

**ZONING BOARD OF APPEALS  
MEETING MINUTES  
Monday, August 31, 2020  
IN THE TOWN COUNCIL CHAMGERS – 6:30 p.m.**

**CALL TO ORDER 6:32 pm**

**ROLL CALL:**

**Present:**

Ryan Howe  
Stan DeFreese  
Vice Chair Ron Regis  
Chair Ray DeLeo

**Staff Present:**

Code Officer Rick Haskell  
Admin. Asst. Valdine Camire

**Absent:**

Tom Mourmouras

**PLEDGE TO THE FLAG**

**Item #1 Election of Officer: The Board of Appeals shall annually elect a Chairman and Vice-Chairman from its membership.**

**MOTION:**

Ryan Howe made a motion to elect Ron Regis for Chair and Ray DeLeo as Vice Chair of the Zoning Board of Appeals.

**Code Official Rick Haskell called for the vote:**

**VOTE:**

Ryan Howe – Yes  
Stan DeFreese – Yes  
Vice Chair Ron Regis – Yes  
Chair Ray DeLeo – Yes

**PASSES:**

(4-0)

**Item #2: Variance Consideration (reduction in driveway setback from an intersection) and Public Hearing**

**Owner: Ovidia Dragoli Trustee**

**Location: 6 Central Avenue, MLB: 314-14-13**

**Zone: R-2**

**Variance request for a reduction of the required 50' setback for a driveway to a street intersection to a requested 15'.**

Kirk Czelewicz introduced himself. He is the son of Ovidia Dragoli and Sister Christina Francis. They own the house at 6 Central Ave. They are here to tonight asking to grant them permission for the right of way for the town easement that abuts their property on Ocean Avenue. They purchased the property in July of 2009. This is their second home and they keep it year round. All of the 6 abutters that received notices for tonight's meeting are absentee landlords. They have been using this area in question as a driveway for over a decade. They have been dedicated and responsible for the maintenance and care of this area because it supports our property and they would like to enjoy this area the same way that the neighbors enjoy the town easement that abuts their property. In June, their neighbor informed them that they need a driveway permit to make it an official legal driveway. He then called the Director of Public Works. The Director of Public Works drove by the property and saw what they had and stated that he would grant them the permit so they started the process. The Director explained to them what they needed to move forward in the project and to schedule the pavement contractor. The Director arrived at the property on July 1, 2020, measured out the job and gave the specs to the paving contractor. They expected that the project was complete. Five days later the Director of Public Works contacted him through email stating that he could not give them the permit and the reasons why. And that is what brings the owners here tonight. The driveway will conform to the neighborhood. Most corner lot homes in the neighborhood with the identical situation as theirs have 2 and some even 3 paved driveways that do not conform to the measurements and requirements. The driveway will fit the environment of their neighborhood without an impact or an effect on their neighborly adequate.

Chair Ray DeLeo read a letter from the Town Manager Larry Meade:

**August 21, 2020**

**TO: Members of the Zoning & Appeals Board of Appeals**  
**FROM: Larry Mead, Town Manager**



**RE: APPEAL BY OVIDIA DRAGOI TRUSTEE 6 CENTRAL AVENUE**

***I write in opposition to a requested variance by Ovidia Dragoli Trustee, 6 Central Avenue for a reduction in the setback from an intersection for a driveway. This property is located at the corner of Central Avenue and Ocean Avenue and the proposed driveway would be on Ocean Avenue.***

***First and foremost, the applicant does not have standing to request a variance from ZBA because the applicant does not own the property for which a driveway opening is being requested. It is Town owned. The owner's residence is located almost on the property boundary on the Ocean Avenue side. I consulted with Town Attorney Phil Saucier on this matter. He agrees that the applicant lacks standing. Attorney Saucier stated in writing the following:***

***A person must have right, title or interest in land to have standing to apply for approval for a project, either through a deed, lease, option, or purchase of sale agreement. If the Board determines that the applicant does not have sufficient RTI to have standing to apply, it should reject the application.***

***I request that the Board, prior to any further review of the application, make a determination regarding the question of right, title or interest, and reject the application.***

***While I urge the Board to reject the application due to lack of standing by the applicant, even if the applicant did have right, title or interest, the requested variance should be denied. Section 78-1466 (e) of the Ordinance, Offset from intersections, provides "No driveway shall be located within 50' of the curb line tangent of intersecting local streets and/or private ways."***

