



TOWN OF WELLS, MAINE ZONING BOARD OF APPEALS

208 Sanford Road Wells, Maine 04090
Website: www@wellstown.org

MEETING MINUTES OF FEBRUARY 3, 2020

CALL TO ORDER

Chairman Robert Lavoie called the meeting to order at 7:00 P.M. Members present: John Ardini, Jason Heft, Michael Findley, Dr. Carol Kingston (Associate), John McDermott (Associate) and Thomas Pulsifer (Associate).

Staff present: Code Enforcement Officer Jodine Adams, Meeting Recorder Dr. Cynthia Davidson

MINUTES

October 28, 2019

Motion by Mr. Ardini, seconded by Mr. Heft, to approve the minutes as written. Passed unanimously.

November 25, 2019

Motion by Mr. Ardini, seconded by Mr. Heft, to approve the minutes as written. Passed unanimously.

PUBLIC HEARING

I. VARIANCE APPEAL VARIANCE APPEAL (HUDSON)

Jeff and Danielle Hudson, representing the property owners, are requesting a Variance for the property located at 441 Atlantic Avenue, further identified as Tax Assessor's Map 132 Lot 038 and resides within the Residential B (RB) District, Resource Protection (RP) District and the Shoreland Overlay. The requested variance, per Sec.145-67.A(3) of the Town Land Use Code, is for a vertical building height increase of 3 feet. The building height requirement in the RB District is 30 feet per Sec.145-22.F(5) of the Town Land Use Code.

There were no conflicts of interest on the Board. Mr. Lavoie read Section 145-67.A(3) with the 4 criteria for granting a variance. Mr. Findley will write the Findings of Fact. Jeff Hudson, Matt Vein and Jim Wright from Post Road Surveying were present. Mr. Hudson described the plan to

demolish the existing house and build two houses on adjacent lots for the 4 interested parties. They are asking for a height variance of 3 ft. for both lots and base the hardship on conflicting regulations from the Town and the DEP. DEP requires a 3 ft. elevation because of a potential flood zone. If the Town identified this as a flood zone, a height addition up to 5 ft. would be allowed. Since the property is in a Back Dune area there must be a flow thru foundation. The RB zone limits the height to 30 ft. The appellants claim that without a variance they would lose 33% of the living space (from 3 stories to 2) and there are numerous homes in the area at 35 ft. with 3 stories. Mr. Wright said the property will become part of the flood zone based on the new FEMA maps. The preliminary maps show the erosion hazard area being moved into the flood zone.

Ms. Adams said these lots were created in 1894 by the Wells Beach Improvement Company. They are 2 legal lots of record. Setbacks will be 15' in front, 6' on the sides and 20' from the sea wall. Lot coverage is 60%. The current structure is primarily on Lot 59 with a small portion of the wall on Lot 60.

PUBLIC COMMENT

Several abutters objected to the request for a height increase, that meeting the 30 ft. requirement is not a hardship. Other homes have been built in the area recently and comply with the terms of the ordinance. The slope of the roof could be reduced and the attic could be a crawl space. Abutters questioned how large the house would be. If there are no plans yet, how can the appellants determine that they would lose 33% of their living space without a variance? Mr. Hudson said they want the cars off the street, and parking would take up most of the first level. The garage doors will be in front of the overhang. Several abutters submitted letters for the Board's consideration and were concerned about the impact on their property values if the variance is granted. There was a question about one lot line and whether it abuts a street or a path to the beach. The path is public way #15 to the beach. Ms. Adams said the only street setback the structure has to meet is Atlantic Avenue. Abutters questioned why anyone would tear down and rebuild in a flood zone.

MOTION

Motion by Mr. Ardini, seconded by Mr. Heft, to close the public hearing. Passed unanimously.

DELIBERATION

I. VARIANCE APPEAL

Jeff and Danielle Hudson, representing the property owners, are requesting a Variance for the property located at 441 Atlantic Avenue, further identified as Tax Assessor's Map 132 Lot 038.

Mr. Lavoie read the four requirements for granting a variance. The property is currently being used and the use can continue. The residence has value as beach front property and therefore it cannot be considered a hardship.

Two stories are allowed and the proposal is to go from 2 to 3 which would increase the economic value. The variance rules were designed to help an owner who was trapped by a change in the ordinance. Mr. Ardini said that granting the variance would change the character of the neighborhood since the other owners were limited to 30 ft. structures.

Mr. Heft said that some of the homes have flat roofs and if the appellants built a flat roof they would not require the additional 3 ft. They could probably have another floor if they choose a flat roof. The unique circumstance of the property is the conflict between Town and State regulations. Dr. Kingston agreed that there is no hardship and thanked the members of the public for their input. Mr. Pulsifer and Mr. McDermott said that the property is in a unique situation because of the flood zone, but it is able to yield a reasonable return.

A straw poll was taken and members agreed unanimously that there is no need for a variance.

ADJOURN

MOTION

Motion by Mr. Ardini, seconded by Mr. Heft, to adjourn. Passed unanimously.

RESPECTFULLY SUBMITTED:

DATE:

Cynthia Davidson

6/22/2020

Dr. Cynthia Davidson, Meeting Recorder

ACCEPTED BY:

DATE:

Robert Lavoie
Robert Lavoie Chairman

6/22/20