

**TOWN OF OLD ORCHARD BEACH**  
**ZONING BOARD OF APPEALS MEETING MINUTES February 28, 2011**

<p><b>Call to Order at 7:02 pm</b></p>	<p><b>Call to Order</b></p>
<p><b>Pledge to the Flag</b></p>	
<p><b>Roll Call:</b> Present: Mr. Philip Weyenberg, Chairman DeLeo, Mr. Phil Denison, Tianna Higgins, and Owen Stoddard. Ron Regis, alternate was excused.  <b>Staff:</b> Mike Nugent, Code Enforcement Officer. Tori Geaumont, Secretary to the ZBA.</p>	
<p><b>ITEM 1: Reaffirm Miscellaneous Appeal:</b> Peter &amp; Jill Kelly, owners of 7 Frances Street, MBL 205-7-12 in the DD2 Zone to reaffirm miscellaneous appeal to permit the right side setback to allow for the construction of a 21' x 28' addition. Michael Tousignant is representing the owner</p>	<p style="text-align: center;"><b>Item 1:</b>  <u>Miscellaneous Appeal: Carole Smith, 11 School Street</u>  <u>MBL 206-24-37</u></p>
<p><b>Michael Tousignant, representing the owner.</b> Mr. Tousignant explained that they received the Miscellaneous Appeal back in October, but he did not file it with the registry of deeds in time, and therefore it expired. Nothing has changed with the appeal.  <b>Chairman DeLeo called for any abutters or correspondence.</b>  <b>PUBLIC HEARING CLOSED AT 7:05 P.M.</b>  <b>Chairman DeLeo</b> asked if the board can just move to reaffirm or do they need to go through the criteria again.  <b>Mr. Nugent</b> stated the board can just reaffirm.  <b>Chairman DeLeo called for any abutters or correspondence.</b>  <b>PUBLIC HEARING CLOSED AT 7:05 P.M.</b>  <b>Ms. Higgins</b> moved to reaffirm miscellaneous appeal to permit the right side setback to allow for the construction of a 21' x 28' addition.  <b>Mr. Weyenberg</b> seconded the motion.  <b>Motion passes unanimously.</b></p>	<p style="text-align: center;"><b><u>PUBLIC HEARING</u></b></p> <p style="text-align: center;"><b><u>Motion</u></b></p> <p style="text-align: center;"><b><u>Vote</u></b></p>
<p><b>ITEM 2: Variance:</b> Levi Andrew LLC, owner of 2 Arbutus Avenue, MBL 206-16-4 in the R1 Zone to permit the adjustment of the left side yard and front yard setback for the construction of an addition and the expansion of a deck. David Girard is representing the owner.</p>	<p style="text-align: center;"><b>Item 2:</b>  <u>Variance: Levi Andrew LLC, 2 Arbutus Ave</u>  <u>MBL 206-16-4</u></p>
<p><b>David Girard, representing Levi Andrew LLC.</b>  <b>Mr. Girard</b> explained he and his wife wish to live in the home and will make this their primary residency. He explained the need for the covered sunroom was that his wife had malignant melanoma and needed to be out of the direct sun. He explained the shape and size of the property.  <b>Mr. DeLeo</b> asked if the board had any questions.  <b>Ms. Higgins</b> asked if the porch has to be included because it is going to be enclosed.  <b>Mr. Nugent</b> stated it did not because it is going to be vertically expanded.  <b>Mr. Weyenberg</b> commented that the porch on the Arbutus side would stick out quite a bit as compared to other homes in the area.  <b>Mr. Girard</b> felt it was quite similar to the neighbor across the street, as well as the next door neighbor.  <b>Ms. Higgins</b> then asked for clarification regarding the left side yard. It seemed the variance should be for the rear yard and not the left.  <b>Mr. Nugent</b> clarified and said it was for the rear.  <b>Mr. Girard</b> stated that there were some questions regarding if this property was going to be flipped, but he stated he would not be doing any of the extras on this property if it was a flip. They just sold their home in Saco and are anxious to be able to move into the home.  <b>Chairman DeLeo called for any abutters or correspondence.</b>  <b>PUBLIC HEARING CLOSED AT 7:15 P.M.</b></p>	<p style="text-align: center;"><b><u>PUBLIC HEARING</u></b></p>
<p><b>Chairman DeLeo</b> read criteria number one.  <b>With regards to section A.</b> The land in question <u>cannot</u> yield a reasonable return unless the variance is granted the appellants stated as it sits now it would only be a one bedroom</p>	

