

**ZONING BOARD OF APPEALS
MONDAY, SEPTEMBER 23, 2019 IN THE TOWN
COUNCIL CHAMBERS 6:30 PM
MEETING MINUTES**

CALL TO ORDER at 6:30 PM

PLEDGE TO THE FLAG

ROLL CALL

Present:

Ryan Howe
Tom Mourmouras
Vice Chair Ron Regis
Chair Ray DeLeo

Staff Present:

CEO Rick Haskell
Administrative Assistant Valdine Camire

Chair Ray DeLeo read the Appeals Criteria

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

Owner: David N. Doubleday

Location: 32 Randall Avenue; MBL: 323-10-17

Zone: R3

Miscellaneous Appeal Nonconforming Means of Egress request for construction of a stairway:
Option 1: reduction of the front setback to 0' from required 20' (existing structure is 3') or Option 2:
reduction of the side yard setback to 0' from required 15' (existing structure is 8').

David Doubleday from 32 Randall Avenue introduced himself. His lot is non-conforming. Additionally concerned about the FEMA regulations. Trying to address the potential for flooding. This lot suffered from significant deferred maintenance with structural and mechanical issues. It turned out to be more economical to do a complete tear down and start again with a new structure. Work has already begun. His architect has designed a home similar to the one that existed. The new home will occupy a slightly smaller footprint that reduces the lot coverage non-conformity and some setbacks will be increased. To meet the flood challenges the new home will be higher but well within the town code. He will need a longer egress stairway. There are two options:

1. This is the preferred option. Option 1 is a simple extension of the existing stairway footprint approximately 3 feet south towards Randall Avenue. This option has minimal impact requiring about 15 square feet of new footprint, BUT a contingency of option 1 is that the

stairway stringer must land within my property before reaching town property. The architect is “pretty sure” this is doable but a number of variables need to work perfectly to accomplish this.

2. Option 2 would come into play if we are unable to meet the preferred goal via option 1. Option 2 requires the construction of a landing within the existing stairway footprint. From the landing, the stairs would turn 90 degrees. Since the side property setback is greater than 3 feet, landing the stair stringer on my property would be certain. Option 2 offers safe egress but a stairway with turns is awkward and harder to navigate; it would be less attractive; it would be more costly; and it would require up to 60 square feet of new footprint.

Public Hearing opened at 6:42 pm.

There being no one speaking for or against the appellant, the Public Hearing closed at 6:43 pm.

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 lot was created in the 1880’s. The structure was constructed pproximately 100 years ago.

Ryan Howe – Agree
Tom Mourmouras - 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: Granting this variance will permit reconstruction of egress stairs that will require a longer run. The new egress will be in conformance with building code.

Ryan Howe – Agree
Tom Mourmouras - 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 non-conforming lot only is 3252 sf (0.074 acre). The existing non-conforming building footprint is 1844 sf. The lack of adequate setbacks limits options for rebuilding. We proposed rebuilding a smaller structure. Its building footprint would be 1725 sf. Of that minimum

of 60 sf. is required for a longer run for the existing egress stairs. Granting this variance would permit us to use up to 60 sf. for the reconstruction of our egress stairs.

Ryan Howe – Agree
Tom Mourmouras - 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 impacts of the renovation will not substantially different from or greater than the impacts and effects of a building or structure that conforms to the yard size requirements. The proposed rebuild will decrease the bulk non-conformity.

Ryan Howe – Agree
Tom Mourmouras - Agree
Vice Chair Ron Regis - Agree
Chair Ray DeLeo – Agree

NON-CONFORMING MEANS OF EGRESS CONSTRUCTION

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

Applicants Response: The plan is to rebuild as much of the stairway as much as possible within the existing southeast stairway footprint. A variance is required for a longer run of the stairway. We propose two options to extend the run. Once the finish grade is established and the building is constructed, we will determine where the code required rise and run would fit within the property boundary. In either case, the variance would not change the character of the neighborhood.

Option 1. This involves simply extending the existing stairs towards Randall Ave. If there is sufficient space, Option 1 our preferred option. Like the existing stairway, it is appropriate for the property address. Option 1 requires the least amount of new footprint, and it would look similar to the existing stairway.

