

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

Findings and Decision

September 24, 2024 ZBA Meeting:

- In Attendance: Tom Hennessey, Pete Lockwood, Fred Miller, David Murch
- Absent: Greg Dean

Application:

- Appeal Request: Administrative Appeal - RE: Notice of Violation for Installation of a Shed
- Appellant: Sheena-Jo Randall
- Property Owner: Sheena-Jo Randall
- Property Address: 32 Shore Road, Raymond, Maine
- Map/Lot: 78/10
- District: Limited Residential / Recreation I (LRR1)

Background:

On Tuesday, September 24, 2024, the Town of Raymond ZBA held a public hearing on an administrative appeal regarding a Notice of Violation (NOV) issued on August 7, 2024, by Chris Hanson, Raymond's Code Enforcement Officer (CEO), to Sheena-Jo Randall. This NOV indicates that a shed had been installed on the property without a permit.

A public site walk took place on Saturday, September 14, 2024, at 10:00 AM at 32 Shore Road. Those in attendance included Tom Hennessey (ZBA), Pete Lockwood (ZBA), Fred Miller (ZBA), David Murch (ZBA), Sheena-Jo Randall (Appellant), and Jason Williamson (Assistant CEO). Greg Dean (ZBA) was unable to attend the site walk. A site walk report was prepared by Tom Hennessey, read aloud at the September 24 meeting, and unanimously approved by the Board at that meeting to be entered into the official record.

Discussion:

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

Findings of Fact and Conclusion of Law:

TOWN OF RAYMOND, ME

Chapter 350 Shoreland Zoning

§ 350-7.7 Appeals

A. Powers and duties of the Board of Appeals. The Board of Appeals shall have the following powers:

(1) Administrative appeals. To hear and decide appeals, on a de-novo basis, where it is alleged that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the enforcement or administration of these ordinance provisions.

Comments: The ZBA has the authority to hear and decide this administrative appeal. In addition, there are no Board member conflicts of interest, as the recipient of the NOV the Appellant has standing to bring this appeal, the appeal application is complete, and the appeal is timely.

§ 350-5.4 Table of Land Uses.

Table 1 - Land Uses in the Shoreland Zone

Land Use 16 (Accessory structures or uses); LRR1 requires a permit from the CEO

§ 350-8.2 Terms defined.

STRUCTURE

A. Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of vegetation, subsurface wastewater disposal systems as defined in 30-A M.R.S.A. § 4201, Subsection 5, geothermal heat exchange wells as defined in 32 M.R.S.A. § 4700-E, Subsection 3-C, wells or water wells as defined in 32 M.R.S.A. § 4700-E, Subsection 8, or other similar construction. The term includes but is not limited to structures temporarily or permanently located, such as decks, carports, patios, satellite dishes, communications systems, ground-mounted solar energy systems, building-mounted solar energy systems, antennas, pools, etc. Utility poles, wiring, and the aerial equipment normally associated with service drops, including guy wires and guy anchors, shall not be considered structures; however, they must meet the minimum required setbacks from the high-water mark of any pond, lake, stream or river.

B. Structure terms.

(2) ACCESSORY STRUCTURE - A structure of a nature customarily incidental or subordinate to that of the principal structure or the primary use to which the premises are devoted. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Comments: A shed is an accessory structure that requires a permit from the CEO in order to be placed at a property located in the LRR1 district.

§ 350-7.7 Appeals.

C. Appeal procedure.

(2) Decision by Board of Appeals.

(b) When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a "de novo" hearing. At that time, the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity, the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

(d) The person filing the appeal shall have the burden of proof.

Comments: The Appellant's appeal application includes a letter dated August 25, 2024, from the Appellant to Chris Hanson. In that letter, the Appellant states "that I was under the understanding that I did not need to obtain a permit for the structure if it was on wheels or skids."

Subsequent to the application, a letter dated September 5, 2024, was sent by the Appellant to the ZBA. In that letter, the Appellant indicates that the shed in question had been previously permitted under Building Permit 2022-113.

