

**TOWN OF RAYMOND
401 Webbs Mills Road
Raymond, Maine 04071**

ZONING BOARD OF APPEALS

Public Hearing

MINUTES

Monday, June 26, 2000

ATTENDANCE: Peter Leavitt, Chairman; Aurel Gagne; Michael Higgins; Jim Stephenson; Robert Fey; and Jack Cooper, Code Enforcement Officer.

PUBLIC ATTENDANCE: M. & B. Rickett; Emile LaBrecque; Cora; Allison & Richard Allen; William & Joan Shoals; Paul & Debbie Johnson; Walt & Toni Spinner; Martha & Lillian Murray; Gerry Guenther; Julie Boucher; Bill Fontaine; Daniel Bernard; Ronald E. Giroux, Sr.; Joy Giroux; Carl & Alice Condon; Mike Risbara; Rachel & Joseph Sarna, Jr.; Jonathan Korda; Bill Coppersmith; Valerie & Keith Stiles; Yvette Washburn; Louis Eglody; Alice & Richard Mollden; Carla & Richard Groves; Robert & Marc McCrillis.

Call to order. Peter Leavitt called the meeting to order at 7:06 p.m. at the Town Hall.

Consideration of previous Minutes dated May 22, 2000.

MOTION: Robert Fey motioned to approve the minutes of May 22, 2000 as written.
Seconded by Jim Stephenson.

VOTE: Unanimous.

Agenda Adjustment.

MOTION: Peter Leavitt motioned to move item 4 on the Agenda up to item 3 as the Johnson request is not related to the other agenda items pertaining to Indian Point Campground.

4. Paul & Debbie Johnson Map 78 Lot 52 3 Shore Rd.

Requesting a lot setback reduction to construct a shed.

DISCUSSION: Mr. Johnson addressed the Board with a description of the placement of a proposed 12' x 12' storage shed. Mr. Johnson stated that due to the small size of the lot, he would have to place the shed within 10' of the property line.

Mr. Cooper confirmed Mr. Johnson's statement.

There was no one present in favor or in opposition to the request.

MOTION: Michael Higgins motioned to grant the request for lot setback reduction not less than 10' from the property line. Seconded by Aurel Gagne.

VOTE: Unanimous.

4. Emile G. LaBrecque Map 52 Lot 55 Indian Point Campground

Requesting a variance to retain an existing screen room.

DISCUSSION: Mr. LaBrecque addressed the Board to explain that the lot is too narrow and he cannot push the screen room back anymore.

John Korda spoke in favor of the request. There was no one present in opposition.

Mr. Higgins requested clarification that the screen room is located 60' to the high water mark and asked Jack Cooper if the room could be moved back. Mr. Cooper responded that it could not as the lot is only 77' deep.

Mr. LaBrecque indicated that the screen room was built five (5) years ago.

Mr. Higgins asked Jack Cooper if building permits are required. Mr. Cooper responded that a building permit is required. Mr. LaBrecque stated that he had tried to get a building permit from Mr. Hawkes.

Mr. Leavitt explained the process necessary for a building permit. Mr. Leavitt stated that Mr. LaBrecque had created his own hardship by building without a permit. Mr. Leavitt then asked Mr. Cooper if the square footage of the room is greater than 30%. Mr. Cooper indicated that it is greater than 30%. Mr. Leavitt then explained the 30% expansion rule for the benefit of the public. Mr. Leavitt clarified that there were two issues in this case, a structure is encroaching on the lake and the 30% expansion rule has been exceeded. Mr. Leavitt asked Mr. LaBrecque if the property would retain its resale value. Mr. LaBrecque responded that it would not. Mr. Leavitt asked Mr. LaBrecque if he had purchased the trailer without a screen room. Mr. LaBrecque responded "yes".

Mr. Leavitt stated that when the site walk was conducted Mr. Baker of the Department of Environmental Protection (DEP) was very clear regarding a temporary structure vs. a permanent structure.

Ron Giroux of Indian Point stated that the Condo Association told them it was OK to build without a permit. Mr. Giroux also stated that he didn't know when or where or how but 53 people thought they didn't need a permit.