Option 2. This involves creating a new landing within the existing footprint. From this landing within the existing footprint, new stairs would extend at 90 degrees to the east towards Clover Street. This option would be chosen only if there is insufficient space to do option 1.

The maximum new footprint required for either option would be less than 60 sf. Neither option will increase the building coverage non-conformity. Neither will increase the Minimum Lot Area per Family Unit non-conformity. Neither will increase the non-conformity of percentage of Lot Coverage. Neither will increase the building coverage non-conformity. This variance will provide for a safe means of egress.

Ryan Howe – Agree
Tom Mourmouras - Agree
Vice Chair Ron Regis - Agree
Chair Ray DeLeo – Agree

- b. 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 existing stairs are a non-conforming means of egress. Raising the building to protect it from flooding creates a dilemma that granting this variance will solve. The non-conforming lot size and the location of the non-conforming structure on the lot make constructing a conforming structure impossible. Granting this variance request is both reasonable and necessary.

Ryan Howe – Agree
Tom Mourmouras - Agree
Vice Chair Ron Regis - Agree
Chair Ray DeLeo – Agree

MOTION: Vice Chair Ron Regis made a motion to grant the Miscellaneous Appeal from David Doubleday at 32 Randall Avenue MBL: 323-10-17 for option #1 if required by the code official to be option #2 seconded by Ryan Howe.

Code Official Rick Haskell called for the vote:

VOTE:

Ryan Howe – Agree
Tom Mourmouras - Agree
Vice Chair Ron Regis - Agree
Chair Ray DeLeo – Agree

PASSES:

(4-0)

Item 2: Miscellaneous Appeal (reduction in rear and side setbacks) and Public Hearing

Owner: Robert L. Vinikoor

Location: 3 Temple Avenue; MBL: 324-15-2

Zone: NC-1

Miscellaneous Appeal request for construction of rear stairway and “square-off” addition: A.) Rear stairway: reduction in the rear setback to 15’ from required 20’, left side to 7.5’ from required 15’, right side to 5.47’ from 15’. B.) Square-off addition: reduction in the right side setback to 5.47’ from required 15’.

Paul D. Weinstein, Esq. here representing the applicant introduced himself. The applicant is no longer looking for a reduction in the rear setback. The stairs have been removed. They are only asking for a reduction on the right side setback to 5.47'. The applicant is essentially trying to square off the back portion of the building. They do not believe that this will have any adverse effects on the neighborhood. They will also be meeting the DEP requirements.

Public Hearing opened at 6:55 pm.

There being no one speaking for or against the appellant, the Public Hearing closed at 6:55 pm.

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.

Applicants Response: The existing residential structure predates the February 1998 adoption of this provision. The structure was built in approximately 1890, and it has an “effective year built” on property record cards of 1997.

Ryan Howe – Agree

Tom Mourmouras - Agree

Vice Chair Ron Regis - 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.

Applicants Response: The surrounding properties on all sides are multi-family and rental units, most of which also appear to not meet full setback requirements due to the age of the neighborhood. The existing structure currently has a back bedroom that is nearly too small to use and a less functional kitchen as a result of the irregular corner and roof lines. The proposed expansion would allow the use and enjoyment of the property as a residence or rental unit that is consistent with the surrounding similar properties.

Ryan Howe – Agree

Tom Mourmouras - Agree

Vice Chair Ron Regis - 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.

Applicants Response: The lot is a permitted non-conforming lot measuring approximately 85+/- ft. by 29+/-ft., for a total area of approximately 2446 ft. The existing structure does not comply with the minimum yard size in the zone. The proposed addition is intended to “square off” the irregularly shaped back corner of the existing structure. It would not be possible to construct the

addition anywhere else on the property or to make the expansion conform with minimum yard size requirements (since the existing structure itself does not comply).

Ryan Howe – Agree
Tom Mourmouras - 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.

