

Town of Raymond
301 Webbs Mills Road

ZONING BOARD OF APPEALS
Minutes
July 31, 2006

7:00 P.M. at the Town Hall

Members present: Chairman Matthew Schaefer, Peter Leavitt, Lawrence Murch, and Mary Picavet. Elden Lingwood and Michael Higgins were absent.

Staff present: John Cooper, Code Enforcement Officer; Karen Strout, Recording Secretary.

Call to order: Chairman Matthew Schaefer called the meeting to order at 7:07 pm.

Election of Officers: This was postponed due to the small number of members in attendance.

Approval of minutes:

The minutes of the June 5th Special meeting and the June 26th regular meeting were tabled to the August 28th meeting due to a lack of a quorum of members present at those meetings to vote on the minutes.

Correspondence:

Chairman Matt Schaefer distributed a letter from Mike Morse, Assistant Shoreland Zoning Coordinator, Bureau of Land and Water Quality of the State of Maine Department of Environmental Protection, dated July 20, 2006 regarding the Appeal granted to Julie and Charles Khuen for Map 76, Lot 6 at the June 26, 2006 meeting. At the Chairman's request this letter has been included in the record of this meeting. A copy has been attached to these minutes.

Discussion: Chairman Schaefer commented that he welcomed the guidance offered by the DEP. He stated he felt that it would make more sense to act on the letter when a quorum of members who attended the June 26th meeting were in attendance. Board member Leavitt suggested that Code Enforcement Officer should look into the progress of the Khuen project and, if possible put it on hold. Cooper stated that he would go to the site tomorrow (August 1).

MOTION: moved by Chairman Schaefer and seconded by Peter Leavitt to have Code Enforcement Officer Jack Cooper contact the Khuen's regarding the issues raised in the July 20, 2006 letter from Mike Morse of the DEP, consult with the Khuen's on the work they had begun, and to inform the Board at their August 28th meeting, at which time the Board will consider whether to put allowance on reconsideration at their next meeting. Vote was 3/1. Motion carried.

Public Hearings:

Map 69, Lot 100 LRR2

6 Bridges Lane

Joel, Ken, & Karen Williams

Administrative Appeal from Code Officer's ruling re: Sec.15, A,3 (building setbacks) of the Town of Raymond Shoreland Zoning Ordinance to allow the building of a movable deck with a screen house.

Ken Williams was present to answer questions for the Board and the Public.

There was no public comment.

Williams stated that he was requesting the screen house in order to gain visual access to the water views which had been obstructed by the trees that had grown up over time. The applicant described the structure that they had built as a 16 x 12 wooden platform with four posts which sit on rocks. There are screens that wrap around it and there is a tent-like canvas roof. They propose to use it from May through September and to disassemble it in September.

Code Enforcement Officer Cooper described it as a free standing deck. A deck that is less than 100 feet from the water, seven feet tall with a canvas roof. He further added that this was on a non-conforming lot and the structure did not meet the 100' setback requirement that was set forth in the Shoreland Zoning Ordinance, as it was 25 feet from the water. This was the basis for his issuance of a violation notice dated May 11, 2006 for erecting a deck less than the required setbacks and, erecting a deck without first obtaining a permit from the Town of Raymond.

Williams, when questioned about the placement, responded that the structure was new last year and obviously one of the neighbors had complained.

Board member Leavitt expressed concerns that, if approved there could be a "walling in" effect all around the lake with similar decks being placed near the water.

Members were in general agreement that this clearly was an accessory structure and did not fall into the category of a structure for operational necessity or other functional water uses such as a dock or pier. Consensus was that functionally the structure did not affect other water uses and was not water dependent to help them gain access to the shore. CEO Cooper added that he has permitted 4' wide steps, in some instances where there are steep slopes, to aid in the access to docks, piers, or the beach.

Board member Larry Murch asked about the purpose of the building. Williams responded that it would be used for viewing the water, playing cards, and having a drink. Murch asked whether it would work to level the ground in that area for that purpose. Williams responded that he felt that would be more disruptive (to the environment).

MOTION: moved by Peter Leavitt and seconded by Larry Murch to affirm the CEO's decision.

MOTION: moved by Peter Leavitt and seconded by Matt Schaefer to allow the applicant 45 days from this date (July 31) to remove the structure (September 14, 2006).

**Map 16, Lot 36 LRR1
33 Knapp Road
Katherine & Gilbert Earle
Requesting a variance to allow the inclusion of the square footage and volume of a bathroom/changing building in the calculations for a new winterized home.**

Katherine and Gilbert Earle were both present to explain their request to the Board. They stated that the property had been in the family for many years and the deed had recently been put in their names. They planned to retire there in a few years. The old structure was being taken down piece by piece in hopes of salvaging some of the materials. They intend to remove the present camp and the new year round building will be constructed further back on the property. They are intending to keep the old bathroom/changing building for storage, but plan to place it back further on the property. The bathroom would be removed from the changing building. CEO Cooper commented that this structure would need to be placed back beyond the 100' setback.

The Earles stressed that the biggest reason they needed the inclusion of the bathroom/changing building in the calculations for the new residence was to gain volume for a higher pitch on the roof to aid in the shedding of snowfall.

Board member Leavitt read an excerpt from the Shoreland Zoning Ordinance and commented that it was not easy to meet the hardship requirements.

The strict application of the terms of these ordinance provisions would result in undue hardship. The term "undue hardship" shall mean:

- i. that the land in question cannot yield a reasonable return unless a variance is granted;
- ii. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- iii. That the granting of a variance will not alter the essential character of the locality; and
- iv. that the hardship is not the result of action taken by the applicant or a prior owner.

After discussion of the ordinance provisions, the applicant choose to withdraw the application for a variance with plans to refile as an Administrative Appeal.

MOTION: moved by Leavitt and seconded by Schaefer to waive the application fee for a new application to be submitted by the Earles for the August 28th meeting provided all submission requirements can be satisfied.

Motion carried 4/0.

MOTION: moved by Schaefer and seconded by Leavitt to submit a copy of the letter from Mike Morse, Assistant Shoreland Zoning Coordinator, Bureau of Land and Water Quality of the State of Maine Department of Environmental Protection, dated July 20, 2006 regarding the Appeal granted to Julie and Charles Khuen for Map 76, Lot 6 at the June 26, 2006 meeting to the Town Attorney for comment with the limit of four hours of billable time.

Motion carried 4/0.

MOTION: moved by Murch and seconded by Picavet to adjourn at 9:25 pm. Vote was unanimous.

Karen Strout

Board of Appeals Secretary