

Town of Southwest Harbor  
Board of Appeals Meeting Minutes  
Monday January 27, 2025  
Town Office & via Zoom

**I. Call to Order**

John Izenour called January 27, 2025, Appeals Board meeting to order at 6:03

**II. Roll Call**

Board members: John Izenour, Alyson Meiselman, Jim Geary, Adam Babbit, Scott Preston (via zoom, arrived late so did not act as a voting member of the board for this hearing). Quorum met.

Others attending: Rosanne and Mike Guerette (appellants), Andrew Hamilton (attorney for appellant), John Larson (Code Enforcement Officer), George Swetz, Joel Wolak, Jess Cummings, Charlotte Gill, Jose Feliciano, Tom Raynor (via zoom), Mike Levesque (via zoom).

**III. Approval of Agenda**

***Motion to approve agenda***, Jim Geary. Seconded by Alyson Meiselman.  
Unanimous approval by roll call.

**IV. Approval of Minutes – November 8, 2023.**

No vote taken.

**V. Voting for Officers**

***Motion to approve slate of officers: John Izenour, Chair; Jim Geary, Vice-Chair; Ted Fletcher, Secretary.*** Alyson Meiselman, Seconded by Adam Babbit.  
Unanimous approval by roll call.

**VI. Freedom of Access Training**

Mr. Izenour encouraged board members to complete their FOA training and submit their certificate of completion to the town clerk.

VII. **Appeal – Acadia Views Subdivision**

Mr. Izenour opened the hearing by asking all board members if they were aware of any conflicts of interest presented by the current appeal. Mr. Izenour stated that he had conversations with Mr. Raynor (an abutter to the property in question) of a commercial nature in the past but was not currently in any commercial relationship with Mr. Raynor and furthermore felt that he could act impartially in this appeal. Mr. Izenour asked if anyone present would object to his acting as a member of the SWH Board of Appeals in this matter and no one objected.

No other members of the SWH Board of Appeals made the hearing aware of any other conflicts of interest.

Mr. Izenour listed the documents available to the board:

- Application for Appeal, Michael and Rosanne Guerette, December 20, 2024
- Summary of Appeal, Michael and Rosanne Guerette, January 27, 2025
- Letter in support of appeal, Tom Raynor, January 23, 2025
- Planning Board Meeting Minutes October 17, 2024
- Planning Board Meeting Minutes November 7, 2024
- Planning Board Meeting Minutes November 21, 2024
- Timeline for Acadia Views Subdivision, Code Enforcement Office, Town of Southwest Harbor
- Building permit issued to Jose Feliciano, 5/20/2022
- Building permit denied to Jose Feliciano, 6/9/2023
- Town of Southwest Harbor Subdivision Application by Jose Feliciano, received 11/6/2023
- Notice to Abutters from Code Enforcement Office dated May 9, 2022
- Notice to Abutters from Code Enforcement Office dated November 6, 2023
- Notice to Abutters from Code Enforcement Office dated October 28, 2024
- Notice to Abutters from Code Enforcement Office dated November 8, 2024

***Alyson Meiselman presented a motion that the SWH Board of Appeals has jurisdiction to review the appeal by Michael and Rosanne Guerette per the Appeals Board Ordinance using an appellate standard of review of the***

***action or non-action of the Southwest Harbor Planning Board (Section V.E.a). Furthermore, the appellant has standing to bring an appeal as an abutter to the Acadia Views development.*** Seconded by Jim Geary. Unanimous agreement by roll call vote.

The chair recognized the following attendees as interested parties: Tom Raynor (abutter), Jose Feliciano (Acadia Views developer), John Larson (Code Enforcement Officer).

The chair recognized Mr. Hamilton, attorney for the appellant. Mr. Hamilton outlined what he believed to be procedural and substantive failures of the Southwest Harbor Planning Board in their application of the Land Use and Subdivision Ordinances while reviewing and approving the Acadia Views Development Subdivision application. The appellant requested that the Board of Appeals rescind the subdivision approval and remand the review back to the Planning Board.

The chair asked questions of the Code Enforcement Officer.

Ms. Guerette made a statement. Mr. Raynor made a statement. Mr. Feliciano made a statement and asked questions regarding the appeal and the appeal review process. Mr. Hamilton provided a rebuttal to some of Mr. Feliciano's statements.

***Motion to close public hearing,*** Alyson Meiselman. Seconded Adam Babbit. Unanimous approval by roll call.

### **Findings of Fact**

- The town failed to provide notice of the October 17<sup>th</sup> meeting of the Planning Board to review the Acadia Views subdivision application to the abutters as required in the Subdivision Ordinance, Section IV.A.3.
- At the October 17<sup>th</sup> meeting of the Planning Board the Code Enforcement Officer informed the Planning Board that the required notification of the abutters did not occur but the Planning Board continued to review and take votes on the subdivision application.
- The Planning Board failed to apply the performance standards set forth by the Southwest Harbor Land Use Ordinance as required by the Southwest Harbor Subdivision Ordinance Section II.9.

***Motion to remand the October 17, 2024 decision of the planning board***

***to accept the Acadia Views subdivision application as complete and set aside any other actions taken with regards to this application, including the waiver of a storm water management plan, due to the failure to provide required notice to abutters.*** Alyson Meiselman.  
Seconded Adam Babbit. Unanimous Approval by roll call vote.

- ***Motion to remand the November 21, 2024 planning board approval of the Acadia Views Subdivision application for failure to follow the requirements of the Southwest Harbor Land Use Ordinance Sections VI.A Bufferring and VI.P. Storm water management plan.*** Alyson Meiselman. Seconded Adam Babbit. Unanimous Approval by roll call vote.

#### VIII. **Other Business**

The Board of Appeals respectfully makes the following recommendations to the Southwest Harbor Board of Selectmen:

- Item 1: The Appeals Ordinance should be updated to reflect the adoption of new town ordinances not referenced in the current (2011) ordinance and the appeals board's standard of review for each ordinance.
- Item 2: The Appeals Board encourages the Board of Selectmen to update or clarify the standard to be applied when ordinances cite days of action (e.g. "30 days notice is required"). There should be a clear and consistent definition across all ordinances whether such counts should be business days or calendar days. Sometimes business days are specified but often there is no specificity. We could foresee a future challenge on the implementation of such counts upon this vague standard.

#### IX. **Adjournment**

Motion to adjourn made by Alyson Meiselman. Seconded by Adam Babbit.  
Unanimous approval by roll call. Meeting adjourned

Respectfully submitted, John Izenour, Chair and acting Secretary of the Southwest Harbor Board of Appeals, January 31, 2025.

Amended and Approved by unanimous roll call vote February 12, 2025