

Town of Brunswick, Maine

DEPARTMENT OF PLANNING AND CODES

MEMORANDUM

TO: Zoning Board of Appeals (ZBA)

FROM: James Dealaman, Principal Planner

DATE: March 6, 2025

SUBJECT: Case No. 25-001; Tedford Shelter Town's Summary of Appeal

I. BACKGROUND INFORMATION:

On January 28, 2025, the Planning Board approved a Site Plan (Final Plan) Approval Extension [Exhibit A] for Case# 21-070 Tedford Housing Homeless Shelter, Resource Center which was originally approved on January 11, 2022. The project is located at 65 Thomas Point Road (Map 42 Lot 8).

On February 4, 2025, Jennifer Navarro, of 90 Thomas Point Road, (hereafter referred to as "the Appellant") filed a Zoning Board of Appeals Appeal Form [See Exhibit B] with the Town Planning and Codes office pursuant to Section 5.2.7.A(1) stating alleged erroneous decision/inaction of Planning Board.

Among the justifications described in the appeal, staff has summarized the following points provided by the Appellant:

- a) Was the extension filed before the site permit expiration, and the site plan expired January 11, 2025 (preceding the meeting date).
- b) HUD & Federal/State grants withheld and there is a lack of funding for the project;
- c) [The Appellant was] not made aware or notified of the extension application reviewed at the January 28, 2025 Planning Board meeting.

II. FACTS OF CASE:

For the Zoning Board of Appeals' reference, Town staff has examined the submitted appeal and are providing general information about Case#21-070 as well as relevant codes contained in the Brunswick Zoning Ordinance.

a) Site Plan Expiration Date & Extension Requests

Section 5.2.9.Q(1) of the Brunswick Zoning Ordinance states that "*c. The applicant may, at any time before the date of expiration, make a written request to the Review Authority for a time extension. This request shall explain the reasons why the improvements or fulfillment of conditions have not been completed and indicate how the applicant expects to complete the development if the Review Authority grants a time extension.*"

Town of Brunswick, Maine

DEPARTMENT OF PLANNING AND CODES

Section 5.2.9.Q(2) further clarifies that, *“Except when otherwise stipulated in an approved phasing plan, Site Plan approval shall expire three (3) years from date of approval, unless the applicant has submitted a written request for an approval extension no less than 14 days prior to applicable Review Authority consideration. The Review Authority may extend the expiration of an approved Site Plan.”*

The Planning Department received a letter requesting the extension from the applicant on December 30, 2024, prior to the site plan’s date of expiration (January 11, 2025) and more than 14 prior to the Planning Board’s review that occurred on January 28, 2025. As required, the letter [Exhibit C] details the reasons for the extension request with the applicant citing fundraising to support the project as a major case for the delay. Currently, there is no requirement in the ordinance that extensions must be granted before the site plan’s expiration date.

b) Financial Capacity

Section 4.16.2 of the Brunswick Zoning Ordinance states that *“B. The applicant must show documentation from an independent third-party as to applicant’s financial capacity.”*

When the project was reviewed by the Planning Board on January 11, 2022, the application provided a letter [Exhibit D] from Bath Savings Institution, dated November 22, 2021, indicating the applicant’s financial capacity to complete the project. Currently, there is no requirement in the ordinance that extension requests must be reviewed under standards that were reviewed and approved as part of the original approval process. Staff will note that at the January 28th Planning Board meeting, the Board inquired if project funding was impacted by the federal government recently curtailing funding, and the applicant responded that they have confirmed that funding is in place for the project.

c) Public Notice

Section 5.1.3.B of the Brunswick Zoning Ordinance states that *“When an application for Development Review is received, Town staff shall notify the owners of all property as follows: ...c. For all other Development Review applications, all property owners located within a 300-foot radius of the parcel.... Notification shall provide a general description of the project and location by street address and tax map and lot designation. Town staff shall mail notifications via first class mail between 15 and ten (10) days prior to a scheduled review for which it is required. If the application is for property located within an Aquifer Protection Overlay Zone, notice shall also be sent to the Brunswick and Topsham Water District. In addition, notification in digital form shall be posted on the Town’s website. Failure of any property owner to receive a notice shall not necessitate another hearing or invalidate any action by the Review Authority.”*

A list of abutters (within 300 feet of the subject property) was populated by Planning Staff on January 17, 2025 [Exhibit E] using the Town’s Geographical Information

Town of Brunswick, Maine

DEPARTMENT OF PLANNING AND CODES

Systems (GIS) software. Abutter notices were sent via the United States Postal System on January 17, 2025 in accordance with 5.1.3.B. The Appellant's property falls outside the 300-foot radius, therefore she was not sent notice.

III. EXHIBITS

- A. Town of Brunswick Memo for Site Plan Extension (Case# 24-076), dated January 30, 2025
- B. Zoning Board of Appeals Appeal Form, dated February 4, 2025
- C. Applicant Extension Request, dated December 30, 2024
- D. Financial Capacity Letter, dated November 22, 2021
- E. List of abutters (within 300 feet of the subject property), dated January 17, 2025
- F. Case #24-076 Application Packet, dated January 28, 2025
- G. January 28th, 2025 Planning Board Meeting Draft Minutes
- H. Appellant Communications with Town Staff Since February 4, 2025