

**TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES
NOVEMBER 28, 2016**

<p>Call to Order at <u>6:30 pm</u></p>	<p>Call to Order</p>
<p>Roll Call: Present: Chairman Ray DeLeo, Ron Regis (joined the meeting after the second agenda item), Mark Lindquist, Owen Stoddard and Thomas Mourmouras. Absent: Tianna Higgins and Paul Weinstein.</p> <p>Staff: Dan Feeney; Code Official, Valdine Camire; Administrative Assistant.</p>	<p style="text-align: center;">PUBLIC HEARING</p>
<p>Pledge to the Flag</p>	
<p><i>Chair DeLeo read the criteria for the Public Hearing.</i></p>	
<p><u>ITEM 1:</u> Acceptance of the minutes of the September 26, 2016 meeting.</p> <p>Mark Lindquist made a motion to approve the September 26, 2016 meeting minutes, seconded by Ron Regis.</p> <p><i>Code Official Dan Feeney called for the vote:</i></p> <p>Mark Lindquist – Yes Owen Stoddard – Yes Thomas Mourmouras – Yes Chair Ray DeLeo - Yes</p>	<p style="text-align: center;"><u>ITEM 1</u></p> <p style="text-align: center;"><u>MOTION</u></p> <p style="text-align: center;"><u>VOTE</u></p> <p style="text-align: center;"><u>(4-0)</u></p>
<p><u>ITEM 2: Miscellaneous Appeal</u> Owner: Sherry’s Place, LLC / Sarah Weinstein Agent: J’s Carpentry 77-79 East Grand Avenue Map 304 Block 3 Lot 5 Zone BRD Emergency Egress from 2nd floor unit over garage in back dune area. (will need Permit by Rule) as well. Code requiring stairs with landing meet codes 2009 IBC-IRC.</p> <p>Sarah Weinstein introduced herself to the Board Members. She has an apartment over the garage and the existing staircase isn’t up to code. What they would like to do is to put another staircase on the other side for a second means of egress.</p> <p><u>Chair DeLeo read the criteria for the Miscellaneous Appeal:</u></p> <p>A. The existing buildings or structures on the lot for which the limited reduction of yard size/limited expansion of lot coverage is requested were erected prior to the date of adoption of this provision or the lot is a vacant nonconforming lot of record.</p> <p>Response: Building predates ordinances.</p>	<p style="text-align: center;"><u>ITEM 2</u></p>

**TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES
NOVEMBER 28, 2016**

Owen Stoddard – Agree
Tom Mourmouras – Agree
Mark Lindquist – Agree
Chair DeLeo - Agree

B. The requested reduction is reasonably necessary to permit the owner occupant of the property to use and enjoy the property in essentially the same manner as other similar properties are utilized in the zoning district.

Response: Minimum stair width is 36". Need 3'6" (42") to accommodate 36" door with swing out.

Code Official Dan Feeney called for the vote:

Owen Stoddard – Agree
Tom Mourmouras – Agree
Mark Lindquist – Agree
Chair DeLeo - Agree

C. Due to the physical features of the lot and/or the location of existing structures on the lot, it would not be practical to construct the proposed expansion, enlargement or new structure in conformance with the currently applicable yard size or lot coverage requirements.

Response: the structure uses a stairway to second floor that does not meet codes. Headroom is a major issue with existing to comply with code order. It must be relocated. The relocation is necessary per Code Official Dan Feeney.

Code Official Dan Feeney called for the vote:

Owen Stoddard – Agree
Tom Mourmouras – Agree
Mark Lindquist – Agree
Chair DeLeo - Agree

D. The impacts and effects of the enlargement, expansion or new principal building or structure on existing uses in the neighborhood will not be substantially different from or greater than the impacts and effects of a building or structure which conforms to the yard size requirements.

Response: Existing use. Area is comprised of rental dwellings.

Code Official Dan Feeney called for the vote:

Owen Stoddard – Agree
Tom Mourmouras – Agree
Mark Lindquist – Agree
Chair DeLeo – Agree

