



Raymond Zoning Board of Appeals

423 Webbs Mills Road
Raymond Broadcast Studio

Minutes

Tuesday, January 28, 2025

7:00 pm

Call to order: David Murch called the meeting to order at 7:00

Roll was called and a quorum declared

Present: David Murch, Chair; Greg Dean, Vice Chair; Tom Hennessey*, Fred Miller and Pete Lockwood

Staff: Chris Hanson, CEO; Jason Williamson, Assistant CEO; Grady Burns, Attorney for Code Enforcement; John Hamer, Attorney for the Zoning Board of Appeals and Sandy Fredricks, Administrative Assistant PB & ZBA

Murch read the Opening Statement into the Record as well as the Agenda.

Minutes of September 24, 2024

Murch moved to accept the Minutes as written.

Miller seconded.

Any discussion? None

All in favor? 4 yes/0 no/0 abstain

*Hennessey entered via Zoom after this vote

Old Business - None

New Business

Administrative Appeal

APPLICANT	Todd Roma
LOCATION	141 Raymond Hill Road – Map 13/Lot 29
DESCRIPTION	Administrative Appeal of NOV dated October 29, 2024 for Land Use Violations

Murch stated they did conduct a Site Walk on January 18, 2025 and Greg Dean read the Report into the record.

Murch moved to include the Report in the official record.

Dean seconded.

Any discussion? None.

All in favor? 5 yes/0 no/0 abstain

Murch read the definition of “Short Term Rental” as provided to the Board by Hamer.

Murch asked Hamer to confirm for those present what a “de novo” hearing is.

Murch asked Hamer if the burden of proof is on the Appellant as your Shoreland Zoning

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states, however, our Land Use Ordinance does not specify. Hamer confirmed the burden of proof is always on the appellant.

Michael Skolnick, attorney for the appellant, addressed the Board. He disputed the NOV as it singles out his client's property. There is no prohibition in the Town on rentals. He also stated that it is an accessory use to the property. He gave some in-depth background of the property and what the Roma's had done with the property. He continued that all events had been private events hosted on the property.

He continued that in 2019 the appellant gave background of appellant's meeting with the Town's Planner, Jim Seymour and then CEO, Scott Dvorak wherein they were told there was nothing preventing them from doing so. They next applied to the ZBA for a Conditional Use Permit to conduct these events. The Board denied the Conditional Use Permit, as they should have.

He discussed that the Ordinance does not allow for rentals in any district within the Town. He next reads the definition of "Accessory Use" and "Accessory Structure". There is no dispute that the primary use is a residential use. The Romas and their children reside there 365 days. The house is the primary structure, the accessory structure is the barn and that is used for accessory uses. Skolnick next stated an internet search of Weddings in Raymond turned up Kingsley Pines Camp and right on Raymond Hill Road is a Horse Farm owned by Tim Davidson which held 4 weddings last year. The Town cannot single out his client. The Law Court has found that renting your property does not automatically make it a commercial use. He expounded on this for quite some time.

Skolnick next addressed conflict of Chris Hanson, CEO who has been in discussions with a neighbor of the property in question and his involvement with Raymond Short Term Rental Initiative. Hanson is working hand-in-hand with the neighbor to define that ordinance. Additionally, the Horse Farm that had 4 weddings last year is a distant relative of the owner and there have been no Violations issued there. These conflicts should make the NOV null and void. Let the Selectboard deal with those issues.

Hamer reiterated what the Board's scope of authority is. A couple of arguments put forth that are clearly for a Court to determine. The Board does not have authority over equal protection and Equitable Estoppel. If you find there is a clear and improper basis for the CEO's actions, it is within your jurisdiction, but there are standards to be met.

Murch asked Hamer to review with them the 5 bullet points in Skolnick's letter. Hamer advised that #2 and #4 are not within the Board's authority and therefore, they cannot review them. Burns also agreed with Hamer's interpretation. Burns further stated he will have comments on the conflict of interest piece later.

Murch asked if the appellant took the 2019 decision to Superior Court. Skolnick stated they did not. David stated at the end of the 2019 ZBA hearing, the appellant was advised to go to the Planning Board to discuss ordinance changes. He asked if they followed through on that. Solnick said they did not as that would be for an ordinance change and is a longer time.

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Murch and Skolnick discuss permitted uses and determining what a permitted use is. Murch and Skolnick also discussed the event in August of 2024; Skolnick advised that the appellant rented out the home, the property and the barn. He further stated that the renters brought everything in themselves. Murch asked who placed the Parking Signs. Appellant stated he did. Murch asked what other services the appellant provided. Skolnick stated none. Murch and Skolnick continued a Q&A for some time.

