

**THE TOWN OF OLD ORCHARD BEACH,  
ZONING BOARD OF APPEALS  
Monday, May 24, 2021, IN THE TOWN  
COUNCIL CHAMBERS -6:30 p.m.  
MEETING MINUTES**

**Call to Order 6:30 PM**

**Roll Call:**

**Present:**

Chair Ron Regis  
Vice Chair Ray DeLeo  
Stan Defreese

**Absent:**

Tom Mourmouras  
Sam Dupuis  
Thomas LaCasse

**Staff Present:**

Code Officer Jim Butler  
Admin Asst. Valdine Camire

*Chair Ron Regis read the Criteria for a Variance or Miscellaneous Appeal*

**Pledge to Flag**

**Selection of Vice Chair and Chair**

**Item 1**

**Proposal: Miscellaneous Appeal- Request reduction of left side yard setback from the required 15' to a proposed 11'. This miscellaneous appeal will allow the addition of storage and living space onto the rear of the existing structure.**

**Owner: Alexander Chou**

**Location: 18 Union Ave; MBL: 316-13-10**

**Zone: BRD**

Alexander Chou from 18 Union Avenue introduced himself and explained to the Board Members that he would like to expand the back area of his home and is looking to add more space for storage and heating system so that it can be more year round. He is doing this for cost efficiency and safety. He explained that the current addition that he has is 11 ft. back from the street and he would like to continue the 11 ft. setback to the normal 20 ft. setback in the rear of the property. This would reduce the complication of the build and reduces the number of footings necessary to make it structurally sound. This addition is proposed to bring it up to the current structure that is 3 stories high.

The public hearing opened at 6:35 pm.

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

**Chair Ron Regis 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 structure was originally built circa 1900 (per town property card on file), which is prior to the effective date of ordinances.

Chair Ron Regis – Agree  
Vice Chair Ray DeLeo – Agree  
Stan DeFreese - Agree

**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:* Structures adjacent to property and throughout the street are within the same zoning district and have similar developed non-conforming lots as 18 Union with the proposed expansion. Unlike 18 Union, these adjacent properties all have basements and extra space for utilities and additional storage. With 18 Union's proposed expansion, it would have similar, and in some cases larger, setbacks and yard size than the neighboring lots, and will enable the owner and occupants more space for utilities, washer/dryer, storage, and living. This expansion will give the owner and occupants the systems and space to enjoy year-round living, like the adjacent lots. (see attached diagram).

Chair Ron Regis – Agree  
Vice Chair Ray DeLeo – Agree  
Stan DeFreese - Agree

**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:* The proposed addition (which extends the existing west-facing wall to the 20' setback in the back of the lot) provides the most simple and practical structure that can be built safely with minimal disturbance on the existing two-story addition. Building within the setbacks will not support the current plan use of the space, require additional structural reinforcement beyond

proposed design, and have a significant impact on the overall costs of the project. Additional space considerations (i.e. Adding a basement or adding to the top of existing main footprint) are impractical in cost and severely increases the risk of disturbing the main structure in a way that could be detrimental and dangerous to not only this structure but potentially structures around it.

Chair Ron Regis – Agree  
Vice Chair Ray DeLeo – Agree  
Stan DeFreese - 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.**

*Applicant's Response:* The approximately 25 square feet of structure expansion that falls within the 15 foot setback will have no foreseen expected impacts and/or effects on existing uses in the neighborhood. This addition will follow the setback established by the current addition and is contained to the back of the lot with no effects on right of ways or adjacent structures. Accessibility and other impacts would not be substantially different from or greater than the impacts and effects of a building or structure which conforms to the yard size requirements.

Chair Ron Regis – Agree  
Vice Chair Ray DeLeo – Agree  
Stan DeFreese – Agree

**MOTION:**

Stan DeFreese made a motion to approve the Miscellaneous Appeal for Alexander Chou, Location: 18 Union Ave, MBL: 316-13-10, Zone: BRD, seconded by Ray DeLeo.

