think about efficiency,” said Chairperson Dohmen. She said she would not want to make anyone uncomfortable in their job.

Going back to an earlier subject, Mr. Siklosi told Secretary Webber he believed he would have been unbiased in his review of the application but said the Ethics Ordinance was inflexible. “In a sense, there wasn’t really a choice,” Mr. Siklosi said, adding it was not a question of integrity.

VII. ADJOURNMENT

At 5:07 PM, Mr. Siklosi moved to adjourn the meeting. Secretary Webber seconded the motion, which then carried unanimously (5-0) on a roll-call vote.

Signed as approved:

Ellen L. Dohmen, Chairperson
Bar Harbor Board of Appeals

Date



RECEIVED
 JUL 01 2022
 TOWN OF BAR HARBOR MAINE
 PLANNING & CODE ENFORCEMENT

BAR HARBOR BOARD OF APPEALS
 APPLICATION FOR ADMINISTRATIVE APPEAL
 (as permitted in Section 125-103 of the Bar Harbor Land Use Ordinance)

APPLICATION # AB-2022-02 DATE 6/30/22

FEE \$ \$390 MAP 104 LOT 273

APPLICANT:

Name JENNIFER PAIGEN WALES

Address 22 WHITNEY FARM RD
MOUNT DESERT, ME 04660

Telephone 207 266-6101

Email JEN @ MTDSEA.COM

OWNER:

Name SAME AS ABOVE

Address _____

Telephone _____

Email _____

PROJECT REPRESENTATIVES:

Name OWNER AS ABOVE

Address _____

Telephone _____

Email _____



BAR HARBOR BOARD OF APPEALS
APPLICATION FOR ADMINISTRATIVE APPEAL
(as permitted in Section 125-103 of the Bar Harbor Land Use Ordinance)

SUBJECT PROPERTY

Physical Location 47 GREELY AVENUE

Zoning District DOWNTOWN RESIDENTIAL

Tax Map and Lot Number 104 - 273

Please state the basis for your contention that you are an aggrieved party as defined in §125-109 of the Bar Harbor Land Use Ordinance:

I AM THE OWNER OF 47 GREELY AVENUE THAT
HAS BEEN OPERATING UNDER A VR-Z PERMIT. MY
RENEWAL VR-Z APPLICATION WAS DELAYED BY A
COVID-19 MEDICAL CONDITION AND WAS SUBSEQUENTLY
DENIED.

Decision maker being appealed:

- Code Enforcement Officer
- Planning Board
- Harbormaster
- Public Works Director
- Other (specify) _____



BAR HARBOR BOARD OF APPEALS
APPLICATION FOR ADMINISTRATIVE APPEAL
 (as permitted in Section 125-103 of the Bar Harbor Land Use Ordinance)

Grounds for action being appealed:

- Failure to approve or deny an application within the time limits of the Bar Harbor Land Use Ordinance
- Denial of approval based on a misinterpretation or misapplication of the Bar Harbor Land Use Ordinance
- Granting of approval based on a misinterpretation of or misapplication of the Bar Harbor Land Use Ordinance
- Factual findings clearing unsupported by evidence
- Other (please specify) _____

Please state the specific decision you are appealing (attach copy) and the action you are requesting from the Board of Appeals:

DENIAL OF VR-2 REAPPLICATION PERMIT
SECTION 125-69 Y.(2)
REQUESTING APPROVAL BASED ON COVID-19 MEDICAL CONDITIONS
IMPACT CAUSING DELAY IN APPLICATION.

Please state the provisions of the Bar Harbor Land Use Ordinance at issue with specific references to the applicable sections of the LUO:

SECTION 125-69 Y.(2)
"ON OR BEFORE MAY 31, 2022, THE VR REGISTRATION MUST
BE RENEWED AS FOLLOWS, AND EVERY YEAR THEREAFTER THE
REGISTRATION MUST BE RENEWED OR IT IS FORFEITED..."

Please state any time limits with which the Code Enforcement Officer or Planning Board has not complied, citing the applicable section of the LUO and dates:

NONE.



BAR HARBOR BOARD OF APPEALS
APPLICATION FOR ADMINISTRATIVE APPEAL
(as permitted in Section 125-103 of the Bar Harbor Land Use Ordinance)

Please clearly state the specific manner in which you believe the Bar Harbor Land Use Ordinance has been misinterpreted or misapplied and include specific references to the applicable sections of the LUO (use additional sheets if necessary):

NONE.

