

Lebanon Maine Board of Appeals

Meeting Minutes – Site Review of 124 Upper Cross Road, Lebanon ME

Present –

Chairman Deborah Dorey Wilson

Members – Don Leuchs, Bernard LeBreque, Roland Demers

Non-Member – Selectman Paul Philbrick

Member Don Leuchs motioned to open the meeting at 11:27 am. Second by Bernard LeBreque. All in favor.

Meeting opened.

Chairman Deborah Wilson indicated that her 1 year being Chairman was due for reelection by the Board.

Member Don Leuchs motioned for Deborah Dorey Wilson to remain as Chairman for another year. Second by Bernard LeBreque. All in Favor. Motion passed. (2-0-1) (Wilson Abstained)

Member Leuchs asks the Chairman if she is going to turn on the video tape. Wilson answers that she has not yet been taught how to utilize the system. Discussion is had on learning to access video system.

Chairman Wilson outlined her recent discussion with Select Board Chairman Harlow, (prior), and meeting with Code Enforcement Officer Steve McDonough on July 23, 2018.

- Do we need Code Enforcement Officer (further CEO) attending every meeting of the Lebanon Appeals Board?
- Chairman Wilson notes that often the Appeals Board is presented with evidence enough to make a ruling on a variance without the Code Enforcement Officer in attendance. A notification sent to Code Enforcement with date and time of hearing (similar to notices sent to Department of Environmental Protection) should be sufficient to allow him time to make a written statement, should he choose.
- If questions come up during a meeting that the Board would feel more comfortable with an answer from the CEO, the Board could create a list and continue the meeting to a time when CEO could be in attendance. The Board could also accept an answer in writing by the CEO.
- Question from Don Leuchs on whether CEO denial of building permit would be enough to explain his position. Chairman Wilson answers that the CEO stated during the afternoon meeting, that he only denies building permits based on the prevailing law. If the Board required anything more, the Board would have to request his attendance or written statement.
- Chairman Wilson notes that it has been suggested that she could speak to the CEO prior to any hearing and bring his concerns back to the Board. Chairman Wilson states that she is not comfortable doing this as it presents the opportunity for misunderstanding and a he said / she said problem. Wilson stated that since the Board of Appeals is a quasi-judicial Board of

the Town of Lebanon, she was uncomfortable not having information or recommendations presented in writing or orally on video by the CEO. Chairman Wilson would rather that any information or concerns shared by the CEO be in presented in writing or orally so that it is included as part of the meeting minutes for each Appeal. Members Leuchs and LeBreque state that they agree that information or evidence from the CEO with regard to an Appeals case should be written or provided orally by the CEO and included as part of the documentation. It is agreed that this discussion be tabled and discussed again on video at the Tuesday, July 24, 2018 Board of Appeals Meeting.

11:45 am - Board Member Roland Demers arrived to meeting. A brief recap of the previous conversation and motion were provided to Mr. Demers by the Chairman.

11:50 am - Board Member Don Leuchs motions to close the meeting and reopen at 124 Upper Cross Road, Lebanon. Second by Bernard LeBreque. All in Favor. (4-0) Meeting Closed.

- Member Don Leuchs provided transportation to Chairman Wilson and Member LeBreque to the site. Member Roland Demers drove in his own vehicle.

12:01 pm – Members arrived at 124 Upper Cross Road. – Present were Chairman Wilson, Members Don Leuchs, Bernard LeBreque and Roland Demers.

- Meeting was reopened at the site of 124 Upper Cross Road by the Chairman.
- Applicant Karen Abbott not present.
- Abutters present were Clay Wentworth, Janis Lemanster (sp?) and Everett Murphy.
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Discussion with Abutters

- Member Don Leuchs requested of the Abutters whether the Board could view the applicant's property from the Abutters' land. Permission was given by both Abutters Wentworth and Murphy.

12:15 pm – Member Roland Demers states that he must leave the property to return to work. He leaves in his own vehicle.

12:25 pm - The Board discusses Ms. Abbott's absence and Chairman Wilson placed a call to Jenny Collins at the Lebanon Town Office. It is requested that Jenny give Ms. Abbott a call (no telephone number is provided on the application) to request her presence.

12:30 pm – Applicant Karen Abbott arrives on the property. Applicant states she was late because she was with customers.

Members may now access the applicant's property.

Member Don Leuchs measures from the rear of the house out 10' and from the 10' mark another 25'. He notes that he is past the rear property border by 7 or 8 feet as marked by the painted iron pipes.

Chairman Wilson questions the Applicant with regard to the new building, well and septic as copies of these permits were not included with the Appeals Board packets on this property. Ms. Abbott states that she will provide those copies at the Appeals Board Hearing in August.

