

CITY OF LEWISTON BOARD OF APPEALS

Wednesday, March 4, 2020 – 5:30 P.M.

Council Chambers

Lewiston City Building
27 Pine Street, Lewiston

AGENDA

I. ROLL CALL

II. ELECTION OF OFFICERS: Election of Chairperson, Vice Chairperson and Secretary

III. NEW BUSINESS:

To consider a request of Petitioner, Carol Leblanc, 17 Sand Hill Road, Lewiston, ME 04240. The Petitioner is requesting a conditional use for a drinking establishment at 875 Lisbon Street.

IV. ADOPTION OF 2020 PROCEDURES & POLICIES

V. READING OF THE MINUTES: Motion to adopt the draft minutes from the August 7, 2019, September 4, 2019 and November 6, 2019.

VI. ADJOURNMENT



CITY OF LEWISTON

Department of Planning & Code Enforcement

TO: Lewiston Board of Appeals

FR: David Hediger, Director of Planning and Code Enforcement

RE: Appeal for Conditional Use at 875 Lisbon Street

DT: February 28, 2020

I submit the following information and comments with respect to the appeal of Carol LeBlanc of Lewiston, Maine regarding a conditional use permit for a drinking establishment at 875 Lisbon Street.

Carol LeBlanc of Lewiston, Maine is requesting a conditional use permit to establish and operate a drinking establishment at 875 Lisbon Street. The petitioner currently operates the Midtown Athletic Club at 45 Walnut Street and is interested in relocating. The property at 875 Lisbon Street is located in the Community Business (CB) district and drinking places are permitted as a conditional use. This appeal has been filed pursuant to Appendix A, Article VIII, Section 4(6) and Article X, Section 3 of the Code of Ordinances of the City of Lewiston.

The petitioner proposes to operate a drinking place in the existing vacant structure at 875 Lisbon Street. This structure of approximately 3,000 square feet was last used as a restaurant. The site consists of approximately 10 parking spaces with an additional 21 spaces available on the abutting property at 855 Lisbon Street (the Promenade Mall) via an easement. The applicant notes there will be five to ten employees or volunteers staffing the establishment; however, it is my understanding that rarely would all staff be on-site at any one time. Hours of operation are proposed to be Monday through Saturday 6:00 A.M to 1:00 A.M. and Sunday 9:00 A.M. to 1 A.M.

The Board shall consider the standards for conditional use permits as per Article X, Section 3 of the Zoning and Land Use Code when granting an appeal. The application references these criteria noting the following:

- The proposed is comparable to surrounding uses. There are other restaurants and a private club within walking distance of 875 Lisbon Street with similar hours of operation serving food and/or alcohol.
- The amount of parking needed and available is comparable to surround uses. The surrounding area consists of properties with similar or much larger areas of parking. Based upon the 31 parking spaces available, the proposed establishment may have up to 91 seats. Article XII, Section 17 requires one space per three seats for drinking establishment. It is my understanding the applicant does not expect to have this many seats available.

- The generation of noise, dust, odor, vibration, glare, smoke, litter and other nuisance is comparable to surrounding uses. The proposed establishment is located along a section of Lisbon Street with variety of uses that may produce nuisances comparable or more possibly more intense. The petitioner is aware there is a mixed-use structure is located immediately adjacent to the property at 885 Lisbon Street and an abutting single-family dwelling at 134 Summit Street. Both of these properties are located in the CB district, too. The application notes the Midtown Athletic Clubs operates in an area with many residential uses in close proximity to their establishment. They have worked to keep noise levels down and would do the same at this new location. They do have music and will take measures to muffle the sound to not adversely impact abutting properties. Staff notes that any use of any property in the CB district may not exceed a maximum sound level of 60 db(A) when measured at the property line.

The remaining conditional use criteria contained in Section 3 are largely not applicable. No changes are being proposed to the site. No additions are proposed to the structure. Access to the site and structure will remain the same as with previous uses. The only real change is the actual use of the building to drinking establishment.

Drinking establishments, adult business establishments and tattoo establishments are also subject additional performance standards of Article XII, Section 9 of the Zoning and Land Use Code to ensure they will not become overly concentrated in neighborhoods or areas to the detriment of other uses. The petitioner has referenced these standards:

- The minimum distance between an adult business establishment, tattoo establishments, and/or drinking place and any two other adult business establishments, tattoo establishments, and/or drinking places in the same or adjoining zoning district shall be 500 feet for businesses located in any other district as measured along the ordinary course of travel between the main entrance of each premises. There is one applicable business within 500 feet, a tattoo establishment, locate across the street at 884 Lisbon Street. Therefore, this standard is met.
- An adult business establishment, or drinking place may not be located within 300 feet, as measured along the ordinary course of travel between the main entrance of each premises, of a public or private school, school dormitory, church, chapel or parish house, or legally-established dwelling in a residential zoning district, in existence prior to the establishment of the business. There are no churches or schools within 300 feet of the proposed location. The closest legally-established dwelling in a residential zoning district, 134 Summit Street, is located over 300 feet when measured along the ordinary course of travel between the main entrance of each premises. Therefore, this standard is met.

This appeal may be heard pursuant to Appendix A, Article VI, Section 4(c), and Article X, Section 3 of the Code.

ACTIONS NECESSARY:

- Conduct a hearing concerning the above mentioned petition.
 - Obtain input on the petition.
 - Make a determination that the application is/is not complete.
 - As per Appendix A, Article X Section 3, make a finding that the proposed drinking establishment at 875 Lisbon Street meets the conditional use standards. In the event that the Board is satisfied that the applicable provisions can be met, granting of the appeal would be consistent with the Zoning and Land Use Code of the City of Lewiston.
-

For reference, following sections of code or terms have been referred to in this memorandum.