Applicants Response: The neighborhood impact would be no greater than a conforming structure because the proposed expansion: (i) would streamline the multiple irregular roof lines and create a more standard rectangular building, thus improving the aesthetics of the structure from the neighbors' viewpoint;(ii) would be no closer to the side property line than the current front section of the existing structure, thus making that setback consistent; (iii) would include removing a section of the existing structure on the other side of the house that currently encroaches near the property line, thus expanding the setback on that side and creating a consistent corridor between the existing structure and the neighboring structure.

Ryan Howe – Agree
Tom Mourmouras - Agree
Vice Chair Ron Regis - Agree
Chair Ray DeLeo – Agree

MOTION:

Ryan Howe made a motion to approve item Miscellaneous Appeal for Robert L. Vinikoor
Location: 3 Temple Avenue; MBL: 324-15-2 Zone: NC-1 reduction in the right side setback to 5.47' from required 15', seconded by Vice Chair Ron Regis.

Code Official Rick Haskell called for the vote:

VOTE:

Ryan Howe – Agree
Tom Mourmouras - Agree
Vice Chair Ron Regis - Agree
Chair Ray DeLeo – Agree

PASSES:

(4-0)

ITEM 3: Miscellaneous Appeal (reduction in side setback) and Public Hearing

Owner: Sue Ann Brown

Location: 13 Tioga Avenue; MBL: 321-23-2

Zone: R-3

Miscellaneous Appeal request for side setback reduction from the required 15 feet to a proposed 11.8 feet. This project is a demolition/ rebuild and the setback relief would allow for an enclosed staircase.

(existing building side setback is 16.2 feet)

The applicant has asked that she remove this item from the agenda.

Item 4: Variance Consideration (reduction of side and rear setbacks and expansion of lot coverage) and Public Hearing

Owner: David Lenzie

Location: 9 Lake Avenue: MBL 314-3-2

Zone: R-2

Variance consideration for reduction in the left side setback from required 15 foot to proposed 1 foot and a reduction of the rear setback from the required 20 feet to a proposed 2 feet. Also, an expansion of the allowed lot coverage from the required 35% to a proposed 40%.

David Lenzie from 9 Lake Ave. introduced himself. He is looking to build a garage for storage. He shares a driveway with his neighbor and in the driveway there is a sinkhole and needs to be rectified at some point and this would be alleviated. His neighbor also has a bit of a water issue and he wants to alleviate that for her at the same time. He would make the garage as low as he can with a small pitched roof. It would be a single story 12' wide garage.

Lorraine Daigle from 7 Lake Avenue introduced herself. She is a neighbor of Mr. Lenzie. She stated that her main concern is the water issue.

Board Member Ryan Howe mentioned that this does not state that they are not able to use the property and where this cannot yield a reasonable return.

MOTION:

Ryan Howe made a motion to table item # 4 for a Variance consideration for David Lenzie at 9 Lake Avenue: MBL 314-3-2 Zone: R-2, seconded by Tom Mourmouras.

Code Official Rick Haskell called for the vote:

VOTE:

Ryan Howe – Agree

Tom Mourmouras - Agree

Vice Chair Ron Regis - Agree

Chair Ray DeLeo – Agree

PASSES:

(4-0)

Item 5: Miscellaneous Appeal (reduction in side setback) and Public Hearing

Owner: Gary Fuller, Stanley Malvarosa Trustees for School Street Real Estate Trust

Location: 17 Portland Avenue; MLB: 205-8-13

Zone GB-1

Miscellaneous Appeal request for reduction in left side setback from the required 15 feet to a proposed 9 feet to allow for the addition of a deck on the rear of the main house.

Annette Fuller and her brother Stan introduced themselves. They own 17 Portland Ave. and they are trying to add a back deck and they are looking for a left side setback.

Public Hearing opened at 7:04 pm.

There being no one speaking for or against the appellant, the Public Hearing closed at 7:05 pm.

Board Member Ryan Howe read a letter into the record:

“Hello Valdine, I am the owner of a property at 15 Portland Avenue in OOB. In regards to item number 5. Miscellaneous Appeal reduction in side setback, on the agenda for the meeting tonight. I have no objection to the setbacks being adjusted so that the deck can be built. This is a great family and I hope that they will be my neighbors for life. Thank you for your attention in this matter.”

Robert J. Vandal

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: According to tax records, the house was built in 1889 which is before the adoption of any zoning ordinance in Old Orchard Beach.

