

ZONING BOARD OF APPEALS
Town of Old Orchard Beach
Monday, May 28, 2020 – 6:30 PM
VIRTUAL MEETING
MEETING MINUTES

CALL TO ORDER 6:31 PM

ROLL CALL

Present:

Vice Chair Ron Regis

Chair Ray DeLeo

Ryan Howe

Stan DeFreese

Absent:

Thomas Mourmouras

Staff Present:

Rick Haskell, Code Officer

Valdine Camire, Admin.

Chair Ray DeLeo read the criteria for an Appeal.

PLEDGE OF ALLEGIANCE

ITEM 1: Variance Consideration (front, rear and side setback) and Public Hearing

Owner: Coastal Parking LLC (Daniel Patry)

Location: 7 Temple Avenue; MBL: 324-15-10

Zone: NC-1, Limited Commercial Shoreland

Variance request for per; Site Plan A, front setback reduction from the required 20' to a proposed 4' 8" and a left side setback from the required 15' to a proposed 11'. Site Plan B, front setback reduction from the required 20' to a proposed 12' 8" and a rear setback reduction from the required 20' to a proposed 10' 8". Site Plan C, front setback reduction from the required 20' to a proposed 4' 8" and right side setback from the required 15' to a proposed 5' 8". Either Site Plan would allow for a new structure to be built on an existing vacant lot.

Dan Patry stated that on the first floor put commercial and on the second and third floor residential. One residential unit and one commercial unit.

Walter Wilson from the Design Company introduced himself and is working with Mr. Patry on this project.

The property contains 4400 sf. The town indicated that it was a 4 unit 15 room building that was built in 1880. This structure was demolished in 2013. The property is now a vacant lot with a small shed located at the rear of the property. The site is a maintained grassed area with trees and shrubs around the perimeter and fences around the property lines. 2 separate graveled surface parking spaces are located on the parcel. There is a survey plan by Dow and Columbe showing the location of the former structure and the assessor's card showing the picture of that building. He has also attached pictures showing the site conditions.

The proposed project contains a first floor non-residential unit and a single family residential use above that.

Section 78:868 Neighborhood Commercial District. Both of these uses are permitted uses. It contains 68.3' of frontage on Temple Ave. and 65' depth. The front and rear setbacks are 20' and the side yard setbacks are 15'. This provides a building envelope of approximately 25' x 38'3".

The design being presented is a 25' x 34' structure. A one story entry porch 6' x 8' extends into the front yard, and a 1 story 8' x 15' rear addition with deck above extends into the rear yard.

There are 3 plans:

Plan A has the building closest to Temple Street.

Plan B has the building located more in the center of the lot.

For both locations they need to have a Variance.

Site Plan A is preferred.

On February 13th 2020 they presented the project to the Planning Board and they indicated that they also preferred the site location that was on Plan A.

Plan C shows the building setback from Temple Street (same as in site plan A) and now the building is located 18' from the left property line with 12.3' from the right property line. Plan C is the plan that they are submitting.

The proposed site plan C dated February 2, 2020 indicates that the proposed building setback from Temple, the main building is 12' and the front porch will have a front yard setback of 6'. The right side setback to the proposed buildings will be 12'3" and the right side setback to the second floor access will be 7'. The roof overhang on the building is 1'3" on the two story portion on the building. The first floor front addition and rear addition the roof overhangs 1'.

This results in the setback going to the roofline. The main building on the front yard is 10'9". The main building on the right side is proposed at 11'. The front entry porch to the roofline will be set back 5' on Temple Avenue. And the right side stairs will be set back 7'. And because of the overhang on the rear addition, the setback in the rear will be 19'.

Therefore the following requested Variances.

The front yard for the main building which is required at 20' they would need a **9'3" variance**. The front entry porch, which also has a setback of 20' will go to 5' to the roof overhang so the front yard requires a **15' variance**.

The main building on the right side of the property, which has a setback of 15' will go to 11' requesting a **4' variance**. The stairs on the right side with a setback required of 15' will go down to 7' and will need

an 8' variance. The rear addition to the roof overhang which has a required setback of 20' will go to 19' and will need a **1'variance.**

With the proposed location for Plan C we will not need a variance on the left side of the building.