Article II. Definitions

Sec. 2. Definitions.

Drinking place (alcoholic beverages) means a business or commercial establishment which customarily excludes persons under the age of twenty-one (21) from admission to its premises, including, but not limited to, uses for which a special amusement permit is required pursuant to Chapter 10, Article III of the Code of Ordinances of the City of Lewiston, class A lounges, dance halls and establishments serving alcoholic beverages other than restaurants as defined herein. Drinking places shall not include retail stores where alcoholic beverages are sold for consumption off premises.

Article X. Conditional Uses

Sec. 3. Standards for conditional use permits.

A conditional use permit shall be granted by the board of appeals or planning board unless the board finds that the granting of the permit would violate one or more of the following standards:

(1) Neither the proposed use nor the proposed site upon which the use will be located is of such a character that the use will have significant adverse impact upon the value or quiet possession of surrounding properties greater than would normally occur from such a use in the zoning district. The board may not find that this standard is satisfied unless it finds that:

- a. The size of the proposed use is comparable to surrounding uses; and
- b. The amount and type of traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces are comparable to surrounding uses; and
- c. The generation of noise, dust, odor, vibration, glare, smoke, litter and other nuisances is comparable to surrounding uses; and
- d. The impact of the use on the quality and quantity of groundwater available to abutting properties is comparable to surrounding uses; and
- e. Unusual physical characteristics of the site, including size of the lot, shape of the lot, topography, and soils, do not aggravate adverse impacts upon surrounding properties.

(2) Vehicular and pedestrian access to, into and within the site will be safe and will not be overburdened or create hazards because they are inadequate. The board may not find that this standard is satisfied unless it finds that:

- a. Vehicular access to the site will be on roads which have adequate capacity to accommodate the additional traffic generated by the development.
 1. Adequate capacity means that:
 - (i) Intersections on major access routes to the site within one-half mile of any entrance road will function after development at a minimum at Level of Service C; or
 - (ii) If they are functioning at a Level of Service D or lower prior to the development, the project will not reduce the current level of service.
 2. The board of appeals or planning board may approve a conditional use permit for an application not meeting this requirement if the applicant demonstrates that:
 - (i) A public agency has committed funds to construct the improvements necessary to bring the level of access to said standard, or
 - (ii) The applicant will assume financial responsibility for the improvements necessary to bring the level of service to said standard and will guarantee the completion of the improvements within one year of approval of the permit.
- b. The topography of the site shall permit the construction of all driveways, entrances or proposed streets to meet the standards of the City of Lewiston's Policy for the Design and Construction of Streets and Sidewalks.
- c. Facilities are present to assure the safety of pedestrians passing by or through the site.

(3) Municipal or other facilities serving the proposed use will not be overburdened or create hazards because they are inadequate. The board may not find that this standard is satisfied unless it finds that:

- a. The capacity of sewerage and water supply systems is adequate to accommodate the proposed use;
- b. The capacity of the storm drainage system is adequate to accommodate the proposed use; and
- c. The ability of the fire department to provide necessary protection services to the site and development is adequate.

(4) The soils on the proposed site shall have adequate capacity and stability to support all loadings, including fill, developed by the proposed use and the use will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water to the extent that a dangerous or unhealthy condition may result on the site or upon the land of abutters or the environment. In considering whether this standard is satisfied, the board shall take into account the elevation above sea level of the site and surrounding properties, its relation to flood plains, the slope and vegetation of the land and their effects on drainage.

(5) The scale and design of the proposed structures with respect to materials, scale and massing shall be compatible with existing structures within 500 feet of the site in areas where the existing structures are of a similar scale and architectural treatment.

Article XII, Performance Standards

Sec. 9. Adult business establishment, tattoo establishment, and drinking place standards.

The regulation of the density of adult business establishments, tattoo establishments, and drinking places is intended to permit the location of such establishments within the community, yet ensure that they will not become overly concentrated in neighborhoods or areas to the detriment of other uses. Therefore, in addition to the regulations of article XI, adult business establishments, tattoo establishments, and drinking places shall conform to the following standards:

(1) The minimum distance between an adult business establishment, tattoo establishments, and/or drinking place and any two other adult business establishments, tattoo establishments, and/or drinking places in the same or adjoining zoning district shall be 300 feet for businesses located within the Centreville district as measured along the ordinary course of travel between the main entrance of each premises.

(a) Drinking places with 5,000 square feet or greater on the first floor are exempt from the above referenced standard. Drinking places of 5,000 square feet or greater shall not be included in the locational criteria determinations for drinking places of less than 5,000 square feet or adult business establishments.

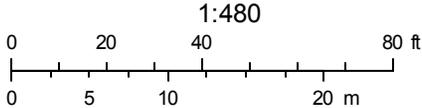
(2) The minimum distance between an adult business establishment, tattoo establishments, and/or drinking place and any two other adult business establishments, tattoo establishments, and/or drinking places in the same or adjoining zoning district shall be 500 feet for businesses located in any other district as measured along the ordinary course of travel between the main entrance of each premises.

(3) An adult business establishment, or drinking place may not be located within 300 feet, as measured along the ordinary course of travel between the main entrance of each premises, of a public or private school, school dormitory, church, chapel or parish house, or legally-established dwelling in a residential zoning district, in existence prior to the establishment of the business.

