

**THE TOWN OF OLD ORCHARD BEACH,
ZONING BOARD OF APPEALS
Monday, March 29, 2021, IN THE TOWN
COUNCIL CHAMBERS -6:30 p.m.
MEETING MINUTES**

Call to Order: 6:30 PM

Roll Call:

Present:

Vice Chair Ray DeLeo

Sam Dupuis

Stan Defreese

Absent:

Chair Ron Regis

Tom Mourmouras

Tom LaCasse

Staff Present:

Jeffrey Hinderliter, Town Planner

Valdine Camire, Administrative Assistant

Pledge to Flag

Selection of Vice Chair and Chair

This was not decided on at tonight's meeting.

Vice Chair DeLeo read over the Criteria for an Appeal:

Item 1

Proposal: Miscellaneous Appeal- Request reduction of front setback from the required 20' to a proposed 15' and left side yard setback from required 15' to a proposed 7'6". This miscellaneous appeal will allow the placement of a garage

Owner: Arthur & Donna Gilbert

Location: 3 Birch Ln; MBL: 204-2-2

Zone: R1

Owners Arthur and Donna Gilbert introduced themselves to the Board Members.

They stated that they do not have a garage currently. They would like to construct a 2 car garage with storage upstairs. They have no plans for a bedroom or apartment above the garage. They

are using their basement for storage for gas powered lawn equipment, which is not safe to keep in their basement.

The public hearing opened to the public at 6:35 pm.

There being no one speaking for or against the appellant, the public hearing closed at 6:35 pm.

Chair Ray DeLeo read the criteria for the Miscellaneous Appeal

LIMITED REDUCTION OF YARD SIZE/LIMITED EXPANSION OF LOT COVERAGE.

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 or record.

Applicants Response: The existing buildings and lot were established before 2/5/1998. The home was built in 1975.

Sam Dupuis - Yes

Stan Defreese – Yes

Vice Chair DeLeo – Yes

B. The requested reduction is reasonably necessary to permit the owner or 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.

Applicant's Response: Most homes in the neighborhood have garages. Need garage to store gas powered lawn equipment safely. Need to have cars stored inside for ease due to weather (snow) owners over 60 years of age. Store gas safely. Basement is finished and currently being used as storage area so unusable. Need the storage area.

Sam Dupuis - Yes

Stan Defreese – Yes

Vice Chair DeLeo – Yes

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.

Applicant's Response: Has a 60' right of way and house is pushed toward roadway. Proposed garage will still be 34' from edge of roadway. No change in driveway needed. Will access the garage from existing driveway.

Sam Dupuis - Yes

Stan Defreese – Yes

Vice Chair DeLeo – Yes

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.

Applicant's Response: Use of property will be the same. NO curb cut needed due to using existing driveway will not change the neighborhood.

Sam Dupuis - Yes

Stan Defreese – Yes

Vice Chair DeLeo – Yes

Vice Chair DeLeo read the following letter into the meeting minutes:

March 26, 2021 Friday

Zoning Board of Appeals Old Orchard Beach Town Hall 1 Portland Ave, Old Orchard Beach, Me. 04064

To Arthur & Donna Gilbert and Zoning Board of Appeals,

We received a certified letter in regards to a Miscellaneous Appeal for reduction of front and side setbacks at 3 Birch Lane; MBL: 204-2-2.

We, Scott and Kim Sperlich of 1 Birch Lane, have NO concerns with this Miscellaneous Appeal. We have a great relationship with the Gilbert's and approval of the garage that they would like to add to their property.

All our best,

Scott & Kim Sperlich
1 Birch Lane
Old Orchard Beach, ME 04064
207-602-8959

MOTION:

Stan DeFreese made a motion to approve the Miscellaneous Appeal for Arthur & Donna Gilbert Location: 3 Birch Ln; MBL: 204-2-2, Zone: R1 to be approved with the stipulation that they will not use the upstairs garage for an apartment or bedroom, seconded by Sam Dupuis.

Planner Jeffrey Hinderliter called for the vote:

Sam Dupuis - Approve

Stan Defreese – Approve

Vice Chair DeLeo – Approve

PASSES:

(3-0)

Item 2

Proposal: Miscellaneous Appeal- Request reduction of front setback from required 20' to a proposed 13' and rear setback from required 20' to proposed 10.5'. This request will allow for the demo and new construction of a single-family dwelling

Owner: Mark & Heather Dubois

Location: 43 Maine Ave; MBL: 322-5-2

Zone: R3

Kylie Mason from Sebago Techniques introduced herself to the Board Members. The owners would like to take an existing non-conforming structure, demolish it and re build it, which would make the structure less non-conforming by their measurements. Their neighbors seem to be in support of this project. It fits in the neighborhood character. They will be preserving the trees at the end of the lot.