**VOTE:**

Chair Ron Regis – Yes  
Vice Chair Ray DeLeo – Yes  
Stan DeFreese – Yes

**APPROVED:**

(3-0)

**Item 2**

**Proposal: Variance- Request portion of lot located at 21 Garden St., MBL: 403-3-11, owned by Judith A. Morin to be divided and merged with a lot located at 22 Poplar St., MBL: 403-3-12, owned by Jeffrey R and Kristin G Nason. The variance would allow the lot at 22 Poplar St. to acquire more land**

**but would create a nonconforming condition for the lot at 21 Garden St. due to the reduction in lot size. R5 minimum lot size: 20,000 sq. ft.**

**Owner: Jeffrey R and Kristin G Nason (22 Poplar St)**

**Owner: Judith A. Morin (21 Garden St)**

**Location of Division: 21 Garden St., MBL: 403-3-11**

**Zone: R5**

**Chair Ron Regis read a letter from Planner Jeffrey Hinderliter:**

*Jeff Nason bought the lot on 22 Poplar Street and built his home there. He also bought the lots on 18 and 11 Poplar Street and Garden Street respectively. He explained that his mom passed away last year and that 21 Garden Street was owned by his mother. His sister lives at this residence and is the personal representative of his mother's estate. After his mom passed they realized that there were liens on the estate of the property. He explained that there is a leach field on 20 Poplar Street and is undeveloped. He has had an approved soils test and the well is within 70 ft. of his mother's septic. They have not been able to use the water from the well. He said that he has got an approved design however because of Covid he cannot secure a contractor to have them come in and put an infiltrator in and do the second part of it. They cannot sell the estate without finishing the septic. He cannot give proof of ownership acting on behalf of his mother's estate with his sisters permission because they would like to take the septic off, rotate it and finish putting it on to 21 Garden St. then the State will sell with the new septic leach field. Once the leach field is completed, the State will deed back his lot which is 20 Poplar St. then they will convey with the new lot the new septic field to 21 Garden Street then they will be able to deal with the separation of the 2 lots.*

*They are requesting a provisional approval or to come back to the Board following the completion of the septic.*

Jim Butler stated that in order for the Board to make a decision on this item, they would need something in writing from the Executer of the Estate stating that this can happen if there is permission, but with that being said that he thinks that this is a case of 2 Variances that actually need to be granted. On Mr. Nason's HHE-200 form it is checked off that a replacement septic system Variance is needed and this not something that the ZBA Board grants, it is something that the local plumbing inspector would issue. We would need to get something in writing as far as a right title and interest from the executor. We cannot conditionally approve something until they have something in writing.

The Public Hearing opened at 6:50 pm.

Gary Morin from 21 Garden Street introduced himself. He would like to clarify in regards to the application where it talks about the lot where 21 Garden Street is. It is currently lot #11. It had been lots # 11 and 18. This is the collateral for the mortgage that is currently on the property. The issue is in regards to the Variance request which talks about divided and merged with the lot at 22 Poplar Street. He believes that this cannot be merged prior to the mortgage being satisfied.

The public hearing opened at 6:58 pm.

There being no one else speaking for or against the proposal, the public hearing closed at 6:58 pm.

**MOTION:**

Ray DeLeo made a motion to table item #2 for the request for the portion of the lot located at 21 Garden Street not to be divided or merged at this time until further clarification from the bank, seconded by Stan Defreese.

**VOTE:**

Chair Ron Regis – Yes

Vice Chair Ray DeLeo – Yes

Stan DeFreese – Yes

**APPROVED:**

(3-0)

**Item 3**

**Proposal: Variance-Request increase of density from 2 residential units to 6 residential units at 60 Saco Avenue., MBL: 206-10-1, owned by Clifton Temm II & Suzanne M. Temm proposal brought forward by applicant Land Matters, LLC. This variance would allow the development of 6 units instead of the 2 unit maximum under the zoning minimum lot area of 5,000 sq. ft.**

**Owner: Clifton Temm II & Suzanne M. Temm**

**Applicant: Land Matters, LLC C/O Thomas Gillis**

**Location: 60 Saco Avenue; MBL 206-10-1**

**Zone: GB-2**

Applicant Tom Gillis introduced himself to the Board Members.

Mr. Gillis explained that has done quite a bit of research on this property and he would like to renovate this building into 6 residential units. Mr. Gillis added that 6 units is a nice fit for the height that is allowed in that zone. This Variance is based on what is reasonable under the law. He has plenty of parking. He explained that he has 16-17 spaces with a handicapped parking space. He is not asking for maximum return, he is asking for a reasonable return based on past practice and what is in the zone. He is only asking for density. Mr. Gillis went over the history of the lot. The building was created in 1898 and the post office was built in the 1960's and that is the hardship with this proposal. He explained that this is best suited for multifamily use. This will enhance the character of the property and bring the values up.