875 Lisbon



February 27, 2020



Lewiston, Maine
Lewiston Maine

Setback to Residential Use in NCA district
City of Lewiston

Receipt Date:	_____
Receipt #:	_____
Amount:	_____
Hearing Date:	_____
Office Use Only	

**CITY OF LEWISTON
PETITION FOR APPEAL**

**Lewiston Board of Appeals
c/o Code Enforcement Division
City Building, 27 Pine Street
Lewiston, Maine 04240**

INSTRUCTIONS: Please print or type your responses to the following requests for information and add any attachments or exhibits that may support your appeal. Submit an original and eleven (11) copies of your completed petition for appeal along with any attachments, and the application fee of one hundred and fifty dollars (\$150.00). Also, please include eleven (11) copies of a site plan (a site plan must be drawn to scale, show all existing and proposed structures, which includes fences, pools, decks, etc., and paved areas such as driveways, parking areas, etc.) along with eleven (11) copies of a deed; if you are not the owner of record you must also provide documentation showing your interest in the property subject to this appeal. Your petition and site plan will be forwarded to the Board of Appeals.

The various chapters and sections that are mentioned in this petition are referenced from the Code of Ordinances of the City of Lewiston which is available for review at the Code Enforcement Office.

A) Street address of the property in question: 875 Lisbon Street
 B) Legal name, address, and telephone number of petitioner(s):

Carol LeBlanc Telephone No. (207) 252-2495

17 Sand Hill Rd., Lewiston Telephone No. _____

C) I/we hereby petition the Board of Appeals for a hearing regarding the following categories as checked:

1. ___ Administrative appeal [Appendix A, Article VIII, Sec. 4(1)]
2. ___ Variance [Appendix A, Article VIII, Sec. 4(2)]
3. Conditional use permit [Appendix A, Article VIII, Sec. 4(6)]
4. ___ Modification of fence and wall standards [Appendix A, Article VIII, Sec. 4(8)]
5. ___ Modification of yard, setback, height, lot coverage ratio, and open space requirements [Appendix A, Article VIII, Sec. 4(10)]
6. ___ Other (Please specify and indicate the appropriate reference from the Revised Code of Ordinances of the City of Lewiston.)

D) What is it that you are specifically appealing? Please be sure to be very concise in your response and, if applicable, include copies of denied applications for permits, a description of the change and/or new use, etc. Use additional sheets if necessary.

I am seeking permission to move
Midtown Athletic Club from 45 Walnut St,
Zenuston as a conditional use for a
drinking establishment

E) Information regarding the property that is the subject of this appeal.

1. Legal name, address, and telephone number of owner of the property in question:

Andrew Rosenthal Telephone No. (207) 272-7922
5007 Spring St. SB8
Carrollset Valley, ME Telephone No. (207) 415-0844
04947

2. Zoning District Designation:

- 3. Shoreland Zone Yes No
- 4. Lake Conservation District Yes No
- 5. Ground Water Conservation District Yes No
- 6. Flood Plain Management District Yes No

7. Is the subject property a significant structure or is it located in a significant district as per the preservation and conservation standards of Appendix A, Article XV, Sec. 3. Yes No

8. Lot size: .18 acres

Lot Coverage Ratio: Existing: 43% / Proposed: 43%

Impervious Surface Ratio: Existing: 100% / Proposed: 100%

9. Property Restrictions:

- a. Easements Yes No
- b. Covenants Yes No
- c. Prior Conditional Use approval Yes /Date: _____ No
- d. Prior Variance approval Yes /Date: _____ No
- e. Briefly describe restrictions:

10. Describe current use of property to include size of structures, description of buildings, availability of parking, etc. If the property is in mixed use please give the floor area of each use. For non-residential uses, identify hours of operation, number of employees, etc. Use additional sheets if necessary.

See Attachments

F) Statement of the reasons that you believe support the granting of your appeal (be sure to respond to the appropriate standards for the granting of appeals and respond accordingly) and in the event that the appeal is granted, describe the anticipated changes to the subject property. If applicable, be sure to include items such as new parking demand, hours of operation, etc. If any structures or additions to structures are to be erected or driveways, parking areas or other impervious surfaces are to be added or expanded be sure to include the proposed lot coverage ratio and the impervious surface ratio. Use additional sheets if necessary.

See Attachments

Carol LeBlanc President
Petitioner's Name & Title (Print)

2-24-20
Date

Carol LeBlanc President
Petitioner's Signature & Title

2-24-20
Date

Petitioner's Representative & Title (Print)

Date

Petitioner's Representative Signature & Title

Date

SECTION E, 10 FROM BOA APPLICATION

Property was last known as a 3,000 square foot restaurant. There is approximately 10 parking spaces around the property with an easement of an additional 21 spaces in the mall parking lot. There will be 5 to 10 employees and or volunteers. Hours of operation will be Monday through Saturday 6 a.m. to 1 a.m. and Sunday 9 a.m. to 1 a.m. Attached is a site plan of the proposed location of Midtown Athletic Club.

SECTION F

The property was last used as a restaurant opened to the public, The Midtown Athletic club is a fraternal organization not opened to the public and can restrict members from out door activities such as smoking. Traffic flow can be entered from 2 access points. One from the existing mall which has 21 parking spaces and the other entrance is located off Lisbon street with an additional 8 to 10 parking spaces. Access for the patrons shall be on the mall side and is the back side of the structure which eliminates frontal use. For patrons that walk there are sidewalks and crosswalks for pedestrians crossing on Lisbon Street. We have been in the area on a residential street for over 10 years and have always worked with police and surrounding neighbors on noise and appearance and maintained our existing area well.

