

# **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: Melissa Sargent
- Property Owner: Melissa Sargent
- Property Address: 11 Tarkiln Hill Road, Raymond, Maine
- Map/Lot/Block: 052/026/000
- District: Rural (R)

### **Background:**

On Tuesday, April 26, 2022, the Town of Raymond ZBA held a public hearing on a setback reduction appeal in the Rural District (R). 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, April 16, 2022 at 9:00 AM. Those in attendance included Tom Hennessey (ZBA), David Murch (ZBA), and Melissa Sargent (appellant). Greg Dean (ZBA) and Fred Miller (ZBA) were unable to attend the site walk.

This appeal was tabled at the April 26, 2022 meeting. In order to confirm that the proposed structure would be compliant with the requested setback reduction, the ZBA requested the appellant provide an updated survey.

On Tuesday, May 31, 2022, this appeal was un-tabled.

### **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, LAND USE ORDINANCE**

#### **ARTICLE 4 – DISTRICT REGULATIONS**

#### **C. Rural District (R)**

4. Space and Bulk Regulations - The following space and bulk regulations are minimum requirements subject to modification under Article 8, Section B: [Adopted 5/16/87]

- a. The minimum lot area shall be three (3) acres;
- b. The minimum lot frontage shall be two hundred twenty five (225) feet;
- c. The minimum building setbacks shall be as follows:

- 1) Front - 40 feet
- 2) Side - 20 feet
- 3) Rear - 20 feet

*Comments: This appeal is for a front setback reduction. The minimum front setback for the R district is 40 feet.*

#### **ARTICLE 6 – BOARD OF APPEALS**

##### **D. Reductions from minimum setbacks**

The Board of Appeals may grant reductions from the minimum setback requirements set forth in Article 4 of this Ordinance 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 Article 4.*

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 this Ordinance.

*Comments: The setback reduction appeal is for construction of 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 a residential dwelling as the principal structure.

*Comments: The lot has only one residential dwelling, and it is the principal structure.*

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 April 26, 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 this Ordinance.

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

1. *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 (Article 6(D)(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 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:

VR Zone

Front yard 12 ½ feet  
Side yard 10 feet  
Rear yard 10 feet

R Zone

Front yard 20 feet  
Side yard 10 feet  
Rear yard 10 feet

RR Zone

Front yard 15 feet  
Side yard 10 feet  
Rear yard 10 feet

*Comment: The setback reduction appeal is for a front reduction of 15 feet, thereby going from 40 feet down to 25 feet. The applicant has provided information confirming that the 15 foot reduction is the minimum necessary to accomplish the purpose of the appeal. The proposed 25 foot front setback is greater than the minimum 20 feet defined for R 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 a reasonable condition.

ZBA Vote:


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

The ZBA found that the appellant **MET** all of the requirements in Land Use Ordinance, Article 6, Section D that are required in order to be granted a setback reduction.



David Murch

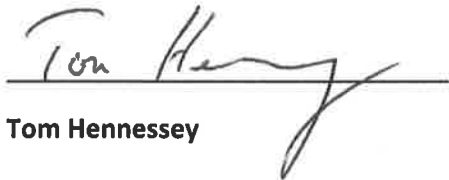
5-31-22  
Date



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Greg Dean

5-31-22  
Date



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Tom Hennessey

5-31-22  
Date



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Fred Miller

5-31-22  
Date