Call to Order at 6:30 pm	Call to Order
Roll Call: Present: Chairman Ray DeLeo, Tom Mourmouras, Ron Regis, Mikaela Nadeau, and Mark Lindquist. Absent: Owen Stoddard, Paul Weinstein.	
<b>Staff:</b> Valdine Camire; Administrative Assistant. Others Present: Richard Lambert, Saco Code Enforcement Officer. Town Attorney Phil Saucier.	
Chair DeLeo read the criteria for the Public Hearing.	
Pledge to the Flag	
ITEM 1: Miscellaneous Appeal Owner: John & Tarryn Melkonian 9 Weymouth Avenue Map 324 Block 11 Lot 5 Zone: R-3	ITEM 1  MISC. APPEAL
Adam Goodwin from Carl A. Goodwin, Inc. here representing the applicants introduced himself.  Mr. Goodwin explained that this is a small existing lot of record. It is 40' x 60' with a small single family 3 season cottage.  There is a 13' x 10' deck on back. They are looking for a reduction of setbacks on both sides from a 15'x 12.3" setback on the left and 15'x14'9" on the right side and a reduction on the rear setback from 20' to 13'9".  The stairs will be rebuilt in the same footprint with new materials.	
The public hearing opened at 6:35 pm.	
Julie Moore is an abutter to this property and they are here to support this proposal.	
The public hearing closed to the public at 6:35 pm.	
Chair DeLeo read the Misc. Appeals criteria and responses:	
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 house as it sits on the lot was built in 1935, which is prior to the adoption of this provision.	
Mikaela Nadeau - Agree	

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Ron Regis – Agree Tom Mourmouras – Agree Mark Lindquist - 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: An open deck is a common feature on many R-3 located homes. Due to the small size of the lot, even with the small footprint of the existing house, it is not possible to build an open deck without a reduction to the rear and right yard line setbacks.

Mikaela Nadeau - Agree Ron Regis - Agree Tom Mourmouras - Agree Mark Lindquist - 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: The house sits nearly on the front yard line. The depth of the structure excluding the rear stoop is 34'-9". The lot is 60' deep x 40' wide. 60' less the structure (34'-9") equals 25'-3" less the R3 rear set back (20') equals 5'-3". Using current setback requirements only allow room for a stoop as exists and anything larger requires approval of this miscellaneous appeal.

Mikaela Nadeau - Agree Ron Regis - Agree Tom Mourmouras - Agree Mark Lindquist - 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: Because the expansion of the deck is in the rear yard, then there will be no visual difference of the property from the street. The structure is currently a single family use. After the deck is built the house will remain a single family use. No difference from the existing use in the neighborhood.

Mikaela Nadeau - Agree Ron Regis - Agree

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Tom Mourmouras – Agree Mark Lindquist - Agree Chair Ray DeLeo- Agree	
MOTION: Mark Lindquist made a motion to approve the Miscellaneous Appeal to Owner John & Tarryn Melkonian, 9 Weymouth Avenue on Map 324 Block 11 Lot 5 in the R-3 zone to reduce the rear yard setback to 13'9", the left setback to 12'3" and the right setback 14' 9" in order to create a useable open deck measuring 13'x10', seconded by Ron Regis.	<u>MOTION</u>
Saco Code Enforcement Officer Richard Lambert called for the vote:	
Mikaela Nadeau – Yes Ron Regis – Yes Tom Mourmouras – Yes Mark Lindquist - Yes	<u>VOTE</u> (5-0)
Chair Ray DeLeo -Yes	APPROVED
VOTE: (5-0)	
ITEM 2: Variance (Shoreland Zoning Setback)	ITEM 2
Owner: Ocean Park Association	<u>VARIANCE</u>
11 Temple Avenue Map 324 Block 14 Lot 1 Zone: NC-1/Limited Commercial Shoreland District	
The request is to construct a bandstand that will encroach into the 100' setback at the Library Green.	
This Variance was already approved at the August 28, 2017 ZBA meeting however the Variance application was not sent to DEP 20 days in advance before the ZBA ruled on the Variance, so it had to come before the ZBA again. Because of this mistake it was determined that ZBA's ruling was not legally valid.	
Architect Mark Mueller representing the Ocean Park Association introduced himself to the Board Members. Beth and David Keene are here as well. This project is to honor Ms. Keene's late husband. This project will be all privately funded and no tax base required.	
Mr. Mueller stated that he has come back before the ZBA Board for a second time and has submitted and received a Maine DEP "Permit by Rule" since they last came to the ZBA Board on August 28, 2017.	
Chair DeLeo read the Justification of Variance:	
A. The land in question cannot yield a reasonable return unless the variance is granted.	
Response: The proposed project is community based. Where the property is owned	

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by the Ocean Park Association and has a non-profit status, a "reasonable rate" of return is not a part of the thought process behind building a summer concert series band stand. The band stand would be an element for the community and bring the neighborhood together.

Mikaela Nadeau - Agree Ron Regis - Agree Tom Mourmouras - Agree Mark Lindquist - 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: While the overlay Shoreland zone happens to incorporate a portion of this property, it is not the general condition in the neighborhood. A majority of the neighborhood across Seaside Ave. is not in Shoreland zoning, nor are the majority of properties across the street at Temple Ave. and Randall Ave. These properties sit outside of the HAT line. These unique circumstances place this particular lot in a non-conforming status.

