

DRAFT MINUTES
Town of Raymond Zoning Board
401 Webbs Mills Road
Raymond, Maine 04071

Tuesday, August 12, 2003
7:00 PM- Town Hall

Board members present: Peter Leavitt (Chair), Michael Higgins, Matthew Schaefer, Aurel Gagne, Jr.

Staff present: Code Enforcement Officer, Jack Cooper; Town Attorney, Chris Vaniotis; Amanda Simpson, Assessor's Agent; Karen Strout, Secretary

1. **Call to order** at 7:50 p.m. by Chairman Peter Leavitt.
2. **Reconsideration Hearing-Administrative Appeal** of Notice of Violation and stop Work due to violation of 30% expansion rule.

Continuance Hearing from July 28, 2003
Map 72 Lot 8 RR2
Kenneth R. Thompson
40 Lombard Road

The hearing began with Raymond's Town Attorney giving a brief explanation of the purpose of the continuance. The Superior Court had remanded this case back to the board because of gaps in the record. The appeals board was delegated to produce written findings of fact.

Mr. Kenneth Thompson had legal representation from Stephen Hayes. A court stenographer made a record of the meeting which will be available for our file.

Mr. Thompson, through his legal council, submitted several photographs of the project as well as written testimony from several to members of the board. These items are on file.

Mrs.Eleanor Lombard, an abutter, spoke positively about the project. She said she was the only abutter who sees the boathouse and that she enjoyed the improved building. The attorney led Mrs. Lombard through an affidavit (exhibit 11). Mrs. Eleanor Lombard acknowledged that she signed the document and that its contents were true to her knowledge. The original is on file.

Chris Vaniotis questioned Mrs. Lombard about her use of the boathouse. Mrs. Lombard stated that she and her husband kept a boat there until 1991. She related that there had not been any improvements on the boathouse during the time she lived in the area (1940's)

until Mr. Thompson bought the property. When Mr. Thompson bought the property the roof was in poor condition. When questioned about the present roof's height, she agreed that it was taller now, but could not give specific information. When questioned about photos of the property, she did not have any to offer and did not know of anyone else who would have had pictures.

Mr. Thompson's lawyer addressed the board regarding the alleged 30% + expansion of the structure and the expansion towards the water. He referenced several photos that were submitted to board members as well as a packet of information about the Cabana Beach Club that occupied the property in the 1920/30's. Two more affidavits were submitted: exhibit 9 from John Irving Stroud (a former owner) and exhibit 10 from Virginia Petzoldt (an abutter).

Mr. Thompson commented that this project had started as a repair, but he soon discovered that nothing was square or true with the bays. He submitted ten pictures of the property showing the property from several angles and made reference to the old foundations. These pictures are on file.

A copy of a dimensional chart made by Mr. Thompson was distributed to the board comparing what he considered the old structure's dimensions to be and those of the new structure. There was considerable discussion about footprints and volume and how each had been calculated and determined.

Mr. Thompson did concede to Jack Cooper, the CEO, that the landing on the south side of the structure did extend beyond the original structure and that it was an expansion towards the water. He stated that he was willing to remove it, to be in compliance.

The board asked for additional information from Mrs. Lombard. Chris Vaniotis questioned her about the roof over the south bay. She stated that it was very high and that there were pulleys in the eaves. She did not recall storage over the north bay. She recalled that it was lower and most of the walls were gone. A rough drawing, exhibit 16, was made to depict how the north roof came off from a taller south roof. When questioned about the floor Mrs. Lombard did not recall much of a floor. When questioned about the old foundation she stated that she saw it before Mr. Thompson's project and "he didn't go quite to the whole foundation". When questioned about the walls, Mrs. Lombard replied, "that on the north side there weren't very many walls".

Mr. Thompson was asked to describe the old building. He described it as having two parts. Both were rather large- 30 or so feet with a concrete floor having a slot over the end part shaped like an arrow. Then there was asphalt that went out of the building up the hill. The wall on the asphalt side was completely rotten. The back wall (west) was about 28'. When asked by Mr. Vaniotis about the whether or not the old boathouse measurements were taken. Mr. Thompson responded that he had not taken measurements or pictures of the old structure.

There was considerable discussion about the calculation of volume. CEO Jack Cooper stated that in the boathouse it needed to be calculated from the floor not from the foundation below the water line. Mr. Cooper went to the board and made a drawing to explain how volume should be calculated.

