



TOWN OF WELLS, MAINE
ZONING BOARD OF APPEALS
P. O. Box 398, Wells, Maine 04090
Website: www@wellstown.org

APPROVED

Date: April 13, 2015

Michelle A. & Bradford F. Ring Jr.
171 Merriland Ridge Road
Wells, Maine 04090

APPEAL:

On April 13, 2015 the Zoning Board of Appeals (ZBA) of Wells, Maine held a public hearing for a mislocated building appeal submitted by Michelle & Bradford Ring Jr. as allowed by Wells Land Use Ordinance § 145-67.A.(5). The property is located 171 Merriland Ridge Road, in the Rural District, and is further identified as Tax Map 32 Lot 22.

Deliberations and discussion took place following close of the public hearing.

FINDINGS OF FACT:

1. The subject property is owned by Michelle A. & Bradford F. Ring Jr., in the Rural District, and is further identified as 171 Merriland Ridge Road Assessor's Tax Map 32 Lot 22.
2. During an inspection of the above property by Livingston Hughes on April 12, 2001 and also during a site inspection by Great Hill Survey Company (James J. Bacon, Professional Land Surveyor #2299) dated March 25, 2015, it was found that the required setbacks for the zoning district were not met during the construction of the house.
3. The dwelling, which is 8 feet from the side property line, is within the required 25 foot setback from the abutting property.
4. Land Use Ordinance §145-67, Powers and Duties, subsection A.(5)
Mislocated building appeal. To hear and decide upon appeal in specific cases where existing buildings are found to be in violation of the setback requirements and where such location of buildings will not be contrary to the public interest whether an appeal should be granted. In order to grant a mislocated building appeal the Board must find that there was no willful or premeditated action (or gross negligence) to build within the setback.
5. The subject structure was erected in 1986 and acquired by the current owner in 1997.

6. Land Use Ordinance §145-30 Rural District, subsection F. Dimensional requirements, in part:
(6) Setbacks.
- (a) All structures shall be at least:
- [1] 25 feet from any lot line.
 - [2] 25 feet from any lot line abutting any street right-of-way.
 - [3] 40 feet from any lot line abutting the right-of-way of any state highway.
 - [4] 25 feet from the boundary of any cemetery.
7. The definition of "Building" (Wells Code Land Use §145-10) is "Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals or personal property."
8. The pool and deck as shown on the Great Hill Survey Company site inspection dated March 25, 2015 are not covered by a roof.

CONCLUSIONS

Based on testimony received on April 13, 2015 it is the conclusion of the Zoning Board of Appeals that no willful or premeditated action (or gross negligence) was taken by the appellant to build the house within the setback.

The pool and deck are not buildings and therefore the Zoning Board of Appeals has no jurisdiction to grant a mislocated building appeal for the pool and deck.

DECISION

Based on the above Findings of Fact and Conclusions, on April 13, 2015, the Wells Zoning Board of Appeals decided by a vote of 5 to 0, to **GRANT** your mislocated building appeal for the existing home at 171 Merriland Ridge Road.

Sincerely

Wilber L. Gosbee Wilber L. Gosbee Date 4/14/2015
Chairman Zoning Board of Appeals