Stan Defreese mentioned that at the last meeting, the applicant was supposed to get a sign off from the neighbors.

Vice Chair Ron Regis stated that they were supposed to re-notify all of the abutters with the new plan that they were presenting and that has been done.

Mr. Wilson stated that he believes that the board has a letter on file with the abutter that shares the largest boundary that was in favor of what they were doing because they are reducing what was already there which was 5 units back in 2013.

Rick Haskell read the letter from the abutter Doug Lawson, abutter at 4 Randall Ave. writing in support of this variance request:

Dear Chairman,

As an abutter at 4 Randall Ave, I am writing in support of Mr. Patry's variance request for 7 Temple Ave. While I support both plans, I prefer site plan A. All of the buildings on this block of Temple Ave are very close to the sidewalk, including the structure that formally occupied this lot. I think it would be more aesthetically pleasing to keep this look on the street than to have one house set back much further. I will not be able to attend the meeting on February 24th, so if you have further questions please contact me at

Best regards,

Doug Lawson

Mr. Wilson stated that they will be going with Site Plan C.

The setback reductions that we are looking for measured from the property lines to the roof overhang. Main Structure which is 25' x 38'.

Front yard needs a Variance reduction of 9'3 request.

Front entry porch needs a Variance reduction of 15'request.

Main building on record side needs a Variance reduction 4' request.

Stairs on the right side needs an 8' Variance request for the stairs to go up to the second floor.

Right rear yard side (extension in the back of the building) requesting a 1' Variance.

The public hearing opened at 7:01 pm.

There being no one speaking for or against the appellant, the public hearing closed at 7:01 PM.

Chair Ray DeLeo read the Justification of Variance:

A. The Land in Question cannot yield a reasonable return unless the Variance is granted.

Applicant's Response:

The space and bulk requirements for this site, Sec. 78-870, state that the maximum building coverage allowed is 60%. In this case the property contains 4435 sf. which would permit a building of 2661 sf. in size. This would be a building that measures approximately 50' x 52', however, the building setbacks of 20' front and rear and the 15' side yard setbacks result in a building envelope of 25'x38" of 958 sf.

The proposed building is 25'x38' as measured to the exterior walls. The proposal also includes a front entry projection and rear addition that extends into the setbacks. The proposed building coverage is 1118 sf. or 25% of the lot.

The allowable building size does not contain enough space to incorporate the rear storage room, and interior stairway to the 2nd floor or the front entry for A.D.A. compliant access into the building's first floor without the need for a variance.

The building as proposed is designed to be compatible with the neighborhood. The first floor nonresidential use is of modest size. The future occupant of this area has not been determined. As shown on the preliminary plans, the rear deck on the 2nd floor provides access to the residential unit. This deck is located above the first floor storage and mechanical room on the first floor. The first floor front entry is to be designed for A.D.A. compliant access and the roof projection will provide protection from the elements.

The applicant is not attempting to maximize the use of the property with a variance, just to reasonably use the property. Without a Variance the first floor nonresidential area would be reduced by almost 30%. As stated, the storage and mech. Room, the A.D.A entry and the stairway to the second floor would have to be incorporated within the proposed building core. With this reduction in the nonresidential use of the first floor, the applicant cannot make reasonable use of the area.

The granting of the Variance request will allow the owner to make a reasonable use of the property.

Stan DeFreese: Agree

Ryan Howe: Agree

Vice Chair Ron Regis: Agree

Chair Ray DeLeo: Disagree

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:

A four unit multi-family 3 ½ story building built in 1880 occupied this property until it was demolished in 2013. The property was graded and landscaped. A property survey by Dow and Coulombe dated November 13, 2012 showing this building footprint is attached. In order to construct a new structure, the building setbacks reduce the allowable footprint to 25' x 38'4". The proposed building has a building core of 25' x 38' and can be located within the setback lines. However the front yard and a rear addition with a deck above that extends into the rear yard.

