

## REPORT TO CITY COUNCIL - BOARD OF APPEALS – SEPTEMBER 24, 2014

To: South Portland City Council  
From: Cathy Counts, Secretary to the Board  
Re: Board of Appeals Meeting of September 24, 2014  
Location: Council Chambers, City Hall

At approximately 7:03 p.m., Chairman Greg Perry called for the Pledge of Allegiance, reviewed Board policies and procedures, and introduced Board members and staff in attendance.

### MEMBERS PRESENT

Greg Perry (Chairman)  
Alex Anastasoff  
Cara Biddings  
Daniel Fortin  
Kay Loring – 1<sup>st</sup> mtg, replacing Claude Morgan  
Sara Orbeton

### STAFF PRESENT

Patricia Doucette, Code Enforcement Officer  
Cathy Counts, Secretary to the Board  
Sally Daggett, Corporation Counsel

MEMBERS ABSENT – Aaron Hackett

### 1. Accepted Minutes of the August 27, 2014 meeting.

Ms. Biddings moved and Mr. Fortin seconded to accept the minutes of the previous meeting. Accepted 5-0. Mrs. Loring abstained, as she was not present at that meeting.

### 2. Approved – request of Richard and Beatrice McGarvey – owners of properties located at 60 Surfsite Road and 139 Fort Road – Assessor’s Map 5, Lots 94B & 94C – Amendment to Certificate of Variance Approval granted in August 1992. (2014-05)

This item was tabled during the 8/27/14 meeting to allow the applicant to draft an Amendment to the Certificate of Variance approval, granted in August 1992, with a new Condition requiring that when either 60 Surfsite Road or the 139 Fort Road property is conveyed such that (a) ownership of each property is held by different persons or entities, and (b) the 139 Fort Road property is benefitted by an appurtenant right and easement to utilize the driveway located on the 60 Surfsite

Road property for vehicular and pedestrian access to and from Surfsite Road, an agreement shall be implemented between the property owners providing for shared maintenance responsibilities with respect to the commonly used portion of said driveway. As neither Mrs. Loring nor Mrs. Orbeton was present at the previous meeting, they would abstain from voting on this item.

Following a brief explanation by Ms. Daggett, she stated that she found the proposed amendment language acceptable. Mr. Anastasoff moved to accept the draft as presented, seconded by Ms. Biddings. Motion was approved 4-0, with Mrs. Loring and Mrs. Orbeton abstaining. Ms. Daggett then read the proposed decision letter she drafted, after which Mr. Anastasoff moved and Ms. Biddings seconded to accept the decision letter as read, approved 4-0, Mrs. Loring and Mrs. Orbeton abstaining. Mr. Perry signed the letter as chairman of the Board, witnessed by Board of Appeals Secretary Cathy L. Counts, notarized by Mrs. Doucette. **(2014-05)**

**3. Denied – appeal of Devin W. Deane – owner of property located at 87 Thirlmere Av – Administrative Appeal (2014-06)**

The applicant filed an administrative appeal contesting the Code Enforcement Director’s decision to grant a building permit to WG Enterprises, LLC in order to construct a new single family home at 79 Thirlmere Avenue.

Mr. Deane, appellant, presented his argument, followed by Board of Appeals members questioning him.

Code Enforcement Director Patricia Doucette then presented her side of the matter, also followed by Board questions.

In public hearing, City Mayor Gerard Jalbert, who lives in the neighborhood and worked on the zoning committee when this ordinance was developed, spoke in favor of Mrs. Doucette’s decision. Frank Chowdry, representing WG Enterprises which obtained the building permit, also agreed with Mrs. Doucette’s decision.

Eric Hamlin of 15 Thirlmere Avenue spoke in favor of the appellant, as did Andrea Wolf 111 Keswick Road.

After closure of the public hearing, Board members discussed the issues raised. Mr. Fortin then moved, seconded by Mrs. Orbeton, to deny the appeal. Motion carried 5-1 (Ms. Biddings opposed).

Following a brief recess at 9:23 p.m. while Ms. Daggett drafted a proposed written decision and findings of facts, the Board reconvened at 9:41 p.m. Ms. Daggett read the proposed written decision and findings of facts. Mr. Fortin moved and Mrs. Orbeton seconded to accept the letter and findings of fact as read and authorized Chairman Perry to sign them once the draft was typed. Unanimous 6-0. **(2014-06)**

**4. Discussed Old and New Business.**

Mrs. Doucette said she was not aware of any appeals or variance requests coming forward for the October meeting.

5. **Adjourned 9:50 P.M.** Ms. Biddings moved to adjourn at 9:50 p.m., seconded by Mrs. Orbeton. Unanimous 6-0.

**No applications came in for the October meeting. The next regularly scheduled meeting will be Wednesday, December 3, 2014. Deadline for applications is Thursday, November 13, 2014.**

Respectfully submitted,

Cathy Counts  
Secretary to the Board