Bob McCrillis asked if the Board had considered using an administrative appeal to override the variance and consider all cases as a group. Mr. Leavitt then gave a description of the difference between a request for variance and an administrative appeal.

Mr. Higgins indicated that he did not feel that an administrative appeal would hold much promise as the Board would have to find that Mr. Cooper had made a mistake and he didn't see any evidence of Mr. Cooper being in error. Mr. Leavitt explained that with an administrative appeal, if Mr. Cooper is correct and the structure won't meet the ordinance requirements then the applicant could apply for a variance on the basis of hardship. If a variance is denied, the applicant must wait 12 months to reapply for an administrative appeal.

Mr. McCrillis suggested taking the matter to the Planning Board or the Board of Selectmen. Mr. Leavitt responded that in 1988 the Planning Board granted subdivision approval and that this is a Shoreland Zoning Issue and not about a subdivision as the issue is that the structures are encroaching on the lake and in some cases, the 30% expansion rule has been exceeded.

Mr. Leavitt requested photographic evidence prior to 1988 that can be documented for the July 31st meeting.

Joe Sarna of the Executive Board at Indian Point read an excerpt from the declaration of condominium dated 1987.

Mr. Leavitt stated that the burden of proof lies with the applicant and that photographs

showing preexisting structures prior to 1988 would be helpful. Mr. Leavitt also stated that at the site walk he noted that a lot of permanent structures that were less than five (5) years old.

Mr. Cooper stated that many decks at Indian Point are now covered decks. Mr. Leavitt responded that it is the Board's policy that once covered, a deck ceases to be a deck. Mr. Leavitt also stated that the Board does not feel that this situation has arisen out of an effort to circumvent the ordinance.

Marjorie Giroux asked Jack Cooper if you could apply for a permit after the fact. Mr. Cooper confirmed that this could be done.

A member of the public stated that the tax assessor had measured the structures and didn't say anything about being in violation.

Mr. Leavitt asked the Board if it would be advisable to move to executive session to clear up the issue of sequence for a later appeal when filing and administrative appeal.

MOTION: Peter Leavitt motioned to enter into executive session for legal consultation.
Seconded by Jim Stephenson.

VOTE: Unanimous.

EXECUTIVE SESSION 7:59 P.M.

MOTION: Peter Leavitt motioned to return from executive session at 8:27 p.m. Seconded by Robert Fey.

VOTE: Unanimous.

EXECUTIVE SESSION CLOSED 8:27 P.M.

Mr. Leavitt offered Mr. LaBrecque the opportunity to continue with his request for variance or to withdraw his request and opt to apply for an administrative appeal to be heard now or filed by June 30, 2000 and be heard at the July 31, 2000 Appeals Board Meeting. Mr. Leavitt explained to Mr. LaBrecque that he would not be waiving his right, if his administrative appeal were denied, to file for a variance as long as he makes the filing within the constraints of the deadline. Mr. Leavitt stated that there would be no additional fees if Mr. LaBrecque changes from a variance request to an administrative appeal. Mr. Leavitt further explained that if the appeal is denied there would be no application fee to file for a variance and that if the administrative appeal is denied, Mr. LaBrecque should be prepared, at that time, to go forward with a request for variance. Mr. LaBrecque withdrew his request for variance and indicated that he will file for an administrative appeal by June 30, 2000 to appear on the July 31, 2000 agenda. Mr. Leavitt stated that this process would hold true for all of the applicants at this meeting.

MOTION: Mr. Leavitt motioned to offer the applicants at the meeting the opportunity to continue with their request for variance or to withdraw their request and opt to apply for an administrative appeal and be heard now or file by June 30, 2000 and be heard at the July 31, 2000 Appeals Board Meeting. The applicants would not be waiving their rights, if their administrative appeal were denied, to file for a variance as long as they make the filing within the constraints of the deadline. There would be no additional fees if the applicants change from a variance request to an administrative appeal. If their appeal is denied, there will be no

application fee to file for a variance and the applicants should be prepared, at that time, to go forward with a request for variance. Seconded by Robert Fey.

VOTE: Unanimous.

Mr. Cooper suggested that the applicants on the July 31, 2000 agenda should be also be allowed to file an administrative appeal.

