

January 25, 2022

**VIA FEDEX 775847738630**

David Murch, Chair  
Town of Raymond Zoning Board of Appeals  
401 Webbs Mills Road  
Raymond, ME 04071

RE: Administrative Appeal of Q-Team, Inc.  
January 4, 2022 Notice of Violation  
18 Fernwood Road

Dear Chairman Murch and Fellow Zoning Board of Appeals Members:

Enclosed please find the eight (8) copies of administrative appeal of Q-Team, Inc. of a Notice of Violation issued by the Raymond Code Enforcement Officer on January 4, 2022. In conjunction with said appeal, please find the following:

1. Q-Team, Inc.'s Zoning Board of Appeals completed application form;
2. Notarized Authorization for Drummond Woodsum to represent Q-Team, Inc. in this matter;
3. Application fee in the amount of \$431.00;<sup>1</sup>
4. Sketch plan of the property located at 18 Fernwood Road; and
5. Brief explanation of the basis for the appeal.

I have been communicating with Matt Manahan, Esquire, who is representing the Town with respect to this matter and who is copied here. Given that the property owner is in the process of developing a mitigation plan and negotiating a consent agreement with the Town relating to all issues raised in the NOV, counsel have agreed that this matter will be tabled until March 18, 2022. In the unlikely event that the matter cannot be resolved by that date, the matter will proceed to a hearing.

I thank you for your attention to this matter.

Sincerely,



Leah B. Rachin

cc: *(via email only)*

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<sup>1</sup> This amount includes \$375.00 to cover the appeal application fee and the cost of publication of legal notices and an additional \$56.00 to cover the cost of abutter notifications, as determined by Sandy Fredericks.

January 25, 2022

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Aaron Gosselin, Q-Team

Alex Sirois, CEO

Sandy Fredericks, Administrative Assistant to ZBA

Matthew D. Manahan, Esq.



**Tree Service**

P.O. Box 4096, Naples, Maine 207-693-3831

**AUTHORIZATION**

To Whom It May Concern:

Q-Team, Inc. hereby authorizes the law firm of Drummond Woodsum, including but not limited to Leah B. Rachin, Esq., to represent its interests in its administrative appeal of a Notice of Violation issued to it by the Town of Raymond's Code Enforcement Officer on January 4, 2022, relating to property located at 18 Fernwood Road, Raymond Maine.

Q-Team, Inc.

By: Aaron Gosselin, its Vice President of Operations

State of Maine

County of

Cumberland

The foregoing instrument was signed and sworn before me this 25 day of January, 2022, by Aaron Gosselin, in his capacity as Vice President of Operations, on behalf of said corporation.

Name of Notary Public/Attorney Judith Boyle

Notary Public, State of Maine

My commission expires:

**JUDITH BOYLE**  
NOTARY PUBLIC  
State of Maine  
My Commission Expires  
January 29, 2023





**TOWN OF RAYMOND  
APPLICATION TO THE  
ZONING BOARD OF APPEALS**

Staff Use Only:		Received Date
Application Fee	\$ 75.00	
Notice Fee \$8.00/abutter	\$ 56.00	
Publishing Fee	\$ 300.00	
Escrow-if required		
<b>TOTAL</b>	<b>\$431.00</b>	

Name of Applicant Leah B. Rachin c/o Drummond Woodsum  
Mailing Address 84 Marginal Way, Suite 600, Portland, ME 04101  
Primary Phone (207) 253-0578 C ☐ H ☐ W ☒ email LRachin@DWMLaw.com  
Date property acquired: (month and year) April 2019  
Name of Owner (if different than applicant) Q-Team, Inc./ Aaron Gosselin, Vice President  
Mailing Address P.O. Box 4096  
Town: Naples State ME Zip Code 04005  
Primary Phone (207) 693-3831 C ☐ H ☐ W ☒ email AaronGosselin@q-team.com  
Property Address (street number and name): 18 Fernwood Road, Raymond, ME  
Town of Raymond Map 001 Lot 022 Zone LRR2  
Deed Reference Book 35622 Page 143