Please list every factual finding made by the Code Enforcement Officer or Planning Board that you believe to be unsupported by the evidence presented to that decision-maker and state clearly for each of the basis of your contention that each finding was unsupported by evidence (use additional pages if necessary):

NONE.

Please set forth and other facts, laws or ordinance references that you believe support your appeal (attach additional sheets if necessary):

WILL BE PROVIDING DOCUMENTATION FROM MEDICAL PROFESSIONALS REGARDING MY COVID-19 MEDICAL CONDITION AND ITS IMPACTS.



BAR HARBOR BOARD OF APPEALS
APPLICATION FOR ADMINISTRATIVE APPEAL
(as permitted in Section 125-103 of the Bar Harbor Land Use Ordinance)

Please attach the following:

- Your deed or other evidence of interest in the property and a letter of authorization signed by the owner of record permitting the application be made by and/or represented by another party;
- Copy of the decision you are contesting and copies of any written findings issued by the Planning Board, Design Review Board, or Code Enforcement Officer;
- All relevant submissions previously presented to the municipal officer or body whose decision whose decision is being appealed;
- A transcript of all proceedings before Planning Board or Design Review relevant to this appeal;
- Any other materials you believe will be of assistance to the Board of Appeals in rendering a decision;
- List of property owners within 300 feet of the subject property (to be provided by the Planning Department).

Submit 12 copies of the complete application with the supporting materials to the Planning Department. Applications and submissions must comply with §125-103 of the LUO. Please refer specifically to §125-103.C for provisions related to submissions.

CERTIFICATION:

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

Applicant

Date

6/30/22

TOWN OF BAR HARBOR
Code Enforcement Division

93 Cottage Street, Suite I
Bar Harbor, Maine 04609-1400
Tele. 207-288-3329 Fax 207-288-3032
E-Mail: ceo@barharbormaine.gov

Angela M Chamberlain

Code Enforcement Officer
Building Inspector
Electrical Inspector
Plumbing Inspector

June 8, 2022

Jennifer Paigen Wales
22 Whitney Farm Road
Mount Desert, ME 04660

**Re: Property Located at 47 Greeley Avenue, Bar Harbor, Maine
104-273-000**

To Whom It May Concern:

The purpose of this letter is to inform you that your Short-Term Rental Application submitted on June 7, 2022 has been denied. Section 125-69 Y. (2) of the Bar Harbor Land Use Ordinance describes the transition process for all existing, permitted vacation rental registrations. The ordinance states:

“Starting on December 2, 2021, any duly registered VR may continue the use as a VR (to include four-night minimum and the use of an entire dwelling unit or part thereof) until May 31, 2022. On or before May 31, 2022, the VR registration must be renewed as follows, and every year thereafter the registration must be renewed or it is forfeited:

If the VR is operated in a dwelling unit, or is a room in the dwelling unit, which is the owner's primary residence, or on the property of the primary residence, then the owner shall renew the VR registration as a VR-1. However, if the owner has more than two existing VR registrations on the same primary residence property, then the third registration (and any additional registrations thereafter) shall be renewed as VR-2s, even if the maximum number of VR-2 registrations (VR-2 cap) is exceeded and even if VR-2s are not allowed in that district.

If the VR is not operated in a dwelling unit which is the owner's primary residence or is not on the property of the owner's primary residence, the VR registration may be renewed as a VR-2, even if the maximum number of VR-2 registrations (VR-2 cap) is exceeded and even if (new) VR-2s are not allowed in that district.

Unfortunately, you did not renew your vacation rental before the May 31, 2022 deadline so your registration is now forfeited. You can reapply as a VR-1 (primary residence) or you can apply as a VR-2 and be placed on the waitlist for the next available registration. I have enclosed your check with this letter as we did not process your application. Should you choose one of the options as described above, please submit payment with your new application.

If you wish to dispute anything in this decision, you may appeal to the Bar Harbor Board of Appeals pursuant to Section 125-103 of the Bar Harbor Land Use Ordinance. Such appeal must be filed in the office of the Code Enforcement Officer at the Bar Harbor Town Hall on forms provided by the Town, together with the appropriate filing fee, within thirty (30) days after the date of this decision.

If you have any questions, I can be reached at 207-288-3329 between the hours of 8:30am-5:00pm Monday through Friday.