Chairman Wilson mentions to the Applicant that the Appeals Board hearing on this variance request is being held on Tuesday, July 24, 2018 at 6:30 pm. Applicant Abbott states that her notice clearly states the hearing will be held on "August" 24, 2018. Wilson and Member Leuchs review the site packet given to the Board of Appeals Members. Board of Appeals notice states July 24, 2018 at 6:30 pm.

- Chairman Wilson states that she will ask Jenny Collins to review the notice sent to Ms. Abbott when the Board returns to Town Office.
- Chairman Wilson asks Ms. Abbott if she is available and willing to attend the Board of Appeals meeting scheduled for Tuesday, July 24, 2018 at 6:30 pm. Applicant states she is available and willing to attend and bring requested copies of permits.

Discussion with Applicant:

- Applicant Abbott states that she has a Purchase and Sale Agreement for the property which is contingent upon her obtaining a variance to allow for at 10' wide and 34' long deck on the rear of the housing unit. It is noted by the Chairman that this Purchase and Sale Agreement is part of the Appeals Board packet.
- Applicant Abbott states that she is within the 25' side set-back for the construction of a proposed wheelchair ramp on the left side of the current structure. It is noted that the variance request does not include Ms. Abbott's plans for the wheelchair ramp.
- Member Bernard LeBreque asks Applicant why she was requesting a 10' wide deck across the back of the structure. Did she feel that was necessary for the proposed purchaser to access the home? Applicant Abbott states that the area would be the primary access to the home for the purchaser, and that she was allowing for extra width which would allow the purchaser to sit outside in the sun if he chose.
- Applicant states that the rear deck would be accessed via wheelchair ramp along the left side of the building. There would also be a set of 3 steps constructed beside the currently existing oil tank on the right side of the building.
- Applicant states that the current structure is about a month old, replacing a formerly dilapidated shack which previously stood on the property. Applicant states the shack had been an eyesore and had sat much closer to the shoulder of Upper Cross Road than the current structure does.
- Member Leuchs asks how the property boundary markers were set. Applicant states that she had the property surveyed.
- Applicant is questioned as to the site work continuing past the property markers, Applicant states the property deed states "100 feet more or less" and that the "more or less" wording allows a bit of overflow. Applicant also points out that former owners had utilized much more than the 100 feet, having a cleared lawn area and stone wall surrounded garden area.
- Applicant questions whether the Board had received her letter with regard to the 8'X8' deck she is seeking as part of the variance request. Chairman Wilson states that she has not received an additional request but noted that a letter including the 8'X8' front deck had been included in the Board's packet and is noted on the Applicant's submitted site plan.

- Member LeBreque questions the need for the deck on the front of the home, would it be used as wheelchair access as well? Applicant states that the 8'X8' deck on the front of the housing unit would not be wheelchair accessible and would be accessed by stairs.

12:43 pm - Chairman Wilson thanked Applicant and meeting is closed at 124 Upper Cross Road. Wilson reminds Applicant that she will need copies of permits for the housing structure, well, septic and notarized survey work for her Appeals Board Hearing scheduled for 6:30 pm on Tuesday, July 24, 2018. It is noted that all Abutters have left the front of the property.

12:50 pm – Chairman reopens meeting at Lebanon Town Office.

Present –

- Chairman Deborah Dorey Wilson
- Members – Don Leuchs, Bernard LeBreque
- Non-Members – Selectman Paul Philbrick

Chairman asks Jenny Collins if it is possible that Applicant Abbott's notice of Appeals Board Hearing could say that the meeting would be held on August 24, 2018 and the Board's notice state that the meeting would be held on July 24, 2018. Jenny Collins states that it may have been a mistake on her part while utilizing a template letter and a missed date change. Chairman notes that it may also have been the Applicant's mistake.

Discussion is held with regard to focus on necessary information with regard to the current variance application. While we are concerned with whether the boundaries are correct for the rear setback issue, deciding on whether the Applicant has encroached on Abutters' property is not part of our decision. Discussion follows that it is not part of our job to determine whether site work or proposed driveway encroaches on the Abutters' property. Our only concern is the proposed 10'X34' deck on the rear of the housing unit and the 8'X8' deck on the front of the unit and whether or not the Applicant meets the criteria for a variance under the State Law and Local Ordinance. All members are in agreement.

Chairman discusses upcoming training on July 26, 2018 at 4:30 pm at the Clarion Hotel Airport in Portland Maine. Chairman Wilson and Member Leuchs are registered to attend. Member Leuchs states that he is willing to drive to the destination. Wilson states that he should keep track of his mileage as it is a reimbursable expense. Member Leuchs questions that amount. Wilson states she believes it is .54 cents per mile or .56 cents per mile. Wilson states that she will request that information from the Select Board Chairman.

1:00 pm – Member Leuchs motions to adjourn the meeting. Second by Member LeBreque. All in favor. Meeting adjourned