This location is shown on Site Plan B.

The property is now a vacant lot on a street of high density. It is very different from other properties in the neighborhood. Because this is now a vacant lot the proposed building cannot meet a useable or workable size and conform to the setback standards.

I have attached a Site Plan A which locates the proposed building closer to Temple Avenue. The proposed building is also shifted easterly 3 ft. This location will allow the residential parking to be more accommodating, the front yard to be more conforming to the established front yard on the street and allow for a better rear yard space for the residential unit to enjoy.

This property is different from other properties in the neighborhood in that it is a vacant lot and is subject to the building setbacks that did not exist when the neighborhood was originally developed. The property is 68'4" wide and 65'0" in depth and contains 4,435 sf. The NC-1 zone requires 100' width and 9,000 sf. Building setbacks are based on the lot size that is indicated for the zoning district. Because this smaller grandfathered property still must comply with the setback lines, the building envelope is smaller. This results in the unique circumstances of the property and the need for a Variance.

Stan DeFreese: Agree

Ryan Howe: Agree

Vice Chair Ron Regis: Agree

Chair Ray DeLeo: Agree

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

Applicant's Response:

The existing buildings in the neighborhood are a mix of uses; Commercial, Retail, Apartments, Hotel and Residential. The proposed building style and uses will not alter the established character of the locality.

Stan DeFreese: Agree

Ryan Howe: Agree

Vice Chair Ron Regis: Agree

Chair Ray DeLeo: Agree

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

Applicant's Response:

This long established lot, predating the establishment of zoning regulations, is now subject to the dimensional requirements of the ordinance that have been places on the property. This results in a hardship that did not exist when the lot was established.

Stan DeFreese: Agree

Ryan Howe: Agree

Vice Chair Ron Regis: Agree

Chair Ray DeLeo: Agree

MOTION:

Ryan Howe made a motion to pass Item 1, Variance Consideration for 7 Temple Avenue, MBL: 324-15-10, seconded by Stan DeFreese.

Code Officer Rick Haskell called for the vote:

VOTE:

Stan DeFreese: Yes

Ryan Howe: Yes

Vice Chair Ron Regis: Yes

Chair Ray DeLeo: No

PASSES: (3-1)

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

Owner: Susan G. Collard, Trustee

Location: 38-42 Free Street, MLB; 320-9-9

Zone: R-3, Residential Activity Shoreland

Miscellaneous Appeal request for a reduction in the front setback from the required 20' to a proposed 16' 10.5".

Adam Goodwin from Carl A. Goodwin, Inc. introduced himself. The site plan that the Board had that was submitted for this ZBA hearing showed what was submitted to the Town and what they were approved for. On Free Street the left side is actually a front so the setback is supposed to be 20' and not 15' like it shows on the plan. The original intent was to center the building on the lot. They ran into some issues with the 100 year floodplain setback so they had to shift the house forward and to the side a little bit. They ended up cutting 2 feet of deck on the back to make it fit appropriately. None of this was noticed until the owners applied for a loan at the bank. The contacted a surveyor and the setback is supposed to be 20 ft. because that is a front which is the West Casco side.

The public hearing opened at 7:24 pm.

There being no one speaking for or against the appellant, the public hearing closed at 7:24 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:

We visited the code enforcement office at the beginning of this project to get the setback to correctly layout the new duplex when issues regarding the edge of the A2 flood zone arose. We needed to meet a setback of 100' from the A2 edge on the right. We were told the remaining setbacks were 15' left,

20' rear, and 20' front. We are now told after approval and significant progress that there are really 2 fronts and left is actually 20'. Even set at 16'-10" the new is less non-conforming than the existing.

Stan DeFreese: Agree

Ryan Howe: Agree

Vice Chair Ron Regis: Agree

Chair Ray DeLeo: 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:

If we were given a 20' setback for the left sideline, then we would have met it. It was our intention to meet all setbacks correctly and even shrunk the building from front to back to do so. All other bulk requirements are met like any conforming structures in the R3 zoning district. This 3'-2" reduction will correct the town's misinformation and make this structure conform.

