

BERLIN ZONING BOARD OF APPEALS

MEETING ADMINISTRATIVE MINUTES

MEETING DATE/LOCATION: Wednesday, May 13, 2020, via Zoom Webinar 200 541 019

TOWN OFFICIALS (& OTHERS) PRESENT:

MEMBERS SITTING/PRESENT:

R/A			
R	Lynn Ryan, Chair	P	
R	Dennis Bartlett	P	
R	Pat Jackson	P	
R	Jim Royer	P	
R	Ginny Zukatynski	P	
A	Sue Roberts	P	
A	Keith Soucy	P	

Regular/Alternate

Sitting/Present/Absent

Dennis Minnich (978-838-9485), Attorney Paul Haverty, Seth Donohoe, Mark Rhodes, Attorney Amy Kwesell, Town Counsel

Chairman Ryan opened the meeting at 6:31pm with a roll call of Board members in attendance. Chairman Ryan asked Attorney Kwesell, Town Counsel, to explain the provisions of Chapter 53 of the Acts of 2020.

Attorney Kwesell explained that Section 17 of Chapter 53 of the Acts of 2020 signed by Governor Baker on April 3, 2020, allows Land-Use Boards to defer action on new permit applications and continue pending hearings 45 days after the State of Emergency is lifted. A permit in effect or existence as of March 10, 2020, is tolled and shall not lapse or otherwise expire during the State of Emergency. Additionally, any time period for meeting a deadline within a permit or for performance of a condition of the permit shall toll during the State of Emergency.

“Any requirement of a statute, ordinance, bylaw, rule, or regulation that a hearing commence within a specific period of time after the filing of an application or request for permit approval shall be suspended as of March 10, 2020, and the suspension of that time will continue through to 45 days after the termination of the State of Emergency, or as of a date otherwise prescribed by law, whichever is later.”

The State of Emergency is slated to be lifted May 18, 2020. Any hearings continued by the Board or new applications deferred would have to be held prior to July 2, 2020. Attorney Kwesell informed the Board the Chair may schedule or reschedule on one or more occasions, a hearing or decision deadline on a permit application without a quorum of the body. Notice of any rescheduled date shall be provided to the applicant and to the general public by posting electronically.

A brief discussion ensued. It is the consensus of the Board to continue the pending public hearing for The Capes of Berlin and defer action on any new permit applications received during the State of Emergency.

In the interest of not losing a month's time, Attorney Haverty asked the Board if he could communicate with Town Counsel to see if any additional information is needed by the Board. The Board was in agreement.

Board Member Bartlett made a motion that the pending hearing for substantial modification to a comprehensive permit for The Capes of Berlin be automatically tolled and continued in accordance with Chapter 53 of the Acts of 2020, Section 17, until June 10, 2020, at 6:30pm at Town Offices. If the State of Emergency has not been lifted by June 10, 2020, the hearing will again be continued. The motion was seconded by Board Member Zukatynski, and the motion passed 4-1 by roll call vote (Ryan, Bartlett, Jackson, Zukatynski in favor and Royer against).

Chairman Ryan informed the Board of the potential for an application for an Appeal of a decision of the Building Commissioner for a Cease & Desist. Attorney Kwesell informed the Board that an Appeal does not fall under the definition of a Permit in Chapter 53 of the Acts of 2020. Therefore, the Board will need to schedule a public hearing within 65 days of receipt of the application and render a decision within 100 days of the receipt of the application.

It was reported that a complaint had been received regarding earth removal at The Capes of Berlin site. Chairman Ryan informed the Board this is an issue for the Earth Works Advisory Committee, and the Board cannot have any discussion regarding the matter until the public hearing resumes.

Administrative

Chairman Ryan asked Board members if they were current with ethics training. Board Members Jackson, Ryan, Bartlett, and Roberts have all completed the training. Land-Use Boards Clerk, Liane Leahy, to confirm with the Town Clerk that all Board members are current.

Chairman Ryan reported the Board's expense budget line was reduced from \$600 to \$500 for FY21.

After a brief discussion of July availability for the monthly meeting a date of July 15, 2020 was agreed upon.

Motion made by Board Member Bartlett to approve meeting minutes of April 8, 2020, as written. The motion was seconded by Board Member Royer, and the motion passed by roll call vote 7-0 (Ryan, Royer, Bartlett, Jackson, Zukatynski, Roberts, Soucy).

It was reported a Reserve Fund Transfer of \$675 was requested to cover the remaining FY20 wages for the Land-Use Boards Clerk.

Motion was made by Board Member Royer to adjourn the meeting. The motion was seconded by Associate Board Member Soucy, and the motion passed by roll call vote 7-0 (Ryan, Royer, Bartlett, Jackson, Zukatynski, Roberts, Soucy). The meeting was adjourned at 7:28pm.

Respectfully submitted by: _____

Liane Leahy, Clerk for Berlin Zoning Board of Appeals