

**Town of Raymond
401 Webbs Mills Road
Raymond, Maine 04071
207-655-4742**

**ZONING BOARD OF APPEALS
MINUTES
Monday, July 28, 2003**

Attendance: Peter Leavitt, Chairman; Michael Higgins; Lawrence Murch; Michael Schaefer; Aurel Gagne; Geoff Hole, Town Attorney; and Jack Cooper, Code Enforcement Officer.

1. Call to order.

Peter Leavitt opened the meeting at 7:05 pm at the Town Office.

2. Consideration of minutes dated July 9, 2003

MOTION: Michael Schaefer motioned to approve the minutes as written. Seconded by Lawrence Murch.

VOTE: Unanimous.

3. Hearings

a. Map 70, Lot 4 – LRR2 District

15 Hollister Point Road

Justin Kittredge

Administrative Appeals of Shoreland zoning Ordinance, Section 12. Non-conformance – replacement of non-conforming structure

DISCUSSION: Mr. Kittridge asked that he be allowed to repair the original structure for storage use. Bob Hood, 15 Hollister Point Rd., said that he was in favor of this work. There were no speakers opposed. Mr. Higgins asked the reason for denial. Mr. Cooper explained that the building was in very bad repair and the ordinance declares that if more than 50% of the market value is lost the building must be repaired within one year or the building has to be built so that it is more conforming. Mr. Leavitt had a question about the definition of “market value” in consideration with replacement value and historical value. He reiterated he believed the repair should have been done within one year of the destruction but felt that this disrepair had happened over many years of neglect. He felt this ordinance allowed for buildings which had been destroyed by fire, flood etc. He asked if this building could be relocated so that it is closer to conforming? Mr. Kittridge said that the present location was very convenient but that it could be moved. The lot is 3 acres in size. Mr. Kittridge asked and received a copy of the ordinance. Mr. Hooper asked if all abutters agreed to the present location, could the Board allow it to stay at this location? Mr. Leavitt said that abutter agreement was helpful but it didn’t necessarily warrant Board approval. Mr. Gagne asked how long he had owned the property. Mr. Kittridge replied 2 years. Mr. Cooper noted that if the building is relocated to make it more

conforming they could enlarge it by 30%. Mr. Leavitt added that it doesn't have to be 100 feet from the lake but relocated away from the lake to the greatest extent possible. Mr. Gagne indicated that this moving would not require a variance. Mr. Schaefer asked what the damage was to the building. Mr. Cooper replied the roof over the porch was sunk in and the porch floor was destroyed. Photographs were shown. Mr. Cooper added that the assessor has the building valued at zero.

MOTION: Michael Higgins motioned to uphold the decision of the Code Enforcement Officer. Seconded by Aurel Gagne.

VOTE: Unanimous.

- b. Continued Hearing from June 30, 2003
Map 17, Lot 43 – R-LRR1 Districts
Robert Stevens
Conditional Use for addition of cabins.

Patrick Cayer, Land Services Inc., represented Mr. Stevens. Mr. Cayer informed the Board that their plan was to add ten to twelve cabins to compliment Fairpoint Lodge which has been in business since 1975 and is a day resort for functions such as weddings and corporate gatherings. They would like to add overnight accommodations for these functions. The cabins would be outside the Shoreland Zone and in the woods including the existing two cabins. Having these cabins would allow prolonged functions of more than one day. There was discussion about what restrictions might be put on their future use by the Planning Board. Their existing and proposed usage by Fairpoint should be stated. Under Article 9A Conditional Uses there are ten points to be responded to in writing. Mr. Schaefer asked if they were planning to move the current roadway? Mr. Cayer replied that the closest abutter wants the road moved away from his/her house. Mr. Stevens would consider moving the roadway and parking away from that lot. Mr. Schaefer asked about the feasibility of moving the road? Mr. Cayer replied that they didn't have a specific plan but it was possible. Mr. Leavitt asked what the minimum standards would be. Mr. Higgins asked what the expected length of stay would be? Mr. Stevens replied most functions would be less than a week and that they plan to have daily recreational activities available for the guests. Mr. Higgins had concern that they would become seasonal rentals. The existing request has no stated length of stay. Mr. Leavitt acknowledged that they would need to state a length of stay. Mr. Stevens felt it would be a week for recreation along with the meetings. Mr. Cayer added that these would be additional amenities for the functions. Mr. Stevens said he would like to have outing packages. Mr. Cayer offered that they would be two week maximum stays. Mr. Stevens felt the maximum would be seven days. Mr. Higgins asked if this was the function and outing? Mr. Stevens replied the larger functions for 200 to 300 people would be a single day but outings might be a week long stay i.e. a corporate gathering. Mr. Schaefer asked what the cabin capacity would be. Mr. Stevens - 4 to 6 people. Mr. Gagne asked if there was any grandfathering. Mr. Leavitt asked if these cabins could be made into residences. Mr. Cooper