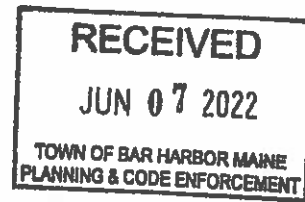
Sincerely yours,



Angela M. Chamberlain
Code Enforcement Officer

Cc: Building Permit File

June 7, 2022



Dear Ms. Chamberlain,

I hope you will accept my VR-2 renewal form despite it being a few days late. I have been in bed very sick with Covid and just found my reminder this morning. I have had a rental house in Bar Harbor for several years and have never been in any violation or delinquent with taxes. Most of my yearly income is from this rental and it will be devastating if my permit is not renewed. I hope you are able to grant me a grace period due to the personal impact of Covid.

Thank you for your consideration,

Jen Wales
266 6101
jen@mtnsea.com



Town of Bar Harbor

RECEIVED
JUN 07 2022
TOWN OF BAR HARBOR MAINE
PLANNING & CODE ENFORCEMENT

Planning & Code Enforcement
93 Cottage Street
Bar Harbor, ME 04609

SHORT-TERM RENTAL APPLICATION

SECTION I. PROPERTY INFORMATION

Property Address: 47 Greeley Ave Map: 104 Lot: 273
Unit Name: Honeybee House Total number of dwelling units on lot: 1

SECTION II. APPLICATION TYPE

VR-1

VR-2

VR-1 RENEWAL

A dwelling unit, or portion thereof, that is the primary residence of the property owner. A primary residence is the location where the owner resides most of the year.

(Documentation is required, see below.)

VR-2 RENEWAL

An entire dwelling unit that is NOT the primary residence of the property owner.

SECTION III. VR-1 APPLICATIONS

I have attached documentation that demonstrates that this is my primary residence such as, but not limited to, driver's license, homestead exemption, Maine tax returns.

VR-1 applications will be deemed incomplete and denied without this documentation.

SECTION IV. PROPERTY OWNER INFORMATION

Owner Name: Jennifer Wales
Mailing Address: 22 Whitney Farm Rd, Mount Desert
Phone: 266 6101 Email: jen@mtnsea.com

I agree to the following (please initial):

I will post the registration number on all advertisements for the rental of this unit. yes

I will complete the emergency information sheet provided and post it in the unit. yes

I have reviewed section 174-8 B. of the Bar Harbor Municipal Code and attest that the dwelling unit complies with the inspection requirements. yes

By signing below, I certify that my answers are true and complete to the best of my knowledge.

Jennifer Wales
Property Owner: Print

[Signature]
Signature

6/7/2022
Date

ALL APPLICATIONS MUST BE ACCOMPANIED BY THE \$250.00 NON-REFUNDABLE FEE

Checks may be made payable to the Town of Bar Harbor

OFFICE USE ONLY

There are outstanding violations YES NO

There are outstanding property taxes, town water, or town sewer fees YES NO

The nonrefundable fee was paid YES NO

If this is a renewal, the registration has been renewed annually N/A YES NO

Date of last Life Safety Inspection _____

Date abutters notice were mailed for (first-time only) _____

Land Use District:

VR-1 VR-2 VR-1 Renewal VR-2 Renewal

Is an allowed use

Is a prohibited use in this district

Is a prohibited use in this district but has been renewed annually as allowed under section 125-69 Y.(2) (b) of the Bar Harbor Land Use Ordinance.

Based on the above findings, I approve/deny the request for a short-term rental at the above noted property.

Code Enforcement Officer

Date

Registration # _____ This registration expires on: _____



Town of Bar Harbor
93 Cottage Street
Bar Harbor, ME 04809

Real Estate Tax Bill

Fiscal Year 2021 - 2022

Current Owner:

WALES, JENNIFER PAIGEN
22 WHITNEY FARM ROAD
MOUNT DESERT ME 04860

Description	Current Billing Distribution		Amount (rounded)
	Percentage	Rate	
Schools	51%	4.94	\$2,046.64
County	4%	.43	\$178.15
Municipal	45%	4.37	\$1,810.49
Total	100.00%	9.74	\$4,035.28

Tax Rate Per \$1000: 9.74

Current Billing Information	
Land Value	\$270,600
Building Value	\$143,700
Exemptions	
Taxable Valuation	\$414,300
Payments	\$408.04

TOTAL TAX DUE	
\$3,627.24	

Bill #: 513
Book - Page: 6161/0095
Location: 47 GREELEY AVENUE
Parcel: 104-273-000