Stan DeFreese: Agree

Ryan Howe: Agree

Vice Chair Ron Regis: Agree

Chair Ray DeLeo: 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:

It was our intent to meet all setbacks. The proximity to the A2 flood zone required the structure to shift from simply sitting in the middle of the lot at maximum front, left, right, and rear setbacks. To meet the 100' A2 edge setback the structure was shifted, altered front to back, and confirmed we met all given setbacks. If 20' left setback was given, then we would have adjusted correctly and met it.

Stan DeFreese: Agree

Ryan Howe: Agree

Vice Chair 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.

Applicant's Response:

The use of this structure is the same as the existing removed structure, though now needing a side front yard reduction from 20' to 16'10", is less non-conforming in two aspects than the previous existing duplex.

Stan DeFreese: Agree

Ryan Howe: Agree

Vice Chair Ron Regis: Agree

Chair Ray DeLeo: Agree

MOTION:

Stan DeFreese made a motion to approve the Miscellaneous Appeal for Susan G. Collard, Trustee

Location: 38-42 Free Street, MLB; 320-9-9

Zone: R-3, Residential Activity Shoreland

Miscellaneous Appeal request for a reduction in the front setback from the required 20' to a proposed 16' 10.5" and to build a new complex on the same lot. Seconded by Ryan Howe.

Code Officer Rick Haskell called for the vote:

VOTE:

Stan DeFreese: Yes

Ryan Howe: Yes

Vice Chair Ron Regis: Yes

Chair Ray DeLeo: Yes

PASSES: (4-0)

Item 3: Variance Consideration (rear setback and expansion of lot coverage) and Public Hearing

Owner: Matthew & Heather Fountain

Location: 45 Colby Avenue, MLB; 323-14-7

Zone: R-3, Residential Activity Shoreland

Variance request an increase in lot coverage from the required 40% to a proposed 61.55% (existing 54.9%) and reduction in rear setback from the required 20' to a proposed 11".

Adam Goodwin from Carl A. Goodwin Inc. representing the owners introduced himself. They were in front of the ZBA for a Variance identical to this one back in October 2011. It was granted then, however the homeowner chose not to do the addition at the time and sold the house. They sold the house and Matthew and Heather Fountain bought the house from the previous owner that he represented the last time. They are looking to add an addition for a larger kitchen and a master suite on the second floor at the rear of the existing house. They need a reduction in the rear setback and also an increase in the amount of lot coverage required. The last time there was a tradeoff for the 2 sheds on the property for the square footage for the house. They are just wanting to extend the back of the house. The exact square footage of the addition is 233.833 sf. If they eliminated both sheds, they would be more in compliance.

Code Officer Rick Haskell stated that the Variance is also for an increase of lot building coverage up to 61.55 percent with all buildings on site.

Public hearing opened at 7:40 pm.

There is no one speaking for or against this proposal the public hearing closed at 7:40 pm.

MOTION:

Ron Regis made a motion to table this until they get further information on the easement that is talked about in the deed, seconded by Ryan Howe and would need to be made part of the public notice.

Code Officer Rick Haskell called for the vote:

VOTE:

Stan DeFreese: Yes

Ryan Howe: Yes

Vice Chair Ron Regis: Yes

Chair Ray DeLeo: Yes

ITEM 4: Miscellaneous Appeal (reduction in front setback) and Public Hearing

Owner: Richard Annese Trusty of the Selma Realty Trust

Location: 2-4 Tunis Avenue, MLB: 319-8-6

Zone: R-3, Residential Activity Shoreland

Miscellaneous Appeal request for reduction in the front setback from a required 20' to a proposed 15'.

Brandon Binette from Northeast Civil Solutions along with Jim Fisher representing the owners introduced himself. They are requesting a reduction in the rear and side of the property line for a 209 sf deck. This deck is currently over a concrete patio/slab. The concrete slab is 7.7 sf. on one side and 7.2 sf on the other. The impervious area is already there. The only thing that they are adding is the stairs for a form of egress. It lost its grandfather status because the deck was in such bad repair and had to be taken down. Regarding the neighborhood, it actually adds to the appeal of the neighborhood and the abutting properties. It will not be possible to build in the original setback. The shoreland zone does not impact the site.