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<p>home therefore not allowing a reasonable use. Plus, we need to have 3 bedrooms. We would be staying within existing building lines for two of our requests. The 2 Arbutus side would be outside existing building lines.</p> <p><b>Ms. Higgins disagreed.</b>  <b>Mr. Stoddard agreed.</b>  <b>Mr. Weyenberg agreed.</b>  <b>Mr. Denison agreed.</b>  <b>Chairman DeLeo disagreed.</b></p> <p><b>With regards to part B.</b> The need for a variance is due to the unique characteristics of the property and not to the general conditions of the neighborhood the appellant stated the house was abandoned and on a corner lot.</p> <p><b>Ms. Higgins agreed.</b>  <b>Mr. Weyenberg agreed.</b>  <b>Mr. Stoddard agreed.</b>  <b>Mr. Denison</b>  <b>Chairman DeLeo agreed.</b></p> <p><b>With regards to part C.</b> The granting of a variance will not alter the essential character of the locality the appellant stated many of the existing homes in the neighborhood have a lot less setback than we are requesting. In some case they are less then 3 feet from property lines.</p> <p><b>Mr. Weyenberg agreed.</b>  <b>Mr. Denison agreed.</b>  <b>Ms. Higgins agreed.</b>  <b>Mr. Stoddard</b>  <b>Chairman DeLeo agreed.</b></p> <p><b>With regards to part D.</b> The hardship is not the result of action taken by the appellant or a prior owner the appellant stated just an area like many other areas in town where in prior years much smaller lots were allowed. I believe our request goes with other existing homes and will actually improve the area.</p> <p><b>Mr. Stoddard agreed.</b>  <b>Mr. Weyenberg agreed.</b>  <b>Ms. Higgins agreed.</b>  <b>Mr. Denison</b>  <b>Chairman DeLeo agreed.</b></p> <p><b>Mr. Denison</b> moved to permit the adjustment of the left side yard and front yard setback for the construction of an addition and the expansion of a deck.</p> <p><b>Mr. Weyenberg</b> seconded.  <b>Mr. Stoddard</b> yes.  <b>Mr. Denison</b> yes.  <b>Ms. Higgins</b> no.  <b>Chairman DeLeo</b> yes.</p> <p><b>Motion passes 4-1</b></p>	<p style="text-align: center;"><u><b>Motion</b></u></p> <p style="text-align: center;"><u><b>Vote</b></u></p>
<p><b><u>ITEM 3: Variance:</u></b> Edward Forster, owner of 135 Union Avenue, MBL 314-13-6 in the R2 Zone to permit the adjustment of the driveway width and the distance from the driveway to the intersection. A.J. Stowell, Twin Town Homes is representing the owner.</p>	<p><b><u>Item 3: Variance:</u></b>  <u><b>Levi Andrew</b></u>  <u><b>LLC, 2 Arbutus</b></u>  <u><b>Avenue</b></u>  <u><b>MBL 206-16-4</b></u></p>
<p><b>A.J. Stowell, representing the Forster's.</b> Mr. Stowell explained they Forster's wish to replace their seasonal cottage with a year-round home, and they need to put in a driveway to meet off-street parking requirements. There is not enough room to fit a normal 12 foot driveway, therefore, they are asking for the variance to make the driveway 9 feet.</p> <p><b>Chairman DeLeo called for any abutters or correspondence.</b>  <b>PUBLIC HEARING CLOSED AT 7:15 P.M.</b>  <b>Chairman DeLeo</b> read criteria number one.  <b>With regards to section A.</b> The land in question <u>cannot</u> yield a reasonable return unless</p>	

