

**Zoning Board of Appeals Meeting  
February 4, 2015 – 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 Holly Bubier, Mark Hyland, and Alternate Gerard Bowes present. Members Joseph Radziszewski and Erland Torrey are absent with notification. Alternate Gerard Bowes will be a voting member this evening.

**MINUTES**

July 28, 2014

- Member Mark Hyland makes a motion to accept the minutes for July 28, 2014 as presented, seconded by Member Holly Bubier. No discussion.

Vote:                YES – 3                NO – 0                ABSTAINED – 1 (J. Bowes)

August 25, 2014

- Member Mark Hyland makes a motion to accept the minutes for August 25, 2014 as presented, seconded by Member Holly Bubier. No discussion.

Vote:                YES – 3                NO – 0                ABSTAINED – 1 (J. Bowes)

**COMMUNICATIONS**

None

**OLD BUSINESS**

None

**NEW BUSINESS**

Tina S. Agren, Administrative Appeal – Map 14, Lot 45C

- **Appellant Tina S. Agren and Code Enforcement Officer Nick Adams are present.**
- **Standing: Member Mark Hyland makes a motion that the appellant has standing as the owner of Map 14, Lot 45C by presentation of a quit claim and warranty deed, seconded by Member Gerard Bowes. No discussion.**

Vote:                YES – 4                NO – 0

- **Jurisdiction: Member Mark Hyland makes a motion that the board has jurisdiction to hear the appeal due to a building permit that has been denied by the Code Enforcement Officer, seconded by Member Gerard Bowes. No discussion.**

Vote:                YES – 4                NO – 0

- **Appellant:** Kim Visbaras is the attorney representing Tina S. Agren. Ms. Agren is appealing the decision of Code Enforcement Officer Nicholas Adams to deny an after the fact building permit for a concrete patio attached to the dwelling. Mr. Adams denied this permit due to the fact that

the patio would not meet set back requirements from the normal high water line (NHWL). Ms. Agren claims she was issued a permit for a wooden structure supported by a concrete pad sometime in the 1990's however neither her, nor the Code Enforcement Office was able to find record of the existence of such a permit. Since the issuance of that permit repairs had been made to the concrete and the wood had been removed. This was done without permits, and the size was not increased.

- Mr. Visbaras informs the board of a similar situation that had occurred in town a number of years ago. A deck considered to be in violation at the camp of a Ms. Harriet Doolittle, which was much closer to the water, was allowed to be retained. A previous Code Enforcement Officer in the Town of Poland not only allowed this deck to be kept just seven feet (7') from the water, but recommend it be reinforced.
  - Member Mark Hyland asks when this structure was built.
    - Mr. Visbaras believes it was built in the early 1970's.
      - Member Mark Hyland reminds him that if that is the case it was likely constructed before Poland adopted a shoreland zoning ordinance which would mean that it would not be a shoreland zoning violation like the structure currently being examined.
- Mr. Visbaras makes mention of a letter submitted by the Appellant from a previous Poland Code Enforcement Officer Arthur Dunlap. In his letter he makes the point that he does not feel that the existing deck would be in violation, nor does he feel it should need to be removed.
  - Member Mark Hyland disagrees with this statement. He also informs the board that he was serving on the Board of Appeals in the 1990's and they often heard appeals on decks too close to the water. In most cases those decks were required to be removed.
    - Member Gerard Bowes asks who the Code Enforcement Officer was in 1995.
      - CEO Nick Adams believes that it was Ed Blow.
        - Member Mark Hyland remembers Ed Blow being meticulous with his records and does not believe he would have issued a permit for this deck.
- **Code Enforcement Officer:** Nicholas Adams informs the Board that in 1995 this project would have been required to go in front of the Planning Board to receive a permit. The appellant claims that the town has no record of this permit due to poor record keeping. While researching the Planning Board files from 1995 Mr. Adams did find that they had denied a permit for a similar deck because the set back from the water was unable to be met. He believes that it is unlikely the Board would have issued a permit for Ms. Agren's deck, since it would not have met the setbacks either. This violation was discovered when the Appellant applied for a subsurface wastewater permit that also required a variance. Upon inspection of the property for the variance Mr. Adams noticed the relatively new looking concrete patio.
  - Member Gerard Bowes asks the Appellant if she remembers going to the Planning Board for the deck, and she does not.
  - Member Mark Hyland asks Mr. Adams if he has checked all of the existing tax cards for this property.