The public hearing opened at 7:50 pm.

There being no one speaking for or against the appellant, the public hearing closed at 7:50 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 building and the concrete slab on grade level located at 2 Tunis Ave. were constructed prior to the date of this provision.

Ryan Howe - Agree
Stan DeFreese - Agree
Vice Chair Ron Regis - Agree
Chair Ray DeLeo - 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: The desired reduction will not produce any undesirable changes in the character of the neighboring properties and will allow the owner to enjoy the property in a similar manner as the abutting properties which have decks.

Ryan Howe: Agree
Stan DeFreese: Agree
Vice Chair Ron Regis: Agree
Chair Ray DeLeo: 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: Due to the location of the house on the lot, construction of a deck for practical use could only go where it is shown on the attached plan. The building envelope is too small to support any kind of outside deck, so a limited reduction of setbacks is the only practical alternative. The deck and stairs are also needed to provide a secondary means of access to the house.

Ryan Howe: Agree
Stan DeFreese: Agree
Vice Chair 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.

Applicant's Response: The limited reductions of setbacks would allow a deck that fits into the character of the lot and the neighborhood. The proposed deck is larger than what could fit into the existing building envelope of 75 sf. The proposed deck will make the structure fit more in

conformance with the surrounding properties, given that the concrete slab immediately below the proposed deck already exists.

Ryan Howe: Agree

Stan DeFreese: Agree

Vice Chair Ron Regis: Agree

Chair Ray DeLeo: Agree

MOTION:

Ryan Howe made a motion to approve the Miscellaneous Appeal for Richard Annese Trusty of the Selma Realty Trust, Location: 2-4 Tunis Avenue, MLB: 319-8-6

Zone: R-3, Residential Activity Shoreland for a reduction of the front setback from a required 20' to a proposed 15', seconded by Vice Chair Ron Regis.

Code Officer Rick Haskell called for the vote:

VOTE:

Stan DeFreese: Yes

Ryan Howe: Yes

Vice Chair Ron Regis: Yes

Chair Ray DeLeo: Yes

PASSES: (4-0)

ITEM 5: Miscellaneous Appeal (reduction in rear setback) and Public Hearing

Owner: Rudi & Catherine Giuliani

Location: 54 Massachusetts Avenue MLB; 322-5-4

Zone: R-3

Miscellaneous Appeal request for a reduction of the rear setback from the required 15' to a proposed 7.5'.

Shannon Richards introduced herself. They want to remove an existing 10' x 12' shed and build a bigger one. They have some unused square footage that they can add to it and still be conforming. Proposing to make it conforming on the side yard setback and asking to be as close to the back yard setback as possible. They are proposing to put it on a slab foundation.

They are looking to reduce their rear setback to 7'6" would be the maximum setback allowed for a Misc. Appeal.

The Public Hearing opened at 8:05 pm.

There being no on for or against the appellant, the Public Hearing closes at 8:05 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 of record.

Applicant's Response: Yes, property erected 1985, prior to implementation of the current ordinance.

Stan DeFreese: Agree

Ryan Howe: Agree

Vice Chair Ron Regis: Agree

Chair Ray DeLeo: 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: Common use in this area. Equitable to neighborhood.

Stan DeFreese: Agree

Ryan Howe: Agree

Vice Chair Ron Regis: Agree

Chair Ray DeLeo: 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: Balances the access to the buildings rather than forcing it to be up tight to the existing primary structure.

Stan DeFreese: Agree

Ryan Howe: Agree

Vice Chair 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.

Applicant's Response: True, many properties in this neighborhood solve this similarly.

Stan DeFreese: Agree

Ryan Howe: Agree

Vice Chair Ron Regis: Agree

Chair Ray DeLeo: Agree

MOTION:

Vice Chair Ron Regis made a motion to accept the Miscellaneous Appeal for Rudi & Catherine Giuliani, location: 54 Massachusetts Avenue MLB; 322-5-4 Zone: R-3 request for a reduction of the rear setback from the required 15' to a proposed 7.5', seconded by Stan DeFreese.