NON-CONFORMING MEANS OF EGRESS CONSTRUCTION

**TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES
NOVEMBER 28, 2016**

<p>A. The requested stairway or ramp is the minimum structure, dimensionally, as required by the Town Of Old Orchard Beach Building Code.</p> <p>Response: To meet code of 36” width with door swing out. Need the 42” width for railings and platform 36 x 36.</p> <p><i>Code Official Dan Feeney called for the vote:</i></p> <p>Owen Stoddard – Agree Tom Mourmouras – Agree Mark Lindquist – Agree Chair DeLeo – Agree</p> <p>B. Due to physical features of the lot or location of structures on the lot, it would not be practical to construct the proposed stairway or ramp in conformance with applicable space and bulk requirements.</p> <p>Response: Lot setback to foundation now is only 6’ reduction request is minimum to only allow to outside dimension of stairs and top landing not to exceed 48” out from building.</p> <p><i>Code Official Dan Feeney called for the vote:</i></p> <p>Owen Stoddard – Agree Tom Mourmouras – Agree Mark Lindquist – Agree Chair DeLeo – Agree</p> <p>Mark Lindquist made a motion to grant a Miscellaneous Appeal for Sherry’s Place, LLC / Sarah Weinstein, Agent: J’s Carpentry, 77-79 East Grand Avenue, Map 304 Block 3 Lot 5. Zone BRD to construct an emergency egress from 2nd floor unit over garage in back dune area. (will need Permit by Rule) as well. Code requiring stairs with landing meet codes 2009 IBC- IRC. Seconded by Owen Stoddard.</p> <p><i>Code Official Dan Feeney called for the vote:</i></p> <p>Owen Stoddard – Yes Tom Mourmouras – Yes Mark Lindquist – Yes Chair DeLeo – Yes</p>	<p style="text-align: center;"><u>MOTION</u></p> <p style="text-align: center;"><u>VOTE</u></p> <p style="text-align: center;"><u>(4-0)</u></p>
<p><u>ITEM 3: Variance – Shoreland Zoning</u> Owner: Ron Sabin 129 West Grand Avenue Map 319 Block 12 Lot 5 Zone R-3</p> <p>Variance Request is for greater than 30% by volume and sf in Shoreland Zone.</p> <p>Code Official Dan Feeney explained that the applicant was previously at the ZBA meeting back in June/July for a Miscellaneous Appeal. The applicant is bringing it back to the Board for a Variance.</p>	<p style="text-align: center;"><u>ITEM 3</u></p>

TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES
NOVEMBER 28, 2016

In looking over the ordinance, we are trying to be consistent with everything. There were similar projects that were done in the past, and had either gotten Variances or Misc. Appeals. Very few of them went on to the Planning Board. After the Planning Board changed the requirements for Shoreland Zoning, the largest building that was built in this town in 2012 was built on a Misc. Appeal in resource protection.

We are trying to work with the Planning Board and Planning Office. We want to make it right so we decided that it should come back to the ZBA Board and start over.

Ron Sabin introduced himself. He stated that he went to the Planning Board and they accepted the previous "Misc. Appeals" application and they had a site walk. Then he went back for discussion with the Planning Board and they decided that he had filled out the wrong application. He needed a Variance application instead of a Miscellaneous Appeal application. Mr. Sabin is here tonight to get approval for what they had already approved. The applicant also took care of the DEP requirements and DEP is aware of what is going on. It is all approved by DEP.

Ron Regis joined the meeting at 6:45 pm.

The public hearing began at 6:55 pm.

Steve Stella from 18 Pavia Avenue abuts the applicant's property introduced himself to the Board Members. He has been here before and has expressed his concerns.

There are 6 areas of interest to him out of the 12 items under Articles for Conditional Uses, section 78-1240:

(3) The proposed use will provide adequate off-street parking and loading areas.

Stella: Off street parking, limited to under the house parking in his garage area.

(6) The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard or unreasonably restrict access of light and air to neighboring properties.

Stella: The house will shade his home. The area is always wet and constant puddling from rain.

(7) The proposed use will provide adequate waste disposal systems for all solid and liquid wastes generated by the use.

Stella: Adequate waste disposal/sewer issues.

(9)The proposed use will be compatible with existing uses in the neighborhood, with respect to the generation of noise and hours of operation.

Stella: Existing use. Sizes of the house in the existing neighborhood.

(10) The applicant's proposal must include any special screening or buffering necessary to visually obstruct the subject property from abutting uses or to ensure the continued enjoyment of abutting uses.

Stella: Screening and buffering of abutters properties. Suggested some type of

TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES
NOVEMBER 28, 2016

fencing behind the house.

(11)The applicant's proposal must adequately provide for drainage through and for preservation of existing topography within its location, particularly in minimizing any cut, fill, or paving intended.

Stella: Drainage. Wants to make sure that the grade remains the same. Has always been an issue.

Code Official Dan Feeney is concerned with the sewer. There may be an opportunity to hook up directly if there is sewer on West Grand Ave. Will not be able to change the grade other than away from, he cannot make it worse, he can only make it better.

Ron Sabin stated that he had spoken with Town Manager Larry Mead about the sewer issue. Mr. Mead said that in Old Orchard Beach the town is responsible for the sewer line coming from the street. From the street to the house is the homeowner's responsibility. As far as Mr. Mead can tell it is a privately owned sewer connection.

Mr. Sabin stated that if there is a sewer hookup on West Grand he will definitely hook up to that.

Dan Feeney mentioned that an occupancy certificate cannot be issued on this property unless the sewer is functional.

Mr. Sabin said that his neighbor, Mr. Didonato has done some recent construction so maybe he knows where his sewer is connected.

Mr. Sabin also mentioned that the height requirement is 35' and he is building 34' which is under the height requirement.

