

Town of Raymond, Maine Zoning Board of Appeals (ZBA)

Findings and Decision

May 31, 2022 ZBA Meeting:

- In Attendance: Greg Dean, Tom Hennessey, Fred Miller, David Murch
- Absent: None

Application:

- Appeal Request: Setback Reduction
- Appellant: Jeff & Tracy Foley Family Trust, Jeff Foley Trustee
- Property Owner: Jeff & Tracy Foley Family Trust, Jeff Foley Trustee
- Property Address: 15 Rusty Road, Raymond, Maine
- Map/Lot/Block: 067/046A/000
- District: Limited Residential/Recreational II (LRR2)

Background:

On Tuesday, May 31, 2022, the Town of Raymond ZBA held a public hearing on a setback reduction appeal in the Limited Residential/Recreational II (LRR2). This is a legal, conforming lot. The property owner is seeking a front setback reduction of 15 feet in order to build a 2-story garage on the property.

A public site walk took place on Saturday, May 21, 2022 at 11:00 AM. Those in attendance included Greg Dean (ZBA), Tom Hennessey (ZBA), Fred Miller (ZBA), David Murch (ZBA), and Jeff Foley (appellant).

Discussion:

ZBA discussion took place during the public hearing following the close of public comment. Refer to the video record accessible online through the Town of Raymond website or by DVD from the Raymond Town Office.

Findings of Fact and Conclusion of Law:

TOWN OF RAYMOND, SHORELAND ZONING PROVISIONS

SECTION 15. LAND USE STANDARDS

A. Minimum Lot Standards and Setbacks

3. The minimum building setbacks shall be as follows:

- a. Front - 30 feet;
- b. Side - 20 feet;

c. Rear - 30 feet; and

Comments: This appeal is for a front setback reduction. The minimum front setback for the LRR2 district is 30 feet.

SECTION 16. ADMINISTRATION

G. Appeals

2. Variance Appeals

Variations may be granted only under the following conditions:

d. The Board of Appeals shall limit any variations granted as strictly as possible in order to insure conformance with the purposes and provisions of these ordinance provisions to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

Comments: The setback reduction appeal is for a reduction of 15 feet. Based on the information provided by the applicant, the ZBA believes, that a 15 foot reduction is the minimum necessary to accomplish the purpose of the appeal.

e. A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

Comments: The ZBA received a May 19, 2022 email from Jeffrey C. Kalinich, Assistant Shoreland Zoning Coordinator, Maine DEP. In that email, it was stated that "[t]hese setback reduction requests are for setbacks from roads only. While the requests are for parcels in the shoreland zone, the Mandatory Shoreland Zoning Act does not establish mandatory minimums for road setbacks. The Department has no comment on these requests."

The ZBA acknowledges that the DEP does not have any comments for the Board to consider.

f. The Board of Appeals may grant reductions from the minimum setback requirements set forth in Section 15 (A) of these provisions according to all of the following criteria:

Comments: The ZBA has the authority to grant reductions for the minimum setback requirements that are defined in Section 15(A).

1) Setback reduction appeals are only available to reduce the minimum requirements for setbacks of structures from lot boundary lines. Setback reduction appeals shall not be used, and are not available from bodies of water as provided in these provisions.

Comments: The setback reduction appeal is for a 2-story garage. The requested setback reduction is not from a body of water.

ZBA Vote:

- Requirement Met: 4 (GD, TH, FM, DM)
- Requirement Not Met: 0

2) Setback reduction appeals may only be granted and are only available for lots with an existing residential dwelling as the principal structure.

Comments: The lot has a residential dwelling that is in the process of being built, and it is the principal structure. The ZBA wants to ensure that the granting of this appeal meets the requirement of an EXISTING residential dwelling, and therefore, this requirement can only be met with the attachment of a reasonable condition (Section 16(G)(2)(f)(4)).

