

Poland Zoning Board of Appeals Meeting
July 28, 2014 – 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 Erland Torrey present.

MINUTES

July 14, 2014

- Member Mark Hyland makes a motion to accept the minutes as present for July 14, 2014, seconded by Vice Chairman Joseph Radziszewski. No discussion.

VOTE: YES – 5 NO – 0

OLD BUSINESS

Jeffrey Coolidge, Administrative Appeal – Map 14, Lot 15C

- **Appellant Jeffrey Coolidge, as well as Code Enforcement Officer Nick Adams and Town Manager Bradley Plante are all present.**
- **Appellant:** Mr. Coolidge presents the board with a letter from Bryan Dench, the Town's previous attorney dated May 7, 2007. He does not believe the letter is accurate. The letter makes mention to one hundred and sixty (160) existing storage units, and currently there are only sixty-two (62). Also, the letter mentions Independent Machine which is on an entirely different parcel and not related to the storage units. At the end of the letter he also states that the town's home occupation ordinance is not restrictive.
- Member Mark Hyland asks CEO Nick Adams how the property is zoned, and it is in the Rural Residential Two Zone (RR2).
- Member Mark Hyland asks Mr. Coolidge if there is a home on the property and there is.
 - Mr. Coolidge does not understand how O'Donnell Associates, the Town's Assessor, is unable to correctly identify which lot his businesses are on, and who is the correct owner. The letter from Bryan Dench makes it sound as though the permit for the storage structures was applied for by Independent Machine, which is an entirely different business on a separate parcel.
 - In August of 2003 Mr. Coolidge applied for and received a permit to install a twenty-five (25') by one hundred and fifty (150') barn on a slab as a home occupation for self storage. In April 2004 Mr. Coolidge applied for and received a second permit for a twenty-five (25') by one hundred and fifty foot (150') barn on a slab for home occupation storage units. This permit also mentioned that his son was living on the lot and operating the storage units as a home occupation. He believes that this has set precedence.
 - Member Mark Hyland asks Mr. Coolidge what the square footage of the home and the square footage of the storage units are.
 - There is currently 7,500 square feet of storage unit space on the lot with a house and garage of 2,608 square feet. According to Mr. Coolidge these are the only structures on the lot, and the storage units are being operated as his home business.

- Vice Chairman Joseph Radziszewski states that the appeal application is specifically for “planning board lies from 2005 to now” and that this does not meet the criteria for an appeal. He also reminds the applicant that the board is only hearing the appeal of the stop work order.
- **Code Enforcement Officer:** Nick Adams reminds the Board and applicant that he is appealing only his issuance of a stop work order, not the decision of any other Board or Code Enforcement Officer. According to Mr. Adams the number of one hundred and sixty (160) units came from a Planning Board application that Mr. Coolidge completed in March of 2007. It was an application that was eventually tabled by the Board because they believed that it did not meet the requirements of a home occupation. Permits were issued in 2003 and 2004 for the existing two storage structures. The third permit was issued in 2008 for a twenty five foot (25') by one-hundred and sixty foot (160') steel frame barn for personal use only, which was revoked in the same year. It would also have expired in 2010. As of now there is no building permit for what the applicant is attempting to build.
 - Member Mark Hyland would like to know if the residential structure on the lot is attached to the storage units.
 - Mr. Adams informs him that the house is not attached, nor is he even sure it is on the same lot. There are three (3) separate contiguous lots owned by Mr. Coolidge.
 - Vice Chairman Joseph Radziszewski asks Mr. Adams why Mr. Coolidge would be unable to build the storage structures as a home occupation.
 - CEO Nick Adams believes the structures are not incidental to the existing residential use, nor are they residential in character. However since the existing structures were built with permits that were never appealed they are now existing non-conforming uses. Mr. Adams also points out that Mr. Coolidge has not applied for a permit since he has worked for the Town of Poland. The only way Mr. Coolidge could get a permit to build the final storage structure would be to go in front of the planning board for an expansion of a non-conforming use.
 - CEO Nick Adams also reminds the board that the permit issued in 2008 for the final storage structure was revoked by the Code Enforcement Officer at the time, and that decision was not appealed. Even if he had not revoked the permit, it would have expired in 2010.
 - Town Manager Bradley Plante informs the board that the permit issued in 2008 should not have been revoked. This was confirmed by an attorney from MMA. The permit was issued April 28, 2008, and was revoked forty-two (42) days later on June 9th 2008.
- **Public Statement:** There is no public comment.
- **Member Mark Hyland makes a motion to close the public hearing at 7:50 pm, seconded by Vice Chairman Joseph Radziszewski.** No discussion.
Vote: YES – 5 NO – 0
- **Member Mark Hyland makes a motion that the appellant Jeffrey Coolidge has standing as the owner of map 14, lot 15C by presentation of a warranty 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 on the basis that the Mr. Coolidge is appealing a stop work order issued by the Code Enforcement Officer, seconded by Vice Chairman Joseph Radziszewski.** No discussion.
Vote: YES – 5 NO – 0
- **Board Deliberation:** The board believes that Code Enforcement Officer Nick Adams was indeed correct in issuing a Stop Work Order, as there are no open permits for the final storage unit.

