



**Raymond Zoning Board of Appeals**  
423 Webbs Mills Road  
Raymond Broadcast Studio  
**Minutes**  
**Tuesday, March 29, 2022**  
**VIA ZOOM**  
**7:00 pm**

**Call to order:** David Murch called the meeting to order at 7:00 pm and a quorum was declared

**Roll was Called**

**Present:** David Murch, Chair; Greg Dean, Vice Chair, Tom Hennessey and Fred Miller

**Staff:** Alex Sirois, CEO and Sandy Fredricks, Administrative Assistant PB & ZBA

**Attorneys Present:** Stephen Wagner for ZBA; Eric Wycoff for CEO, Leah Rachin for Management Controls LLC & Q-Team; Gregory Braun & Durwood Parkinson for Durant Excavating LLC

**Public Present:** Mike Morse, Rob Durant, Bobbie Nash, Anne Marie Murch, Desiree Merritt, Thomas Ewing and "Michael"

Murch read the Opening Statement into the Record as well as the Agenda.

Murch advised the Board that we have received Patricia Beaton's resignation as she does not have the time to dedicate to the Board any longer. He further informed the Board that we do have applicants for positions on the Board and we will invite them to a future meeting.

Acceptance of February 22, 2022 Minutes

Dean moved to approve as submitted

Murch seconded

All in favor? 4 yes (Murch/Hennessey/Dean/Miller) – 0 no – 0 abstain

Murch introduced Stephen Wagner, Esq. of Rudman Winchell in Bangor. He has been retained by the Town to represent the ZBA to provide procedural guidance.

Murch turned the meeting over to Wagner "to set the tone" for the meeting.

Wagner sited the Shoreland Zoning sections which allow the Board to hear appeals and that the Board would conduct the hearings as de novo hearings.

Wagner also explained that the Board could, pursuant to MRS 405-6(e), enter into Executive Session with counsel if needed.

The first procedural issue raised pertained to email from Wycoff. Rachin objected to the email being part of the record as it was communication between counsel which is not usually  
FOR DETAILS, PLEASE SEE VIDEO, THE OFFICIAL RECORD OF THE MEETING

circulated. Rachin asked that it be stricken. She further stated that her client has filed for after-the-fact permits and submitted application to the Planning Board. Wycoff stated the Town has a different perspective; the applications filed last Friday are in conflict with each other. He continued the Town wouldn't object to applications being in the record provided the emails he sent remained in the record. Further he continued the Town did not represent these applications were acceptable or will be granted.

**OLD BUSINESS**

**Administrative Appeal Re NOV issued 12/16/2021**

APPLICANT	Leah B. Rachin, Esq. on behalf of Management Controls, LLC
LOCATION	18 Fernwood Road; 001/022/000; Zone LRR2
DESCRIPTION	Administrative Appeal from Notice of Violation

**Administrative Appeal Re NOV issued 01/04/2022**

APPLICANT	Leah B. Rachin, Esq. on behalf of Q-Team, Inc.
LOCATION	18 Fernwood Road; 001/022/000; Zone LRR2
DESCRIPTION	Administrative Appeal from Notice of Violation

**NEW BUSINESS**

**Administrative Appeal Re NOV issued 01/28/2022**

APPLICANT	Leah B. Rachin, Esq. on behalf of Management Controls, LLC
LOCATION	28 Whitetail Lane; 001/020/000; Zone LRR2
DESCRIPTION	Administrative Appeal from Notice of Violation

**Administrative Appeal Re NOV issued 12/28/2021**

APPLICANT	Durant Excavating
LOCATION	18 Fernwood Road; 001/022/000; Zone LRR2
DESCRIPTION	Administrative Appeal from Notice of Violation

**Administrative Appeal Re NOV issued 01/28/2022**

APPLICANT	Durant Excavating
LOCATION	28 Whitetail Lane; 001/020/000; Zone LRR2
DESCRIPTION	Administrative Appeal from Notice of Violation

FOR DETAILS, PLEASE SEE VIDEO, THE OFFICIAL RECORD OF THE MEETING

The attorneys for Appellants and the Board Members discussed items that the parties wish to have stricken from the record weighing the basis of striking vs not striking.

Miller stated for the record that he had done flooring at 19 Fernwood about 5 years ago for a previous owner and wanted to be sure no one had any objection to him participating.