Murch stated that in his review of the 2019 meeting appellant stated they did not previously rent out the property. Murch addressed if Lot 30 was also rented. Appellant stated that is only used for parking, it is part of the entire rental of the property. Murch asked if there is a Contract for the rentals. Skolnick stated there are Contracts as with any property rental. Murch asked if there is a section regarding hosting of events during the rental. Appellant stated there is nothing specific to any event. Murch asked if appellant pays lodging taxes to the State of Maine. Skolnick stated they do not.

Murch asked if the 2018/2019 meetings with Town Officials has any documentation. Roma stated they recorded those meetings and documented them as well. He explained what had taken place during those discussions. Roma also stated that his interpretation of the 2019 ZBA meeting was that they couldn't determine what quasi-public meant. They went into that meeting blind thinking it was a slam dunk and could have had different outcome had they been given equal treatment. Jessica Dobson, Todd's wife, spoke to the harassment of neighbors and being in a law suit with them. She continued they met again with Dvorak and Seymour where Dvorak suggested the Conditional Use. She expounded on events between appellant and neighbors.

Dean asked if the owners are present on the property when they are renting it out. Appellant stated not unless they are required to be. Dean asked for an example of why they would be required to be there. Skolnick stated to coordinate things. Dean further wanted to address point 3 of Skolnick's letter, Conflict of Interest. He continued that Skolnick said Hanson was working with the Raymond Short Term Rental Initiative; do you have any direct evidence of that. Skolnick stated not in their submission. Dean asked Hamer what level of consideration should they give to the 2019 video. Hamer stated the Board shouldn't be considering ex parte evidence; he believes the previous ZBA decision is a part of the submissions and if the Board wants to include the 2019 video, it is reasonable and the Board can do so. Skolnick doesn't believe the previous meeting doesn't really come into this appeal. Burns stated the Town has no objection to including the 2019 video into evidence.

Murch moved to include the video archive of the July 2019 meeting in the record.

Miller seconded.

Any discussion? Dean asked if the Board would be showing any portions of that video to the public?

Hamer explained what adding this to the evidence is meaning it is evidence you can rely on; it is a public record already.

All in favor? 5 yes/0 no/0 abstain

Lockwood stated in the original decision it referenced the Comprehensive Plan and now that
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there is a new Comprehensive Plan, should we look at that. Burns explained that the Comprehensive Plan hasn't been adopted and it doesn't speak directly to the Ordinances or Violations. Hamer agreed with Burns, as did Skolnick.

Hennessey had no questions at this point.

Burns spoke on behalf of the Town before handing it over to Hanson. Burns spoke mostly on the legal points of constitutional laws and equitable estoppel are off the table as they are not in the purview of the ZBA. He continued by giving the Board additional information on the ZBA decision in 2019 and stated the appellant could have appealed that decision to Superior Court in 2019 and did not. Therefore, the 2019 decision is the final decision controlling the use. The appellant did not seem to dispute that this use has been continuing. The CEO is required to respond to complaints. This is not a case that they are being maliciously singled out by the CEO. Burns also discussed the accessory use definition as being dependent on the principal use.

Hanson spoke to the factual information on this matter. He issued a permit for renovations of the house. Appellant stated they did renovations to the barn and house. Hanson asked the appellant if he got a permit for the renovations to the barn. Hanson went through the list of Exhibits in reverse. When he was done reviewing the Exhibits, he stated he would take questions from the Board.

Dean asked if Hanson is working hand in hand with the Raymond Short Term Rental Initiative. Hanson stated he was not. Dean asked Hanson what his relationship is to the Horse Farm. Hanson stated he has known them for years but he is not related to them.

Miller questioned if they were in violation of the ordinances in 2019. Yes, as it is an unpermitted use. Miller asked if the items listed in the Fire Inspector's Memo had been added to the ordinance since 2019. Hanson explained that those are things that the appellant would have to do in order to hold events in the future if they were permitted. It is to keep people safe by ensuring that things meeting Fire and Building ordinances.

Murch asked why there was a delay from when pictures were taken and when the violation was issued. Hanson explained it was timing; volume of work and the time Alex left and Jason was hired to be trained.

Skolnick disputed the interpretation of the accessory use and rental of property. Burns rebutted the arguments. Additionally, Skolnick wanted Hanson to answer if he was aware of the 4 weddings at the horse farm. Murch stated that they didn't need to go down that road as they have already determined the CEO investigates complaints. Skolnick again stated the barn use is an accessory use. He also stated that Hanson asked about permits for barn remodel; they aren't here to look for new violations. Murch asked for clarification of the property being in an LLC. Skolnick explained. Murch brought up advertisement as wedding venue. Hanson stated that the Facebook page sent with Dvorak's warning letter had a list of services provided with the rental.

