Auburn Zoning Board of Appeals

September 11, 2014

Agenda

6:00 P.M. – City Council Chambers (Auburn Hall)

ROLL CALL

MINUTES:

Review and Approval request of the August 7, 2014 Zoning Board of Appeals meeting minutes.

OLD BUSINESS:

Confirmation of the Findings of Facts and Conclusion of the following:

Administrative Appeal of Daniel and Marie Herrick to appeal their denial of a building permit to construct a single family home in the Agriculture and Resource Protection District at 240 Hatch Road / PID # 213-006 pursuant to Chapter 60, Article XV, Division 4, Section 60-1186. *Appeal was denied by the Zoning Board of Appeals on August 7, 2014.*

NEW BUSINESS: None

MISCELLANEOUS: None

ADJOURNMENT

Auburn Zoning Board of Appeals Meeting Minutes
August 7, 2014

Roll Call

Full Members present: Bruce Richardson, Courtney McDonough, Michael Dixon; Presiding, Kenneth Sonagere, Elizabeth Shardlow and Christopher Gendron.

Associate Members present: Dan Curtis Jr. and Maureen Aube

Full Member absent: Lane Feldman

Also present representing City staff: Eric Cousens, Deputy Director of Planning & Development and Douglas Greene, City Planner.

Chairperson Michael Dixon, called the meeting to order at 6:00 pm and asked each Board member to state their name. He said one of the regular members was absent; therefore, Dan Curtis's member status would be elevated to full member status for tonight's meeting.

Public Hearings:

Administrative Appeal of Daniel and Marie Herrick to appeal their denial of a building permit to construct a single family home in the Agriculture and Resource Protection District at 240 Hatch Road / PID # 213-006 pursuant to Chapter 60, Article XV, Division 4, Section 60-1186.

Chairperson Dixon identified all materials that been submitted for this appeal and then explained the procedure that is followed for Board of Appeals meetings

Eric Cousens read the staff report.

Dan and Marie Herrick, appellants, spoke about the appeal. Mr. Herrick presented the Board with a number of photographs of the existing building.

Questions were asked by the Board members to which Mr. and Mrs. Herrick replied.

Open Public Input

Gabriel Couture of 440 Hatch Road gave a history of the property and explained how the building came to be. He stated that Mr. Lander, the original owner of the property was very abrasive. Mr. Couture claimed the City was afraid of him so that's why nothing was done to rectify the situation. He said in his opinion, it's wrong to change things now.

Edward Desgrosseilliers of 121 Hatch Road agreed that Mr. Lander's character was abrasive in nature and threatened court action to anyone who went against him. He said the City should not

penalize whoever has made an investment and that he was ok with this remaining as a non-conforming lot.

Joseph Gray of Sopers Mill Road said he would usually go against this type of proposal but after visiting the site, is ok with it.

Tizz Crowley of 35 University Street stated she had visited the property. She said she was concerned about this being an equitable issue as it's been taxed as a residence for 20 years. She said she was neither for nor against this appeal.

Belinda Gerry of 143 Mill Street said she was here to support their appeal. She commended the Herricks for doing the right thing in coming to get permits as she said he could have done stuff without anyone knowing about it.

Leroy Walker of 41 Broad Street said the City missed the boat in the past on this one.

There was a lengthy discussion amongst the Board members, City staff and the petitioners.

Kenneth Sonagere referenced Chapter 60, Section 1187. Variance Criteria and noted that the appellant could not meet that standard or the Administrative Appeal before the Board so the Board could not approve the request.

A motion was made by Kenneth Sonagere and seconded by Elizabeth Shardlow to deny the Administrative Appeal of Daniel and Marie Herrick to appeal their denial of a building permit to construct a single family home in the Agriculture and Resource Protection District at 240 Hatch Road / PID # 213-006 pursuant to Chapter 60, Article XV, Division 4, Section 60-1186.

After a vote of 5-2-0, the motion carried. (Bruce Richardson and Christopher Gendron opposed)

Variance Appeal of Peter & Susan Bunker to reconstruct an existing structure at 167 West Shore Road / PID # 255-004 without requiring that 50% of the structural members remain in place pursuant to Chapter 60, Article XV, Division 4, section 60-1187. The proposal is in compliance with the standards for rehabilitation and less than 30% expansion of an existing structure; however, the existing construction is substandard and has deteriorated over time to the extent that saving the structural members is impractical.

Chairperson Dixon identified all items submitted for this appeal.

Eric Cousens went over the staff report.

Mike Gotto for Stoneybrook Consultants, Inc and representing Mr. and Mrs. Bunker added to the presentation.

The Board members asked questions of which Mr. Gotto answered.

Open Public Input

Tizz Crowley of 35 University Street stated that she supported some of this but was concerned about the water. She spoke about an equitable solution.

A motion was made by Elizabeth Shardlow and seconded by Kenneth Sonagere to approve the Variance Appeal of Peter & Susan Bunker to reconstruct an existing structure at 167 West Shore Road / PID # 255-004 without requiring that 50% of the structural members remain in place pursuant to Chapter 60, Article XV, Division 4, section 60-1187.

After a vote of 7-0-0, the motion carried.

Variance Appeal of Frank C. Goudreau to reconstruct an existing structure at 63 Chicoine Avenue / PID # 237-007 without requiring that 50% of the structural members remain in place pursuant to Chapter 60, Article XV, Division 4, section 60-1187. The proposal is in compliance with the standards for rehabilitation and less than 30% expansion of an existing structure; however, the existing construction is substandard and has deteriorated over time to the extent that saving the structural members is impractical

Chairperson Dixon identified all items submitted for this appeal.