***One, the proposed location of the driveway would, in its entirety, be within 50' of the intersection of Ocean and Central.***

***Two, there is no hardship to the applicant because the property has an existing driveway on Central Avenue that is 25' wide and approximately 40' long that provides an off street parking option for residents of the property.***

***Three, while there are numerous locations where driveways are located within 50' of intersections, these driveways either pre-date the existing ordinance language, were approved in error, or were installed without approval. The Town is not approving new requests that do not conform to the ordinance.***

***For these reasons, and because the applicant does not meet the standards under which the Board may consider the application, the request should be denied.***

***cc: Rick Haskell, Code Enforcement Officer  
Joseph Cooper, Public Works Director***

Code Official Rick Haskell agreed that the applicant doesn't have right title and interest (the town does), so the applicant doesn't have standing to even submit his request.

The Ordinance is under Code Enforcement, however in this section, driveway permits are given by the Public Works Department.

The Public Hearing opened at 6:45 pm

Robin Dayton from 59 Fern Avenue introduced herself. She stated that the permit never existed and this came from the Town Clerk.

Mr. Czelewicz stated that he did fill out the permit and paid the down payment and delivered it to Joseph Cooper, Public Works Director. After the 5<sup>th</sup> day Mr. Cooper handed the permit back to Mr. Czelewicz and instructed him to bring this to Code Enforcement Officer Rick Haskell with the initial down payment.

Board Member Ryan Howe asked Mr. Czelewicz if he was notified the he didn't have standing and he stated that he didn't. Board Member Howe stated that if the applicant hasn't been afforded the opportunity to consult with Counsel to have someone else review this just to be fair. Just to make sure that we give the applicant every opportunity to know if he has standing or not.

The applicant stated that he believes that he has right title and interest. And he was never told that he had not.

Table this item and ask the applicant to come back with proof that he has documentation showing that he has right title and interest to that property.

Robin Dayton from 59 Fern Avenue asked Code Officer Rick Haskell if this would come back to ZBA or would it come to the Planning Board. Mr. Haskell stated that the applicant cannot do anything without a Variance so the applicant would have to come back to the ZBA.

The Public Hearing closed to the public at 6:50 pm.

**MOTION:**

Stan DeFreese made a motion to table this item, seconded by Vice Chair Ron Regis.

**Code Official Rick Haskell called for the vote:**

**VOTE:**

Ryan Howe – Yes

Stan Defreese – Yes

Vice Chair Ron Regis – Yes

Chair Ray DeLeo – Yes

**PASSES:**

(4-0)

**Item #3: Variance Consideration (reduction in side and rear setback) and Public Hearing**

**Owner: Ronald D. & Dana Bakers Trustees**

**Location: 57 Randall Avenue, MLB: 323-7-2**

**Zone: R-3**

**Variance request for reduction in right side setback from the required 15' to a proposed 2'9".**

**Reduction in the rear setback from the required 20' to a proposed 4'5". Existing right side setback is 2'9" and rear setback is 4'5". This variance would allow 80 sf of infill to square off the right rear corner of the structure.**

Ronald Baker, who is here with his wife Dana from 57 Randall Avenue introduced himself. They have owned this house since 1981. The request is for the 80 sf addition. This request is to better utilize and function their kitchen which is currently 11' x 12'. The addition is staying within the existing footprint of the house. This would bring them up to 40% lot coverage that is currently allowed.

The Public Hearing opened at 6:57 pm.

There being no one speaking for or against the appellant, the Public Hearing closed at 6:57 pm.

**Vice Chair Ron Regis read the Justification of 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.**

**Applicant's response:** The size of the existing kitchen was established when the house was a summer cottage. The house was winterized in 1986 but the kitchen was not increased in size at that time to be more commensurate with a kitchen that would be appropriate for a house of this size. The proposed infill of 80 sf (8' x 10') would add a new small eating area that would provide more work area within the original existing kitchen footprint.

Ryan Howe – Disagree  
Stan DeFreese – Agree  
Vice Chair Ron Regis – Agree  
Chair Ray DeLeo - Disagree

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

**Applicant's response:** The existing 50' wide by 65' deep lot has 15' side yard and 20' rear yard zoning setback requirements. The house was built circa 1900 before the current setback requirements were established and the existing footprint of the house encroaches beyond the required setbacks as shown on the plot plan. The proposed infill will fall within the existing physical relationship of the house to the property lines as shown and dimensioned in red on the plot plan.