With regards to the conditional use criteria Midtown offers the following:

- A. The size of the proposed use is comparable to surrounding uses;
There are several businesses in the area that are comparable in size such as "The Pit BBQ," "Sam's Italian" sandwich shop and "Papa Johns" pizza shop.
- B. The amount and type of traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces are comparable to surrounding uses;
The Midtown hours of operation are on average the same as local businesses in the area "The Pit BBQ" is 4 pm to 10 pm. "Papa Johns" is 10:30 a.m. to 1:30 a.m. week nights and weekends till 3:00 a.m. "Sam's Italian" hours are 9 a.m. to 10 p.m.
The Midtown has 8 to 10 parking spaces on site and additional 21 spaces in the mall parking lot.
- C. The generation of noise, dust, odor, vibration, glare, smoke, litter and other nuisances is comparable to surrounding uses; and
Midtown Athletic club has always worked with surrounding neighbors on Walnut Street for over 10 years to keep noise levels and vibration levels down. We have maintained the cleanliness outside from our entrance to our parking lot. Midtown Athletic Club on Walnut street did not allow patrons to loiter in front of and would continue the same policy on Lisbon Street. I have reached out to our music providers and have been assured that sound muffling is possible. Midtown is comparable with local

commercial business uses in the area (such as foot traffic from local stores “Dollar General” and Save a Lot” from noise and vibration at local restaurants “The Pit”, Burger King” and “Papa Johns“).

D. The impact of the use on the quality and quantity of groundwater available to abutting properties is comparable to surrounding uses; and

No changes to footprint, pavement with no upset to groundwater and is comparable to the local businesses in the area.

E. Unusual physical characteristics of the site, including size of the lot, shape of the lot, topography, and soils, do not aggravate adverse impacts upon surrounding properties.

The site proposed is comparable to other local businesses in the area.

ARTICLE 12 SECTION 9

Adult business establishment, tattoo establishment and drinking place standards.

The closest adult business is Align Tattoo which is over 300 plus feet away at 892 Lisbon Street. The closest church is Holy Cross which is located at 1080 Lisbon street which is .5 miles away. The closest school is Lewiston High School and Robert Connor Elementary which is .9 miles away. The nearest residence in a residential zoning district is over 300 feet away from the proposed main entrance at the back of the building. (See map, Exhibit A.)

With regards to the adult business establishment criteria Midtown offers the following:

1) Not Applicable

2)The minimum distance between an adult business establishment, tattoo establishments, and/or drinking place and any two other adult business establishments, tattoo establishments, and or drinking places in the same or adjoining zoning district shall be 500 feet for businesses located in any other district as measured along the ordinary course of travel between the main entrance of each premises.

There is only 1 other adult business within the criteria.

3)An adult business establishment, or drinking place may not be located within 300 feet, as measured along the ordinary course of travel between the main entrance of each premises, of a public or private school, school dormitory, church, chapel or parish house, or legally-established dwelling in a residential zoning district, in existence prior to the establishment of the business.

Tattoo business is over 300 plus feet away.

Church is located .5 miles away.

Lewiston High School and Robert Connor elementary is .9 miles away.

875 Lisbon Street



January 30, 2020

- Building, Proposed
- Easement
- Entrance

Emergency Exit

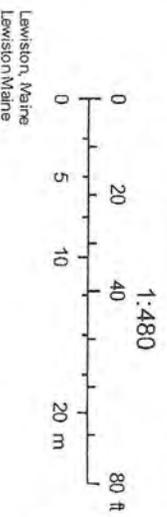
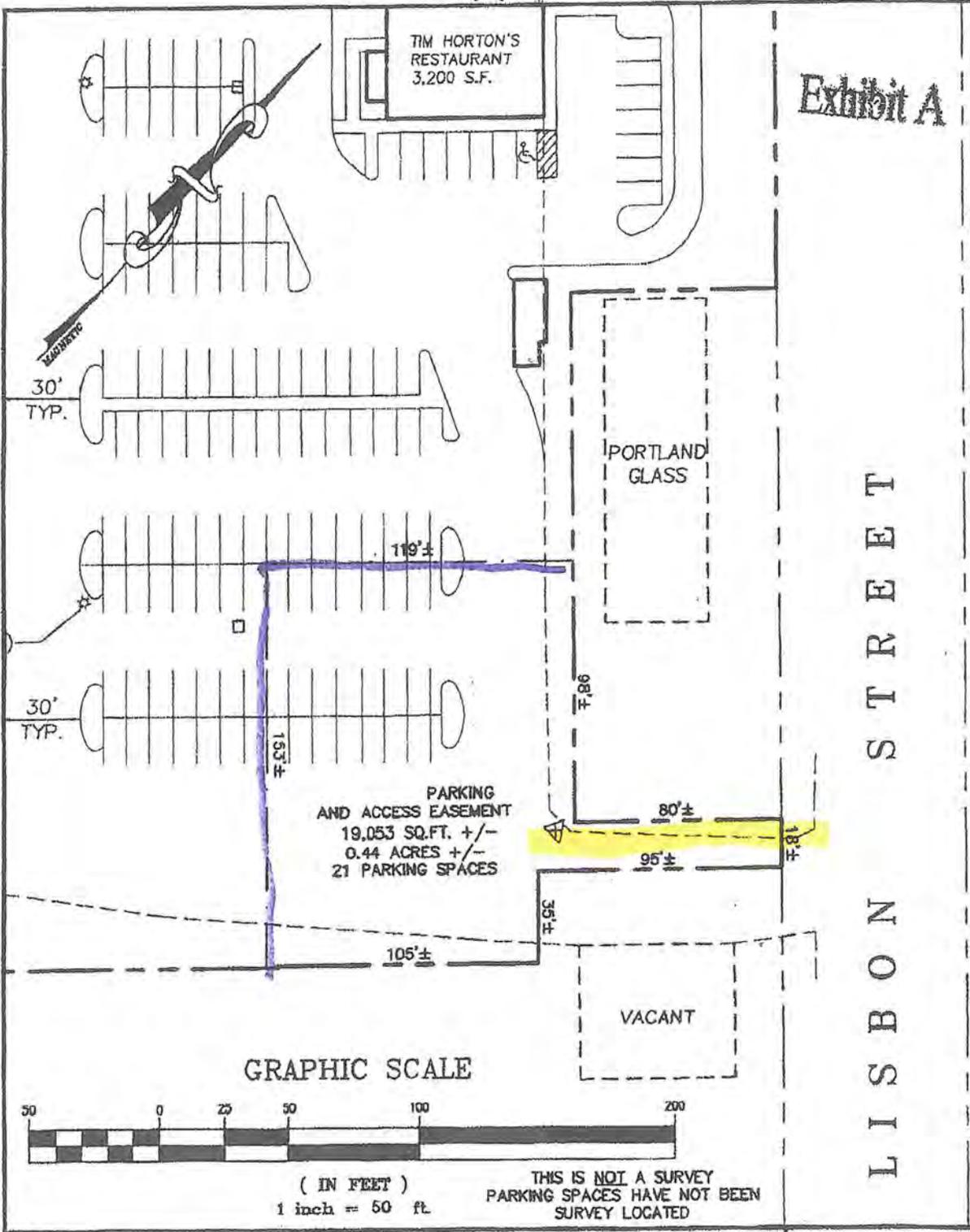


