

TOWN OF RAYMOND

401 Webbs Mills Road
Raymond, Maine 04071

ZONING BOARD OF APPEALS

Public Hearing

MINUTES

Monday, April 30, 2001
7:00 P.M. at the Town Office

ATTENDANCE: Peter Leavitt, Chairman; Aurel Gagne; Michael Higgins; Lawrence Murch; and Jack Cooper, Code Enforcement Officer.

1. Call to order. Peter Leavitt called the meeting to order at 7:05 p.m.

2. Consideration of previous minutes dated February 26, 2001.

MOTION: Aurel Gagne motioned to accept the minutes as written. Seconded by Lawrence Murch.

VOTE: Unanimous.

3. Tainter, Joan H. Map 71 Lot 6 1 Wawenock Drive

Requesting an administrative appeal to enclose a porch.

DISCUSSION: Mrs. Tainter offered an explanation of her request. Mrs. Tainter made reference to the photos she had previously supplied to the Board pointing out the fieldstone foundation underneath the existing porch. Mrs. Tainter stated that the cottage was built in 1929 and has been owned by her family since 1930. Mrs. Tainter explained that the porch roof is the floor of the second story and is not an addition. Mrs. Tainter then displayed photos from the 1940's, which show the porch with screens in place.

Mr. Cooper stated that the recent addition to the structure used up the 30% expansion allowance and that enclosing the porch would create additional volume. Mrs. Tainter responded that her builder had said that enclosing the porch would create an additional 12.8% in volume.

Mr. Leavitt explained that the request is for an administrative appeal, not a variance request to exceed the 30% rule.

Mr. Higgins stated that he doesn't see that the code allows the Board to permit what is being asked. Mr. Higgins further stated that he feels the interpretation of the Code Enforcement Officer is accurate.

Mrs. Tainter confirmed that the porch would be used as living space if enclosed.

Peter Leavitt clarified with Jack Cooper his definition and interpretation of the ordinance whereby the 30% allowance had been used, therefore, there is a limitation on expanding any further. Mr. Cooper further clarified that, had the 30% not been used, Mrs. Tainter could enclose the porch because the upstairs bedroom area is enclosed which is equal to the front of the porch so that Mrs. Tainter would not be encroaching toward the lake with the enclosure.

Mr. Leavitt then explained the 30% rule and the Appeals Board's inability to allow an expansion exceeding 30%.

A discussion followed regarding the interpretation of the DEP vs. the interpretation of the Appeals Board.

Mr. Cooper indicated that Mrs. Tainter could enclose part of the porch by the remaining volume percentage provided it does not exceed 30%.

MOTION: Michael Higgins motioned to deny the administrative appeal for the reasons previously stated and based upon the Board's interpretation of the 30% volume rule. Seconded by Aurel Gagne.

DISCUSSION: Mr. Murch asked if Mrs. Tainter could come back with a variance request. Mr. Cooper stated that Mrs. Tainter would have to wait one year to come back before the Board with a variance request.

VOTE: Three (3) in favor. One (1) abstain.

Mr. Leavitt stated that the Board would uphold the decision of the Code Enforcement Officer in this case.

4. Kelley, James E. Map 68 Lot 32 60 Papoose Island Road

Requesting a variance to enlarge a deck within the 100' of the high water mark.

DISCUSSION: Mr. Kelley presented a brief family history of the property. Mr. Kelley then addressed the four points of hardship as follows:

1. Mr. Kelley has inherited the property from his father who recently passed away and, therefore, he will not be selling the property as it has sentimental value. Mr. Kelley further explained that a deck is part of the compliment of the property and that the lack of a deck would affect the return;
2. The variance is due to the unique circumstances of the property and not the neighborhood. Mr. Kelley stated that they are clearly within the distance of the shore; the existing jalousie windows extend into space;
3. A deck will not alter the locality as both abutting properties have decks;
4. The hardship is not a result of an action taken by the applicant but a replacement of the structure that was on the camp.

Mr. Kelley then displayed photos of the property.

Scott Kelley, Jim Kelley's son spoke in favor of the variance request. Scott Kelley indicated that the jalousie windows protrude 15" when opened.

There was no one present to speak in opposition to the request.

Mr. Cooper stated that a larger deck would be an encroachment toward the lake than the previously existing stairway. Mr. Cooper further stated that Mr. Kelley hasn't used up any of his 30%.

Mr. Leavitt stated that he feels the applicant meets the requirements for items two and three. Mr. Leavitt further stated that, relative to item four, Mr. Kelley is not simply replacing what was there before and that what he is asking for is in addition to that. Mr. Leavitt explained that, relative to item one, a reasonable return doesn't mean a maximum return and that not having a deck area wouldn't allow top dollar, but would allow a reasonable return on the property.

MOTION: Aurel Gagne motioned to deny the request for variance based upon its encroachment on the lake and based upon the applicant being unable to meet the criteria for the first element of hardship. Seconded by Michael Higgins.

VOTE: Unanimous.

5. Morse, Wayne Map 54 Lot 61 2 Caton Road

Requesting a set back reduction from the rear property line.

DISCUSSION: Mr. Morse offered an explanation of the proposed expansion explaining that the addition would be used for storage. Mr. Morse indicated that the existing garage is 42 x 28 and the proposed addition would be 16 x 24.

Aurel Gagne, abutter, indicated that he had no objection to the set back reduction request.

Mr. Morse stated that the lot behind him is a vacant lot with a septic system on it.

MOTION: Lawrence Murch motioned to grant the request for set back reduction not to be closer than 15' from the property line. Seconded by Michael Higgins.

VOTE: Unanimous.

6. Other business.

- a. Notices of Violation – Mr. Cooper explained the bases for the three notices of violation that were recently issued in accordance with the newly adopted Junk Yard and Automobile Storage Lot provisions of the Land Use Ordinance. Mr. Cooper indicated that the recipients have five months to clean up and bring their property into conformance. Mr. Leavitt

confirmed with Mr. Cooper that the established fine is \$100 per day.

b. Mr. Leavitt asked if the Board could request the Code Enforcement Officer make a number of visits to Indian Point Campground in the course of the year to avoid problems incurred in the past. Mr. Cooper responded that he is currently doing this anyway. Mr. Cooper indicated that Indian Point is in the process of changing their by-laws to restrict owners from building without proof of a permit.

MOTION: Peter Leavitt motioned that the Zoning Board of Appeals request the Code Enforcement Officer make regular annual visits to Indian Point in order to provide guidance to the property owners as to what is required. Seconded by Aurel Gagne.

VOTE: Unanimous.

c. Map 8, Lot 58 – Kline, skate park and pool. Mr. Higgins inquired as to the status of Map 8, Lot 58 and whether or not the Code Enforcement Officer could visit the property. Mr. Cooper responded that he could visit the property under the plain view law.

d. Fielder – Mr. Leavitt inquired as to the status of the Fielder lawsuit. Mr. Cooper responded that the Fielder's are suing the Town and himself.

7. Adjourn.

MOTION: Aurel Gagne motioned to adjourn the meeting. Seconded by Michael Higgins.

VOTE: Unanimous.

ADJOURNMENT: Mr. Leavitt adjourned the meeting at 8:12 p.m.

Respectfully submitted,

Elisa A. Trepanier
Recording Secretary