

Approved 8/5/15

TOWN OF CUSHING
PLANNING BOARD
Minutes of Meeting
Wednesday, April 1, 2015

Board Present: Chair Dan Remian, Andrew Blanchard, Bob Ellis, and Frank Muddle

Board Absent: Evelyn Kalloch

Staff Present: None

1. Call to Order: Chair Remian called the meeting to order at 6:00 P.M. and a roll call was taken.

2. Consideration of the Minutes of the March 4, 2015 Meeting:

ACTION: Mr. Blanchard made a motion, seconded by Mr. Muddle, to approve the 3/4/15 meeting minutes.
Carried 3-0-1 (Mr. Ellis abstained)

3. Timothy & Chantal Cole – Approval of Findings of Fact for Application to Convert a Studio Building into a Dwelling in Resource Protection, Denied by the Planning Board on February 4, 2015.

Chair Remian said this review was for purposes of submitting the formal written decision made at the February meeting. Mr. Muddle was sorry CEO Bickford was not here because he had said, at one point, an ancillary building had to have a primary structure to which to be ancillary. Mr. Muddle has wanted to know what happened when such a building became the only building on a new lot. He stated that the CEO had said it became an ancillary building without a primary. Mr. Muddle expressed doubts about this and asked how sure the Board was about it. Chair Remian said he was unsure, though both he and Mr. Muddle thought the previous ancillary became the primary when it was the only building on a lot.

Chair Remian said he had called DEP's Colin Clark, who had said if the PB approved the three things noted in a memo from Mr. Remian, it would be violating its own ordinance. When told that the attorney claimed it was only on a 19% grade, Mr. Clark said that just based on Mr. Bickford's photos, it was a 20' structure with a 12' deck post in the front, so it had to be at least a 30% - 35% slope. Chair Remian himself had measured it at 30%, though he had done it in snowy weather.

Mr. Ellis asked for confirmation that the town had put in a guideline for people who wanted to challenge the Resource Protection [RP] standards. Mr. Remian said it had and they were to go by the map, unless proven otherwise. Mr. Ellis added that an engineer / surveyor would have to provide the proof.

Chair Remian mentioned Item 14, which the CEO had brought to his attention because it picked up problems like insulation to the electric service. Mr. Remian said that was included, but should have been placed elsewhere if it could have been. Chair Remian also had a problem with erosion control in relation to the clean water.

The Chair asked the Board how it wanted to approach the review. Mr. Ellis asked if it should be on the record that the PB had discussed each finding. Chair Remian replied that this had been done at the previous meeting. Mr. Muddle asked if the review he was looking at was from Mr. Cole. Chair Remian said the application stated that Mr. Cole had wanted 1) to have the deck added to the granted permit, 2) to readjust the footprint on the permit, and 3) to change the structure from a studio to a dwelling unit.

Responding to a question from Mr. Muddle regarding the origin of the Findings before them, Mr. Remian said he had gone through each thing that prior CEO Ham Boothbay had done, which he now stated again: "The property consisted of 2-1/2 acres of the proposed subdivided portion of Map 28 / Lot 18; the lot was soil-tested, but would require an update; the 20'1" X 20' 5" structure was constructed on property in Resource Protection." Mr. Remian said the entire building was in RP.

Chair Remian said that looking at the items that CEO Bickford had presented to the Board, the application and zoning use permit were presented by Joan Falbo and Sue Fisher on Feb.16, 2002 for a 20' X 20' accessory structure (studio) in the RP. The second document he found was for review and approved by the PB for a 20' X 20' structure on February 16, 2002. The permit was issued by the PB on February 16, 2002. He had found another one that said the SZ building and use permit application was reviewed and approved by the PB for a 20' X 20' accessory studio in RP on March 6, 2002.

Chair Remian brought up another conflicting document, which he had not even listed because it looked like it was partially completed. So, Mr. Ellis asked, only the date was in conflict? Chair Remian responded that he had not liked the way this last document was written up. Mr. Muddle said it sounded as though there had been a new application for something different, which there had not been. Chair Remian said the minutes for the March 6th meeting recorded an approval of the application submitted by Falbo and Fisher for a 20' X 20' accessory structure in RP. Mr. Ellis asked if it was just that they went over it at the next meeting when they approved the minutes. Chair Remian said the minutes consisted of a one-sentence approval. The members commented on the sloppy record-keeping.

Chair Remian said it looked as though CEO Boothbay had been trying to approve something as the Code Enforcement Officer, rather than going through the Planning Board. Everything was in Mr. Boothbay's writing and it looked as though he had erased a couple of things and set up another meeting. It was approved twice, Mr. Remian said. Mr. Muddle mentioned that Mr. Boothbay had been Code Officer and Chair of the Planning Board. Mr. Remian concluded that it appeared to be only a date conflict.

Chair Remian said the PB had inspected the site on January 24, 2015 and read aloud the subsequent Findings and Decision of the PB (attached) to deny Mr. Cole's application. Chair Remian said the Board had approved a motion to deny the application and the present proceedings were a formality. He asked for a motion to vote on the formal decision.

ACTION: Mr. Ellis made a motion, seconded by Mr. Blanchard, to accept these Findings of Fact and Conclusion of law as written.
Carried 4-0-0

Mr. Ellis asked if the letter to the CEO pointing this out several years earlier was discussed at the PB or Selectmen's meetings. Chair Remian responded that the PB had alluded to it on February 4, 2015 when it was brought up because of the Assessor's review of properties.

There was some discussion about the current status of the property.

3. Adjournment:

ACTION: Mr. Muddle made a motion, seconded by Mr. Blanchard, to adjourn at 6:28 P.M.
Carried 4-0-0

Respectfully submitted,

Deborah E. Sealey
Recording Secretary