

RECEIVED JUN 05 2020 *AV*

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TELECOPIER/FAX
(207) 941-9871

June 3, 2020

Bar Harbor Planning Department
ATTN: Michelle Gagnon
93 Cottage St.
Bar Harbor, ME 04609

RE: *Appeal of Elizabeth Mills*

Dear Ms. Gagnon,

Enclosed please find 12 copies of Ms. Mills' application for administrative appeal, with Exhibits A, B, and C, and this firm's check for \$390, which Steve Fuller has advised is the appeal fee.

We are requesting, by this letter, that Lisa Fitzgerald prepares a copy of that portion of the Planning Board meeting of April 29, 2020, at which the BHAPTS, LLC remand was discussed and decided.

Sincerely,

/s/ Arthur J. Greif

Arthur J. Greif
ajg@yourlawpartner.com

AJG/mek

CC: Andrew Hamilton, Esq. (w/encl.)
Elizabeth Mills (w/encl.)
Lisa Fitzgerald (w/o encl.)

Affiliate Office

Mtre Gloriane Blais, Lawyer
PO Box 260, 4473A, Laval
Lac-Mégantic, Québec
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(819) 583-2776



RECEIVED JUN 05 2020

BAR HARBOR BOARD OF APPEALS
APPLICATION FOR ADMINISTRATIVE APPEAL
(as permitted in Section 125-103 of the Bar Harbor Land Use Ordinance)

APPLICATION # AB-2020-01

DATE June 3, 2020

FEE \$ 390 MAP 103 LOT 048 and 049

APPLICANT :

Name Elizabeth Mills, Trustee of the Collier Family Trust

Address 37 Haskell Court
Essex, MA 01929

Telephone (617) 877-1107

Email elizabethhills@gmail.com

OWNER :

Name BH APTS, LLC

Address 1000 Market Street, Bldg 1, Suite 300
Portsmouth, NH, 03801

Telephone _____

Email _____

PROJECT REPRESENTATIVES:

Name Andrew Hamilton, Esq.

Address Eaton Peabody, 80 Exchange St. #8
Bangor, ME, 04410

Telephone (207) 947-0111

Email ahamilton@eatonpeabody.com



BAR HARBOR BOARD OF APPEALS
APPLICATION FOR ADMINISTRATIVE APPEAL
(as permitted in Section 125-103 of the Bar Harbor Land Use Ordinance)

SUBJECT PROPERTY

Physical Location 25 West Street Extension

Zoning District Village Residential

Tax Map and Lot Number Map 103, Lots 048 and 049

Please state the basis for your contention that you are an aggrieved party as defined in §125-109 of the Bar Harbor Land Use Ordinance:

Elizabeth Mills is the owner of land adjacent to the project, the approval of which is being appealed and will be adversely impacted by its development.

Decision maker being appealed:

- Code Enforcement Officer
- Planning Board
- Harbormaster
- Public Works Director
- Other (specify) _____



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Grounds for action being appealed:

- Failure to approve or deny an application within the time limits of the Bar Harbor Land Use Ordinance
- Denial of approval based on a misinterpretation or misapplication of the Bar Harbor Land Use Ordinance
- Granting of approval based on a misinterpretation of or misapplication of the Bar Harbor Land Use Ordinance
- Factual findings clearing unsupported by evidence
- Other (please specify) _____

Please state the specific decision you are appealing (attach copy) and the action you are requesting from the Board of Appeals:

Decision by the Planning Board of May 8, 2020, attached hereto as Exhibit A. I request a demand to the Planning Board directing it to require five affordable units for the project.

Please state the provisions of the Bar Harbor Land Use Ordinance at issue with specific references to the applicable sections of the LUO:

LUO § 125-69(6)

Please state any time limits with which the Code Enforcement Officer or Planning Board has not complied, citing the applicable section of the LUO and dates:

Not applicable



BAR HARBOR BOARD OF APPEALS
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Please clearly state the specific manner in which you believe the Bar Harbor Land Use Ordinance has been misinterpreted or misapplied and include specific references to the applicable sections of the LUO (use additional sheets if necessary):

The placement of underground utilities, per LUO §125-69(6)(a) [2](h), allows for an additional market rate unit, not a reduction in the required number of base affordable units, which the Planning Board found to be five. The finding that a stairway to Woodbury Road was a "new pedestrian amenity" per LUO §125-69(6)(a)(2)(e) is unsupported by the evidence and contrary to the law.

