

**TOWN OF OLD ORCHARD BEACH**  
**ZONING BOARD OF APPEALS MEETING MINUTES OCTOBER 24, 2011**

<p><b>Call to Order at 7:02 pm</b></p>	<p style="text-align: center;"><b>Call to Order</b></p>
<p><b>Pledge to the Flag</b></p>	
<p><b>Roll Call:</b> Present: Owen Stoddard, Ron Regis, Ray Leleo, Tianna Higgins, Mark Lindquist.  Philip Denison Philip Weyenberg, were excused.  <b>Staff:</b> Mike Nugent, Code Enforcement Officer</p>	
<p><b><u>ITEM 1: Variance:</u> David and Marjorie Swyers, owners 3 Maplewood Ave., MBL 311-9-9 in the R2 Zone, to permit the adjustment of the front and side setbacks and lot coverage to add 5' to the front porch. Owner is the appellant.</b></p> <p>Mike Nugent states to the Zoning Board that the owners could not make it tonight because of a mix up with the wrong abutters being notified. Clerical error made by our staff. The owners are from Maryland and could not make it tonight so they asked if the Board could hear this with them being absent. Agreed.</p> <p>Mr. Leleo reads off the four criteria of hardship:</p> <p style="padding-left: 40px;"><b>A. The land in question <u>cannot</u> yield a reasonable return unless the variance is granted. Mr. Regis and Mr. Leleo felt that the land cannot yield a reasonable use without this variance. Mr. Stoddard agreed with the applicant.</b></p> <p>RESPONSE: At present, the ground is flooded with standing water and cannot use the seating unless it is elevated somewhat off of the ground.  Mrs. Higgins: Is this to their benefit?  Mr. Nugent: Yes. There are no deficiencies to his knowledge.</p> <p>Stoddard – Approved  Regis – Approved  Higgins – Approved  Lindquist – Approved  Leleo – Approved</p> <p style="padding-left: 40px;"><b>B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.</b></p> <p>RESPONSE: The plot of the property in question is lower than the neighbors storm drain, so water stands rather than draining off.</p> <p>Stoddard – Approved  Regis – Approved  Higgins – Approved  Lindquist – Approved  Leleo - Approved</p> <p style="padding-left: 40px;"><b>C. The granting of a variance will not alter the essential character of the locality.</b></p> <p>Stoddard – Approved  Regis – Approved  Higgins – Approved  Lindquist – Approved  Leleo - Approved</p>	<p style="text-align: center;"><b><u>ITEM 1:</u></b>  <b><u>Variance:</u></b>  David and  Marjorie Swyers,  owners 3  Maplewood  Ave.,  MBL 311-9-9</p>

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<p style="text-align: center;"><b>D. The hardship is not the result of action taken by the appellant or a prior owner.</b></p> <p>RESPONSE: The problem is the result of the lay of the land.</p> <p>Stoddard – Approved Higgins – Approved Lindquist – Approved Leloe - Approved</p> <p>Mrs. Higgins makes a motion to approve the variance on 3 Maplewood Ave. MBL 311-9-9 in the R2 Zone, to permit the adjustment of the front and side setbacks and lot coverage to add 5' to the front porch. Seconded by Mr. Regis.</p> <p>Stoddard – Approved Regis – Approved Higgins – Approved Lindquist – Approved Leloe – Approved</p>	<p><b><u>Public Hearing</u></b></p> <p><b><u>Motion</u></b></p> <p><b><u>Vote</u></b></p> <p><b><u>Variance</u></b> <b><u>APPROVED</u></b> <b><u>(5-0)</u></b></p>
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**ITEM 2: Variance: J.Field Properties, owner of 5 Odena Ave., MBL 316-3-3, in the R3 Zone, to permit the adjustment of the front and rear setbacks and density to allow the demo and reconstruction of the existing single family dwelling and conversion to a two-family dwelling. Owner is the appellant. Carl A. Goodwin Inc. may be representing the owner.**

Adam Goodwin representing Jason and Jody Field stated that the reason we are here for the variances, is that they are extremely close to the right sideline. The property sits on what was originally two lots. They would like to renovate it and shift it away from the neighborhood a little bit. They are going to be tearing down the existing garage and utilizing the square footage in the new home.

Mrs. Higgins asked Mike if it being a two family home have any bearing on the subject.

Mr. Goodwin stated that he listed this was that the requirements on the lot are higher than what we have available.

There being no further public discussion. The meeting closed to the public at 7:14 pm.

Mike Nugent did have one question for Mr. Goodwin about off street parking.

Mr. Goodwin stated that there will be parking spaces on the right side of the house for at least 4 vehicles.