Exhibit A



SHEET: 1 OF 1

SITELINES
ENGINEERS PLANNERS
8 CUMBERLAND ST. BRUNSWICK, ME 04011
(207) 725-1200 FAX 725-1114

PARKING AND ACCESS EASEMENT SKETCH
PROMENADE MALL
885 LISBON STREET
LEWISTON MAINE

DATE:	04-06-12
SCALE:	1" = 50'
JOB:	330
FILE:	330-EASE

ANDROSCOGGIN COUNTY
TINA H CHOUINARD
REGISTER OF DEEDS

● Easement
● Entrance to Parking Area

2/19/20

To
Carol Leblanc
Midtown Athletic Club
17 Sand Hill Road
Lewiston Maine 04240

From
Snow LLC
Box 1534
Waterville Maine 04903

Hi Carol

Under separate cover I have sent to you the lease for signature

This is what we have agreed to in our negotiations that are now over and I am ready to sign it
as soon as you get all your approvals

I will give you first refusal of the space thru the end of March.



Snow LLC
By
Andy Rosenthal

NOT WARRANTY DEED NOT
AN AN
OFFICIAL OFFICIAL

MOTEL SERVICES, INC., of Brunswick, Cumberland County, Maine, a Maine corporation, for consideration paid, grants to SNOW, LLC, A Maine limited liability company, with a place of business in Brunswick, Cumberland County, Maine, and whose mailing address is 21 Gurnet Road, Brunswick, Maine 04011, with *Warranty Covenants*, the following described real estate, together with all buildings and improvements located thereon:

NO MAINE R.E.
TRANSFER TAX PAID

A certain lot or parcel of land with any buildings owned by the grantor thereon situated in said Lewiston and bounded and described as follows:

Commencing on the southwesterly side of Lisbon Street at the northerly corner of a parcel of land conveyed by Franklin Company to Lucien H. Morin by deed numbered #1871 and dated May 25, 1949; thence running northwesterly by the southwesterly line of said Lisbon Street ninety-eight and thirteen one-hundredths (98.13) feet, more or less, to the southeasterly line of land leased by Franklin Company to the Sun Oil Company on November 29, 1955, by instrument recorded in the Androscoggin Registry of Deeds, Book 738, Page 279; thence southwesterly by the southeasterly line of land leased as aforesaid eighty-five (85) feet, more or less, to the southerly corner thereof; thence northwesterly by the southwesterly line of said leased lot two hundred (200) feet, more or less, to the northwesterly corner thereof; thence southwesterly by a line which is the extension southwesterly of the northeasterly boundary of said leased lot one hundred and fifteen (115) feet, more or less, to line of land conveyed by Franklin Company to Rosenthal Investments, Inc., on January 26, 1966; thence southeasterly by line of land conveyed to said Rosenthal Investments, Inc. two hundred fifty-three and thirteen one-hundredths (253.13) feet, more or less, to the westerly corner of land conveyed by Franklin Company to Olive and Mark Pelletier by deed dated August 7, 1956, numbered 1954; thence northeasterly by said Pelletier lot one hundred (100) feet, more or less, to the northerly corner thereof; thence southeasterly by the northeasterly line of said Pelletier lot fifty (50) feet, more or less, to the northwesterly line of land conveyed by Franklin Company to said Lucien H. Morin by deed numbered 1871 hereinbefore referred to; thence northeasterly by said latter lot one hundred (100) feet, more or less, to said Lisbon Street and the point of beginning.

NOT
Meaning and intending to convey the same premises conveyed to Motel Services,
OFFICIAL OFFICIAL
Inc. by Deed of A. J. Realty Corporation, dated August 22, 1969, and recorded in the
ANDROSCOGGIN COUNTY REGISTER OF DEEDS at Book 1007, Page 488.

IN WITNESS WHEREOF, Grantor has executed this deed on this the 26 day of
Nov., 2003.

MOTEL SERVICES, INC.

