

**THE TOWN OF OLD ORCHARD BEACH,
ZONING BOARD OF APPEALS
Tuesday, July 25, 2022, IN THE TOWN
COUNCIL CHAMBERS @6:30 p.m.
MEETING MINUTES**

Call to Order: The meeting was called to order at 6:30 pm.

Roll Call:

Present: Chair, Ron Regis
Ethan Scott
Stan DeFreese
Irvin Paradis

Absent: Thomas Mourmouras
Brian Perro

Staff: Dimitri Beaumann

Pledge to Flag

Chair Ron Regis read the criteria for an appeal.

Item 1

Proposal: Miscellaneous Appeal-Reduction of Front yard to 10', left side yard to 12.7", right side to 7.50", rear yard to 10' to allow for removal of existing non-conforming structure to replace with new structure to become more conforming to today's zoning requirements.

Owner: Michele Lacroix & Julie Pierre

Applicant: Northeast Civil Solutions-Jim Fisher

Location: 1 Tripoli Ave; MBL 319-8-1

Zone: R-3/ RA/ Back Dune

Jim Bernard, doing business as Jim Bernard Custom Homes introduced himself to the Board. He has been working with the applicants for a couple of years in regards to the upcoming flood plain rules and elevations. Their parents have owned the property since 1963. This property is very non-conforming. They had met with the Old Orchard Beach staff to go over the issues, and it was suggested that they go thru the process of a Miscellaneous Appeal. They worked to expand the building into the back dunes not in a frontal dune. This is not in a Shore land Zone. They created a garage space below the home to alleviate off street parking and moved the building back so that it's on a straight plain with the road to give it the best advantage for the setbacks. There will be no mechanicals on the first level. The basement area will be basically a garage and storage area. They are basically trying to square up the envelope so that they can build something. They will be doing less impervious area and less lot coverage. This is currently recognized as a 2 family. They have not heard back from DEP as of yet.

There was no one speaking for the appellant.

Dennis Libby introduced himself. He lives in Gorham and his mother in law lives on 3 Tripoli St. which is the adjacent house to the project in question. He had spoken with the applicant and stated that he would be honoring the view that he has at the house. But with the proposal that the appellant is currently suggesting, there would be virtually none. He asks the Board Members to have the applicants reconfigure the plans on the current proposal.

Estelle Margarones, 6 Tripoli Ave introduced herself. She built second floor just a year ago and was excited that she could finally see the ocean. With the proposed setback being changed, she will not have the view that she once had. She asks that the Board Members have the applicants reconfigure the plans on the current proposal.

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: The existing cottage was originally constructed in 1889 and was added onto over the ensuing decades to 1923. Both the existing cottage and the lot on which it sits were created prior to the enactment of the Old Orchard Beach zoning ordinance.

Chair Ron Regis - Agree

Stan DeFreese - Disagree

Ethan Scott – Agree

Irvin Paradis – Agree

Thomas Mourmouras – 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 old (existing) cottage will be replaced by a new structure that will serve the same purpose as the current cottage. The existing structure does not conform to current zoning setbacks or percentage of lot coverage. The proposed structure will be less non-conforming on the lot and will conform to current building codes. The new structure will rectify the substandard construction used to build the old cottage and will allow the owners to enjoy the property in the same manner as other property owners in the immediate neighborhood and zoning district.

Chair Ron Regis - Disagree

Stan DeFreese - Disagree

Ethan Scott – Agree

Irvin Paradis – Agree

Thomas Mourmouras - Disagree

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 4364 sf lot is fairly small, albeit grandfathered, and the building envelope is extremely small at 830 sf. The existing cottage footprint is more than twice that size, and the new structure will have a smaller footprint and have a smaller percentage of lot coverage. There is no proposed expansion or enlargement of the current structure's footprint. The limited reduction is needed to have the proposed new house fit logically and practically on the parcel.

Chair Ron Regis - Disagree
Stan DeFreese - Disagree
Ethan Scott – Disagree
Irvin Paradis – Agree
Thomas Mourmouras - Disagree

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: Given that the square footage of the proposed new structure will be smaller than the sprawling footprint of the current cottage, and it is to be used in the exact same manner as the current structure (and be completely building code compliant) it will not impact or negatively affect the neighborhood in any way than a house that conforms to regular yard size requirements. The current building envelope, holding current required setbacks for this zone, is significantly undersize to legitimately support a new 2-family structure.

Chair Ron Regis - Disagree
Stan DeFreese - Disagree
Ethan Scott – Disagree
Irvin Paradis – Agree
Thomas Mourmouras - Disagree

MOTION: Stan DeFreese made a motion to deny this Miscellaneous Appeal, seconded by Thomas Mourmouras.

VOTE:

Chair Ron Regis - Disagree
Stan DeFreese - Disagree
Ethan Scott – Disagree
Irvin Paradis – Agree
Thomas Mourmouras - Disagree

DENIED:

(4-1)

Item 2

Proposal: Variance Appeal-Existing lot of record that is currently not buildable based on space & bulk requirements of R-2 Zone

Owner: Debra Girard

Applicant: Owner

Location: 43 Grove Ave; MBL 206-15-1

Zone: R-2

Debra Girard from 43 Grove Ave introduced herself to the Board Members. She states that the home has been in the family for a very long time. They would like to build a one story 3 bedroom house on the property. This would be a year round home.

Ms. Girard also stated that she thought that her Realtor would be here tonight.

