

**DRAFT
APPEALS BOARD
Public Hearing
MINUTES**

Monday, August 31, 1998

Attendance: Lawrence Murch, Acting Chairman; Robert Fey; Steve Swick; Michael Higgins; Peter Leavitt; Jim Stephenson; and Jack Cooper, Code Enforcement Officer.

1. Call to order. Lawrence Murch opened the meeting at 7:05 pm at the Town Hall.
2. Elect a Chairman.

NOMINATIONS: Michael Higgins nominated Peter Leavitt as chairman. Seconded by Steven Swick.

NOMINATIONS CLOSED: Since there were no other nominations Mr. Murch declared that nominations cease.

VOTE: Unanimous.

3. Minutes
 - a. June 29, 1998
 - b. August 3, 1998

MOTION: Michael Higgins motioned to waive the reading of the Minutes. Seconded by Jim Stephenson.

VOTE: Unanimous.

4. William C. Watts, Jr. Map 39, Lot 30 17 South Shore Road
Seeking a Variance for setbacks to build a deck.

DISCUSSION: Mr. Watts explained that they wanted to keep the building symmetrical by using what was a brick patio. Alvin Morrison, abutter, said he had no objections but wanted it done properly. Noted that the previous owners had pushed the lawn edge onto their neighbor's property. He said the deck would have to be contoured so that it fit the property line. Mr. Higgins questioned what the setback should be. Mr. Leavitt thought it was about one foot. Mr. Morrison asked that it be further from the line, possibly no further than the shed location. There were none in opposition.

MOTION: Michael Higgins motioned that the deck could be build from the edge of the shed and no closer than six (6) feet from the property line from the end of the deck. Seconded by Steve Swick.

VOTE: Unanimous.

DISCUSSION: Mr. Higgins noted that this was extreme circumstance in that the new owners didn't get all of the land that they thought they had purchased.

5. Minna Noone Map 56, Lot 14 28 Merrill Road

Seeking an Administrative Appeal to retain an existing dock.

DISCUSSION: Mrs. Noone explained that she thought that the contractor who built the deck had taken care of the building permit. She continued that this deck is for the use of her incapacitated sister who visits. Her sister has Downs Syndrome and is legally blind which makes her unsteady on her feet and dangerous in walking on the moving dock. Janet Shur, neighbor, said she had known the family for 50 years and that this extension didn't interfere with their property and was necessary for a handicapped person. Bruce Nelson sent a letter dated 8/28/98 in support. Robert Grondin, neighbor, was in favor. George Kelley, neighbor, was in favor. There was no one in opposition. Mr. Swick said he was in favor of making buildings handicapped accessible. Mr. Leavitt asked if this was classified as a dock or deck. Mr. Cooper replied that this would be a deck because no boat would be attached. Mrs. Noone said they intended to sit on it and not tie the boat to it. There was discussion about the floating dock at the end of the dock system. Mr. Higgins questioned whether this was a deck or a dock and which indicators are for setbacks. Mr. Grondin noted that this will be taken out in the winter with the rest of the dock. Mr. Cooper reviewed the ordinance and State laws. Mr. Leavitt said the Appeals Board must control the docks into the lakes and said that there was an existing patio.

MOTION: Peter Leavitt motioned that the application be denied. Seconded by Michael Higgins.

VOTE: 4 in favor (Leavitt, Stephenson, Higgins, Murch) 1 opposed (Swick)

NOTE: Mr. Leavitt suggested that a letter go to the local dock builders along with a copy of our ordinance.

MOTION: Michael Higgins motioned that the deck/dock be removed no later than December 1, 1998. Seconded by Robert Fey.

DISCUSSION: Mr. Leavitt informed them that the Appeals Board could waive any application fees for a re-application.

VOTE: Unanimous.

6. Thomas DeLuca Sr. Map 76, Lot 31 56 Thomas Pond Terrace Road

Seeking a Variance for setbacks for a deck.