Ryan Howe – Agree

Tom Mourmouras - 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 property in the zoning district and adjacent to this property have decks.

Ryan Howe – Agree
Tom Mourmouras - 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: We are unable to move the proposed deck further to the right of the property because we need to allow for the rear house egress. In addition, moving the deck any further away would interfere with the shed and the overall esthetics and symmetry of the house.

Ryan Howe – Agree
Tom Mourmouras - 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: As the home is in a mixed-use business district, there are a variety of houses and buildings. For example Old Orchard Beach Funeral Home, Landry's Shop n Save and lodging establishments. Therefore, we feel that adding a deck does not substantially alter the character of the zoning district.

Ryan Howe – Agree
Tom Mourmouras - Agree
Vice Chair Ron Regis - Agree
Chair Ray DeLeo - Agree

MOTION:

Thomas Mourmouras made a motion to approve the Miscellaneous Appeal for Gary Fuller, Stanley Malvarosa Trustees for School Street Real Estate Trust, 17 Portland Avenue; MLB: 205-8-13, Zone GB-1. This appeal will allow them to reduce the left side setback from the required 15' to a proposed 9' to allow for an addition of a deck on the rear of the main house. seconded by Vice Chair Ron Regis.

Code Official Rick Haskell called for the vote:

VOTE:

Ryan Howe – Agree
Tom Mourmouras - Agree
Vice Chair Ron Regis - Agree

Chair Ray DeLeo – Agree

PASSES:

(4-0)

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

Owner: Michael F. Hogan Trustee for Michael F. Hogan Living Trust

Location: 21 Cedar Avenue; MLB: 312-10-8

Zone: R-2

Miscellaneous Appeal request for reduction in rear setback from the required 20 feet to a proposed to a proposed 10 feet to allow for a remodel that would connect the existing home to an existing garage that will be turned into living space.

Gary Sylvain from Sylvain Construction introduced himself as representing Mr. Hogan. They would like to demo the garage and the existing porch and re-construct on the same footprint. They would like to have access from the porch into the new living space. The new living space will be two stories. Bathroom on the lower level and bedroom on the upper level. 40 sf. for the breezeway.

Public Hearing opened at 7:15 pm.

There being no one speaking for or against the appellant, the Public Hearing closed at 7:15 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: Existing structures are situated on two adjacent lots and were erected prior to date of current code.

Ryan Howe – Agree

Tom Mourmouras - 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 proposal adds several feet to the porch structure that enables contiguous access between the two similar to other properties in the area on double lots. The proposed additional square footage changes none of the existing setbacks at the rear of the house which are already non-conforming (a pre-existing condition as noted in 1a).

Ryan Howe - Agree
Tom Mourmouras - 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 physical features of the single lots independently and jointly make it impractical to build a new structure in conformity with current zoning requirements. However the physical features of the existing structures make it impossible to join the structures as proposed. The existing proposal minimally changes the existing non-conformity condition.

Ryan Howe – Agree
Tom Mourmouras - 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 impact of the proposed enlargement will result in no greater impacts than a building that conforms and will likely result in less of an impact based on a variance granted to a similarly situated lot on the corner of Second St. and Fern Ave. about a year ago.

Ryan Howe – Agree
Tom Mourmouras - Agree
Vice Chair Ron Regis - Agree
Chair Ray DeLeo - Agree

MOTION:

Vice Chair Ron Regis made a motion to grant Michael Hogan Living Trust, 21 Cedar Avenue; MLB: 312-10-8 Zone: R-2 to replace an existing porch and garage with a new structure, seconded by Tom Mourmouras.

Code Official Rick Haskell called for the vote:

VOTE:

Ryan Howe – Agree
Tom Mourmouras - Agree
Vice Chair Ron Regis - Agree
Chair Ray DeLeo – Agree

PASSES

(4-0)

Acceptance of July 15, 2019 Meeting Minutes.

Ryan Howe made a motion to approve the July 15, 2019 meeting minutes, seconded by Tom Mourmouras.

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 consisting TWELVE (12) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting held on September 23, 2019.

Valdine Camire