Mr. Leleo reads off the four criteria of hardship:

**A. The land in question cannot yield a reasonable return unless the variance is granted.**

RESPONSE: The merging of two Odena lots created the current 5 Odena Avenue. When the house was built it was situated close to the right sidelines. Request variance to reduce the right and rear yard setbacks to allow the house to be shifted away from 7 Odena Avenue. This would not just allow the house to be properly set on the lot but it would also increase curb appeal of 7 Odena Avenue.

Mrs. Higgins asked the question why a variance for a 2 family and not just a single family. Mr. Goodwin stated that they wanted their mother to live there, but would like their own space.

Stoddard – Approved

Regis – Approved

Higgins – Approved

Lindquist – Approved

Leloe - Approved

**B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.**

RESPONSE: Most of these properties are centered set on their lots when sited from the road. Due to this property being originally on 2 separate lots, it was set greatly to the right unlike the other lots and it is in close proximity to 7 Odena Avenue who is abutting side yard is minimal and non conforming.

Stoddard – Approved

Regis – Approved

Higgins – Approved

Lindquist – Approved

Leleo – Approved

**ITEM 2:  
Variance:**

J.Field

Properties, owner  
of 5 Odena Ave.,  
MBL 316-3-3

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**C. The granting of a variance will not alter the essential character of the locality.**

RESPONSE: The granting of the variance will not alter the essential character of the locality because the house, which this variance will allow to be built, will share a similar foot print to the existing house utilizing the square footage from the existing garage. The house will also have a similar gambrel style as existing house does and covered porch like the existing and many other neighboring homes.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo - Approved

**D. The hardship is not the result of action taken by the appellant or a prior owner.**

RESPONSE: The hardship at 5 Odena Avenue was created by this parcel originally being 2 separate lots causing the off set house placement. 5 Odena Avenue and 7 Odena Avenue share a sideline at both the houses offset at non conforming distances to the sideline. The approval of the variance would allow the close proximity of these houses to be corrected. Despite that we are asking that we are asking for the front and rear setbacks the proposed distances are much greater than the existing.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo - Approved

Mr. Regis made a motion to we approve the adjustments to the front and rear setbacks and to allow the demo and reconstruction of the existing single family home/conversion to a two family dwelling on 5 Odena Avenue MBL 316-3-3, in the R3 Zone. Seconded by Mr. Lindquist.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

**Public Hearing**

**Motion**

**Vote**

**Variance**  
**APPROVED**  
**(5-0)**

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**ITEM 3: Variance: Audrey Deloffi, owner of 45 Colby Ave., MBL 323-14-7, in the R3 & RA Zones, to permit the adjustment of the rear setback and lot coverage to allow an addition on the rear of the structure. Owner is the appellant. Carl A. Goodwin Inc. may be representing the owner.**

**ITEM 3:  
Variance:**  
Audrey Deloffi,  
owner of 45  
Colby Ave.,  
MBL 323-14-7

Mr. Adam Goodwin, representing the Deloffi's, introduced himself. Stating that there were 2 items in question. 1) The setbacks, miscellaneous appeal that's less than half the distance, and 2) the variances because it's over the lot percentages. They have an existing old house. It has an existing bump out at the back with a small kitchen and bathroom, looking to fill in the corner at the bump out to square it off. And allow them to put in a proper size kitchen.

Mr. Leleo asked Mike Nugent what the coverage is. Mr. Nugent stated that it was 40%. Currently it's at 54.9%. Ms. Audrey Deloffi introduced herself and underscored what Mr. Goodwin has said. She mentioned that this house was built in 1890 and has been a summer home since 1950.

There being no further questions, the public hearing closed at 7:25 p.m.

Mr. Leleo reads off the criteria of hardship:

**A. The land in question cannot yield a reasonable return unless the variance is granted.**

RESPONSE: The existing house has a tight minimal kitchen which may be tolerated for summer use but is not functional for year round use by full time residences. To make a larger kitchen in the existing footprint as required by the lot substandard size, we require a full renovation of the house to create proper balance. One living area is at extreme expense. It is more reasonable to add to the houses footprint and not have to spend considerably more due to the lot size.

Mrs. Higgins: Agrees with the standpoint of squaring off of the house, not the standpoint of expenses.

Stoddard – Approved

Regis – Approved

Lindquist – Approved

Leleo - Approved

**B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.**

RESPONSE: This house was built in 1890 utilizing a cape style with a large wrap around porch. The inefficient use of space causes the house to cover more of today's ordinances lot coverage's percentages. The owners have great effort to preserve a beautiful historic house. Granting this variance would allow the integrity and beauty of this history house to remain while allowing the installation of a proper kitchen. There being no further questions from the board, the vote was taken.