In its consideration of the Appeal, the ZBA asked the Appellant if she had a specific ordinance item or statute that could be referenced to support her August 25, 2024, assertion of not needing a permit for the structure (shed) if it was on wheels or skids; however, the Appellant did not have a supporting ordinance item or statute to provide to the ZBA for its review. The CEO was not able to provide one either. The ZBA, doing its own ordinance & statute research, was not able to identify an ordinance item or statute to support the Appellant's assertion.

Based on its review of the ordinances, and also in consideration of the information provided by the Appellant and the CEO, the ZBA DID NOT reach the conclusion that a permit was not needed for an accessory structure (e.g., shed) if it was on wheels or skids as asserted by the Appellant.

In its consideration of the Appeal, the ZBA reviewed Building Permit 2022-113 (issued on 7/1/2022) and its associated Building Permit Application. The project description on the Building Permit Application reads "Adding a 2 story addition to the existing garage and renovate to Retirement Home". The project description in the Building Permit reads "Add 2 story addition to existing garage to create a single family home". During the meeting, the Appellant noted a small square that had been hand drawn on the Mortgage Loan Inspection Plan that was included with the application. The Appellant also noted that on the original document that was submitted with the Building Permit Application, the word "Shed" is handwritten next to that square. This word, however, is not visible on the corresponding scanned documents provided to the ZBA for this appeal. The wording "120 shed" is also handwritten near the bottom of the application's Check List page, and it appears to be part of a list of surface area coverage calculations. Architectural designs for the proposed addition are included with the Building Permit Application; however, there are no designs or sketches included for a shed. During the site walk, it was seen that the placement on the property of the shed in question does not match the location of the hand drawn square on the Mortgage Loan Inspection Plan in the application. During the meeting, the CEO indicated that Building Permit 2022-113 did not include permitting for a new shed on the property. The CEO also indicated that this statement was supported by the amount of fees that were charged with the Building Permit, and how they coincided with the work being permitted, which he reiterated, did not include a shed.

Based on its review of Building Permit 2022-113 and the corresponding Building Permit Application, and also in consideration of the information provided by the Appellant and the CEO, the ZBA

acknowledges that the word "shed" is referenced in the application up to 2 times; however, those references did not translate to an actual permit request in the application for a new shed on the property, nor did they translate to an actual permit being issued for a new shed on the property. As such, the ZBA DID NOT reach the conclusion that Building Permit 2022-113 includes the permitting of the shed in question as asserted by the Appellant.

In bringing this appeal, the Appellant provided the ZBA with 2 basis points for the NOV to have been issued in error by the CEO:

- 1) That the Appellant did not need to obtain a permit for the structure (shed) if it was on wheels or skids.*
- 2) That the shed had been previously permitted under Building Permit 2022-113.*

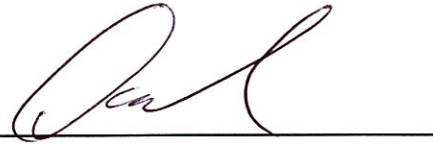
In its consideration of the Appeal, the ZBA has reviewed each of these points, and it finds that the Appellant HAS NOT met, on either of these points, the burden of proof that is required for the ZBA to grant the Appellant its administrative appeal.

Decision:

Based on the above Findings of Fact and Conclusion of Law, the ZBA voted to **DENY** the Appellant its administrative appeal regarding a Notice of Violation issued on August 7, 2024, by Chris Hanson, Raymond's Code Enforcement Officer (CEO), to Sheena-Jo Randall in which the NOV is indicating that a shed had been installed on the property without a permit.

ZBA Vote:

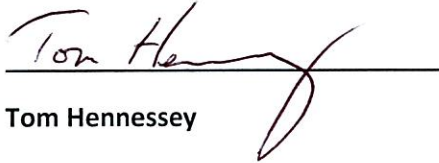
- Grant: 0
- Deny: 4 (TH, PL, FM, DM)



David Murch

10-1-2024

Date



Tom Hennessey

10/1/2024

Date



Fred Miller

10/1/2024

Date



Pete Lockwood

10/1/2024

Date