



Town of Harpswell
Board of Appeals Minutes
February 25, 2015
Adopted March 25, 2015

Members Present

Ned Simmons, Chair
Jim Knight
Ellen Lebauer
John Perry
Pat Lawson, Associate Member

Members Absent

Ellen Shillinglaw

Staff Present

William Wells, Code Enforcement Officer
Diane Plourde, Recording Secretary

The Town of Harpswell Board of Appeals meeting, being duly advertised in the Brunswick *Times Record* was called to order at 6:30 p.m. by Ned Simmons, Chair. The chair read the agenda, introduced the board members and reviewed the procedures.

The Chair appointed Pat Lawson a full voting member for this meeting.

Old Business: None

New Business: 15-02-01BA – Robert D. Graves, Jr., 232 Ash Point Road, Map 17 Lot 131 – Undue Hardship Variance

The Chair noted the site visit on Monday, February 23, 2015 was attended by Ned Simmons, Jim Knight, Pat Lawson, Robert Graves and several abutters.

John Cunningham, Esq. from Eaton Peabody, representing Mr. Graves summarized the request for a 24' x 14' equipment storage building needed to continue a lobster business at this location. He explained the previous owner's intent to build a storage building on the same location, never finished the building, and only poured the concrete. Mr. Graves wishes to use the same area for construction of the storage building. The Board asked several questions about the location of the septic, unique circumstances of the building, etc. Mr. Cunningham submitted a document to the Chair regarding the abutting property, Reversing Falls Lobster business. Mr. Cunningham explained that the Graves property is encumbered by the placement of a septic easement that occupies 85% of the Graves' shore frontage and that septic system is for the abutting property.

Mr. Knight read a statement regarding the commercial fishing industry in Harpswell and explained why the issues of this appeal constitute significant hardship for Mr. Graves. A copy of those comments is attached to these minutes.

Public Hearing:

Marolyn Bibber, former property owner told the Board she intended to build this structure when circumstances put a stop to construction. She said she is in favor of this request.

The Board continued to discuss the wording of the variance request and if any conditions should be written into the variance decision. Mr. Cunningham asked the Board to use the wording “commercial fishing” and not just “lobstering” within the conditions, and to use broader wording. William Wells, CEO asked the Board to consider using the language “water-dependency” within the conditions issued.

Conclusions of Law:

Undue Hardship Dimensional Variance (BLUO 14.1.4.2)

The applicant has/has not shown that strict application of the ordinance to the applicant and applicant’s property would cause undue hardship.

Ned Simmons moved seconded by John Perry that, *the land in question cannot yield a reasonable return unless a variance is granted.* Motion in favor 5-0

Ned Simmons moved seconded by John Perry that *the need for a variance is not due to the unique circumstances of the property and not to the general conditions in the neighborhood.* Motion in favor 5-0

Ned Simmons moved seconded by Ellen Lebauer that *the granting of a variance will not alter the essential character of the locality.* Motion in favor 5-0

Ned Simmons moved seconded by John Perry that *the hardship is not the result of the action taken by the applicant or a prior owner.* Motion in favor 5-0

Ned Simmons moved seconded by John Perry to continue with the final approval until next month’s meeting at which time we will add conditions of approval and vote on the entire variance. Motion passed 5-0

15-02-02BA – Gerald E. Mitchell, Jr., Pinkham Point Road, Map 45 Lot 37 –
Setback Variance for Single Family Dwelling

The Chair noted the site visit was attended by himself, Pat Lawson, Gerald Mitchell and several abutters.

Mr. Mitchell stated that he would like to build a 20’ x 20’ camp on the property and to receive a variance of 17 feet to the abutting property. Mr. Simmons asked if this would be a year-round residence. Mr. Mitchell stated it would not be year-round.

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He questioned if he completed the correct variance for tonight's meeting. Mr. Simmons explained the differences between a Hardship Dimensional Variance and the Variance for Single Family Dwellings.

Mr. Mitchell requested a continuance until the next month's meeting.

Ned Simmons moved seconded by Jim Knight to continue the variance until the next meeting. Motion passed 5-0

Other Business: Consideration of Minutes of September 24, 2014

Mr. Simmons moved seconded by Mr. Perry to accept the September 24, 2014 minutes as drafted. Motion passed 5-0

Adjournment: The meeting adjourned at 8:00 PM.

Respectfully submitted by:

Diane E. Plourde
Recording Secretary

Encl: Jim Knight Statement