

**Town of Kittery, ME**

**APPROVED**

**Board of Appeals Meeting**

**November 24, 2015**

**Council Chambers**

A complete video record of this meeting is available on-line at [kitteryme.org](http://kitteryme.org)

Meeting called to order: 7:00 PM

**Roll Call:**

Board members present: Vice Chair Craig Wilson, Charles Denault III, Jeff Brake, and Brian Boyle.

Staff present: Code Enforcement Officer, Robert Marchi

**Pledge of Allegiance**

**Agenda amendment:** None

**Executive session:** None

**Public Hearing:**

1. Robert Emery, Miscellaneous Variation Request for ADU

Mr. Wilson explains to the applicant that their only four members present and they need four like votes to win their app petition.

Mr. Emery notes his concern with only four members but is willing to continue.

Mr. Wilson is explaining that Mr. Emery can wait for the for the fifth member or reschedule

Mr. Emery is reluctant to start with four members and is contemplating rescheduling.

Mr. Wilson notes that there are no abutters present.

The CEO asks the question as to whether the applicant can be recognized and then moved to the next meeting without public notice.

Mr. Wilson notes that it's possible to start the meeting, hear the applicant and continue at the next meeting. The absent members would have to be brought up to speed on the appeal.

Mr. Mr. Costa arrives so that are now five members

Mr. Emery decides to pursue hearing with the five member board.

Mr. Wilson informs Mr. Emery of the procedure of the meeting.

Mr. Emery informs the board of his desire to sell his large house and move to an ADU on his son's property on Haley road.

Mr. Emery explains the square footage of the existing garage is 745 square feet vs. the 1120 square feet of the modular ADU.

Mr. Emery discusses the idea of habitable space.

Mr. Emery rests his case.

The CEO confirms that there are no violations on the property and that the proposed ADU meets all setbacks and that the applicant will have to prove that he has adequate septic system to support the added use.

Mr. Wilson reads from the code to affirm the board's ability to hear the applicant.

Mr. Wilson brings up the point that the only decision the board has to make is that of allowing the expanded footprint for the ADU.

Mr. Wilson goes thru the checklist.

Mr. Costa and Mr. Wilson acknowledge a condition of approval is adequate septic design.

CEO informed the board that the ADU code requires septic and water.

Mr. Wilson moves to grant the ADU for Mr. Emery no conditions, seconded by Jeff Brake, five affirmative votes.

Mr. Wilson states the findings of fact.

Board of appeals does have jurisdiction.

No outstanding violations on the property.

Application is complete.

Applicant have standing.

Burden of proof was clarified.

ADU is available for this calendar year.

No code concerns.

No current code conditions.

The Emery's are the of the owner 352 Haley road.

Accessory Dwelling Units are permitted use.

The Board grants the Emery's Miscellaneous Variation to replace an existing garage with a manufactured home of gross square footage of 1120 square feet as an accessory dwelling unit.

Living space calculated at 619 square feet which falls within the 400 to 800 square feet for an ADU.

Property is not located in the shoreland or resource protection zone.

The board does find that the larger structure dimensions meet setbacks.

The applicant's evidence was substantial and credible and not outweighed by conflicting evidence.

The applicant did meet the burden of proof

No members of the public will present to testify at the hearing and no written testimony was entered

Mr. Wilson moves to accept findings of fact, seconded by Jeff

Five affirmative votes

The board of appeals has the authority to grant a miscellaneous variation request

Mr. Wilson moves to accept with conditions the conclusions of law seconded by Charles Denault, five affirmative votes

Mr. Costa asks the property owner to come forward and sign the board documents

Mr. Costa moves to talk of unfinished business

Mr. Costa notes that he's put in a request to the town council for workshop on title 14

The board discusses the potential workshop.

Mr. Costa called for new business. None

Mr. Wilson calls for acceptance of the minutes

Mr. Wilson moves to accept the minutes as amended, second by Bryan Boyle, five on affirmative votes

Mr. Costa called for comments

Mr. Wilson moves to adjourn, Mr. Brake seconds, 5 affirmative votes.

Meeting adjourns.