

TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES
 March 26, 2018

Call to Order at <u>6:33 pm</u>	Call to Order
<p> Roll Call: Present: Chairman Ray DeLeo, Mikaela Nadeau, Ron Regis, and Mark Lindquist. Absent: Tom Mourmouras Staff: Valdine Camire; Administrative Assistant, Saco Code Officer Richard Lambert. </p>	<p style="text-align: center;">PUBLIC HEARING</p>
Pledge to the Flag	
<i>Chair Ray DeLeo read the criteria for the Public Hearing.</i>	
<p> <u>ITEM 1: Variance</u> Owner: Dave and Gale Donovan 15 Seaview Ave MBL: 315-8-5 Zone: R-2 </p> <p> Rear and Side Yard Setback: Proposal is for the construction of an addition that will encroach within the rear setback and add additional square footage to an already nonconforming side setback without further encroachment. The purpose of this addition is to provide a 1st floor bedroom and shower for a disabled family member. The location of the home and property lines does not allow for an addition that meets setback standards. R2 rear setback: 20'; proposed: 5'. Side setback 15'; proposed: 13' (note: 13' already exists, this proposal will include new square footage in the 13' setback). </p> <p> Gale Donovan, along with both sons introduced themselves to the Board Members. Mrs. Donovan explained that they would like to add a small bedroom on the first floor with a shower for her disabled husband. This would make it so much easier for him to navigate independently around the house during the day. It was understood that the Donovan's do not live at this location year round. They have rentals there when they are not there full time. Since the Donovan's were not looking to get this started until the fall of 2018, It was decided that the Donovan's come back to the Board with this proposal in the fall, after the rental season is ended and when they become permanent residents at that location. </p> <p> There was no one speaking for or against the appellant. </p> <p> Ron Regis made a motion to postpone this agenda item without prejudice until the fall of 2018, Mark Lindquist seconded the motion. </p> <p> <u>Saco Code Official Richard Lambert called for the vote:</u> Mikaela Nadeau - Yes </p>	<p style="text-align: center;"><u>ITEM 1 VARIANCE</u></p> <p style="text-align: center;">MOTION</p> <p style="text-align: center;"><u>VOTE PASSED</u> <u>(4-0)</u></p>

**TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES
March 26, 2018**

<p>Ron Regis - Yes Mark Lindquist - Yes Chair Ray DeLeo – Yes</p>	
<p><u>ITEM 2: Variance</u></p> <p>Owner: Sandra Fayorsey 17 West Old Orchard Avenue MBL: 312-5-7 Zone: R-2</p> <p>Front and Side Yard Setback: Proposal appears to be construction of an addition that will encroach within the front and side yard setbacks. A proposed plot plan was not submitted so the extent of the encroachment is unknown. R2 front setback: 20'; proposed: ?. Side setback: 15'; proposed: ?.</p> <p>Sandra Fayorsey introduced herself to the Board Members. She has an existing sunroom which she would like to take down and increase the footprint by 8' towards the front of the house in order to make a functional kitchen and a bedroom. They want to make this their retirement home.</p> <p>There was no one speaking for or against the appellant.</p> <p>Ron Regis made a motion to postpone this agenda item without prejudice until the abutters are notified of the exact changes that are to be made and the drawing be included, seconded by Mikaela Nadeau.</p> <p><u>Saco Code Official Richard Lambert called for the vote:</u></p> <p>Mikaela Nadeau - Yes Ron Regis - Yes Mark Lindquist - Yes Chair Ray DeLeo – Yes</p>	<p style="text-align: center;"><u>ITEM 2 VARIANCE</u></p> <p style="text-align: center;"><u>MOTION</u></p> <p style="text-align: center;"><u>VOTE PASSED (4-0)</u></p>
<p><u>ITEM 3: Variance</u></p> <p>Owner: Todd and Kathleen Whitney 68 Colby Avenue MBL: 320-1-1 Zone: R-3/RA</p> <p>A. Two Front Lot Line Setbacks: Proposal is for the addition to an existing nonconforming structure which will add a staircase without further encroachment into the front yard setbacks. The purpose of the staircase is to provide access. R3 front setback: 20'; proposed: 6'6" and 6'1". Note: 6'6" and 6'1" already exist, this proposal will not encroach any further than what exists.</p> <p>B. Shoreland Zoning Nonconforming Structure Exceeding 30% Volume: Proposal is to allow a nonconforming structure volume to increase beyond</p>	<p style="text-align: center;"><u>ITEM 3 VARIANCE</u></p>

**TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES**

March 26, 2018

30%. Shoreland Zoning limits nonconforming structure expansions to 30% volume. This proposal requests 54%. The increase is due to conformance with floodplain regulations.

