

City of Augusta, Maine
DEPARTMENT OF DEVELOPMENT SERVICES

AUGUSTA STATE AIRPORT
CODE ENFORCEMENT
ECONOMIC DEVELOPMENT



ENGINEERING
FACILITIES & SYSTEMS
PLANNING

Findings of Fact, Conclusions of Law, and Certificate of Approval
May 10, 2016

Appeal Granted

FINDINGS OF FACT

1. **Owner:** Linda S. Roderick
2. **Applicant:** Linda S. Roderick
3. **Location:** Mt. Vernon Road
4. **Registry:** Book 11980, Pages 320-322
5. **Zoning:** Rural River (RR)
6. **Tax Map Number:** Map 5, Lot 185 & 185A
7. **Existing Land Use:** Vacant.
8. **Proposed Land Use:** Six Lot Subdivision.
9. **Acreage:** 18.28 acres
10. The following material was date stamped by the Department of Development Services on April 13, 2016:
 - a. A completed Application for Variance or Appeal form to Board of Zoning Appeals filled out by Alton Stevens, Attorney for the applicant.
 - b. A check for \$100 to cover the cost of the application fee.
11. City Staff provided the following:
 - a. A detailed memo on April 28, 2016, providing the BZA with details on the process the Board is to follow in the case of a Planning Board appeal.

 CHAIR INITIALS

12. A transcript of the section of the Planning Board public hearing of March 8, 2016, relevant to this appeal. The cost to have the transcript created was paid for by the appellant.
13. A Notice of Public Hearing was authorized by Peter Fortunato, the Acting Chair Augusta Board of Zoning Appeals.
14. A Notice of Public Hearing was advertised in the Kennebec Journal on April 23, 2016.
15. A copy of the Notice of Public hearing was mailed via First Class mail to all property owners with property within 1000 feet of the boundary of the subject parcels. The cost to notice the public was paid for by the appellant.
16. The Board of Zoning Appeals held a public hearing regarding the application on February 3, 2016. At that meeting Matthew Nazar, Deputy Director of Development Services, and Steve Langsdorf, City of Augusta Corporation Counsel, provided a detailed review of the process to be followed by the BZA and answered questions about both the Planning Board review and Land Use Ordinance criteria affecting this application.
17. Two individuals testified, besides the applicant/applicant's agent and city staff, at the May 4, 2016, public hearing.

CONCLUSIONS OF LAW:

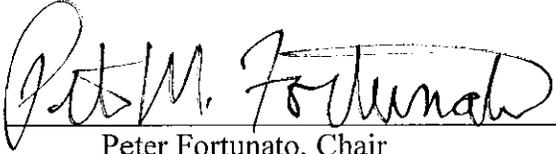
1. The facts are:
 - a. The applicant claims that the Planning Board made an error in their denial of the applicant's subdivision proposal.
2. The Board of Zoning Appeals concludes from the evidence submitted that the Planning Board made an error in the following:
 - a. The Board erred in determining that the driveways will not have adequate sight distance. Testimony at the Planning Board hearing and evidence submitted at the Planning Board hearing indicated that sight distances met the minimum standards of the ordinance.
 - b. The Planning Board erred in using the Comprehensive Plan as a regulatory standard for review and a basis of its denial.
 - c. The Planning Board erred by requiring the applicant to meet a higher standard for approval than the standards outlined in the ordinance.
3. The Board of Zoning Appeals therefore grants the applicant's appeal and hereby overturns the Planning Board decision, and grants approval for the subdivision. The plan shall be sent back to the Planning Board for the Board members to sign so the plan can be recorded at the Kennebec County Registry of Deeds.

CONDITIONS OF FINAL APPROVAL

The following conditions for this subdivision shall be met:

1. NONE.

IN WITNESS WHEREOF, I have hereto set my hand and seal this 26 day of May, 2016.


Peter Fortunato, Chair
Board of Zoning Appeals