

TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES
 October 29, 2018

<p>Call to Order at <u>6:34 pm</u></p>	<p>CALL TO ORDER</p>
<p>Roll Call: Present: Mikaela Nadeau, Mark Lindquist, Tom Mourmouras. Absent: Chair Ray DeLeo, Vice Chair Ron Regis Staff Present: Code Official Rick Haskell, Administrative Assistant Valdine Camire.</p>	
<p>Pledge to the Flag</p>	
<p><i>Board Member Mark Lindquist read the criteria for the Public Hearing.</i></p>	
<p><u>ITEM 1: Miscellaneous Appeal</u></p> <p>Owner: Karin & Michael Lavigne Location: 9 Pondview Rd; MBL: 105-4-42 Zone: RD</p> <p>Proposal to construct an addition that will encroach into the front setback. The road facing portion of the addition will encroach up to 1' in the 50' front setback. RD front setback: 50'; proposed front setback 49'.</p> <p>Mr. and Mrs. Lavigne introduced themselves. They would like to construct an accessory apartment for their mother. This will be a garage off of a new breezeway and an apartment above. The 1 ft. encroachment is due to the positioning and orientation of the garage.</p> <p>CEO Rick Haskell stated that the date of the original structure was 2003. The statutory regulation was created in 2001.</p> <p>There was no one speaking for or against the appellant.</p> <p><u>Board Member Mark Lindquist read the criteria for a Miscellaneous Appeal.</u></p> <p><u>1. LIMITED REDUCTION OF YARD SIZE/LIMITED EXPANSION OF LOT COVERAGE.</u></p> <p>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.</p> <p>Response: We would like to have the 50ft setback reduced to accommodate a 28 x 36 garage with an accessory apartment above. The foundation on the right side of the addition will be 10 ¾ inches over setback. This does not include any overhang at the top of the structure.</p> <p>Tom Mourmouras - Yes Mark Lindquist - Yes</p>	<p style="text-align: center;"><u>ITEM 1</u> <u>MISC.</u> <u>APPEALS</u></p>

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Mikaela Nadeau – Yes

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: This structure addition would be for a residential accessory apartment.

Tom Mourmouras - Yes

Mark Lindquist - Yes

Mikaela Nadeau – Yes

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: If the structure is built less than 36' then a car would not be able to get into the garage. 32' would eliminate the entry door into the garage and bring the garage door opening beyond the front corner of the existing garage. Also moving the structure back 4' could possibly increase construction cost due to having to move the bedroom window on the existing home because it will be in the way of the breezeway construction.

Tom Mourmouras - Yes

Mark Lindquist - Yes

Mikaela Nadeau – Yes

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: This will be for residential use.

Tom Mourmouras - Yes

Mark Lindquist - Yes

Mikaela Nadeau – Yes

MOTION:

Tom Mourmouras made a motion to approve the Miscellaneous Appeal for owners Karin & Michael Lavigne, 9 Pondview Rd MBL: 105-4-42 Zone: RD to construct an in-law apartment addition that will encroach onto the front setback 1 ft. seconded by **Mikaela Nadeau**.

MOTION

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<p>VOTE: <i>Code Official Rick Haskell called for the vote:</i></p> <p>Tom Mourmouras - Yes Mark Lindquist - Yes Mikaela Nadeau – Yes</p>	<p style="text-align: center;"><u>VOTE</u> <u>(3-0)</u></p>
<p>ITEM 2: Variance (Minimum Net Lot Area)</p> <p>Owner: Nancy Z. Moreshead Location: 125 West Grand Ave; MBL: 319-15-3 Zone: R3</p> <p>Proposal to change building use from 1 office unit and 1 dwelling unit into 2 dwelling units. Dwelling units require 5,000 sq. ft. of net lot area per unit which means 2 dwelling units require 10,000 sq. ft. of net lot area. Current lot area is 2,614 sq. ft. 7,386 additional sq. ft. is needed to meet the ordinance requirement to allow 2 dwellings units.</p> <p>Nancy Moreshead introduced herself. She stated that she has a 2 unit building which has an office on the ground floor and a residential unit on the second floor. This is a residential neighborhood so she would like to convert the entire structure to residential. She is making this more conforming with the zoning in the area. This is a much better use for the property in a residential area.</p> <p>Mark Lindquist asked her if there were quite a few lots that have multiple rental units and do not meet this lot requirement either.</p> <p>Nancy Moreshead stated that yes there are multiple rental units and the lots are very small. She also mentioned that she has talked to her neighbors about this Variance and they are fine with what she is doing.</p> <p>There was no one speaking for or against the appellant.</p> <p><u>Board Member Mark Lindquist read the Justification of Variance:</u></p> <p>A. The land in question cannot yield a reasonable return unless the variance is granted.</p> <p>Response: Residential neighborhood – Not business area property. Already has 2 driveways, separate entrances, 2 kitchens. Best use is Residential 2 family, not an office building.</p> <p>Tom Mourmouras - Yes Mark Lindquist - Yes Mikaela Nadeau – Yes</p> <p>B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.</p> <p>Response: Property built in 1989 and ground floor. Always a real estate office.</p>	<p style="text-align: center;"><u>ITEM 2</u> <u>VARIANCE</u></p>

