

Minutes — Bar Harbor Board of Appeals
Tuesday, January 11, 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 ongoing 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, Member Heather Peterson and Associate Member Michael Siklosi were all present. Secretary Robert Webber was absent (see excused absences section below). 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, and Assistant Planner Steven Fuller. Timothy Searchfield was present as the applicant.

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 Ms. Peterson seconded the motion. The motion carried unanimously, 4-0, on a roll-call vote.

III. EXCUSED ABSENCES

Assistant Planner Fuller explained that an issue had been identified shortly before the meeting involving the appeals@barharbormaine.gov email address, in which Mr. Weber's individual email address had been listed incorrectly there due to a case-sensitive email address. As that is how staff communicates with the Board, Assistant Planner Fuller said Mr. Webber had not received any notice of the meeting or the meeting materials. Chairperson Dohmen said Mr. Webber would be regarded as an excused absence as a result of that situation.

IV. APPROVAL OF MINUTES

a. September 14, 2021

Mr. Siklosi made a motion to approve the minutes of September 14, 2021. Ms. Durand seconded the motion, which then carried unanimously (4-0) on a roll-call vote. Chairperson Dohmen commended the “degree of carefulness and detail” in the minutes. She said that they “represented a tremendous amount of work” by Assistant Planner Fuller, whom she thanked.

V. REGULAR BUSINESS

a. Public Hearing: AB-2021-02 — Relocation of a Nonconforming Structure

Applicant: Timothy Searchfield

Project Location: The property is located at 23 Roberts Avenue, Bar Harbor, Tax Map 104, Lot 293, and within the Downtown Residential zoning district

Application: The applicant requests approval to relocate a non-conforming garage footprint from the northwest corner to the southwest corner of the property at 23 Roberts Avenue and to retain the current (preexisting, nonconforming) setbacks from the rear and side property lines.

Timothy Searchfield was present as the applicant. Chairperson Dohmen said Board members had read his application, which she said was clear and well done, and that he now needed to explain to the Board why what he was seeking permission for was necessary and how it satisfied the criteria of the Land Use Ordinance. “The reason can’t be, ‘Because I like it better,’” she said.

Mr. Searchfield explained his future plans for the property. A planned new home there would preclude access to the existing garage, he explained, and he said the new layout would allow more direct access from Roberts Avenue. He answered questions from Chairperson Dohmen.

Code Enforcement Officer Angela Chamberlain said she had no issues with this application, as presented. There were no other questions from Board members. Chairperson Dohmen explained the process the Board has to follow under Section 125-55 C. of the Land Use Ordinance.

Chairperson Dohmen opened a public hearing at 4:40 PM. Assistant Planner Fuller used the share screen feature in Zoom to show the Board of Appeals webpage, where information on how to join the webinar was posted. He noted it had been posted there in advance of the meeting, and that the required public notices directed any interested parties to that page. He also read the information aloud. Chairperson Dohmen noted she had checked with town staff before the meeting and found that no abutters had contacted the Planning & Code Enforcement Office with any concerns about the application. There were no members of the public present in the Zoom meeting, and as such **the public hearing was effectively closed at 4:42 PM.**

Chairperson Dohmen turned to the staff report and read the following findings into the record for the Board’s decision (as these findings were based on the evidence in the administrative record, she said these findings did not require the Board to vote on them):

1. The owners of the subject property are Timothy & Ellen Searchfield.
2. The subject property is located at 23 Roberts Avenue, Bar Harbor Tax Map 104, Lot 293-000.
3. The property is located in the Downtown Residential district.
4. Currently on the subject property is a single-family dwelling and a garage (accessory structure).
5. The existing garage is 3’ from the rear (west) property line and 1.25’ from the side (north) property line.

The following findings were also adopted, with an individual vote on each, by the Board. In each case, Mr. Siklosi made the motion for the finding and Ms. Durand seconded. The vote for each of the findings was unanimous (4-0):

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.
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, with regard to potential nuisance, are not applicable.
13. The relocation does meet 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, and the type and amount of vegetation to be removed to accomplish the relocation.

Chairperson Dohmen referred to 125-55 C., a part of which states “the area from which the relocated structure was removed must be replanted with vegetation.” She said she wanted to confirm with Mr. Searchfield “that it’s not going to be a big hole, where you took it out.” Mr. Searchfield said bushes would be planted there in the future after the current garage is gone.

Ms. Peterson asked if the new structure would be the same footprint size as the existing structure, and what that existing size is. Mr. Searchfield confirmed that the size is 24 feet by 24 feet.

Mr. Siklosi then moved as follows: Based on the above noted findings, the Bar Harbor Board of Appeals approves the request to relocate a nonconforming structure to a more appropriate location within the boundaries of the lot as shown in application AB-2021-02 and as permitted under section 125-55 C. of the Bar Harbor Land Use Ordinance. The relocated structure may not be located closer than 1.25’ from the side (south) property line or 3’ from the rear (west) property line. (Note: Mr. Siklosi’s initial motion referred to AB-2021-01, as indicated in the staff report; Assistant Planner Fuller said that was a typo, however, and said AB-2021-02 was correct. Mr. Siklosi adjusted his motion accordingly). Ms. Durand seconded the motion, which then carried unanimously (4-0) on a roll-call vote.

Chairperson Dohmen noted the application was approved. Mr. Searchfield thanked the Board.

VI. OTHER BUSINESS

Chairperson Dohmen said she does not participate in any social media and never intends to. She said she had been notified, however, that there had been “significant unpleasantness/ugliness” about the Planning Department and other subjects online that she found “very troubling.” She

said she has always believed that the Board of Appeals and its members have always been civil and nice, and hoped that would continue. She said she hoped none of the Board's members, or anyone else who serves the town, would ever be involved in that kind of behavior.

VII. ADJOURNMENT

At 4:58 PM, Mr. Siklosi moved to adjourn the meeting. Ms. Durand seconded. The motion to adjourn then carried unanimously, 4-0, on a roll-call vote.

Signed as approved:



11 February 2022

Ellen L. Dohmen, Chairperson

Date

Bar Harbor Board of Appeals

(signed in place of Secretary Robert Webber, who was not present for the meeting — please refer to section III on page one of these minutes for an explanation)