



Town of Harpswell
Board of Appeals Minutes
April 23, 2014
Adopted May 28, 2014

Members Present

Ned Simmons, Chair
Jim Knight
John Chiquoine
Ellen Lebauer
John Perry
Pat Lawson, Associate Member

Members Absent

Ellen Shillinglaw, Associate Member

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.

Old Business: None

New Business: 14-04-01BA – Robert & Jolanda DeLevie and Adam York (Owners/Applicants), Map 34 Lot 142 & 136, 21 Atlantic Place, Orr's Island – Administrative Appeal

The Chair read the relevant section of the Basic Land Use Ordinance. The Board discussed the timely issuance of the appeal to show good cause after several months had passed.

Public Hearing Opened

Mr. Robert DeLevie and Mr. Adam York presented their case before the Board going into detail about the time frame of the appeal and the sequence of events leading up to this appeal.

Mr. John Cunningham, with the firm Eaton Peabody in Brunswick is representing Mr. & Mrs. Marquis and read Supreme Court cases regarding good cause and continued to argue the fact that Mr. DeLevie and Mr. York did not have good cause to file this appeal.

Mr. William Wells, Code Enforcement Officer was asked questions from the Board regarding the date of the building permit. Mr. Wells gave the details about the submission of the permits for Mr. Marquis.

Public Hearing Closed

Mr. York spoke (inaudible) and Mr. Simmons answered that the appellants were aware at the end of October that there was something going on with the road cut that was made.

Ned Simmons moved seconded by Ellen Lebauer to refuse to hear this appeal on the grounds that it was not filed in a timely manner.

Discussion: Mr. Simmons asked the Board if they thought this decision should go before the Town Attorney for review. This discussion continued until:

Ned Simmons moved seconded by Ellen Lebauer to withdraw the motion to refuse to hear this appeal on the grounds that it was not filed in a timely manner.

Ned Simmons moved to submit that motion as a proposed motion to the Town Attorney with the review of the record to be sure the Board was thorough in the consideration of this matter.

Discussion: The Board discussed this motion. **There was no second to the motion. Ned Simmons amended his motion. There was no second to the amended motion.**

Discussion continued until: **Ned Simmons withdrew this amended motion.**

The proposed finding to the Town Attorney is: The Board finds the appellants have not demonstrated that they had good cause to delay the appeal of the building permit & septic permit for the Marquis property until April 2, 2014.

Ned Simmons moved we continue this until the next meeting to give the Town Attorney an opportunity to review the proposed finding and determine whether we followed proper procedure and gave due consideration to the appellant in reaching that determination.

After discussion: **Ned Simmons withdrew his motion.**

Jim Knight moved seconded by Ned Simmons to continue this meeting until the May meeting so this board through the Chairman can communicate with the Town Attorney and review this case to determine whether or not this Board has given just consideration to the issue of good cause.

Discussion continued on this motion.

Jim Knight and Ned Simmons withdrew the motion.

Ned Simmons moved seconded by Ellen Lebauer that the Board finds that the appellants have not demonstrated good cause for delaying the filing of

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their appeal beyond the 40 days required by the Basic Land Use Ordinance. Motion carries 5-0 to deny the appeal.

Other Business: Consideration of minutes of December 17, 2013.

John Perry noted on page two, last paragraph reads: “Ned Simmons moved seconded by John Perry that the strict application of the ordinance to the property results insignificant economic injury to the applicant”: The word insignificant should read as two words, “in significant”. This will be corrected.

On the last page – Consideration of Minutes – Motion carried “6-0” should read “5-0”. This will be corrected.

Ned Simmons moved seconded by John Perry to accept the minutes as amended. Motion carries 4-0.

Adjournment: Meeting adjourned at 9:15 pm.

Respectfully submitted by:

Diane E. Plourde
Recording Secretary