

**Town of Mount Desert Planning Board
Meeting Minutes
6:00 PM, September 23, 2020**

This meeting was held virtually and was recorded.

Public Present:

Ann Rivers, Attorney for Ms. Rivers Seth Libby, Sierra Cast, Megan Scott, Peter Jonas, Linda Jonas, Binkie Orthwein, Chris Orthwein, Attorney Margaret T. Jeffrey, Bart Chase, Erika Lindquist, Lindsey Wilson, Scott Planting, Dr. Ian Bricknell, Nick Jenei, Willie Granston, Gabby, Gary Madeira, Joan Welles Jackson, John Rivers, Carol Rivers, Christina Spurling, Dick Broom, Drew, Ellen Kappes, Marie Louise Morandi, Alexander Powell, Atterbury, Brian Henkel, Alyssa, Deborah Page, Becky Roberta Brush, Jasmine Smith, Tara Murphy, BR, Callie Brauer

Board Members Present:

Chair Bill Hanley, Meredith Randolph, Christie Anastasia, Dave Ashmore, Joanne Eaton, Tracy Loftus Keller.

Ms. Loftus Keller is an Alternate, non-voting Member.

I. Call to order 6:00 p.m.

Chair Hanley called the Meeting to Order at 6:00 PM.

II. Approval of Minutes

September 9, 2020: MS. EATON MOVED, WITH MS. RANDOLPH SECONDING, APPROVAL OF THE SEPTEMBER 9, 2020 MINUTES AS PRESENTED.

VOTE:

JOANNE EATON: AYE

MEREDITH RANDOLPH: AYE

CHRISTIE ANASTASIA: AYE

DAVE ASHMORE: AYE

CHAIR BILL HANLEY: AYE

MOTION APPROVED 5-0.

III. Conditional Use Approval Application(s):

Continued from August 26, 2020.

A. Conditional Use Approval Application #011-2020

OWNER NAME(S): John R. & Carol B. Rivers

APPLICANT: Ann E. Rivers

LOCATION: 15 Kimball Road, Northeast Harbor

TAX MAP: 024 **LOT:** 060 **ZONE(S):** Village Residential 2

1 **PURPOSE:** Section 3.4 – Non-Commercial – Animal Husbandry. The
2 care and keeping of livestock and domestic animals.
3 CEO Keene confirmed that Public Notice for the Agenda Item occurred, though it was
4 not necessary, due to the Discussion being a Continuation of the August 26, 2020
5 Discussion.

6
7 Chair Hanley summarized the August 26, 2020 discussion. The Board at that time found
8 the Application incomplete, reading the following from the August 26, 2020 Motion:
9 “...*DUE TO FOLLOWING ADDITIONAL ITEMS BEING REQUIRED. THAT ADDITIONAL*
10 *INFORMATION INCLUDES:*

- 11 - *DOCUMENTATION RELATED TO INSPECTIONS MADE AT THE RESIDENCE.*
12 - *DOCUMENTATION CONFIRMING THE STATUS OF COMMERCIAL USE.”*

13
14 Chair Hanley asked the Applicant to comment on the additional items requested by the
15 Board.

16
17 It was noted that Ms. Randolph was not at the August 26, 2020 Meeting and recused
18 herself from the discussion. Voting Members on this item will be Ms. Anastasia, Mr.
19 Ashmore, Chair Hanley, Ms. Eaton, and Ms. Loftus Keller.

20
21 MS. EATON MOVED, WITH MS. ANASTASIA SECONDING, CONFIRMATION OF ALTERNATE
22 MEMBER TRACY LOFTUS KELLER AS A VOTING MEMBER FOR THIS AGENDA ITEM.

23 VOTE:

24 JOANNE EATON: AYE

25 DAVE ASHMORE: AYE

26 CHRISTIE ANASTASIA: AYE

27 CHAIR BILL HANLEY: AYE

28 MOTION APPROVED 4-0.

29
30 Attorney for the Applicant Seth Libby spoke on behalf of the Applicant. Reports
31 submitted to the Board include reports from the Game Warden, State Biologist, and the
32 Maine Department of Agriculture and Forestry District Humane Agent. The Applicant
33 was unable to obtain information from the licensing State Agency.

