

**Town of Sanford
Zoning Board of Appeals**

The Sanford Zoning Board of Appeals held a meeting on Monday, January 10, 2011 at the Sanford Town Hall. The meeting was called to order at 7:15 P.M. by the Chief Code Enforcement Officer, Shirley Sheesley.

Members Present: Jane Bowker
 Mark I. Patterson
 James T. Wendel
 Kimberly Stewart
 Paul A. Demers
 Kyle Landry

Members Absent: Naila Aslan-Khan

Representing Code Enforcement: Shirley S. Sheesley, Chief Code Enforcement Officer
 Charles E. Ellis, Administrative Assistant

Shirley Sheesley commenced with the Pledge of Allegiance.

Next on the agenda was the election of officers. Shirley seized the opportunity to ask all members present if there were any members who would like to be nominated for Chairperson. Motion was made by Jane Bowker to nominate Mark Patterson for Chairperson. Motion was seconded by Kimberly Stewart. With no additional nominations and/or discussion, the Board voted 5-0 in favor to elect Mark as Chairperson for 2011.

Mark next asked for any nominations for the Vice Chairperson and for Secretary for 2011. Motion made by Kim to nominate Paul Demers as Vice Chairperson. Motion seconded by Kyle Landry. The Board voted 5-0 in favor to elect Paul Demers as Vice Chairperson.

Motion made by Kyle to nominate Jane Bowker as Secretary. Motion was seconded by Paul and the Board voted 5-0 in favor to elect Jane as Secretary for 2011.

Following the agenda, Mark Patterson assumed the first order of business in the acceptance of the minutes from December 13, 2010 meeting. Kyle motioned to accept the minutes. The motion was seconded by Paul. Voted 6-0 in favor.

Following the acceptance of last month's minutes, Mark immediately announced the appeal of Philip J. Regan of 122 Tall Pines Road, Sanford, Maine 04073. Mr. Regan is

requesting an Administrative Appeal for a deck on his property at the above address, Map R16B, Lot 7. Property is located in the Rural Mixed Use (RMU) Zone and the Shoreland Zone.

Mark gave a description as to the process involved and the responsibility of the Board in determining the outcome of the appeal. He next addressed the disclosure of any conflict of interest. None were noted.

Determination of Standing: Philip J. Regan confirmed he was the owner of the property.

Next, the Chairperson called on the Chief Code Enforcement Officer (CCEO) to give a brief description as to the cause which brought about this appeal.

Shirley took the podium announcing the Administrative Appeal was the result of a violation notice sent to the appellant on December 10, 2010 regarding a structure within the seventy-five foot setback requirement. The appeal is based on the violation notice regarding the deck and not from the permit application submitted much earlier. Shirley confirmed to Mark that the application to replace the deck was an after-the-fact violation. The appeal process had expired on the deck thus the appellant is appealing on the violation notice.

Mark stated that the applicant filed an Administrative Appeal on the basis the CEO made an error in her determination to send the appellant a violation notice. All of the Board members agreed in Mark's assessment as to what the appeal was based on as he prepared to turn the hearing over to the appellant.

Mark confirmed to the appellant that the Administrative Appeal was in accordance to the Town's Code, Section 280.23A and briefly cited the Code.

The Chairperson announced to the appellant that the Board held a copy of the package he had sent along with his appeal.

The appellant stated he was not contesting Shirley's decision and acknowledged it was not clear to him as to which appeal he should have filed.

Paul Demers focused on the applicant and asked Mr. Regan that if it was his desire to maintain the current deck he might consider a Variance Appeal and not an Administrative Appeal.

The Board also acknowledged that if the appellant wished to continue his appeal, he should be aware of the various appeals available and gave examples. Mark placed emphasis on the appellant's ability to prove all four criteria questions if he were to be granted the appeal. Again, all dependent on which variance he goes for. Regardless of his decision, the Chairperson pointed out to the appellant that the Board would not be able to hear the appeal this evening since the appeal for the evening was targeted on an Administrative Appeal, not a Variance Appeal.

The Vice Chairperson also pointed out to the appellant that if he had any document proving a building permit was granted in 1985 to build the deck, he should gather the information before submitting his application.

Mr. Regan asked if he should have legal counsel representing him when he returns. He was advised by Paul it would be his decision and not for the Board to decide. Between Mark and Paul, they clearly indicated to the appellant the difficulty in being granted the appeal.

The Chairperson along with the Vice Chairperson agreed to table the Administrative Appeal and recommended he pursue an “after-the-fact” hardship appeal, if that is his intent.

Paul made the motion to table the appeal until February 28th, allowing 20 days for notification to DEP, therefore the applicant should have his paperwork in prior to February 8th in order to adhere to the DEP’s requirement. The motion was changed to table the appeal indefinitely and seconded by Kyle. The Board voted 6-0 in favor to table the appeal indefinitely.

A motion was made by Kim to adjourn. Jim seconded the motion and the Board voted 6-0 to adjourn. Meeting adjourned at 7:47 P.M.