

FINAL**APPEALS BOARD MEETING****Newcastle, Maine****January 17, 2013****Members Present**

Louis Rector, Chairperson

Kensell Krah

Richard Simon

Members Absent

Glenn Paye

Stephanie Stephenson

This Appeals Board meeting is a continuation of the January 2, 2013 meeting.

The meeting of the Appeals Board was called to order by Chairperson Rector at 5:20 PM at the Newcastle Town Office. **A motion was made by Rector and seconded by Krah and unanimously approved (3-0) to go into executive session at 5:30 PM to discuss the appeals variance request by Juloania, Inc. of 7 Hall Street, Suite 16, Newcastle, Maine (Map 12 Lot 9-2) entered on November 30, 2012.** Appeals Board members came out of executive session at 5:47 PM.

Chairperson Rector asked the two representatives of Juloania, Inc., Attorney Rick Salewski and President Paul K. Sidelinger if they had more paper work to distribute to the Appeals Board. Attorney Salewski said they had no permits to distribute for they could not locate any. Attorney Salewski said when the Sidelinger's moved they threw out all of their old checks. Attorney Salewski said the original application for a variance is true according to Mr. Sidelinger, his client. They will be submitting an affidavit from Mr. Sidelinger which states such at a later date.

Town Code Enforcement Officer Stan Waltz passed out a letter addressed to Town Administrator David Boiling, dated January 15, 2013, from the Great Salt Bay Sanitary District Wastewater Division Manager Lee Anna Libby. He said this letter addresses the number of units in the apartment building.

Attorney Salewski handed out and discussed an addendum to the application for variance dated January 17, 2013. It listed Mr. Sidelinger's reasons for requesting a variance due to the following provisions of the Newcastle Land Use Ordinance:

1. Chapter V, Section A(2)b and section A(3). These ordinances govern density and size determinations for subdivisions, including the number of dwelling units for a given lot.
2. Chapter IX. This references the official town zoning map and places the subject parcel in Village District which carries, as in all zones, some restrictions in use. This map toes in with paragraph #3.
3. Chapter X. This chart appears to limit the number of dwelling units in one apartment building to six in this zone and also addresses minimum lot sizes and minimum setbacks.
4. Chapter XIV (D) (3) and (4) requires the issuance of permits by the Code Enforcement Officer prior to the commencement of construction. Applicant understands that should the variance issue it will still need to obtain these permits for existing units.

Simon asked Attorney Salewski if he recognized that the addendum list items that Mr. Sidelinger needs to get a variance for to move on. Attorney Salewski said yes. Attorney Salewski said he knows that Mr. Sidelinger has more than six apartments and thus he is violation of the Land Use Ordinance.

Attorney Salewski said he and his client would like more time to address various issues such as impact fees. Attorney Salewski said Mr. Sidelinger made an attempt to pay impact fees to the Great Salt Bay Sanitary District but Mary Bowers of the Sanitary District instructed Mr. Sidelinger that they could not accept any more impact fees due to a pending lawsuit.

Attorney Salewski referred to Town Attorney Peter Drum's memo to the Board of Appeals dated January 14, 2013. Attorney Salewski said he could not argue some of parameters of legal standing such a hardship, town's involvement and reasonable return of the property. He knows Mr. Sidelinger gets an adequate return to operate the apartments. Attorney Salewski said he will work on an affidavit from Mr. Sidelinger. Mr. Sidelinger said the application for a variance is true and Great Salt Bay Sanitary District took fees from him for eleven years.

Simon asked Attorney Salewski if he thought town was laxed. Attorney Salewski said yes. He said the town was not negligent but this is an oversight by the town. Attorney Salewski spoke about case law when the Code Enforcement Officer says something is okay and the town says no.

Chairperson Rector asked if the members had any additional questions. Krah and Simon said no.

Mr. Sidelinger said he offers housing for low income persons for \$600 a month, including heat and water. He said he has donated the use of his land for Lincoln Academy activities. Mr. Sidelinger said he is not trying to hide anything. He said the former Town Code Enforcement Officer has been to his apartments on many occasions and the current Town Code Enforcement Officer has been to his apartments twice. Code Enforcement Officer Stan Waltz said he has only been to the apartments one time. Mr. Sidelinger said he needs a refry. He is somewhere between asking for a favor and begging to keep this building open. Simon said the Appeals Board feels for him but the Appeals Board does not make the final decision. Mr. Sidelinger thanked Appeals Board for their time as volunteers.

A motion was made by Krah, seconded by Simon and unanimously approved (3-0) to continue the meeting of the Appeals Board on February 1, 2013 at 5:00 PM at the Newcastle Town Office.



Dr. Edmée Déjean, Recording Secretary