



Town of Harpswell
Board of Appeals Minutes
November 22, 2016
Adopted December 14, 2016

Members Present

Ned Simmons, Chair
Jim Knight
Ellen Lebauer
Ellen Shillinglaw
Pat Lawson

Members Absent

Staff Present

William Wells, Code Enforcement Officer
Diane Plourde, Recording Secretary

The Town of Harpswell Board of Appeals meeting, being duly advertised in the *Brunswick Times Record* was called to order at 6:30 p.m. by Ned Simmons, Chair. The Chair read the agenda, introduced the Board Members and reviewed the procedures.

The Chair wanted to recognize the passing of Board Member John Perry and that John will be missed by all on the Board as well as the Town of Harpswell. Mr. Knight spoke of Mr. Perry as a vital part of the Board of Appeals and that he will be missed by all.

Old Business: None

New Business: 16-11-01BA – Michael McCabe, 15 Walini Way, Harpswell
Map 2 Lot 38-1 – Section 14.2.1 Administrative Appeal

There was no site visit to Walini Way. The Chair noted that the previous appeal had the question of timeliness but does not appear to be the issue this time.

Mr. McCabe handed the Board a narrative. He said he owns two lots, #39-1 #38. He believes the CEO was in error granting the second permit. In the narrative he indicated definitions for dwelling, accessory residential unit and duplex. Photos were included of the new dwelling under construction along with plans given to Mr. McCabe by John Loyd saying he showed the plans to contractors and described these plans to the Board. He contends this house is large and with the scale of the building it seems to be a too large to be considered a single family dwelling.

William Wells, CEO told the Board that the Code Office permits close to one new house permit per week and the size of this dwelling is not any different from others received by the office. The definition of dwelling unit is bathing, sleeping and cooking facilities, but there is no limitation to how many can be in one house. He feels the new plans meet the standards of every phase. Mr. Wells said that any alterations to the house would require a permit and as it stands now there is no way to market this house other than as a single family dwelling. This is a single family dwelling per our Ordinance.

Mr. John Cunningham, Esq. representing Ms. Calderwood, said that defining “family” has changed and that the Ordinance doesn’t indicate who constitutes a family. The size of the house may be large but this is not the issue on appeal. The house is allowably sized for the lot. He said the house is not defined by how many bathrooms, kitchens or number of rooms in the house. The house plans does not separate the residents completely.

Ellen Shillinglaw told the Board that she is on the Steering Committee for the Harpswell Aging at Home, and this approach to housing for the elderly will be more prevalent in the future. This may not be the first Harpswell sees of this type of living conditions, and she feels the owner has made the effort to accommodate the request of the Board to make sure this is not duplex.

Ellen Lebauer said there is no longer a definition of family, and the size of the house should not be an issue. Two people living together yet separately to maintain their independence is a wise thing. She said the plans look like a one-family home with guest quarters, and this does not violate the Ordinance.

Ned Simmons said that the Ordinance defines family as “*one or more persons occupying a premise and living as a single housekeeping unit*”. It says nothing about relationship. He said with the previous appeal his issue was that the house did not have circulation between the two halves, but the new plans do.

Jim Knight said the plans allow us to consider the garage space within the dimensions of the overall structure. He said he understands Mr. McCabe’s argument but does not see a way the Ordinance helps him. This is why he asked about the view easement earlier in the meeting. He sees nothing that violates the Ordinance.

Ned Simmons moved seconded by Ellen Shillinglaw that the structure as permitted and as designed and plans submitted constitutes a single family dwelling. Motion carries 5-0.

He noted that at the previous meeting, it was noted that all the provisions of the code had been met regarding setbacks, lot coverage, adequate septic system, and the height was appropriate.

Ned Simmons moved seconded by Ellen Shillinglaw that the building as permitted meets all the code requirements. Motion carries 5-0.

The Chair told Mr. McCabe he has certain rights of appeal and can reconsider with ten (10) days of the decision at this meeting and can also appeal to the Superior Court.

The Chair read the Notice of Decision to the Board.

Ned Simmons moved seconded by Ellen Lebauer that based on the above Findings of Fact and Conclusions, the Board of Appeals voted 5 in favor and 0 opposed to deny

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your application for an administrative appeal. You may file an appeal in the Superior court with 45 days of the date of this decision. Motion carries 5-0.

Other Business: None

Consideration of Minutes: October 19, 2016

It was noted of two typographical errors in the draft minutes. These will be corrected.

Ned Simmons moved seconded by Ellen Shillinglaw to accept the minutes of October 19, 2016 as amended. Motion carries 5-0.

Adjournment: Meeting adjourned at 7:45 PM

Respectfully submitted by:

Diane E. Plourde
Recording Secretary

Attachments