



Raymond Zoning Board of Appeals
 423 Webbs Mills Road
 Raymond Broadcast Studio
Minutes
Tuesday, August 27, 2024
7:00 pm

Call to order: David Murch called the meeting to order at 7:00

Roll was called and a quorum declared

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

Staff: Chris Hanson, CEO and Sandy Fredricks, Administrative Assistant PB & ZBA

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

Acceptance of Minutes:

Murch stated that if there were no corrections, he would suggest the Minutes be accepted as distributed. All Board members stated no objections. Murch stated Minutes accepted.

Dean nominated Murch to serve as Chair for FY 2025. There being no other nominations, nominations were closed.

Dean moved Murch as the Chair for FY 2025.

Hennessey seconded.

Any discussion? None.

All in favor? 5 yes – 0 no – 0 abstain

Hennessey nominated Dean to serve as Vice Chair for FY 2025. There being no other nominations, nominations were closed.

Murch moved Dean as the Vice Chair for FY 2025.

Hennessey seconded.

Any discussion? None.

All in favor? 5 yes – 0 no – 0 abstain

Murch introduced attorney John Hamer who was representing the Board in the Burke/O'Connor matter. Hamer gave the Board an outline of the procedure to be followed in the matter.

The Board established jurisdiction. While discussing possible Board conflicts or bias, Lockwood stated that his parents had utilized the services of Murray, Plumb & Murray for their Wills and subsequently their Estates of which he was Executor. All parties agreed that did not constitute a conflict. The Board determined fees were paid and to proceed.

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

First issue to be addressed was the timeliness of the filing. Murch asked Kelly McDonald, Esq., attorney for Appellants (Burke) to present their case on timeliness of filing.

McDonald addressed the Board and laid out the Burkes position stating they had been concerned about the addition of a second dock on the abutting property for a few years and had spoken to two (2) previous Code Enforcement Officers who advised the abutting property did not have sufficient shore frontage to accommodate a second dock. He further stated that on July 9th, 2024 the Burkes learned of the issuance of the Permit for the dock in question. They filed their Appeal on July 12th, 2024. He went on to cite case law supporting their argument that the matter should be heard as timely as well as reasons why the case law cited by attorney for O'Connors was superseded by the case law they cited. He also stated there were two (2) mistakes in the O'Connors reply; they stated Burkes were informed in June, not July. He did not state what the second one was.

Lockwood questioned McDonald regarding a date on Page 2 of their Appeal. McDonald acknowledged it was a typo and should read July 10th.

Jason Howe, Esq. of Preti Flaherty addressed the Board as the attorney for O'Connors addressed the Board and stated their reasonings why the appeal was untimely.

Dean asked Howe to summarize what the Bracket case was about. Howe stated it was for building a house. Hennessey asked if there was no possibility of replacing the floating dock with the fixed dock. Howe explained there is nothing which precludes the Board from having the CEO add a note to the permit that states they are not to dock boats at the "weird boxy structure". Hennessey asked if the floating dock is going to be removed. Howe stated it is in the process of being removed. Hennessey asked if it could come back. Howe stated it could not.

Hanson stated he will reserve most of his comments if the Board goes forward with the appeal. He continued that he did want to say a few things; both parties have been a pleasure to deal with for their projects. The Burkes passion for preserving the lake is exemplary. The O'Connors also want to preserve the lake. They both have the right to peaceful enjoyment of their properties.

Hanson went on to explain that he issued the permit for a new dock not a second dock. There were reasons that the old dock was not useable. Hanson further explained the difference between a dock and a landing. The installation did not start until the 10th, and he advised the Burkes to contact the O'Connors and tell them they were filing the appeal.

Dean asked for confirmation that in the Viles case the permit was for building a house and attached garage. It was confirmed by Howe.

Howe stated the Burkes did not speak with the O'Connors the night of July 9th. He further stated the O'Connors did not know the appeal was being filed until after the dock was installed.

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Murch moved to waive the thirty (30) day requirement and allow for hearing of the appeal. Lockwood seconded.

Any discussion? The Board discussed the rationale behind the motion. Dean raised the issue that our standards may be that to waive the 30-days requires a "grave miscarriage of justice" and he is not sure that standard has been met.

Hamer stated that the cases cited are not necessarily applicable to this situation. The standards of "for good cause" lessens your burden and he didn't believe the Board needed to go to the same length as the Court as it is in Raymond's Ordinance that you can waive the deadline.

All in favor? 5 yes – 0 no - 0 abstain

Dean stated he would like the Board to conduct a Site Walk. Murch stated he would like to hear the entire matter then decide if a Site Walk is necessary. Hennessey asked if there was a post installation and/or if inspections of the dock are required. Hanson stated it is a requirement on the permit that he does a final inspection, which he has not done yet. He further stated he would encourage the Board to conduct a Site Walk.

Hamer stated it is up to the Board if they conduct a Site Walk, but he would suggest the Site Walk be conducted prior to hearing the matter.

Murch asked if the Burkes felt a Site Walk was necessary. McDonald stated he didn't believe a Site Walk was necessary, but it is the Board's call. He further stated the permit was filed while the original dock was in place.

Howe stated in their letter there was a motion and request to conduct a Site Walk to see what the property looks like.

Hanson stated the only reason he recommended the Site Walk is you are being asked to determine if there are two (2) docks and it was his understanding one (1) was coming out. He referred to the other as a landing and you would have to determine that the landing is a dock.

Hennessey moved to conduct a Site Walk as soon as possible.

Miller seconded.

Any discussion? None

All in favor? 5 yes – 0 no - 0 abstain

The Board asked what the earliest date would be they could conduct a Site Walk. Sandy informed it would be September 14th, 2024. The Board scheduled same for 9:00 a.m. on the 14th of September.

Dean moved to table the appeal to the September 24th, 2024 meeting.

Hennessey seconded.

Any discussion? None.

All in favor? 5 yes – 0 no- 0 abstain

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The Board is informed that another Administrative Appeal has been filed for the September meeting. The Site Walk would also be on September 14th and set the time for 10:00 a.m.

Murch moved to adjourn.

Dean seconded.

Any discussion? None.

All in favor? 5 yes – 0 no – 0 abstain