Stoddard – Approved

Regis – Approved

Higgins – Approved

Lindquist – Approved

Leleo - Approved

**C. The granting of a variance will no alter the essential character of the locality.**

RESPONSE: The granting of a variance will not alter the essential because the look of the house will remain intact. Though more of the lot may be utilized, it will not be noticeable by driving by. The addition does not encroach on any of the lot lines than it already does.

Stoddard – Approved

Regis – Approved

Higgins – Approved



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Leleo – Approve

Mrs. Higgins has a concern with the dimensions/garage location. Mr. Kerr The garage is setting back from the house.

**B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.**

RESPONSE: The need for a variance is due to the unique circumstances. I need a garage for wintertime to store my car. I have no storage including the absence of a cellar. Need to move the furnace into the garage. As well as the snow blower, lawnmower, generator, etc. The lack of any storage is unique given the area.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approve

**C. The granting of a variance will not alter the essential character of the locality.**

RESPONSE: It would not alter the character of the locality because it is the largest lot on the street 80'x 60' but setbacks prevent a decent size garage.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approve

**D. The hardship is not the result of action taken by the appellant or a prior owner.**

RESPONSE: The hardship is a lack of storage that has increased over the years. There is no basement, there is no place to store anything.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approve

A motion was made by Mr. Lindquist to permit the adjustment of the front, side and rear yard setbacks and lot coverage on 17 Seacliff Ave., MBL 315-7-1 in the R3 Zone for the addition of a garage. Seconded by Mr. Regis.

Mr. Nugent calls for a vote:

Stoddard – Yes  
Regis – Yes  
Higgins – Yes  
Lindquist – Yes  
Leleo – Yes

**Motion**

**Vote**

**Variance  
Approved  
(5-0)**

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<b><u>ITEM 5: Variance:</u> John Soucy, owner of 15 Third St., MBL 312-9-13 in the R2 Zone to permit the adjustment of the front setback and lot coverage to allow a proposed deck. Owner is the appellant.</b>	<b><u>ITEM 5: Variance:</u> John Soucy, owner of 15 Third St., MBL 312-9-13</b>
<p>John and Vicky Soucy introduced themselves and stated that they were here to ask for a 10' waiver for a proposed deck on 15 Third Street and that the configuration of the house definitely supports a deck.</p> <p>There being no questions from the audience. The public hearing closes at 7:37 pm. Mr. Deleo reads off the four criteria of hardship:</p> <p>Mr. Leleo reads off the four criteria of hardship:</p> <p style="padding-left: 40px;"><b>A. The land in question <u>cannot</u> yield a reasonable return unless the variance is granted.</b></p> <p>RESPONSE: Due to the configuration of this house, an L shaped design. A setback distance of 10' to the property line on 3<sup>rd</sup> Street is requested. This proposed deck will still be 5' less than the house itself from the property line.</p> <p>Stoddard – Approved Regis – Approved Higgins – Approved Lindquist – Approved Leleo – Approve</p> <p style="padding-left: 40px;"><b>B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.</b></p> <p>RESPONSE: The location of this proposed deck needs a setback distance along side 23 from Cedar Street. This deck will square this home, making it more appealing to the neighborhood.</p> <p>Stoddard – Approved Regis – Approved Higgins – Approved Lindquist – Approved Leleo – Approve</p> <p style="padding-left: 40px;"><b>C. The granting of a variance will not alter the essential character of the locality.</b></p> <p>RESPONSE: Due to the unique configuration of this home being set back from Cedar Street, the proposed deck will also ad a 3<sup>rd</sup> means of egress for emergencies.</p> <p>Stoddard – Approved Regis – Approved</p>	

