

Town of Cape Elizabeth
Minutes of the September 27,2016
Zoning Board of Appeals Meeting

Michael Vaillancourt, Acting Chair Aaron Mosher

Michael Tadema-Weilandt Matthew Caton

John Craford Stanley Wisniewski

Code Enforcement Officer (CEO), Benjamin McDougal and Recording Secretary, Hiromi Dolliver were also present.

A. Call to Order: Acting Chairman Michael Vaillancourt called the meeting to order at 7:00 p.m.

B. Approval of Minutes: The minutes of the August 23, 2016 meeting were approved 5-0.

C. Old Business: None

D. New Business: To hear the Administrative Appeal of Shawn Tamir, owner of the property at 1 Crescent View Avenue, Map U16 Lot 36. Mr. Tamir is appealing the Notice of Violation issued by the Code Enforcement Officer on July 18, 2016.

Mr. Tamir said he was appealing the Ordinance that was drafted about 3 years ago. That Ordinance did not take into consideration multi unit properties. He is appealing the Ordinance that allows homeowners to rent their properties one week at a time, which excludes multi unit buildings. He lives in one of the units and wishes to have the opportunity to rent the other two units as he has for the last couple of months, provided that he adheres to the other provisions of the Ordinance.

In response to questions, Mr. Tamir agreed that he wants to be able to rent more than one unit at the same time. He says the Ordinance did not include multi units.

He was told that the Board does not redraft the Ordinance, and he then asks for a variance.

Public comment came from Kate Wolf, and Mike Duddy, who also read comment from Jamie Erskine. All three complained of neighborhood disruption from loud and rowdy renters at Mr. Tamir's property. They cited noise and litter all over the yards after large parties of at least 25 people at the Tamir property. They also complained about cars parked all over that property and some on theirs. They feel their residential neighborhood is not consistent with the proposed use and that the noise and litter is too disruptive to their peace.

Mr. Tamir then came back to the podium and said many of the allegations were untrue. He also reiterated his arguments for a B& B Ordinance which failed to pass several years ago.

CEO McDougal said there were two other comments and both were included in the Board packets.

The Board agreed that the property was one dwelling and would allow only one short term rental at a time. Parking was discussed, but the Board agreed that no more than one short term rental at a time could be entered into on the property.

Mr. Tadema-Weilandt moved to deny the Administrative appeal of Shawn Tamir, owner of the property at 1 Crescent View Avenue, regarding the Notice of Violation issued by the Code Enforcement Officer on July 18, 2016. Mr. Craford seconded and the motion passed, 6-0.

The Board wanted the record to reflect that the timeliness of the appeal was not considered to be a problem.

Findings of Fact:

1. On July 18, 2016, the Code Enforcement Officer issued a Notice of Violation regarding the manner in which the property is being rented out.
2. The subject lot is a nonconforming lot in the RA zone.
3. The current use of the property is a *3 unit apartment building*.

4. Mr. Tamir began renting two or three units of his apartment building on a *Short Term Basis*.
5. On June 14, the Code Enforcement Officer informed Mr. Tamir verbally that he was not allowed to rent more than one of his apartment units on a *Short Term Basis*.
6. After several discussions with Mr. Tamir, a Notice of Violation was issued on July 18, 2016.
7. On August 16, 2016 Mr. Tamir submitted an Administrative Appeal. Mr. Tamir attempted to submit the appeal the day prior, but Town Hall was closed.

Additional Findings of Fact:

1. Under the current Ordinance the property in question satisfies the definition of a dwelling that must meet the Short Term Rental Standards in Sec. 19-8-14, when units are rented on a short term basis.

Mr. Craford moved to approve the findings of fact, and was seconded by Mr. Mosher.

Mr. Wisniewski made a motion to amend the findings with an additional finding of fact. He was seconded by Mr. Tadema-Wielandt. The motion passed, 5-1.

The findings of fact, as amended were approved, 6-0.

The meeting was adjourned at 7:50 pm.