

**TOWN OF OLD ORCHARD BEACH  
ZONING BOARD OF APPEALS MEETING MINUTES  
FEBRUARY 27, 2017**

<p><b>Call to Order at <u>6:30 pm</u></b></p>	<p>Call to Order</p>
<p><b>Roll Call:</b> Present: Chairman Ray DeLeo, Paul Weinstein, Ron Regis, Mark Lindquist, Owen Stoddard and Thomas Mourmouras.</p> <p><b>Staff:</b> Dan Feeney; Code Official, Valdine Camire; Administrative Assistant.</p>	<p><b>PUBLIC HEARING</b></p>
<p><b>Pledge to the Flag</b></p>	
<p><i>Chair DeLeo read the criteria for the Public Hearing.</i></p>	
<p><b>ITEM 1: Acceptance of the minutes November 28, 2016.</b></p> <p>Ron Regis made a motion to approve the November 28, 2016 meeting minutes, seconded by Mark Lindquist.</p> <p><u><i>Code Official Dan Feeney called for the vote:</i></u></p> <p>Paul Weinstein – Yes          Ron Regis - Yes          Mark Lindquist - Yes          Owen Stoddard - Yes          Chair DeLeo – Yes</p>	<p><b><u>ITEM 1</u></b></p> <p><b><u>MOTION</u></b></p> <p><b><u>(5-0)</u></b></p>
<p><b><u>ITEM 2: Variance</u></b>  <b>Owner: Zubar Dadabhai</b>  <b>204 Saco Avenue</b>  <b>Map 211 Block 10 Lot 2 Zone: GB-1</b></p> <p><b>Zuber Dadabhai is seeking a variance to allow an addition as shown on his plan. As the addition does not infringe on the parking and is between the main structure and the Motel Units, it will not cause issues other than those of the setback from Town Right of way on Olympia Street. The purpose is to enlarge the existing bedroom.</b></p> <p>Zuber Dadabhai introduced himself. He wants to expand his bedroom area. This will be a single story.          The actual space that Mr. Dadabhai is looking for is currently storage and the potential for a bathroom later on. It is not another bedroom. This will square the building off on Olympia Street.</p> <p>There being no one speaking for or against the appellant, the public hearing closed at 6:36 pm.</p> <p><u><i>Chair DeLeo read the criteria for the Variance:</i></u></p> <p><b>A. The land in question cannot yield a reasonable return unless the variance is</b></p>	<p><b><u>ITEM 2</u></b></p> <p><b><u>VARIANCE</u></b></p>

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**granted.**

Response: The existing bedroom is undersized and does not have closet space and it is not to code.

Paul Weinstein – Agree  
Ron Regis - Agree  
Mark Lindquist - Agree  
Owen Stoddard - 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: Existing structures in older neighborhood and similar buildings. Many commercial uses including next door and across the street.

Paul Weinstein – Agree  
Ron Regis - Agree  
Mark Lindquist - Agree  
Owen Stoddard - Agree  
Chair DeLeo – Agree

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

Response: Minimal changes to neighborhood will not distract from area structures.

Paul Weinstein – Agree  
Ron Regis - Agree  
Mark Lindquist - Agree  
Owen Stoddard - Agree  
Chair DeLeo – Agree

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

Response: The building has been in this location for more than 40 years. The owner is utilizing the property for his primary residence.

Paul Weinstein – Agree  
Ron Regis - Agree  
Mark Lindquist - Agree  
Owen Stoddard - Agree  
Chair DeLeo – Agree

Owen Stoddard made a motion to approve a Variance for Zuber Dadabhai 204 Saco Avenue, Map 211 Block 10 Lot 2 Zone: GB-1 to allow an addition as shown on his plan to build a storage area and possibly a bedroom at a later date. Seconded by Ron Regis.

**MOTION**

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<p><u><i>Code Official Dan Feeney called for the vote:</i></u></p> <p>Paul Weinstein – Yes          Ron Regis - Yes          Mark Lindquist - Yes          Owen Stoddard - Yes          Chair DeLeo – Yes</p>	<p style="text-align: center;"><u><b>VOTE</b></u></p> <p style="text-align: center;"><u><b>(5-0)</b></u></p>
<p><u><b>ITEM 3: Variance</b></u>  <b>Owner: Daniel Chasse</b>  <b>18 Tioga Avenue</b>  <b>Map 321 Block 26 Lot 3 Zone R-3</b></p> <p><b>Daniel Chasse- The request is to increase the addition requested beyond the 30% threshold in the Shoreland Zone. Mr. Chasse is proposing to add a sunroom onto his property which will increase the footprint by 36%. This is a onetime approval for this property and although it exceeds the 30% expansion rule it is allowable under the ordinances with both a Variance by the Board of Appeals as well as approval by the Planning Board. The Planning Board will need to review the proposed addition and rule on the appropriateness as well after the decision of the ZBA has been rendered.</b></p> <p>Troy McDonald from Northeast Civil Solution representing Mr. Chasse introduced himself. They are here to ask for an increase of 6% over 30% expansion and we have calculated this based on the sunroom and the 2 decks. The sunroom will extend into the side setback and we will also be asking for a variance of that setback to be able to use the existing door.</p> <p>Dan Feeney stated that this proposal has to go to the ZBA, then Planning Board then DEP because it is in the Shoreland zone. Mr. McDonald stated that in their cover letter they had a typo. The 15' setback will be reduced to 12' (it should be 11'). So it would be a 4' variance.</p> <p>The public hearing began at 6:42pm.</p> <p>Attorney Jens Bergin from Kennebunk representing Roanoke LLC introduced himself. The principal owners of Roanoke LLC are Robert and Lynn Pease. Mr. and Mrs. Pease could not be present tonight because of a medical event.</p> <p>Attorney Bergin is here tonight to object to the granting of the variance, however he wants to make it clear that it is not an absolute objection. He explained the basis of the objection. He would like to see the board table this and continue it at a later date to allow for the Pease's and Mr. Chasse to have a discussion about boundary issues. According to their own plan, the boundary goes right through the house. This has been a subject of discussions between Mr. Chasse's council and the Pease's council. Northeast Civil Solutions gives some hint of these boundary issues. An earlier</p>	<p style="text-align: center;"><u><b>ITEM 3</b></u></p>

