

**TOWN OF MOUNT DESERT  
PLANNING BOARD MINUTES  
December 14, 2022**

Planning Board Members Present: Chair William Hanley, Tracy Loftus Keller, David Ashmore, Meredith Randolph

Others Present: Tax Assessor Kyle Avila, CQD, Michael Leslie

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

Chair Hanley called the Planning Board meeting to order at 6:00 PM. Board Members were identified.

Alternate Members Gloria Kunje and Christie Anastasia were not in attendance.

CEO Keene was not in attendance.

**II. Approval of Minutes**

**November 9, 2022:**

MS. RANDOLPH MOVED, WITH MR. ASHMORE SECONDING, APPROVAL OF THE NOVEMBER 9, 2022, MINUTES AS PRESENTED.

**VOTE:**

MEREDITH RANDOLPH: AYE

DAVID ASHMORE: AYE

TRACY LOFTUS KELLER: AYE

CHAIR WILLIAM HANLEY: AYE

MOTION APPROVED 4-0.

**III. Section 4.3 Non-conforming Structures:**

**4.3.7 Change of Use of a Non-conforming Structure.** The use of a nonconforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact than the existing use on:

a. the subject or adjacent properties and resources;

or

b. water body, tributary stream, or wetland

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

**NAME:** Cecily G. Belford  
**AGENT:** Michael Leslie  
**LOCATION:** 5 Spruce Road, Northeast Harbor  
**TAX MAP:** 025 **LOT:** 055 **ZONE(S):** Village Commercial (VC)  
**PURPOSE:** To convert an existing garage into a private art studio.  
**SITE INSPECTION:** 3:00PM

No one was present at the meeting to represent the Application. Ms. Randolph was eventually successful in reaching Agent Michael Leslie.

Adequate Public Notice was confirmed. Abutters were notified.

Chair Hanley reported he was the only one in attendance at the Site Visit. Neither Applicant nor Agent was present. What he saw was an existing residence and garage. The Applicant is requesting a change of use to renovate the garage into an art studio. The garage is in the process of being reshingled. No footprint changes or other disturbance was evident. It appeared to conform with the site plan submitted.

Mr. Leslie stated the garage is noncompliant. Two corners of the building do not conform, and the building rafters extended approximately 12 inches beyond the setback toward the road. The rafter overhang toward the road has been removed and that portion of the building is no longer noncompliant. The Applicant is reshingling the garage exterior, and interior work and repairs are underway. Windows and a new insulated door will be installed. New insulation will be installed. No exterior changes are planned, although gutters are being considered. The building will remain a garage unless this application is approved to renovate the garage into an art studio.

Chair Hanley noted the primary nonconforming portion was the pre-existing roof eaves and the back overhang which has now been brought into compliance. The Applicant has a setback waiver agreement from the abutter to the North for the side yard setbacks.

Mr. Leslie confirmed that Ms. Belford is the owner of the house. She contacted Mr. Leslie to design an art studio. Mr. Leslie was advised to reach out to CEO Keene. Work is currently underway to repair the garage. Pending Planning Board Approval, the work will extend to renovating the space to make it an art studio.

No Conflict of Interest was found among the Board.

Chair Hanley opened the Public Comment. There was none. Chair Hanley closed the Public Comment.

A review of the Application ensued.

MS. LOFTUS KELLER MOVED TO FIND THE APPLICATION COMPLETE.

Ms. Randolph questioned whether the application was complete. As an example, the Application does not appear to note the zone in which the property is located.

Chair Hanley recalled other similar applications that provided plans, as well as other information pertinent to the review criteria. This Application appeared to be missing some of that information. There are some items the Board needs to have on record for the review of the project. Issues the Board must consider include public health and safety, erosion and sedimentation, water quality, wildlife habitat, vegetative cover, archaeological and historical resources. Information pertinent to these issues must be submitted as part of the project review.

Examples of items necessary for the review include an archaeological and historic resources map and an email from the Public Works Department regarding the impact to public health and safety, and any concerns that a change of use may cause.

Ms. Leslie reported the original garage is on a concrete slab. He felt an archaeological map should not be necessary. Chair Hanley explained it was a pro forma map required to confirm archaeological or historic resources nearby have been considered.