34
35 The operation has been inspected several times by Town of Mount Desert Animal
36 Welfare Office, Diana de los Santos. Attorney Libby stated Ms. de los Santos’ visits were
37 not due to formal complaints, however, concerns about the operation had been
38 conveyed to her. Ms. de los Santos found nothing wrong with the quality of care given
39 or the well-being of the animals at the facility during her visits. Attorney Libby
40 suggested the Town could reach out to her to request further comment should it be
41 required.

42
43 Regarding the second request from the Board, the Applicant was tasked with providing
44 information to support the fact that the operation was not a Commercial use. Attorney

1 Libby pointed out that it is impossible to prove a negative. Despite that, Attorney Libby
2 applied the LUZO language to the Applicant's operation, to examine whether the
3 Applicant has engaged in the sale and purchase of animals in her care. Attorney Libby
4 reviewed each aspect of the operation and how it is done, whether there has ever been
5 any charge, and whether donations are voluntary or mandatory. Donations are not
6 mandatory. The facility was compared to other sanctuaries. First-hand accounts from
7 people who have worked with Ms. Rivers or have adopted from her were sought. These
8 people were asked to provide testimony regarding payment, other professional services
9 provided, and the quality of her operation.

10
11 Finally, the Applicant tried to address some of the points raised in the previous
12 discussion. Attorney Libby made note of the wide array of discussion topics regarding
13 the operation when the topic was open for public comment. Very few of the concerns
14 raised related to the question of commercial use.

15
16 Chair Hanley reported that Attorney Margaret Jeffery submitted information to the
17 Board as well.

18
19 Attorney Jeffery reported that she was able to access cached social media documents
20 which were submitted to the Board for review. The submittals show that through the
21 years, and as recently as 2020, incidences of selling product and raising product for sale
22 on Ms. Rivers' Facebook page and on the Facebook page Bar Harbor Barter and Swap.
23 Advertising in 2020 included the sale of fertilized quail eggs, with the statement made
24 that the quail produced from the eggs could be eaten. Additionally, a review was found
25 stating the reviewer had purchased items from the operation and stated he would
26 purchase from the operation again. Attorney Jeffery asserted these submissions made
27 it clear that the Applicant is a commercial operation with the intent to sell.

28
29 Chair Hanley felt the question at hand was whether or not the Applicant's operation was
30 a commercial use or not. A Commercial use of this sort is not allowed in a Village
31 Residential 2 District. He asked the Board to comment on the documents submitted and
32 whether they met the Board's request satisfactorily.

33
34 Ms. Eaton noted that the reason she requested the reports was because she found it
35 surprising that anyone asking for a Conditional Use Application for animal husbandry in
36 their home would have licensing if they were not a commercial operation. Licensing
37 suggested to Ms. Eaton that the operation might be bigger than it seemed. She felt it
38 interesting that the applicant's submittals note items on her Facebook page but makes
39 no mention of items posted on Bar Harbor Barter and Swap. There seem to be several
40 instances alluding to commercial activity.

41
42 Ms. Anastasia felt that the submittals were commensurate with what was requested.
43 Mr. Ashmore agreed with Ms. Anastasia's assessment. Ms. Loftus Keller agreed and
44 added the documentation received supported the fact that Ms. Rivers has great animal

1 care acumen, as well as respect from other professional animal caregivers in the field.
2 Ms. Loftus Keller felt the scale of the operation seemed quite sizable. As an example,
3 Ms. Rivers' parents gave her \$25,000.00 for operation funding. This suggests more than
4 a small home operation.

5
6 Ms. Rivers agreed the funding was sizable, however the cost can be sizable, particularly
7 for exotic animals. A single surgery can cost upwards of \$1,000.00.

8
9 Chair Hanley acknowledged the glowing recommendations included in the Applicant's
10 submittals. There seem to be no significant violations against the operation. The
11 submittals were not for the purpose of confirming the integrity of the operation, but to
12 put the operation into perspective within the context of the review before the Board.
13 The question at hand is whether or not the operation is a commercial activity. Chair
14 Hanley agreed with Ms. Eaton that the presence of licensing, as well as state and
15 municipal presence and review of the operation, seems excessive for a non-commercial
16 activity.