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survey that was done the year before by Survey Works, Inc. shows other items that apparently Northeast Civil solutions elected not to include on the survey. Attorney Bergin brought to the boards attention to the SWI survey which was done in February of 2016 and it depicts certain attributes of the Chasse's dwelling that were added since his acquisition of it which further encroaches onto the Pease's property. Those include gutters and downspouts, a window box and two things that are very obvious which are a heat pump and a propane tank clearly over the line. These were the subject of the stalled boundary discussions. The variance request will make things more difficult. Especially for the other reason that they object which is the SWI survey didn't make it on to the Northeast Civil Solution survey and that is the existence of a private sewer easement line that runs from the Pease dwelling Southwesterly to Tioga Avenue. Apparently the sewer line was laid down about 40 years ago on Seaside Avenue and there were not any plans to stub into this sewer line put in by the city to serve Tioga or Roanoke. So a group of private owners got together and put in a stub that would serve Tioga Avenue and created the private easements to allow the properties on Roanoke to be served to the public sewer. This sewer line serves the Pease's property and runs through the Chasse property to Tioga Avenue. The applicant's proposal is to place the patio and the sunroom on top of that easement.

Also in the submittal to the board is a copy of Mr. Chasse's deed. The front page of the deed references an easement. One of those easements is explicitly identified in the legal description that that's a sewer easement in favor of an abutter which is the Pease's. The standards require that the land in question cannot yield a reasonable return and he doesn't think that the board has received proof of that. Attorney Bergin feels that this proposal should be tabled and give the parties some time to work out their differences and reconsider this at a future date.

Code Official Feeney stated that there are several private lines in the West Grand Avenue area that run across other people's property and those residents were in agreement with that at that time. In this proposal, they are asking to put a structure over the sewer line.

Dan Chasse, property owner introduced himself to the Board Members. He purchased the property 3 or 4 years ago and moved forward with restoring the property. He stated that it was a dilapidated, deteriorating horse barn. It went through 2 stages in its history of re-development. In the 1950's the plumbing was brought in. There is a tangent line that they both share and essentially this property sits on top of the line. There was never a problem until Mr. Chasse starting clear cutting the property. The easement that has been referenced is not a recorded easement on the deed of the abutter. He doesn't have a restricted easement on this property. There is a sewer line on the Roanoke side and they can connect there. Mr. Chasse is trying to preserve the historic nature of this property and the utility of it. Mr. Chasse believes that this is a stall tactic to get him to sign something so that he doesn't claim adverse possession on an area around his house that he can access and egress his property to work on it. Mr. Chasse is proposing at some time to replace the clay sewer pipe to a larger pvc pipe and tie in.

Code Official Feeney stated that he has great concern to give a building permit for anything going over a private sewer line and in his opinion to disturb that line now

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<p>by any means is not appropriate at this time.</p> <p>Attorney Bergin stated that the easement is recorded and it doesn't need to be within the Pease's chain of title. It is within the subject properties chain of title and that is sufficient.</p> <p>There being no one else speaking for or against this proposal, the public hearing closed at 7:07 pm.</p> <p>Ron Regis made a motion to table this item without prejudice, seconded by Mark Lindquist.</p> <p><b><u>Code Official Dan Feeney called for the vote:</u></b>  Paul Weinstein – Agree  Ron Regis - Agree  Mark Lindquist - Agree  Owen Stoddard - Agree  Chair DeLeo – Agree</p>	<p><b>MOTION</b></p> <p><b>VOTE</b>  <b>(5-0)</b></p>
<p><b><u>OTHER BUSINESS:</u></b></p> <p>Code Official Feeney complimented Valdine Camire on her excellent work that she does for the town.</p>	
<p><b>ADJOURN</b> The meeting adjourned at 7:08 pm.</p>	
<p><b>GOOD AND WELFARE</b></p>	

*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 five (5) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting held on February 27, 2017.*

*Valdine Camire*