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<p>Higgins – Approved Lindquist – Approved Leleo – Approve</p> <p style="text-align: center;"><b>D. The hardship is not the result of action taken by the appellant or a prior owner.</b></p> <p>RESPONSE: Allowing a 10’ variance would not be contrary to the public interest or a nuisance. It will look consistent with surrounding properties.</p> <p>Mr. Lindquist made a motion to permit the adjustment of the front setback and lot coverage on 15 Third St., MBL 312-9-13 in the R2 Zone to allow a proposed deck. Second by Mrs., Higgins.</p> <p>Mr. Nugent calls for a vote:</p> <p>Stoddard – Approved Regis – Approved Higgins – Approved Lindquist – Approved Leleo – Approved</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 style="text-align: center;"><b><u>Variance</u></b> <b><u>APPROVED</u></b> <b><u>(5-0)</u></b></p>
<p><b><u>ITEM 6: Variance:</u> Karen Anderson, Clare M. Anderson and Sarah J. Anderson, owners of 23 Massachusetts Ave., MBL 322-3-2 in the R3 Zone to permit the adjustment of the front and side setbacks and lot coverage to demo and replace the existing dwelling. Owner is the appellant.</b></p>	<p style="text-align: center;"><b><u>ITEM 6:</u></b> <b><u>Variance:</u></b> Karen Anderson, Clare M. Anderson and Sarah J. Anderson, owners of 23 Massachusetts Ave., MBL 322- 3-2</p>
<p>Matt Provincial (Architect) stated that the Anderson’s had asked to infill the area between the attached garage and house, but unfortunately let it lapse. To bring it up to energy code. Also the son is disabled, so they wanted to do a slab update. The increase is 146 square feet. 100’ between the garage and house, and 46’ at the rear deck.</p> <p>There being not further questions from the public. The public meeting closed at 7:46 pm.</p> <p>Mr. Leleo reads off the four criteria of hardship:</p> <p style="text-align: center;"><b>A. The land in question cannot yield a reasonable return unless the variance is granted.</b></p> <p>RESPONSE: The house is being rehabilitated for a disabled young man. We are asking to fill in the 5 x 20 space that exists between the current house foundation and garage foundation. This additional space along with the garage space will be renovated into a handicapped bathroom and expansion of a small bedroom. Without the space filled up the home would be difficult to make accessible for a motorized wheelchair, making it unsuitable for the owner and her son.</p> <p>Mrs. Higgins: Asked if the previous request was just for the infill, or the reconstruction of the whole house. Mr. Provincial: It was just for the infill was granted back then, but it just expired. Mrs. Higgins: She has a problem with the application is for one thing, and variance being requested</p>	

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<p>is for something completely different. They haven't redone the application to account for that. Mr. Nugent: We can table till the November meeting, so that they can redo their application and bring it up to date with the proposed plan as its evolved. Mrs. Higgins: Yes the application should reflect what they are asking.</p> <p>Mr. Regis made a motion to table this for the next meeting in November, seconded by Mrs. Higgins. So moved.</p> <p>Mr. Nugent calls for a vote:</p> <p>Stoddard – Yes Regis – Yes Higgins – Yes Lindquist – Yes Leleo – Yes</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 style="text-align: center;"><b><u>ITEM TABLED</u></b></p>
<p><b><u>ITEM 7: Variance: David M. Girard, Sr., on behalf of Levi Andrew LLC, owner of 2 Arbutus Ave., MBL 206-16-4 in the R1 Zone to permit the adjustment of the front, side and rear setbacks to construct an all-season room, to square off the left rear side of the structure. Owner is the appellant.</u></b></p>	<p style="text-align: center;"><b><u>ITEM 7:</u></b> <b><u>Variance:</u></b> David M. Girard, Sr., on behalf of Levi Andrew LLC, owner of 2 Arbutus Ave., MBL 206-16-4</p>
<p>David Girard, Sr. on behalf of Levi Andrew LLC, spoke to the board stating that they had already gotten approved for the application, but let the 6 month lapse, so they are re applying for the Zoning Board to re-approve this appeal and they would take the necessary steps within those 60 days. Mrs. Higgins: Asked if he would update the Board as to what they would like to do. Mr. Girard: On the abutters side of the property, they would like to build an all season room (approximately 12' x 33/34') On the front part, looking down the length of the lot, they are not expanding beyond the existing building lines but want to fill in an existing depth to make that an all season room also, and in the very back corner there is a 7 x 10 inverted L shape and they are just filling that out to the existing building lines. He stated that nothing has changed from the original request.</p> <p>Mr. Regis made a motion to reaffirm to permit the adjustment of the front, side and rear setbacks on 2 Arbutus Ave., MBL 206-16-4 in the R1 Zone to construct an all-season room, to square off the left rear side of the structure. Seconded by Mrs. Higgins.</p> <p>Mr. Nugent calls for a vote:</p> <p>Stoddard – Yes Regis – Yes Higgins – Yes Lindquist – Yes Leleo – Yes</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 style="text-align: center;"><b><u>Variance</u></b> <b><u>APPROVED</u></b> <b><u>(5-0)</u></b></p>

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**ITEM 8: Miscellaneous Appeal: Ray Doane, on behalf of Ralph A. and Bobbie-Jo Doane, owners of 21 Foote St., MBL 205-12-5 in the R2 Zone to permit the adjustment of the rear and side setbacks to allow the construction of a garage. Owner is the appellant**

Ray Doane representing his brother and his niece and we are proposing to build an attached garage with a loft onto the house.

