

**ZONING BOARD OF APPEALS MEETING
ON Monday, May 22, 2019 IN THE TOWN
COUNCIL CHAMBERS -6:30 p.m.
MEETING MINUTES**

CALL TO ORDER 6:30 PM

PRESENT: Mikaela Nadeau
Ryan Howe
Ron Regis
Chair Ray DeLeo
ABSENT: Tom Mourmouras
Mark Lindquist

PLEDGE TO THE FLAG

Chair Ray DeLeo read the Appeals Criteria

ITEM 1: Miscellaneous Appeal (side and rear setbacks) and Public Hearing

Owner: James and Lyn Blouin

Location: 21 Odena Avenue; MBL: 315-6-1

Zone: R3

Miscellaneous Appeal request for reduction of side setback from the required 15' to proposed 7 1/2'' on both sides. Current structure has a left side setback of 2.04' and right setback of 2.46'. Secondly, a request for a reduction of the rear setback from the required 20' setback to a proposed 10' setback. Current structure has a setback of 15'.

Public Hearing opened at 6:40 PM

Jim Blouin introduced himself. The house was built in the 1940's and is a non-conforming structure. They are trying to get a Misc. Appeal to move the sides in, reconstruct the home and build on the existing footprint.

Board Member Ryan Howe mentioned that at the last 2 ZBA meetings, the recommendation that has come from the Board as far as addressing the water concerns with either the Planning Board or the Town Council and asked if anyone had addressed this issue.

There was no one who had addressed this. Speaking as one voice is highly recommended.

Connie Caron, 23 Odena Ave. introduced herself. At the beginning of this process they have said that they are concerned about the water displacement issues. Ms. Caron was curious if the applicant had followed some of the recommendations that were made about getting an architect

and talk to FEMA. She stated that the new footprint that was submitted tonight seems larger than the previous one. They are concerned where the displaced water is going to go and how high the building is going to be.

Connie Cogswell from 19 Odena Avenue introduced herself.

She explained that none of the neighbors have indicated that they don't want the Blouin's to do something to deal with their water problems but they have expressed their concerns about how their building is presently proposed will impact her property and the others in the neighborhood. She would have thought that they would have addressed some of those concerns. The building that is currently proposed will worsen the surface water issues. The proposed building is not to scale with any of the other properties in the neighborhood. Her sense is that this proposal doesn't meet the criteria D for zoning. If this is built accordingly, the new structure will have negative impacts. She respectfully requests that her concerns be listened to and addressed.

Rick Haskell stated that he thought that the previous proposal was the best one that created a 9- 9 ½ setback on each side then they could have created a swale. The ZBA Board addresses where the building sits on the property, the rest of it is all part of the permitting phase. Then discussion would be made with the Code Office before he issues a permit as far as drainage. situation worse.

Owner James Blouin agrees that he has a water problem and he wants to fix it. He has presented 3 different plans and has been very patient.

Board Member Mikaela Nadeau stated that when building, they will be going from a crawl space to a foundation which does displace groundwater that affects everyone on the street. This will be affected by the new FEMA maps so they will have to build up. Ms. Nadeau had suggested at the last meeting that would address the groundwater disbursement is to put the home on pilings instead of a full foundation.

Rick Haskell stated that this foundation would not be in the ground. This would be a 4 ft. frost wall, fill with sand and pour a slab.

Ray Caron introduced himself. He is assuming that the roofline will be changed which could definitely impact 19 and 23 Odena. He believes that there is going to be more water concerns and if the contractor cannot guarantee that he can alleviate that problem then it would be affecting several people in the neighborhood.

Connie Cogswell stated that there are multiple reasons for zoning and one of which is that we cannot impact each other. This will be an impact on the quality of her life and reduce the value of her home as well.

Lyn Blouin, owner introduced herself. She stated that she understands the neighbor's concerns and that she will take everything into consideration. She stated that they do have an architect. She would like to get everyone together to address the water issues with the town.

