

**Poland Zoning Board of Appeals**  
**July 29<sup>th</sup> 2013 – 7:00 pm**  
**Town Office Conference Room**

**MINUTES**

**CALL TO ORDER**

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

**MINUTES**

July 15<sup>th</sup> 2013

- Member Mark Hyland makes a motion to accept the minutes for July 15<sup>th</sup> 2013 as presented, seconded by Vice Chairman Joseph Radziszewski. No discussion.

Vote:                YES – 5                NO – 0

**COMMUNICATIONS**

Copy of Decision Letter to Julie A. Keene

**OLD BUSINESS**

Julie A. Keene Administrative Appeal – Map 31, Lot 7A

- **Standing and jurisdiction were established at the previous meeting.**
- **Appellant Julie Keene and CEO Nick Adams are present.**
- **Appellant:** Since the last meeting Julie was able to supply the board with additional information regarding her property at 54 Jordan Shore Drive. Of the recent submissions, one was a letter from her ex husband Guy Edwards regarding the large deck which replaced the existing car port/boat storage. In the letter he explains to the board that they were given verbal approval from former Code Enforcement Officer Ralph Stanley to replace the storage structure with a deck. A permit would not be required unless the new structure was larger than the existing. Also submitted was a building permit dated June 3<sup>rd</sup> 1987, to remove and replace a 12' by 16' rear addition, and a subsurface system application from 1988 showing the deck.
  - Member Bryan McNulty asks CEO Nick Adams if he has heard of other people in town being given a verbal approval by CEO Ralph Stanley, and he does in fact hear it quite often. He does believe however, that the ordinance would have still required a permit at that time.
    - Member Mark Hyland is not surprised that CEO Ralph Stanley did not require a permit for the deck.
  - Appellant Julie Keene informs the board that the permitted rear addition was never done, and instead they decided to build the rear deck in its place. Instead of the permitted size of 12' by 16' they built the deck to be 8' by 22'. She requests the board to allow her to keep the deck but reduce it to the allowed size.

- Chairman Richard Carlson asks if she would still exceed the impervious surface requirements if the rear deck went from 8' by 22' to 8' by 16'.
  - CEO Nick Adams believes she would still be exceeding the maximum impervious surface ratio.
- Appellant Julie Keene informs the board that the stairs to the deck replacing the carport previously existed, and recently they were replaced with stairs 6" wider than the original.
  - Member Mark Hyland asks if there is any proof of the existing stairs and their dimensions. The appellant has no documentation.
- **Vice Chairman Joseph Radziszewski makes a motion to grant the administrative appeal for Julie A. Keene with the requirements that she reduce the existing 8' by 22' rear deck to a size of 8' by 16', and the width of the side stairs is reduced by six inches, seconded by Member Mark Hyland.** It is agreed upon that the 1987 permit should have mentioned a deck instead of an addition; however the board feels a smaller deck is a better alternative than a larger addition. All corrections to the property must be done to building code, completed, and inspected within 90 days.

Vote:                5 – YES                NO – 0                Appeal is granted

- **Findings of Fact:**
  - The applicant and owner of the property is Julie A. Keene, and she has shown legal interest by warranty deed.
  - The property is located at 54 Jordan Shore Drive, Poland, Maine and it is in the Rural Residential Zoning District 2, and Limited Residential. It is identified as Assessor's Map #31, Lot #7A, and contains .33 acres.
  - The applicant was denied a building permit for stairs, by the Code Enforcement Officer.
  - The appeal application was submitted on June 26<sup>th</sup> 2013. The public hearing was held on July 15<sup>th</sup> 2013 and July 29<sup>th</sup> 2013.
  - Relevant sections of the ordinance are chapter five, sections 507.1.I, and 507.2G.
  - Applicant was able to present a permit for the replacement of a twelve (12) by sixteen (16) foot addition at the rear of the house dated June 3<sup>rd</sup> 1987. Instead of an addition, an eight (8) by twenty-two (22) foot deck was built.
- **Conclusion:** The building permit and photographs confirm that the deck is no larger than the previously existing storage structure. The rear deck and side stairway are both larger than originally allowed, so the board orders the reduction of the width of the stairs by six (6) inches, and the rear deck to a maximum size of eight (8) by sixteen (16) feet. These reductions will be made in order to lower the percentage of impervious surfaces on the lot.
- **Decision:** Based on the above findings of fact and conclusions, the Town of Poland Board of Appeals voted to approve the application for an administrative appeal. This decision can be appealed in the Superior Court within 45 days. Corrections to the structures must be made, meet building code, and be inspected within 90 days.
- **Member Mark Hyland makes a motion to accept the written Findings of Fact and Decision, seconded by Vice Chairman Joseph Radziszewski.** No discussion.

Vote:                YES – 5                NO – 0



## **APPEALS**

### **Ernest A. Ray Administrative Appeal – Map 37, Lots 14 & 18**

- **Member Mark Hyland makes a motion that Ernest Ray has standing as the owner of Map 37 Lots 14 & 18 by presentation of a deed, seconded by Vice Chairman Joseph Radziszewski.** No discussion.

Vote: YES – 5 NO – 0

- **Member Mark Hyland makes a motion that the board has jurisdiction to hear the appeal due to a notice of violation issued by the Code Enforcement Officer, seconded by Joseph Radziszewski.** No discussion.