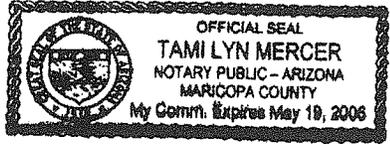
Witness [Signature]

By: [Signature]
Robert A. Rosenthal, Its President

STATE OF ~~MAINE~~ ARIZONA
~~CUMBERLAND~~, SS:
MARICOPA

Nov 26, 2003

Then personally appeared the above-named Robert A. Rosenthal, in his capacity as President of MOTEL SERVICES, INC. and acknowledged the foregoing instrument to be his free act and deed, and the free act and deed of said MOTEL SERVICES, INC. Before me,



[Signature]
Notary Public/Attorney-at-Law

Name Typed or Printed
My Commission Expires: May 19, 2006

ANDROSCOGGIN COUNTY
[Signature]
REGISTER OF DEEDS

PARKING AND ACCESS EASEMENT

NOBSIL, L.L.C., a Maine limited liability company with a mailing address c/o Maine Crossroads, Attention: Andy Rosenthal, PO Box 1534, Waterville, ME 04903 (the "Grantor"), owner of certain real property known as The Promenade Shopping Center, Lewiston, Maine, being more particularly described in a deed from Weingarten Realty Investors to the Grantor herein dated February 23, 2004 and recorded in the Androscoggin County Registry of Deeds in Book 5817, Page 25 (the "Property"), for consideration paid, hereby **GRANTS** to **SNOW, L.L.C.**, a Maine limited liability company with a mailing address of 21 Gurnet Road, Brunswick, Maine 04011 (the "Grantee"), A **PERPETUAL EASEMENT** on and over the access roads and parking areas as may currently exist or as may be hereinafter constructed and as more particularly described as the Parking and Access Easement on Exhibit A attached hereto and made a part hereof (hereinafter "Easement Area"). The Easement Area should be for the benefit of certain real property owned by the Grantee and more particularly described in a deed from Motel Services, Inc. to the Grantee herein dated November 26, 2003 and recorded in the Androscoggin County Registry of Deeds in Book 5740, Page 270 as affected by a certain Corrective Warranty Deed dated January 2, 2004 and recorded in the Androscoggin County Registry of Deeds in Book 5772 Page 211 (the "Benefitted Property"). The Grantee shall use the Easement Area in common with Grantor, its successors and assigns (including without limitation tenants, guests and invitees of the Benefitted Property) for the following purposes:

- (i) vehicular and pedestrian ingress and egress; and
- (ii) parking for private passenger vehicles in the designated parking areas within the Easement Area during the normal business hours of operation of the Promenade Mall. Under no circumstances shall overnight parking be permitted .

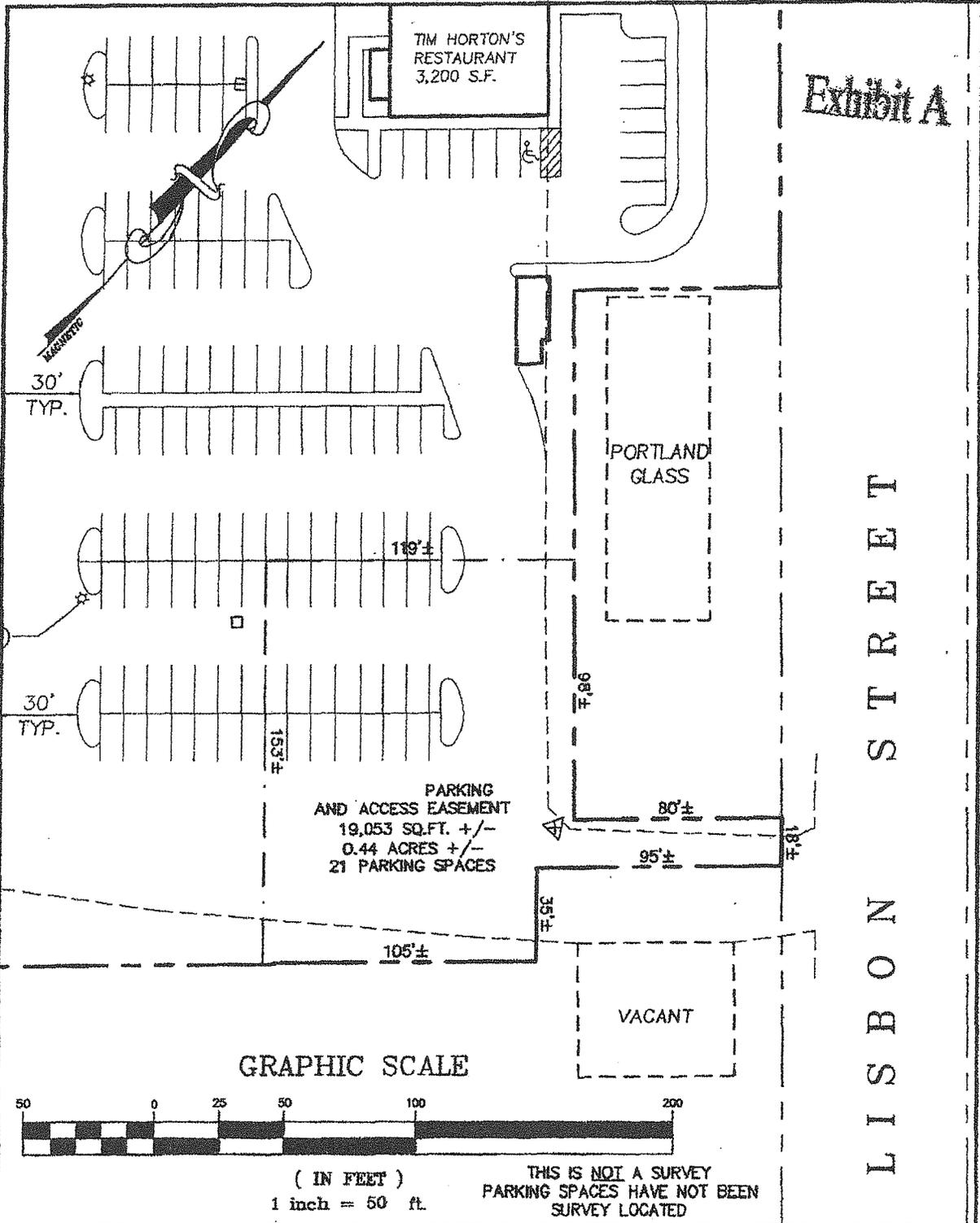
Grantee's rights in the Easement Area are subject to Grantee's obligation to pay a portion of the reasonable cost of maintaining said Easement Area as a parking lot, including without limitation, snow removal, sanding, restriping and surface repair. Grantee's portion of said maintenance costs shall be the greater of .25% or the percentage which is the ratio that the gross square footage of any building(s) located on the Benefitted Property bears to the gross square footage of any buildings located on the Property. Said maintenance costs shall be paid by Grantee within thirty (30) days of receipt of an invoice from Grantor, its successor or assigns.