No questions from the public. The public hearing closed at 7:58 pm.

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

RESPONSE: The existing buildings were erected prior to the date of adoption 1998.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

- 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.**

RESPONSE: We are requesting to build a garage on the property which is similar to the other properties in the area.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

- C: Due to the physical features of the lot an/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: We would not be able to build the size garage we want due to the current size requirements.

- 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 theyard size requirements.**

RESPONSE: The garage will have no impact or be substantially different from the others in the neighborhood.

Stoddard – Approved  
Regis – Approved

**ITEM 8:  
Miscellaneous  
Appeal:** Ray  
Doane, on behalf  
of Ralph A. and  
Bobbie-Jo  
Doane, owners of  
21 Foote St.,  
MBL 205-12-5

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<p>Higgins – Approved Lindquist – Approved Leleo – Approved</p> <p>Mrs. Higgins made a motion to permit the adjustment of the rear and side setbacks to allow the construction of a 24' x 26' garage at 21 Foote Street MBL 205-12-5 in the R2 Zone. Seconded by Mr. Regis.</p> <p>Mr. Nugent calls for a vote:</p> <p>Stoddard – Yes Regis – Yes Higgins – Yes Lindquist – Yes Leleo – Yes</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 style="text-align: center;"><b><u>Misc. Appeal</u></b> <b><u>APPROVED</u></b> <b><u>(5-0)</u></b></p>
<p><b><u>ITEM 9: Miscellaneous Appeal: Dorothy L. Spitzer, owner of 2B Seaview Ave., MBL 315-13-15 in the R2 Zone to permit the adjustment of the sideyard setback to allow the expansion of the kitchen in unit “B”. Owner is the appellant.</u></b></p> <p>Mrs. Spitzer spoke to the Board stating that she is asking for a miscellaneous appeal on Unit B 2 Seaview Avenue to expand it to 9' x 14' to allow a decent size kitchen. She is looking to make it a summer rental next year and as it stands now, there is no room to do that.</p> <p>Mrs. Higgins: This is going with the cabin and not the house? Mrs. Spitzer: Yes</p> <p>There being no questions from the public, the public meeting closed at 8:05 pm.</p> <p>Mr. Leleo reads off the four criteria of hardship:</p> <p style="padding-left: 40px;"><b>A. The existing buildings or structures on the lot 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 as a vacant non performing lot of record.</b></p> <p style="padding-left: 40px;">RESPONSE: The existing buildings were erected prior to the date of adoption 1998.</p> <p>Stoddard – Approved Regis – Approved Higgins – Approved Lindquist – Approved Leleo – Approved</p> <p style="padding-left: 40px;"><b>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.</b></p> <p style="padding-left: 40px;">RESPONSE: The kitchen is inadequate. Needs updating to be livable.</p> <p>Stoddard – Approved Regis – Approved Higgins – Approved Lindquist – Approved Leleo – Approved</p>	<p style="text-align: center;"><b><u>ITEM 9:</u></b> <b><u>Miscellaneous</u></b> <b><u>Appeal:</u></b> Dorothy L. Spitzer, owner of 2B Seaview Ave., MBL 315- 13-15</p>

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**C. Due to the physical features of the lot and/or location of existing structures on the lot, it would not be practical to construct a proposed expansion, enlargement or new structure in conformance with the currently applicable yard size or lot coverage requirements.**

RESPONSE: No place on the lot to expand.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

**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 improved expansion will greatly improve the value of the property, thereby improving the neighborhood.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

Motion

Vote

Mr. Lindquist made a motion to permit the adjustment of the side yard setback to allow the expansion of the kitchen in unit “B” on 2B Seaview Ave., MBL 315-13-15 in the R2 Zone. Seconded by Mr. Stoddard.

Misc. Appeal

APPROVED  
(5-0)

Mr. Nugent calls for a vote:

Stoddard – Yes  
Regis – Yes  
Higgins – Yes  
Lindquist – Yes  
Leleo – Yes

**ITEM 10: Variance: Billie Jean Ponzetti, owner of 5 Knoll Ave., MBL 204-1-2 in the R1 Zone to permit the adjustment of the front setback to allow the front overhang encroachment to stay on the building. Owner is the appellant.**

**ITEM 10:**  
**Variance: Billie**  
Jean Ponzetti,  
owner of 5 Knoll  
Ave., MBL 204-  
1-2

Mr. Charlie Webber, from Webber Realty was representing Mr. and Mrs. Ponzetti. He brought the Board up to date on this property. In 1999 Mr. and Mrs. Ponzetti did in fact construct a home at 5 Knoll Avenue. At that that time there was a front porch encroachment and that porch was made out of stone/cement. At that time Mr. Ponzetti had planned to come to the Planning Board to correct