Vote: YES – 5 NO – 0

- **Appellant Ernest A. Ray and Code Enforcement Officer Nick Adams are present.**
- **Appellant:** Ernest Ray built the garage with apartment above in 1985. It was originally built for family, but has eventually turned into a rental. CEO Nick Adams issued a notice of violation on the 29<sup>th</sup> of May which stated that the apartment was not a permitted use. The appellant believes that it was an error made by CEO Clarence Tyner to not include “apartment” on the permit for the garage and sauna. The entire purpose of building the garage was for the apartment. According to Mr. Ray, permits were obtained for the electrical and plumbing work done in the apartment, in fact he was surprised to find he was in violation since he had always been carefully to obtain necessary permitting in the past.
  - Vice Chairman Joseph Radziszewski wonders if the issuing of a plumbing and electrical permit shows that the apartment was something approved of by the town.
    - Member Mark Hyland thinks that unless the permit specifically says for garage they cannot be sure. The bathroom inside the house could have been remodeled.
  - Mark Hyland informs the board that the subsurface application notes it was for a one bedroom single family home, and was not designed for an additional bedroom. It makes no mention to an apartment.
    - Richard Bastow is a visitor and an abutter at the meeting. He was also the site evaluator for the septic system, and he confirms that it was designed for the house only.
  - Mr. Ray informs the board that he has been taxed for the apartment for twenty-eight years. However he is unable to supply the board with documentation to prove that. The lots were combined on the tax bill starting in 2009.
  - Member Bryan McNulty asks the CEO if it would have been common practice to do a final inspection of the garage in 1985. CEO Nick Adams informs him that it was not as common back then as it is now. In theory it would have been done, but there is no information supporting that.
  - Member Mark Hyland asks the CEO if has seen any permits that show the garage being hooked up to the well or septic system, and there is none on file.
- **CEO Nick Adams:** The two structures currently exist on one lot. At one time they were two separate lots but they are now considered one, and could not be sold separately. The two

structures do not meet the ordinance requirements for two dwellings on one lot. A garage with an apartment above is still considered an accessory structure.

- **Public Statement:** The board hears testimonies from abutters Lynne Richard and Richard Bastow, both in support of the board allowing the appellant to keep the apartment. Lynne points out that both structures have different addresses which may suggest they were considered separate by the town.
- **Member Mark Hyland makes a motion to close the public hearing at 8:44 pm, seconded by Vice Chairman Joseph Radziszewski.** No discussion.

Vote: YES – 5 NO – 0

- **Board Discussion:** It appears all of the permits were for a garage and there is no evidence of a permitted apartment. Additionally the tax card for the garage shows no bedrooms.
- **Member Mark Hyland makes a motion to approve the Administrative Appeal for Ernest A. Ray – Map 37, Lots 14 & 18, seconded by Joseph Radziszewski.** No discussion.

Vote: YES – 0 NO – 5 **Appeal is denied**

- **Findings of Fact:**
  - The appellant and owners of the property are Ernest A. Ray and Rita C. Ray. They have shown legal interest by warranty deed.
  - The property is located at 16 & 12 Cardinal Lane, Poland, Maine and it is in the Rural Residential Zoning District 2, and Limited Residential Zone. It is identified as Assessor's Map #37, Lot #14 & 18, and contains 3.5 acres.
  - Mr. Ray is appealing a notice of violation issued by the Code Enforcement Officer, stating that the detached garage with apartment above fails to comply with the Comprehensive Land Use Code.
  - The appeal application was submitted on July 8<sup>th</sup> 2013. The public hearing was held on July 29<sup>th</sup> 2013.
  - Relevant sections of the ordinance are chapter five, sections 507.1.G, 507.2, 508.6.B, and 508.27A.
  - Appellant was able to present a permit for the twenty-four (24) by twenty-six (26) foot garage dated June 8<sup>th</sup> 1985. The permit makes no mention to an apartment above.
  - The garage and apartment do not meet minimum lot area requirements, and the combined lots do not meet the requirements for multiple structures on a lot.
  - Appellant has received separate tax bills for the house and garage from 2005-2008. It appears that they were taxing on the apartment. The tax bills were merged in 2009.
- **Conclusion:** The building permit, Planning Board minutes, and septic design make no mention to the apartment above the garage. The septic system was only designed to handle a single family home. The board hears testimony from the site evaluator confirming that decision.
- **Decision:** Based on the above findings of fact and conclusions, the Town of Poland Board of Appeals voted to deny the application for an administrative appeal. This decision can be appealed in the Superior Court within 45 days.

#### **OTHER BUSINESS**

None

#### **ADJOURNMENT**

Member Mark Hyland makes a motion to adjourn at 9:23 pm, seconded by Vice Chairman Joseph

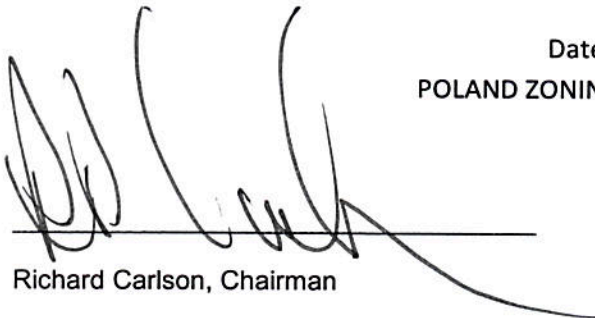
Radziszewski. No discussion.

Vote: YES – 5 NO – 0

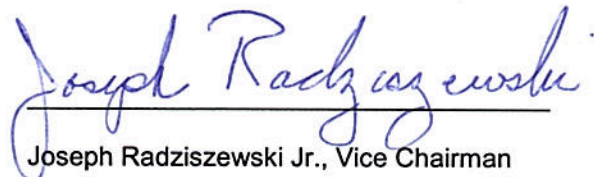
Recorded by Alex Sirois

Date Approved: 8-12-13

POLAND ZONING BOARD OF APPEALS



Richard Carlson, Chairman



Joseph Radziszewski Jr., Vice Chairman

Holly Bubier, Secretary

Mark Hyland, Member



Bryan McNulty, Member