Please list every factual finding made by the Code Enforcement Officer or Planning Board that you believe to be unsupported by the evidence presented to that decision-maker and state clearly for each of the basis of your contention that each finding was unsupported by evidence (use additional pages if necessary):

A wooden stairway connecting the subject property to Woodbury Road does not meet the requirements of LUO §125-69(6)(a)(2)(e) of connecting "the proposed development to other areas, amenities of goods and services." At its hearings on December 5, 2018 and January 16, 2019, pedestrian access was described as a sidewalk along West Street. The stairway was an afterthought at the 4-19-20

Please set forth and other facts, laws or ordinance references that you believe support your appeal (attach additional sheets if necessary):

Planning Board Hearing,

If a stairway of a dozen steps is a pedestrian amenity, then any driveway is a pedestrian amenity.



BAR HARBOR BOARD OF APPEALS
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Please attach the following:

- Your deed or other evidence of interest in the property and a letter of authorization signed by the owner of record permitting the application be made by and/or represented by another party; *See Exhibit B (tax commitment book) an Exhibit C*
- Copy of the decision you are contesting and copies of any written findings issued by the Planning Board, Design Review Board, or Code Enforcement Officer; *See Exhibit A*
- All relevant submissions previously presented to the municipal officer or body whose decision whose decision is being appealed;
- A transcript of all proceedings before Planning Board or Design Review relevant to this appeal; *It has been ordered*
- Any other materials you believe will be of assistance to the Board of Appeals in rendering a decision;
- List of property owners within 300 feet of the subject property (to be provided by the Planning Department).

Submit 12 copies of the complete application with the supporting materials to the Planning Department. Applications and submissions must comply with §125-103 of the LUO. Please refer specifically to §125-103.C for provisions related to submissions.

CERTIFICATION:

This application and all information submitted herewith are true and correct to the best of my knowledge.

Applicant

Attorney for Betsy Mills

Date

6-3-20



Town of Bar Harbor Planning & Code Department

DECISION

Remand of PUD-2017-02 from the Board of Appeals

- Date:** April 29, 2020
Subdivision: PUD-2017-02
Project Location: 25 West Street Extension (Tax Map 103, Lots 48 and 49; encompassing a total of 1.54 acres of land in the Village Residential District).
Applicant/Owner: BHAPTS, LLC
Application: The remand to the Planning Board was from a decision on appeal from the Board of Appeals (identified as AB-2019-01), at a meeting on February 11, 2020 and in a written decision dated February 13, 2020.
Permitted Use: Multi-family I (MF I)
Notice to Abutters: April 15, 2020
Comment Period: Ended April 27, 2020
Public Comments:
1. On April 24, 2020, the Planning Department received a letter from Mr. Arthur J. Greif on behalf of Elizabeth Mills which was distributed to the Planning Board.
 2. On April 29, 2020, Mr. Greif participated in the meeting held via the Zoom online meeting platform due to the emergency pandemic known as Covid-19. Mr. Greif spoke on behalf of Ms. Mills and on his own behalf as a resident affected by the development.

The approval is based upon the following submitted plans:

1. Subdivision Plat Plan dated 03.12.2020 prepared The Moore Companies in association with Plisga and Day.
2. Site Plan and Subdivision-Review PUD-2017-02, Applicants' exhibit 20.A.2 Building D Proposed Floorplans dated 03.12.2020 prepared by The Moore Companies in association with TMS Architects.

To the Code Enforcement Officer: Under the authority and requirements of the Land Use Ordinance §125-61 F, at the properly noticed public hearing on April 29, 2020, by a motion duly made and seconded, it was voted to approve the noted application.