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that defect and on August 4, 1999 he did receive a temporary occupancy permit until the next ZBA meeting which would have been August 30, 1999. Somewhere between the time of August 4<sup>th</sup> and August 30<sup>th</sup> of that year, Mr. Ponzetti decided to jackhammer that portion that was in violation and remove it to be in compliance with that front setback. On August 31, 1999 he did receive an occupancy permit. In 2007 the property did transfer solely to Billie Jean Ponzetti. Mrs. Ponzetti then asked Webber Realty to market the property in December and they secured a buyer. The Title Company ordered a Class D Mtg. inspection and at that point the determined that there may have been a violation of an overhang in the roof gutter area. Mrs. Ponzetti then hired BHZM to do a Class A instrument survey of which he thinks Mr. Nugent has a copy of. The survey did in fact show and encroachment on one side of the house. The new buyers Title Co. will not issue Title Insurance on the defect. The buyers and seller would like it corrected.

Mr. Nugent told the Board that because this property wasn't built before 1998, it doesn't qualify for miscellaneous appeal. And it was also mentioned that this was just for the overhang.

There being no abutters for or against this issue, the public hearing closed at 8:13 pm

Mrs. Higgins made a motion to permit the adjustment of the front setback to allow the front overhang encroachment to stay on the building at 5 Knoll Ave., MBL 204-1-2 in the R1 Zone. Seconded by Mr.Regis.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

**Public Hearing**

**Motion**

**Vote**

**Variance**  
**Approved**  
**(3-0)**

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**ITEM 11: Miscellaneous Appeal: Michael V. and Shirley A. Hamel, owners of 6 Pine Lane, MBL 206-5-4 in the R2 Zone to permit the adjustment of the sideyard setback to allow the construction of a deck. Owner is the appellant.**

Mrs. Shirley Hamel was present and informed the Board that her and her husband would like to replace an existing set of back stairs. There was a walk out basement on the 1<sup>st</sup> floor and having a 1<sup>st</sup> floor deck would be nice. There is egress from the second floor.

There being no abutters for or against, the public meeting closed at 8:15 pm.

Mr. Leleo reads off the four criteria of hardship:

**A: The existing buildings or structures on the lot 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 as a vacant nonconforming lot of record.**

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

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

RESPONSE: We would like a small back deck to enjoy the property. A deck similar to others in our neighborhood. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

**C: Due to the physical features of the lot and/or 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 requirements.**

RESPONSE: The lot is too small to comply with side requirements to comply with existing setbacks on the side. The depth would be only a couple of feet wide.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

**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**

**ITEM 11:  
Miscellaneous  
Appeal:**

Michael V. and  
Shirley A.  
Hamel, owners of  
6 Pine Lane,  
MBL 206-5-4

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<p style="text-align: center;"><b>or greater than the impacts and effects of the building or structure which conforms to the yard size requirements.</b></p> <p>Stoddard – Approved Regis – Approved Higgins – Approved Lindquist – Approved Leleo – Approved</p> <p>Mr. Lindquist made a motion to the adjustment of the side yard setback to allow the construction of a deck on 6 Pine Lane, MBL 206-5-4 in the R2 Zone. Seconded by Mrs. Higgins.</p> <p>Mr. Nugent calls for a vote:</p> <p>Stoddard – Yes Regis – Yes Higgins – Yes Lindquist – Yes Leleo – Yes</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 style="text-align: center;"><b><u>Misc. Appeal</u></b> <b><u>Approved</u></b> <b>(3-0)</b></p>
<p><b><u>ITEM 12: Variance:</u> Cierra Investments, contact person Jim Albert, owner of 215 Saco Ave., MBL 211-9-1 in the GB1 Zone to permit the adjustment of the rear yard setback to allow an 8 x 25-foot addition for the purpose of a kitchen expansion. Owner is the appellant.</b></p> <p>Owner Jim Albert proposed to construct a 200 sq. ft. addition to expand his kitchen operation to alleviate hardships currently faced with the kitchen. Mrs. Higgins: asked Mr. Albert if the proposed addition is in line with back bump out already: Mr. Albert: Yes Mrs. Higgins: So this is just lengthening the bump out: Mr. Albert: Correct.</p> <p>No one speaking for or against the appellant. Public meeting closed at 8:21 pm.</p> <p>Mr. Leleo reads off the four criteria of hardship:</p> <p style="padding-left: 40px;"><b>A. The land in question <u>cannot</u> yield a reasonable return unless the variance is granted.</b></p> <p>RESPONSE: Simply put, the location at 215 Saco Avenue is very busy and the current kitchen cannot always keep up with the demand. Allowing this variance would enable things to run more smoothly by adding the allotted space.</p> <p>Stoddard – Approved Regis – Approved Higgins – Approved Lindquist – Approved Leleo – Approved</p> <p style="padding-left: 40px;"><b>B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.</b></p>	<p><b><u>ITEM 12:</u></b> <b><u>Variance:</u></b> Cierra Investments, contact person Jim Albert, owner of 215 Saco Ave., MBL 211-9-1</p>