Public Hearing closed at 7:15 PM

Chair DeLeo read a letter into the record from Connie Cogswell from 19 Odena Avenue:

May 22, 2019

Re: 21 Odena request for Miscellaneous Appeals

Dear Members of the ZBA:

Thank you for your continued attention to this important issue. Many of my neighbors and I have written multiple letters in opposition, and as of tonight, like the board, will have attended three ZBA hearings related to this property I don't believe any of our letters or comments we have indicated that we oppose any changes or new construction. It is however, truly disappointing that none of the proposals address the neighbors' concerns. At the March meeting, the Board kindly gave the

Proponents an opportunity to look at the design again, in view of the neighbors' concerns. However, they did not present anything new at the April meeting.

Prior to the April meeting, I asked the town for and received a copy of the new proposed 'site plan'.

That I understood was to be submitted if the Blouin's their initial plan was rejected by the ZBA In order to keep the proposals straight, I referred to that as Plan B. It showed that they proposed to use the wall (of the garage) which is closest to my house as one of their "saved foundation". The garage is located 2.04' from our property line. That meant they were moving the proposed house closer to my home than previously shown in the first application. In March and April, I expressed concern having the house (living space) rebuilt closer to my home. Not sure how else that moving the house closer to mine can be interpreted but as 'punishment' for my comments. That plan called for a building over 3000 sq. ft. I suspect the cost of building is the reason they made a slight change to the proposal you have in front of you tonight.

Last week I received the Blouin's letter regarding this meeting. I assumed it was Plan B, since the letter didn't include the 'site plan', not certain it is required, but certainly would be helpful to the neighbors, especially those unable to get to Town Hall. I asked my architect to prepare a massing study. It is based on the Plan B I had at the time. I found out last Friday, that the proponents had made a change, moving the building from the 2.04' mark to 7.5', while that reduces the mass slightly (approximately 191 sf), the study still provides a good idea of the scale of the proposed building. My architect went on vacation. As a result, I was unable to have the plan revised to reflect the plan you have before you, which I only saw when Mr. Haskell and I met last week. I have attached the massing study for your review. This doesn't take into account the grading that 17 Odena has nor what might be planned for 21 Odena.

Tonight's proposal calls for a building which is a 35' wide at its widest, 35' high and 50' deep. There are few changes from the original plan proposed back at the March ZBA meeting. None of the changes reflected in tonight's proposal were made to address the neighbors' primary concerns. This plan still shows a 26' wide (2 car driveway), across the Right of Way. The driveway would be roughly twice the width of the existing paved driveway which is approximately 10 ft. wide. As I have mentioned previously, an increase in pavement will exacerbate the surface water issue. The replacement of a crawlspace (and piers for decks) with a foundation will displace more water. The proposed proximity to my house will eliminate privacy. I mentioned hearing conversations from the house immediately abutting me to the. I mentioned it in my letter to fully inform the Blouin's, not complain about my neighbors at 17 Odena.

I have my master's degree in housing and community development and have spent the last 25 years in the housing field, the last 8 years as a development consultant. That means to lead teams of architects, builders and engineers, among others. I am very familiar with these issues.

I cannot imagine trying to force a building that the neighbors are opposed to into any neighborhood, let alone one I lived or planned to retire in.

To repeat myself, I don't oppose the Blouin's addressing their housing issues. However, all of the proposals, including this latest version, will impact my quality of life (to use a legal term "quiet enjoyment" and the value of my home. Zoning and setbacks in particular, are in place to among other things, prevent that.

The new proposal if built still:

- Worsens the surface water issues for me and the neighbors on each side (the Caron's and the Concorde Motel) as well as those who live downstream from them.
- A large foundation replacing a crawlspace will displace more of the groundwater than the existing property
- The house as proposed is too large (exceeding 2,600 sq. ft. (using the numbers in the application), is not to scale with the neighbors, most homes are as most 1200 sq. ft.
- The height will block sunlight especially during the winter; when there are no leaves as previously stated.
- Garages are not the norm for the neighborhood.

The proposal fails to meet criteria d. for zoning relief. If built as shown the new structure will have significant negative impacts, and most certainly greater than the impacts and effects of a building which conforms to the yard size requirements,

The neighbors in opposition to zoning relief, have made our concerns in a respectful and calm manner. We will continue to do so if future proposals also do not address our very legitimate concerns.

