

**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 Variance
- Appellant: Fred Hollister
- Property Owner: Fred Hollister
- Property Address: 67 Wild Acres Road, Raymond, Maine
- Map/Lot/Block: 069/008/000
- District: Limited Residential/Recreational II (LRR2)

**Background:**

On Tuesday, June 28, 2022, the Town of Raymond ZBA held a public hearing on a setback variance appeal in the Limited Residential/Recreational II District (LRR2). The property is a waterfront property that is located on Sebago Lake. The property owner is looking to place an 8 foot by 12 foot shed on the property, and in conjunction with that, is seeking a 16 foot, 8 inch side setback reduction.

A site walk for this property took place on Saturday, June 18, 2022 at 9:00 AM. Those in attendance included Greg Dean, (ZBA), Pete Lockwood (ZBA), Fred Miller (ZBA), David Murch (ZBA) and Fred Hollister (appellant). Tom Hennessey (ZBA) was unable to attend the site walk.

**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 16: ADMINISTRATION**

#### **G. Appeals**

##### **1. Powers and Duties of the Board of Appeals**

b. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in these ordinance provisions.

*Comments: The ZBA has the authority to approve a variance appeal.*

##### **2. Variance Appeals – Variances may be granted only under the following conditions:**

a. Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage, and setback requirements

*Comments: This variance appeal is for a reduction to a side setback requirement.*

b. Variances shall not be granted for establishment of any uses otherwise prohibited by these ordinance provisions.

*Comments: The appellant is seeking a setback variance for the purpose of placing an 8' x 12' shed onto the property. Accessory structures are an allowed use in the LRR2 district under Shoreland Zoning Provisions, Section 14(B), table item 16.*

c. The Board shall not grant a variance unless it finds that:

1) The proposed structure or use would meet the provisions of Section 15 after for the specific provision which has created the non-conformity and from which relief is sought; and

*Comments: Based on the documentation and testimony provided by the appellant as well as from the Code Enforcement Office, there is no indication that the proposed structure would not meet the provisions of Section 15 of the Shoreland Zoning Provisions.*

2) The strict application of the terms of these ordinance provisions would result in undue hardship. The term "undue hardship" shall mean:

i. that the land in question cannot yield a reasonable return unless a variance is granted;

*Comments: The appellant has indicated that the existing circular driveway cannot accommodate a shed very well.*

*The ZBA noted that with the standard of "reasonable rate of return," the appellant must show that the land is not suitable for any use permitted in the zoning ordinance.*

*Under Shoreland Zoning Provisions, Section 14(B), table item 1 indicates that "non-intrusive recreational uses not requiring structures such as hunting, fishing and hiking" is an allowed use in the LRR2 district. The land in question is a waterfront property that borders Sebago Lake. As such, the recreational use of fishing is a suitable use that is permitted for this land.*

*This property also already includes a principal structure of a single-family residential structure as well as several accessory structures, all of which are allowed uses in the LRR2 district under Shoreland Zoning Provisions, Section 14(B), table items 15A and 16, respectively. As such, under these conditions, the land is already showing that it is suitable for uses that are permitted in the zoning ordinance.*

*Based on the documentation and testimony provided by the appellant, as well as from the June 18 site walk, there is no indication that the property cannot yield a reasonable return unless a variance is granted.*

ZBA Vote:

- *Hardship Requirement Met: 0*
- *Hardship Requirement Not Met: 5 (GD, TH, PL, FM, DM)*

ii. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

*Comments: The appellant has indicated that the existing circular driveway cannot accommodate a shed very well, and that the limited availability of a flat space in and around the present driveway is the challenge.*

*Based on the documentation and testimony provided by the appellant, as well as from the June 18 site walk, there is no indication that the property has any unique circumstances to be considered,*

and that instead, the property is consistent with other properties in the neighborhood regarding size and dimensions.

ZBA Vote:

- Hardship Requirement Met: 0
- Hardship Requirement Not Met: 5 (GD, TH, PL, FM, DM)

iii. that the granting of a variance will not alter the essential character of the locality; and

*Comments: The appellant has indicated that the proposed structure would be barely visible from the neighbor's property, and it would be as far back as possible from their house.*

*Based on the documentation and testimony provided by the appellant, as well as from the June 18 site walk, there is no indication that granting this variance would alter the essential character of the locality.*

ZBA Vote:

- Hardship Requirement Met: 5 (GD, TH, PL, FM, DM)
- Hardship Requirement Not Met: 0

iv. that the hardship is not the result of action taken by the applicant or a prior owner.

*Comments: The appellant has indicated that the hardship is due to needing to place the proposed shed in a space accessible via the driveway that allows for cars to continue to be able to exit the property, avoid the present leaching field, be as far away from the abutters dwelling and view, as well as the shoreline of Sebago Lake.*

*Based on the documentation and testimony provided by the appellant, as well as from the June 18 site walk, it was determined that the hardship is not the result of action taken by the applicant or a prior owner.*

ZBA Vote:

- Hardship Requirement Met: 5 (GD, TH, PL, FM, DM)
- Hardship Requirement Not Met: 0

d. The Board of Appeals shall limit any variances 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 side reduction of 16 feet, 8 inches. Because the ZBA had determined that not all of the 4 required undue hardship criteria had been met in order for the appeal to proceed, this item did not need to be considered by the ZBA.*

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 determined that it had not receive any comments from the DEP for the Board to consider.*

**Decision:**

Based on the above Findings of Fact and Conclusion of Law, the ZBA voted to **DENY** the appellant a setback variance.

ZBA Vote:

- Grant: 0
- Deny: 5 (GD, TH, PL, FM, DM)

The ZBA found that the appellant **DID NOT MEET** all of the undue hardship requirements in Shoreland Zoning Provisions Section 16(G)(2)(c)(2) that are required in order to be granted a setback variance.



David Murch



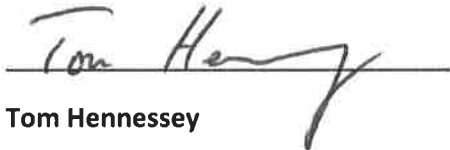
Date



Greg Dean



Date



Tom Hennessey



Date



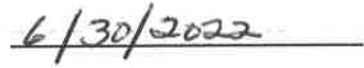
Pete Lockwood



Date



Fred Miller



Date