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<p>Neighborhood is residential and current business use. More non-conforming than residential. Property has always had 2 driveways, separate entrances, 2 unit use.</p> <p>Tom Mourmouras - Yes Mark Lindquist - Yes Mikaela Nadeau – Yes</p> <p>C. The granting of a variance will not alter the essential character of the locality.</p> <p>Response: It will make it more conforming, is only non-residential and to change the use makes it more in conformance with the neighborhood, less traffic to area and more like other homes. Is already 2 units. Just want to change office to residential.</p> <p>Tom Mourmouras - Yes Mark Lindquist - Yes Mikaela Nadeau – Yes</p> <p>D. The hardship is not the result of action taken by the appellant or a prior owner.</p> <p>Response: Before current building was another property being used the same way. Property was an office prior to zoning.</p> <p>Tom Mourmouras - Yes Mark Lindquist - Yes Mikaela Nadeau – Yes</p> <p>MOTION: Tom Mourmouras made a motion to grant a Variance to Nancy Z. Moreshead, 125 West Grand Ave; MBL: 319-15-3 Zone: R3 to convert an office to residential use. No change other than that, seconded by Mikaela Nadeau.</p> <p>VOTE: <u><i>Code Official Rick Haskell called for the vote:</i></u></p> <p>Tom Mourmouras - Yes Mark Lindquist - Yes Mikaela Nadeau – Yes</p>	<p><u>MOTION:</u></p> <p><u>VOTE:</u> <u>(3-0)</u></p>
<p><u>ITEM 3: Miscellaneous Appeal</u></p> <p>Owner: Tianna Higgins Location: 38 Adelaide Rd; MBL: 205-1-6 Zone: R1</p> <p>Proposal for addition to rear of structure to allow for construction of code compliant</p>	<p><u>ITEM 3</u> <u>MISC.</u> <u>APPEALS</u></p>

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stairway. This will result in a 2' rear setback encroachment. R1 rear setback: 20'; proposed rear setback: 18'.

Tianna Higgins introduced herself. She is looking to extend her mudroom 4 ft. in line with the house so that she can change her cellar stairs and make a normal pitched stair for safety concerns.

There was no one speaking for or against the appellant.

Board Member Mark Lindquist read the criteria for a Miscellaneous Appeal.

1. LIMITED REDUCTION OF YARD SIZE/LIMITED EXPANSION OF LOT COVERAGE.

A. The existing buildings or structures on the lot for which the limited reduction of yard size/limited expansion of lot coverage is requested were erected prior to the date of adoption of this provision or the lot is a vacant nonconforming lot of record.

Response: This house was built in 1935.

Tom Mourmouras - Yes

Mark Lindquist - Yes

Mikaela Nadeau – Yes

B. The requested reduction is reasonably necessary to permit the owner occupant of the property to use and enjoy the property in essentially the same manner as other similar properties are utilized in the zoning district.

Response: The expansion of the mud room is to allow the realignment of the basement stairs so that they can have a normal rise and run or tread width. Currently the stairs are very steep and the treads are about 4 inches wide making them very dangerous.

Tom Mourmouras - Yes

Mark Lindquist - Yes

Mikaela Nadeau – Yes

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 lot is a non-conforming lot so there is no practical way to conform to requirements.

Tom Mourmouras - Yes

Mark Lindquist - Yes

Mikaela Nadeau – Yes

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<p>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.</p> <p>Response: The addition will not negatively impact the neighborhood and will not be substantially different than the existing house or other houses in the neighborhood.</p> <p>Tom Mourmouras - Yes Mark Lindquist - Yes Mikaela Nadeau – Yes</p> <p>MOTION:</p> <p>Tom Mourmouras made a motion to grant a Miscellaneous Appeal to Tianna Higgins, 38 Adelaide Rd; MBL: 205-1-6 Zone: R1 to extend her mudroom 4 ft. in line with the house to allow for realignment of the stairs to the basement to make them safer, seconded by Mikaela Nadeau.</p> <p>VOTE: <u><i>Code Official Rick Haskell called for the vote:</i></u></p> <p>Tom Mourmouras - Yes Mark Lindquist - Yes Mikaela Nadeau – Yes</p>	<p style="text-align: center;"><u>MOTION</u></p> <p style="text-align: center;"><u>VOTE:</u> <u>(3-0)</u></p>
<p>ITEM 2: <u>ITEM 4: Acceptance of September 24, 2018 minutes</u></p> <p>The September 24, 2018 meeting minutes could not be voted on as currently they do not have a sufficient number of members to approve these minutes.</p>	
<p>OTHER BUSINESS:</p>	
<p>GOOD AND WELFARE:</p>	
<p>ADJOURN 6:45 PM Tom Mourmouras made a motion to adjourn the meeting at 6:45 pm., seconded by Mikaela Nadeau.</p> <p>All in favor.</p>	<p style="text-align: center;"><u>ADJOURN</u></p>

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 Six (6) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting held on October 29, 2018.

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Valdine Camire