The public hearing opened at 6:45 pm. There being no one speaking for or against the appellant, the public hearing closed at 6:45 pm.

Planner Jeffrey Hinderlitter wanted to point out that the plans show an accessory dwelling unit. The Zoning Board of Appeals does not have the jurisdiction to approve an accessory dwelling unit. If the owner chooses to add an accessory dwelling unit, that would require Planning Board approval. Planner Hinderlitter mentioned to the Board Members that if they are proposing to approve this, he would recommend that they would ensure that this does not include an approval of an accessory dwelling.

Kylie Mason stated that they are not including an accessory dwelling unit.

Planner Hinderlitter stated that on Plan page A-6 there is an accessory unit with a bedroom and a full kitchen. This would fall under an accessory dwelling unit under the Town's definition.

Kylie Mason stated that they will make the modification for a single-family structure and if they decide to do an accessory dwelling at a later date they can come back to the Planning Board.

Chair Ray DeLeo read the criteria for the Miscellaneous Appeal

LIMITED REDUCTION OF YARD SIZE/LIMITED EXPANSION OF LOT COVERAGE.

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 or record.

Applicants Response: The existing building was originally constructed in 1945.

Sam Dupuis - Yes
Stan Defreese – Yes
Vice Chair DeLeo – Yes

B. The requested reduction is reasonably necessary to permit the owner or 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.

Applicant's Response: A number of the existing homes in the immediate neighborhood encroach over the front setback. The requested reduction in setback will permit the owner to continue utilizing their property in a similar manner to others in the neighborhood.

Sam Dupuis - Yes
Stan Defreese – Yes
Vice Chair DeLeo – Yes

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.

Applicant's Response: Construction the building in a different location is not practical because encroachment across the rear setback would be required. The rear screened porch will have a full concrete foundation. The house is designed to leave the back lot in a natural and wooded condition, and to protect very tall pine trees. Trees and other vegetation will serve as natural barrier from the adjacent property, and is consistent with other lots in the neighborhood.

Sam Dupuis - Yes
Stan Defreese – Yes
Vice Chair DeLeo – Yes

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.

Applicant's Response: The replacement principal building will very similar to existing uses in the neighborhood. Architectural drawings are enclosed for review as part of the application.

Sam Dupuis - Yes
Stan Defreese – Yes
Vice Chair DeLeo – Yes

Vice Chair DeLeo read the following letter into the meeting minutes:

*P.O. Box 728
Wakefield, RI 02880*

To: Zoning Board

*We have no objection to the reduction of setback in Mark and Heather Dubois request.
We know they will build a very attractive house and we will be anxious to watch the process.*

*Sincerely,
John and Carol Grendin*

MOTION:

Stan DeFreese made a motion to approve the Miscellaneous Appeal for request from Mark & Heather Dubois, Location: 43 Maine Ave, MBL: 322-5-2 Zone: R3 for a reduction of front setback from required 20' to a proposed 13' and rear setback from required 20' to proposed 10.5', seconded by Sam Dupuis.

Planner Jeffrey Hinderliter called for the vote:

Sam Dupuis - Approve
Stan Defreese – Approve
Vice Chair DeLeo – Approve

PASSES:

(3-0)

Item 3: Acceptance of May 28, 2020 Meeting Minutes

Stan DeFreese made a motion to accept the meeting minutes for May 28, 2021, seconded by Vice Chair DeLeo.

VOTE:

Sam Dupuis - Yes
Stan Defreese – Yes
Vice Chair DeLeo – Yes

PASSES:

(3-0)

Item 4: Acceptance of December 28, 2020 Meeting Minutes

Stan DeFreese made a motion to accept the meeting minutes for December 28, 2021, seconded by Sam Dupuis.

VOTE:

Sam Dupuis - Yes

Stan Defreese – Yes
Vice Chair DeLeo – Yes

PASSES:
(3-0)

GOOD & WELFARE
ADJOURNMENT
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 SEVEN (7) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting held on March 29, 2021.

Valdine Camire