



Lamoine Board of Appeals

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Lamoine, ME 04605
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Notice of Decision

Robert Seibel
Vs.
Lamoine Code Enforcement Officer

Decision Date: September 30, 2010

The Lamoine Board of Appeals provides this notice of decision in the above captioned matter. On the appeal of a Notice of Violation of the Shoreland Zoning Ordinance and order for correction, the Board of Appeals upholds the decision of the Code Enforcement Officer on three of the four areas of the violation, but overturns the decision on the fourth. Specifically, the violations of Section 12-C-1-c, Section 15-B-1, and 16-C are found to have merit. The Board finds that the violation cited by section 15-C was without merit.

Based on the votes outlined in the Conclusion of Law section of this notice, the notice of violation and order for corrective action issued by the Lamoine Code Enforcement Officer on April 29, 2010 is hereby confirmed. The Board of Appeals extends the deadline for the corrective action outlined in said notice to October 15, 2010.

The basis for the Board of Appeals Decision is contained in the attached Findings of Fact and Conclusions of Law. An appeal may be made to Superior Court within 45-days of this Notice of Decision pursuant to Section 16-I-4 of the Lamoine Shoreland Zoning Ordinance

Signed,

_____ Hancock G. Fenton, Chair

_____ John Wuorinen

_____ Merle Bragdon

_____ Jay Fowler

Findings of Fact

1. The Appellant, Robert Seibel, is the joint owner of land and buildings identified as Lamoine Tax Map 16 Lot 19-2, further identified with the physical address of 55 Seaview Way.
2. On April 16, 2010, the Code Enforcement Officer for the Town of Lamoine received a written complaint from Tax Assessor Michael Jordan that a structure had been built on the above referenced property in apparent violation of the Shoreland Zoning Ordinance of the Town of Lamoine
3. On April 20, 2010, the Code Enforcement Officer visited the property referenced in #1 above and observed the alleged violation, preparing a written report.
4. On April 29, 2010 a Notice of Violation and Order for Corrective Action was prepared and mailed to the Appellant.
5. On May 25, 2010, the Appellant made a written request to the Board of Appeals to reconsider the notice referenced in item 4 above.
6. On August 9, 2010, this Board met and determined that it would hear this matter and that it has jurisdiction on the request in item #5 above.
7. On September 20, 2010, a public hearing was held before this board.
8. A free standing deck measuring approximately 49.5 square feet was constructed and placed in front of a boat house owned by the Appellant sometime prior to April 16, 2010
9. The above referenced deck contains posts and is set on cement footings, and is located less than 100 feet from the normal high water mark.
10. No building or Shoreland Zoning permit was received or applied for prior to constructing and placing the deck.
11. The appellant, at some point prior to April 16, 2010, hired a contractor to perform repairs to the boat house referenced in #8 above, including roof replacement, access door replacement, and installation of a floor inside the boat house.
12. The boat house is an existing "grand-fathered" structure.
13. The value of maintenance work referenced in #11 above was less than 50% of the value of the structure, and the size of the boat house remains the same.
14. The use of the boat house continues to be for storage of boats and other materials, and not for human habitation.

15. The portion of this property in question is located within the Limited Residential Zone of the Shoreland Zone of the Town of Lamoine.

Conclusions of Law

1. The Lamoine Shoreland Zoning Ordinance, section 12-C-1-c reads as follows:
No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland. The Shoreland Zoning Ordinance (Section 15-B-1) requires the setback of any structure (defined in Section 17) to be a minimum of 100-feet from the normal high water mark in the Limited Residential Zone. Based on findings # 8 and 9 above, the Board of Appeals concludes the deck placed in front of the boat house is in violation of Section 12-C-1-c of the Lamoine Shoreland Zoning Ordinance. (Vote in favor of this conclusion was unanimous)
2. The Lamoine Shoreland Zoning Ordinance, section 15-B-1 reads (in part) as follows:
 - a. *Setbacks from Normal High-Water and Flood Plain Boundaries*
 1. *All new principal and accessory structures shall be set back at least one hundred (100) feet from the normal high-water line of any water bodies...*

Based on finding # 9 above, the Board of Appeals concludes the deck placed in front of the boat house is in violation of Section 15-B-1 of the Lamoine Shoreland Zoning Ordinance. (Vote in favor of this conclusion is unanimous)

3. Section 16-C of the Lamoine Shoreland Zoning Ordinance reads as follows:
Permits Required
After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. Please note: Additional permits may be required by Maine State Statutes. The applicant is responsible for obtaining all required permits prior to the issuance of a Lamoine Shoreland permit. Based on finding #10 above, the Board of Appeals concludes that the deck in question is in violation of Section 16-C of the Lamoine Shoreland Zoning Ordinance. (Vote in favor of this conclusion is unanimous)
4. Section 15-C of the Lamoine Shoreland Zoning Ordinance reads (in part) as follows: *No existing structures built on, over or abutting a pier, dock, wharf or*

other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district. Based on findings #11-14, the Board of Appeals concludes that the existing structure continues to be an allowed, non-conforming use, and that no change of use has occurred, and therefore, the boat house is NOT in violation of Lamoine's Shoreland Zoning Ordinance (any section). (Vote in favor of this conclusion is unanimous)

Sitting and voting members of the Lamoine Board of Appeals are:

Hancock "Griff" Fenton, Chair
Merle Bragdon
Jay Fowler
John Wuorinen

Approved: September 30, 2010.