

MINUTES  
LISBON APPEALS BOARD  
SEPTEMBER 18, 2006

1. The Vice Chairman, Everett Kaherl, called the meeting to order at 7:00 p.m.
2. Members present were Everett Kaherl, Jackie Katz-Austin, Norma Newbury, Carol Shimko, Norma Newbury, Steven Miles, and Robert Ireton-Hewitt. Absent was Roger Cote (excused). Also present was Mike Cote, Deputy Code Enforcement Officer, Tammy Thatcher, Administrative Assistant; Curtis Lunt, Town Manager and 7 members of the audience.
3. PUBLIC HEARING

Mr. Kaherl explained the Appeals Board process and proceedings.

06-1 Anne & Orison Tarr (Tabled from 8-21-06)  
Property Location: 2 Brewin Lane, Lisbon Falls  
Tax Map: R2-36  
Zone: Rural Open Space  
Intended Use: Variance to Reduce Existing Lot into 2 lots

The board received the memorandum from the town attorney that stated the Tarr's request to have the one (1) contiguous lot made into two (2) lots. The town attorney stated because the ordinance changed in May 13, 1995 the Tarr's would be unable to get a variance at this time. The memorandum sent to the Board of Appeals on September 15, 2006 indicated a copy of said memorandum was sent to the Tarr's. Mrs. Tarr stated that she, as of today, September 18, 2006, had not received said memorandum. Mr. Kahrel asked Mrs. Tarr if she would like time to read a copy of the memorandum and she declined.

Carol Shimko stated that she was not at the August 21, 2006 meeting, but that she has read the minutes. Carol stated she called Mr. Cote inquiring as to when the ordinance change took affect. Mr. Cote told Carol it took affect after the May 13, 1995 town meeting. Mr. Cote stated all notices were posted in the correct places prior to the May 13, 1995 town meeting so that the town would be aware of the code change. Mr. Cote stated the Tarr's had been paying taxes on the one contiguous lot since 1995. Mrs. Tarr questioned why the lots were joined, that she (The Tarr's) did not want them joined, and why they (the Tarr's) could not separate them. Mrs. Tarr requested she be grandfather according to her original two separate deeds. Mr. Kahrel questions whether the Appeals Board had the right to grandfather anything. Mr. Cote stated the lots according to the ordinance, as it is written now, are not big enough to separate. Carol Shimko asked to have an opinion from the town attorney on whether or not enough notice was given for the code change in 1995. Mr. Kahrel stated that the town clerk's office could research the matter of postings and pass on these findings to the town attorney for his recommendation on whether or not enough notice was given to the town. The town attorney could review the matter and give his findings to the board.

ACTION TAKEN: Carol Shimko, seconded by Steven Miles moved to have the town attorney give an opinion on if sufficient notice was given to the town according to

town ordinances in 1995 regarding non-conforming lots for the May 13 town meeting. The vote was 3 to 3 failed.

Steven Miles asked whether the lots met the code prior to 1995. Mike Cote stated that the lots did meet the town code prior to 1995. Mike Cote stated that he went to Mr. Samson and was told that Mrs. Tarr wanted to place a double wide home on one piece of land while her two-story home was on the other. Mrs. Tarr stated that she wanted to place a double wide home on the two-acre lot and then sell the home that is on the other lot. Mr. Kahrel stated that the picture the board was given originally was that the Tarr's wanted to sell the home they now own and put a double wide home on the other lot.

ACTION TAKEN: Carol Shimko, seconded by Jackie Katz-Austin moved to deny this request for a variance to reduce existing lot into 2 lots. Vote 2 to 4 failed.

06-2 Lisbra, LLC

Property Location: 575 Lisbon Street, Lisbon Falls

Tax Map: U10-26

Zone: Commercial/Industrial

Intended Use: Variance on Driveway Entrance/Expansion/Sign Expansion

Bent Poi, Engineering firm for Rite Aid. Lisbra LLC is a development corporation for Rite Aid to develop a new store across the street from the current store on Lisbon Street at Capital Avenue. Bruce Carrier, owner, was present and requested that Mr. Poi speak for Lisbra LLC. There is an existing sign for the Industrial Park on the corner. Rite Aid would like a larger driveway from 26 to 30 feet and they are requesting a larger sign from 60 to 99 square feet. Mr. Poi stated that the truck turning space needs to be bigger, 26 feet is not enough, that they have 53-foot trucks making deliveries, and that the curb area would not work for that size truck. The sign currently there is by easement and has to remain there. Mr. Poi said that while driving to the meeting he saw many signs that exceeded the 60-foot sign limit. Lisbra is proposing that they move the industrial park sign so that the Rite Aid sign could be placed closer to the corner.

The stated right of way is 45 feet from the edge of the pavement to the property line. The Rite Aid sign would be a freestanding sign, DEL liter board. The sign would do the time and temperature and not really flash. The Board of Appeals can grant the variance under section 70-120, "powers and duties section". Mr. Kahrel stated that he does not believe that the board is locked into those particular limitations listed there, but in the past the board has used section 70-155. Mr. Carrier stated that undue hardship could be used in the variance of the sign footage. Mr. Kahrel stated that the board had dealt with sign cases before that have been denied and that the person and/or persons had to go to town meeting. The board agreed that they could not vote to make a variance for this sign, and directed Lisbra, LLC to go to the Town Council.

ACTION TAKEN: Jackie Katz-Austin, seconded by Carol Shimko moved to table the sign section. Vote was 6 to 0 carried.

ACTION TAKEN: Carol Shimko, seconded by Steven Miles moved that the matter for the driveway requirements be tabled until the next meeting so that the town attorney may give his opinion on the variance. Vote was 6 to 0 carried.

06-3 Lana Raubeson

Property Location: 42 Edgecomb Road, Lisbon Falls

Tax Map:

Zone: Limited Residential

Intended Use: Request to Extend Variance or Change Conditions on Variance

Approved on 8-29-90

Ms. Raubeson is requesting an extension for the variance that was granted in 1990. The original variance was for Ms. Raubeson's mother and disabled brother who no longer live there. Ms. Raubeson said she had made over the two (2) car garage into an apartment. Someone is now living in the apartment and has been since 1998. She had a new sewer system put in. The driveway is wide enough at one end for 4 to 5 cars. Ms. Raubeson has not been living at 42 Edgecomb Road for some time. The lot has 83 feet of frontage, however it does not meet the current 150 feet needed now. The board felt that since no disabled person is living there now, that they would not grant an extension of the old variance. The board informed Ms. Raubeson that she has the right to appeal to Superior Court within 30 days.

ACTION TAKEN: Jackie Katz-Austin, seconded by Norma Newbury moved to deny the request to extend the old variance or change the conditions. Vote 6-0 carried.

4. OTHER BUSINESS:

ACTION TAKEN: Norma Newbury, seconded by Jackie Katz-Austin moved to nominate Carol Shimko Chair and Everett Kaherl Vice Chair. Motion 6 to 0 carried.

A Workshop will be held on October 30, 2006 and a request from MMA for materials was made.

5. ITEMS FROM CODE ENFORCEMENT: None

6. WRITTEN COMMUNICATIONS

Minutes of August 21, 2006.

ACTION TAKEN: Jackie Katz-Austin, seconded by Robert Ireton-Hewitt moved to accept the minutes of August 21, 2006. Vote 6 to 0 carried.

7. ADJOURNMENT

ACTION TAKEN: Carol Shimko, seconded by Norma Newbury moved to adjourn at 8:53 p.m. Vote 6-0 carried.

Respectfully Submitted,

---

Marie A. Hale, Administrative Assistant  
Town Clerk's Office