Mr. Gillis explained that he will be the owner of the building if approved and he will also be living in one of the units.

Ray DeLeo stated that he does not think that this will fit into the landscape in the area.

Jim Butler wanted to let everyone know that this would require the Board's approval because of not having enough density for the lot, and also this project would also need to go to the Planning Board and they would also have to approve it.

In this GB-2 District it asks for 5,000 sf per dwelling unit. Mr. Gillis stated that he is at 2500 sf.

Public hearing opened at 7:10 pm.

Chris Delano expressed his approval for the proposal and stated that a 2 unit vs. 6 units is very difficult to do and you don't get the value.

Cathryn Paolucci from 10 Washington Avenue introduced herself. She expressed concern that the current building is very unsafe and is very unclean. She is also concerned with overcrowding of the units. She has asked the Zoning Board to give this proposal a lot of thought.

Brian O'Donnel from 4 Fern Park Avenue stated that the majority of the building is on Fern Park Avenue which is a very busy street. He stated that we have zoning rules for a reason and to go from 2 to 6 units seems excessive. He also states that it also doesn't fit in the neighborhood. There is a lot of traffic in the neighborhood.

Chris Johnson introduced himself to the Board. He lives at 8 Walden Avenue. He stated that the building is any eyesore and is dangerous. They have been trying to sell this building for years and no one has come forward to purchase it. He believes to keep the footprint and parking the way it is. For every unit the resident would have 2 parking spaces plus a guest spot. Mr. Johnson would like to see this project approved.

Clarence Stewart who lives at 69 Saco Avenue introduced himself. He stated that this building is an eyesore and anything that could be done to upgrade it would be good.

Maria Lysen from 2 Washington Ave. introduced herself and stated that she is new to the community. Her and her husband are concerned about the traffic and safety concern. She stated that their main concern is the number and size of the units and what they will be used for and who will be living there.

Carolyn Melman who lives at 58 Saco Ave. introduced herself to the Board. Her and her husband Jim agrees that this place is very rundown and falling into disrepair. She agrees that this does not fit in with the neighborhood. In addition, a jump from 2 units to 6 units (especially if there are 3 bedrooms) is quite a jump. Jim Melman stated that he believes that the town should look into changing the intersection because it is very dangerous.

There being no one else speaking for or against the proposal.

The Public hearing closed at 7:20 pm.

**Chair Ron Regis 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:** The existing structure was designed as a post office in the 1960's and replaced with a more modern facility in town. The flavor of the neighborhood at the time was residential with some mixed uses along a main thorough fare. The building footprint was designed to accommodate mail sorting and delivery for the area. It has become a zone that favors and supports mixed uses. Because of the large footprint of over 5,000 sf. and the average dwelling unit now occupies 1,500 and 2,200 sf. It would be reasonable to fill this large footprint with single modern housing. It would be financially unreasonable to create 5k units as allowed.

Stan DeFreese – Disagree  
Chair Ron Regis – Disagree  
Vice 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.**

**Applicant's response:** This property is very unique to the town because of its original as a post office and existing master plans and or zones did not foresee the use of this nature. In fact, the former use was distinctly out of character for the surrounding area.

Stan DeFreese – Agree  
Chair Ron Regis – Agree  
Vice Chair Ray DeLeo - Disagree

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

**Applicant's response:** The granting of this variance will not alter the essential character of the locality and will, in fact be more similar to the character of the surrounding neighborhood. Additionally it will enhance and benefit the neighborhood and town by providing much needed affordable housing. The proposed density is equal or less than the abutting properties. Off street parking is provided and will not add to any additional congestion. Providing off street parking will add an additional safety factor to the neighborhood.

Stan DeFreese – Agree  
Chair Ron Regis – Agree  
Vice Chair Ray DeLeo - Agree

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

**Applicant's response:** The hardship was created because the United States Postal service established the Town Post Office on the site prior to 1960. The current zone allows and encourages residential use as well as commercial uses. We propose residential uses to reduce congestion.

Stan DeFreese – Agree  
Chair Ron Regis – Agree  
Vice Chair Ray DeLeo – Disagree

**MOTION:**

Stan DeFreese made a motion to disapprove the Variance for at 60 Saco Avenue., MBL: 206-10-1, owned by Clifton Temm II & Suzanne M. Temm proposal brought forward by applicant Land Matters, LLC. Seconded by Ron Regis.