Hennessey moved to accept Miller as having no conflict of interest.

Murch seconded.

All in favor? 3 yes (Hennessey/Murch/Dean) - 0 no – 1 abstain (Miller)

Discussions returned to which items may or may not be stricken from the record.

Murch moved to strike both the email and submitted documents.

Dean seconded.

All in favor? 4 yes (Hennessey/Murch/Dean/Miller) – 0 no – 0 abstain

Discussions took place regarding relevance of the letter submitted by Jeffrey Kalinich of DEP. Murch read DEP letter into record (see attached).

Murch moved to include DEP letter from Kalinich dated March 28, 2022.

Hennessey seconded.

All in favor? 3 yes (Murch/Hennessey/Miller) – 1 no (Dean) – 0 abstain

Attorney Braun raised issue about continuation of these matters to a separate, all day, meeting. Further discussions took place among those present regarding postponement of the matters.

Murch moved to deny request for continuation.

Hennessey seconded.

All in favor? 4 yes (Murch/Hennessey/Dean/Miller) -0 no – 0 abstain

Dean moved to removed Management Controls LLC appeal for 18 Fernwood Road from the table.

Murch seconded.

All in favor? 4 yes (Murch/Hennessey/Dean/Miller) – 0 no – 0 abstain

Attorney Rachin presented her case on behalf of Management Controls LLC and stated her presentation will also be relevant to Q-Team Administrative Appeal. She continued that everything the parties did at the property was to prevent further erosion.

Rachin presented testimony from Mike Morse of Archipelago as an expert witness in these matters. Attorneys for both the CEO and the Town also questioned Morse. Sirois presented his explanation that the work that was done is negatively affecting the water quality of Sebago Lake. He further stated he had a conversation with Durant last week and the Town has no issue with removal of the hot tub but they need to file for a Demolition Permit. Additionally Sirois stated that leaving the root system in place when removing trees helps stabilize shoreline.

FOR DETAILS, PLEASE SEE VIDEO, THE OFFICIAL RECORD OF THE MEETING

Murch moved to close the record in this matter.

Hennessey seconded.

All in favor? 4 yes (Murch/Hennessey/Dean/Miller) – 0 no – 0 abstain

Dean moved to table the matter and conduct a site walk.

No second.

Motion fails.

The Board moved into deliberations.

Murch moved that Management Controls LLC was responsible for the work.

Dean seconded.

All in favor? 4 yes (Murch/Hennessey/Dean/Miller) – 0 no – 0 abstain

Findings: Management Controls LLC as principal and property owner authorized the agents to perform the work. The Board concluded that Violation #1 should not be vacated.

Murch stated that the evidence provided showed that erosion and sedimentation control was not provided. Various photographic evidence showed that the work took place. Further, consistent with what the Board heard tonight, the shoreline was expanded there are large boulders that did not previously exist; the shoreline is larger than before; the shoreline protrudes in front of the stairs, whereas, it did not previously; and the shoreline by the jetty and the stairs protrudes further into Sebago Lake than they did previously. This work was done without a permit. Measures were not adequate in the opinion of the CEO.

Murch moved to adopt the items listed in the proposed Findings of Fact regarding these items.

Hennessey seconded.

All in favor? 4 yes (Murch/Hennessey/Dean/Miller) – 0 no – 0 abstain

Murch moved the Board concluded theses failings occurred in violation of §15U of the Shoreland Zoning Ordinance based on the findings of the Board.

Hennessey seconded.

All in favor? 4 yes (Murch/Hennessey/Dean/Miller) – 0 no – 0 abstain

The Board addressed the issue of the jetty under §17B, Piers, Docks, Wharves, Bridges and other Structures and Uses Extending Over or Below the Normal High-Water Line of a Waterbody or Within a Wetland. Appellant stated the work was repair and maintenance; the Town had no record of a Planning Board permit for the jetty. Additionally, the Board found the Town had no information of permits from DEP for the jetty repair or maintenance.

Dean moved that Violation #4 should not be upheld because the evidence does not support a finding that 14-17 (c) or 12 was violated.

Murch seconded.

All in favor? 3 yes (Murch/Dean/Miller) – 1 no (Hennessey) – 0 abstain

FOR DETAILS, PLEASE SEE VIDEO, THE OFFICIAL RECORD OF THE MEETING

Violation #5 is discussed.