5. William Coppersmith Map 52 Lot 67 Indian Point Camp Ground

Requesting an administrative appeal to retain a temporary deck less than 100' from a wet land.

DISCUSSION: Mr. Coppersmith stated to the Board that he feels Mr. Cooper is wrong as his deck was built in three sections so that he could bring it to Jackman, Maine on a trailer.

Allison Allen spoke in favor of the decks and stated that she understood from the Planning Board meetings (in 1988) that decks would be permitted.

Mr. Coppersmith further stated that he does not believe a building permit is needed for his deck.

Mr. Leavitt explained to the public that this is a process and that the Appeals Board is not an arbitrator. Mr. Leavitt suggested that a meeting with the Town Manager, the Code Enforcement Officer and the Board of Directors would be appropriate. Mr. Leavitt further explained to the public that an administrative appeal questions the Code Enforcement Officer's interpretation of the ordinance.

Mr. Korda reiterated that Mr. Coppersmith has the ability to withdraw and arrange a meeting session with Jack Cooper. Mr. Leavitt stated that in this case Mr. Coppersmith could not withdraw but could ask for a continuance.

Mr. Cooper requested that he be able to meet with the Indian Point Board of Directors first and then the individual owners afterward.

Mr. Korda stated that the violations were issued on an individual basis and not as an association.

There was no one present in favor or in opposition to Mr. Coppersmith's administrative appeal.

There were no further questions or comments from the Board.

Mr. Coppersmith indicated that he would like a continuance to the July meeting.

MOTION: Mr. Leavitt motioned to continue Mr. Coppersmith's administrative appeal to the July 31, 2000 meeting. Seconded by Jim Stephenson.

VOTE: Unanimous.

6. Carl & Alice Condon Map 52 Lot 67 Indian Point Camp Ground

Requesting a variance to retain an existing screen room 93' from the high water mark.

DISCUSSION: Mr. Condon requested a continuance. Mr. Condon requested Jack Cooper

come and re-measure the distance to the high water mark.

MOTION: Peter Leavitt motioned to continue the application to the July 31, 2000 meeting.
Seconded by
Jim Stephenson.

VOTE: Unanimous.

7. Gerry Guenther and Julie Boucher Map 52 Lot 71 Indian Point Camp Ground

Requesting a variance to retain a temporary deck less than 100' from the high water mark.

DISCUSSION: Mr. Guenther requested an administrative appeal.

MOTION: Peter Leavitt motioned to continue the Guenter/Boucher application to the July 31st meeting.
Seconded by Jim Stephenson.

VOTE: Unanimous.

Mr. Cooper stated that the applications could be mailed if they are postmarked by June 30, 2000.

Mr. Leavitt explained the process to continue to the July meeting and asked the applicants to come prepared with the four points of hardship so that they can go forward with a request for variance if their administrative appeal is denied. Mr. Leavitt suggested that the applicants come prepared for both an administrative appeal and a request for variance.

MOTION: Peter Leavitt motioned that, due to the upcoming holiday, the Board would extend the submission deadline from June 30, 2000 to July 8, 2000. Seconded by Robert Fey.

VOTE: Unanimous.

Mr. Fey suggested the applicants come prepared with evidence or documentation to prove their appeal.

Mr. Leavitt stated that a lack of evidence would make it difficult to prove their case and suggested the applicants take pictures for future reference to evidence what exists in the year 2000.

Mr. Gagne suggested having the meeting at the Jordan Small School in July due to the lack of space at the Town Office.

9. Adjourn.

MOTION: Robert Fey motioned to adjourn the meeting. Seconded by Aurel Gagne.

VOTE: Unanimous.

ADJOURNMENT: Peter Leavitt adjourned the meeting at 9:10 p.m.

The next meeting of the Raymond Zoning Board of Appeals is scheduled for July 31, 2000 at 7:00 p.m. at the Jordan Small School Cafeteria. A site walk is scheduled for Sunday, July 23, 2000, 10:00 a.m. at the Raymond Town Office.

Please call Peter Leavitt or Jack Cooper if you are unable to attend on these dates.

Respectfully submitted,

Elisa A. Trepanier
Recording Secretary