

Town of Raymond
Zoning Board of Appeals

MINUTES
Monday, October 31, 2011

PUBLIC HEARING

ATTENDANCE: Elden Lingwood, Lawrence Murch, and Peter Leavitt.

ABSENT: Matthew Schaefer, Mary Picavet, and Sheila Philpot

STAFF: Chris Hanson, Code Enforcement Officer

PUBLIC: Erdine Fisher Campbell and Randy Campbell

1. Call to order. Peter Leavitt opened the meeting at 7:00 pm.

NOMINATION: Larry Murch nominated Peter Leavitt as chairman for this meeting.
Seconded by Elden Lingwood.

There were no other nominations.

VOTE: 2 in favor (Lingwood, Murch) and 1 abstention (Leavitt)

2. Approval of Minutes:

- a. March 14, 2011

DISCUSSION: Mr. Leavitt asked that a motion be made to accept the DVD recording of those meetings as the official minutes.

- b. March 28, 2011

MOTION: Larry Murch motioned to have the DVD's represent the minutes of the meetings held on March 14 and 28, 2011. Seconded by Elden Lingwood.

VOTE: Unanimous

3. Applications:

- a. Map 016, Lot 053

22 Dyer Road

R Zone

Randy Campbell on behalf of Erdine Fisher

Applicant is requesting a setback reduction to 11' (eleven feet) from 20' (twenty feet) for the north-side of an existing garage.

DISCUSSION: Mr. Leavitt noted that the original request was for a variance but is now for a setback reduction. Mr. Campbell explained that the garage was built years ago and was located too close to the sideline. They need the setback reduced 11 feet from the allowed 20 feet to satisfy a bank for a mortgage application.

Mr. Murch asked if he owned the building when it was built. Mr. Campbell replied no. Mr. Murch asked about the foundation. Mr. Campbell said it was a cement slab. Mr. Hanson noted that this was built in 1995 and there isn't anything in the file as to whether Code Enforcement Officer John Cooper measured the site. Mr. Hansen looked at the deed of the time and found it was originated in 1989. Mr. Leavitt asked if it was necessary to have a lot measured after a building permit was applied for. Mr. Hansen said that it was usual procedure now when his office is notified that they are ready to begin building. He said it was possible that they didn't notify the CEO. Mr. Leavitt felt that the ordinance of note was in force in 1989 when the application was requested. Mr. Murch felt that this happened years ago and not by the present owners. He didn't feel that they were responsible. Mr. Lingwood asked if they own the property. Mr. Campbell said they were in the process of building a house on the property. Mrs. Erdine Fisher Campbell, Erdine Fisher's daughter, was representing her mother who is in favor of the setback reduction, and she asked for the action to be allowed.

Mr. Leavitt asked how difficult it would be to extend the slab and slide the building over to meet the setback requirement. Mr. Campbell said he had not considered that. Mr. Murch felt that moving the garage would be quite an expense. Mr. Leavitt noted that by moving the building they would not need a setback reduction or variance because they would be in compliance.

Mr. Lingwood didn't believe that they have the authority to give this permission because of the ordinance. Mr. Murch felt that if they had created the problem 21 years ago he would not be willing to give the variance but since they weren't he was in favor of it. Mr. Leavitt felt that the Appeals Board operates in a very narrow legal area and felt that this ordinance would not allow them to award a variance. The applicants do have other ways to cure this problem. He felt that the town didn't do due diligence in this situation. Mr. Lingwood didn't feel that this will meet the hardship clause for a variance. Mr. Leavitt thought that there was some room for discussion for a hardship argument.

MOTION: Peter Leavitt made a motion to proceed for a variance for the setback and hear it tonight. No second.

DISCUSSION: The Board felt that if they need more time to look at the hardship argument they would not ask for a reapplication fee and they would continue the hearing. He warned that if a variance was denied the applicants couldn't come back to the Appeals Board for 12 months.

MOTION: Elden Lingwood motioned to table until the next scheduled meeting. Seconded by Larry Murch.

VOTE: Unanimous.

4. Code Enforcement Officer Comments.

- a. Mr. Hansen acknowledged the new Shoreland Ordinance.
- b. Mr. Hansen reported that the Land Use violation was settled on Deep Cove Rd. A consent agreement was signed by Mr. Boriello to remove some of the sea wall including the west point and some of the east point. He will pay the town \$20,000 which will cover the town's legal expense. Mr. Boriello signed a consent agreement with the Maine DEP and will pay \$5,250 to them. Mr. Hansen said it was gratifying how the DEP and the Raymond Code Enforcement Office worked together.
- c. Mr. Hansen reported the Raymond Pond issue on Two Acre Island had an agreement with Paul White. He also had an agreement with the Maine DEP to return the land to its original condition and a fine of \$1,100. However, two weeks later he created more violations at which time Mr. Hansen put a stop work order on the property and would be going ahead by the town on this infraction by gathering information for the town attorney who is working on it.
- d. Mr. Hansen reported that building has been robust with single family homes this summer.
- e. Mr. Hansen reported that 18 properties had damage from hurricane Irene which needed tree removal permits as well as some building permits for building repairs. Mr. Murch asked about tree replacement. Mr. Hanson said that it depended on how many trees were felled. If it entailed a loss of canopy then trees must be replaced by ordinance.

DISCUSSION: Mr. Leavitt asked about Mr. Boriello's seawalls being removed. Mr. Hanson replied that those in the agreement would be totally removed, the fill removed, and riprap as it appeared originally will be restored and the grade maintained by blueberry bushes for erosion control.

DISCUSSION: Mr. Lingwood asked to discuss the Campbell issue. Mr. Leavitt said that he wanted to know more about the date of the original ordinance and why it was created in the first place to see how it influences this application.

5. Adjournment

MOTION: Elden Lingwood motioned to adjourn. Seconded by Larry Murch.

VOTE: Unanimous.

ADJOURNED: Peter Leavitt adjourned the meeting at 7:38 pm.

Louise H. Lester
Acting Secretary