Rachin stipulated to #5 and #11 but they should be combined as one violation.

Dean moved to uphold Violation #5 as it has been stipulated to.

Murch seconded.

All in favor? 4 yes (Murch/Hennessey/Dean/Miller) – 0 no – 0 abstain

The Board addressed the definition of a beach.

Dean moved that the CEO erred in his decision of violation of §15 (O) of the Shoreland Zoning Ordinance.

No second.

Motion failed.

Murch moved to uphold Violation #6 because the Board concluded that a beach of stone and rock was constructed without a permit from DEP.

Hennessey seconded.

All in favor? 3 yes (Murch/Hennessey/Miller) – 1 no (Dean) – 0 abstain

Violations #7 & #8 were addressed.

Dean moved to uphold Violation #7 Vegetation less than 3' in height was cleared or removed and covered with mulch within 100' of the NHWL of Sebago Lake. This was not done to establish a footpath or other purposes allowed by SZO, §15(q)(2) and (2)(a) and was done without a permit.

Murch seconded.

All in favor? 4 yes (Murch/Hennessey/Dean/Miller) – 0 no – 0 abstain

Hennessey moved to uphold Violation #8.

Dean seconded.

All in favor? 4 yes (Murch/Hennessey/Dean/Miller) – 0 no – 0 abstain

Hennessey moved to uphold Violation #12, shoreline stabilization project was completed from the land when completion was feasible from a barge.

Murch seconded.

All in favor? 4 yes (Murch/Hennessey/Dean/Miller) 0 no – 0 abstain

Murch moved to deny appellant's request that #1 & #2 should be struck down as invalid as the Board concluded they are two separate violations.

Miller seconded.

All in favor? 4 yes (Murch/Hennessey/Dean/Miller) – 0 no - 0 abstain

Murch moved to conclude that Violations #7 & #8 do not constitute a procedural error because the Town concluded they are two separate violations.

Hennessey seconded.

All in favor? 3 yes (Murch/Hennessey/Miller) – 1 no (Dean) – 0 abstain

FOR DETAILS, PLEASE SEE VIDEO, THE OFFICIAL RECORD OF THE MEETING

Violations #11 & #12

Murch moved that #11 and #12 do not constitute procedural error because the Board concluded that they are properly listed as separate violations.

Dean seconded.

All in favor? 4 yes (Murch/Hennessey/Dean/Miller) – 0 no - 0 abstain

Violations #14 & 15

Hennessey moved that #14 & #15 are not in procedural error because the Board concluded that they are properly listed as separate violations and are upheld.

Dean seconded.

All in favor? 4 yes (Murch/Hennessey/Dean/Miller) – 0 no – 0 abstain

The Board reviewed Page 4 of appeal filed by Rachin on 01/18/2022 regarding §16 (H) of the Shoreland Zoning Ordinance which stated any notice of violation issued by the CEO indicate not only the nature of the violation, but also an explanation of “the action necessary to correct it.” Rachin claimed that there was little or no direction provided with respect to mitigation necessary to resolve the alleged violations etc.

Murch moved that the CEO was correct in issuing the Notices of Violation.

Dean seconded.

All in favor? 4 yes (Murch/Hennessey/Dean/Miller) – 0 no – 0 abstain

Attorney Wagner will draft the FOF and Conclusions for the Board to act on at the April meeting.

Murch moved to table this matter to the April 26<sup>th</sup>, 2022 meeting at 6:00 p.m. and authorized Stephen Wagner to prepare the Findings of Fact and Decision.

Dean seconded.

All in favor? 4 yes (Murch/Hennessey/Dean/Miller) – 0 no – 0 abstain

Murch moved to table the remaining Appeals to April 26<sup>th</sup>, 2022.

Dean seconded.

All in favor? 4 yes (Murch/Hennessey/Dean/Miller) – 0 no – 0 abstain

Murch moved to adjourn

Dean seconded

All in favor? 4 yes (Murch/Hennessey/Dean/Miller) – 0 no – 0 abstain

ADJOURNED 1:15 A.M. March 30, 2022

FOR DETAILS, PLEASE SEE VIDEO, THE OFFICIAL RECORD OF THE MEETING