

**THE ZONING BOARD OF APPEALS
MONDAY, October 28, 2019 IN THE TOWN
COUNCIL CHAMBERS 6:30 p.m.
MEETING MINUTES**

CALL TO ORDER at 6:30 PM

ROLL CALL

Present:

Ryan Howe
Ron Regis
Stan Defreese
Chair Ray DeLeo

Absent:

Tom Mourmouras

Staff Present:

Code Officer Rick Haskell
Administrative Assistant Valdine Camire

PLEDGE TO THE FLAG

Vice Chair Ron Regis read the Appeals Criteria

Item 1: Miscellaneous Appeal, Nonconforming Means of Egress (reduction in front setback) and Public Hearing

Owner: Trahan Apartments Biddeford LLC

Location: 5 Seaview Avenue; MBL: 315-8-1

Zone: R-2

Miscellaneous Appeal Nonconforming Means of Egress request for construction of a handicap ramp with roof. The ramp will run along the front of the building at the existing 4' front setback.

Corey McDonald, here speaking on behalf of Michelle Trahan (Trahan Apartments) introduced himself. They would like to construct a handicapped accessible ramp with a porch over it on their 5 Seaview Avenue property. This is currently a doghouse. They rent out many homes for rent and some of these renters are handicapped.

They also have a letter from the Chamber of Commerce stating that this would be a benefit to our community to have more handicapped accessible ramps for the handicapped in our area.

Public Hearing opened at 6:40 PM.

There being no one speaking for or against the appellant, the Public Hearing closed at 6:40 PM

NON-CONFORMING MEANS OF EGRESS CONSTRUCTION

A The use or structure is legally nonconforming, as set forth in section 78-176 if the use or structure is nonconforming.

Applicants Response: It is a non- conforming structure.

Ryan Howe - Agree

Stan DeFreese – Agree

Chair Ray DeLeo – Abstain

Vice Chair Ron Regis - Agree

B The requested stairway or ramp is the minimum structure, dimensionally, as required by the Town of Old Orchard Beach Building Code.

Applicants Response: Proposed ramp to meet minimum ramp standards.

Ryan Howe - Agree

Stan DeFreese – Agree

Chair Ray DeLeo – Abstain

Vice Chair Ron Regis – Agree

C Due to 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 and bulk requirements.

Applicants Response: Since the doghouse entry is already in a non-conforming location.

Ryan Howe - Agree

Stan DeFreese – Agree

Chair Ray DeLeo – Abstain

Vice Chair Ron Regis - Agree

MOTION:

Ryan Howe made a motion to approve Item #1 Miscellaneous Appeal, Nonconforming Means of Egress, Trahan Apartments Biddeford LLC, 5 Seaview Avenue, MBL: 315-8-1 Zone: R-2, seconded by Stan DeFreese.

Code Official Rick Haskell called for the vote:

VOTE:

Ryan Howe - Agree

Stan DeFreese – Agree

Chair Ray DeLeo – Abstain

Vice Chair Ron Regis – Agree

PASSES:

(3-1-0)

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

Owner: William & Heather Siebert

Location: 11 Adelaide Road; MBL: 206-29-17

Zone: R-1

Miscellaneous Appeal request for a reduction in the front setback from the required 20' to a proposed 15' to allow for a deck to be built off the 2nd story addition.

Heather Siebert introduced herself. They had built a second story in their house and the original plan called for a deck off of the second story, and the slider was put in according to the plan and they just want to be able to put the deck on now. There is now an issue with the deck being a little too close to the road. Therefore, they are here requesting a Misc. Appeal so that they can finish the project.

Jamy Irish who has done the maintenance on the building introduced himself. He stated that the original permit did not include vinyl siding or having the deck done. The deck misses the setback by 5 ft. Heather Seibert stated that the measurements had changed since they had gotten the approval for some reason.

Public Hearing opened at 6:50 PM.

There being no one speaking for or against the appellant, the Public Hearing Closed at 6:50 PM.

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 structures were erected prior to the date of current setback provisions.

Ryan Howe - Agree

Stan DeFreese – Agree

Chair Ray DeLeo – Abstain

Vice Chair Ron Regis – 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.

Applicants Response: Siding, electrical and structure have already been built according to original plan, for second floor deck.

Ryan Howe - Agree

Stan DeFreese – Agree

Chair Ray DeLeo – Abstain
Vice Chair Ron Regis – 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.

Applicants Response: Original plan called for deck off sliding door to go to edge of house using measurements taken by contractor. New measurements to roof overhand show shorter footage. Request deck be allowed to go from edge of structure as planned on second floor.

Ryan Howe - Agree
Stan DeFreese – Agree
Chair Ray DeLeo – Abstain
Vice Chair Ron Regis – 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.

Applicants Response: Deck will not impact anything on property or change structure to impede property line. Second floor deck.

