



Zoning Board of Appeals
Post Office Box 875
Ogunquit, Maine 03907-0875

**OGUNQUIT ZONING BOARD OF APPEALS
REGULAR BUSINESS MEETING
SEPTEMBER 14, 2023
VIA ZOOM (no in-person component)**

1. ROLL CALL and CALL TO ORDER - 1:00 p.m.

Board Members Present: Jay Smith, Chair
Peter Griswold (arrived at 1:10 p.m.)
Doug Mayer
Jerry DeHart
Len Pierce

Also Present: Tyler McOsker, Code Enforcement Officer

Mr. Smith confirmed that there was a quorum.

2. ACCEPTANCE OF MINUTES – June 8, 2023.

Mr. Dehart Moved to Accept the Minutes of the June 8, 2023 Meeting as Submitted. DEHART/MAYER 3:0 UNANIMOUS (Mr. Pierce was not a sitting Board Member at the June 8, 2023 Meeting. Mr. Griswold was not present at the time this vote was taken).

3. UNFINISHED BUSINESS – None

4. NEW BUSINESS –

1. LISA CIAMPA – 140 Shore Road (Map 6 Block 123 - Limited Business District). Request for Reconsideration of the Zoning Board of Appeals’ June 8, 2023 Denial of the Applicant’s Administrative Appeal.

Mr. Smith reviewed Article XI of the Zoning Board of Appeals By-Laws regarding a Request for Reconsideration:

“Any party aggrieved by a decision or order of the Board or a Board Member may petition the Board to reconsider a decision in accordance with Maine State Statute, Robert’s Rules of Order, and Section 225-5.3.L of the Town of Ogunquit Zoning Ordinance.

A decision in favor of Reconsideration is based on at least one of the following determinations:

- 1) The record contains significant factual errors due to fraud or mistake, regarding facts upon which the decision was based; or
- 2) The Board misinterpreted the Ordinance, followed improper procedures or acted beyond its jurisdiction; or
- 3) Crucial information, not available at the time of the initial vote, is now available;
- 4) There has been a substantial change of circumstances since the initial vote, e.g. a second application for a variance on a property, where a variance was previously denied, is substantially different from the previous one.

A Motion to Reconsider a previous decision can only be made by a member who voted with the prevailing side and shall require a positive vote of the majority of the Board Members who originally voted on the decision.”

Mr. Smith noted for the record that in this case, due to Mr. Horn’s retirement, it will be up to Mr. Mayer and Mr. Smith to decide whether or not to hear the Applicants’ request for reconsideration.

Mr. Smith asked Mr. Mayer if he felt that the Board misinterpreted the Ordinance, or that facts were fraudulently presented, or crucial information was not available on June 8th which is now available, or if there has been substantial change of circumstances since the June 8th meeting, such that Mr. Mayer would change his vote that the Code Officer properly issued a fence permit to the Ogunquit Baptist Church.

Mr. Mayer responded that he did not find any of those conditions.

Mr. Smith agreed with Mr. Mayer’s assessment that none of the required criteria have been met. He also confirmed that:

The issuance of a fence permit does not require abutter notification;

The fence in this case is entirely on church owned property as demonstrated by the Standard Boundary Map prepared by a professional licensed surveyor;

The fence is located on the outer edge/perimeter of the Central Maine Power (CMP) Easement and not within the easement;

The Easement is not on the abutters’ property;

The fence is not a “structure” and is similar in appearance and design to other fences in the immediate vicinity;

There are no high voltage lines above the fence, and there is no evidence that the fence will interfere with proper operation or maintenance of CMP equipment.

Chairman Smith noted that there had been some initial misinformation between the Code Officer and the Applicant, however this misinformation was administrative and minor in nature.

Mr. Mayer Moved to not hear this request for reconsideration, based on a failure of the Applicants to meet the criteria upon which reconsideration is justified.

MAYER/SMITH 5:0 UNANIMOUS

Mr. Smith confirmed that this request would not be heard, based upon the Applicants’ failure to meet the required criteria for reconsideration.

5. **CODE ENFORCEMENT OFFICER BUSINESS** – None

6. **OTHER BUSINESS** –

Election of Officers: Chair, Vice Chair, Secretary.

Mr. DeHart Nominated Mr. Smith as Chair.

UNANIMOUSLY APPROVED

Mr. Griswold Nominated Mr. DeHart as Vice Chair.

UNANIMOUSLY APPROVED

Mr. DeHart Nominated Mr. Pierce as Secretary.

UNANIMOUSLY APPROVED

It was noted by the ZOOM Host that there was a request to be heard from the public.

Mr. Smith agreed to allow Kate (*no last name given*) to be heard. Kate implied that she was one of the Applicants and she wanted her witness (Mr. Riley) to be heard. She wanted to be heard even though the Board had already decided not to hear her request for reconsideration.

Mr. Smith responded that the Board was not going to hear comments regarding this application. He informed Kate that the next level of appeal is Superior Court, or she can file for remedy in Civil Court.

Mike Riley (via Zoom) took exception with the Board's interpretation of the facts and its decision to not hear Ms. Ciampa's case. Mr. Riley began to argue the Applicants' case.

At this time the ZOOM Host muted Mr. Riley.

Mr. Riley continued to raise his virtual hand. Mr. Smith declined to allow him back into the ZOOM Meeting.

7. **ADJOURNMENT** –

Mr. Griswold Moved to Adjourn at 1:33 p.m.

GRISWOLD/DEHART 5:0 UNANIMOUS

Respectfully Submitted

Maryann Stacy

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Recording Secretary

Accepted on October 12, 2023

Notes:

- *These minutes are a summary of what was discussed and are not a transcript.*
- *Copies of referenced documents will be maintained in the Application packet on file with the Land Use Office.*

- *All Board meetings are video archived, and may be viewed for one year after the meeting date, on the Town of Ogunquit's website at www.townofogunquit.org.*