**Code Official Jim Butler called for the vote:**

**VOTE:**

Stan DeFreese – Yes  
Chair Ron Regis – Yes  
Vice Chair Ray DeLeo - Yes

**DENIED**

(3-0)

**Item 4**

**Proposal: Miscellaneous Appeal- Request for a Nonconforming means of egress construction appeal for a footprint of the existing stair. This miscellaneous appeal will allow the owner to access proposed expansion at the roof level.**

**Owner: Katrina Ronan**

**Applicant/Agent: Alex Haba, Delano Architecture, LLC**

**Location: 8 Brown Street; MBL: 305-1-5**

**Zone: DD-2**

Code Official Jim Butler made note that there was an update to this agenda. He noticed that the one that was published was inaccurate so he updated it to reflect the non-conforming means of egress. He had it listed on the agenda as a Miscellaneous Appeal of a side yard reduction, which is actually non-conforming.

Chris Delano from Delano Architecture, LLC introduced himself. The existing setbacks on the property currently are 15' side yard and 15' front yard. Currently there is a side yard setback of a maximum of 3' on the left side and 1.9' on the right side. Front yard setback is approximately 4.3' Non-conforming lot. Access to the structure right now is via an exterior stair, which goes on the right side of the property from the front edge of the building up alongside the outside and then stops at a landing. They are proposing



that we continue that same stairs with the same dimensional characteristic all the way up to another level that the owner is looking to expand that property to another level for a roof deck and living space.

Code Official Jim Butler stated that in the zoning ordinance it identifies that when a project needs to have stairs or any means of egress to exit out of a dwelling unit to make it code compliant, so this Miscellaneous Appeal Non-Conforming means of egress allows property owners to put in stairs and other exit ways to properly egress from buildings.

The Public Hearing opened at 7:30 pm.

There being no one speaking for or against the appellant, the public hearing closed at 7:30 pm.

**Chair Ron Regis read the criteria for a Non-Conforming Means of Egress Construction.**

**Non-Conforming Means of Egress Construction**

Currently, the only access to the living area is via an exterior stair and small landing deck. The interior space is very limited and, in an effort to increase it and take advantage of ocean views, the owner would like to build at the roof level. We are proposing to extend the existing exterior stair to access a proposed expansion of the 4th roof level. The width of this stair would match the existing first level stair and is the minimum width allowed.

Stan DeFreese – Agree  
Chair Ron Regis – Agree  
Vice Chair Ray DeLeo – Disagree

**Do to the physical features of the lot or location of structures on the lot it would not be practical to construct the proposed stairway or ramp in conformance with applicable space the bulk requirements.**

The current owner has rented this property during the summer months and would now like to begin using the home as more of a seasonal home for themselves. As they are looking to spend more time in Old Orchard, the desire to be able to see the ocean from their own house, as the taller hotels on Brown and Dube Street do, only grows greater. To achieve this, while not sacrificing any of their already compact floor plan, an exterior stair to the roof level is our most practical solution for the owner.

For this zone (DD-2), zoning standards states that the minimum floor area for a 2-bedroom unit is 750 sf, this building provides 640 sf. Increasing living space is the impetus to building a new level. Taking away valuable space for a stair in an already undersized floor plan would not serve the owner fairly.

An existing exterior stair and landing on the east elevation of the house provides access to the main floor. We are proposing to extend this stair to the back of the house so that it does not add any structure at the street front and blends in with the house and its neighbors. The owners would like to add more water view living space while improving the exterior character of house with new windows

and siding. The proposed rooftop space will allow them to do both, we feel these enhancements will improve the use and character of the property.

Stan DeFreese – Agree  
Chair Ron Regis – Agree  
Vice Chair Ray DeLeo – Disagree

**MOTION:**

Ray DeLeo made a motion to approve the Miscellaneous Appeal- Request for a Nonconforming means of egress construction appeal for a footprint of the existing stair. This miscellaneous appeal will allow the owner to access proposed expansion at the roof level. Owner: Katrina Ronan, Applicant/Agent: Alex Haba, Delano Architecture, LLC Location: 8 Brown Street; MBL: 305-1-5 Zone: DD-2, seconded by Stan Defreese.

**VOTE:**

Stan DeFreese – Yes  
Chair Ron Regis – Yes  
Vice Chair Ray DeLeo – Yes

**APPROVED:**

(3-0)

**Item 5 Acceptance of March 29, 2021 meeting minutes.**

The meeting minutes were not approved at this meeting.

**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 consist of Ten (10) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting held on May 24, 2021