17
18 Attorney Libby clarified that for 5 to 7 years, Ms. Rivers has been conducting this
19 operation at her home. Only this year the State became involved, due to a letter
20 received from the CEO. This was the catalyst for visits from the Warden and the State
21 Biologist. Attorney Libby was under the impression that the interest from the State was
22 due to a mistaken belief that Ms. Rivers was dealing with truly exotic animals, the like of
23 which requires special licensing. He pointed out that the State Warden stated that the
24 animals involved fall outside the scope of their authority. The Maine Department of
25 Agriculture and Forestry District Humane Agent came out simply for an inspection of an
26 animal sanctuary and rescue. It is stated in his report that the operation is more of a
27 rescue than a sanctuary. Further, there is only one license associated with the
28 operation. The variety of inspections made were simply due to a misunderstanding of
29 the operation.

30
31 Chair Hanley asked for public comment on the specific reports submitted.

32
33 Neighbor Gary Madeira felt that the question of licensing and the reports submitted
34 were irrelevant to the question of whether or not the operation was a commercial
35 operation. Mr. Madeira asserted that the operation is a commercial operation.

36
37 Neighbor Chris Orthwein noted that despite the assurances that no transactions are
38 occurring on the site, there is evidence that transactions are occurring. Mr. Orthwein
39 felt there were several points that were not being presented accurately and the Board
40 should take that into consideration. Mr. Orthwein has submitted documentation
41 supporting the fact that commercial activity is occurring.

42
43 The Board was in agreement that the submissions from the Applicant were adequate.
44 The next point to consider is whether or not the operation is a commercial activity.

1 Before the Application can be reviewed by the Board, it must be determined that the
2 operation is not a commercial activity.

3
4 Ms. Rivers asked what about the circumstances of her operation changed between the
5 last meeting and this meeting that makes her operation larger than previously
6 discussed. She stated she currently has fewer animals now than she did at the time of
7 the last meeting. Attorney Libby asserted that Ms. Rivers only has 15 cages and a 10' by
8 10' room. The Board Members inspected the facility. The scale of the operation is
9 small; far smaller than professional organizations like the SPCA. Her parents have
10 funded her operation, including the costs for medication and surgeries. The funding
11 provided is in no way comparable to a larger organization's funding. The only license
12 held by Ms. Rivers is to run an animal sanctuary and rescue. The operation is small in
13 scale.

14
15 Chair Hanley inquired why a license would be necessary for a non-commercial activity.
16 Attorney Libby felt that for Ms. Rivers to call herself a sanctuary and rescue she needed
17 to be licensed to take animals in and dispense medications. Mr. Libby assured the Board
18 it was not a license required such as a liquor license would be required in order to sell
19 alcohol.

20
21 Ms. Rivers stated that licensing with the Town is required for keeping animals,
22 regardless of the number of animals involved. Ms. Rivers makes every effort to reach
23 out to authorities in the field to ensure she is well informed and operating by the rules.
24 She reiterated the operation is a one-room operation. Nevertheless, she tries to hold
25 herself to the standards of a larger rescue operation. She agreed it was not usual to
26 obtain a license for the care of five animals in a bedroom.

27
28 Mr. Orthwein noted that Attorney Libby stated the operation had 15 cages on site. Ms.
29 Rivers has stated she only cares for five animals at a time. Additionally, Ms. Rivers has
30 stated on social media she has had 300 animals on the site at one time. Witnesses have
31 testified to cages along the entirety of the fenceline. Mr. Orthwein voiced confusion at
32 the discrepancies he was hearing.

33
34 Attorney Libby took exception to Mr. Orthwein's statements that appeared to call into
35 question Ms. Rivers' integrity. He stated that regarding the number of cages, it has
36 been previously stated that there are a number of carry-cages on site, used primarily for
37 animal transport. These carry-cages are not considered part of her holding capacity
38 accommodations. Regarding the social media comment referenced, Attorney Libby
39 stated that Ms. Rivers embellished her comments. The physical size of her operation
40 would make housing 300 animals at any one time an impossibility.

