

**TOWN OF NAPLES  
BOARD OF APPEALS  
MINUTES  
Tuesday, February 24, 2015 – 7:00 pm  
Municipal Offices Building**

Chairman Skip Meeker called the meeting to order at 7:00 pm. Also present were Member Russell Lashua, Member John Flaherty, Town Secretary Kate Matthews and Code Enforcement Officer Renee Carter.

Russell Lashua made a motion to accept the minutes from the 9/30/14 meeting. John Flaherty seconded the motion. The Board voted 3-0 in favor of approval of the minutes.

New business:

An administrative appeal regarding the denial of a building permit and septic system permit by the Naples Code Enforcement Officer for property located at 21 Seabran Lane, further described as Naples Tax Map U21, Lot 1A.

Attorney Robert Neault was present to represent 21 Seabran, LLC. He explained that the owners of the property had adult children and the space was being renovated to act as overflow for when their families were visiting. He wanted to clarify that the owners were summer residents and this would be used solely as a bunkhouse and not a separate residential dwelling above the existing garage. He believed that the CEO over stepped her bounds of enforcing town ordinances and should have allowed the building permit and proposed septic system for above the garage. Mrs. Carter did not act on the initial applications as a bunkhouse due to the definition of a “bunkhouse” contained in the State of Maine Subsurface Wastewater Disposal Rules, which provide that a bunkhouse does not have plumbing. After the initial applications were filed, Craig Whitaker, who was the Architect submitting plans for the renovation project, submitted revised applications calling the space a “Modification of accessory structure.” Mr. Neault stated that the permit was not for a principal structure and should not be considered as such. He let the Board know that the space would consist of three bedrooms, a sitting room, two bathrooms, and no provision for any semblance of a kitchen.

Town Attorney Sally Daggett was present to represent the CEO at the meeting. She indicated that the Board should uphold CEO Renee Carter’s decision to deny the building and septic system permit applications for 21 Seabran Lane. She said that the CEO’s decision was derived from four different statutes and/or ordinances: the Maine Minimum Lot Size statute and regulations; Subsurface Wastewater Disposal Rules; Naples Shoreland Zoning Ordinance; and Naples Definitional Ordinance. Ms. Daggett also told Board members that they were not bound by any prior decisions they had made on dwelling units. She brought up several Maine Supreme Court cases involving the definition of a “dwelling unit” and explained that in those instances when a local administrative board had to make a decision on whether a structure or portion of a structure was a dwelling unit, the Maine Supreme Court allowed municipal administrative boards to use their common sense in their interpretation of the definition of a dwelling unit. She said that even though there may not be plans for a kitchen, there’s not anything to stop someone from

setting up a microwave oven or hot plate in the space, as those items do not show up on building floor plans. Ms. Daggett stated that neither the Minimum Lot Size Rules nor the Subsurface Wastewater Disposal Rules define the term “single family residential unit” or “dwelling unit” to include a condition that the structure have a kitchen in order for it to be considered a dwelling unit. She also stated that under the Minimum Lot Size Rules, the local zoning shore frontage requirement, or 200 feet of shore frontage in Naples, is needed per dwelling unit, and the 21 Seabran Lane property has less than 400 feet of shore frontage on Brandy Pond. Mrs. Carter said that since there were plans for plumbing in the space, there was no way that it could be considered a bunkhouse according to the Subsurface Wastewater Disposal Rules. The only other option would be to call it a separate residential dwelling unit, as the proposed space is not connected to the existing single family house on the property. Under that definition, the lot does not have enough shore frontage in the shoreland zone and would not meet the minimum lot size requirements for a dwelling unit as the lot only has a 200 x 250 square feet space in shoreland zone. Ms. Daggett indicated that the Minimum Lot Size Rules and Subsurface Wastewater Disposal Rules regulate in different ways than the Shoreland Zoning Ordinance.

Mr. Whitaker said that on one occasion when she was meeting with Mrs. Carter regarding the permits, she had called Mike Morse of DEP’s Shoreland Zoning Unit. Mr. Morse told her at that time that four bedrooms could be considered as accessory use for shoreland zoning purposes.

Mrs. Carter stated that the space still could not be considered a bunkhouse as there were plans for plumbing (two bathrooms and a washer/dryer), which conflicted with the definition of a bunkhouse under the Subsurface Wastewater Disposal Rules.

Mr. Meeker indicated that he thought this case turned on what is this building. He indicated that, using a common sense approach to what this building is, he felt the 3 bedrooms, 2 bathrooms and sitting room were a dwelling unit. He then moved to deny the administrative appeal and to stand by the Naples CEO’s decision to deny the building permit and septic system permit for the space above the garage at 21 Seabran Lane. Russell Lashua seconded the motion. The Board voted 3-0 to deny the administrative appeal.

As there was no other business to speak of, the meeting was adjourned.

Respectfully submitted,

Kate Matthews  
Town Secretary