

Town of Readfield, Maine
Board of Appeals

IN THE MATTER OF:

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

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, larger 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, after holding a hearing to review the Planning Board’s May 24, 2022, decision, remanded to the Planning Board for additional findings.

On October 25, 2022, the Planning Board issued a Revised Decision, which contained additional findings and again denied the Morashes’ Land Use Permit Application.

On December 5, 2022, the Board of Appeals held a hearing to review the Planning Board’s October 25, 2022, Revised Decision. Board of Appeals members William Gagné Holmes, Peter Bickerman, John Blouin, Clifford Buuck, Holly Rahmlow, Henry Whittemore, and Nate Rudy 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).

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. As requested by the Applicants, the Planning Board applied the July, 2019 Land Use Ordinance.

Reasoning Behind This Order

The Board of Appeals concludes that the Planning Board correctly applied its factual findings to the Readfield Land Use Ordinance and made no legal error in reaching its conclusion in its October 25, 2022 Revised Decision. The Board of Appeals had six members vote in favor of this decision and one member abstaining from voting.

Conclusion

The Morashes' appeal of the Planning Board's October 25, 2022, Revised Decision is denied. The Planning Board's October 25, 2022, Revised Decision is affirmed.

Reconsideration and Appeal Rights

Any party aggrieved by this Decision may seek reconsideration of it by filing a written request for reconsideration with the Town Clerk no later than December 15, 2022. Board of Appeals Ordinance §15. Whether or not a request for reconsideration is made, any party aggrieved by this Decision may file an appeal of this Decision with the Superior Court for Kennebec County in accordance with Rule 80(B) of the Maine Rules of Civil Procedure by the later of forty-five days after December 5, 2022, or within 15 days after the vote by the Board of Appeals on any reconsideration. 30-A M.R.S. §2691(3).

Dated: December 7, 2022

On behalf of the Board of Appeals

William Gagné Holmes 

William Gagné Holmes, Chairperson