Frank Goudreau, appellant, spoke about his appeal.

Eric Cousens went over the staff report.

Open Public Input
No comment from the public.

A motion was made by Kenneth Sonagere to approve the Variance Appeal of Frank C. Goudreau to reconstruct an existing structure at 63 Chicoine Avenue / PID # 237-007 without requiring that 50% of the structural members remain in place pursuant to Chapter 60, Article XV, Division 4, section 60-1187.

The motion was amended by Christopher Gendron to include a buffer zone of 10 feet from the high water mark. Mr. Sonagere accepted the amendment.

The motion was seconded by Bruce Richardson. After a vote of 7-0-0, the motion carried.

Variance Appeal of Roland and Stacie Brown to reconstruct an existing structure at 28 Sandy Beach Road / PID # 237-017 without requiring that 50% of the structural members remain in place pursuant to Chapter 60, Article XV, Division 4, section 60-1187. The proposal is in compliance with the standards for rehabilitation and less than 30% expansion of an existing structure; however, the existing construction is substandard and has deteriorated over time to the extent that saving the structural members is impractical.

Chairperson Dixon identified all items submitted for this appeal.

Eric Cousens went over the staff report and presented photos of the property via PowerPoint.

Roland Brown, appellant, spoke about the appeal.

Open Public Input
No comment from the public.

Board members asked questions to City staff and to the appellant.

A motion was made by Christopher Gendron and seconded by Elizabeth Shardlow to approve the Variance Appeal of Roland and Stacie Brown to reconstruct an existing structure at 28 Sandy Beach Road / PID # 237-017 without requiring that 50% of the structural members remain in place pursuant to Chapter 60, Article XV, Division 4, section 60-1187.

After a vote of 7-0-0, the motion carried.

ADJOURNMENT

CITY OF AUBURN ZONING BOARD OF APPEALS
FINDINGS, CONCLUSIONS, AND ORDER

The City of Auburn Board of Appeals met on August 7, 2014 to consider the administrative appeal of Dan and Marie Herrick from a decision by the Planning and Development Department to deny a building permit for the property at 240 Hatch Road, Auburn PID # 213-006 (the "Property"). After hearing, the Board makes the following findings of fact, conclusions of law, and order.

FINDINGS

1. The Property is owned by Daniel and Marie Herrick, as shown by the deed recorded in the Androscoggin County Registry of Deeds at Book 8898, Page 266.

2. The Property is located in the Agriculture and Resource Protection Zoning District ("AG/RP District") as shown on the City of Auburn Zoning Map.

3. The Property is approximately 5.45 acres in size based on City tax records.

4. Petitioners have not demonstrated that they intend that at least 50% of their total annual income will be derived from agricultural sources.

5. The City of Auburn Code of Ordinances ("Auburn Ordinance") § 60-173(1) requires a minimum lot size of 10 acres of land in order for a building to be erected in the AG/RP District.

6. One-family detached dwellings are only permitted in the AG/RP District if they are "accessory to farming operations." Auburn Ordinance § 60-145(a)(1).

7. One-family detached dwellings are not permitted if they are not accessory to farming operations. Auburn Ordinance § 60-145(a)(1).

8. Auburn Ordinance § 60-2 defines farm as:

> any parcel of land containing more than ten acres which is used in the raising of agricultural products, livestock or poultry, or for dairying. The term "farm," under the Agricultural and Resource Protection District, shall be further defined as meeting the following criteria:
>
> (1) At least 50 percent of the total annual income of the farm occupant and his spouse living in the farm residence will be derived from such uses; and
>
> (2) At least ten acres of the farm will be devoted to the production by the occupant of field crops or to the grazing of the occupant's livestock. For purposes of this definition, the term "poultry" means no fewer than 100 foul and the term "livestock" means no fewer

than 20 cattle or other animals being raised for commercial purposes.

9. Therefore, a single family dwelling in the AG/RP Zone is only permitted if:
   (1) the lot size is a minimum of 10 acres;
   (2) at least 50% of the total annual income of the dwelling occupant and his/her spouse will be derived from raising of agricultural products, livestock or poultry, or for dairying; and
   (3) at least ten acres of the farm will be devoted to the production by the dwelling occupant of field crops or to the grazing of the occupant's livestock.

   Auburn Ordinance §§ 60-2, 60-145(a)(1), 60-173(1).

CONCLUSIONS

10. The Property does not meet minimum lot size requirements of the AG/RP Zone.

11. The Petitioners have not demonstrated that they intend to meet the income requirements of having at least 50% of their total annual income derived from raising agricultural products, livestock or poultry, or for dairying.

12. The Petitioners have not demonstrated that they intend to meet the requirement to devote at least 10 acres of the Property to the production of field crops or the grazing of livestock.

13. Petitioners have not demonstrated that the permit was denied in error. City Staff followed the requirements of the ordinance and correctly denied the permit for a new single-family home that was not accessory to a farming operation.

Based on the above findings and conclusions, the decision of the Planning and Development Department is upheld and Petitioners' appeal is denied. If you disagree with this decision you may file an appeal in the Superior Court within 45 days of the date of this decision.

Date: August __, 2014

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Michael Dixon, Chair