

**City of Ellsworth  
Board of Appeals Minutes  
August 25, 2009**

The meeting of the Ellsworth Board of Appeals was attended by regular Members Jeffrey Toothaker, Stephen Salsbury, Bruce Sawyer, Lew McDowell, and associate member Jeff Clark. Also in attendance was CEO Dwight Tilton.

**Call to Order  
[7:05PM]**

**1. ADOPTION OF MINUTES: Stephen Salsbury motioned to accept the minutes from the July 28, 2009, meeting as written. Lew McDowell seconded the motion. The motion passed with all five Members in favor.**

**Adoption of Minutes**

**2. OLD BUSINESS:** None

**Old Business**

**3. PUBLIC HEARING AND CONSIDERATION:** Request of Heather and John Linnehan for an administrative appeal regarding two diving platforms “structures” located within 100’ of Leonard Lake for their property located on Shore Road (Tax Map 140 Lot 1) in the LR zone.

**Heather and John  
Linnehan for an  
Administrative  
Appeal**

Mr. John Linnehan explained that according to the code (Shoreland Zoning Ordinance) the platforms need to be in a fixed location in order to be denied a permit. These platforms are not in a fixed location and clearly moveable from season to season, as shown in the pictures he provided to the Board. Previous to building the platforms Mr. Linnehan first placed a six inch egg crate down for the grandkids to swing out into the lake from, but they were falling off of it. Then he placed a stepladder down for them to swing from and that was even more dangerous because he thought they were going to get hurt. Mr. Linnehan knew he needed a firmer structure for the grandkids to climb up on and grab the rope. These platforms are moveable and not fixed; they are seasonal and he feels he does not need to obtain a permit for them.

Mr. Toothaker questioned if there were two platforms on the shoreline and Mr. Linnehan confirmed there were. Mr. Toothaker asked if one of the platforms was bolted to a tree, which appeared to be temporary, and Mr. Linnehan confirmed they were both temporary and would be moved from season to season.

Mr. Toothaker questioned Mr. Tilton as to why Mr. Linnehan couldn’t have the temporary platforms. Mr. Tilton indicated the definition of a “structure,” in the Shoreland Zoning Ordinance, references *temporary and permanently located*. Mr. Tilton stated he is trying to protect the city because the definition of a “structure” states both temporary and permanently located and any *new* structures cannot be permitted within the 100’ of the lake. Mr. Clark asked what the difference was between a dock that is placed in the water and this platform which does not contain much more wood than a dock does. Mr. Tilton stated this why we are here tonight to obtain a decision from the Board.

Mr. Toothaker asked if there was anyone opposed to this and Mr. Tilton indicated there was not. Mr. Toothaker asked if there were a backlash of applicants to put up platforms and Mr. Tilton indicated this hearing could open the door. Mr. Toothaker stated he views a “structure” as a building and Mr. Tilton indicated in the shoreland zone anything is a considered a “structure.” Mr. Clark confirmed a dock could be placed into the water and Mr. Tilton stated

**City of Ellsworth  
Board of Appeals Minutes  
August 25, 2009**

a dock is classified as a “water dependent use.”

Mr. Clark stated that he considers these platforms a “water dependent use” and Mr. Toothaker agreed.

Mr. Toothaker asked if anyone in the audience had concerns with these platforms and no one spoke against them. Mr. Toothaker wanted to confirm the platforms would be removed from the shore and Mr. Linnehan indicated he even removes the lawn furniture which is placed there seasonally.

Kiki Sawyer indicated she and her parents own part of the cove and wanted to know if they made any improvements to their waterfront by adding picnic tables if they would also need a permit. Mr. Toothaker stated the Board was hearing only Mr. Linnehan’s appeal tonight and they cannot give advisory opinions.

Mr. Sawyer asked if, at the end of the season, these items would have to be moved back from the water by any particular distance and Mr. Tilton stated there was no distance requirement.

Mr. Toothaker closed public hearing.

**Mr. Toothaker motioned to grant the administrative appeal finding that these platforms are water dependent structures and the denial of the use is not reasonable, they are an allowed use as long as they are removed seasonally. Lew McDowell seconded the motion. The motion passed with all five Members in favor.**

**Administrative  
Appeal Granted.**

**4. NEW BUSINESS:** None

**New Business**

**5. ADJOURNMENT [at 7:15PM] Jeffrey Toothaker motioned to adjourn. Stephen Salsbury seconded the motion. The motion passed with all five Members in favor.**

**Adjournment**

Date

\_\_\_\_\_  
Steve Salsbury, Secretary  
Ellsworth Board of Appeals