Grantor hereby agrees to maintain said Easement Area and to perform, subject to the obligations of Grantee set forth above, snow removal, sanding, restriping and surface repair.

Grantee agrees to hold Grantor harmless of all liabilities, claims, and lawsuits arising from Grantee's use of the Easement Area, including costs and reasonable attorneys fees. Grantee further agrees to indemnify Grantors from any judgments and expenses of defending any such claims or lawsuits arising out of Grantee's use of the Easement Area. Grantee's indemnity shall include any use by Grantee's invitees, tenants and guests.

By signing below, Grantee hereby consents to and agrees to be bound by all the terms, covenants, conditions, and restrictions contained in this Access and Parking Easement.

Exhibit A



SHEET: 1 OF 1



SITELINES
ENGINEERS PLANNERS

8 CUMBERLAND ST. BRUNSWICK, ME 04011
(207) 725-1200 FAX 725-1114

PARKING AND ACCESS EASEMENT SKETCH
PROMENADE MALL
885 LISBON STREET
LEWISTON MAINE

DATE: 04-06-12

SCALE: 1" = 50'

JOB: 330

FILE: 330-EASE

ANDROSCOGGIN COUNTY
TINA M CHOUINARD
REGISTER OF DEEDS

This agreement is governed by the laws of the State of Maine and is appurtenant and shall be binding on and shall inure for the benefit of Grantee, its successors and assigns.

WITNESS our hands and seals this 10th day of April, 2012.

[Signature]
Witness

NOBSIL, L.L.C.,
a Maine limited liability company

By Maine Crossroads Company,
a Maine Company, its sole member

[Signature]
By: Andy Rosenthal
Its: President

[Signature]
Witness

SNOW, L.L.C.,
a Maine limited liability company

By: Andrew Rosenthal
Its: Member

[Signature]
Witness

[Signature]
By: Rona Rosenthal
Its: Member

STATE OF MAINE
COUNTY OF Hennebec ss.

April 11th, 2012

Personally appeared the above-named Andrew Rosenthal who acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said company

KIMBERLY M. GIBBS
Notary Public, Maine
My Commission Expires May 13, 2016

Before me,

[Signature]
Notary Public/Maine Attorney at Law
Print Name: Kimberly Gibbs
My Commission Expires: 5/13/16

SEAL

STATE OF MAINE
COUNTY OF Hennebec ss.

April 11th, 2012

Personally appeared the above-named Andrew Rosenthal who acknowledged the foregoing instrument to be his free act and deed in his said capacity as Manager of Snow, L.L.C. and the free act and deed of said limited liability company

KIMBERLY M. GIBBS
Notary Public, Maine
My Commission Expires May 13, 2016

Before me,

[Signature]
Notary Public/Maine Attorney at Law
Print Name: Kimberly Gibbs

SEAL

LEASE

This Lease made as of the 15 day of November 2018 by and Snow LLC a Maine corporation, at P. O. Box 1534 Waterville Maine 04903(hereinafter "LANDLORD"), and MIDTOWN ATHLETIC CLUB & CAROL LEBLANC (hereinafter "TENANT").

WITNESSETH:

1. **PREMISES** The Leased Premises are deemed to contain approximately 3000 SF located at 875 LISBON STREET LEWISOTN Maine as well as all rights of Landlord under a Parking and Access Easement more particularly described in Book 8394, Page 44, of the Androscoggin County Registry of Deeds.

The Leased Premises are accepted in "as is" condition except if specifically set forth to the contrary in this Lease.

2. **TERM** The term of this Lease shall be for (5) years beginning on Nov April 1,2020 ending on March 31,2025

3. **BASE RENT** The TENANT shall pay to the LANDLORD the following base rent during the term as follows:

Lease Year(s)	Annual Base Rent	Monthly Rent
Year 1	\$24,000.00	\$2,000.00
Year 2	\$24,000.00	\$2,000.00
Year 3	\$24,000.00	\$2,000.00
Year 4	\$24,000.00	\$2000.00
Year 5	\$24,000.00	\$2000.00

Tenant will get 2 months free rent
Rent commencement will be June 1 1020

Payable in advance in equal monthly installments on the first day of each month during the term, said rent to be prorated for portions of a calendar month at the beginning or end of said term, all payments to be made to LANDLORD or to such agent and at such place as LANDLORD shall from time to time in writing designate, the following being now so designated: Snow LLC, P.O. Box 1534, Waterville Maine 04903. In addition, TENANT shall bear any and all expenses associated in any way with its occupancy or use of the Premises. TENANT will not do or suffer to be done, or keep or suffer to be kept, anything in, upon or about the Leased

IN WITNESS WHEREOF, the said parties hereunto set their hands and seals this _____ day of _____, 2020.

