

FINAL

APPEALS BOARD
MEETING MINUTES
Newcastle, Maine
September 23, 2013

Members Present

Louis Rector, Chair
 Kensell Krah
 Richard Simon
 Stephanie Stephenson

Members Absent

Glenn Paye

The meeting of the Appeals Board was called to order by Chairperson Rector at 6:08 PM at the Newcastle Community Room on River Road. **A motion was made by Stephenson, seconded by Simon and unanimously approved to approve (4 yes – 0 no) the minutes of February 15, 2013, with no changes. A motion was made by Stephenson, seconded by Simon and unanimously approved (4 yes – 0 no) to elect Rector as chairperson.**

New Business 1 of 3

Frank & Lisa Hisler
 319 Jones Woods Road
 Map 8 Lot 47 A & B
 Application for Lot B

- Application for variance from residential to commercial use.
- Frank Hisler said the Planning Board informed he and his wife needed to come to the Appeals Board to ask for a variance. He said he has an existing 3 bay garage on the property with an apartment upstairs. He wants to open a light vehicle repair service and a state inspection station, utilizing the garage. He is not presently operating a business there but would like to do so. The garage was built with that in mind.
- Town Attorney Peter Drum said a special exception is allowed according to the Newcastle Land Use Ordinance (LUO) Chapter X on page 120. He said this project does not require a variance.
- Frank Hisler said he owns the 1 acre of property, they utilize a water well and a septic system, that are both privately owned by him and his wife. The septic system is for a 2 to 3 bedroom building. He does not know the size of the septic system. There will not be any manufacturing of goods. There is 50 feet surrounding the garage. He has given the Planning Board a site plan. The garage is 22,000 square feet. Fifty percent of the surface is not covered by an impermeable surface. The upstairs apartment above the garage is occupied. They live across the street. The site plan shows where parking will be located. There is a regular driveway on the property leading to the garage.
- Elsie Libby of Newcastle said she does not want this business next door to her home. Oxbow Brewery is located on the other side of her property. This business will cause excessive traffic in the area.

- Norman Hunt of Newcastle said he is in support of this business being established. It will not cause excessive traffic. It is free enterprise. Frank Hisler would only be working on Class A vehicles.
- Brinkler said he does not see anything about tire changing. Frank Hisler said they would be changing tires inside the building.
- Carol Gay of Newcastle said there is a lot of traffic in the area already. There is a 3-way intersection where Frank Hisler wishes to open the business. There is a neighborhood there. Tire changers are noise makers.
- Mal Carey of Newcastle said the traffic is not excessive in that area. He is in favor of the business opening for it is a way for "the man to make a living in North Newcastle."
- Drum said the Hisler's are asking for a change of use from residential to commercial. They are not asking for a home occupation business.
- Members agreed that this project should be addressed by the Planning Board and not the Appeals Board. Rector informed the Hisler's that the next Planning Board meeting was September 26, 2013 at 7:00 PM at the Community Room.

New Business 2 of 3

Lincoln Academy

81 Academy Hill Road

Map 5 Lot 53

- Application for a height variance.
- Lincoln Academy Trustee Karin Morin said she will be acting as the attorney/agent for the school as will Architect Tor Glendinning of 44°North of Newcastle. She said that the Appeals Board should grant a height variance in the spirit of the Land Use Ordinance in Chapter XIV.
- Glendinning explained the land elevation and grade at Lincoln Academy.
- Morin referred to the letter addressed to the Planning Board from Glendinning dated September 23, 2013. Morin said Lincoln Academy will suffer undue hardship because the land in question cannot yield a reasonable return unless a variance is granted. Margo Riley, Head of Financial Services for Lincoln Academy answered questions from Morin to prove such hardship.
- David Sturdevant, Head of Lincoln Academy discussed the school layout and the proposed site.
- Engineer Thomas Greer with Pinkham and Greer Civil Engineer showed the proposed site grading.
- Patrick Carroll, Landscape Architect showed other land owned by Lincoln Academy across the street from the main campus. He said the dorm needs to be on the main campus due to safety issues for the students.
- Ken Stevenson, Director of Resident Life at Lincoln Academy said the dorm needs to be close to the main campus for safety reasons.
- Glendinning discussed why there are issues with constructing a dorm on the other side of Academy Hill Road away from the main campus and he also discussed the infrastructure of the building. He said it would cost an additional million dollars to do so.
- Glendinning said the Hall House is 66 feet tall and the proposed building is 58 feet.
- Morin discussed why Lincoln Academy cannot redesign the site. The building is set into a hill.
- Glendinning said if the building is lowered, people will be living in the basement.

