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3 Town of Cape Elizabeth
4 Minutes of the August 22, 2017
5 Zoning Board of Appeals Meeting

6 Present:

7 Matthew Caton Michael Tadema-Wielandt
8 Michael Vaillancourt Stanley Wisniewski
9

10 The Code Enforcement Officer (CEO), Benjamin McDougal, and the Recording
11 Secretary, Carmen Weatherbie, were also present.
12

13 **A. Call to Order:** Acting Chairman Vaillancourt called the meeting to order at 7:05
14 p.m.
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16 **B. Approval of Minutes:** Approval of the Minutes for May 23, June 27, and July 25,
17 2017, were tabled (due to a lack of minutes quorum) until the next meeting.
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19 **C. Old Business:** None.
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21 **D. New Business:** To hear the request of Joann Mills, who has a purchase and sales
22 agreement with the owner of 5 Dean Way, Map U18 Lot 30, to add an Accessory
23 Dwelling Unit to the property based on Section 19-7-5 of the Zoning Ordinance.
24

25 Acting Chairman Vaillancourt asked CEO McDougal for the background. The CEO
26 stated that Ms. Mills has an interest in the property as well as a purchase and sales
27 agreement and needs to add an Accessory Dwelling Unit to make it work. Due to time
28 constraints plans were submitted as they were completed; however, the application is
29 complete.
30

31 Patrick Venne of Redwood Development Consulting of Portland, representing Joann
32 Mills, a current resident of New Hampshire, stated Ms. Mills has a purchase and sales
33 agreement for the property. Ms. Mills would like to add a very low impact Accessory
34 Dwelling Unit. Ms. Mills would occupy this unit essentially cohabiting in the primary unit
35 with her daughter. They have complied with the requirements of Ordinance Sections
36 19-5-5 and 19 -7-5. Attorney Venne reviewed each requirement.
37

38 Board members noted that even with the utility room factored into the square feet the
39 percentage was 14.9%, meeting the requirement. The changes would all be occurring
40 on the lower level. Setbacks were discussed; the CEO stated the setbacks are 25 feet
41 vice 30 feet for non-conforming lots per Section 19-4-3 (pgs 35 – 36). Attorney Venne
42 stated the septic inspection showed a 10,000-gallon a day flow rate. The septic system
43 is designed for a four-bedroom house, which is a bit different from a three-bedroom
44 house with a one-bedroom apartment (from 360 to 390 gallons a day). The CEO stated
45 a couple of administrative options were available to satisfy the septic requirement
46 especially since only two bedrooms would have full-time use; ultimately the CEO must
47 certify adequate septic capacity to issue a Certificate of Occupancy.

1 Finding no public comment, Acting Chairman Vaillancourt closed the floor.

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3 CEO McDougal stated he had not received any correspondence regarding this
4 application.

5

6 Mr. Wisniewski commented all requirements and standards were met and moved to
7 approve the request of Joann Mills, who has a purchase and sales agreement with the
8 owner of 5 Dean Way, Map U18 Lot 30, to add an Accessory Dwelling Unit to the
9 property based on Section 19-7-5 of the Zoning Ordinance, with the condition that the
10 applicant shall demonstrate compliance with Ordinance Section 19-5-5.D.3. as
11 determined by the Code Enforcement Officer. Mr. Caton seconded. All were in favor.
12 Vote 4 – 0.

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14 **Findings of Fact:**

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16 1. This is a request for a Conditional Use Permit to create an Accessory Dwelling Unit
17 in an existing single family dwelling per Section 19-7-5 of the Zoning Ordinance.

18

19 2. The subject property is 5 Dean Way (Map U18 Lot 30).

20

21 3. The applicant is Joann Mills, who has a purchase and sales agreement with the legal
22 owners, John and Karen Day.

23

24 **Additional Findings of Fact:**

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26 1. The proposed use will not create hazardous traffic conditions when added to existing
27 and foreseeable traffic in its vicinity.

28

29 2. The proposed use will not create unsanitary conditions by reason of sewage
30 disposal, emissions to the air, or other aspects of its design or operation.

31

32 3. The proposed use will not adversely affect the value of adjacent properties.

33

34 4. The proposed site plan and layout are compatible with adjacent property uses and
35 with the Comprehensive Plan.

36

37 5. The design and external appearance of any proposed building will constitute an
38 attractive and compatible addition to its neighborhood, although it need not have a
39 similar design, appearance or architecture.

40

41 6. The applicant has demonstrated compliance with the requirements in Section 19-7-
42 5.B of the Zoning Ordinance.

43

44 All were in favor of the Findings of Fact and Additional Findings of Fact. Vote 4 – 0.

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46 **E. Communications:** None.

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48 **F. Adjournment:** Acting Chairman Vaillancourt adjourned the meeting 7:31 p.m.