TENANT:

LANDLORD:

Legal Name of TENANT

Legal Name of LANDLORD

Signature

Signature

NAME/TITLE

NAME/TITLE

BOARD OF APPEALS 2020 Policies & Procedures

Policy for Election of Officers

The first meeting after the annual appointments have been made to the board shall constitute the organizational meeting. A chair, vice-chair, and secretary shall be elected by a majority vote of the members present. Policies and procedures will also be adopted by majority vote at the organizational meeting. Amendments to the policies and procedures may be considered at any subsequent meeting of the board provided that they appear on the agenda so that all board members have an ample opportunity to evaluate any proposed changes. The officers shall serve for one year until their successors are elected at the next organizational meeting or until any office is vacated. Approved policies shall remain in effect until new policies are adopted at the organizational meeting.

Policy regarding the participation of associate members to the Board of Appeals

The two associate members attend board of appeals meetings and may participate in the discussion. Once the public comment portion of the meeting is closed, the associate members shall not vote unless appointed to do so by the chair or vice-chair. The chair or vice-chair acting as chair will appoint an associate member, on a rotating basis, to substitute for an absent or substantially tardy board member or for a member who will not participate in any given appeal due to a conflict of interest.

Policy for scheduling hearing

All appeals to be scheduled for action by the board are to be scheduled nearest the thirty day deadline for hearing petitions subject to the discretion of the director of planning and code enforcement or his designee.

Meetings

Regular meetings of the board of appeals shall be held on the first and third Wednesdays of each month beginning at 6:00 p.m. in the City Building. Whenever there are no business matters to be considered at any regular meeting, the director of planning and code enforcement or designee may dispense with such meetings. Special meetings and executive sessions may be held upon call of the chair, and at such other times as the board may determine, provided that at least 24 hour notice of the meeting be given to each member.

A member who is absent for three (3) consecutive meetings without just cause, as determined by the chair, shall be reported to the Mayor for an evaluation of his/her willingness to continue to serve on this Board.

Meeting structure

1. Roll Call - board members, City staff and other City representatives in attendance
2. Adjustments to the agenda.
3. Correspondence - The Chairman will request a motion to accept and place on file correspondence (to be identified), other submitted material not in the board packet, and staff memoranda All correspondence from the City staff is, without need for motion, incorporated into the record. All other correspondence may be adopted by motion at this point or later in the proceedings as decided by the Board of Appeals by four (4) affirmative votes.
4. New business
5. Old business
6. Reading of Minutes of the previous meeting
7. Adjournment

Note: An applicant or petitioner or their agent must appear at the scheduled meeting at which the subject case is to be heard. Failure to appear may result in the dismissal of the case. The board may, upon majority vote, continue the matter to a date specific for the hearing.

A continuance may be granted to an applicant when good cause is shown that they are unable to present their case at the scheduled meeting.

Board's Procedures:

1. The board is comprised of seven full members and two associate members.
2. The associate members may participate in the public and board discussions; however, unless appointed as a full member, will not be able to vote on appeals.
3. Any board members who have any disclosures about a certain appeal will make this public before the board hears the appeal.

4. The director of planning and code enforcement will read the staff memorandum and may provide any other information as may be appropriate.
5. The board will discuss under which sections of the code the appeal will be heard and take a vote.
6. The appellant or a representative of the appellant will speak first to present the appeal, and anyone in favor will have an opportunity to speak.
7. Anyone in opposition or having a question about the appeal will have an opportunity to speak.
8. The appellant will then have the opportunity to make any last minute comments as the appellant has the burden of proof.
9. We ask that everyone who speaks for or against or has a question concerning the appeal identify themselves by name and address so that the secretary can properly record them in the minutes.
10. Once we have gone through these steps, the public comment portion of the meeting will be closed, and the board will deliberate and may vote on the appeal. Four affirmative votes are necessary to constitute action by this board.
11. Once the public comment portion of the meeting is closed, unless there is a specific question from a board member, the public portion will remain closed; however, the director of planning and code enforcement or designee staff may address the board at this time.
12. The board of appeals must decide difficult questions in accordance with local ordinances, state law, and court cases. Some of the decisions this board makes may seem harsh both to the board members as well as to the general public. Decisions are based upon compliance with applicable standards. Public input is valuable, but the board must make its decision based upon law and not upon irrelevant information or public sentiment.

Reconsideration of items

When an item is voted on by the board, it shall be in order for any member who voted on the prevailing side to move reconsideration thereof, during the same meeting or at the immediate next regularly scheduled board meeting, but not afterwards. No motion to reconsider a vote taken at a previous meeting shall be in order for consideration at the immediate next regularly scheduled board meeting unless an item to that effect is scheduled on the agenda for such meeting or unless five of the members consent to such reconsideration. In addition, notice must be provided to the public.

Policy on site visits

Individual board members shall not conduct site investigations unless such investigations are scheduled by the board during a public hearing regarding the site in question. The chairman shall verbally inform public hearing attendees as to the date and time of the board site visit and that the public may attend. Once the site visit has been scheduled, the board shall continue the public hearing to a date and time certain.

The secretary or his/her designee shall take minutes of the site visit. A site visit may not occur with less than four members of the board in attendance. The board may not enter private property without the verbal or written consent of the property owner or agent.