DISCUSSION: Mr. DeLuca explained that they needed the deck for his wife who is 70% disabled and legally blind. He said the neighbors were in favor. There were no speakers for or against the proposal. Mr. Swick asked if they were going to put on a porch. Mr. DeLuca replied they would put on their existing steps and would like an 8 foot by 8 foot deck and put the stairs away from the house on the side. Mr. Leavitt noted that the house was 25 feet from the water. Mr. Higgins asked why they didn't put a ramp from the house to their patio. Mr. DeLuca said they would

prefer something that would allow her to move around for as long as she can by herself. He continued that he felt his request was not as non-conforming as his neighbor's deck.

MOTION: Robert Fey motioned to deny the application due to a lack of ordinance hardship. Seconded by Michael Higgins.

VOTE: Unanimous.

7. Harry & Judith Monahan Map 4, Lot 2 29R Turtle Cove Road

Seeking a Variance to build a free-standing in-law apartment.

DISCUSSION: Mike White introduced himself as the new owner of the property and showed an aerial photograph of the property. He said they wanted to use the garage as an apartment for his mother-in-law. He said the distance and position of the garage did not make attaching it to the main house feasible. He added there was a four foot difference in elevation between the garage and house. Harry Monahan said that there was no one close enough to be a problem. There were no speakers for or against this application. Mr. Murch asked how much acreage he had. Mr. White replied 2.7 acres. Mr. Higgins asked why the ordinance didn't allow this. Mr. Cooper explained that two dwellings couldn't be built on one lot without enough lot square footage. Mr. White said that the breezeway necessary for attachment would be more than 36 feet long. He was not opposed to a deed restriction. Mr. Leavitt asked if this would be under the 40% restriction. Mr. Cooper thought it would. Mr. Leavitt felt he leaned toward this because Raymond didn't have elderly housing available.

MOTION: Steven Swick motioned to approve as a free-standing apartment with the conditions and 1) the rest be in compliance with the ordinance; 2) that it be occupied only by a legal relative and not be rented. Seconded by Jim Stephenson.

VOTE: Unanimous.

8. Kevin & Vicki Moulton Map 39, Lot 35 Kings Grant Lot #5

Seeking a Variance for setbacks to build a house.

DISCUSSION: Mr. Moulton said that he would like to build his home in the same direction as the rest of the houses. He said the plan puts the house 20 feet from the roadway. Arthur Prentice, neighbor, said he was in favor of this variance. John Baird, neighbor, was in favor. Richard Morris, neighbor, was in agreement because years ago the setback was set up as 12 feet. Jim Wallace, neighbor, was in favor of improvement of the lot. Mr. Moulton continued that the common land at the front of the lot would give the lot extra setback. There were no speakers against the variance. Mr. Fey asked what the setback would be. Mr. Cooper replied 6 feet but with the common land it would be 48 feet from the road. The property line to the house would be 24 feet.

MOTION: Michael Higgins motioned to grant the variance. Seconded by Robert

Fey.

VOTE: Unanimous.

9. Robert & Suzanne Foley Map 69, Lot 60 125 Wild Acres Road

Seeking an Administrative Appeal for denial of a building permit to replace a house.

DISCUSSION: Mr. Cooper informed the Board that after their last application they could come before the Board if they had new information to present. Paul Lawrence represented the Foley's with Mrs. Foley being in attendance. He presented a diagram of their property. He said that Patrick Cayer surveyed the property and found that the assumed property was in part the road right of way where they planned to put their septic system which they thought was their parking area. He continued that they couldn't put a 30% expansion with the new figure or even the same size of the existing house. Mr. Leavitt reviewed the minutes of the previous meeting. Mr. Lawrence said the new septic would be 5 feet from the line and 15 feet from the existing structure. He handed in drawings of the site. Mr. Cooper explained that the road association could allow use of the right of way for a septic but they denied the Foley's request. Mr. Lawrence indicated that with the new survey the setbacks would be 2.5 feet and 14 feet.

MOTION: Michael Higgins motioned that they had new evidence to consider this application again. Seconded by Jim Stephenson.

VOTE: Unanimous.