41
42 Attorney Jeffery gave credit to the good operation. The focus was, however, on the
43 operation's location. The Town of Mount Desert has two standards that must be
44 applied - the question of whether or not this is animal husbandry, and the question of

1 whether or not this is a commercial operation. The operation is clearly animal
2 husbandry. The size of the operation can be discussed, but Ms. Jeffery did not feel size
3 was a point to rely on for determination. The definition of commercial use states
4 “intent to create income”. Evidence shows the sale of product, and therefore the intent
5 to create income. Whether or not the income created covers expenses or goes solely to
6 eleemosynary purposes is irrelevant.

7
8 Ms. Anastasia felt that the reason the Board asked for the additional submittals was due
9 to the amount of concern voiced by neighbors. At the previous meeting, it was
10 determined that Ms. Rivers did not file taxes for the operation. Ms. Anastasia felt it was
11 a missed opportunity that she was not. There are grants available to small woman-
12 owned businesses, as well as other opportunities available to small businesses. There is
13 no tax-related documentation supporting the fact that the operation is a business. Ms.
14 Anastasia pointed out that a number of operations are cottage industries, likening those
15 making and selling crafts at fairs to the operation. If the operation is deemed non-
16 commercial and a review of the Application was made, conditions could be set limiting
17 the number of animals. Ms. Anastasia felt that the term “intent to create income” can
18 apply to many people who don’t have business licenses and are not in commercial
19 districts.

20
21 Mr. Ashmore felt that while some of what Ms. Anastasia said made sense, it was his
22 feeling that the operation looks like a commercial operation, per the LUZO definition.
23 Additionally, Mr. Ashmore did not feel the activity was compatible with the
24 neighborhood. Ms. Loftus Keller agreed with Mr. Ashmore. She felt that while the
25 operation may have started out as a hobby, it has evolved into a business. There are
26 business practices being followed, and as Ms. Rivers stated herself, she has become part
27 of the animal-care industry. Additionally, such a use is incompatible with a residential
28 neighborhood.

29
30 Marie Zwicker prepared and read a statement in support of Ms. Rivers. Her statement
31 is a part of the materials submitted to the Record.

32
33 Attorney Jeffery agreed that the work Ms. Rivers does is to be commended. The issue is
34 not with what she does but where it is being done. Ms. Jeffery agreed that cottage
35 industries and home occupations are not prohibited in this zone. Home occupation by
36 LUZO definition is to have an operation for commercial purposes. Commercial Animal
37 Husbandry is specifically prohibited in this zone. One cannot have a home occupation
38 that includes commercial animal husbandry. Such a prohibition was likely created
39 because the Ordinance anticipated the conflict such a use causes in a residential area;
40 much like the conflicts voiced by residents with regard to this Application.

41
42 Attorney Seth Libby pointed out that Ms. Rivers engages in animal rescue, rehabilitation,
43 and adoption. Ms. Rivers has admitted that transactions have been posted on social
44 media. Some of those transactions she engaged in, and some were shared by her on

1 behalf of others in the animal rescue industry. When addressing the issue of
2 “Commercial Animal Husbandry”, it needs to be remembered that this operation
3 focuses on animal rescue, rehabilitation, and adoption. Attorney Libby asserted that
4 animals being sold on Ms. Rivers’ social media were not her animals. The quails Ms.
5 Rivers has in her possession are personal pets. Attorney Libby agreed Ms. Rivers has
6 had some GoFundMe accounts for specific fundraising purposes. Mr. Libby requested
7 the Board focus on animal rescue, rehabilitation, and adoption. Any other issues
8 deemed concerning can be laid out as a condition of approval to the Application. Ms.
9 Rivers was more than willing to forego any activity deemed transactional and the
10 Planning Board can set conditions for approval. Attorney Libby reiterated that there is
11 no buying or selling of rescue animals, nor any charge for services relating to
12 rehabilitation or placing animals. That is the focus of the Application approval Ms.
13 Rivers is seeking.

14
15 Chair Hanley noted that if there was a decision in the affirmative by the Board, with
16 attached permit conditions, the Board would have to be very careful about setting
17 conditions or dictating how a particular use is to be enabled. Ms. Anastasia agreed that
18 this made sense. She wondered what a directive would look like if handed to someone
19 interested in starting such an operation. There would perhaps be a list of prohibited
20 activities, as well as a ban on any commercial activity. If such a directive were given to
21 Ms. Rivers, perhaps her operation would have evolved differently. Is there a way to do
22 such a thing at this point?

