

CITY OF LEWISTON
BOARD OF APPEALS MEETING
MINUTES for September 18, 2013

- I. **ROLL CALL:** The meeting was held in the City Council Chambers on the first floor of City Hall and was called to order at 6:00 p.m. Christine Kendall, chaired the meeting.

Members in Attendance: Jim Horn, Matthew Agren, Christine Kendall and Michael Lachance, Pauline Gudas and Doug Stone

Members Absent: None

Associate Member Present: Elaine Fenderson and Patti Gagne

Associate Members Absent: None

Staff Present: Gil Arsenault, Director of Planning & Code and Joline Boulay, Administrative Assistant, Department of Planning & Code Enforcement

Christine Kendall appointed Elaine Fenderson to be full voting member for this meeting.

Correspondence: The following motion was made.

MOTION: William Horn to accept and place on file the staff Memorandum dated September 13, 2013 from Gil Arsenault, Director of Planning & Code Enforcement.

Second by **Matthew Agren.**

VOTED: 7-0 (*Passed*).

Christine Kendall read the Board of Appeals policies and procedures for this meeting. Four (4) affirmative votes are needed for an item to pass.

II. **NEW BUSINESS:**

- A. The Petitioners are requesting a conditional use permit to reestablish the abandoned nonconforming professional office at 111 Webster Street.

MOTION: by **Doug Stone** to hear the appeal pursuant to Appendix A, Article VI, Sections 4(c), and Article X, Sections 3 of the Code. Second by **Michael Lachance.**

VOTED: 7-0 (*Passed*).

MOTION: by **William Horn** to accept additional correspondence submitted by Attorney Richard Trafton.

Second by **Elaine Fenderson.**

VOTED: 7-0 (*Passed*).

Attorney Richard Trafton was present on behalf of the RAMA Fund, LLC.

Richard stated that the owner proposes no changes to the building or the parking area. The petitioner states that the professional office building closed on October 7, 2011. Based upon the notice of closure the request from Richard Trafton for reestablishing the nonconforming use was submitted during the twelve months immediately following the date of presumed abandonment. Mr. Trafton has presented information that provides a valid reason why the use was discontinued. Mr. Trafton addressed the impact the use will have on the neighborhood and that it will not discourage the creation, development or use of permitted uses in the neighborhood. Richard also stated that it will not have an adverse impact upon the value or quiet possession of surrounding properties greater than would normally occur.

The public portion of the meeting was closed as there were no other comments forthcoming.

MOTION: by **Doug Stone** that I find the facts contained in the notice of appeal and the site analysis portion of the written comments of the City staff are accurate and correct. I further find all of the standards imposed pursuant to Appendix A, Article VI, Section 4(c) and Article X, Sections 3 of the Code have been met. Therefore, I move that the appeal be granted to Attorney Richard Trafton for the RAMA Fund, LLC with no conditions.

Second by **Pauline Gudas**.

VOTED: **7-0 (Passed).**

B. The Petitioner is requesting a conditional use permit for a rooftop installation of three panel antennas on the Continental Mill located at 2 Cedar Street.

Patti Gagne' arrived at the meeting.

MOTION: by **Doug Stone** to hear the appeal pursuant to Appendix A, Article VIII, Sections 4(10), and Article IX, Sections 3(9) and 3(10) of the Code. Second by **William Horn**.

VOTED: **7-0 (Passed).**

Peter Marchant, representative of KJK Wireless, LLC. was present on behalf of the project. Peter states that the rooftop installation of three (3) remaining panel antennas to install on the Continental Mill at 2 Cedar Street will not use water or generate waste, and will not generate dust, odor, vibration, glare, smoke, litter or other nuisances. The petitioner also indicated that the proposed use will not create an adverse impact. Peter stated that the conditional use permit approved on November 2, 2011 had expired and that KJK Wireless, LLC have three remaining panels to install.

Patti Gagne' also stated that upon approval, the petitioner shall comply with all Federal Communications Commission (FCC) rules and regulations including FCC radio frequency interference rules and regulations applicable to the petitioner's communication facility.

The public portion of the meeting was closed as there were no other comments forthcoming.

MOTION: by **Doug Stone** that I find the facts contained in the notice of appeal and the site analysis portion of the written comments of the City staff are accurate and correct. I further find all of the standards imposed pursuant to Appendix A, Article VIII, Section 4(6) and Article X, Sections 3 of the Code of Ordinances of the City of Lewiston have been met. Therefore, I move that the appeal be granted to KJK Wireless, LLC with the following conditions:

1. Petitioner shall comply with all Federal Communications Commission (FCC) rules and regulations, including FCC radio frequency interference rules and regulations, applicable to the Petitioner's communications facility.

Second by **William Horn**.

VOTED: 7-0 (Passed).

- C. The Petitioner is requesting a front setback and a side setback modification to erect a 28' x 56' modular ranch home at 230 Grove Street.

Michael Lachance recused himself as he is are relative to the petitioner.

Christine Kendall appointed Patti Gagne' a full member for the remaining of the meeting.

Attorney, Ted Small was present on behalf of Mr.& Mrs. Daniel Robitaille. Ted Small gave a brief overview of the project. Ted stated that the petitioners have resided at the property since 1982. Ted stated the Robitaille's have a small envelope to build on as the property has limitations to building on the property due to wetlands. The applicant is stating that there is no other practical location to locate the home.

Dan Robitaille stated the purpose to the size of the home reflected the possibility that extended family may need to be cared for.

William Horn stated that the property line should have been clearly identified by the contractor before any construction had begun. Dan Robitaille stated that the contractor needed the ability to maneuver the crane on the site.

Pauline Gudas stated that the after the fact petition gave her great concern as the board has to treat the foundation as it doesn't exist. Pauline strongly suggested that the applicant pay close attention to detail as she would hate to see the foundation be required to be removed.

Many abutters were present in favor of the project.

The public portion of the meeting was closed as there were no other comments forthcoming.

MOTION: by **Pauline Gudas** that I find the facts contained in the notice of appeal and the site analysis portion of the written comments of the City staff are accurate and correct. I further find all of the standards imposed pursuant to Appendix A, Article VIII, Section 4(10) and Article IX, Sections 3(9) and 3(10) Ordinances of the City of Lewiston have been met. Therefore, I move that the appeal be granted to Daniel & Kathryn Robitaille to locate their home 5' from the side lot line and 16' from the front lot line.

Second by **William Horn**.

VOTED: 7-0 (Passed).

III. READING OF MINUTES: Draft Minutes of the July 17, 2013.

MOTION: by **Patti Gagne'** that the minutes for July 17, 2013 meeting be accepted as presented. Second by **Michael Lachance**.

VOTED: 7-0 (Passed).

IV. ADJOURNMENT: The following motion was made to adjourn.

MOTION: by **Pauline Gudas** that this meeting adjourns at **7:54 p.m.** Second by **William Horn**.

VOTED: 7-0 (Passed).

Respectfully Submitted:

Michael Lachance, Secretary