Again, my sincere thanks to the Board and Town staff.

Sincerely.

Cornelia Cogswell

19 Odena Ave.

Mikaela Nadeau read a letter into the record from Jeanne and George Tolson:

Zoning Board of Appeals
1 Portland Ave
Old Orchard Beach, ME 04064

6 May 2019

Meeting date: 20 May 2019
Topic: 21 Odena Ave Variances

Dear Board Members and guests,

When we bought #14 Odena in 2011, we were lucky to find a cottage where the price had just been lowered due to the inability to put on a second story due to rocks and its drainage issues. We wanted a one level house but we weren't quite aware of the drainage problems in the town until the summer of 2012,

We managed, adding gutters to move the water away from our house and our neighbor's house #16. We added rocks, dirt, a

French drain. We noticed Connie #19 doing the same with her house. Water comes from behind us and beside us from up the hill, yet, Connie is lower than us so she tends to get the run off from all sides.

The neighborhood has been a happy place where most of the people gathered in the streets to chat and talk. People were friendly and it has been a joy to come here. Originally from New England, after we both served in the Army, we decided to find our summer home, here.

With the new construction it seems that properties are draining more on to each other's properties. Behind us when a neighbor on #17 Seacliff put in an addition and a paved driveway, the water flowing off the street misses the drains

and comes down his driveway into Ellen's #16 and our back yards.

When folks design houses, which are very nice and upscale, we just want them to try to remember your nice neighbors and do your best not to impose on them with your drainage and encroachment. The taller homes are changing the character of the neighborhood and do block some of the sun from the existing older homes.

We also believe the town could review the drains to observe the actual drainage during the rains. We've seen a few that the water flow completely misses, which adds to the flooding of people's yards.

Thank you,

Jeanne and George Tolson
14 Odena Ave

Chair Ray DeLeo read the criteria for a Miscellaneous Appeal.

1. 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 of record.

Response: The existing building was constructed during the 1940's which was before the adoption of zoning ordinances, including setback requirements. Current structure is 6.69 feet in town Right of Way and the two sides of the home are 2 plus feet to re respective property lines. New structure would be built in current foot print and the front of the house will be pushed back to the property line out of the town right of way. The current structure is not uniform, therefore; on the easterly side a 15 foot setback is requested from the property line.

Mikaela Nadeau – Agree
Ryan Howe – Agree
Ron Regis – Agree
Chair Ray DeLeo – Agree

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

Response: The current home was built in the 1940's and is currently non-conforming. A new structure will be more conforming and will provide necessary improvements for water, flood and future FEMA requirement. These improvements will create a safer structure more resilient to fire and floods as well as updates to plumbing which will reduce the risk of wastewater problems. Many structures in this zoning district are being updated in similar manners and these proposed updates will allow the owner to use and enjoy the property in a similar manner as those elsewhere in the district.;

Mikaela Nadeau – Agree
Ryan Howe – Agree
Ron Regis – Agree
Chair Ray DeLeo – Agree

C. Due to the physical features of the lot and/or the location of the 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.

Response: Given the size of the lot and required setbacks, development on this lot is limited. Current structure is non conforming and currently is 6.6 feet in the town R.O.W. New structure will remove house from town R.O.W. and make 2 sides and rear more conforming.

Mikaela Nadeau – Agree
Ryan Howe – Agree
Ron Regis – Agree
Chair Ray DeLeo – Agree

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.

Response: Many other structures in the neighborhood and zoning districts are non conforming and have similar setback encroachments. The proposed structure use (single family) will not change and not create impacts substantially different than what exists. In fact, the updated building will be safer than what exists and no longer encroach into the R.O.W.

Mikaela Nadeau – Disagree
Ryan Howe – Agree
Ron Regis – Agree
Chair Ray DeLeo – Agree

MOTION:

Ryan Howe made a motion to approve Item #1 Miscellaneous Appeal side rear setbacks for 21 Odena Avenue, MBL: 315-6-1, seconded by Ron Regis.