**The undersigned applies for the following:**

- ☒ 1. ADMINISTRATIVE APPEAL. Applicant requests relief from the decision, or lack of decision, of the Code Enforcement Officer. The undersigned believes that (check one)  
\_\_\_\_ An error was made in the denial of the permit  
\_\_\_\_ Denial of the permit was based on the misinterpretation of the ordinance  
\_\_\_\_ The permit was not approved or denied within a reasonable period of time  
\_\_\_\_ Other: Appeal from 01/04/2022 Notice of Violation from CEO (See attached letter outlining grounds for appeal)  
\_\_\_\_ 2. VARIANCE (the information listed on page 3 must be submitted)  
\_\_\_\_ 3. CONDITIONAL USE PERMIT For \_\_\_\_\_ (use) in \_\_\_\_\_ Zone  
\_\_\_\_ 4. VARIANCE PROVISION(S) FOR NON-CONFORMING Lot ☐ Structure ☐ Use ☐  
\_\_\_\_ 5. SETBACK REDUCTION (do not complete Page 3)

I have read, understand and agree to the above instructions and conditions. I also authorize any Board Member or other Town Officials to enter onto the site. I certify that the information contained in this application and its supplement is true and correct.

Date: 1-25-2022

Appellant: \_\_\_\_\_

Leah B. Rachin on behalf of Q-Team, Inc.

Date: 1-25-2022

Property Owner: \_\_\_\_\_

Aaron Gosselin, Vice President  
Q-Team, inc.



January 25, 2022

**VIA FEDEX**

David Murch, Chair  
Town of Raymond Zoning Board of Appeals  
401 Webbs Mills Road  
Raymond, ME 04071

RE: Administrative Appeal of Q-Team, Inc.  
d/b/a Q-Team Tree Service  
January 4, 2022 Notice of Violation  
18 Fernwood Road, Raymond, Maine (the "Property")

Dear Chairman Murch and Fellow Zoning Board of Appeals Members:

I represent Q-Team, Inc., d/b/a Q-Team Tree Service ("Q-Team") in conjunction with the above-referenced administrative appeal relating to a Notice of Violation that was issued to it by the Town's Code Enforcement Officer on January 4, 2022 (the "NOV"). The alleged violations cited in the NOV arise from tree removal services that Q-Team provided in conjunction with a shoreline stabilization project conducted at the Property, which is owned by Management Controls, LLC ("MC").

To the extent that there are any violations, which are specifically denied, they resulted from the errors and/or omissions made by the general contractor that MC hired to oversee and carry out a shoreline stabilization project at the Property. The general contractor was Rob Durant, d/b/a Big Lake Marine Construction ("BLMC"). BLMC contracted with the property owner to oversee and carry out the shoreline stabilization project. Pursuant to the contract between BLMC and the property owner, BLMC was responsible for retaining all required local and state permits in conjunction with the project, including tree removal.

Our firm also represents the property owner, MC, in this matter, which submitted its own administrative appeal under separate cover on January 18, 2022. As noted in MC's appeal materials, given its sincere desire to have a positive relationship with the Town, it is in the process of developing a mitigation/remediation plan with respect to the alleged violations cited in the NOV. (Note: The violations cited in the CEO's January 4, 2022 NOV to Q-Team are verbatim to certain violations enumerated in the CEO's December 16, 2021 NOV issued to MC. In particular, Q-Team's January 4, 2022 NOV itemizes five violations, i.e., Violations Nos. 1 through 5. These purported violations are identical to those cited in MC's December 16, 2021

NOV under Violations Nos. 7-8 and 13-15). The defenses asserted by Q-Team for these identical violations will be largely similar to those asserted by MC.