answered that they could with subdivision approval and the minimum lot size. Mr. Leavitt didn't think that this would be a significant ecological problem. Under Article 3 A1a the expansion of this facility could only be used as the original was used i.e. if the Lodge was used for overnight accommodations. He didn't see proof of this. Town Attorney Geoff Hole referred to Chris Vaniotis's letter of May 5, 2003, that this usage was not omitted in the ordinance for some zones i.e. for hotel, motel, or inn which was allowed in the Commercial Zone. Mr. Higgins didn't agree that it was included in that definition. Attorney Hole felt that any use in the list should come before the Zoning Board of Appeals. Mr. Leavitt thought the principal structure is non-conforming because it is less than 100 feet from the water. Mr. Cayer noted that the cabins would be outside the Shoreland Zone. Attorney Hole felt they needed to establish whether the cabins would be a permitted or conditional use. He said they should focus on whether the cabins would be permitted or conditional use in the Rural Zone. He didn't believe that the cabins have to be linked to the Lodge for sleeping usage. Mr. Schaefer felt that Article 3A1a might be applicable but he didn't think it would keep them from an approval. He was more interested in Article 9A. Article 9A2 asks if the use is compatible with the uses in the zone i.e. a bed & breakfast of five units or a conversion of a residence into three units holding enough acreage for the zone. He also had a noise concern with a large group of people in residence. Mr. Cayer demonstrated the distance of the proposed cabins from the property line. Mr. Gagne asked about abutters. Mr. Stevens replied that only one had replied and was in agreement. He didn't believe the others would be a problem. Mr. Schaefer questioned Article 9A7 concerning economic impact on the abutters land value. Mr. Cayer didn't believe that it would be any different than the present use. Mr. Schaefer felt that the functions during the week and overnight might be an added problem to the abutters. Mr. Stevens said all activities would be over by late evening. Mr. Gagne wanted to know if there would be a limit on outside activities. Mr. Leavitt asked if the Department of Environmental Protection had a concern. Mr. Cooper replied that the non-conforming structure (Lodge) could not be expanded and the cabins will be outside that area. Mr. Cayer said that in Raymond the Shoreland Zone goes back 600 feet and the cabins will be outside of that. Mr. Leavitt felt that an unlisted conditional use could be approved by one line in the ordinance. However the authority of the Appeals Board does not include writing of ordinances which I feel we are doing here. Attorney Hole said that this area allows for interpretation of an ordinance that is not totally clear. Mr. Schaefer said that existing and proposed uses which are attached to Article 9A must be known by the Board so that they can make their decision. He added that the applicant must prove compliance. Mr. Cayer asked that the Board state their concerns for the owners in order for them to answer their questions and explain their plans. Attorney Hole said they should begin with the Rural Zone issues. Mr. Gagne asked if the road was public or private. Mr. Stevens replied private and though there are other lots being accessed over it, Fairpoint has always maintained it. Mr. Schaefer asked that they decide whether the cabins are an expansion of a non-conforming use.

MOTION: Michael Schaefer motioned that the Zoning Board of Appeals determine that the non-conforming use may be extended as long as it is conforming to the other parts of the ordinance. Seconded by Lawrence Murch. VOTE: 4 in favor (Schaefer, Murch, Higgins, Gagne) 1 opposed (Leavitt)

DISCUSSION: Mr. Leavitt asked to proceed to minimum standards for conditional uses.