- Member Mark Hyland believes that the second and third permits were in fact issued in error. By his calculations the storage units' outsize the residential structure with a square footage of 7,500 square feet. The home only comes in at roughly 2,608 square feet. According to the ordinance a home occupation would need to be accessory to the home, not much larger like in this situation.
 - Mr. Coolidge adds that he has almost twenty thousand dollars (\$20,000) already invested in this storage unit by the installation of concrete and tar.
- **Member Mark Hyland makes a motion to approve the administrative appeal for Mr. Jeffrey Coolidge, Map 14, Lot 15C, seconded by Vice Chairman Joseph Radziszewski. No discussion.**
 Vote: YES – 0 NO – 5 **Appeal is Denied**
- **Findings of Fact:**
 - The applicants and owners of the property are Jeffrey and Verna Coolidge, as demonstrated by a warranty deed.
 - The property is located in the Rural Residential 2 (RR2) zone. It is identified as Assessor's Map #14, Lot #15C, and contains 2.3 acres.
 - The Appellant attempted to construct a twenty-five foot (25') by one-hundred and sixty foot (160') steel frame barn, for personal use, without the appropriate permits.
 - The Code Enforcement Officer issued a "Stop Work Order" on June 19, 2014.
 - An application for an administrative appeal was submitted on June 19, 2014, and public hearing was held on July 14, 2014 and July 28, 2014.
 - Relevant sections of the ordinance are: 105.1 Required, 115.1 Authority, 303.1 Permits Required, Chapter 14, page 198 "Home Occupation" and page 188 "Accessory Structure."
 - Mr. Coolidge is operating a self storage facility on the property, and the Board does not feel this should be considered a Home Occupation due to the fact that the storage structure is much larger than the residential structure that it would be accessory to.
- **Conclusion:** The board concludes that the Code Enforcement Officer did indeed act correctly when issuing a "Stop Work Order" to Mr. and Mrs. Coolidge, due to the fact that no permit was issued for the structure.
- **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 forty-five (45) days.
- **Member Mark Hyland makes a motion to accept the written findings of fact for Jeffrey Coolidge, Administrative Appeal – Map 14, Lot 15C, seconded by Vice Chairman Joseph Radziszewski. No discussion.**
 Vote: YES – 5 NO – 0

NEW BUSINESS

Scott & Debra Rudel, Shoreland Variance Appeal – Map 46, Lot 17

- **The Appellants Scott and Debra Rudel, as well as Code Enforcement Officer Nick Adams are present.**
- **Member Mark Hyland makes a motion that the Rudels have standing as the owner of Map 46, Lot 17 by presentation of a warranty deed, seconded by Vice Chairman Joseph Radziszewski. No discussion.**
 Vote: YES – 5 NO – 0
- **Vice Chairman Joseph Radziszewski makes a motion that the board has jurisdiction to hear the appeal, seconded by Member Mark Hyland. No discussion.**
 Vote: YES – 5 NO – 0
- **Appellant:** Mr. and Mrs. Rudel were issued a notice of violation on June 12th for their property. When they purchased the home they were told that all of the structures and landscaping were permitted. All of the work

had been done by the previous owner. There is a patio on the water that they will be removing. They are seeking a variance to keep the existing walkway around the house for egress use, and to relocate the existing shed to ninety-two feet (92') from the water. The listing agent valued the hardscape between twenty and thirty thousand dollars. Mr. Rudel does feel that a variance is required due to the unique circumstance of the lot. A replacement septic system was installed behind the house where the driveway is. Now the house sits lower, which requires stairways and walk ways to get to and from the driveway. Currently the lots impervious surface ratio is eighteen point twenty-five percent (18.25%). The walk way beside the house is currently six feet (6') wide, and approximately fifty feet (50') long. The driveway is twenty feet (20') by thirty-seven feet (37') and is made of a pervious reclaim.