TAXPAYER'S NOTICE

Notice is hereby given that your County, School and Municipal tax is due by September 30, 2021. This is the only tax bill you will receive. You have the option to pay the entire amount by September 30, 2021 or you may pay in two installments, the first payment by September 30, 2021 and the second by March 31, 2022. Interest will be charged on the first installment at an annual rate of 6% from October 1, 2021 and the second installment from April 1, 2022. As per State of Maine Statute, the ownership and taxable valuation of all real and personal property subject to taxation shall be fixed as of April 1st. For this tax bill that date is April 1, 2021. It is the responsibility of the taxpayer to annually review their assessment and report any changes to the Assessor.

Without State Revenue Sharing, Homestead Exemption Reimbursement and Aid to Education, your taxes would have been 5.7% higher.

This bill is for the current fiscal year only, 7/01/21-6/30/22. Past due amounts are not included. To receive information on past due accounts please contact the Tax Collector, 207-288-5096.

After eight months and within one year from the date of this commitment (8/17/21), a lien will be placed on all property for any taxes that remain unpaid.

If your lender pays your taxes in escrow, please review and forward this bill. This bill reflects any prepayments that have been made through 8/17/21.

As of 6/30/21, the Town of Bar Harbor has bonded indebtedness in the amount of \$18,021,871.

----- ✂ Cut here and remit with payment ✂ -----
Please make check or money order payable to Town of Bar Harbor and mail to:



Town of Bar Harbor
93 Cottage Street
Bar Harbor, ME 04809

Parcel
104-273-000

Bill #
513

WALES, JENNIFER PAIGEN
22 WHITNEY FARM ROAD
MOUNT DESERT ME 04860

Real Estate Tax Bill

This is the 2nd half of your tax bill
Please return with payment

Location
47 GREELEY AVENUE

Due	Amount Due
03/31/2022	\$2,017.64

Amount Paid



Town of Bar Harbor
93 Cottage Street
Bar Harbor, ME 04809

Parcel
104-273-000

Bill #
513

WALES, JENNIFER PAIGEN
22 WHITNEY FARM ROAD
MOUNT DESERT ME 04860

Real Estate Tax Bill

This is the 1st half of your tax bill
Please return with payment

Location
47 GREELEY AVENUE

Due	Amount Due
09/30/2021	\$1,609.60

Amount Paid

WILLIAM C. McDOUGALL IV, DO

WWW.DRMCDUGALLDO.COM

50 Church Street; Ellsworth, Maine 04605
207.558.3375



June 30, 2022

To whom it may concern,

I am writing on behalf of my patient, Jennifer Paigen Wales. She has been under my care, along with that of FNP Angela DeVecchio and Dr. Penelope Houghton ND, for Covid 19. She contacted Covid 19 in January of 2022 and had significant symptoms at that time including debilitating headaches, non-life threatening respiratory deterioration, and cognitive impairment.

Mrs. Wales has continued to present symptoms since testing positive and should be considered a Covid "long-hauler" due to delayed recovery and continued symptoms. This has required some time for her body/mind to rehabilitate with rest during which her ability to perform even basic tasks were limited. We have discussed several times the disabling effects of her condition and the impact both personally and professionally, particularly due to her cognitive impairment, during this time of recovery.

I would certainly hope this temporary disability be taken into account when needed. Please feel free to reach out with any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Wm C McDougall IV, DO". The signature is written in a cursive, somewhat stylized font.

William McDougall IV, DO

MISCELLANEOUS PAYMENT RECPTH: 504455
TOWN OF BAR HARBOR
93 COITAGE STREET
BAR HARBOR ME 04609

DATE: 07/01/22 TIME: 11:30
CLERK: mporter DEPT:
CUSTOMER#: 0

PARCEL: 104-273-000

CHG: APPLBD APPEALS BOARD F 390.00

AMOUNT PAID: 390.00

PAID BY: JEN WALES
PAYMENT METH: CHECK
395

REFERENCE:

AMT TENDERED: 390.00
AMT APPLIED: 390.00
CHANGE: .00



Town of Bar Harbor Planning Department Staff Report

Meeting Date:

For the August 9, 2022
Board of Appeals meeting

Date Prepared:

July 22, 2022 by
Assistant Planner Steve Fuller

Application:

AB-2022-02 - The applicant is appealing the Code Enforcement Officer's denial on June 8, 2022 of a vacation rental (short-term rental) registration application, pursuant to §125-103 of the Bar Harbor Land Use Ordinance (LUO).