Code Officer Rick Haskell called for the vote:

VOTE:

Stan DeFreese: Yes

Ryan Howe: Yes

Vice Chair Ron Regis: Yes

Chair Ray DeLeo: Yes

PASSES: (4-0)

ITEM 6: Variance Consideration (reduction in front setback) and Public Hearing

Owner: Constance & Raymond Caron

Location: 23 Odena Avenue MBL: 315-6-2

Zone: R-3

Variance request for reduction for the front setback from the required 20' to a proposed 0' to allow additional structure to square off front of house.

Chair Ray DeLeo read a letter from Daniel and Nancy Napolitano:

Dear Mr. Haskell,

Daniel and Nancy Napolitano of 24 Odena Avenue hope you will approve the variance consideration of 23 Odena Avenue. We do not see it as an inconvenience to the neighbors or the neighborhood of Odena Avenue. The variance sought does not increase the footprint of the property, or largely increase the square footage of the property that would hinder any neighbor's ability to enjoy their own personal property, and keeps the integrity and look of the neighborhood in mind.

For these reasons, we strongly urge you to approve this variance consideration without delay.

Thank you for your time and consideration.

Daniel and Nancy Napolitano

24 Odena Avenue

Old Orchard Beach, Me

Code Officer Rick Haskell emailed them in return letting them know that it did increase the footprint and he had gotten no email return back from the Napolitano's.

Ms. Caron stated that there was a misunderstanding when the Naplitano's wrote it.

Owner Connie Caron introduced herself. Her husband Ray and herself live at 23 Odena Avenue. They are here requesting permission to add 112 sf. addition to her house (8 x 14 addition) that would square off the front of their house and would give them room to expand their kitchen. They want to bring it up to code and to account for the disabilities act.

The Public Hearing opened to the public at 8:15 pm.

There being no one else speaking for or against the appellant, the Public Hearing closed at 8:15 pm.

Chair Ray DeLeo read the Justification of Variance:

A.The Land in Question cannot yield a reasonable return unless the Variance is granted.

We are asking to be granted a variance (14'x 8' of unused road frontage) to enlarge our galley kitchen so that proper codes, standards, and stipulations contained in the American Disabilities Act can be met. The Galley kitchen is about 14' long but a 5' stretch of it is only 28" wide which is barely wide enough to accommodate a walker and insufficient to accommodate a wheelchair. The 5' stretch is located between the two major wings of the house so a handicapped person could not utilize the entire house. (Please note that we are now elderly, 79 and 73 years old, and are afflicted with arthritis as evidenced by the fact that, between us, we have undergone two full knee replacements and two hip replacements.) Because of the configuration of our kitchen, a reasonable rate of return could never be achieved because a handicapped person could only access half of his/her home.

During the past 3 or 4 years, 3 of the 17 homes on our street have been raised and replaced with large and very expensive homes. These improvements will no doubt increase the tax value of our street. These new homes all required variances. Our home was also improved but our kitchen was never structurally altered to meet existing codes; consequently, our kitchen is not commensurate with the remainder of our home unless a variance is granted to expand our kitchen to meet existing codes.

Stan DeFreese: Agree

Ryan Howe: Agree

Vice Chair 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.

The original 750' seasonal cottage was built in 1930 and has been in our family since the 1960's. It never met our present setback requirements. During the past 3 years or so, our home was winterized and expanded (now about 1100 sf.) and is being used as a regular home rather than a summer cottage. The

unique nature of our property is due to the unusually large width of Odena Ave. which only has 17 homes; that is, the paved section of our street is at least 20 feet wide while the remaining 20 feet or more is not detectable and has been used as driveways, lawns, and/or to meet setbacks. As indicated in the plot plan, our front porch which has been there since the mid 1980's, along with those of other homeowners, is situated on part of the unpaved street. None of the homes on our side of the street have required variance approvals or been grandfathered for expansions. Within the past month, we have tried to buy the needed footage from the town but have been denied even though the required area is only about 112 sf. and will undoubtedly never be used by anyone else.