- **Code Enforcement Officer:** CEO Nick Adams reminds the Board that the violation was created by a previous owner, not the applicant. Also he states that DEP's rule states that anything non-vegetated is considered impervious.
- **Public Statement:** Jeremy Lothrop, from 77 West Shore Drive is concerned that the Rudels have been planting shrubs on the right of way and he worries that they will over grow limiting his access to the water.
 - Mr. Rudel states that he obtained permission from the four properties that do not have their own water front property prior to planting the shrubs. Also, one of the neighbors on the other side of the road assisted in the planting.
 - Member Mark Hyland reminds the abutters that the right of way is not a part of the variance application before the board.
 - Patty Zinkovitch does not feel as though the Rudels should be allowed the variance.
 - Willie Rice would like to know if there are guidelines for planting in the shoreland zone, and if the Rudel's plants meet the requirements for erosion control.
- **Member Mark Hyland makes a motion to close the public hearing, seconded by Vice Chairman Joseph Radziszewski.** No discussion.

Vote: YES – 5 NO – 0

- **Board Deliberation:** Member Mark Hyland suggests moving the shed onto the driveway to reduce the impervious surface ratio.
 - The applicant does not feel as though this is a good alternative since it would be closer to the road and abutter. As an alternative he proposes narrowing the walk way.
 - Member Mark Hyland thinks reducing the walk way to three feet (3') would help. This would reduce the impervious surface ratio to seventeen point three percent (17.3%).
- **Member Mark Hyland makes a motion to grant a shoreland variance for an impervious surface ratio of seventeen point three percent (17.3%), and a setback from the water of ninety-two feet (92') and a setback from the road of forty-two feet (42') for the relocation of the existing shed, seconded by Vice Chairman Joseph Radziszewski.** This variance will require the walkway to be narrowed to three feet (3') which was not a part of the original application.

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

- **Findings of Fact:**
 - The applicants and owners of the property are Scott and Debra Rudel, as demonstrated by a warranty deed.
 - The property is located at 64 West Shore Drive which is in the Limited Residential (LR) zone. It is identified as Assessor's Map #46, Lot #17, and contains .29 acres.
 - The Appellant is proposing to remove and re-vegetate a two-hundred and eighty-eight (288) square foot patio at the water's edge, as well relocate an existing seventy-two (72) square foot shed near the water

to ninety-two feet (92') from the high water mark and forty-two feet (42') from the road. They will also be reducing the size of the driveway, and walkway on the side of the house.

- The Appellant seeks a variance from the following zoning ordinances: 507.2.G4 Maximum Impervious Surface Ratio and 507.2.G7 Minimum Accessory Structure Setbacks.
 - The lot is being used as a year round residential property.
 - The applicant has proved to the Board that strict application of the terms of the Code would result in undue hardship. The driveway and walk ways are being reduced to their minimum sizes while still remaining useful.
 - The need for the variance is due to the unique circumstances of the property. The septic system's grade created a need for stairways and walkways on the property.
 - Granting the variance will not alter the essential character of the locality.
 - The hardship is not the result of action taken by the Applicant. The Applicant is trying to resolve a violation created by the previous owner.
 - A shoreland variance appeal application was received on July 16, 2014, and a public hearing was held on July 28, 2014.
- **Conclusion:** The board has voted in favor of granting a shoreland variance of the lots maximum impervious surface ratio from fifteen percent (15%) to seventeen point three percent (17.3%), and a reduced setback from the road to the shed of forty-two feet (42'), with the following conditions:
 - The existing two-hundred and eighty-eight (288) square foot patio must be removed and re-vegetated.
 - The existing seventy-two (72) square foot shed must be moved to ninety-two feet (92') from the high water mark.
 - The walkway going down the south side of the house must be reduced from six feet (6') wide to three feet (3') wide, except for the area going around the stairway. This will reduce the lot's impervious surface ratio to seventeen point three percent (17.3%).
 - **Decision:** Based on the above findings of fact and conclusions, the Town of Poland Board of Appeals voted to approve the application for a shoreland variance appeal. This decision can be appealed in the Superior Court within forty-five (45) days.
 - **Vice Chairman Joseph Radziszewski makes a motion to accept the findings of fact as written, seconded by Member Holly Bubier.** No discussion.
Vote: YES – 5 NO – 0

OTHER BUSINESS

None

ADJOURNMENT

Member Erland Torrey makes a motion to adjourn at 9:33 pm, seconded by Vice Chairman Joseph Radziszewski. No discussion.

Vote: YES – 5 NO – 0

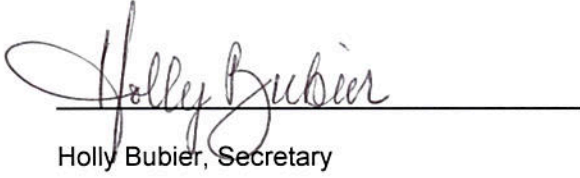
Recorded by Alex Sirois

Date Approved: 2/4/15
Board of Appeals



Richard Carlson, Chairman

Joseph Radziszewski Jr., Vice Chairman



Holly Bubier, Secretary



Mark Hyland, Member

Erlend Torrey, Member