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<p>the variance is granted the appellant stated we simply want to put a new building on the existing footprint and foundation space. Without a variance, because of our not being able to meet the normal off-street parking requirement which wasn't in place when the building was built, and there being not enough space on the property to meet the town's usual code requirements, we cannot upgrade the building for our use in retirement.</p> <p><b>Ms. Higgins agreed.</b>  <b>Mr. Stoddard agreed.</b>  <b>Mr. Weyenberg agreed.</b>  <b>Mr. Denison agreed.</b>  <b>Chairman DeLeo agreed.</b></p> <p><b>With regards to part B.</b> The need for a variance is due to the unique characteristics of the property and not to the general conditions of the neighborhood the appellant stated true. We simply want to put a new building on the existing footprint. No summer requirement was ever made for parking during the 34 years we have owned the house, but now because of it's winter use potential, a requirement for parking has been made which cannot be met because of the size of the existing property, thus the request for a waiver to put a parking space in the area we do have available.</p> <p><b>Ms. Higgins agreed.</b>  <b>Mr. Weyenberg agreed.</b>  <b>Mr. Stoddard agreed.</b>  <b>Mr. Denison agreed.</b>  <b>Chairman DeLeo agreed.</b></p> <p><b>With regards to part C.</b> The granting of a variance will not alter the essential character of the locality the appellant stated not at all. Our land does extend to the left side of our house-nearly enough to meet the town's requirement for a parking space. Unfortunately, the house is 35 feet from the corner, but this is only a bit short of the town's requirement, thus the need for the variance.</p> <p><b>Mr. Weyenberg agreed.</b>  <b>Mr. Denison agreed.</b>  <b>Ms. Higgins agreed.</b>  <b>Mr. Stoddard agreed.</b>  <b>Chairman DeLeo agreed.</b></p> <p><b>With regards to part D.</b> The hardship is not the result of action taken by the appellant or a prior owner the appellant stated no one is at fault here. For 80 yhears the building has sat on the very same footprint that we are proposing to build on now so as to not impinge in any way on our existing neighbors. The parking space proposed has sat vacant throughout its history.</p> <p><b>Mr. Stoddard agreed.</b>  <b>Mr. Weyenberg agreed.</b>  <b>Ms. Higgins agreed.</b>  <b>Mr. Denison agreed.</b>  <b>Chairman DeLeo agreed.</b></p> <p><b>Ms. Higgins</b> moved to permit the adjustment of the driveway width and the distance from the driveway to the intersection.  <b>Mr. Denison</b> seconded.  <i>Motion passes unanimously.</i></p>	
<p><b><u>ITEM 4: Acceptance of Minutes:</u></b>  January 31, 2011  <b>Ms. Higgins</b> moved to accept the minutes of January 31, 2011  <b>Mr. Weyenberg</b> seconded.  <i>Motion passes unanimously</i></p>	<p><b><u>Item 4:</u></b>  <b><u>Acceptance of</u></b>  <b><u>Minutes</u></b></p>
<p><b>GOOD &amp; WELFARE</b>  <b>Mr. Nugent</b> updated the board regarding interviewing for the Town Planner position. He also stated there were a lot of zoning discussions with the Ordinance Revision Committee</p>	

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<p>coming up, but there should be no major changes. That will be part of the Comprehensive Plan Committee, and he urged the committee to give their comments regarding any zoning issues.</p> <p><b>Chairman DeLeo</b> asked if the repaving of Saco Avenue was still going to occur.</p> <p><b>Mr. Nugent</b> felt that if so this would be sometime in April. He would check with DPW.</p>	
<p><b>Ms. Higgins</b> moved to adjourn.</p> <p><b>Mr. Weyenberg</b> seconded.</p> <p><i>Motion passes unanimously.</i></p>	<p><u><b>Motion</b></u> <u><b>Vote</b></u></p>
<p><b>Adjourn 7:35 p.m.</b></p>	<p><u><b>Adjournment</b></u></p>

*I, Tori Geaumont, Secretary to the Zoning Board of Appeals of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of four(4) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting on February 28, 2010*

*Tori Geaumont*