As noted in the cover letter to MC's January 18, 2022 appeal materials, the parties have agreed that all administrative appeals relating to the shoreline stabilization project at the Property should be tabled until March 18, 2022 to allow the parties a reasonable period of time to negotiate and finalize a consent agreement. Based on the timelines outlined on the Town's website, it appears that this matter would be heard (in the unlikely event that it becomes necessary) at the Board's April 26th meeting. Per the Board's practice, submissions for this meeting are due by March 25, 2022. If this appeal moves forward, Q-Team reserves the right to supplement its administrative appeal materials in advance of the March 25, 2022 submission deadline.

In broad terms, however, Q-Team appeals the January 4, 2022 NOV for the following reasons.

**1. Q-Team, Like the Property Owner, Reasonably Relied on BLMC as the General Contractor to Obtain All Required Permits, Including for Tree Removal**

As noted in MC's January 18, 2022 appeal materials, ensuring that all required permits were secured for the shoreline stabilization project and that all work was conducted in a manner consistent with governing local and state law, was of critical importance to the property owner. In fact, the very first term enumerated in MC's contract with BLMC imposes on BLMC the clear duty to "obtain all necessary permitting from then Town and DEP." The contract also provides for a substantial sum (\$6,000) to compensate BLMC for obtaining said permits. Attached as Exhibit 1 is a copy of said contract. Accordingly, it was more than reasonable for not only MC (as the property owner), but also for Q-Team who was conducting a small portion of the work relating to the shoreline stabilization project, to expect BLMC to have acquired proper permits for all activities within the scope of that project.

**2. Substantive Disagreements With Allegations Contained in NOV**

- With respect to Violations No. 1 and 2, existing vegetation less than 3' in height was not "removed" it was simply trimmed down (leaving all root systems intact) and topped off with natural bark mulch. Additionally, any vegetation trimming (as opposed to tree cutting) was conducted by BLMC not Q-Team, therefore, Q-Team cannot be held responsible for vegetation removal.
- With respect to Violations No. 3 and 4, a number of the trees removed were hazard trees, which is permitted under the Town's Ordinance. Additionally, Q-Team relied on BLMC to obtain all required permits relating to the stabilization project, including with respect to tree removal.
- As the above-referenced remediation plan is developed, additional facts may arise that rebut the factual allegations and conclusions contained in the NOV. Accordingly, we reserve the right to include any of these additional facts and related arguments in subsequent submissions.

**3. Procedural Flaws in the NOV**



January 25, 2022

Page 3

- A number of the purported violations are unduly repetitive and do not enumerate violations that are truly separate and distinct. For example:
  - Alleged Violations Nos. 1, 2, and 5 are really all one and the same. Violation No. 1 is entitled, "Removal of Vegetation Less than 3' in Height." Violation No. 2 is entitled, "Removal of Vegetation Less than 3' in Height Without a Permit." As with Violation No. 2, Violation No. 5 is entitled, "Removal of Vegetation Without a Permit." All of these asserted violations involve removal of vegetation. Both Violation Nos. 2 and 5 cite to the same provision that is purportedly violated, i.e., Section 14(5) of the Land Use Table.
  - Violation No. 3 is entitled, "Unpermitted Tree Removal Within 100' of Sebago Lake" and is based on section 15.Q of the Ordinance. Similarly, Violation No. 4, entitled, "Vegetation Removal in Excess of What is Allowed by the Point System" is also based on section 15.Q of the Ordinance.

Given that the above-referenced groupings of violations are inextricably linked and relate to the same land use activities, it is unnecessary to name them as separate violations. To do so unnecessarily and unfairly subjects Q-Team to potentially duplicative fines given that 30-A M.R.S. section 4452 provides that fines for land use violations are calculated on a per day, *per violation* basis.

As noted above, my client is hopeful that the parties can reach resolution of this matter and that this administrative appeal need not be heard. In the event the parties are unable to finalize a consent agreement prior to March 18, 2022, we will ensure that any additional information we would like to present is submitted by March 25, 2022.