Mr. Ashmore asked if the Application can be deemed complete with the condition that required paperwork be submitted to the CEO prior to the permit being issued. Ms. Randolph agreed it was a good idea. She noted there is nothing in the Application she expected to be a problem, but the supporting information should be in the file.

Discussion ensued regarding whether the Board can find the Application complete without these submittals. If the Application is not deemed complete, the process cannot move forward. Mr. Ashmore believed conditional approval has been given before.

MS. RANDOLPH MOVED, WITH MR. ASHMORE SECONDING, TO FIND THE APPLICATION COMPLETE PENDING SUBMISSION OF:

- TOWN ZONING MAP SHOWING SIGNIFICANT WATER BODIES AND STREAMS.
- ARCHAEOLOGICAL AND HISTORIC RESOURCES DATABASE MAP.
- A MAP SHOWING FISH AND WILDLIFE HABITAT.
- A MAP SHOWING THE FLOODPLAIN.
- AN EMAIL OR LETTER FROM THE PUBLIC WORKS DEPARTMENT CONFIRMING NO ADVERSE IMPACT FROM THE CHANGE OF USE ON PUBLIC HEALTH AND SAFETY.
- AN EROSION AND SEDIMENTATION CONTROL MAP.
- A MAP CONFIRMING THAT NO WATER COURSES OR OTHER SURROUNDING RESOURCES WILL BE CHANGED DUE TO THE PROJECT.

Mr. Leslie believed discussion of impact on water courses and other surrounding resources was included in the Application. He asked where such maps could be found. Chair Hanley suggested he reach out to CEO Keene to get information on obtaining the maps.

**VOTE:**

MEREDITH RANDOLPH: AYE  
DAVID ASHMORE: AYE  
TRACY LOFTUS KELLER: AYE  
CHAIR WILLIAM HANLEY: AYE  
MOTION APPROVED 4-0.

Chair Hanley inquired whether the Board felt a motion regarding review criteria of Section 4.3.7 that the Board does not find Applicable, such as those criteria relative to the shoreland zone. The Applicant is not, for example, in a zone affected by Commercial fishing and other water dependent uses, based on the location of the property. Ms. Randolph felt the relevant maps would confirm these points.

Mr. Leslie reiterated the structure is already in place. Work is being done to improve it, but nothing is changing from what must have been previously submitted. Chair Hanley explained it was protocol to get these items submitted. Ms. Randolph added that the process also gives the chance for neighbors to share their concerns. The Board needs the paperwork to confirm the Application was properly reviewed.

Chair Hanley noted the Board can continue their review with the Motion for approval pending on the items or continue the discussion to the next meeting to hear it properly. Ms. Randolph believed it would be better to continue the discussion to the next meeting. The next meeting is January 11, 2023.

MS. LOFTUS KELLER MOVED, WITH MS. RANDOLPH SECONDING, TO CONTINUE THE MEETING TO THE JANUARY 11, 2023, PLANNING BOARD MEETING

**VOTE:**

TRACY LOFTUS KELLER: AYE  
MEREDITH RANDOLPH: AYE  
DAVID ASHMORE: AYE  
CHAIR WILLIAM HANLEY: AYE  
MOTION APPROVED 4-0.

**IV. Conditional Use Approval Application(s):**

**A. Conditional Use Approval Application #017-2022**

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

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

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

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

**PURPOSE:** Section- 5.6 – Amendment to previously approved Conditional Use Approval Applications - Independent School. (CUA#10-2016 & 012-2020)

**SITE INSPECTION:** 3:45PM

This Item was pulled from the Agenda by the Applicant.

**V. Other**

There was no Other Business.

Chair Hanley encouraged Board members to reach out to potential Board Members.

**VI. Adjournment**

MS. RANDOLPH MOVED, WITH MR. ASHMORE SECONDING TO ADJOURN.

**VOTE:**

MEREDITH RANDOLPH: AYE

DAVID ASHMORE: AYE

TRACY LOFTUS KELLER: AYE

CHAIR WILLIAM HANLEY: AYE

MOTION APPROVED 4-0.

The Meeting adjourned at 6:59PM.