DISCUSSION: Mr. Lawrence said they were not asking for seasonal conversion at this time. He said that there was only one issue for an Administrative Appeal. Mr. Higgins asked for a copy of the survey. Mr. Lawrence said a small copy of on page 6 of the packet. Mrs. Foley explained that the current building is 50 years old and in needs of repairs especially the roof from the Ice Storm of '98. She said they had plans to rebuild in the future for a summer retirement home but felt it was more cost efficient to build now instead of repairing the old building and then tearing it down in a few years. Mr. Lawrence said that the foundation would not be living space. He said the lot would not become more non-conforming with this change. Mr. Cooper asked the existing square footage of the lot. Mr. Lawrence - 7,938 square feet. There was discussion of seasonal conversion requirements. Mr. Cooper noted that the ordinance total area is 15% of the lot which would only allow 1190 square feet. The Appeals Board can allow another 5% or in this case allow up to 1587 square feet and the application asked for 1573 square feet. The existing building is 1210 square feet. The back setbacks of the building would be 15 feet and the sides 16 feet and 5 feet with the setback to the lake 30 feet. His position was that they could put the building at 30% expansion and allow no less than 40 feet from the lake. Mr. Cooper said that if they can't meet all the requirements than they shouldn't get the 30% expansion and keeping all the setbacks as conforming as possible. Mr. Lawrence felt that Mr. Cooper's definition kept them from being allowed to use their 30% expansion allowance. Mr. Cooper added that decks are a part of the footprint but not a part of the square footage. Mr. Lawrence noted that if

the back landing is 1.5 feet from the line than they would move the front of the building back 1.5 feet. Mr. Higgins asked what the total coverage would be. Mr. Lawrence said it would fall within the 20%. Mr. Higgins asked what the hardships were and felt that this 20% coverage required a variance. Mr. Lawrence said they would not allow the 30% expansion and make the present structure non-conforming. The land lost in the survey was impervious surface and this would not add more than what has been there. He said that protection of the lake would be sought. Mr. Lawrence asked if the variance was not given what would it do to the Administrative Appeal. Mr. Cooper replied that if it is denied than they would only be able to use the existing square footage. Mr. Leavitt noted that the land was non-conforming when they purchased it. Mr. Lawrence agreed but said that if they reconstructed on the same footprint they could remain with the same setbacks. He took issue with using the hardship criteria as a reason for denial. Mr. Leavitt said that this was primarily to protect the lakes.

MOTION: Peter Leavitt motioned to grant the application for Administrative Appeal that the distance from the lake be not less than 30 feet , that the back of the structure be not less than 15 feet from the septic and the sidelines of 5 feet and 16.5 feet be adhered to and that they adhere to all distances subject to the ordinance. Seconded by Jim Stephenson.

VOTE: 3 in favor (Leavitt, Murch, Stephenson) 2 opposed (Swick, Higgins)

DISCUSSION: Mr. Stephenson asked the applicant if they would like time to prepare for their hardship argument. Mr. Lawrence replied yes.

RECESS: Peter Leavitt recessed the meeting at 9:27 pm.

RE-OPEN MEETING: Mr. Leavitt re-opened the meeting at 9:31 pm.

DISCUSSION: Mr. Lawrence said that they believe that the code allows for 5% over the 15% expansion and historically the problem must not have been created by the applicant.

MOTION: Peter Leavitt motioned to deny the variance for lot coverage based on the inability to meet the four points of the hardship requirements.

VOTE: 3 in favor (Leavitt, Swick, Higgins) 2 opposed (Murch, Stephenson)

MOTION: Steven Swick motioned to approve the Minutes of June 29, 1998 and August 3, 1998. Seconded by Lawrence Murch.

VOTE: Unanimous.

NEXT MEETING: The next meeting will be September 28, 1998 with the Site Walk on September 20, 1998 at 10:00 am at the Town Hall if there is any business.

ADJOURNMENT: Peter Leavitt adjourned the meeting at 9:36 pm.

Respectfully submitted,

Louise H. Lester
Secretary