Property Owner/Applicant:

Jennifer Paigen Wales
22 Whitney Farm Road
Mount Desert, ME 04660

Property Address:

47 Greeley Avenue

Map and Lot:

Map 104, Lot 273-000

Applicant's Representative:

Same as above

Zoning:

Downtown Residential

Overview

The rental of dwelling units for less than 30 days is a regulated activity under the Bar Harbor Land Use Ordinance (formerly known as weekly rentals or vacation rentals, and now collectively referred to as short-term rentals). Regulations of some type for this kind of rental (often referred to by the online platforms on which they are rented, such as Airbnb) have been in place for more than 15 years. The most recent changes took effect in late 2021, after voters approved those changes at the polls in November of 2021.

Among those changes was a shift from a one-size-fits-all approach for short-term rental registrations to a two-tiered system, with one tier (VR-1) for residents who are renting out their primary residence (as defined in the Land Use Ordinance) and the other tier for property owners who are renting out something other than their primary residence (VR-2). There are certain tier-specific rules and requirements for both tiers; as this appeal involves a property that would be classified as a VR-2, that is the tier on which this report will focus.

Property owners offering short-term rentals must register their property with the town, pay a \$250 fee and pass a life-safety inspection prior to renting their property. In order to continue renting each year, they must renew the registration and pay the \$250 fee annually. That renewal requirement is of greater significance for VR-2 registrations, because the changes approved by voters last fall put a cap in place on the number of VR-2 registrations allowed in town. The VR-2 cap is set at 9% of the total number of dwelling units in town, a figure determined annually by the assessor. The town is already well over that 9% cap on VR-2s, and as established in the town's Short-Term Rental Registration Ordinance a waiting list has been established (see §174-7 D.) for any new VR-2 applications that come in. Registrations may become available as people who have previously registered choose not to renew

their registration(s) and/or as new dwelling units are constructed in town, as both of those things would have a bearing on the 9% VR-2 cap. People on the wait list will be offered, in order of when they were added to the list, the chance for such registrations as/when such changes occur.

In this case, the appellant had most recently registered her property at 47 Greeley Avenue as a vacation rental in early 2021. This vacation rental registration (this was before the switch to the short-term rental language) was issued by the Code Enforcement Office on February 24, 2021. That registration card had a line on it stating, "This registration shall be renewed on 5/31/22 or the use shall cease," with a check-mark next to that line (indicating its applicability). That reflects the annual re-registration requirement that was already in place prior to the rental regulation changes approved by voters in late 2021.

When those changes were approved and enacted, they contained language that reinforced the registration renewal requirement. Section 125-69 Y. (2) (a) [1] reads as follows (emphasis added): "Starting on December 2, 2021, any duly registered VR may continue the use as a VR (to include four-night minimum and the use of an entire dwelling unit or part thereof) until May 31, 2022. *On or before May 31, 2022, the VR registration must be renewed..., and every year thereafter the registration must be renewed or it is forfeited.*"

Findings of Fact the Board needs to consider:

1. The subject property is located at 47 Greeley Avenue, Bar Harbor Tax Map 104, Lot 273-000.
2. The subject property is owned by the appellant, Jennifer Paigen Wales.
3. The appellant has standing to appeal the denial of the application for a vacation rental (short-term rental) registration as an aggrieved party under §125-103.
4. The appellant was issued a vacation rental permit (R21-97) on February 24, 2021 for the subject property.
5. Permit R21-97 had a check mark next to a line that read, "This registration shall be renewed on 5/31/22 or the use shall cease."
6. Permit R21-97 expired on May 31, 2022.
7. The subject property is not the appellant's primary residence (defined in §125-109).
8. Because the subject property is not the appellant's primary residence, to be used as a short-term rental it would have to be registered as a VR-2 (see §125-109).
9. Application forms to renew vacation rental (short-term rental) registrations were available and accepted any time after December 2, 2021, the effective date of changes to the LUO.
10. Under the provisions of §125-69 Y. (2), the registration for the subject property would be required to have been renewed as a VR-2 by May 31, 2022.
11. The appellant submitted a vacation rental (short-term rental) registration application (as a VR-2) on June 7, 2022, which was after the deadline established under §125-69 Y. (2).

