

**Minutes
Bethel Board of Appeals
Approved as Amended 1.04.2011**

Thursday, December 16, 2010

Town Office 5:00 pm.

Members Present: Pat Carter, Scott Gould, Wende Gray, Michael O'Donnell,
Lennie Shaw
Members Absent: None
Staff Present: Sarah Tucker, James Doar
Others Present: Attorneys Rob Crawford & Dana Hanley, Barry Hallet, Allen
Cressy; see sign in sheet for complete record of attendance

There is a full recording of the meeting in Windows Media Audio file format which is part of the complete record.

1. Call to Order

Chairman Michael O'Donnell called the meeting to order, stated the purpose of the meeting and introduced himself, the Attorney for the Appellant, Dana Hanley, and the Town's Attorney, Rob Crawford.

2. Opening Statement

There was no opening statement.

3. Declaration of Quorum

Chairman O'Donnell declared a quorum.

Rob Crawford addressed the matter of seating Mrs. Gray and Dr. Shaw in light of an objection raised by the appellant. Mr. Crawford instructed the two members on the Rules of Procedure regarding conflicts of interest. There was discussion.

Dr. Shaw stated that he would not recuse himself; the other Board Members concurred with his decision

The Chairman recognized Dana Hanley who stated for the record that he had no concerns regarding conflict of interest and he did not object to the participation of either Mrs. Gray or Dr. Shaw on that basis. He did express other concerns and asked that the two members state their ability to act objectively and impartially. There was considerable discussion.

After discussion Rob Crawford asked if the Board wanted to vote on Wende's continued participation. Chairman O'Donnell stated that he did not think that a vote was necessary;

Rob Crawford stated that they would leave the matter at that. Mr. Hanley raised no further objections regarding the complement of the Board of Appeals Members to proceed with the hearing.

4. Approval of Minutes: December 7, 2010

Scott Gould made the motion to approve the minutes, Pat Carter seconded the motion; there was no discussion and the motion was unanimously approved.

5. Continuation of Board of Appeals Hearing:

Appeal of October 27, 2010 Planning Board Decision Regarding Applicability of Site Plan Review Ordinance, Tax Map 25, Lot 62, *Funky Red Barn*

Appellant: Mark Egeberg
6 Mechanic Street

Dana Hanley asked for an accounting of the materials submitted to the Board to ensure that there was a complete record. The Board Members enumerated the materials that had been provided:

- Revised Agenda December 16, 2010
- Original Agenda December 16, 2010
- Planning Board Agenda September 22, 2010
- Planning Board Minutes of September 22, 2010 as approved on October 13, 2010
- Abutter Notice dated September 16, 2010
- Planning Board Agenda October 13, 2010
- Letter to the Planning Board dated October 13, 2010 from Mark Egeberg
- Planning Board Minutes of October 13, 2010 as approved October 27, 2010
- Letter from Planning Assistant to Barry Hallet of October 13, 2010 decision
- Planning Board Agenda October 27, 2010
- Planning Board Minutes October 27, 2010
- Letter from Planning Assistant to Barry Hallet dated November 1, 2010
- Letter to Planning Board and Assistant from Mark Egeberg dated November 12, 2010
- Abutter Notice dated November 23, 2010
- Memorandum to Board of Appeals dated November 23, 2010 regarding the availability of Windows Media Audio files of the Planning Board Meetings.
- Letter dated September 9, 2010 written to the Planning Assistant from Barry Hallet concerning the insurance company and requesting an Applicability Hearing
- Excerpt of Bethel Code

Dana Hanley inquired if the Board Members had listened to the tape of testimony from Barry Hallet regarding the work that had to be done; they had not. There was discussion.

After discussion Lennie Shaw made the motion to ask the Appeals Assistant to provide the appropriate portion of tape, Scott Gould seconded the motion; it was unanimously approved.

The Chairman recognized Allen Cressy; he wanted to be sure that the Planning Board Findings of Facts and Decision was part of the record. It was agreed that the Findings of Fact were part of the record.

(There is a lull in the meeting as a computer is set up to play the recording)

The Board listened to Barry Hallet's testimony at the Planning Board Meeting of September 22, 2010; it is audible in the Windows Media Audio file.

Dana Hanley addressed, instructed and gave his arguments to the Board; he asked that the matter be remanded back to the Planning Board.

Chairman O'Donnell asked for any questions; there were none.

Rob Crawford addressed and offered instruction to the Board.

Chairman O'Donnell recognized Barry Hallet, owner of the Funky Red Barn, who offered clarification of the dimensions of the building.

Chairman O'Donnell recognized Allen Cressy, Chairman of the Bethel Planning Board, who spoke about maintenance activities.

Dana Hanley asked that the Board consult with their council regarding what information and evidence should be considered prior to issuing a decision. Rob Crawford instructed the Board not to consider the new representation provided by Barry Hallet because it is not part of the record; however they could draw upon their prior knowledge of the location.

There was considerable discussion. Pat Carter and Scott Gould addressed the Board in turn

After discussion Lennie Shaw moved that the Appeals Board find that the Planning Board acted correctly in this matter; Scott Gould seconded the motion.

There was further discussion. Lennie Shaw and Wende Gray addressed the Board.

Lennie Shaw and Scott Gould amended their motion to include that if the Board makes that finding the consequence would be that the appeal would be denied.

The motion was unanimously approved.

Dana Hanley thanked the Board for their attention and left the meeting.

(The recorder was momentarily turned off, and then on again)

Robert Crawford recapped the discussion, the findings and the preparation of a written determination. There was discussion.

The Board agreed that they had not considered any new information provided by Barry Hallet.

The next meeting was scheduled for Tuesday, January 4, 2011 at 5:00 pm.; within the 21 day period provided for in the Board of Appeal Rules of Procedure.

6. Other Business

None

7. Announcements

None

8. Adjournment

Lennie Shaw made the motion to adjourn, Scott Gould seconded the motion; it was unanimously approved.