Ryan Howe - Agree
Stan DeFreese – Agree
Chair Ray DeLeo – Abstain
Vice Chair Ron Regis – Agree

Code Official Rick Haskell called for the vote:

MOTION:

Stan DeFreese made a motion for a Miscellaneous Appeal for William & Heather Siebert, Location: 11 Adelaide Road; MBL: 206-29-17 be approved, seconded by Ryan Howe.

VOTE:

Ryan Howe - Agree
Stan DeFreese – Agree
Chair Ray DeLeo – Abstain
Vice Chair Ron Regis – Agree

PASSES:

(3-1-0)

ITEM 3: Variance Consideration (reduction in front setback) and Public Hearing

Owner: Coastal Cottage Getaways LLC, Michael Dickinson

Location: 29 Tenth Street; MBL: 311-20-8 Zone: R-2

Variance consideration for front setback reduction from the required 20' to a proposed 7.5'. This project is a demolition of a nonconforming structure and the front set back reduction would allow for a 25'x25' new home to be built.

Michael Dickinson from 29 Tenth Street introduced himself. The cottage that exists on the land that he is trying to get a Variance for is one ft. The house is basically a tear down. They would like to tear down the current structure and move it back 7 ½ ft. The cottage that is there right now is 2 ft. from the neighbor's house. They will have more space for snow storage, etc. This would be for the frontage.

The Public Hearing opened at 7:00 PM.

There being no one speaking for or against the appellant, the Public Hearing closed at 7:00 PM.

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: In order to conform to the 20' setback from 9th street it would reduce the parking on the addressed side of the house. (29 Tenth St). If I met the requirement of a 20 ft. setback on the rear of the house (9th St.), I would not meet the required setback on the front side of the house. Parking would be compromised either way.

Ryan Howe - Disagree

Stan DeFreese – Agree

Chair Ray DeLeo – Abstain

Vice Chair Ron Regis – 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: If I rebuilt in the footprint that e4xists now without trying to center the new structure in the middle of the property, my house would be a 16' frontage property 1' off the street. Bear in mind all abutters in this neighborhood are 1' off the street.

Ryan Howe - Agree

Stan DeFreese – Agree

Chair Ray DeLeo – Abstain

Vice Chair Ron Regis – Agree

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

Applicant's response: It will improve the neighborhood. The Water Company and public works are working together to improve drainage, water run-off and topography of the streets in back and in front of my property as well as evergreen and surrounding streets.

Ryan Howe - Agree

Stan DeFreese – Agree

Chair Ray DeLeo – Abstain

Vice Chair Ron Regis – Agree

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

Applicant's response: Using this land as I have proposed will free up parking on Evergreen and will be helpful when winter sets in and streets need to be plowed.

Ryan Howe - Disagree

Stan DeFreese – Agree

Chair Ray DeLeo – Abstain

Vice Chair Ron Regis – Agree

MOTION:

Ryan Howe made a motion to approve Item #3 Variance Consideration for Coastal Cottage Gateway LLC, 29 Tenth Street; Zone: R-2, seconded by Stan DeFreese.

Code Official Rick Haskell called for the vote:

VOTE:

Ryan Howe - Yes

Vice Chair Ron Regis - Yes

Chair Ray DeLeo – Abstain

Stan DeFreese - Agree

PASSES:

(5-0)

Item 4: Miscellaneous Appeal (reduction of left and right side setbacks) and Public Hearing

Owner: Coastal Cottage Getaways LLC, Michael Dickinson

Location: 29 Tenth Street: MBL 311-20-8

Zone: R-2

Miscellaneous Appeal request for a reduction in the left and right side setbacks from a required 15' to a proposed 7.5'. This project is a demolition of a nonconforming structure and the front set back reduction would allow for a 25'x 25' new home to be built.

Michael Dickinson from 29 Tenth Street introduced himself. This would be for the side setbacks.

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

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: Existing non-conforming structure to be demolished and replaced with a new conforming structure.

Ryan Howe - Agree

Stan DeFreese – Agree

Chair Ray DeLeo – Abstain

Vice Chair Ron Regis – 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.

Applicants Response: This 2 story new structure with ample parking, yard and conforming setbacks will improve the neighborhood. The current existing structure is 2 1/2 ft. from the house to right and only 1 ft. from the street.

Ryan Howe - Agree

Stan DeFreese – Agree

Chair Ray DeLeo – Abstain

Vice Chair Ron Regis – 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.

Applicants Response: Size of lot is 40' x 60'. Relief would be more conforming with setbacks and parking.

Ryan Howe - Agree

Stan DeFreese – Agree

Chair Ray DeLeo – Abstain

Vice Chair Ron Regis – 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.

Applicants Response: More conforming than existing 1 ft. current setback.