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Murch asked for clarification that Code Enforcement says it is okay to have a wedding on your property without compensation, but you can't have a wedding on your property for money. Hanson confirmed. Skolnick disagreed.

Miller asked Hamer to weigh in on that last question. Hamer stated that is what the Board needs to review in their deliberations and base the findings and decision on. The real issue is if this is allowed by the ordinance and once you determine what the use is then you can make your findings.

Murch opened up public comment.

Sara Davis, 85 Tenney Hill Road spoke in support of the appellant's application stating she has known the Romas for a number of years. She has been to events at Roma Farm. She believes land rights protection is important. This is clearly an accessory use.

Heidi Lower stated she is in favor of the Romas being able to continue the use.

Michael Foster, Gray stated he is supporting the Romas. He is a small business owner in Portland and is a long time friend of the Romas. He expounded his comments about his business and that he delivers ice to several locations in Raymond.

Tim Davidson, stated he wanted to advise he had 3 events last year, not 4 as Romas attorney stated, however, he does not charge for the events and it is not a commercial use. He further stated that the Romas should be able to do what they want with their property. Davidson did confirm that he and Hanson are not related.

Ango Pongratz, Webbs Mills Road spoke in support of the appellants. She stated this is a targeted attack against the Romas and you are nitpicking looking how to get them.

Genevieve Abrams spoke in support of the Romas. She stated there's been 5 weddings, all kinds of anniversary parties in Raymond on the lake and she doesn't know how you can even enforce this as a violation. She has attended several parties at the Roma Farm and even held a surprise 75th birthday party there. She continued that the cars were parked on the property and you couldn't see 1 of them.

Allen Abrams spoke in support of the Romas. He stated he has known the Dobson family since high school and they are not trying to hide anything.

Anna Buxton, Swans Road spoke in support of the Romas stating Sara Davis summed it up beautifully and she doesn't think it disrupts neighbors any more than any other event on Raymond Hill Road.

Brian Rayback, attorney for Katherine Plummer, stated this is not about constitutional arguments, not about estoppel, not about whether the neighbors get along, not about whether the CEO worked on a short term rental ordinance, it is not about whether the Town answered an email, what it is about is whether the appellants have met their proof against
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the Notice of Violation. He continued the nature of their activities is, in their view, not permitted. He continued to review the events held at Roma Farm and in 2019 the Board determined it was not a conditional use. He also stated that calling it a short term rental rather than an event venue doesn't change what it is.

Desiree, top of Raymond Hill Road stated she would like to speak in opposition to the appeal. She has deep concern about the ongoing use of the property in disregard to the 2019 decision. She stated that every event leaves her worried about potential for danger of someone drinking and driving leaving the property. She gave further background on issues between appellants and neighbors. She also stated they are affecting the environment.

Murch closed public comment.

Skolnick reiterated that this is an accessory use not a business.

Burns thanked the Board for their patience and consideration. This is simply a question of applying the ordinances and if the appellants met their burden of proof.

The Board took a 5 minute break at 10:04. Murch reconvened the meeting.

DELIBERATIONS:

Miller read the Romas letter submitted with the appeal. Murch clarified some of the questions. Murch read from the 2019 letter submitted with the appeal where the appellants admitted to holding events for the past 12 years. He also read from the same letter about a meeting they had with Dvorak and Seymour stating they were not violating any ordinances. The Board discussed these items in depth and stated there is nothing in writing confirming the appellants statements by town officials in 2019.

Hamer informed the Board that they are there to apply the current ordinances to the violation. He further advised they need to make a finding of fact as to what the use is and then apply the ordinances to the Notice of Violation.

Hennessey stated he thought the Board is there to determine if the NOV is appropriate. Hamer stated they need to assess the facts and then make a decision. Dean and Murch have a discussion about the issue at hand. Hamer informed the Board they are analyzing all the testimony and documentation to determine the use. The Board discussed what they heard and read at length.

Dean moved as a Finding of Fact at the time of the Notice of Violation the property was used as event space rental with event consultation and vendor coordinating.

Murch seconded.

Any discussion? None.

All in favor? 5 yes/0 no/0 abstain

The Board discussed the possibility of this use being an accessory use.

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Murch moved that the use of the property as event space rental with event consultation and vendor coordinating doesn't fall under the permitted uses in a Rural Residential zone as an accessory use.

Dean seconded.

Any discussion? Board members discussed beyond residential use is this a subordinate use; does it seem to be incidental to the primary use of the property. The Board members did not feel it was.

All in favor? 5 yes/0 no/0 abstain

Murch moved to deny the appeal.

Hennessey seconded.

Any discussion? None.

All in favor? 5 yes/0 no/0 abstain

Dean moved to adjourn.

Miller seconded.

Any discussion? None.

All in favor? 5 yes/0 no/0 abstain