



Monday, July 30, 2007

BOARD OF APPEALS
Minutes

Jordan Small Middle School Broadcast Studio
7:00 pm

ATTENDANCE: Chairman Matthew Schaefer; Lawrence Murch; Elden Lingwood; Peter Leavitt; and Mary Picavet.

MEMBERS ABSENT: Mike Higgins

STAFF PRESENT : John Cooper, Code Enforcement Officer; and Karen Strout, Recording Secretary.

OTHERS: Karen Schlegel, Scott Allen, Cynthia Bianco, Jim Allen, Alan Shepard, R.H. Fogg, Carol Fogg, Alexander Bacallao, Lizzy and Herb Poole, Elaine Wormwood, Carol J. Goodwin Locke, Ellen Goodwin Robinson, Bertha Goodwin Faulkner, Tom Smith, Annie Currier, and Rick Strout.

1. Call to order: Chairman Schaefer called the meeting to order at 7:01 pm at the JSMS Broadcast Studio.

2. Approval of minutes dated June 25, 2007.

MOTION: moved by Chairman Schaefer and seconded by Peter Leavitt to amend page 2, line 27, to read as follows: "The members agreed that the application would meet the hardship requirement, if applicable."

Vote: 5/0.

MOTION: moved by Elden Lingwood and seconded by Peter Leavitt to approve the minutes dated June 25, 2007 as amended .

Vote:5/0.

3. Public Hearings:

- a. Map 5, Lot 15 VR1
4 Eagles View Drive
Custom Built Homes of Maine/Alexander Bacallao
Requesting .3 ft. front and .6 ft. westerly corner setback reductions to accommodate roof overhang on already constructed home.

1.

Alexander Bacallao summarized the application that been submitted and stated that the reason he was there was that they had discovered during the mortgage loan inspection that the building did not meet the setback requirements for the Town of Raymond. The setback encroachments are on the left side (east) of the front elevation by 0.6 feet, and on the right side (west) by 0.3 feet.

There was no public comment offered.

DISCUSSION:

Chairman Schafer confirmed the measurements with the applicant. Boardmember Peter Leavitt asked for Code Officer Cooper to clarify the difference between a Set Back Reduction and a variance. Cooper responded that the hardship criteria would need to be met, if a variance were requested. The Board may allow up to a 20% reduction of a required setback. The applicant was asked how difficult would it be to make an adjustment to meet this ordinance. Response was it would be very hard to do this and would require structural adjustments to the building.

MOTION: Chairman Schaefer moved, seconded by Larry Murch to approve the front setback reductions requested: an easterly front setback to 24.6' (twenty-four and six tenths feet) and a westerly front setback to 24.7' (twenty-four and seven tenths feet) from the 25' (twenty-five foot) front setback required by the Raymond Land Use Ordinance.

Vote: 5/0.

b. Map 25, Lot 16 LRR1
Two Acre Island
Heirs of Carl J. Goodwin c/o Elaine Wormwood
Requesting an administrative appeal from the denial of the issuance of a building permit after the 12 month deadline for rebuilding had elapsed.

Alan Shepard, attorney for the applicant, reviewed the applicants' appeal.

Applicant Elaine Wormwood gave more background on the house, and showed pictures of the house after the fire. She mentioned that they had put in a well the next spring (2005) after permit was issued. Bertha Falkner (applicants' mother) added that in 1968 they had bought the property. Carol Locke spoke about the time line of events that happened after the permit had been obtained by her brother-in- law, Bill Robinson. Things were put off because of the weather. There was so much water they could not pour concrete. Weather was a big factor. Ellen Goodwin Robinson repeated that the weather was a problem. They did not realize that there was a time frame involved.

Attorney Shepard commented that he had looked at the Raymond Ordinance and concluded that if this property were not in shoreland zone, there would not be any provision about rebuilding. He said that he felt that the Board had the discretion to grant an extension(of time).

DISCUSSION:

Board members inquired about the setback from the water (Raymond Pond) and the possibility of relocating the structure. Response was that 15' was a generous estimate for the setback, and that the septic system prevented the camp from being any further back from the water.

Abutter Robert Fogg spoke in support of the applicants' request and emphasized that he did not feel they should be refused the permit because of the environmental issues.

8:00 pm.

Code Officer Jack Cooper told the Board that William Robinson, their brother-in-law, who is a builder had taken out the permit which included a 30% expansion for the property. The estimate for the work - \$150,000. He added that the lot was less than 100 feet deep and maybe 88 feet wide. The building can't be moved back because of the septic.

Chairman Schaefer commented that it would have been useful if the brother or brother-in-law could have been present to give first hand information about the permit and their dealings with the contractors.

Additional public opinion:

A letter of support from Joan Pelletier of 40 Legacy Road was read and has been placed on file. Carol Fogg also spoke on behalf of the applicants' request.

A Letter from DEP dated July 11, 2007 from Mike Morse supporting the Code Officer's decision to deny the permit was read into the record and placed on file.