Mikaela Nadeau - Agree Ron Regis - Agree Tom Mourmouras - Agree Mark Lindquist - Agree Chair Ray DeLeo-Agree

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

Response: The proposed Ocean Park Band Stand has been designed to integrate with the local architecture of the town square and the neighboring residential structures. The design intent is patterned after architecture of the American Summer style, typical in towns like Old Orchard Beach in the 1880's to 1920's. The new band stand will foster a sense of community for town's people and all those who visit this part of Maine in the summer. The vast majority of the library lawn in Furber Park will remain as is on the site. The attending members of the Ocean Park Association voted strongly I favor of the bandstand project at their annual meeting in July.

Mikaela Nadeau - Agree Ron Regis - Agree Tom Mourmouras - Agree Mark Lindquist - Agree Chair Ray DeLeo-Agree

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

Response: The property of the proposal has been deeded to the Ocean Park Association since 1881. This variance request is not a result of prior owners.

However, during the early decades of Ocean Park's existence, there used to be a band stand that stood in this location. The addition of this band stand will help to restore a piece of history to the area.  Mikaela Nadeau - Agree Ron Regis - Agree Tom Mourmouras - Agree Mark Lindquist - Agree Chair Pay Dol on Agree	
Chair Ray DeLeo-Agree  MOTION: Ron Regis made a motion to approve the Variance to owner Ocean Park Association located at 11 Temple Avenue, Map 324 Block 14 Lot 1 Zone: NC-1/Limited Commercial Shoreland District to construct a bandstand The request is to construct a bandstand that will encroach into the 100' setback at the Library Green.	MOTION
Saco Code Enforcement Officer Richard Lambert called for the vote:	
Mikaela Nadeau – Yes Ron Regis – Yes Tom Mourmouras – Yes	<u>VOTE</u> (5-0)
Mark Lindquist - Yes Chair Ray DeLeo -Yes	APPROVED
VOTE: (5-0)	
ITEM 3: Administrative Appeal (Planning Board Decision)	ITEM 3
Applicant: Attorney Neal F. Pratt representing John R. Cloutier and Beachwood Realty, LLC Appeal: Administrative Appeal of the Old Orchard Beach Planning Board decision to conditionally approve Palace Playland Associates. LLC petition for expansion of the Amusement Overlay District for the property located at 25 West Grand Ave., MBL: 307-1-2 through their fact determination and finding that the petition acceptably certified that the proposed operation conforms to all sections of Ch. 78, Art. VI, Division 15 of the Town of Old Orchard Beach Code of Ordinances.	ADMIN. APPEAL
This proposal is to determine ZBA's jurisdiction concerning an Administrative Appeal of a decision by the OOB Planning Board.	
Mr. Lindquist will recuse himself for this item as he is associated with Palace Playland.  Applicant and Attorney Neal F. Pratt representing John R. Cloutier and Beachwood Realty, LLC introduced himself to the Board Members.	
The applicants filed this appeal not so much to argue the position of jurisdiction (there is a question about jurisdiction of the ZBA) and this is the reason that they	

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filed the appeal because it wasn't clear to them looking at our ordinance as to	
whether this set of circumstances would require a direct appeal to the superior	
court, under the court rules, or whether an appeal to this board was appropriate. So	
out of caution they did both. They are not here to argue the legal point of	
jurisdiction but simply to preserve their rights in the absence of pure clarity in the	
ordinance	
MOTION: Ron Regis made a motion to determine that the ZBA does not have	<b>MOTION</b>
the power to overturn a decision made by the Planning Board, seconded by	
Mikaela Nadeau.	
The Towns Attorney Phil Saucier agrees with the motion.	
He would like to put on record where he thinks the ordinance makes it clear.	
•	
The ordinance in his view is that the Board of Appeals only has jurisdiction to hear	
decisions of the Code Enforcement Officer in section 78-92 and also section 78-	
111.	
There are about 5 provisions that Attorney Saucier could find in the ordinances that	
relate to decisions of the Planning Board specifically and they all say that Appeals	
may not be taken to the Board of Appeals but instead be taken directly to Superior	
Court, which is for a Site Plan Approvals, Certificate of Appropriateness,	
Economic Hardship, Design Review Certificate, Conditional Use Applications and	
for Sub-division Approvals. It is sort of silent as it relates to the Amusement Park	
Overlay District but in the Zoning Board of Appeals jurisdiction it is specifically	
for decisions of the Code Officer as a whole. Planning Board of Appeals would go	
directly to Superior Court.	
directly to Superior Court.	
Saco Code Enforcement Officer Richard Lambert called for the vote:	<b>VOTE</b>
Mikaela Nadeau – Yes	
Ron Regis – Yes	(4-0-1)
Tom Mourmouras – Yes	<u>( -                                   </u>
Mark Lindquist - Abstain	APPROVED
Chair Ray DeLeo –Yes	MITROVED
Chair Ray Dobboo 105	
VOTE: (4-0-1)	
VOIE: (4-0-1)	
	ITEM 4
ITEM 4: Acceptance of the minutes October 30, 2017	MINUTES
	<b>MOTION</b>
Ron Regis made a motion to approve the October 30, 2017 meeting minutes,	1.1011011
seconded by Tom Mourmouras.	
seconded by Tolli Mourinouras.	VOTE
All in favor (5-0)	(5-0) A DDD OVED
	<u>APPROVED</u>
GOOD AND WELFARE	
ADJOURNMENT	
Mark Lindquist made a motion to adjourn the meeting at 7:00 pm. seconded by Tom	
Wark Emaquist made a motion to adjourn the meeting at 7.00 pm. seconded by Tom	

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Mourmouras.	
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 of Seven (7) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting held on November 27, 2017.

Valdine Camire