23
24 Ms. Eaton noted that animal husbandry is the care and keeping of livestock. There’s no
25 livestock at the residence. All animals there would therefore come under the term
26 domestic animals. Ms. Eaton was unsure whether snakes, rats, and tortoises are
27 considered domestic animals. Unfortunately, Ms. Rivers is so good at her work, her
28 operation has expanded into the realm of commercial business. Ms. Eaton felt that the
29 operation should be in a commercial area and not in a residential area, per the LUZO.

30
31 Ms. Rivers maintained that she would be comfortable with stepping back from any lines
32 she may have crossed separating a commercial business from a non-commercial
33 operation and she would be willing to adhere to any rules and conditions set by the
34 Board. She simply wants to help animals.

35
36 Chair Hanley agreed that the work Ms. Rivers is doing is absolutely to be commended
37 and the work is necessary to society. If the Application were approved with permit
38 conditions, how could the Town regulate such conditions? Such oversight is not
39 compatible with the broader obligations the Town has. It does not seem to be
40 compatible to the Comprehensive Plan or the Land Use Ordinance. Trying to set
41 conditions within the context of viable enforcement is difficult.

42
43 Chair Hanley reiterated that a Motion to determine whether or not the operation was a
44 commercial activity was required before going further with the Application.

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Chair Hanley asked for final public comments.

Mr. Madeira stated that many good points have been raised. The operation requires licensing, which implies the need to protect third parties. This defines the operation as a business. There are a variety of other ways the operation can be seen as commercial, including the scale of the operation in relation to the number of animals, the cooperation with other operations, the perpetuation of other third-party arrangements with these other operations, and the fact that Ms. Rivers is applying for 501c3 status. The operation fits the description of commercial business. Ms. Rivers is producing income for services. The quality of Ms. Rivers' work is above reproach. The place for such activity is not in a residential neighborhood. Mr. Madeira suggested creating the 501c3, allowing people to donate in a tax-exempt way, and raise the funds to move the activity out of the neighborhood.

Neighbor Linda Jonas noted she lives only 15 feet from the facility. Ms. Jonas applauds Ms. Rivers for the work she does. It does not belong in a residential neighborhood. A number of well-documented submissions have shown Ms. Rivers to have been a vendor of reptiles. Ms. Jonas agreed with Chair Hanley's concern over how the Town could take on the responsibility for setting conditions and who would oversee that those conditions were being met.

Lindsey Wilson stated she volunteers at Ms. Rivers' operation. Some of the social media posts need to be delineated between Ms. Rivers and Acadia Island Exotics. Ms. Rivers was selling at times as an individual, and not as part of her rescue operation.

Neighbor Christopher Scott supported the idea of a 501c3. Creating a non-profit and finding appropriate space for such an operation would be best. Mr. Scott did not feel the operation should be in a residential area. However, the community should support Ms. Rivers if the Board decides the operation must cease in the residential area. He hoped the community could come together to find a way to help Ms. Rivers continue following her passion.

Mr. Ashmore and Chair Hanley both agreed with Mr. Scott. Mr. Ashmore felt there was not a person in attendance who did not support Ms. Rivers' mission.

Ms. Rivers stated that she does not have the funds to move her operation or her residence. If the Application is rejected, her rescue operation ceases.

Ms. Wilson added that she's worked with Ms. Rivers for several years. Ms. Wilson has adopted from Ms. Rivers. She has never been charged. In fact, Ms. Rivers has helped Ms. Wilson with her adopted pets after adoption. In the rescues Ms. Wilson has been a part of, she has never seen Ms. Rivers ask for payment for any animals.

1 Mr. Orthwein is in agreement with the others – the work Ms. Rivers does is
2 commendable. He wondered if there were another facility Ms. Rivers could work at to
3 pursue her passion. Ms. Rivers stated there were no nearby facilities doing the work
4 she does.

5
6 Ms. Zwicker stated that she has needed to find placement for animals in her line of
7 work. There are very few rescues. Without Ms. Rivers’ operation, many animals will
8 have nowhere to go.

9
10 Chair Hanley closed public comment.

