

**Board of Appeals
December 3rd 2012 – 7:00 pm
Poland Town Office Conference Room**

MINUTES

CALL TO ORDER

The meeting was called to order by Chairman Mark Hyland at 7:00 pm, with members Holly Bubier, Richard Carlson, Roger Ducharme, and Alternate Bryan McNulty present. Vice Chairman Joseph Radziszewski is absent, so Alternate Bryan McNulty will be a voting member.

APPEALS

Administrative Variance Appeal: George Gendron – Map 43, Lot 1.

- **Member Roger Ducharme makes a motion that Mr. Gendron has standing as the owner of Map 43, Lot 1, seconded by Member Richard Carlson. No Discussion.**
Vote: YES – 5 NO – 0
- **Member Roger Ducharme makes a motion that jurisdiction has been established, seconded by Alternate Bryan McNulty. Discussion: Chairman Mark Hyland reminds the board that it is an appeal of the Code Enforcement Officers decision.**
Vote: YES – 5 NO – 0
- **Code Enforcement Officer Nick Adams, appellant George Gendron and his councilor Jack Conway are present.**
- **Appellant – Mr. Gendron received a violation notification in September 2012, stating he had four violations. One of the violations was for a small deck, with a stairway leading down an embankment to the water. He is appealing the decision of the Code Enforcement Officer to require him to remove the structure. When Mr. Gendron purchased the property in 2000, there was a similar structure on the lot that was as far as he is aware, a legally existing structure. It was deteriorating, and Mr. Gendron believes it was causing an erosion problem. In the fall of 2001 he began replacing the structure in a new location on the lot, in roughly the same configuration. Former Code Enforcement Officer Art Dunlap informed Mr. Gendron that he would not need a permit for the project, since he was essentially just moving and repairing an existing structure. At the time decks were not considered structures. According to section 504.3 of the Comprehensive Land Use Code, expansion of a non conforming structure is allowed as long as it is not made any more non-conforming, and Mr. Gendron believes he has actually improved the structure while not getting any closer to the water. The major difference between the existing structure and the new is that the new is elevated and the existing was sitting on the ground.**
 - Chairman Mark Hyland believes by looking at the presented photos, that the new structure and stairs are indeed larger and more non-conforming than the previously existing structure. It appears to have been expanded towards to high water mark.
 - Mr. Gendron disagrees, and insists that it is not closer than the previous structure.

- **CEO Nick Adams** – The assessing records do not show the size of the existing structure. The first assessing records of any structure on the shore are from 2006. Also, expansion of a non-conforming structure would require a permit, not just a verbal confirmation. In 2001 this deck would have been an accessory structure and would have required a permit. Nick also points out that if the structure were smaller, like 4' x 4' for example, it would not be a violation. However the current deck is more like 8' x 10'.
- **Chairman Mark Hyland closes the hearing at 7:43 pm.**
- **Recap From Board** – Chairman Mark Hyland notes that it appears the older existing structure was smaller than the current structure. The newer actually overhangs the slope, making it closer to the water. It is now a non-conforming use being made more non-conforming, violating the ordinance.
- **Member Roger Ducharme makes a motion to approve the administrative variance appeal made by George Gendron of Map 43, Lot 1, stating that the Code Enforcement Officer was in error denying a permit.** No discussion.

Vote: YES – 0 NO – 5 Appeal is denied

- **Findings of Fact:**
 - George and Gwin Gendron are the applicant and owners of the property located at Map 43, Lot 1 with the address of 3 Birch Drive, provided copy of deed.
 - Limited Residential Zoning with 0.29 acres.
 - The applicant constructed a deck with a set of stairs going to the water without a permit.
 - Application for appeal was filed on November 2nd, 2012. Public hearing for appeal was held on December 3rd, 2012.
 - Chapter 5 table 507.2 space and bulk standards, 508.27a structures accessory to allowed uses in section 16, 504.3 non conforming structures A 5 & 6 and B 3 were used in the decision making process.
 - Original stairway was on south side of the property, and time of construction is not known however the house was built in 1965. Size of the original landing is unknown.
 - The new landing and stairway were constructed on the north side in 2001. The landing was 96 square feet total.
 - The new landing appears to be larger and closer to the lake and does not comply with the ordinance.
 - Based on the above facts and conclusions the Poland Board of Appeals has voted to deny the application. This ruling can be appealed in superior court within 45 days of the board's decision.
- **Member Roger Ducharme makes a motion to accept the findings, seconded by Member Richard Carlson.** No Discussion.

Vote: YES – 5 NO – 0

OTHER BUSINESS

None.

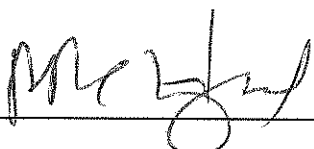
ADJOURNMENT

Member Richard Carlson makes a motion to adjourn at 8:01 pm, seconded by Alternate Bryan McNulty.
No Discussion.

Vote: YES – 5 NO – 0

Recorded by Alex Sirois

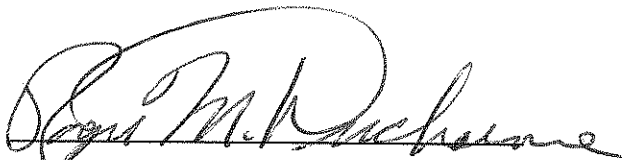
Date Approved:
Board of Appeals



Mark Hyland, Chairman

Absent


Joseph Radziszewski Jr., Vice Chairman



Roger Ducharme, Secretary



Richard Carlson, Member



Holly Bubier, Member

Bryan McNulty, Alternate Member