Stan DeFreese: Agree

Ryan Howe: Agree

Vice Chair Ron Regis: Agree

Chair Ray DeLeo: Agree

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

Applicant's Response:

The 14' x 8' bumped out addition will be tucked away in the existing "L" shaped alcove will only need 2 additional walls. The side setback meets our needs. The required frontal area will be parallel and flush to the existing home, located at least 20' feet from the paved street, and will be further away from the street than the existing front porch. There is no possible way that the addition could pose a health hazard. The "cottagy" character of the neighborhood will be preserved as reflected in our architectural plans. Of utmost importance to enhance the street rather than to adversely impact it.

Stan DeFreese: Agree

Ryan Howe: Agree

Vice Chair Ron Regis: Agree

Chair Ray DeLeo: Agree

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

Though we renovated our home about 3 years ago, we never made any structural changes to alter the existing Galley kitchen. To our knowledge, the size of the existing kitchen, has remained the same since 1930. Some of the existing bead board, used in the old days, is still there.

Stan DeFreese: Agree

Ryan Howe: Agree

Vice Chair Ron Regis: Agree

Chair Ray DeLeo: Agree

Stan DeFreese made a motion to approve the Variance Consideration for a reduction in the front setback from the required 20' to a proposed 0' to allow additional structure to square off front of house for Constance & Raymond Caron, 23 Odena Avenue MBL: 315-6-2, Zone: R-3, seconded by Vice Chair Ron Regis.

Code Officer Rick Haskell called for the vote:

VOTE:

Stan DeFreese: Yes

Ryan Howe: Yes

Vice Chair Ron Regis: Yes

Chair Ray DeLeo: Yes

PASSES: (4-0)

ITEM 7: Miscellaneous Appeal (reduction of side setbacks) and Public Hearing

Owner: Cary Seamans

Location: 10 Goodwin Avenue MBL; 211-8-19

Zone: R-2

Miscellaneous request for reduction in left and right setbacks from the required 15' to a proposed 7.5'.

Cary Seamans who resides at 2 Pacer Avenue in Old Orchard Beach. They purchased this property from the Town at auction and had to be torn down, the existing structure that was there shows a plot plan that the board members have been given. They are proposing to build a house 30' wide and 32' deep which increases the square footage of what was there from the existing home by 23'. We are still under 10% of maximum lot coverage which they could have up to 35%. They are basically trying to center the house on the property and push it back so that they have 30' in the front instead of 10.6' to have a place to park. He would be increasing the footprint by 23 sf.

Chair Ray DeLeo read a letter from a concerned citizen:

Dear Mr. Haskell,

As an abutter of the property on 10 Goodwin Ave. MLB: 211-8-19 Zone R-2 we have respectfully considered the appeal for reduction of side setbacks on both left and right from 15' to 7'6".

We have decided to oppose the setback changes.

The lot is a non-conforming lot. The buyer knew this when he purchased the lot. Goodwin Ave is already crowded with houses that have non-conforming lots.

Crowded lots could become hazards for abutting neighbors, noise, trash, fire, privacy, etc.

Zoning laws and setbacks are there to protect abutting landowners.

Thank you

Bob and Barbara Jacques

202 Temple Ave.

Old Orchard Beach, Me 04064

A couple of the Board Members tend to disagree with this letter. They feel that the applicant is doing the best thing possible for the lot.

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 of record.

Applicant's Response: Currently there aren't any buildings on the lot. The demolished house was built before these provision or current setbacks. It was non-conforming.

Stan DeFreese: Agree

Ryan Howe: Agree

Vice Chair Ron Regis: Agree

Chair Ray DeLeo: 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: The lot is 50' wide and 200' deep with 15' side yard setbacks. This leaves us with 20' of lot to build on. We have a prior house on the lot wed can build in the same footprint but it was not built on the lot normally. It was a 24 x 36. We would like to build a 30 x 32 home centered on the lot.