- 1) Article 9A1 – Mr. Schaefer didn't feel that it would depart from purpose and intent of the Ordinance. Mr. Higgins had concern.
- 2) Article 9A2 – Mr. Schaefer had concern – to be continued.
- 3) Article 9A3 – Mr. Higgins felt this was an odd concept. Attorney Hole said this should be looked at as detectable at the lot boundaries. – to be continued.
- 4) Article 9A4 – Mr. Higgins said this was outside Shoreland Zone and would be included in the Planning Board Site Plan Review.
- 5) Article 9A5 – Mr. Leavitt didn't feel it would have any impact.
- 6) Article 9A6 – Mr. Schaefer felt no problem here.
- 7) Article 9A7 – Mr. Schaefer felt this was consistent with the present use. Mr. Higgins felt there would be a problem only if the function attendees "got out of control".
- 8) Article 9A8 – Mr. Higgins asked if there would be artesian wells. Mr. Cayer replied yes two wells.
- 9) Article 9A9 – Mr. Gagne thought that since it was a private road there would be no impact. Mr. Cayer said the relocation of the road would be part of solving this issue.
- 10) Article 9A10 – Mr. Leavitt stated that Site Plan Review would address this.

DISCUSSION: Mr. Leavitt asked to go back to Article 9A 2 & 3. Mr. Schaefer stated that all cabin units must be outside the Shoreland zone in the Rural District. The development must satisfy all federal, state, local, codes, laws, ordinances, rules and regulations. He continued that he would like to see occupancy of over four people since that is similar to what a motel/hotel would entertain. He would like to see larger occupancy groups which might be better controlled. Mr. Higgins concurred saying that the facility should be used by large groups which would be more than four people. He felt the Board should specify the size of the groups. Attorney Hole questioned the compatibility with the present usage. Mr. Higgins noted that the Lodge has never been used for overnight accommodations. Mr. Gagne had concern that a cabin of four people might be tied to the Lodge with one meal which moves away from a function facility to a "sporting camp". He felt that with small groups they cclerk@downeast.net]might have a daily change in activity which might prove to be a problem. Mr. Stevens replied that the functions might change daily in that they may have several functions going on simultaneously. Mr. Leavitt stated that the use of the Lodge would not change. Mr. Cooper said the use of the Lodge as a function facility would not change. Mr. Cayer indicated that the present business

at the Lodge is the sale of function packages and that the cabins would become a part of those packages. Mr. Schaefer suspected that one meal could become a part of a package, therefore there needs to be a group size denoted or number of groups allowed to inhabit the cabins at one time. Mr. Leavitt agreed. Mr. Stevens took offense that the Board was limiting his business opportunities. He felt that he owned 70 acres and should be able to use all of it. He said that if it were house lots he could use it all to the town's detriment in expense for town services. Mr. Schaefer assured Mr. Stevens that the Board was only dealing with what is allowed in the Rural Zone. Attorney Hole said that the size of the groups may be the issue. Mr. Leavitt agreed that the cabins were the issue and not the Lodge. Mr. Gagne added that the use of the cabins was the issue. His worry was that the cabins would be used like a hotel/motel which the Rural Zone does not allow. Mr. Higgins suggested limiting the occupancy of the cabins to 20 people as a part of a group for use of the cabins. This would be more than a "pickup" group. Mr. Leavitt acknowledged that this would allow three functions at one time to use the cabins. Mr. Leavitt reiterated that this format was trying to keep the number large enough to protect the zone. Mr. Schaefer had concern that the cabins would be used for off-the-road renters. He felt they might possibly limit the number of functions used at one time instead of the number of occupants. Mr. Higgins cautioned that they needed criteria which would give them something tangible and enforceable. Mr. Cayer suggested the cabin minimum being 6 people attending 6 functions. Mr. Schaefer expressed his need to see a proposal by the applicant for a specific plan which the Appeals Board could vote on. Mr. Leavitt again said the question was how to keep the cabins from becoming a motel in the Rural Zone. Mr. Higgins was not satisfied with their ability to go forward with the information given. Mr. Leavitt wanted the applicants to know that this process was not a negotiation but a vote to approve or not an applicant's submission for a request. He said the alternative was to go through the Planning Board and an annual town meeting to get a zone change for this zone. They felt they needed a motion for compatibility to the zone for the number of people allowed per cabin and/or the number of functions allowed in the cabins.

