

**CAMDEN ZONING BOARD OF APPEALS**  
**MINUTES of MEETINGS**  
**April 28, 2011**

**PRESENT and VOTING:** Chair: Frank Toole: Members: Leonard Lookner, Sam Smith and George Wheelwright; and Alternate Member: Linda Norton

**ALSO PRESENT:** Alternate Member Jean Blair and CEO Steve Wilson

**ABSENT:** Member: Tom Laurent

The Meeting was called to Order at 5:00 pm in the Washington Street Conference Room. Mr. Toole read the procedure for the Public hearing.

**DECLARATION OF CONFLICT**

Members were asked to declare any possible conflicts of interest they might have regarding the application before them; none did.

There are four regular members and one alternate member voting.

**CHANGE IN A NON-CONFORMING STRUCTURE IN THE SHORELAND ZONE**

**139 Beaucaire, LLC: Map 103 Lot 25: Rural 1 District (RU-1): Shoreland District – Megunticook Lake**

**Applicant: Emma Kelly, Richardson & Associates, Landscape Architects**

**STANDING**

The Applicant, Ms. Kelly had submitted a copy of a Purchase and Sales Agreement for the subject property dated January 14, 2011, redacted to protect the identity of the owner, and she informed the Chair that she has permission to appear on behalf of the LLC; The Chair found this is sufficient to give Ms. Kelly standing to make this Application.

Ms. Kelly and Bruce Norelius, Norelius Studios, the Architect of record, are both appearing on behalf of the property owner who is seeking permission to demolish two outbuildings on the property, the Bunkhouse and the Laundry, and use those volumes to expand the main cottage; the new location will be less non-conforming than the original structures. The owner also wants to renovate, expand and raise the Boathouse out of the Floodplain; remove two stone retaining walls and steps, terrace, paths, gravel drive, parking and boat storage areas and create new landscape walls, paths, drive and parking area and planting areas; improve the site utilities by taking them underground and removing a utility pole from the Shoreland Zone; and remove the waste water treatment system with the new system to be located on a new site outside of the Shoreland Zone.

The thrust of all of these proposed changes is to simplify the site by making improvements that reclaim some of the impervious areas and return them to natural vegetation and to reduce the number of structures and concentrate the uses in a central cottage location. Right now there are four buildings: the main cottage and three outbuildings. The three outbuildings are in the most non-conforming sites on the lot. The Bunkhouse is closer to the shore than the Main Cottage and the Laundry sits within the street setback. – they will be removed and their volumes added to the cottage; and the Boathouse, which needs to be close to the water because of its use, will be raised

up out of the floodplain. A utility pole will be relocated outside of the 100' setback and the lines taken underground to the house. The 6 acre lot opposite Beaucaire Avenue also belongs to the LLC and this is where the new septic will be located.

By removing the two outbuildings and the parking areas, etc., the site coverage will be reduced from 24% to 20% coverage.

According to the Town's tax cards the shoreland lot is about .54 acres (23,799.9SF) – all except for a very small triangle is within the 100' setback.

Questions from the Board:

Mr. Smith: Because there was snow cover a complete survey was not done. Mr. Smith wondered how they established the nearest abutter's line so they could determine setbacks. Ms. Kelly responded that they relied on information used in a 2002 Town permit for an expansion of the cottage.

The 2002 addition added 200SF to the cottage and the existing cottage is now 1071 SF. As part of the "simplification" proposed here, the number of bathrooms on the site will be reduced from five down to two; the Boathouse which is now a guest house has a bathroom that will be removed and the structure will be turned back into a Boathouse.

The new volume for the Main Cottage will be added to the most conforming side – the back of the cottage away from the water. The volume of the cottage will increase by 10%: a bay window will be added; the total square footage will be reduced; and the cubic footage will increase. Currently the cubic footage is 22,805 CF and the result after expansion will be 26,012 CF.

The overall height of the cottage will not change; the height of the Bunkhouse will change from 17' 6" to 21'.

Proponents:

Ed Libby, Cumberland, Maine: Buyer's realtor. He has grown up in a family where there is much concern about water quality and he understands how important that issue is to the neighbors and to the watershed. He is sure that all concerns in this regard will be addressed by this buyer. He especially glad to see the bathroom in the Boathouse going away – it is right on the water. He is also glad to see the septic being moved.

No one came forward to speak in opposition.

Mr. Phil Woods knows the current owner and abutters. He wonders why the property has not sold – is the buyer waiting to obtain the Board's approval first?

Ms. Kelly responded that they would like to know the Board's response to their proposal.