- All tax cards were checked going back to the 1970's. The deck does not appear on the tax card until the early 2000's.
  - Member Mark Hyland asks if this property would be able to go in front of the Planning Board for the expansion of a non conforming structure.
    - Mr. Adams informs them that it could possibly be approved by the Planning Board. There could not be more than one thousand square feet (1000') of total floor areas of all structures within seventy five feet (75') from the water.
- **Public Statement:** Jason Agren makes a statement that his mother always follows all rules. They are positive contributors to the lake, and always do what they can to protect it. He points out that there are many other decks around the lake that are in violation, and if they are required to remove theirs, so should everyone else.
- **Member Mark Hyland makes a motion to close the public hearing at 7:41 pm, seconded by member Gerard Bowes.** No discussion.  
 Vote: YES – 4 NO – 0
- **Board Deliberation:** The Board does not believe that there is adequate evidence that the structure was permitted when it was built. Due to the strict nature of the ordinance a deck would not be allowed this close to the water. Options exist to legalize a portion of the deck by method of Planning Board Approval.
- **Member Mark Hyland makes a motion to approve an Administrative Appeal by Tina S. Agren – Map 14, Lot 45C, seconded by Gerard Bowes.** No discussion.  
 Vote: YES – 0 NO – 4 **APPEAL IS DENIED**
- **Findings of Fact:**
  - The appellant and owner of the property is Tina S. Agren, as demonstrated by a deed.
  - The property is located at 126 Sunderland Drive Poland, Maine, in the Limited Residential (LR) and Shoreland (SZ) zones. It is identified as Assessor's Map #14, Lot #45C, and contains .34 acres.
  - The appellant has an existing concrete patio that is forty-eight feet (48') from the normal high water line.
  - An application for an administrative appeal was received on January 12, 2015, and public hearing was held on February 4, 2015.
  - Relevant sections of the ordinance are: 504.3.A.5, 507.2.G.6, IRC R106.1 & 106.3, CLUC Chapter 14 Definitions.
  - The appellant was denied an after the fact building permit by the Code Enforcement Officer on December 4, 2014.
  - The existing dwelling is considered a non-conforming structure and was constructed prior to the adoption of the shoreland zoning requirements. The concrete patio was constructed in 1995.
  - The appellant claims to have received a permit to construct the patio, yet neither she nor the town office are able to find evidence of such approval.
- **Conclusion:** In conclusion, the Board of Appeals will uphold the decision of the Code Enforcement Officer to deny an after the fact building permit for an existing concrete patio since

it does not meet the land use code requirements for the minimum setback from the normal high water line. A permit could not have been issued in 1995 since it would not have met the code requirements then either.

- **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.
- **Member Mark Hyland makes a motion to accept the findings of facts for the Administrative Appeal by Tina S. Agren – Map 14, Lot 45C, seconded by Member Holly Bubier.** No discussion.

Vote: YES – 4 NO – 0

#### OTHER BUSINESS

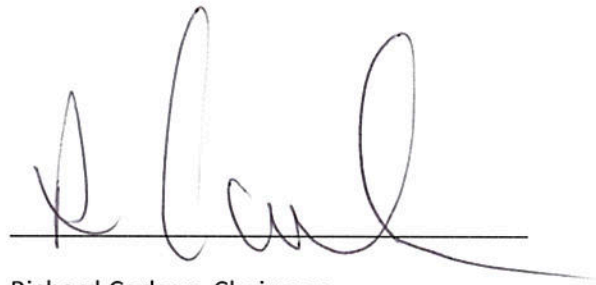
None

#### ADJOURNMENT

Member Holly Bubier makes a motion to adjourn at 8:00 pm, seconded by Member Gerard Bowes. No discussion.

Vote: YES – 4 NO – 0

Recorded by Alex Sirois



Richard Carlson, Chairman



Holly Bubier, Secretary

A B S E N T

Erland Torrey, Member

A B S E N T



Joseph Radziszewski Jr., Vice Chairman



Mark Hyland, Member



Gerard Bowes