Jack Cooper, CEO, provided his information, exhibit 1, which included a building permit from 9/12/01 for \$2000 in repairs. His visit to the site was the result of an anonymous phone call to check out the project. He found it substantially different from the permit that had been issued in September of 2001 and from what he had recalled from his initial site visit. The structure was larger and there was expansion closer to the water. There was no DEP permit. A notice of violation to stop work was given as a result of his visit.

CEO Cooper noted the front deck and roof came out over the original wall. Jack Cooper showed an aerial photo taken prior to 2001 that showed that north bay was not covered. Another aerial photo taken by Jack Cooper and Bob Murray showed the present boathouse had covering on both bays. The boathouse 2-3 years ago did not cover the north bay. It was concluded that the north bay was not covered before 2001 and that the new structure was covered and had expanded to two distinct stories.

Chris Vaniotis questioned Mr. Cooper about his previous site visit. Mr. Cooper did not remember a second roof. He said that the building was closer to the water now. Mr. Higgins questioned about roof replacement time frames. Mr. Cooper answered that if the roof had been gone for more than twelve months, it is no longer grand-fathered. The 2001 photo did not show a roof. When questioned about the water set back ordinance, CEO Cooper answered a 20 foot set-back is needed to be in compliance. Further questioned revealed that he recalled the building height in 1996 as a single story with an estimated peak at 16'. CEO Cooper reiterated the one year restriction on rebuilding the roof and referenced 12C3 of the Town of Raymond Ordinances. He had determined the results on this project were more than a 30% expansion.

When questioned by the board Mr. Thompson stated that from the foundation up, the structure was completely new now. He incorporated very little of the old. He calculated 98% was new construction. All of the sheathing has been replaced. The repair turned into a replacement. He stated that he did not get another permit because he did all the work himself and "just kept going." When questioned about the DEP. He had not had any communication with them. Mr. Cooper stated that his contact with DEP revealed they were waiting to see how the board was going to resolve this.

While discussing the floor area of the project, the board decided to adopt standards set by State of Maine Guidelines. A motion was made by Mr. Schaefer, seconded by Mr. Leavitt, that we recognize floor area from the State of Maine Shoreline Guidelines. The vote was unanimous.

Mr. Stevens questioned Mr. Cooper about Mr. Thompson's application. He asked him if he had filled it out in his presence. He did not recall. Had he cited him for working without a permit? No. He conceded that the only notice was the notice of violation. The

topic of corrective action was brought up. Mr. Cooper mentioned that a part of it would involve removing those portions that expanded to the water. Mr. Cooper was also questioned about his site visit in 1996 and whether or not he had made specific notes. He responded that he had not made any site notes during that visit.

The following are findings of fact from the board which were made in the form of individual motions and each received a unanimous vote:

1. Recognize that the state definition of floor area in the State of Maine Shoreland Guidelines applies to the discussion. (Schaefer, Leavitt)
2. The north bay of the old boathouse did not have exterior walls prior to construction, based on testimony regarding the condition dated 1941. (Schaefer, Leavitt)
3. The floor area of the old boathouse based on the footprint measure does not exceed 712 square feet. (Schaefer, Gagne)
4. The floor area of the new boathouse, based on the footprint of boathouse floor area is not less than 1,196 square feet. (Schaefer, Higgins)
5. That the floor area of the old boathouse using a measure that takes into account both the ground floor and second floor is not greater than 1,424 square feet. (Schaefer, Higgins)
6. That the area of the new boathouse including the ground floor and second floor is not less than 2,163.2 square feet. (Schaefer, Higgins)
7. That the floor area of the new boathouse represents greater than 30% expansion over the old boathouse. (Schaefer, Gagne)
8. That the board uphold the notice of violation with regard to floor area. (Schaefer, Leavitt)
9. That the bulbous portion of the roof on the lake side, the rounded deck below and the landing on the south side beyond the normal drip edge constitutes an unpermitted expansion towards the water. (Leavitt, Gagne)

A motion was made by Higgins, seconded by Gagne based on the foregoing findings to uphold the code officer's findings. Vote was unanimous.

4. Motion to adjourn was made at 12:13 A.M.

Karen Strout
Recording Secretary