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RESPONSE: The proposed addition is a back alleyway of the current building and is separated from abutters by fencing, but will still be a 10' setback.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

**C. The granting of a variance will not alter the essential character of the locality.**

RESPONSE: This is located in a mixed use GB1 Zone with several buildings abutting residential and would not alter the character of the neighborhood.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

**D. The hardship is not the result of action taken by the appellant or a prior owner.**

RESPONSE: The business continues to grow and the kitchen can up with the volume. Our building was placed close to the lot line and our kitchen is already established. We have no other options.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

Mrs. Higgins made a motion to permit the adjustment of the rear yard setback to allow an 8 x 25-foot addition for the purpose of a kitchen expansion on 215 Saco Ave., MBL 211-9-1 in the GB1 Zone . Seconded by Mr. Regis.

Mr. Nugent calls for a vote:

Stoddard – Yes  
Regis – Yes  
Higgins – Yes  
Lindquist – Yes  
Leleo – Yes

Public Hearing

Motion

Vote

Variance  
APPROVED  
(5-0)

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**ITEM #13 Variance: Rita and Joseph Sinolpoli, owners of 176 East Grand Ave., MBL 302-7-10 in the BRD Zone to permit the adjustment of the front yard setback to allow an 8-inch x 8-foot overhang on front of existing home facing East Grand Ave. Owner is the appellant.**

Mr. Sinolpoli informed the Board that they are trying to match the existing the frontage of the overhang of the existing building with the addition. Need a variance of approximately 8' x 8'.

Mrs. Higgins: Asked Mr. Nugent if the Board has to approve the addition.

Mr. Nugent: No. The addition was fine.

Mr. Leleo reads off the four criteria of hardship:

**A. The land in question cannot yield a reasonable return unless the variance is granted.**

RESPONSE: The porch was deteriorating and it was becoming a hazard to properly construct the porch. The overhang had to match egress in solid construction area. Reasonable expectations and use, but setback disallowed this.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

**B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.**

RESPONSE: Need to match the front and existing home facia to match the new facia. The legally non-conforming building was placed too close many years ago.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

**C. The granting of a variance will not alter the essential character of the locality.**

RESPONSE: I am improving the appearance of the building.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

**D. The hardship is not the result of action taken by the appellant or a prior owner.**

RESPONSE: The building was built prior to the setback rules and the deterioration of the porch caused the need for the variance.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

**ITEM 13:**  
**Variance:**  
**Rita and Joseph**  
**Sinolpoli, owner**  
**of 215 Sace Ave.,**  
**MBL 211-9-1**

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Mr. Stoddard made a motion to permit the adjustment of the front yard setback on 176 East Grand Ave., MBL 302-7-10 in the BRD Zone to allow an 8-inch x 8-foot overhang on front of existing home facing East Grand Ave. Seconded by Mr. Regis.

Mr. Nugent calls for a vote.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved-  
Lindquist – Approved  
Leleo – Approved

**Public Hearing**

**Motion**

**Vote**

**Variance**  
**APPROVED**  
**(5-0)**

**ITEM 14: Variance: The Salvation Army, owners of 104 Union Ave., MBL 311-4-3 in the R2 Zone permitting the adjustment of the height limitations for a non-conforming sign to allow the new sign to be 9’6”, the existing sign is 8’8”. Cheryl Pouloupoulos is representing the appellant.**

Mrs. Pouloupoulos requested that they increase the sign by that height. It is lower on the base but higher.

Mrs. Higgins: Asked Mr. Nugent what are the requirements for a sign now?

Mr. Nugent: Read that the zoning ordinance in a commercial site will not exceed 8” in height. This is an old sign and they were going through the process and came to the board and got a variance.

No one speaking for or against the appellant. Public meeting closed at 8:34 pm.

Mr. Leleo reads off the four criteria of hardship:

**A. The land in question cannot yield a reasonable return unless the variance is granted.**

RESPONSE: The new design will make the logo more visible.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

**B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.**

RESPONSE: The body of the design will be 8” shorter than the existing sign and total square footage of the new sign will be less than the existing sign. The sign is in a location that does not affect the site line issues in the neighborhood or from the street.