Ryan Howe – Agree  
Stan DeFreese – Agree  
Vice Chair Ron Regis – Agree  
Chair Ray DeLeo - Agree

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

**Applicant's response:** The proposed infill is located in the rear of the house and will only be totally visible to our neighbor at 70 Randall Avenue. It will be minimally seen from the two neighbors located on Maine Avenue and from Oceanwood's Mitchell Hall. The exterior of the proposed infill will be finished with painted wood shingles to match the existing house so as to not alter the essential character of the neighborhood.

Ryan Howe – Agree  
Stan DeFreese – Agree  
Vice Chair Ron Regis – Agree  
Chair Ray DeLeo - Agree

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

**Applicant's response:** This house has been owned by the same family since 1981 and the hardship is not a result of any action taken by the applicant or any prior owner.

Ryan Howe – Agree  
Stan DeFreese – Agree  
Vice Chair Ron Regis – Agree  
Chair Ray Deleo - Agree

**MOTION:**

Vice Chair Ron Regis made a motion to deny the application due to the fact that it did not meet the criteria for the land in question cannot yield a reasonable return unless the variance is Granted, seconded by Ryan Howe.

**Code Official Rick Haskell called for the vote:**

**VOTE:**

Ryan Howe – Yes  
Stan DeFreese – Yes  
Vice Chair Ron Regis – Yes  
Chair Ray DeLeo - Yes

**DENIED:**

(4-0)

**Item #4: Variance Consideration (reduction in front setback) and Public Hearing**

**Owner: Naoma & Norman Campbell**

**Location: 75 Randall Avenue, MLB: 322-7-2**

**Zone: R-3**

**Variance request for a reduction in the front setback from the required 20' to a requested 3'. Existing front setback of 5'.**

Henry Forman who lives at 38 Randall Avenue and will be doing the work for the applicants. They would like to do a 5' x 5' platform for the staircase off to the side. He would like to remove the existing stairs, there is not landing in front of the door. He would like to put a 5' x 5' landing in front of the door and put the stairs towards the driveway, not towards the road. This is for safety reasons. Originally they were thinking about building a ramp because the husband has had health issues. The do not want a ramp to go into the driveway because they want as much parking as possible for their renters.

The Public Hearing opened at 7:10 pm.

There being no one speaking for or against the appellant, the Public Hearing closed at 7:10 pm.

**Vice Chair Ron Regis read the Justification of 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.**

**Applicant's response:** No

Ryan Howe – Disagree  
Stan DeFreese – Agree  
Vice Chair Ron Regis – Disagree  
Chair Ray 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.**

**Applicant's response:** There is no landing in front of the door at the present time. Granting variance will make resident safer to enter.

Ryan Howe – Disagree  
Stan DeFreese – Agree  
Vice Chair Ron Regis – Disagree  
Chair Ray DeLeo - Agree

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

**Applicant's response:** We are changing stair design to make it safer to enter home.

Ryan Howe – Agree  
Stan DeFreese – Agree  
Vice Chair Ron Regis – Disagree  
Chair Ray DeLeo - Agree

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

**Applicant's response:** Yes

Ryan Howe – Agree  
Stan DeFreese – Agree  
Vice Chair Ron Regis – Agree  
Chair Ray DeLeo - Agree

**MOTION:**

Ryan Howe made a motion to deny item #4 for a Variance consideration (reduction in front setback) FOR 75 Randall Avenue, Zone R-3, seconded by Ray DeLeo.

**Code Official Rick Haskell called for the vote:**

**VOTE:**

Ryan Howe – Yes  
Stan DeFreese – Yes  
Vice Chair Ron Regis – Yes  
Chair Ray DeLeo - Yes

**Item #5: Acceptance of June 29, 2020 Meeting Minutes.**

**MOTION:**

Ryan Howe made a motion to approve the June 29, 2020 meeting minutes, seconded by Vice Chair Ron Regis.

**VOTE:**

Ryan Howe – Yes  
Stan DeFreese – Yes  
Vice Chair Ron Regis – Yes  
Chair Ray DeLeo – Yes

**PASSES:**

(4-0)

**GOOD & WELFARE**

**ADJOURNMENT 7:00 pm.**

**Chairman**

*I, Valdine Camire, Secretary to the Zoning Board of Appeals of the Town of Old Orchard Beach, do hereby certify that the foregoing document consist of Eight (8) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting held on August 31, 2020.*

*Valdine Camire*