

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

## **Findings and Decision**

### **June 28, 2022 ZBA Meeting:**

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

### **Application:**

- Appeal Request: Setback Reduction
- Appellant: Deborah Hass-Wilson, et al
- Property Owner: Deborah Hass-Wilson, et al
- Property Address: 184 Deep Cove Road, Raymond, Maine
- Map/Lot/Block: 061/038-039-040/000
- 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). The property owner is seeking a front setback reduction of 15 feet in order to relocate the garage that is currently on the property.

A public site walk took place on Saturday, May 21, 2022 at 10:00 AM. Those in attendance included Greg Dean (ZBA), Tom Hennessey (ZBA), Pete Lockwood (ZBA), Fred Miller (ZBA), and David Murch (ZBA). Neither the appellant nor a representative of the appellant was at the site walk.

At the May 31, 2022 public hearing, neither the appellant nor a representative of the appellant was in attendance. As a result, this appeal was tabled at the May 31, 2022 meeting in order for the appellant to publicly present their appeal at the next scheduled ZBA meeting.

On Tuesday, June 28, 2022, this appeal was un-tabled.

### **Discussion:**

ZBA discussion took place following the public hearing. 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, LAND USE ORDINANCE**

#### **ARTICLE 2 – ESTABLISHMENT OF DISTRICTS**

##### **A. Districts**

To implement the provisions of this Ordinance, the Town of Raymond is hereby divided into the following districts:

#### Established Districts

[...]

5. Shorelands – This district is hereby divided into the following sub-districts.

- a. Resource Protection District (RP)
- b. Stream Protection District (SP)
- c. Limited Residential - Recreation District I (LRR1)
- d. Limited Residential - Recreation District II (LRR2)

[...]

*Comments: The LRR2 district has been established as a Shoreland district.*

### **ARTICLE 6 – BOARD OF APPEALS**

#### B. Powers and Duties

3. Appeals from decisions under the Shoreland Zoning provisions and variances from the Shoreland Zoning provisions are governed by the appeals and variance procedures contained in the Shoreland Zoning provisions and are not governed by Article 6 of the Land Use Ordinance.

*Comments: Variance appeals for properties in the Shoreland districts are governed by the information found in the Shoreland Zoning Provisions.*

### **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 ensure 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 variation as it deems necessary. The party receiving the variation 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 variation 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 relocating a garage. The requested setback reduction is not from a body of water.*

ZBA Vote:

- Requirement Met: 5 (GD, TH, PL, 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, and it is the principal structure.*

ZBA Vote:

- Requirement Met: 5 (GD, TH, PL, 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: 5 (GD, TH, PL, 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 condition will need to be attached:*

1. *For the relocated 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 appeal, the setback reduction will be used to facilitate the relocation of a 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: 5 (GD, TH, PL, 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 appeal, the setback reduction will be used to facilitate the relocation of the existing garage. This lot only has the one garage on it.*

ZBA Vote:

- Requirement Met: 5 (GD, TH, PL, 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 appeal, the setback reduction will be used to facilitate the relocation of a garage. The request will not result in impervious surface lot coverage of greater than 15%.*

ZBA Vote:

- Requirement Met: 5 (GD, TH, PL, 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 setback is equal to the minimum 15 feet defined for LRR2 District, front yard.*

ZBA Vote:

- Requirement Met: 5 (GD, TH, PL, 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 a reasonable condition.

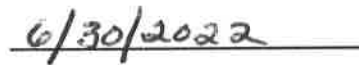
ZBA Vote:

- Grant: 5 (GD, TH, PL, 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



Date



**Greg Dean**

6/30/2022

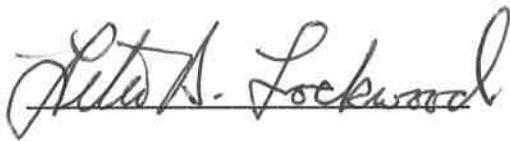
**Date**



**Tom Hennessey**

6/30/2022

**Date**



**Pete Lockwood**

6/30/2022

**Date**



**Fred Miller**

6/30/2022

**Date**