

**TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES October 26, 2009**

Call to Order at 7:05 pm	Call to Order
Pledge to the Flag	
<p>Roll Call: Present: Mr. Ray DeLeo, Mr. Howard Evans, Ms. Tianna Higgins, Philip Denison, and Mr. Philip Weyenberg. Mr. Quinn was excused. Staff: Mike Nugent, Tori Geaumont.</p>	
<p>Mr. Denison read from town council text regarding Mr. Nugent's appointment as a Certified Building Official appointment.</p>	
<p>Mr. Denison suggested to move item 3 to the front of the agenda due to confusion with filing their certificate of approval. Mr. Denison moved to permit the adjustment of the front and side setbacks and lot coverage to construct code compliant exterior stairs Mr. Weyenberg seconded. <i>Motion carries unanimously.</i></p>	<p>Motion</p> <p>Vote</p>
<p><u>ITEM 1: Variance:</u> Michael Savage, owner of 24 Rosedale Avenue, MBL 206-22-5, in the R1 zone to permit the adjustment of the right side yard setback to permit the construction of an addition to an existing shed. The owner is the appellatant.</p>	<p><u>ITEM 1:</u> <u>Variance: Michael Savage, 14 Rosedale Ave, MBL 206-22-5</u></p>
<p>Chairman DeLeo read the appeal. Michael Savage, 14 Rosedale Avenue. Mr. Savage explained he has an 8x12 foot shed that has been present for almost 30 years. He wishes to put an 8x8 lean-to addition to the shed to be able to store more personal belongings. He brought in a picture. He thought he could go ahead and do that, but Mr. Nugent saw he was doing it and then told him he needed the variance. Ms. Higgins asked if this is what is there currently. Mr. Savage stated yes. He restated he wanted more storage space for a scooter he owns. Ms. Higgins was confused. Mr. Nugent showed the board on the plot plan where the shed is and what the proposed addition would be. Chairman DeLeo called for Abutters or correspondence. Insert letters sent (anonymous letter first followed by Jordan letter) October 19, 2009 RE: Mike Savage To Whom It May Concern: Mike Savage built a shed several years ago, but never obtained a permit or variance. He has since been caught adding to the existing shed by Mike Nugent. Like before, he did not obtain a permit or variance for the new addition. Now he wants you to forgive him and grant the variance that he never obtained in the first place. If granted this variance that he needs, wouldn't this set precedence for everyone else? Shouldn't we all play by the rules?</p> <p>October 22, 2009 Zoning Board of Appeals Mike Nugent</p> <p>RE: Item 1: Variance: Michael Savage, over of 14 Rosedale Ave, MBL 206-22-5,</p>	<p>PUBLIC HEARING</p>

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in the R1 zone to permit the adjustment of the right side yard setback to permit the construction of an addition to an existing shed.

I own the abutting property at 2 Shorewood Drive and have been affected by this shed condition for some time. Currently the shed is not a problem, but the debris and storage between the shed and my fence is causing damage. Normal aging of the fence and the pile up of the debris on the Savage property has prompted me to hire a contractor to repair the situation. After communicating with the Savage family for this area to be cleaned, so I can access my fence for repair, I have seen no difference. That being said, I would like the debris on the Savage side to be pushed away from the fence, a lawnmower width so I can repair the fence. My concern with an addition is this type of destructive storage will continue behind a larger structure. If they can maintain this space so no damage is done to my fence or property I will not contest the new structure.

Sincerely,
Mary Susan Jordan
2 Shorewood Drive
Old Orchard Beach, ME 04064

934-4091

Enc: Two pictures taken 10/22/09

1. My side of fence.
2. Mike Savage's side of fence between existing shed and fence.

PUBLIC HEARING CLOSED 7:33 p.m.

Mr. Savage stated the debris has all been cleaned up.

Ms. Higgins stated she can feel for Mrs. Jordan, but we are not the clean up crew.

Mr. Savage stated it is on his side of the fence.

Ms. Higgins stated exactly. That is what she was stating.

Mr. Weyenberg asked since he had a large piece of property did he think about putting it in a different place.

Mr. Savage stated that if he did it would be in the middle of his property. At the time the shed was placed there was no problem between the prior owners of the abutters and him. Building it in a different place would be very inconvenient. He stated this is going to be built in an esthetically pleasing way. The fence is high enough for the neighbors view to be blocked, as well as a lot of foliage and flowers.

Mr. DeLeo asked for any abutters.

Abutter stated he just came to see the process.

Mr. DeLeo asked about one letter that stated there was no permit, and Mr. DeLeo asked if that is true.

Mr. Nugent stated he does not have a permit on file.

