TOWN OF OLD ORCHARD BEACH ZONING BOARD OF APPEALS MEETING MINUTES December 29, 2008

Call to Order at 7:04 pm	Call to Order
Pledge to the Flag	
Roll Call: Mr. Ray DeLeo, Mr. Phillip Weyenberg, Mr. Howard Evans, Mr. Phillip Denison, and Ms. Tianna Higgins Staff: Mike Nugent Code Enforcement Officer, Tori Geaumont ZBA Clerk	
ITEM 1: Miscellaneous Appeal: Mark Lippa, Owner of Unit 6 at 22 Oceana Ave., MBL 321-19-2 in the R-3 Zone, to permit the adjustment of the rear yard setback to allow the construction of a code compliant stairway. Owner is the appellant.	ITEM 1: Miscellaneous Appeal: Mark Lippa, Unit 6 at 22 Oceana Ave., MBL 321-19-2 R-3 Zone
Remained on table, Awaiting accurate plot plan	
ITEM 2: Miscellaneous Appeal: John Dixon, Owner of 12 Highland Ave., MBL 312-3-4 in the R-2 Zone, to permit the adjustment of the front yard setback to allow the construction of a code compliant stairway.	ITEM 2: Miscellaneous Appeal: John Dixon, 12 Highland Ave. MBL 312-3-4 R- 2 Zone
Chairman DeLeo read the appeal.	
 Mr. Dixon explained the house had been raised 7 feet. Mr. Denison questioned why the stairs needed to be moved. Mr. DeLeo questioned how much different the footprint would be. Mr. Dixon stated the footprint had not changed. He stated the stairs were initially in a "goofy" shape. He stated the stairs had not changed except for the height. Mr. Weyenberg questioned the reason why the stairs were coming out from the house. Mr. Dixon stated he did not wish for water to drip down on the stairs and cause another hazard. 	
Chairman DeLeo called for Abutters or correspondence. No abutters were present. Mr. Nugent stated he had not had any correspondence.	
Chairman Evans questioned if the stairs were the minimum required by code and asked Mr. Nugent for clarification. Mr. Nugent stated they were to code and only 36 inches of the stair was within the setback, the minimum width required by the building code.	
Chairman DeLeo read the 2 criteria of approval for a Misc. Appeal for a non conforming means of egress	

TOWN OF OLD ORCHARD BEACH **ZONING BOARD OF APPEALS MEETING MINUTES**

December 29, 2008

The Board agreed the new setback encroachment was within the limitations of the Miscellaneous Appeal criteria. The Board also agreed that the stairs could not be relocated to a conforming location due to the building use and location on the lot. Ms. Higgins moved to approve front yard set-back to build code	Motion
agreed that the stairs could not be relocated to a conforming location due to the building use and location on the lot. Ms. Higgins moved to approve front yard set-back to build code	
due to the building use and location on the lot. Ms. Higgins moved to approve front yard set-back to build code	
Ms. Higgins moved to approve front yard set-back to build code	
••	
compliant stairway as outlined in packet.	Vote
Mr. Weyenberg seconded the Motion	
Motion carries 4-1 with Mr. Denison in opposition	
ITEM 3: Variance Appeal: JADD LLC, owners of 7 Saunders Ave.,	<u>ITEM 3:</u>
MBL 303-2-6 in the BRD Zone to permit the adjustment of the minimum	Variance
lot size, density, lot coverage and rear setbacks to allow a division of the	Appeal:
vacant parcels on Scollard Rd. from the developed parcel on Saunders St.	JADD LLC,
Diane and Don Lemanager represent JADD LLC.	7 Saunders Ave.,
	MBL 303-2-6
	BRD Zone
Ms. Higgins moved to table without prejudice.	
Trist ringgins into rea to table without projudice.	Motion
Mr. Donigon accorded the Mation	Monon
Mr. Denison seconded the Motion.	T 7 4
	Vote
Motion passes unanimously	
	<u> ITEM 4:</u>
	Miscellaneous
ITEM 4: Miscellaneous Appeal: Dana & Angela Christensen, owners of 26 Birch Lane, MBL 106-5-28, in the R1 Zoning district to permit the adjustment of the front yard setbacks to allow the construction of a 24' x 24' garage. Owner is the appellant.	Appeal: Dana & Angela Christensen, 26 Birch Lane,
24 garage. Owner is the appenant.	MBL 106-5-28 R-1 Zone
Chairman DeLeo read the appeal.	
Mike Lytle, the owner's husband, explained they wanted to build a two-car garage and to fix some initial problems with the building.	
Mr. Nugent explained the permit was issued to Maine Wide construction who then subcontracted the foundation work to a local contractor. The local contractor did not call for the required setback	
inspection prior to pouring the footing initially and also did not get a backfill inspection. The contractor stated he had spoken to Alan Borg about pinning the footing to the ledge and thought he had	
approval to go ahead and do it without inspection. Mr. Nugent explained that he drove by the project after not hearing from the	
contractor for inspection and found the work done without inspection. He then issued a stop-work order.	
Mr. Denison asked if the building would be out of character with the rest of the neighborhood.	