CEO Rick Haskell called for the vote:

VOTE:

Mikaela Nadeau – Yes
Ryan Howe – Yes
Ron Regis – Yes
Chair Ray DeLeo – Yes

APPROVED:

(4-0)

ITEM 2: Miscellaneous Appeal (front setback) and Public Hearing

Owner: James and Lyn Blouin

Location: 21 Odena Avenue; MBL: 315-6-1

Zone: R3

Miscellaneous Appeal request for reduction in front setback from required 20” to proposed 15’.

This appeal would allow new structure of 7’ wide 5’ deep in the front setback.

Public Hearing opened at 7:35 PM

There being no one speaking for against the appellant.

Public Hearing closed at 7:36 PM

Chair Ray DeLeo read the criteria for a Miscellaneous Appeal.

1. 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 of record.

Response: The existing building was constructed during the 1940’s which was before the adoption of zoning ordinances, including setback requirements. Current structure is 6.69 feet in town Right of Way and the two sides of the home are 2 plus feet to re respective property lines. New structure would be built in current foot print and the front of the house will be pushed back to the property line out of the town right of way. The current structure is not uniform, therefore; on the easterly side a 15 foot setback is requested from the property line.

Mikaela Nadeau – Agree
Ryan Howe – Agree
Ron Regis – Agree
Chair Ray DeLeo – Agree

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

Response: The current home was built in the 1940’s and is currently non-conforming. A new structure will be more conforming and will provide necessary improvements for water, flood and future FEMA requirement. These improvements will create a safer structure more resilient to fire and floods as well as updates to plumbing which will reduce the risk of wastewater problems. Many structures in this zoning district are being updated in similar manners and these proposed updates will allow the owner to use and enjoy the property in a similar manner as those elsewhere in the district.;

Mikaela Nadeau – Agree
Ryan Howe – Agree
Ron Regis – Agree
Chair Ray DeLeo – Agree

C. Due to the physical features of the lot and/or the location of the 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.

Response: Given the size of the lot and required setbacks, development on this lot is limited. Current structure is non conforming and currently is 6.6 feet in the town R.O.W. New structure will remove house from town R.O.W. and make 2 sides and rear more conforming.

Mikaela Nadeau – Agree
Ryan Howe – Agree
Ron Regis – Agree
Chair Ray DeLeo – Agree

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.

Response: Many other structures in the neighborhood and zoning districts are non conforming and have similar setback encroachments. The proposed structure use (single family) will not change and not create impacts substantially different than what exists. In fact, the updated building will be safer than what exists and no longer encroach into the R.O.W.

Mikaela Nadeau – Disagree
Ryan Howe – Agree
Ron Regis – Agree
Chair Ray DeLeo – Agree

MOTION:

Ron Regis made a motion to grant the Miscellaneous Appeal for request of James and Lyn Blouin, 21 Odena Avenue; MBL: 315-6-1 for a setback from the proposed 20' to 15', seconded by Ryan Howe.

CEO Rick Haskell called for the vote:

VOTE:

Mikaela Nadeau – Yes
Ryan Howe – Yes

Ron Regis –Yes
Chair Ray DeLeo – Yes

APPROVED:
(4-0)

Item 3: Variance Consideration (reduction in net lot area per family unit) and Public Hearing

Owner: Chris Meyer

Location: 88 Union Avenue; MBL: 314-17-1

Zone: R2

Variance request to allow an increase of density from a licensed 3 unit rental to a 7 unit condominium complex.

Opened Public Hearing at 7:50 PM

Amy McNally, Attorney from Woodman & Edmonds law firm introduced herself and she is here representing Chris Meyer's. Mr. Meyer is the sole member of the Union Street OOB LLC and is also the applicant. She explained that the proposal is to convert an existing building with a 24 bedroom boarding house which is currently in disrepair into a 7 unit condominium. Doing this would actually shrink the footprint of the building by 900 ft. and make room for additional on site parking and to bring the building up to code.

Mr. Meyers explained that if this was not going to be an owner/occupied piece he wouldn't do it. CEO Rick Haskell agreed that this building is in a huge disrepair.