MOTION: Aurel Gagne motioned that under Article 9A2 the minimum number of people in one party will be twelve in order to book the cabins. Seconded by Michael Schaefer.

VOTE: 3 in favor (Gagne, Schaefer, Leavitt) 2 opposed (Higgins, Murch)

DISCUSSION: Mr. Leavitt asked if there were any other conditions under Article 9A2? There were none. There was brief discussion relative to Article 9A3.

MOTION: Aurel Gagne motioned that the noise level be limited during the hours of 11:00 pm to 7:00 am. Seconded by Peter Leavitt.

DISCUSSION: Attorney Hole suggested that even though Raymond does not have a noise ordinance any grievance about the noise level would entail a call to

the police for their assistance. Mr. Schaefer asked how repeated violations would be handled. Mr. Cooper replied that if the town receives multiple complaints the resolution could be a consideration of agreement with Fairpoint.

AMENDMENT TO MOTION: Aurel Gagne amended his motion to say that the definition of noise level would be “that which would not disturb a reasonable person at the property boundaries.” Seconded by Peter Leavitt.

VOTE: 3 in favor (Gagne, Leavitt, Schaefer) 2 opposed (Higgins, Murch)

MOTION: Aurel Gagne motioned to set the length of stay under Article 9A2 to have the occupancy of the cabins be not more than seven consecutive nights, that occupancy must be part of a function. Seconded by Peter Leavitt.

VOTE: 2 in favor (Gagne, Schaefer) 3 opposed (Higgins, Murch, Leavitt)

MOTION: Lawrence Murch motioned to have no restrictions on the number of nights allowed. No second.

DISCUSSION: Mr. Leavitt felt that the functions must be attached to the Lodge where catered food will be served by Fairpoint.

MOTION: Peter Leavitt motioned that the length of stay in the cabins be tied to catering in the Lodge and not exceed four nights plus the function time.

Seconded by Aurel Gagne.

VOTE: 3 in favor (Leavitt, Gagne, Higgins) 2 opposed (Murch, Schaefer)

MOTION: Peter Leavitt motioned for general conditions 1) that the twelve cabins are located in the Rural zone only, and 2) the construction of the cabins will conform to all federal, state, local, laws, ordinances, rules and regulations.

Seconded by Aurel Gagne.

VOTE: Unanimous.

MOTION: Michael Schaefer motioned to approve the application with the five conditions previously voted upon. Seconded by Leavitt.

VOTE: 4 in favor (Schaefer, Leavitt, Murch, Gagne) 1 opposed (Higgins)

c. Reconsideration Hearing continued from June 30, 2003

Map 72, Lot 8 – LRR2

40 Lombard Road

Kenneth R. Thompson

Administrative Appeals of Notice of Violation and Stop Work Order

MOTION: Aurel Gagne motioned to go into Executive Session with the Town Attorney. Seconded by Michael Schaefer.

VOTE: Unanimous.

RECESS: Peter Leavitt recessed the meeting at 9:45 pm.

MOTION: Peter Leavitt motioned to come out of Executive Session. Seconded by Aurel Gagne.

VOTE: Unanimous.

RE-OPEN MEETING: Peter Leavitt re-opened the meeting at 9:55 pm.

NOTE: Discussion with the representative for the Map 72, Lot 8 issue decided that this issue should be rescheduled.

MOTION: Peter Leavitt motioned that due to the hour the issue for Map 72, Lot 8 will be rescheduled prior to their next regular meeting with this being the only agenda item. Seconded by Michael Schaefer.

VOTE: Unanimous.

MOTION: Peter Leavitt motioned to hold the meeting for Map 72, Lot 8 on Tuesday, August 12, 2003 at 7:00 pm at the Town Office. Seconded by Aurel Gagne.

VOTE: Unanimous.

NEXT MEETING: Map 72, Lot 8 will be heard on Tuesday, August 12, 2003 at 7:00 pm at the Town Office.

4. Other Business

It was decided to table this business until the next regular meeting.

5. Adjourn

MOTION: Peter Leavitt motioned to adjourn. Seconded by Lawrence Murch.

VOTE: Unanimous.

ADJOURNMENT: Peter Leavitt adjourned the meeting at 10:04 pm.

Louise H. Lester
Town Clerk