

Poland Zoning Board of Appeals
June 3rd 2013 – 7:00 pm
Town Office



MINUTES

CALL TO ORDER

Chairman Mark Hyland called the meeting to order at 7:00 pm with members Joseph Radziszewski, Roger Ducharme, Richard Carlson, and Holly Bubier present. Alternate Bryan McNulty was absent.

MINUTES

May 22nd 2013

- Member Roger Ducharme makes a motion to accept the minutes for May 22nd 2013 as presented, seconded by Member Richard Carlson. No discussion.
Vote: YES – 5 NO – 0

COMMUNICATIONS

None.

APPEALS

William C. Bentley Variance Appeal – Map 14, Lot 29E.

- **Member Roger Ducharme makes a motion that William C. Bentley has standing as the owner of Map 14, Lot 29E with a warranty deed, seconded by Joseph Radziszewski.** No discussion.
Vote: YES – 5 NO – 0
- **Vice Chairman Joseph Radziszewski makes a motion that jurisdiction has been established on the basis that William Bentley was denied a building permit, seconded by Roger Ducharme.** No discussion.
Vote: YES – 5 NO – 0
- **Code Enforcement Officer Nick Adams, appellant William C. Bentley, and his surveyor Stuart Davis are present.**
- **Appellant - Stuart Davis** is a surveyor and representing William Bentley. He was initially hired to determine the set back from Fernald road to the existing barn. In the process of doing that he discovered a small sliver of land that sits between the lot in question and the road. As it sits, 9% of the barn is currently within the twenty (20) foot setback from the abutting property. Mr. Bentley is seeking a variance for eight (8) feet, which would keep the building twelve (12) feet from the abutters property. Mr. Bentley was not aware of the existing violation when he purchased the property, nor did he create the violation. He has been trying to resolve the issue since 2006. The lot was being considered a corner lot, until the discovery of the small abutting parcel. Mr. Bentley cannot do any work to the existing unfinished house until the accessory structure's violations have been corrected.
- Chairman Mark Hyland proposes moving the accessory structure.
 - Mr. Bentley does not believe that option to be financially reasonable. The board agrees.
- **Public Statement** – Percy Bishop of Map 14 Lot 28 has a survey that shows he is the owner of the front of Fernald road. He does not mind Mr. Bentley keeping the structure in question. He would request however, that he removes the fence that is on his property.
- **CEO Nick Adams** – Mr. Adams feels as though the variance is reasonable. It appears that a previous CEO knew about the violation and never stopped anyone from doing work until Mr.

Bentley applied for a building permit. If the variance is granted it will be for the set back from a lot that is not even buildable.

- **Chairman Mark Hyland closes the public hearing at 7:40pm.**
- **Board Recap** – It appears that the structure would meet all other requirements other than the side set back. Allowing the variance should not change the character of the neighborhood, it would actually improve the neighborhood. The board makes it clear that this is a unique situation, and should they grant a variance it would not set precedence.
 - Chairman Mark Hyland asks the rest of the board if moving the structure is a reasonable alternative to granting a variance. They do not believe it is reasonable.
 - Vice Chairman Joseph Radziszewski points out that granting the variance would improve the neighborhood, and increase the tax revenue.
- **Member Richard Carlson makes a motion to grant a variance of eight (8) feet to William C. Bentley of Map 14, Lot 29E, seconded by Joseph Radziszewski. Discussion:**
 - Chairman Mark Hyland reminds Mr. Bentley that he should not purchase the small abutting lot, because he would need to get another variance for the setback from the road.

Vote: YES – 3 NO – 1 ABSTAINED – 1 Variance is granted

- **Findings of Fact:**
 - The applicant and owner of the property is William C. Bentley, and he has shown legal interest by warranty deed.
 - The property is located at 314 Megquier Hill Road, Poland, Maine. It is in the Rural Residential Zoning District 1, and is identified as Assessor's Map #14, Lot #29E. It contains 1.88 acres.
 - The applicant proposes to leave a twenty-six (26) foot by forty (40) foot barn in place, set back twelve (12) feet from the side line of the property.
 - The application was submitted on April 29th 2013. The public hearing was held on May 22nd 2013 and June 3rd 2013.
 - Relevant sections of the ordinance are chapter five, specifically section 507.2D.7c
 - The variance request consists of a request for an eight (8) foot variance to make the side setback for an accessory structure twelve (12) feet instead of twenty (20) feet.
 - The structure in question meets the performance standards of the code except for the set back of which the variance was requested.
 - The board heard testimonies from the abutters and the Code Enforcement Officer supporting the approval of the variance.
 - Approving the variance will improve the neighborhood and value of the property.
 - The practical difficulty is not the result of action taken by the petitioner or any recent prior owner.
 - No other feasible alternative to a variance is available to the petitioner.
 - Granting of the variance will not unreasonably adversely affect the natural environment, and the land area in question is not in the Shoreland Area or one hundred year flood plain.
 - Based on the above findings of fact and conclusions, the Town of Poland Board of Appeals voted to approve the application for an eight (8) foot variance. This decision can be appealed in the Superior Court within 45 days.

- **Member Richard Carlson makes a motion to accept the findings of fact and conclusions, seconded by Joseph Radziszewski. No discussion.**

Vote: YES – 5 NO – 0



ORIGINAL

OTHER BUSINESS

Board Reorganization

- Mark Hyland makes a motion to elect Richard Carlson as board chair, seconded by Joseph Radziszewski. No discussion.
Vote: YES – 5 NO – 0
- Holly Bubier makes a motion to elect Joseph Radziszewski vice chair, seconded by Richard Carlson. No discussion.
Vote: YES – 5 NO – 0
- Richard Carlson makes a motion to elect Holly Bubier as board secretary, seconded by Roger Ducharme. No discussion.
Vote: YES – 5 NO – 0

ADJOURNMENT

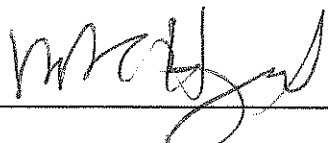
Member Roger Ducharme makes a motion to adjourn, seconded by Joseph Radziszewski. No discussion.

Vote: YES – 5 NO – 0


Recorded by: Alex Sirois

Date Approved:

Board of Appeals

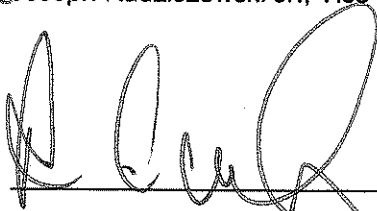


Mark Hyland, Chairman

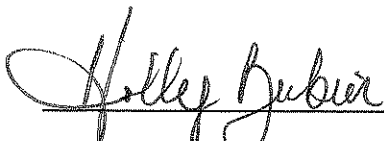


Joseph Radziszewski Jr., Vice Chairman

Roger Ducharme, Secretary



Richard Carlson, Member



Holly Bubier, Member

Absent

Bryan McNulty, Alternate Member