Stan DeFreese: Agree

Ryan Howe: Agree

Vice Chair Ron Regis: Agree

Chair Ray DeLeo: 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 current footprint of the previous house that I would have to build on is not ideal. The front corner is approximately 2' off the front line and turned diagonal on the lot. Also it does not meet front yard setbacks. Which we could achieve it if we are allowed to replace the footprint.

Stan DeFreese: Agree
Ryan Howe: Agree
Vice Chair 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.

Applicant's Response: The old house had 947 sf. of coverage on the lot. The new would have 960 sf.

Stan DeFreese: Agree
Ryan Howe: Agree
Vice Chair Ron Regis: Agree
Chair Ray DeLeo: Agree

MOTION:

Vice Chair Ron Regis made a motion to approve the Miscellaneous Appeal for Cary Seamans 10 Goodwin Avenue MBL; 211-8-19, Zone: R-2 for reduction in left and right setbacks from the required 15' to a proposed 7.5', seconded by Ryan Howe.

Code Officer Rick Haskell called for the vote:

VOTE:

Stan DeFreese: Yes
Ryan Howe: Yes
Vice Chair Ron Regis: Yes
Chair Ray DeLeo: Yes

PASSES: (4-0)

ITEM 8: Miscellaneous Appeal (reduction in left side setback) and Public Hearing

Owner: Cortney Binette

Location: 15 Macarthur Avenue MLB; 211-7-47

Zone: R-2

Miscellaneous request for reduction in left side setback from the required 15' to a proposed 7.5'.

Cortney Binette introduced herself. They are proposing to build a garage on the left side of the house attached to the sunroom that is already in place. The garage would be to park their cars in the winter as well as store their miscellaneous items. Their property setback sort of angles in so they are trying to push it back in their backyard as much as they can in order to get at least a 22' garage.

The Public Hearing opened at 8:45 pm.

There being no one speaking for or against the appellant, the Public Hearing closed at 8:45 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 of record.

Applicant's Response:

The original structure was built in 1979.

Stan DeFreese: Agree

Ryan Howe: Agree

Vice Chair Ron Regis: Agree

Chair Ray DeLeo: 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: There are similar properties within this neighborhood with garages similar or larger than proposed.

Stan DeFreese: Agree

Ryan Howe: Agree

Vice Chair Ron Regis: Agree

Chair Ray DeLeo: 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 side lot where the proposed garage will go currently has an angle which narrows the lot where the proposed structure will to. At the front of the proposed structure would be the narrowest easement of 7.5' from the property line allowing for a 20' wide garage.

Stan DeFreese: Agree

Ryan Howe: Agree

Vice Chair 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.

Applicant's Response: The garage addition should not impact any of the neighbors or neighborhood uses. The proposed project would not be able to occur within the current conforms. There will still be a property line easement at 7.5' at the narrowest part.

Stan DeFreese: Agree

Ryan Howe: Agree

Vice Chair Ron Regis: Agree

Chair Ray DeLeo: Agree

MOTION:

Stan DeFreese made a motion to approve the Miscellaneous Appeal for Cortney Binette, 15 Macarthur Avenue MLB; 211-7-47, Zone: R-2 for a request for reduction in left side setback from the required 15' to a proposed 7.5', seconded by Ryan Howe.

Code Officer Rick Haskell called for the vote:

VOTE:

Stan DeFreese: Yes

Ryan Howe: Yes

Vice Chair Ron Regis: Yes

Chair Ray DeLeo: Yes

PASSES: (4-0)

ITEM 9: Acceptance of February 24, 2020 Meeting Minutes.

Ryan Howe made a motion to approve the February 24, 2020 Meeting Minutes, seconded by Stan DeFreese.

Code Officer Rick Haskell called for the vote:

VOTE:

Stan DeFreese: Yes

Ryan Howe: Yes

Vice Chair Ron Regis: Yes

Chair Ray DeLeo: Yes

PASSES: (4-0)

GOOD & WELFARE
ADJOURNMENT 9:00 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 consist of Twenty One (21) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting held on May 28, 2020.

Valdine Camire