ZBA Vote:

- Requirement Met: 4 (GD, TH, FM, DM)
- Requirement Not Met: 0

3) The Board of Appeals may grant a setback reduction appeal if the Board finds that granting the setback reduction will not result in unreasonable interference with the privacy interests of the abutting landowners.

Comments: Abutting landowners did not provide any letters, emails, or public comment to the ZBA. The May 21, 2022 site walk did not reveal any potential issues with the privacy interests of the abutting landowners.

ZBA Vote:

- Requirement Met: 4 (GD, TH, FM, DM)
- Requirement Not Met: 0

4) In granting a setback reduction the Board of Appeals may attach reasonable conditions, which it may deem necessary to serve the purposes of these provisions.

Comments: If the ZBA approves the appeal, the following reasonable conditions will need to be attached:

1. *For the residential dwelling that is in the process of being constructed on the property, that construction must be completed within a 1 year period (i.e. no later than May 31, 2023).*
2. *For the proposed structure (garage), no construction or renovation is allowed that will create additional dwelling units as part of that structure.*

5) A setback reduction appeal shall not be granted to enable construction or renovation that will create additional dwelling units.

Comments: If the ZBA approves the application, the setback reduction will be used to facilitate the construction of a 2-story garage. The ZBA wants to ensure that the granting of this appeal will not

result in an additional dwelling unit, and therefore, this requirement can only be met with the attachment of a reasonable condition (Section 16(G)(2)(f)(4)).

ZBA Vote:

- Requirement Met: 4 (GD, TH, FM, DM)
- Requirement Not Met: 0

6) A setback reduction appeal shall not be granted to enable construction or renovation that will result in more than one garage on the lot that is the subject of the appeal.

Comments: If the ZBA approves the application, the setback reduction will be used to facilitate the construction of a 2-story garage. This lot does not currently have a garage on it.

ZBA Vote:

- Requirement Met: 4 (GD, TH, FM, DM)
- Requirement Not Met: 0

7) No setback reduction appeal may be granted that will result in impervious surface lot coverage of greater than 15%.

Comments: If the ZBA approves the application, the setback reduction will be used to facilitate the construction of a 2-story garage. The request will not result in impervious surface lot coverage of greater than 15%.

ZBA Vote:

- Requirement Met: 4 (GD, TH, FM, DM)
- Requirement Not Met: 0

8) Setback reduction appeals may only be granted the minimum extent necessary to accomplish the purpose of the appeal. Setbacks may not be reduced by setback reduction appeal to less than the following absolute minimum setbacks:

Front Yard 15 feet
Side Yard 10 feet
Rear Yard 15 feet

Comments: The setback reduction appeal is for a front reduction of 15 feet. Based on the information provided by the applicant, the ZBA believes that a 15 foot reduction is the minimum necessary to accomplish the purpose of the appeal, thereby going from 30 feet down to 15 feet. The proposed 15 foot side setback is equal to the minimum 15 feet defined for LRR2 Zone, front yard.

ZBA Vote:

- Requirement Met: 4 (GD, TH, FM, DM)
- Requirement Not Met: 0

Decision:

Based on the above Findings of Fact and Conclusion of Law, the ZBA voted to **GRANT** the appellant a front setback reduction of 15 feet with the attachment of reasonable conditions.

ZBA Vote:

- Grant: 4 (GD, TH, FM, DM)
- Deny: 0

The ZBA found that the appellant **MET** all of the requirements in Shoreland Zoning Ordinance, Section 16(G)(2)(f) that are required in order to be granted a setback reduction.



David Murch

5-31-22

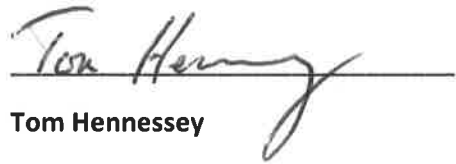
Date



Greg Dean

5-31-22

Date



Tom Hennessey

5-31-22

Date



Fred Miller

5-31-22

Date