**MOTION by Mr. Wheelwright seconded by Ms. Norton to close the Public Hearing.  
VOTE: 5-0-0**

**Article VI Nonconformance:** Section 6. Changes in Nonconforming Structures in Shoreland Areas

(2) Section VI Relocation

(a) A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Zoning Board of Appeals, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.

(b) In determining whether the building relocation meets the setback to the greatest practical extent, the Zoning Board of Appeals shall consider:

- the size of the lot:

Mr. Lookner asked if the two lots under the same ownership are to be considered one lot or two lots. If they are one lot is the Board required to tell the owner that they must relocate outside of the Shoreland Zone across the road?

Mr. Wilson responded that the Town considers the property as two lots for tax purposes, but even if this were not the case, the Shoreland Ordinance defines a lot bisected by a road as two lots for the purpose of that Ordinance.

- the slope of the land:

Plans P-2 and P-3 show the existing and proposed sites before and after the proposed work is done and includes 1' contour lines. Mr. Wheelwright notes that the rise in elevation of the lot from water to the road is only about 8' – 10' over all; that is not a steep slope. He believes there is no issue with regard to the slope of the land to suggest that the new volume be located anywhere other than the site where it is proposed to be located.

- the potential for soil erosion:

The site where the new volume will be located is already impervious surface and there will no new impervious surface created. The soil erosion technique of continuous contained mulch berms will be employed which is much more successful at catching soil particles than silt fence and hay bales. Mr. Wheelwright notes that Plan P-7 shows these erosion control measures and contains the statement that Best Management Practices will be followed.

Plan P-3 shows the underground utilities will be located at the back of the lot toward the road to keep any disturbance from this work away from the water as much as possible.

- the location of other structures on the property and on adjacent properties:

Two of the four structures will be removed – both will become less non-conforming in their new location. The nearest abutter's home is just on the other side of the line, but Mr. Wilson has spoken to three of the abutters. They had questions, but none had any complaints and think the project will improve the neighborhood.

- the location of the septic system and other on-site soils suitable for septic systems: Mr. Toole stated that the Board has heard testimony, and that Plan P-4 shows that the present antiquated septic system will be replaced by a new system, the design of which has already been permitted, to be located outside the 100' setback.

- and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Zoning Board of Appeals shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- (i) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation and ground cover that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- (ii) Where feasible, when a structure is relocated on a parcel, the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees or a combination thereof.

The Landscape Plan – P-#, shows that there will be as few trees removed as possible. There are many large old trees which the owner feels add a great deal to the sense of the site itself. The health of all the trees will be assessed by an arborist and any which pose a possible threat to the cottage will be taken down. There are a couple whose roots are tied up in the stone wall that is to be relocated; those trees may not survive that work. Mr. Wheelwright asked if it was correct to state that no trees will be removed to facilitate the relocation of the volume; that is correct.

**MOTION by Mr. Toole seconded by Mr. Lookner that the proposed removal, replacement and relocation into the proposed structure as shown in the application, in testimony and exhibits will meet the criteria of Article VI, Section 6(2)(a)**

**VOTE: 5-0-0**

**MOTION by Mr. Wheelwright seconded by Ms. Norton that the proposed removal and reconstruction as set forth in Plan P-3 meets the criteria of Article VI Section 6(2)(b) as discussed previously.**

**VOTE: 5-0-0**

Testimony and Exhibits:

Plan P-11 contains a summary of the SF and Volume increases before and after the proposed construction.

The existing SF is 2057 SF with building coverage on the lot of 8.64%

The Proposed SF is 1959 SF with building coverage on the lot of 8.23%

The existing volume is 22,805 CF, the proposed volume will be 26,012 CF which is a 14% increase in volume and well under the 33% increased permitted.

The previous expansion is also addressed on Plan P-11: There was a 20% increase in the SF footprint at that time, but no increase in volume.

**MOTION by Mr. Lookner seconded by Mr. Wheelwright that the proposed increase in volume meets the criteria established in Article VI Section 6(1)(a).**

**VOTE: 5-0-0**

**MOTION by Mr. Toole seconded by Mr. Wheelwright that the proposed by Beaucaire LLC to make changes to a non-conforming structure in the Shoreland meets the requirements to set back to the greatest extent practical as required by Article VI Section 6(2)(b).**

**VOTE: 5-0-0**

**MOTION by Mr. Wheelwright seconded by Mr. Smith that based on the exhibits submitted tonight and the testimony given that the application is approved.**

**VOTE: 5-0-0**

## **1. MINUTES**

The Board will wait to review the Minutes of January 27, 2011 and February 10, 2011 at their next meeting.

There being no further business before the Board they adjourned at 6:30 pm.

Respectfully Submitted,

Jeanne Hollingsworth, Recording Secretary