

**Town of Machias  
Board of Appeals  
Minutes - April 13, 2023**

**Meeting regarding appeal filed on Graham Holdings building permit**

**In Attendance:** Carol Christianson, Ann Marie Evans, Ben Edwards, Andrew Mulholland and Tora Johnson (Quorum)

**1. Election of Officers:**

Election of chair: Ben nominated Andrew. Tora second. Unanimous

Election of secretary: Mary nominated Tora, Carol seconded. Unanimous

Bob Berta asked: Are there any conflicts of interest, asked who has received money for work for the town. None.

Shoreland Zoning Ordinance: This is an appellate hearing, not de novo hearing.

**2. Review Notice of Appeal and Review Request for Denial:**

Board must determine whether we will hear the appeal. If the board agrees to hear the appeal. We need to determine if we have all materials needed to make the determination. Each party can state their case.

We do not have a written determination of the findings of the Planning Board.

**A. Mary Costigan, attorney with Berstein Shur (via Zoom) with the appeal:**

- Filed appeal of the planning board decision on Graham Holdings
- Concern about emergency meeting called and ended review under Shoreland Zoning ordinance 35 day time limit. When you have a deadline for review in an ordinance, "shall" says this is what you are supposed to do but not limited if you don't. DEP concurred.
- Standing of particularized injury for an appeal: Jeanne Tennison who put a significant down payment for the house abutting.
- Appears that description of deed doesn't align and building plans seem to show building will be on abutting property.
- Request for remanding to the planning board because of the time frame issue and standing of abutters.

Ann Marie: What is the evidence for potential devaluation?

- Regarding standing: She does have a pecuniary interest. Is it a civil issue or an issue related to standing?

**B. Dan Pileggi, attorney with Acadia Law Group:**

- Will discuss only standing: Under Machias shoreland zoning ordinance, burden of showing they are an aggrieved party—read from ordinance
- Ms. Tennison is not on the deed. Deed is in Susan Marble, Ms. Tennison's sister. Therefore no standing.
- Letter regarding Neargard (sp?) case from letter from today: Claim of harm to non-abutter as having standing for non-abutter. Law court says effect must have direct impact on property interest, pecuniary, no competing business, etc. Change in value is not part of the appeal.
- Impingement on property is a civil matter
- Breathing air is not sufficient to grant standing.

**C. Question from Andrew about who falls under "particularized injury"**

- Being a tenant in an adjacent building isn't particularized injury
- Automatically have standing if you are an abutter
- Neargard decision: Possibility of increased parcel.
- There is a letter that they share the property, Pileggi insists she is a tenant and not an owner bc she is not on the deed.
- We likely need to return to our lawyer to determine whether we can consider the appellant as an "owner" and/or as a having standing with regard to "particularized injury"

Primary concerns from Pileggi?

- o Lack of standing because not an owner
- o Lack of demonstration of harm

Pottle agrees we need to regroup to get guidance about standing and merits of appeal and then meet again.

- Need to ask town's attorney to better define standing in the context of the ordinance. Also, since the appellant is not on the deed, is there precedent for including such a person as having standing? Does she fall under "any other person or group?"

Need to adjourn since appellant's attorney is unable to join from Zoom and reschedule

**Motion to adjourn:** Carol. Ben second. Unanimous.