This approval is based upon the Planning Board's following FINDINGS AND CONCLUSIONS OF LAW:

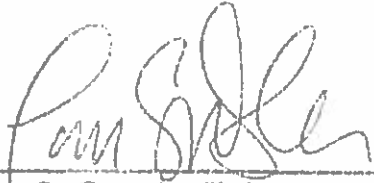
1. The remand to the Planning Board from a decision on appeal from the Board of Appeals (identified as AB-2019-01), at a meeting on February 11, 2020 and in a written decision dated February 13, 2020.
2. Per 125-69 S. (6)(a)[1], the based development density number shall be eight units.
3. Per 125-69 S. (6)(a)[3], the maximum allowable units under the Planned Unit Development -Village (PUD-V) shall be 16 units.
4. Per 125-69 S. (6)(b), the number of base affordable rent units is five. However, it was determined that the applicant only needs to provide three affordable rents units as the applicant received credit for two affordable rent units as follows: per 125-69 S. (6)(a)[2][e] – one unit for being pedestrian friendly and per 125-69 S. (6)[2][h] one unit for the provision of underground utilities.
5. The applicant shall have a total of 13 market rent units and three affordable rent units.
6. All previous approvals and conditions not superseded by the above finding apply – see Decision dated January 16, 2019 and signed by the Planning Board Chair on February 6, 2019.

Suspension of recording deadlines due to the emergency pandemic known as COVID-19: Per Section 125-75, the plat plan shall be signed by the Planning Board within 45 days of this signed decision and recorded at the Hancock County Registry of Deeds within 90 days of the plan being signed by the Planning Board. Due to the emergency pandemic known as COVID-19, these deadlines are suspended until the re-opening of both the Bar Harbor Town Office and the Hancock County Registry of Deeds. From whichever of those dates is later, the Planning Board will have 45 days to sign the Subdivision Plat Plan dated 03.12.2020 prepared the Moore Companies in association with Plisga and Day. Proof of recording at the registry of deeds within 90 days of the plan being signed is required and shall be submitted to the Code Enforcement Officer.

The applicant is advised of the following:

1. No modifications shall be made to this approval, including changes to the plans, accompanying documents, and/or conditions, without a review for a modification under the requirements in Section 125-88 of the Land Use Ordinance.
2. This permit does not relieve the applicant from any other local, state or federal permits that may be required for this proposed development.
3. Please refer to Article VIII for standards/conditions that will be applied to the construction of this project. No performance bonds are required.
4. Building permits are required for this project.
5. There is an appeal period for any interested party of 30 days to appeal this decision. It is the risk of the applicant to commence construction during this period.
6. Violations of any conditions placed upon this approval are subject to enforcement per Article IX, Section 125-100 B of the Land Use Ordinance.

No modifications to this approval shall be made without an application to the Planning Department.



Tom St. Germain, Chair
Planning Board, Town of Bar Harbor

May 8, 2020

Date

Appeals of this decision may be made to the Board of Appeals pursuant to Section 125-103 of the Bar Harbor Land Use Ordinance within 30 days of this date of this decision.



08/19/2018 11:55
agilbert

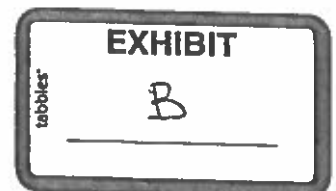
TOWN OF BAR HARBOR | P 470
TAX COMMITMENT BOOK