11
12 Discussion ensued regarding the Motion.

13
14 MS. ANASTASIA MOVED, WITH MS. EATON SECONDING, THAT APPLICATION #011-2020
15 FOR REVIEW DOES NOT QUALIFY TO BE CONSIDERED UNDER SECTION 3.4 NON-
16 COMMERCIAL ANIMAL HUSBANDRY BECAUSE THE FINDINGS OF FACT DEMONSTRATE
17 SOME LEVEL OF BUYING AND SELLING AT THE LOCATION, AND A LACK OF CLARITY
18 RELATIVE TO THE DEFINITION OF “ANIMAL HUSBANDRY”. IT THEREFORE MEETS THE
19 DEFINITION OF “COMMERCIAL USE”.

20 VOTE:

21 CHRISTIE ANASTASIA: AYE

22 JOANNE EATON: AYE

23 DAVE ASHMORE: AYE

24 TRACY LOFTUS KELLER: AYE

25 CHAIR BILL HANLEY: AYE

26 MOTION APPROVED 5-0.

27
28 Chair Hanley stated on behalf of the Planning Board that the decision was a difficult one
29 to make. He advised that there were further Municipal pathways to follow to pursue a
30 different outcome if Ms. Rivers was so inclined.

31
32 MS. ANASTASIA MOVED, WITH MS. EATON SECONDING, THAT DUE TO THE PLANNING
33 BOARD’S FINDINGS ON THIS APPLICATION WHICH HAS BEEN DETERMINED TO BE A
34 COMMERCIAL ACTIVITY, THE BOARD DENIES THE APPLICATION BECAUSE THIS USE,
35 COMMERCIAL ANIMAL HUSBANDRY, IS EXCLUDED IN THE VILLAGE RESIDENTIAL 2
36 DISTRICT.

37 VOTE:

38 CHRISTIE ANASTASIA: AYE

39 JOANNE EATON: AYE

40 DAVE ASHMORE: AYE

41 TRACY LOFTUS KELLER: AYE

42 CHAIR BILL HANLEY: AYE

43 MOTION APPROVED 5-0.

44

1 Ms. Rivers thanked the Board for their consideration.

2

3 Ms. Randolph hoped that Ms. Rivers would not look at this setback as a defeat but as a
4 springboard from which to launch. She hoped Ms. Rivers would embrace becoming a
5 commercial entity, start fundraising in earnest, refrain from giving services away, find
6 some help to locate an appropriate place for the operation, and grow her passion and
7 the great service she provides into something amazing. The Board concurred with Ms.
8 Randolph.

9

10 **B. Conditional Use Approval Application #016-2020**

11 **OWNER NAME(S):** Robert & Tara Murphy Jr.

12 **LOCATION:** 2 Sydneys Way, Mount Desert

13 **TAX MAP:** 010 **LOT:** 048-001-17 **ZONE(S):** Residential One

14 **PURPOSE:** Section 3.4 – Animal Husbandry 2 (Non-Commercial). The
15 care and Keeping of Livestock/Poultry – Chickens.
16 Construct a Chicken Coop.

17 **SITE INSPECTION:** 4:45PM - **Masks Required During Site Inspection.**

18 CEO Keene confirmed adequate Public Notice. Abutters were notified.

19

20 Ms. Anastasia reported on the Site Inspection. The Coop has been in place for several
21 years. The owner was not aware a permit was required. There are six chickens in the
22 coop. The map submitted with the Application was reviewed. Chicken waste goes into
23 the garden beds. The back of the property slopes down steeply toward Farnham’s Way
24 Road. There is a lot of ledge in the area.

25

26 MS. ANASTASIA MOVED, WITH MS. EATON SECONDING, THAT MS. LOFTUS KELLER
27 RESUME HER ROLE AS ALTERNATE BOARD MEMBER.

28 VOTE:

29 CHRISTIE ANASTASIA: AYE

30 JOANNE EATON: AYE

31 DAVE ASHMORE: AYE

32 CHAIR BILL HANLEY: AYE

33 MOTION APPROVED 4-0.

34

35 MS. ANASTASIA MOVED, WITH MS. EATON SECONDING THAT MS. RANDOLPH RESUME
36 HER ROLE AS ACTIVE BOARD MEMBER.

37 VOTE:

38 CHRISTIE ANASTASIA: AYE

39 JOANNE EATON: AYE

40 DAVE ASHMORE: AYE

41 CHAIR BILL HANLEY: AYE

42 MOTION APPROVED 4-0.

43

44 Owner Tara Murphy offered to answer any questions.

1
2 MS. EATON MOVED, WITH MS. ANASTASIA SECONDING, TO FIND THE APPLICATION
3 COMPLETE.

