

**THE TOWN OF OLD ORCHARD BEACH,
ZONING BOARD OF APPEALS
Monday, March 28, 2022, IN THE TOWN
COUNCIL CHAMBERS -6:30 p.m.
MEETING MINUTES**

Call to Order: 6:36 PM

Roll Call

Present:

Stan DeFreese, Vice Chair
Brian Perro
Thomas Mourmouras

Absent:

Ron Regis, Chair

Staff Present:

James Butler, Code Enforcement Officer
Dimitri Baumann, Deputy Code Enforcement Officer

Vice Chair Stan DeFreese read the criteria for an appeal.

Pledge to Flag

Item 1

Proposal: Variance-Request for side yard reduction to 3' to add 4' addition to existing garage off back gable end away from street.

Owner: Beth Keohler

Applicant: Frank Polak

Location: 11 West Casco Road; MBL 209-12-5

Zone: R-3/ RA

Applicant Frank Polak, builder for Ms. Koehler introduced himself to the Board Members. He stated that they have an older garage that is about to fall down so they have decided to build new. The existing garage is 16' wide by 20' long. They want to add on 4' and add a stairway to access the top for storage. The existing garage was already a non-conforming structure. It is in within the 15' off set of the property line. The neighbors have given letters of approval for this project. Mr. Polak gave letters of approval for the Chair to read into the minutes:

(FIRST LETTER)

January 24, 2022

Zoning Board of Appeals

Old Orchard Beach Town Hall

Old Orchard Beach, Maine

Dear Board Members,

In reference to the variance request from Beth Koehler of 11 West Casco in the Ocean Park section of the town of Old Orchard Beach to rebuild and extend their garage by 4 feet, as abutters to the property, we have no problem with this plan and support their efforts.

Richard and Judy Haley

39 Free Street Ocean Park

P.S. Our permanent mailing address is 263 Wentworth Ave, Lowell, MA 01852

(SECOND LETTER)

To whom it may concern,

As owners of 12 W. Casco Avenue in Old Orchard Beach, ME 04064 we have no objections to Beth Koehler and Sapphire Stretton of 11 W. Casco Avenue in Old Orchard Beach, ME 04064 from requesting a variance to increase the size of their garage.

Sincerely,

Elaine L. Smith

Joseph P. Smith

(THIRD LETTER)

182 Granville Road

Westfield, MA 01085

To whom it may concern,

I am the owner of property located at 12 W. Casco Avenue. The property is used as a vacation home for my family.

I am writing to indicate that I have no reservations about my neighbor's alterations of their property, particularly their garage.

Sincerely,

J. Paul Meagher

Code Officer Jim Butler stated that the addition is off of the rear of the garage of the existing structure of 4' which they already have and on the agenda it talks about 3' to add to a 4' addition. There is an angle to the garage so they might want a reduction down to 2' instead of 3' unless they plan to straighten the garage out as it refers to the property line. The Applicant states that they want to keep it the same direction.

Vice Chair Stan DeFreese 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: 4 feet needed for stairway to attic storage area, otherwise there couldn't be enough room to access above storage. Elderly homeowner not able to access attic space.

Thomas Mourmouras – Agree
Brian Perro – Agree
Vice Chair Stan DeFreese - 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: The current footprint of existing garage does not allow room for a car storage and stairs to access attic space.

Thomas Mourmouras – Agree
Brian Perro – Agree
Vice Chair Stan DeFreese - Agree

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

Applicant's response: No difference in shape or character.

Thomas Mourmouras – Agree
Brian Perro – Agree
Vice Chair Stan DeFreese - Agree

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

Applicant's response: House and garage were built in 1950 before zoning was in place.

Thomas Mourmouras – Agree
Brian Perro – Agree
Vice Chair Stan DeFreese - Agree

**MOTION: Tom Mourmouras made a motion to approve the Variance for Beth Keohler
Location: 11 West Casco Road; MBL 209-12-5, Zone: R-3/ RA allowing an additional 4' to the
existing garage, seconded by Brian Perro.**

Code Official Jim Butler called for the vote:

VOTE:

Thomas Mourmouras – Agree
Brian Perro – Agree
Vice Chair Stan DeFreese - Agree

PASSES

(3-0)

Item 2

**Maine Supreme Judicial Court Judgment for the previous June 29, 2020 ZBA Meeting where
there was an appeal of Administrative Interpretation of where an accessory structure can be
placed on the property.**

Owner: Darya Zappia

Applicant: Darya Zappia

Location: 86 Portland Avenue, MBL; 104-1-23

Zone: RD

Code Officer Jim Butler read a letter from the Supreme Court in regards to this item. The
decision has been made and this is more of a formality for the process. Essentially the judge
has ruled in favor for the placement of the greenhouse for the Zappia's.

MAINE SUPREME JUDICIAL COURT

Decision: 2022 ME 15

Docket: Yor-21-201

Submitted

On Briefs: January 26, 2022

Decided: March 1, 2022

Panel: MEAD, JABAR, HORTON, and CONNORS, J}.

Reporter of
Decisions

DARYA 1. ZAPPIA

TOWN OF OLD ORCHARD BEACH

HORTON, J.

[1] Darya I. Zappia appeals from an order entered by the Superior Court (York County, Mills, A.R.J.) affirming the Town of Old Orchard Beach's decision to deny Zappia's application to build a greenhouse in the front yard of her residential property. The Town's Zoning Board of Appeals interpreted a particular provision of the Town's Zoning Ordinance to prohibit Zappia from building the greenhouse anywhere in the front yard of her property. See Old Orchard Beach, Me., Code § 78-13816) (Aug. 3, 2021). We agree with Zappia's contention that the provision does not prevent her from building a greenhouse in her front yard, provided that the Ordinance's setback requirement is satisfied. Id. We therefore vacate and remand for the Superior Court to remand this matter to the Board for proceedings consistent with this opinion.

Essentially the applicant will have to apply to the Code Office the updated plot plan then Codes will be issuing the Building Permit in accordance with the court order.

Ms. Zappia introduced herself and clarified the reason for this greenhouse approval from the courts. The reason is because the ordinance only restricts the residences from building something in a required front yard.

Item 3 Acceptance of December 20, 2021 meeting minutes.

MOTION:

Tom Mourmouras made a motion to approve the December 20, 2021 meeting minutes, seconded by Brian Perro.

VOTE:

Thomas Mourmouras – Agree

Brian Perro – Agree
Vice Chair Stan DeFreese - Agree

PASSES
(3-0)

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 consisting SIX (6) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting held on March 28, 2022..

Valdine Camire