- Ken Stevenson said living in basement is like living in a dungeon and may create seasonal affective disorder in some people.
- Drum recommend that the Appeals Board grant extra time for Lincoln Academy to speak.
- **A motion was made by Rector, seconded by Krah and unanimously approved (4 yes – 0 no) to extend Lincoln Academy's time by 20 minutes beyond 30 minutes originally granted.**
- Glendinning said the only place to have parking is under the building. The building cannot be constructed longer due to constraints around the building including water runoff. If you remove the first floor, an inside student commons area, which is also a conference center and meeting center for the students would be lost. If you remove the second floor, that will be a decrease of 26 student living quarters. If you remove the third floor, there will be a loss of dorm rooms and parent suites. If you eliminate the top floor, the roof would be flat floor and there would be no room for the mechanical systems.
- Ken Stevenson talked about the need for a ratio of 10 students to 1 dorm parent and attrition ratios.
- Morin spoke about the undue hardships due to the uniqueness of the property and the character of the landscape.
- Sturdevant said the students housed in the dorm will have no vehicles. Glendinning said the parking for dorm parents will be under the building.
- Glendinning said the Newcastle Design Review Committee voted for the dorm, including the height. He was not aware of the 40 foot height restriction in the Newcastle Land Use Ordinance until he met with the Planning Board in an open meeting. He and Code Enforcement Officer Stan Waltz met regarding the dorm building. He said Lincoln Academy is a not a campus but an institutional campus. He said on August 1, 2013 Stan Waltz signed the site review.
- Newcastle Planning Board Chair David Bailey said there must be a certain height on the lower floor of the building to accommodate the Damariscotta fire engine ladder truck.
- Glendinning said on August 22, 2103 he received a letter from Newcastle Taniscot Fire Chief Clayton Huntley that the dorm would not present a safety factor because Newcastle has an agreement with Damariscotta regarding their assistance when needed of the ladder fire engine truck.
- Morin said she did not have actual knowledge of 40 feet height restriction. She referred to case law. Lincoln Academy is applying for a variance and meets all requirements of undue hardship as stated in the Newcastle Land Use Ordinance in Chapter XIV.
- Simon asked if the proposed dorm site is marked with wooden stakes. Glendinning said the corners are marked for test boring.
- Jonathan Hull said he lives across the street from Lincoln Academy with his wife Gretchen. Lincoln Academy has spoke for 1 hour and 10 minutes and he would like time to speak. This is not about Lincoln Academy boarding program nor is it about the future of the school. Lincoln Academy is saying if the dorm is not 58 feet there will be no reasonable return. The courts have rejected this argument. The dorm is not essential to survival or necessary to Lincoln Academy's survival. The Appeals Board measure is not what is best but what is necessary. Lincoln Academy's arguments make sense but that is not the Appeals Board's argument. He said he has

heard about budgets and what is best for Lincoln Academy but he has not seen a budget of the school. The homes in the area of the school are colonial in design. This dorm is bigger than any building in the area and will overwhelm the locality. Hardship is not a result of action taken by the applicant. He said Glendinning and others violated the ordinance out of simple ignorance. The Hall House was grandfathered.

- Martha Frink, an abutter to Lincoln Academy asked if there would be a Public Hearing on this variance. Drum said yes.
- Susan Guilk asked a question regarding 50% land area covered by asphalt. Drum said it did not apply.
- Tom Matthews said he lives across the street from Lincoln Academy. Lincoln Academy has others sites on that side of the road including the field that could be used for dorm space.
- Katherina Korina of Newcastle said she is in favor of the dorm. Landscaping can be used to soften the view.
- Beth Chance of Newcastle said this “just smells”. Seems so rushed. “Do we want a big hunk’en hotel in our town?” She said coziness is what we need to decide if we want to keep or not.
- Lynn Norris said she lives at 18 Academy Hill Road. She has noticed the uptake of students. Students walking traffic will be increased after the dorm is built. This project seemed all very rushed.
- Norman Hunt of Newcastle said Newcastle has been anti job, anti business. He said this dorm is a good business decision. We need to use common sense. Parents and grandparents helped build the old gym. It is a hard job to run a school. He asked what is more important than a good high school.
- Rector said this meeting of the Appeals Board regarding this topic needs to be continued at a later date. Members agreed.

New Business 3 of 3

Jonathan Hull

Appeal of Design Review Committee Decision of Lincoln Academy Dorm Located at 81 Academy Hill Road - Map 5 Lot 53

- Jonathan Hull said he did not think it is ripe for an appeal by him until the color of the dorm is decided by the Design Review Committee.

At 8:20 PM a motion was made by Stephenson, seconded by Simon and unanimously approved (4 yes – 0 no) to continue the Appeals Board meeting, regarding the Lincoln Academy application for a variance, on a date and time to be determined.

Dr. Edmée Déjean, Recording Secretary