Builder Diane Doyle representing the Whitney's introduced herself to the Board Members. She explained that this is currently a cottage and they want to make it a year round residence. It is currently sitting in a flood zone and the highest annual tide. This building cannot be renovated because of the shape it is in. If it comes down and we re-build it has to comply with the FEMA flood. New FEMA flood regulations elevation will have to be 14' instead of 9'. So the house would have to be lifted at least 6' up from where it currently is. Currently it's up about 2' from the grade and has to be lifted up an additional 6'. If it is lifted 6' we automatically increase the volume by 54%.

The hardship is that they cannot lift or re-build their house that will meet the new FEMA flood laws and stay within the 30% which is what is mandated by that zone. What is being proposed is that the actual structure of the house has been increased 30%. They are looking for the ZBA to expand the 30% maximum only to allow them to lift the house to the FEMA flood. If they don't get a variance from the 30% even if they don't expand it at all, we still have exceeded the 30% allowed. By lifting the house up or by renovating it they have to add an additional stairs because they will be going up the additional 6'. The footprint is not going to be expanded, the only thing they are adding will be the stairs which are necessary to reach the new height. By adding the stairs they are not encroaching any further into the setbacks. In addition they are removing the set of stairs that are on the other side of the building and also removing a bump out.

The new FEMA flood rules will be coming out in July of this year. By lifting up the house we will be creating garage space which could be useful to Ocean Park to help the parking situation. They will put the foundation right where it is and not going to change the grade at all and it will be at that same elevation.

Mark Lindquist stated that given the character of Ocean Park there will be others wanting to raise their houses because of flooding and the new FEMA regulations. Anyone that is in a home in a flood zone where there will be constant flooding, they are going to look to raise that property up.

This is a situation that we will have to be looking at and thinking about.

Getting advice from our Town Attorney, Codes and having some workshops with DEP.

Mr. Lindquist is not comfortable with acting on this variance tonight because there are too many unanswered questions.

Diane Doyle explained that the new FEMA flood regulations elevation will have to be 14' instead of 9' so if homeowners don't go up to 14' their flood insurance will be going up considerably.

The difference with the 30% is that if you're within so many feet of the HAT zone (highest annual tide) then you only have to expand by 30% in volume and square footage.

But because we are wanting to lift it more than 3' (but doesn't include the volume) we have to lift it to 6' to meet the FEMA flood because they are saying that this

**TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES
March 26, 2018**

counts as volume.

Richard Lambert stated that there are a couple of regulations that are in play right now:

- Federal Flood Insurance Regulations which the Town of Old Orchard has their own flood development standards which require homeowners to elevate this building if they are going to re-build it brand new or anything above 50% of the value of this current home. That's what triggers the elevation requirements. So when the new flood maps are adopted, which will be soon this will raise the flood levels of many communities.
- Shoreland Zoning Requirements, and one of their standards is that they restrict the number of volume that a non-conforming house can be expanded by. (1 time, lifetime 30% expansion) and they count all the area within the 4 walls that are enclosed.

Diane Doyle asked if the ZBA board if they would at least be able to build the stairs to access the house since it will not be encroaching on the setbacks.

This is Variance is in 2 parts:

- Variance for volume
- Variance to allow to add structure (stairs) to access the house.

Ron Regis believes that building the stairs would come under Miscellaneous Appeal because the usual setback is 15' and if you go under that you would have to have a Miscellaneous Appeal.

Diane Doyle was told that this wouldn't come under setbacks, when you are adding structure in the HAT zone it is different and you cannot build until you have a Variance approval.

Ron Regis made a motion to table this item, seconded by Mikaela Nadeau.

Saco Code Official Richard Lambert called for the vote:

Mikaela Nadeau - Yes
Ron Regis - Yes
Mark Lindquist - Yes
Chair Ray DeLeo – Yes

Shannon Webster from 49 Winona Avenue introduced herself to the Board. She was in the same situation a few years ago that the Whitney's are in now. She was going to renovate but was not feasible so they tore down and re-built. She is in support of this project.

Closed to the public at 7:45 pm.

MOTION

VOTE
PASSED
(4-0)

**TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES
March 26, 2018**

<p><u>ITEM 4: Acceptance of the minutes January 29, 2018 and February 26, 2018.</u></p> <p>The meeting minutes for January 29, 2018 and February 26, 2018 could not be voted on because not enough members were present.</p>	<p><u>ITEM4 MEETING MINUTES</u></p>
<p><u>OTHER BUSINESS:</u></p>	
<p>ADJOURN</p> <p>There being no further business to conduct, the meeting adjourned at 7:50 pm</p>	
<p>GOOD AND WELFARE</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 March 26, 2018.

Valdine Camire