TOWN OF OLD ORCHARD BEACH ZONING BOARD OF APPEALS MEETING MINUTES

December 29, 2008

Mr. Nugent stated the other houses in the neighborhood are similar, and the structure would be in character with the other homes.

Mr. Weyenberg asked for explanation of some of the set-up dimensions on the plot plan. Mr. Nugent and Mr. Christensen explained which dimensions were correct.

Mr. Weyenberg then asked if the problem was fixed without the variance would the structure we sound.

Mr. Nugent stated the there is a frostwall and footing, not just a slab and that cutting this and relocating it to the the correct dimensions would make the structure unsound.

Mr. Denison asked if the building was currently structurally sound.

Mr. Nugent stated there was no way to know, as there were no inspections done during the work process. He then stated that the town would not be liable if there were problems with the structure thus far, as there were no inspections arranged by the builder or owner.

Mr. Weyenberg then questioned if the contractor would be responsible for the changes in the foundation.

Mr. Nugent explained that most of the time contractors will pass on the expense of change to the homeowner. He then stated that the particular contractor had done this in other instances in other towns.

Chairman DeLeo called for Abutters and any correspondence.

No Abutters were present. Mr. Nugent had not received any correspondence.

Chairman DeLeo read the 4 criteria for a Limited Yard Reduction approval:

With regard to the first criteria, **Mr. Nugent** stated the house was build in 1992, prior to the 1998 date specified in the Ordinance. The Board agreed that many of the homes had garages in this area positioned similarly and that the request was reasonably necessary for the owners to use their property in a similar nature. The also agreed that due to the configuration of the lot and zoning restrictions, there are not other options that would comply with the Ordinance.

The Board also agreed that the pattern of development in the area includes garages on the Street side of the properties and that the

Motion

Vote

TOWN OF OLD ORCHARD BEACH **ZONING BOARD OF APPEALS MEETING MINUTES**

December 29, 2008

impact of this project would not be substantially different from conforming buildings.	
Mr. DeLeo questioned if the existing house is being changed. Mr. Christensen stated it is not.	
Mr. Weyenberg motioned to approve. Ms. Higgins seconded the Motion.	
Motion passes unanimously	
ITEM 5: Approval of Minutes: October 27, 2008 and November 24, 2008	ITEM 5 Approval On October and November 2008 Minutes
October 27, 2008 Minutes	
Mr. Denison motioned to approve the minutes. Ms. Higgins seconded the motion.	Motion
Motion passes unanimously	Vote
November 24, 2008 Minutes	
Mr. Evans motioned to approve the minutes. Mr. Weyenberg seconded the motion.	Motion Vote
Motion passes unanimously	
GOOD & WELFARE	
Mr. Nugent questioned if Monday nights were still good. Everyone	
stated yes that was fine. The only meeting which conflicted was on	
Memorial Day, 05/25/09. Discussion about what to do. Mr. Nugent stated we would put the memorial day meeting as "to be announced", and we will take care of it in April.	
Mr. Nugent talked about the need to have new members sworn in.	
Mike stated that he would get confirmation and if people needed to see Kim that he would let them know.	
Meeting adjourned at 7:37 pm	Adjournment
Segument Secretary to the Zoning Roard of Appeals of the Town of Ol	ld Orchard Roach

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 December 29, 2008.