Mr. Sabin talked about the off street parking issue. This garage will be almost 2 cars deep. The current driveway is still there. So if someone has to park there they could. As a construction perspective he believes his requirement is to provide 2 off street parking spots, which he does. There is a curb cut off to the side there now. As far as his neighbor's yard being damp, Mr. Sabin understands his concern and explained that when they excavate and backfill, they will be backfilling with about 4 ½" of sand. What is there now is a lot of peat moss that holds the water. When they backfill with sand it is going to drain.

Mr. Sabin stated that he is not increasing the volume of the roof. That is already there.

There will be gutters. Currently there are no gutters.

Part of the planning that he did through the Shoreland zoning is that all of those rain gutters will go into rain barrels. He will not create any more water for the neighbors.

The flood level is 4-4 ½' from the current ground level and the OOB codes require them to build their 1st living space above that. So we are already at 5-5 1/2'.

Richard MacDonald from 11 Reggio introduced himself. Besides the parking concerns he is concerned about the small lot that Mr. Sabin is going to build on. He feels that this building just doesn't fit in this small space relative to the neighboring

**TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES
NOVEMBER 28, 2016**

houses.

Dan Feeney stated that DEP will be increasing the height of the flood area again in the spring so buildings are going to have to go up if they cannot go out.

Gene MacDonald from 11 Reggio asked if the electrical issue had been mentioned.

Dan Feeney mentioned that there appears to be a 400 service running on West Grand in front of Mr. Sabin's property and if he builds out with the height it appears to be in the restriction CMP has mandated of 3feet. This is something the applicant and CMP is going to have to work out.

Ron Regis stated that because it is 3 stories, it is required that there will have to be a sprinkler system added.

Ron Sabin stated that he has received positive feedback from 2 different interested parties.

The public hearing closed to the public at 7:12 pm.

Chair DeLeo read the criteria for the Variance:

JUSTIFICATION OF VARIANCE: In order for a variance to be granted, the appellant must demonstrate to the Board of Appeals that the strict application of the terms of the Zoning Ordinance would cause undue hardship. There are four criteria, **ALL** of which must be met before the Board can find that a hardship exists. Please explain how your situation meets each of these criteria listed below:

A. The land in question cannot yield a reasonable return unless the variance is granted.

RESPONSE: The object of this variance application is to accommodate off-street parking. The current angle of the home to the street would dramatically restrict the usability of a driveway by nearly forcing a driver to enter/exit the driveway from the Reggio Avenue direction. The additional 3' shall turn current dead space into usable living space.

Owen Stoddard – Agree
Tom Mourmouras – Agree
Ron Regis – Agree
Mark Lindquist – Agree
Chair DeLeo – Agree

B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.

RESPONSE: Of the surrounding homes, this property is unique in that it lacks off-street parking. The current side yard is significantly too small to accommodate a

**TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES
NOVEMBER 28, 2016**

modern sedan. The proposed variance would remove cars from W. Grand Avenue with minimum change to the existing footprint of the home.

Owen Stoddard – Agree
Tom Mourmouras – Agree
Ron Regis – Agree
Mark Lindquist – Agree
Chair DeLeo – Agree

C. The granting of a variance will not alter the essential character of the locality.

RESPONSE: The pivoting of the home, as stated above, shall bring the house into conformity with the remainder of the area by providing easily accessible off street parking. The small expansion will help facilitate the renovation of the blighted property with a new year round home with sufficient living space.

Owen Stoddard – Agree
Tom Mourmouras – Agree
Ron Regis – Agree
Mark Lindquist – Agree
Chair DeLeo – Agree

D. The hardship is not the result of action taken by the appellant or a prior owner.

RESPONSE: The appellant has undertaken no renovation of the property and is faultless in regards to its current problems and state of affairs. The awkward position of the home to the road is not a result of an action taken by a prior owner but rather of the development of West Grand Avenue.

Owen Stoddard – Agree
Tom Mourmouras – Agree
Ron Regis – Agree
Mark Lindquist – Agree
Chair DeLeo – Agree

Owen Stoddard made a motion to approve item #3 Variance-shoreland zoning for owner Ron Sabin at 129 West Grand Avenue, Map 319 Block 12 Lot 5 in the R-3 Zone. The Variance request is for greater than 30% by volume and square feet in the Shoreland zone. Seconded by Mark Lindquist.

Owen Stoddard - Yes
Ron Regis – Yes
Mark Lindquist – Yes
Tom Mourmouras – Yes
Chair DeLeo – Agree

MOTION

VOTE

(5-0)

**TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES
NOVEMBER 28, 2016**

<u>OTHER BUSINESS:</u>	
ADJOURN Mark Lindquist made a motion to adjourn this meeting at 6:45 pm. Seconded by Ron Regis. Unanimous.	<u>MOTION</u> <u>VOTE</u> <u>(5-0)</u>
GOOD AND WELFARE	

I, Valdine Camire, Secretary to the Zoning Board of Appeals of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of four (4) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting held on November 28, 2016.

Valdine Camire