



**Raymond Zoning Board of Appeals
MINUTES*
Monday, November 26, 2012**

PUBLIC HEARING

Present: Chairman Matthew Schaefer, Vice-Chair Peter Leavitt, Elden Lingwood, Larry Murch, and Mary Picavet.

Absent: Sheila Philpot

Staff: Chris Hanson, Code Enforcement Officer; and Danielle Loring, Recording Secretary.

Other: Jason Halmen (applicant) and Ronald & Jane Stephens (abutters)

1. Call to order: Chairman Matt Schaefer called the meeting to order at 7:01pm.

2. Approval of Minutes:

a) June 25, 2012

Peter Leavitt clarified his intentions under 4a with regard to the setback reduction and the setback variance process. He added that he did not remember stating that he wanted the 1986 condition removed but would like to get more information.

MOTION: Peter Leavitt motioned to accept the minutes from June 25, 2012; seconded by Elden Lingwood.

DISCUSSION: None.

VOTE: MOTION CARRIED (4/0/1 [ab MP])

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3. Applications:

**a) Setback Reduction
Map 062, Lot 009
73 Shaw Road
LRR2 zone**

Mr. Schaefer reviewed the application request and confirmed with the applicant. He asked him if he would like to make a statement regarding his application.

Jason Halmen, applicant, explained that the existing building was a garage where the primary building had burned. The mortgage company discovered that the garage was too close to the setback and was requiring that the matter be resolved in order to convert the loan from a construction loan.

Mr. Schaefer asked if there was anyone from the public for the application, other than the applicant, and there were none. He then asked if there was anyone from the public against the public.

Ronald Stephens, 75 Shaw Road, stated that he was the abutting owner for the property on the left-side looking at the lake. He explained that years prior he had had a surveyor come to the property due to a conflict with the previous owner to define the property lines and there were no issues found with the buildings at this that time.

Chris Hanson., CEO, stated that the surveyor would check pins and consult with any previous surveys if there if were any discrepancies, but he was not sure if they would check the distances of any structures.

Mr. Stephens wanted to know what the Town's position was with this application, and Mr. Schaefer responded that the Board's responsibility was to review the application request and there was no vested interest in the ruling. Mr. Leavitt added that the intention of the setback was to create consistency lot-to-lot and reduce "walling in" as more development occurred. He continued that occasionally there were discrepancies from this because of situations that were created before the ordinance was enacted and it required the Board to review such instances in accordance with the law.

Mr. Stephens stated that he understood but he would like to see a condition that if the ownership changes then the building would be moved to 20' or if it were destroyed, then the building would go to the 20' setback. Mr. Hanson stated that variances go with the land, and that if the building were destroyed by at least 50%, it would need to be rebuilt to meet all setbacks.

Mr. Schaefer stated that the Board could only go by the application and the provisions of the ordinance. Mr. Stephens wanted to know what the requirements were, and Mr. Schaefer read the provisions out of the ordinance for setback reduction within the

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Shoreland Zone.

Mr. Stephens stated that he would like to see conditions that looked out for his interests and would have to state that he was against the application.

Mr. Schaefer asked if there was anyone else to speak against the application and there was none and he opened the meeting for Board discussion.

Mr. Leavitt confirmed that the property was already nonconforming, including the porch, and Mr. Hanson confirmed but the buyer built the replacement building on the existing foundation.

Mr. Leavitt asked if Mr. Stephens if he agree to conducting a land-swap.

Mr. Lingwood confirmed that there was a building permit pulled in 1990's and Mr. Hanson confirmed and added that he was unsure of the status of the pins at that point in time.

Mr. Schaefer stated that he did not think that there was any reason to deny the request. He did not find that the garage was creating anymore of an interference than the house and it was closer to the road versus the lake and it was not unreasonable to grant this request.

Mr. Stephens wanted to know what Mr. Leavitt had meant when he referred to moving the line. Mr. Schaefer answered that the two parties could conduct a land swap that would result in the same volume but make the garage conforming. Mr. Stephens responded that he was concerned with doing that because of the existing driveway. Mr. Murch stated that he thought that it was in his best intentions to leave the lot lines alone and that eventually the building may have to be moved.

MOTION: Matthew Schaefer motioned that the application request for a setback reduction for the garage from 18' to 20' be granted; seconded by Larry Murch.

DISCUSSION: None.

VOTE: UNANIMOUS APPROVAL (5/0)

4. Board Communications

a) Discussion of 1986 Requirement for Setback Reductions

Mr. Hanson explained that the town attorney had stated that the 1986 date was an abstract date and that the Board could recommend to the Selectmen that it be removed. He added that the attorney alluded that the Board may not have the prevue to grant setback reductions, and there was a current court case.

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Mrs. Picavet wanted to know if there had ever been a variance granted because the requirements to prove hardship were so difficult. Mr. Leavitt responded that they were hard to come by and he felt that was why setback reductions were added. Mr. Schaefer agreed and felt that the 1986 condition was to restrict any new lots but did not know that it was necessary.

Mr. Leavitt asked if the attorney had alluded that removing the 1986 condition would put the town in less of a tenuous situation, and Mr. Hanson responded that it would not. Mr. Leavitt stated that he felt that the date seemed arbitrary and there was no rational, then he would recommend that it be removed. Mr. Hanson added that anything after 1986 should meet setbacks and, if not, it was the land owners fault.

MOTION: Peter Leavitt motioned that the Board recommend to strike the specific date within the ordinance and be reviewed by the Selectmen for Town Warrant; seconded by Matthew Schaefer.

DISCUSSION: Mr. Schaefer wanted to know if the revision would still have to be reviewed by the Selectmen, and Mr. Leavitt responded confirmed that it would with a public hearing for input. Mr. Schaefer agreed with the process.

VOTE: MOTION CARRIED (4/0/[ab1 LM])

Brief intermission from 7:57pm to 7:59pm

b) Discussion of Creating Bylaws

Mr. Lingwood stated that he was concerned with attendance and training but did not feel that was not via bylaws. His primary concern was that the Board's alternate had attended a meeting in some years. Mr. Schaefer added that he had contacted the alternate and she confirmed that she was interest, but was not sure why she had not made it to the meeting. He confirmed that the Planning Board Bylaws did have an attendance policy.

Mr. Leavitt echoed Mr. Lingwood's concerns and thought that Article 6 of Land Use Ordinance covered many of the items normally found in bylaws, and that any bylaws created could refer to that section, but thought that bylaws would be good for spelling out the Board's process. He offered to help create bylaws. Mr. Lingwood also volunteered to help create draft bylaws

MOTION: Matthew Schaefer made a motion for Peter Leavitt and Elden Lingwood to review samples of Bylaws, consult with secretary if there were any other materials that they may need and make a presentation at the next meeting on January 7th; seconded by Mary Picavet.

DISCUSSION: None.

VOTE: UNANIMOUS APPROVAL (5/0)

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5. Code Enforcement Officer Comments

Mr. Hanson reviewed the current open violations and projects around town.

6. Adjournment:

MOTION: Peter Leavitt motioned to adjourn; seconded by Larry Murch.

VOTE: UNANIMOUS APPROVAL (5/0)

Chairman Matthew Schaefer adjourned the meeting at 8:17pm.

Danielle Loring
Recording Secretary

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