

Town of Readfield, Maine
Board of Appeals

IN THE MATTER OF:

Dawn and Scott Morash)
111 Mayo Road)
Readfield, Maine)

Remand

History of the Case

In or around 2020, Dawn and Scott Morash (“the Morashes”) began their application process for a Land Use Permit. The Morashes want to tear down their existing home at 111 Mayo Road and replace it with a new home located further away from Maranacook Lake. On April 27, 2021, May 11, 2021, May 25, 2021, January 11, 2022, April 12, 2022, and May 24, 2022, the Readfield Planning Board considered the Morashes’ Land Use Permit Application.

On May 24, 2022, the Planning Board issued a decision, which denied the Morashes’ Land Use Permit Application.

On July 8, 2022, the Morashes appealed the Planning Board’s decision to the Board of Appeals.

On August 15, 2022, the Board of Appeals held a hearing to review the Planning Board’s decision. Board of Appeals members William Gagné Holmes, Peter Bickerman, John Blouin, Clifford Buuck, Holly Rahmlow and Henry Whittemore attended the hearing.

Legal Standard

Appeals from Planning Board decisions are strictly appellate proceedings. Board of Appeals Ordinance §6(B). Appeals from Planning Board decisions are limited to the record of proceedings before the Planning Board. *Id.* When a Planning Board decision gets appealed, the Code Enforcement Officer provides the Board of Appeals copies of all the papers constituting the record of the decision appealed. Board of Appeals Ordinance §12. Appeals from Planning Board decisions cannot involve any new evidence which was not presented to the Planning Board. Board of Appeals Ordinance §6(B). For appeals from Planning Board decisions, the Board of Appeals receives and considers oral and written argument. *Id.* The Board of Appeals shall not substitute its judgment for that of the Planning Board on questions of fact. *Id.* The Appellant has the burden of proof. Board of Appeals Ordinance §14(D). The Board of Appeals may remand a matter to the Planning Board for additional fact finding. Board of Appeals Ordinance §6(B).

Factual Background for the Planning Board’s Decision

After removing the old home, the Morashes propose to build a 4600 square foot home on the property. Part of the new home would lie closer than one hundred feet from Maranacook Lake. The Planning Board's decision factually found that the existing, 2100 square foot home lies about fourteen feet from Maranacook Lake and that the existing, 2100 square foot home could be reconstructed or replaced with a similarly sized structure or even a significantly larger structure that would meet all required setbacks, including the 100-foot set back from the lake. The decision then reasoned that no part of the Morashes' new home could be closer than 100 feet from the lake because the footprint of the original home could be moved in such a way as to become a conforming structure. The Planning Board applied the July, 2020 Land Use Ordinance.

Reasoning Behind This Order

The Morashes and multiple interested persons provided argument at the hearing. After consideration and deliberation of the Planning Board's record as well as the written and oral arguments submitted, the Board of Appeals concludes as follows:

A majority of the members of the Board of Appeals concludes that there is a need for greater clarity regarding the basis or bases for the Planning Board's denial of the application to replace a 2,100 square foot non-conforming structure located approximately 14 feet from the high-water mark of Maranacook Lake with a 4,600 square foot structure proposed to be located approximately 75 feet from that high-water mark.

Accordingly, the Board of Appeals hereby remands this matter to the Planning Board, pursuant to Section 6(B) of the Board of Appeals Ordinance, for additional findings of fact regarding the Planning Board's conclusion that the proposed site of the replacement structure fails to conform to the setback requirements of Readfield's Land Use Ordinance to the "greatest practical extent."

In addition, the Board of Appeals would appreciate further guidance from the Planning Board regarding its view of the significance of 06-096 C.M.R. Chapter 1000, Section 12(C)(4), the State regulation which appears to apply to setbacks from Great Ponds such as Maranacook Lake.

Conclusion

This matter is remanded to the Planning Board for additional fact finding.

Dated: August 29, 2022

On behalf of the Board of Appeals

William Gagné Holmes 

William Gagné Holmes, Chairperson