

### ADMINISTRATIVE APPEAL

Findings of Fact: The appellant is Michael Weare, 380 Pine Hill Road, Cape Neddick ME 03902. The property in question is owned by Mr. Weare and is located at 7 Blue Heron Cove, Cape Neddick, ME 03902. **Ref:** Map 100, Lot 16P in the Res 2 Residential Zone.

Copies of Application for Administrative Appeal dated 11-16-2017, cover letter from Ben McCall, Esq. dated 11-16-2017, Authorization for Attorney, Town of York Zoning Ordinance §5.5-§5.6.4.2, deed from David A. Weare to Michael G. Weare dated 4-24-2007, Town of York GIS printout, Estate of William H. Weare division plan, building permit application dated 9-19-2017, Stop Work order dated 10-19-2017, dictionary definition of "lay out", letter from Michael Weare to Tim DeCoteau dated 11-18-2003, letter from Tim DeCoteau to Michael Weare dated 11-21-2003, aerial photo of property, 1918 deed are all made part of the record.

The appellant requests an Administrative Appeal in regards to a Stop Work Order issued by the York Code Enforcement Office. Mr. Weare has standing as the property owner. The Stop Work Order was issued on October 19, 2017 and the appeal was timely filed on November 17, 2017.

The relevant sections of the Zoning Ordinance are §5.5.1, §5.5.1.3, §8.1.1.B, Article 5 and Article 8.

The appeal was heard on December 13, 2017. A video recording of the meeting was taken as part of the official record.

Relevant facts are: 1) Subject property is part of a family subdivision established in 2007. 2) The recorded plan contains notes added by the then CEO a) requiring a 50' ROW from Shore Road to the subject property, and b) that the lots are not buildable. 3) When the appellant applied for the building permit in 2017, he acted on information in the CEO's 2003 letter stating that the ROW was grandfathered, legally non-conforming and acceptable to the Code Office. 4) A condition on the building permit is to meet §5.5.1. 5) The road to the 5 lots in the subdivision must be 20' wide with 3' gravel shoulders on both sides, for a total of 26'. 6) Part of the road is only 24' wide near Shore Road. 7) The Stop Work Order was issued because the ROW violated §5.5.1 and the road within the ROW violated §5.5.1.3.

**MOTION** by Ms. Garon, seconded by Mr. Manougian, to find that the Administrative Appeal of Michael Weare, 380 Pine Hill Road, Cape Neddick ME 03902 regarding the property in question at 7 Blue Heron Cove, Cape Neddick ME, Map 100 Lot 16P be denied in that the Board finds that the CEO did not err in her interpretation of §5.5.1 and §5.5.1.3.

**VOTE:** Passed 5-0. (In favor: Ms. Garon, Mr. Manougian, Mr. Lascelles, Mr. Kraus, Mr. Carr)

**Judgment on Findings of Fact:**

**Approved:** 24 Jan 2018

**Vote:** 5-0-0

**(In Favor:** Robert Lascelles, Joseph Carr, Britton Garon, Victor Manougian and John Kraus;  
**Opposed** – None; **Abstained** - None)

A handwritten signature in blue ink, appearing to read "Robert Lascelles". The signature is written in a cursive style with a large initial "R" and a long, sweeping tail.