Possible Motion #1: *Based on the above-noted findings, the Bar Harbor Board of Appeals upholds the Code Enforcement Officer's denial of the vacation rental (short-term rental) registration application filed by the appellant on June 7, 2022, as it did not meet the deadline established in §125-69 Y. (2) of the Bar Harbor Land Use Ordinance.*

Possible Motion #2: *If the Board chooses to make and approve the motion above, an appropriate follow-up motion would be: As the Code Enforcement Officer acted properly and correctly in denying the application on June 8, 2022, the appeal is denied.*

MEMORANDUM

TO: Bar Harbor Board of Appeals
FROM: Angela M Chamberlain, Code Enforcement Officer
DATE: July 26, 2022
SUBJECT: Administrative Appeal AB-2022-02

.....

On November 2, 2021, the town of Bar Harbor voters passed new language to regulate short-term rentals (also known as vacation rentals). Part of that amendment included language which strictly limited the number of VR-2 registrations allowed and a process for existing vacation rentals to renew and continue their use as short-term rentals. After that new language went into effect on December 2, 2021, we changed our forms to reflect the new ordinance requirements and began accepting renewal applications on that date.

On June 7, 2022, the Code Enforcement office received an application for a VR-2 renewal at 47 Greeley Avenue. Unfortunately, June 7, 2022 was beyond the renewal deadline outlined in section 125-69 Y.(2) of the Bar Harbor Land Use Ordinance. Section 125-69 Y.(2) requires that a VR registration be renewed on or before May 31, 2022, or it is forfeited.

There are no exceptions to the renewal deadline and no provision which gives me the authority to modify or waive that deadline. Because the property owner did not comply with the May 31, 2022 deadline, I had no choice but to deny their application for a VR-2 renewal.

DECISION

Public Hearing - AB-2022-02 - Administrative Appeal

Meeting Date: August 9, 2022

Applicant (Appellant): Jennifer Paigen Wales

Project Location: 47 Greeley Avenue, Bar Harbor, Maine 04609

Application (Appeal): The applicant requests that the Board of Appeals hold a public hearing for an administrative appeal of the Code Enforcement Officer's denial on June 8, 2022 of a vacation rental (short-term rental) registration application, pursuant to §125-103 of the Bar Harbor Land Use Ordinance (LUO).

Under the authority of §125-103 of the Bar Harbor Land Use Ordinance, the Board of Appeals, at its August 9, 2022 meeting, by a motion duly made and seconded, [insert action taken here] the appeal based on the below-noted findings.

FINDINGS

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

1. The subject property is located at 47 Greeley Avenue, Bar Harbor Tax Map 104, Lot 273-000.
2. The subject property is owned by the appellant, Jennifer Paigen Wales.
3. The appellant has standing to appeal the denial of the application for a vacation rental (short-term rental) registration as an aggrieved party under §125-103.
4. The appellant was issued a vacation rental permit (R21-97) on February 24, 2021 for the subject property.
5. Permit R21-97 had a check mark next to a line that read, "This registration shall be renewed on 5/31/22 or the use shall cease."
6. Permit R21-97 expired on May 31, 2022.
7. The subject property is not the appellant's primary residence (defined in §125-109).
8. Because the subject property is not the appellant's primary residence, to be used as a short-term rental it would have to be registered as a VR-2 (see §125-109).
9. Application forms to renew vacation rental (short-term rental) registrations were available and accepted any time after December 2, 2021, the effective date of changes to the LUO.
10. Under the provisions of §125-69 Y. (2), the registration for the subject property would be required to have been renewed as a VR-2 by May 31, 2022.
11. The appellant submitted a vacation rental (short-term rental) registration application (as a VR-2) on June 7, 2022, which was after the deadline established under §125-69 Y. (2).

CONCLUSIONS

Based upon the findings stated above, and the provisions of the Land Use Ordinance cited, the Board:

1. Upholds the Code Enforcement Officer's denial of the vacation rental (short-term rental) registration application filed by the appellant on June 7, 2022, as it did not meet the deadline established in §125-69 Y. (2) of the Bar Harbor Land Use Ordinance.
2. Determines that the Code Enforcement Officer acted properly and correctly in denying the application on June 8, 2022.

DECISION

Based upon the findings and conclusions above, the Board of Appeals voted to [insert action taken here] the 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, and/or appeal to the Maine Superior Court within 45 days of the same hearing date.

Signed as witness to the proceedings:

Ellen L. Dohmen, Chair

Date