4 VOTE:
5 JOANNE EATON: AYE
6 CHRISTIE ANASTASIA: AYE
7 DAVE ASHMORE: AYE
8 MEREDITH RANDOLPH: AYE
9 CHAIR BILL HANLEY: AYE
10 MOTION APPROVED 5-0.

11
12 Chair Hanley asked for Public Comment. There was none.

13
14 MS. RANDOLPH MOVED, WITH MS. EATON SECONDING, TO USE THE SHORT FORM.
15 VOTE:

16 MEREDITH RANDOLPH: AYE
17 JOANNE EATON: AYE
18 DAVE ASHMORE: AYE
19 CHRISTIE ANASTASIA: AYE
20 CHAIR BILL HANLEY: AYE
21 MOTION APPROVED 5-0.

22
23 It was determined that no Conflict of Interest was found among the Board.

24
25 MS. EATON MOVED, WITH MS. RANDOLPH SECONDING, APPROVAL OF THE
26 APPLICATION.

27
28 A review of the Checklist was made and is attached to these Minutes.

29
30 Ms. Anastasia asked whether the Board required a copy of the covenants of Island
31 Housing Trust. CEO Keene stated a copy of the covenants was not necessary.

32
33 VOTE:
34 MEREDITH RANDOLPH: AYE
35 CHRISTIE ANASTASIA: AYE
36 DAVE ASHMORE: AYE
37 JOANNE EATON: AYE
38 CHAIR BILL HANLEY: AYE
39 MOTION APPROVED 5-0.

40
41 **C. Conditional Use Approval Application #017-2020**
42 **OWNER NAME(S):** Chasehouse, LLC
43 **LOCATION:** 1347 Main Street, Mount Desert
44 **TAX MAP:** 007 **LOT:** 061 **ZONE(S):** Shoreland Residential Two

1 **PURPOSE:** Section 6B.8 - Fences and walls, exceeding CEO Authority.

2 **SITE INSPECTION:** 4:00PM - **Masks Required During Site Inspection.**

3 CEO Keene confirmed adequate Public Notice. Abutters were notified.

4
5 Chair Hanley stated the Applicant was a former client of his firm. He did not feel there
6 was a Conflict of Interest. No Conflict of Interest was found among the Board.

7
8 Ms. Eaton reported on the Site Inspection. She referred to the drawing included in the
9 Application. The proposed fence will be essentially the length of the guardrail on the
10 road in front of the property. The fence will sit six feet back from the guardrail. The last
11 two or three sections of fence will stand on a berm approximately six feet in height. The
12 proposed fencing is 8 feet and will continue up the berm at an 8-foot height. The
13 section of fencing that transitions up the berm will be set at an angle. There are trees
14 behind the area. Where the fence is being put is where the garage is. Vegetation has
15 been trimmed out behind this area, meaning there are not as many trees to consider in
16 this area. Traffic in the area is heavy at certain times of day.

17
18 Applicant Bart Chase stated the purpose of the fence was to buffer both sound and the
19 visual impact of the road traffic on Main Street which can be heavy at times.

20
21 Chair Hanley asked for Public Comment.

22
23 Resident Becky Brush felt the fence made sense. There was no other comment.

24
25 MS. EATON MOVED, WITH MR. ASHMORE SECONDING, TO FIND THE APPLICATION
26 COMPLETE.

27 VOTE:

28 JOANNE EATON: AYE

29 DAVE ASHMORE: AYE

30 CHRISTIE ANASTASIA: AYE

31 MEREDITH RANDOLPH: AYE

32 CHAIR BILL HANLEY: AYE

33 MOTION APPROVED 5-0.

34
35 MS. RANDOLPH MOVED, WITH MS. EATON SECONDING, TO APPROVE THE
36 APPLICATION.