Patrick Surette from 91 Union Avenue introduced himself. Mr. Surette and his wife bought their property last year. He stated that he is very much in favor of this plan because it would improve the neighborhood. With Mr. Meyers doing what he is proposing to do, he is hoping to entice some of the other property owners to bring their homes up to the same quality.

Mr. Meyers stated that they will have approximately 16 parking spaces.

Closed Public Hearing at 8:00 PM

Chair Ray DeLeo read the Criteria for the Variance:

A. The land in question cannot yield a reasonable return unless the variance is granted.

Response: The Variance requested to convert a former twenty four (24) bedroom rooming house now identified on the Old Orchard Beach tax card as a five (5) unit apartment building to a seven

(7) unit condominium. As the attached plan reflects, the conversion will remove a portion of the building (approximately 900 square feet) to reduce setback violations and meet Town onsite parking spaces (14 spaces. Currently, the property has six (6) onsite parking spaces. As a result, most of the buildings parking needs are provided by on-street parking. Extensive building exterior and interior renovations, and landscape improvements, will be completed as part of the conversion which will substantially improve the physical condition of the building and property and will address existing life safety conditions. See Tab 4 for existing (after removal of 900 square feet portion of building) and proposed isometric drawings of the renovations. In addition, the proposed conversion will significantly improve net family density conditions on the property.

None of these improvements can be undertaken without a variance to allow the conversion to a seven unit condominium on the reduced building footprint. The building as currently operated simply is not financially sustainable and not only cannot yield a reasonable return but will continue to deteriorate and be a detriment to the neighborhood and Old Orchard Beach.

Mikaela Nadeau – Agree

Ryan Howe – Agree

Ron Regis – Agree

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.

Response: The variance to renovate the existing building with multiple deficiencies to a seven (7) unit condominium is unique to the property itself and is not because of the general conditions of the neighborhood.

Mikaela Nadeau – Agree

Ryan Howe – Agree

Ron Regis – Agree

Chair Ray DeLeo - Agree

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

Response: The proposed use contemplates removal of a portion of the existing building which will eliminate or reduce two setback encroachments and reduce the percentage of lot coverage from 58.2% to 45.17% making the building more conforming. Parking for the building will not be available on site rather than on the street. Substantial physical improvements, both inside and

outside the building, will be implemented all of which will benefit the neighborhood, improve net family density conditions and reduce health and safety concerns.

Mikaela Nadeau – Agree

Ryan Howe – Agree

Ron Regis – Agree

Chair Ray DeLeo - Agree

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

Response: The former twenty four (24) bedroom rooming house with necessary off street parking simply is not financially sustainable in the dense Union Avenue neighborhood even if it is operated as a five (5) unit apartment building as it is currently identified on the Old Orchard Beach tax card. The building, built in approximately 1900, is in disrepair. It has not undergone any substantial repair or improvements since it operated as a rooming house. Necessary improvements both aesthetically and safety related cannot be implemented without a conversion to the proposed use.

Mikaela Nadeau – Agree

Ryan Howe – Agree

Ron Regis – Agree

Chair Ray DeLeo – Agree

MOTION:

Mikaela Nadeau made a motion to approve the Variance reduction in net lot area per family unit for Chris Meyer, Location: 88 Union Avenue; MBL: 314-17-1 Zone: R2 Variance request to allow an increase of density from a licensed 3 unit rental to a 7 unit condominium complex, seconded by Ron Regis.

VOTE:

Code Official Rick Haskell called for the vote:

Mikaela Nadeau – Yes

Ryan Howe – Yes

Ron Regis – Yes

Chair Ray DeLeo – Yes

ITEM 4: Acceptance of April, 29 2019 Meeting Minutes.

Ryan Howe made a motion to approve the April 29, 2019 meeting minutes, seconded by Mikaela Nadeau.

Mikaela Nadeau made a motion to adjourn the meeting, seconded by Ryan Howe.

GOOD & WELFARE

ADJOURNMENT 8:26 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 THIRTEEN (13) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting held on May 22, 2019.

Valdine Camire