| tmeactcm

REAL ESTATE FOR FISCAL 2018

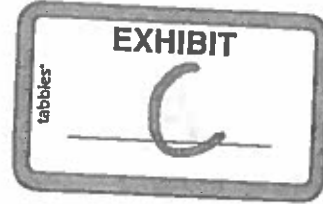
TAX YEAR 07/01/2018 TO 06/30/2019

| PROPERTY/OWNER | CLASS | CUSTOMER | ***** VALUES ***** | | CHARGE | TAX |
|---|-------|----------|--------------------|---------|---------------|----------|
| 105-024-000 MILLER, NICHOLAS P TRUSTEE MILLER, ANDREA S TRUSTEE SHORE ACRES REALTY TRUST 30 TAYLOR RD ACTON, MA 01720 LOC: 1 GRASON LANE BILL NO BOOK/PAGE DEED DATE SQ FT 7345 3371/340 07/30/2002 11644 | 1010 | 268 | LAND | 257,100 | REAL ESTAT | 6,863.17 |
| | | | BUILDING | 336,600 | | |
| | | | TOTAL VALUE | 593,700 | INSTALLMENT 1 | 3,431.59 |
| | | | DEFERMENT | 0 | INSTALLMENT 2 | 3,431.58 |
| | | | EXEMPTION | 0 | | |
| | | | NET VALUE | 593,700 | | |
| | | | ALT 02-03-04-06 | | | |
| 205-019-003 MILLIGAN, GLENN W MILLIGAN, NICHELE A 110 THUNDERMIST RD BAR HARBOR, ME 04609 LOC: 166 THUNDERMIST ROAD BILL NO BOOK/PAGE DEED DATE ACRES 7346 5225/216 07/03/2008 1.26 | 1300 | 5221 | LAND | 152,900 | REAL ESTAT | 1,767.52 |
| | | | BUILDING | 0 | | |
| | | | TOTAL VALUE | 152,900 | INSTALLMENT 1 | 883.76 |
| | | | DEFERMENT | 0 | INSTALLMENT 2 | 883.76 |
| | | | EXEMPTION | 0 | | |
| | | | NET VALUE | 152,900 | | |
| | | | ALT 13A-0-86-22 | | | |
| 205-022-002 MILLIGAN, GLENN W DALEY, MICHELLE A 110 THUNDERMIST ROAD BAR HARBOR, ME 04609 LOC: 110 THUNDERMIST ROAD BILL NO BOOK/PAGE DEED DATE ACRES 7347 3410/40 09/25/2002 1.93 | 1010 | 1934 | LAND | 184,600 | REAL ESTAT | 5,564.98 |
| | | | BUILDING | 322,800 | | |
| | | | TOTAL VALUE | 507,400 | INSTALLMENT 1 | 2,782.49 |
| | | | DEFERMENT | 0 | INSTALLMENT 2 | 2,782.49 |
| | | | EXEMPTION | -26,000 | | |
| | | | NET VALUE | 481,400 | | |
| | | | ALT 13A-0-86-25 | | | |
| 212-035-000 MILLS, DAVID MILLS, AUDREY PO BOX 696 SOUTHWEST HARBOR, ME 04679 LOC: 1351 STATE HWY 3 BILL NO BOOK/PAGE DEED DATE ACRES 7348 1246/313 04/07/1990 19.26 | 3222 | 1022 | LAND | 461,300 | REAL ESTAT | 9,128.93 |
| | | | BUILDING | 328,400 | | |
| | | | TOTAL VALUE | 789,700 | INSTALLMENT 1 | 4,564.47 |
| | | | DEFERMENT | 0 | INSTALLMENT 2 | 4,564.46 |
| | | | EXEMPTION | 0 | | |
| | | | NET VALUE | 789,700 | | |
| | | | ALT 13A-000-088 | | | |
| 103-051-003 MILLS, ELIZABETH H TRUSTEE COLLIER FAMILY TRUST UBT 9/27/01 32 HASKELL COURT ESSEX, MA 01929 LOC: 15 HIGHBROOK ROAD BILL NO BOOK/PAGE DEED DATE ACRES 7349 6367/213 03/17/2015 4.18 | 1090 | 10107 | LAND | 161,000 | REAL ESTAT | 7,440.02 |
| | | | BUILDING | 482,600 | | |
| | | | TOTAL VALUE | 643,600 | INSTALLMENT 1 | 3,720.01 |
| | | | DEFERMENT | 0 | INSTALLMENT 2 | 3,720.01 |
| | | | EXEMPTION | 0 | | |
| | | | NET VALUE | 643,600 | | |
| | | | ALT 07-002-047 | | | |



Elizabeth Mills

15 Highbrook Rd
Bar Harbor ME 04609



RECEIVED JAN 13 2020

December 29, 2019

Bar Harbor Planning Board
93 Cottage St I
Bar Harbor, ME 04609

Bar Harbor Board of Appeals
93 Cottage St I
Bar Harbor, ME 04609

Dear Members of the Planning Board and Board of Appeals,

By this letter I expressly authorize Arthur J. Greif, Esq., and any attorney at his firm to represent me for any proceedings before the Planning Board and/or Board of Appeals and in particular, for the hearing scheduled before the Board of Appeals on Tuesday, February 11, 2020.

Sincerely,

Elizabeth H. Mills

Elizabeth Mills