Thank you for your attention to this matter.

Sincerely,



Leah B. Rachin

cc: Aaron Gosselin, Q-Team, Inc.  
Alex Sirois, CEO  
Sandy Fredericks, Administrative Assistant to ZBA  
Matthew D. Manahan, Esq.



## Big Lake Marine Construction

PO Box 741

ME 04062

# Invoice

Date	Invoice #
10/13/2021	267

Bill To
Management Controls, LLC PO Box 2058 Auburn, ME 04210

P.O. No.	Terms	Project

Quantity	Description	Rate	Amount
	Project located at Project Location #2 Raymond, ME will consist of the following:		
	Big Lake Marine will obtain all necessary permitting from town and DEP	0.00	0.00
	4 ft X 285 ft of Erosion control measures as required by the DEP.	0.00	0.00
	Any and all dead wood will be cut up and removed from project location as DEP allows	0.00	0.00
	Banking will be sloped at as required	0.00	0.00
	Build up 2.5 X 2" Berm	0.00	0.00
	Bark mulch over berm	0.00	0.00
	Install 3" rip rap in boat ramp area with 3/4" crushed stone / compacted	0.00	0.00
	Install filter fabric on entire 4 ft X 285 ft work area	0.00	0.00
	All cavities to be filled in with 3/4" stone at a 45 degree angle to prepare for installation of 6X12" rip rap	0.00	0.00
	Install approximately 2 ft X 285 ft of filter fabric and approximately 4" of bark mulch above rip rap	0.00	0.00
	Replace fallen rocks around deck area	0.00	0.00
	All work to be completed by land and by barge as necessary to complete project	0.00	0.00
	Loam, seed and hay all disturbed areas by Big Lake Marine equipment	0.00	0.00
	Permit fee	6,000.00	6,000.00
	Project total	68,500.00	68,500.00
	**Any and all overages will be approved by homeowner		
		<b>Total</b>	<b>\$74,500.00</b>

# DrummondWoodsum

## DRUMMOND WOODSUM & MacMAHON

### OPERATING ACCOUNT

84 MARGINAL WAY, SUITE 600  
PORTLAND, MAINE 04101-2480  
(207) 772-1941

BANGOR SAVINGS BANK  
BANGOR, MAINE 04401

52-7438/2112

132803

PAY:

*Four Hundred Thirty One and 00/100 Dollars*

NUMBER

000132803

DATE

01/25/2022

AMOUNT

\*\*\*\*\*431.00

TO THE  
ORDER  
OF

**Town of Raymond**  
401 Webbs Mills Road  
Raymond, ME 04071

VOID AFTER 120 DAYS



*[Handwritten Signature]*

AUTHORIZED SIGNATURE

⑈ 132803⑈ ⑆ 211274382⑆ 2010088805⑈

DrummondWoodsum

Town of Raymond

132803

DATE	INVOICE NUMBER	MEMO	BALANCE
01/25/2022	N/A	Appeal Filing Fee Q-Team	431.00
CHECK DATE 01/25/2022	CHECK NUMBER 000132803		
TOTAL			431.00

ORIGIN ID:LEMA (207) 772-1941 CEARA KAZLIONIS 84 MARGINAL WAY, SUITE 600 PORTLAND, ME 04101 UNITED STATES US	SHIP DATE: 25JAN22 ACTWGT: 1.00 LB CAD: 112329676/INET4460
<b>TO DAVID MURCH, CHAIR</b> <b>TOWN OF RAYMOND ZONING BOA</b> <b>401 WEBBS MILLS ROAD</b>	
<b>RAYMOND ME 04071</b> (207) 655-4742 REF: 17637-86 INV: DEPT:	
 	
	
TRK# 7758 4773 8630 0201	WED - 26 JAN 4:30P STANDARD OVERNIGHT
<b>10 SFMA</b> ME-US PWM 04071	

56DJ4/F289/FE4A

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