Chairman Matt Schaefer reviewed several sections of the ordinances with the Board dealing with the administrative appeal provision of the ordinances and the permitting process.

9:09 pm.

The applicant asked that the application be tabled.

MOTION: moved by Larry Murch seconded by Mary Picavet to table this application to next meeting (August 27).

Vote 5/0.

c. Map 4, Lot 68B RR
1565 Roosevelt Trail
Scott W. Allen

Requesting conditional use permit for commercial use in RR District.

9:13

Attorney Tom Smith spoke on behalf of Mr. Allen the potential owner. He stated that the change of the non confirming use will be more compatible to what is in the area- boat storage, sales, and repair. Sabre Yachts is across the street. There will be less traffic than the prior restaurant. This business will be more conforming, and much more compatible with the area than the previous use (Mains Pizza).

DISCUSSION:

Scott Allen told the Board that the primary use of the site would be to have boat displays inside and out of the building. There would be a storage building and store front. Boat service maybe, but not primarily, as they have their Naples store.

Public comment;

Rick Strout and Lizzie Poole spoke in favor of the application.

A letter of support from Louise and Charles Lester was read into the record and placed on file.

No one spoke in opposition to the application.

3.

MOTION: moved by Chairman Schaefer, seconded by Leavitt make a positive finding in respect of each of 10 items in Article IX A of the Town of Raymond Land Use Ordinance. Applicant's comments taken from application are in italics.

ARTICLE IX - MINIMUM STANDARDS

A. Conditional Uses

The Board of Appeals shall approve, deny, or approve with conditions all applications for a conditional use permit. The applicant shall have the burden of proving that his/her application is in compliance with the requirements of this Ordinance. After the submission of a complete application, the Board of Appeals shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

1. Will not depart from the general purpose and intent of the Ordinance, nor from the Town's Comprehensive Plan; *The piece of property in question has been operated as a commercial restaurant for many years. The commercial use will not change, just the products sold. They wish to display new upscale boats on the property inside and outside the building.*
2. Will be compatible with permitted uses within the zone as determined by population; density; design; scale and bulk of any proposed new structures; and intensity of use; *The area has similar and related ventures in the neighborhood. This proposed change in product will be compatible with those other ventures.*
3. Will not generate noise, vibrations, fumes, odors, dust, or glare which are detectable at the lot boundaries, and all aspects of the conditional use will be carried on within the structure; *This venture will produce LESS noise, vibrations, fumes, odors, dust, or glare than the current commercial venture. One aspect of the current business is to have parking for many vehicles outside the building with a very high turnover rate. The proposed business will have far less traffic "in and out" of the property, therefore making it less intensive in terms of traffic and the need for services.*
4. Will not cause water pollution, sedimentation, erosion, contaminate any water supply, nor reduce the capacity of the land to hold water, so that a dangerous or unhealthy condition may result; *The proposed venture will not cause water pollution, sedimentation, erosion, or contaminate any water supply.*
5. Will not adversely impact any deer wintering area or other important plant or wildlife habitat or scenic area such as views of Sebago Lake or mountains from public places; *The proposed venture will not impact any deer wintering areas-no visible signs on the property have been detected. There are no scenic views of lakes or mountains that could be affected.*
6. Will not deny light and air to surrounding properties; *The proposed venture will not deny light or air to surrounding properties.*
7. Will not depreciate the economic value of surrounding properties; *The venture will not depreciate the economic value of the surrounding properties. The proposed venture can only help values of the surrounding properties-currently the land and buildings are less than attractive.*
8. Will have sufficient potable water available for its needs; *The proposed venture will have sufficient potable water for its needs-there is currently a well on the property.*

9. Will not create a hazard to either pedestrian or vehicular traffic on the roads and sidewalks serving the proposed use as determined by the size and condition of such roads and sidewalks, lighting, drainage, intensity of use by both pedestrians and also vehicles, and the visibility afforded to pedestrians and the operators of motor vehicles; *The venture will not create a hazard to pedestrians or vehicular traffic. The proposed venture will be less intensive to both than the current commercial venture.*
10. Will not overburden police, fire and rescue services, as determined by response time, accessibility to the site of the proposed use, and numbers and types of emergency personnel and equipment presently serving the community. *The proposed venture will not overburden police, fire, or rescue.*

Vote: 5/0.

MOTION: moved Leavitt, seconded by Murch to approve the conditional use permit with conditions: property will be used for light boat service, boat sales, boat storage, and with the restriction that not more than 25 gallons of fuel be stored on site excluding what was in the boats. Effluents and any hazardous materials will be handled appropriately in accordance to regulations set forth by the State of Maine.

Vote: 5/0.

4. Other Business:

There was no other business.

5. Adjournment.

MOTION: moved by Chairman Schaefer and seconded by Leavitt to adjourn at 10:12 pm. Vote was unanimous.

Karen G. Strout

Recording Secretary