37
38 MS. RANDOLPH MOVED, WITH MS. ANASTASIA SECONDING, TO USE THE SHORT FORM.

39 VOTE:

40 MEREDITH RANDOLPH: AYE

41 CHRISTIE ANASTASIA: AYE

42 DAVE ASHMORE: AYE

43 JOANNE EATON: AYE

44 CHAIR BILL HANLEY: AYE

1 MOTION APPROVED 5-0.

2
3 A review of the Checklist was made and is attached to these Minutes.

4
5 VOTE:

6 MEREDITH RANDOLPH: AYE

7 JOANNE EATON: AYE

8 CHRISTIE ANASTASIA: AYE

9 DAVE ASHMORE: AYE

10 CHAIR BILL HANLEY: AYE

11 MOTION APPROVED 5-0.

12
13 Continued from September 9, 2020.

14
15 **Conditional Use Approval Application #012-2020**

16 **OWNER(S):** The Community School of Mount Desert

17 **AGENT(S):** Nick Jenei & Jasmine W. Smith

18 **LOCATION:** 585 Sound Drive, Mount Desert

19 **TAX MAP:** 010 **LOT(S):** 161 **ZONE(S):** Shoreland Residential Three (SR3),
20 Rural or Woodland Three (RW3) and
21 Resource Protection (RP)

22 **PURPOSE:** Section- 5.6 – Amendment to a previously approved
23 Conditional Use Approval - Independent School.
24 (CUA#010-2016)

25
26 Chair Hanley summarized the situation. The proposed structures for the property that
27 were originally submitted with the intent of their being temporary structures are now
28 being requested as permanent structures.

29
30 Agent Jasmine Smith reported that the structures had been proposed due to the
31 constraints the Covid pandemic caused. After the pandemic has passed, the platforms, if
32 allowed to remain, can serve as additional space for hosting the school's spring plays and
33 outdoor classes. The picnic table canopies proposed will allow students to eat outside
34 regardless of weather.

35
36 Chair Hanley noted a Site Inspection was made for the previous meeting at which this was
37 discussed.

38
39 Chair Hanley asked for Public Comment. There was no Public Comment.

40
41 It was noted the request is for an Amendment to a previously approved Conditional Use
42 Application.

43

1 CEO Keene advised that because this was a Continuation of discussion to a date certain,
2 it was not required to have Public Notice or Abutter Notification.

3
4 Ms. Eaton voiced her appreciation for Ms. Smith's and Mr. Jenei's willingness to update
5 their cover letter for consistency. Clarification of exactly what was being requested will
6 keep the record clear and will help to avoid any potential confusion over the Applicant's
7 intent should any questions arise in the future. Chair Hanley concurred.

8
9 A review was made of Checklist 5.6 and is attached to these Minutes.

10
11 MS. RANDOLPH MOVED, WITH MS. EATON SECONDING, TO APPROVE THE AMENDMENT
12 AS PRESENTED.

13 VOTE:

14 MEREDITH RANDOLPH: AYE

15 JOANNE EATON: AYE

16 DAVE ASHMORE: AYE

17 CHRISTIE ANASTASIA: AYE

18 CHAIR BILL HANLEY: AYE

19 MOTION APPROVED 5-0

20
21 **IV. Other**

22 Ms. Randolph noted the Agenda states that the next Planning Board Meeting will be held
23 in person at the Town Offices. It was clarified that this was a misprint. The Meeting would
24 be held via Zoom.

25
26 CEO Keene noted that the next Planning Board Meeting was a Special Meeting and
27 explained the logistics and the CDC Requirements affecting logistics.

28
29 The Board thanked CEO Keene for her efforts.

30
31 **V. Adjournment**

32 MS. EATON MOVED, WITH MS. RANDOLPH SECONDING, TO ADJOURN.

33 VOTE:

34 CHRISTIE ANASTASIA: AYE

35 MEREDITH RANDOLPH: AYE

36 JOANNE EATON: AYE

37 DAVE ASHMORE: AYE

38 CHAIR BILL HANLEY: AYE

39 MOTION APPROVE 5-0.

40
41 The Meeting adjourned at 9:05PM