Ryan Howe - Agree
Stan DeFreese – Agree
Chair Ray DeLeo – Abstain
Vice Chair Ron Regis – Agree

MOTION:

Stan DeFreese made a motion to approve Coastal Cottage Getaways LLC, Michael Dickinson, 29 Tenth Street: MBL 311-20-8, Zone: R-2, seconded by Ryan Howe.

Code Official Rick Haskell called for the vote:

VOTE:

Ryan Howe - Agree
Stan DeFreese – Agree
Chair Ray DeLeo – Abstain
Vice Chair Ron Regis – Agree

PASSES:

(3-1-0)

Item 5: Miscellaneous Appeal, Nonconforming Means of Egress (reduction in front setback) and Public Hearing

Owner: Jerry & Pamela Scheinfeldt

Location: 13 Oceana Avenue; MLB: 321-15-2

Zone: R-3, Shoreland Residential Activity

Miscellaneous Appeal Nonconforming Means of Egress request for reduction in front setback from the required 20' to a proposed 0'. This request would allow additional stairs to be added to the existing nonconforming footprint due to the building being elevated to allow compliance with future floodplain regulations.

Diane Doyle, builder for Jerry and Pamela Scheinfeldt introduced herself. They want to replace their home at 13 Oceana Avenue. The current home that they have does not meet the FEMA flood heights. They will remove the house that is there and rebuilt to the new FEMA flood heights. The house will be going in the same exact footprint. The side stairs do meet the setback however the front stairs are currently right on the sidewalk. They are asking to allow adding 6 more stairs that are needed to reach the new height. They would make the stairs 3' that is the minimum that is required by code.

The Public Hearing opened at 7:10 PM

Owner Jerry Scheinfeldt introduced himself and he stated that they would like to have a front stairway. They are staying with the exact footprint and the only way that they are asking for the Miscellaneous Appeal is so that they could meet the new FEMA floodplain guidelines.

There being no one else speaking for or against the appellant, the Public Hearing closed at 7:11 PM.

NON-CONFORMING MEANS OF EGRESS CONSTRUCTION

A The use or structure is legally nonconforming, as set forth in section 78-176 if the use or structure is nonconforming.

Applicants Response: The existing non-conforming stairs and front porch have been there since 1920 when the house was built.

Ryan Howe - Agree

Stan DeFreese – Agree

Chair Ray DeLeo – Agree

Vice Chair Ron Regis - Agree

B The requested stairway or ramp is the minimum structure, dimensionally, as required by the Town of Old Orchard Beach Building Code.

Applicants Response: The additional 6 steps are 3’ wide, the minimum required by code.

Ryan Howe - Agree

Stan DeFreese – Agree

Chair Ray DeLeo – Agree

Vice Chair Ron Regis – Agree

C Due to 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 and bulk requirements.

Applicants Response: The additional stairs give access to the front door. Any other access to the front of the house would be equally non-conforming.

Ryan Howe - Agree

Stan DeFreese – Agree

Chair Ray DeLeo – Agree

Vice Chair Ron Regis - Agree

MOTION:

Ryan Howe made a motion to approve Item #5 Miscellaneous Appeal, Nonconforming Means of Egress (reduction in front setback) Jerry & Pamela Scheinfeldt, 13 Oceana Avenue; Zone: R-3, Shoreland Residential Activity.

Code Official Rick Haskell called for the vote:

VOTE:

Ryan Howe - Agree

Stan DeFreese – Agree

Chair Ray DeLeo – Agree

Vice Chair Ron Regis – Agree

PASSES:

(4-0)

Item 6: Miscellaneous Appeal (reduction in side setback) and Public Hearing

Owner: Bare Properties LLC, Tamera Ahearn

Location: 1 York Street; MLB: 304-3-1

Zone: BRD, Shoreland Limited Commercial

Miscellaneous Appeal request for reduction in the side setback from the required 15' to a proposed to a proposed 7.5' to allow for a 4' expansion to existing kitchen area. Kitchen expansion would add 4'x10' into the side setback.

There was no one here to speak for this Item.

MOTION:

Ryan Howe made a motion to table this item #6 Miscellaneous Appeal (reduction in side setback) and Public Hearing, Owner: Bare Properties LLC, Tamera Ahearn, Location: 1 York Street; MLB: 304-3-1 Zone: BRD, Shoreland Limited Commercial, seconded by Stan DeFreese.

Code Official Rick Haskell called for the vote:

VOTE:

Ryan Howe - Agree

Stan DeFreese – Agree

Chair Ray DeLeo – Agree

Vice Chair Ron Regis – Agree

PASSES:

(4-0)

Acceptance of September 23, 2019 Meeting Minutes.

Ryan Howe made a motion to approve the September 23, 2019 meeting minutes, seconded by Ron Regis.

VOTE:

Ryan Howe - Agree

Chair Ray DeLeo – Agree

Vice Chair Ron Regis – Agree

GOOD & WELFARE

ADJOURNMENT 7:15 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 ELEVEN (11) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting held on October 28, 2019.

Valdine Camire