**ITEM 14:**  
**Variance**  
**The Salvation**  
**Army, owners of**  
**104 Union Ave.**  
**MBL 311-4-3**

TOWN OF OLD ORCHARD BEACH  
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Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

**C. The granting of a variance will not alter the essential character of the locality.**

RESPONSE: The new design will enhance the esthetics of the neighborhood. The sign is in a location that does not affect sideline issues in the neighborhood or from the street.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

**D. The hardship is not the result of action taken by the appellant or a prior owner.**

RESPONSE: The new design meets the needs to advertise in a more contemporary fashion with the brand of the Salvation Army and the Seaside Pavilion. The Seaside Pavilion being more visible.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

Changed tapes.... \_\_\_\_\_

Mr. Regis moved to permit the adjustment of the height limitations for a non-conforming sign to allow the new sign to be 9'6", the existing sign is 8'8". Seconded by Mr. Leleo.

**Public Hearing**

**Motion**

**Vote**

**Variance**  
**APPROVED**  
**(5-0)**

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**ITEM 15: Miscellaneous Appeal: Wendell T and Kathleen H Wade, owners of 49 Massachusetts Ave., MBL 322-4-7 in the R3 Zone to permit the adjustment of the rear setback to allow a porch expansion. Owner is the appellant.**

**ITEM 15:**  
**Misc. Appeal**  
**Wendell T. and**  
**Kathleen H.**  
**Wade, owners of**  
**49 Massachusetts**  
**Ave.**  
**MBL 322-4-7**

Mrs. Wade explained that they already have a porch in the back, they just wanted to square it off to allow the expansion of the back porch to their property.

Mrs. Higgins: It's going the length of the garage?

Mrs. Wade: Yes. It won't be any closer to the property line than what we already have.

No one speaking for or against the appellant. Public meeting closed at 8:38 pm.

Mr. Leleo reads off the four criteria of hardship:

- A. The existing buildings or structures on the lot which the limited reduction of the 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: The existing buildings were constructed in 1996.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

- B: The requested reduction is reasonably necessary to permit the owner or occupant of the property in essentially the same manner as other similar properties are utilized in the zoning district.**

RESPONSE: Current porch is very narrow, 7 ½ ' wide. This expansion will allow us to \_\_\_\_\_ the porch.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

- 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.**

RESPONSE: Current structure and location on the lot limit the expansion opportunities. Only seeking a modest expansion of the current structure.

Stoddard – Approved  
Regis – Approved  
Higgins – Approved  
Lindquist – Approved  
Leleo – Approved

- 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 the building or structure which conforms with the yard size requirements.**

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<p>RESPONSE: Ocean Park has very small lots and options are very limited. This expansion will allow us to better utilize the existing residence. We do not believe that this proposal expansion is substantially different from other Ocean Park owners.</p> <p>Stoddard – Approved Regis – Approved Higgins – Approved Lindquist – Approved Leleo – Approved</p> <p>Mr. Lindquist made a motion to permit the adjustment of the rear setback to allow a porch expansion on 49 Massachusetts Ave., MBL 322-4-7 in the R3 Zone. Seconded by Mrs. Higgins.</p> <p>Mr. Nugent calls for a vote:</p> <p>Stoddard – Yes Regis – Yes Higgins – Yes Lindquist – Yes Leleo – Yes</p> <p>Mr. Regis made a motion to accept the September 26, 2011 meeting minutes. Seconded by Mr. Stoddard.</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 style="text-align: center;"><b><u>Misc. Appeal</u></b> <b><u>APPROVED</u></b> <b><u>(3-0)</u></b></p>
<p><b>GOOD &amp; WELFARE</b></p> <p>Wished Mike Nugent good luck with his new endeavor. There was a fire at Steak and Rib Restaurant in Saco. Central Park fire on the second floor. West Grand Avenue is putting a deck on the roof. It is just fake. The Code Officer taking Mr. Nugent’s place has experience in Code.</p>	<p style="text-align: center;"><b>Good &amp; Welfare</b></p>
<p>Mrs. Higgins moved to adjourn, seconded by Zoning Board Member. Unanimous approval</p>	<p style="text-align: center;"><b>Adjourned at 8:57 p.m.</b></p>

*I, Mike Nugent, Code Officer and Valdine Helstrom, Secretary to the Zoning Board of Appeals of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of twenty two (22) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting held on October 24, 2011.*



*Ray DeLeo  
Chairman  
Zoning Board Of Appeals*