Board Member Ethan Scott stated that he needs to recuse himself from this item as he is an abutter.

Board Member Irvin Paradis mentioned that there are some discrepancies in this Variance Application. It says that the building will be 28' wide. That will supposedly be on a lot of 40' wide. In addition to the house there will be a front porch that is 5' and 2 steps which will be another 2'. And on the rear they are proposing a deck of 10'. It adds up to around 45' and it does not fit on this lot.

The other diagram plan that they have has the deck on the side of the building and there is no front porch.

There was no one speaking for the appellant.

Brigitte Leask who lives at 2 Idlewild Avenue, she is an abutter to this property. She stated that it is quite a concern to her to have a house built on such a small piece of property. This property is 140' wide and 40' deep. This is not fair to the other residents. This will definitely decrease the value of her home.

Rebecca Miller from 11 Girard Avenue introduced herself. She is concerned about the utilities as well as the lot being too small. That part of Grove Street is very narrow, especially in the winter months. She was concerned with this impacting her taxes.

Brian Leask who lives on 10 Idlewild Ave. introduced himself. This piece of land is a very narrow strip. This by the zoning code is unbuildable. Zoning requirements exist for a reason. Building on this lot is not beneficial to the neighborhood. He doesn't think that it belongs there.

Denise Hutchinson, who lives at 1 Idlewild Avenue introduced herself. She is worried that this project will decrease the value of the neighborhood.

Norman Weimet who lives across the street from the proposed property, and he is not for this

project to move forward. This does not conform at all.

Diane Fritzel owns the property at 14 White Pine Ave. introduced herself. Parking will block the view which is a safety issue for people who walk the neighborhood. Her other concern is that the home may turn into an Airbnb noise level problem.

Owner Debra Girard, stated that the Girard Plumbing & Heating business is in the process of closing so there will be no more trucks or cars parking so that is not an issue anymore.

She also states that there are many homes with the same amount of land that she has.

Letter from concerned citizen:

July 22, 2022

Richard Annese

10 Estey Rd

Billerica Ma. 01862

Re: 1 Tripoli Ave

To Board Of Appeals

To whom it may concern:

My name is Richard Annese,

I own 24 Tunis Ave and I directly abut the property at 1 Tripoli Ave, This letter is to inform the board that I have no problem with the proposed setbacks as noted on the plan and hope that the board can vote to approve the new setbacks for the applicant. A new dwelling at the proposed setback would not be detrimental to the area and be more appealing for the neighborhood also the new home would be more compliant with todays building and energy codes.

Sincerety



Richard Annese

JUSTIFICATION OF VARIANCE: In order for a variance to be granted, the appellant must demonstrate to the Board of Appeals that the strict application of the terms of the Zoning Ordinance would cause undue hardship. There are four criteria, ALL of which must be met before the Board can find that a hardship exists. Please explain how your situation meets each of these criteria listed below:

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

Applicant's response: The lot of records value is greatly reduced by the restrictions imposed through R-2 Zone space and bulk requirements. As a lot of record, consideration should be given to allow a structure in line with permitted use to be built.

Chair Ron Regis - Disagree
Stan DeFreese - Disagree
Irvin Paradis – Disagree
Thomas Mourmouras - Agree

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

Applicant’s response: Request for this Variance is clearly due to the unique circumstance of the property. Similar parcel has a single family home on it. 37 Grove Ave (206-13-1). Also, 18 Grove Ave (206-25-4) D-2 structures. Also, 10 Grove Ave. (206-25-7) many other examples.

Chair Ron Regis - Disagree
Stan DeFreese - Disagree
Irvin Paradis – Disagree
Ethan Scott – Abstained
Thomas Mourmouras - Disagree

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

Applicant’s response: Request to allow variance to allow a single family structure will not allow the character of the residential neighborhood.

Chair Ron Regis - Disagree
Stan DeFreese - Disagree
Irvin Paradis – Disagree
Ethan Scott – Abstained
Thomas Mourmouras - Disagree

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

Applicant’s response: Vacant Land – Lot of Record.

Chair Ron Regis - Disagree
Stan DeFreese - Disagree
Irvin Paradis – Disagree
Ethan Scott – Abstained
Thomas Mourmouras - Agree

MOTION: Irvin Paradis made a motion that this item be postponed so that we can have a packet with a consistent set of plans that will sit on this lot. Irvin Paradis also recommended that they get a building survey done because the lot is so narrow.

No second, didn’t pass.

MOTION: Stan DeFreese made a motion to deny this Variance, seconded by Thomas Mourmouras.

VOTE:

Chair Ron Regis - Disagree
Stan DeFreese - Disagree
Ethan Scott – Abstained
Irvin Paradis – Disagree
Thomas Mourmouras – Disagree

DENIED:

(4-0-1)

Item 3

Acceptance of June 6, 2022 and July 5, 2022 meeting minutes

ZBA meeting minutes for June 6, 2022 were not available.

Thomas Mourmouras made a motion to approve the July 5, 2022 meeting minutes, seconded by Ethan Scott.

VOTE:

Chair Ron Regis - Abstain
Stan DeFreese - Abstain
Ethan Scott – Approve
Irvin Paradis – Abstain
Thomas Mourmouras – Approve

DENIED:

(3-0-2)

GOOD & WELFARE

ADJOURNMENT 6:58 PM

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 SEVEN (7) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting held on July 25, 2022..