Mr. Savage stated it was built in 1981. Someone who was on staff was a neighbor and told him to go ahead and build it.

Mr. Evans asked if this was approved would it be subject to review by code.

Mr. Nugent stated yes they would need a building permit and would be reviewed for structural issues.

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<p>Ms. Higgins asked if this is an entire variance for the shed or for the lean to. Mr. Nugent stated back in 1965 there were regulations from the town regarding setbacks, etc. If the board would look at the shed holistically it would be more advisable to the appellant due to the possibility of the nature. Mr. Nugent stated that because it was advertised for the addition it would be for need to be only for the addition. He stated possibly some point in the future he may encounter a problem with resale due to the non-conformity of the shed. Mr. DeLeo stated the only problem is that it is too close to a neighbor. Mr. Nugent stated yes. If it was detached due to the size it would only need to be 5 feet from the lot line. Mr. Weyenberg asked if he put a forth wall and moved it over a foot he would be okay. Mr. Nugent stated yes. Mr. Savage questioned what. Mr. Nugent clarified that if he added the fourth wall and put it within the 5 feet he would be within the required set backs. Mr. Savage asked if the board had a picture he brought in. Mr. Nugent stated that Mr. Denison has the picture. He then showed the board the picture. Chairman DeLeo asked if the variance is for the additional 8x8 piece. What would happen if he put an addition on the 12x8 shed? Mr. Nugent stated that is what he is doing and asking for. Mr. Savage stated because he has a deck that comes out of the house that would be in the way. Ms. Higgins asked how far that would be to the deck. Mr. Savage stated the deck is exactly 13 feet. The shed is 8 feet wide and is 4 feet from the property. Mr. Weyenberg asked if the deck is 5 feet from the shed. Mr. Savage stated pretty close to 5 feet. Chairman DeLeo asked what would happen if it was a separate structure. Mr. Savage stated it would be in the middle of the yard. Ms. Higgins stated it could be 20 feet from the side yard setback. Mr. Savage asked if it was 1 foot off the existing shed. Mr. Nugent stated if it was 1 foot off the shed it would be okay. Ms. Higgins stated it is very hard to get a variance, and if we cannot get past the first question you cannot get the variance. Mr. Nugent asked if it would make more sense to table this and meet with Mr. Savage to find a more compliant location. We would table it without prejudice. Ms. Higgins stated she would be okay with that. Mr. Savage stated that would be fine with him. Ms. Higgins made the motion to table. Mr. Evans seconded. <i>Motion passes unanimously.</i></p>	<p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p>
<p><u>ITEM 2: Miscellaneous Appeal:</u> Elaine Vorias, owner of 4 Smith Avenue, MBL 205-19-21, in the R2 Zone to permit the adjustment of the right side and front yard setbacks for the construction of a front porch and stairs, a garage addition, and a roof overhang. The owner is the appellant.</p>	<p style="text-align: center;"><u>Item 2:</u> <u>Miscellaneous Appeal: Elaine Vorias, 4 Smith Avenue, MBL 205-19-21</u></p>
<p>Chairman DeLeo read the appeal. Elaine Vorias, 4 Smith Ave. Explained she bought the property to rehab. It was</p>	<p style="text-align: center;">PUBLIC HEARING</p>

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unlivable. She wishes to completely rebuild the house and will add a farmer's porch, a garage extension, and an overhang.

Mr. Weyenberg asked if this was a 4x4 extension.

Ms. Vorias stated it is a single car garage. 12x4.

Mr. Evans stated it will fit one car.

Mr. Weyenberg asked if it was one story.

Ms. Vorias stated one story. It will be covered. It is just a 6 foot entry way, covered. It will be open, like a farmer's porch.

Mrs. Vorias stated they did not anticipate all the things they needed to do. The house was blighted, and the neighbors were delighted to have this done.

Chairman DeLeo called for Abutters or correspondence.

PUBLIC HEARING CLOSED 7:36p.m.

Chairman DeLeo read the criteria for number one.

With regards to part 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 the appellant stated the original house was built in 1964 prior to current zoning laws. We are requesting to put a farmer's porch on the front to access the home. We are requesting to extend the garage 4 feet outward since we cannot go wider into the side setback. We removed the side stairs and section of porch which accessed the 2nd floor.

Mr. Weyenberg asked if they removed some side stairs would that be grandfathered.

Mr. Nugent stated yes, but the overhang is larger than the stairs.

Ms. Vorias stated it will give it more definition.

Mr. Denison agreed.

Ms. Higgins agreed.

Mr. Weyenberg agreed.

Mr. Evans agreed.

Chairman DeLeo agreed.

