

Board Present: Chairman Dan Remian, David Cobey, Bob Ellis, Evelyn Kalloch, Frank Muddle, CEO Scott Bickford

Absent: None

1.Call to Order: Chairman Remian called the meeting to order at 6:35 P.M. and a roll call was taken

2 Approved 3/4/09

TOWN OF CUSHING PLANNING BOARD Minutes of Meeting February 4, 2009

. Approve the Minutes of 1/13/09: Mrs. Kalloch noted that the digital recording had run out of space so the secretary had been unable to complete the written minutes. The chairman commented that most of the meeting had been captured.

ACTION: Mr. Ellis made a motion, seconded by Mr. Muddle, to table the minutes of the 1/13/09 meeting until the members had a chance to read them.
Carried 5-0-0

3. Communications / Correspondence: None

Old Business:

4. Rick Klepfer for Mark & Cynthia Giroux, Application to Increase Building Volume, Map 6, Lot 9-10: Mr. Remian stated that Mr. Klepfer had provided the volume calculation the Board had requested at its last meeting. Mr. Remian asked if the new roofline would have an open ceiling. Mr. Klepfer said it would and no living space would be created. He confirmed that this was a seasonal cottage. Mr. Remian ascertained that the roof would be raised less than 4'. Mr. Cobey asked if this would be a replacement roof or be built on top of the existing roof. Mr. Klepfer said the roof must be reframed because it was originally built with 2X4s.

Mr. Ellis asked if the issue of the approval of more than 30% expansion had been settled. He said the PB manual stated that PB members, selectmen or any citizen who disputed a PB decision had 30 days to appeal; after that time the decision became record. Therefore, Mr. Remian said, the Board could make a decision on what was before it now, but not revisit the expansion. He stated that he had no problem with the currently proposed 19% increase in volume. The other Board members concurred, saying that it would not create habitable space or change the footprint. Mr. Cobey said he would have to vote against approval because the previous expansion should not have been approved.

Mr. Remian added that the Board should ensure for the record that no other changes were made to the building in the future. Mr. Bickford said he had spoken with land use attorney Dirwood Parkinson, who had said the expansion could be treated as an enforcement action, though the CEO thought this would be unfair to the new owner. He had also spoken with DEP's Rich Baker, who suggested negotiating this expansion down to less than 30%. Mr. Muddle noted that it was only 20%. Mr. Baker had said it was important that the documentation be complete so this would not happen again. Mrs. Kalloch said she saw no problem, because the roof was in disrepair. Mr. Cobey said he did not want to hear any comments in the future about him "writing his own rules".

Saying the Board should consider Mr. Cobey's argument, Mr. Ellis said the original application listed the existing and expanded floor areas in terms of square footage, not volume. The floor area had been 448 SF, with an expansion of 134 SF allowed. The total area allowed was 582 SF, with the applicant saying he had an area of 574 SF. CEO Bickford said the then owner, James Tower, had come to the Board with an expansion plan, which he had amended a month later. The plan Mr. Ellis was looking at was the later amended and approved plan, the CEO said. Mr. Ellis asked if the expansion had indeed been more than 30%. There was discussion concerning which structures had been included in the original floor area numbers. Mr. Muddle said this discussion was not germane to the application before the Board, which should be looking at the existing volume and the increase requested in the application. Mr. Cobey countered that it was necessary to see if the previous increase had been 30% in volume

or square feet, because that was the allowable limit. Mr. Ellis agreed. Mr. Bickford said Mr. Klepfer's calculation of 19% increase in volume was less than the 30% allowed, even if the floor area had been increased by 30%.

Mr. Cobey said he calculated that the building had been increased by approximately 80% in floor area; therefore, he felt it did not warrant an increase in volume. Mr. Klepfer said since a crawl space would not be included in volume he did not see why attic space should be. Mr. Cobey asserted that it was based on visual impact on the shoreland. Mr. Ellis read aloud from SZO Section 12(C)(1)(a) and, at the chair's request, the water setback requirements on the 30% rule.

Mr. Ellis stated that the Board must consider on its own what was in front of it now. Mr. Remian said this was a legally non-conforming structure and the regulation was not meant to prohibit expansion of such, as long as it would not make it further non-conforming within the setback; therefore, it could be expanded. The Board discussed making no further expansion a condition. Mr. Cobey said he would not be comfortable voting without interpretation of 12(C)(1)(a) by Rich Baker as to whether 30% expansion by both volume and floor area (or only by one) was allowed. Mr. Remian and Mr. Muddle contended that it meant one or the other, not both. In that case, Mr. Cobey said, it had already been expanded in floor area by more than 30%, thus it could not be increased in volume. Mr. Ellis said the PB had approved a 29% increase previously, so there was only 1% expansion remaining, regardless of the amount the previous owner had expanded. On that basis, he said, the present application should not have come before the Board or, since it had, must be denied.

ACTION: Mr. Ellis made a motion, seconded by Mr. Remian, to table the application and get an opinion from DEP on the language in our current Shoreland Zone Ordinance.
Carried 5-0-0

Other:

5. Shoreland Zone Schedule: Mr. Remian said there would be a meeting on this tomorrow and he asked members if they wanted to add anything to the schedule. He said the shoreland zone map needed to be included. The chairman reviewed which items had already been addressed. An Appeals Board member in the audience asked what was expected of the Appeals Board and Mr. Remian said it should determine if its regulations conformed to the administration section of the new SZO. There was further discussion.

Mr. Remian said the Board had received notice from Mr. Tower's attorney that his case against the PB on its decision on Robbins Mountain had been dismissed.

6. Adjournment:

ACTION: Mr. Muddle made a motion, seconded by Mr. Cobey, to adjourn at 8:00 P.M.
Carried 5-0-0

Respectfully submitted,

Deborah E. Sealey
Recording Secretary