With regards to part 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 the appellant stated all requests are conforming to the covenants of the street as well as the neighborhood. The building is currently 23 feet from the front lot line. So adequate stairs cannot meet setbacks. The garage extension is necessary as the garage is very narrow and storage is needed. The roof overhang eliminates moisture issues.

Mr. Denison agreed.

Ms. Higgins agreed.

Mr. Weyenberg agreed.

Mr. Evans agreed.

Chairman DeLeo agreed.

With regards to part 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

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<p>expansion, enlargement or new structures in conformance with the currently applicable yard size or lot coverage requirements the appellant stated all requests are reasonable as we are eliminating a blighted building and creating a beautiful and attractive home. The current building is just conforming to setbacks and needed improvements require this miscellaneous appeal for yard reduction.</p> <p>Mr. Denison agreed. Mr. Weyenberg agreed. Ms. Higgins agreed. Mr. Evans agreed. Chairman DeLeo agreed.</p> <p>With regards to part D. The impacts and effects of the enlargement, expansion or new principal building or structure on the 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 the appellant stated the remodeled home will fit very well within the fabric of the neighborhood. All requested reductions are minor in nature.</p> <p>Mr. Denison agreed. Ms. Higgins agreed. Mr. Weyenberg agreed. Mr. Evans agreed. Chairman DeLeo agreed.</p> <p>Ms. Higgins moved to permit the adjustment of the right side and front yard setbacks for the construction of a front porch and stairs, a garage addition, and a roof overhang. Mr. Weyenberg seconded. <i>Motion is unanimous</i></p>	<p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p>
<p><u>ITEM 4: Variance:</u> Paul Meade, owner of 23 Wintergreen Avenue, MBL 205-8-7, in the R-2 zone to permit the adjustment of the rear and right side setbacks to extend existing deck and add stairs. John Clark is representing the owner.</p> <p>John Clark, representing owner. Mr. Clark Ms. Higgins asked if Mr. Clark would show her what they were asking to do on the plan. Mr. Clark explained on the plot plan that was submitted. He stated the deck is on a banking and the deck is built on the banking. Mr. Mead wishes to extend the deck the entire length of the back of the home. You cannot see the deck from the road. Ms. Higgins asked if any abutters came in to object. Mr. Nugent stated no one came in to object. An abutter came in and check with us, but it was positive. Mr. Clark stated there were some trees cut down by the abutter house. Public hearing closed at 7:50 p.m.</p> <p>Chairman DeLeo read criteria number one. With regards to section A. The land in question <u>cannot</u> yield a reasonable return unless the variance is granted the appellant stated the deck and staircase are not safe. I would like to expand the deck across the rear of the house for easier access and convenience.</p> <p>Ms. Higgins disagreed.</p>	<p style="text-align: center;"><u>Item 4: Paul Meade, 23 Wintergreen Avenue MBL 205-8-7</u></p>

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<p>Mr. Denison agreed. Mr. Evans agreed. Mr. Weyenberg agreed. Chairman DeLeo disagreed.</p> <p>With regards to part 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 need to add stairs for easy access and banister for safety.</p> <p>Mr. Denison agreed. Mr. Evans agreed. Mr. Weyenberg agreed. Ms. Higgins agreed. Chairman DeLeo agreed, but he does not really think the answer justifies the question.</p> <p>With regards to part C. The granting of a variance will not alter the essential character of the locality the appellant stated to expand the deck across the back of the house will make it much more convenient and user friendly.</p> <p>Mr. Denison agreed. Mr. Evans agreed. Mr. Weyenberg agreed. Ms. Higgins agreed. Chairman DeLeo agreed.</p> <p>With regards to part D. The hardship is not the result of action taken by the appellant or a prior owner the appellant stated the deck was like this when I bought the house and went to clean it up. He would like to expand across the rear of the house and make it safe.</p> <p>Mr. Denison agreed. Mr. Evans agreed. Mr. Weyenberg agreed. Ms. Higgins agreed. Chairman DeLeo agreed.</p> <p>Mr. Denison moved to permit the adjustment of the rear and right side setbacks to extend existing deck and stairs. Mr. Weyenberg seconded</p> <p><i>Motion passed unanimously</i></p>	<p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p>
<p>GOOD & WELFARE</p>	<p style="text-align: center;">Good & Welfare</p>
<p><u>ITEM 6: Approval of Minutes:</u> September 28, 2009 Mr. Weyenberg moved to approve the minutes from September 28, 2009 with changes made to page 2. Mr. Evans seconded.</p>	<p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p>

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<i>Motion passed unanimously</i> Ms. Higgins moved to adjourn. Mr. Denison seconded. <i>Motion passed unanimously</i>	Motion Vote
Meeting adjourned 8:00 pm	Adjournment

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 seven (7) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting on October 26, 2009