

**TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS
Monday, October 27, 2008**

<p>Roll Call: Mr. Ray DeLeo, Mr. Phillip Weyenberg, Mr. Howard Evans, Mr. Phillip Denison were present and Mike Nugent was present as Staff Support</p>	<p>Roll Call</p>
<p>ITEM 1: Tabled Variance: Peaches LLC, Owner of 88-90 Saco Avenue, MBL 206-9-7 in the GB-2 zone to permit the demolition of 5 cottages and replace 2 duplex condominiums. This request requires a variance in the density requirement. King Weinstein is representing the corporation, Owner is the appellant.</p>	<p>Item 1 Peaches LLC 88-90 Saco Ave. 206-9-7 GB2 Zone</p>
<p>Chairman DeLeo read the appeal.</p> <p>King Weinstein presented his request. Explained the former request that was not successful, and that he has reduced the number of units from 6 to 4 units in two buildings and has relocated the buildings to comply with setbacks. There will be adequate off street parking. The only required variance is from the density standard, which has changed from the time when the buildings were originally built and makes the existing situation non-conforming. Mr. Weinstein presented photos to the board. He indicated that the proposed development would be served by the sewer line on Saco Ave. He stated that the property would continue to have private trash removal. He indicated that the Biddeford/Saco Water Co.’s rep., Tom Carr advised that the Bower Lane water line has adequate capacity for this project without adversely affecting Bower Lane. There had been a customer on Bower that was experiencing some pressure deficiencies, but that was apparently from their own corroded lateral connection. Traffic will access the property from Saco Ave. There will be a gated emergency entrance on Bower Ln. at the request of the Fire Chief.</p> <p>Mr. Weyenberg asked if they were proposing two “duplexes”. The appellant advised that they were.</p> <p>There were no other questions from the Board.</p> <p>Mr. Weinstein advised that this proposal also will have Site Plan Review through the Planning Department if successful with the Variance Appeal.</p> <p>Chairman DeLeo called for Abutters.</p> <p>Mr. Michel Bourgault, 5 Bower Ln., addressed the Board. He stated that his biggest complaint was that the applicant will be increasing the traffic flow on Bower Ln. by 100%. He stated that he</p>	<p>Public Hearing</p>

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has two children who are just learning how to drive and that turning into Bower can be dangerous if there is a car exiting, especially with an inexperienced driver.

Mrs. Janice Bourgault, 5 Bower Ln., provided hand outs for the Board. She stated that she likes the idea of the property being improved, and that they are tired of looking at the cabins. She outlined her concerns. The street is so narrow that it doesn't allow for two way traffic; She expressed concerns about sewer and water capacity on Bower Ln.: She was wondering about snow removal/storage, dumpster location and parking. She is concerned about the density, and she stated that he purchased the property for \$330,000. in 2004 and has sold three units for a total of \$324,000. with the assessed value of the remaining units the property is worth \$614,000. The existing cottages are worth \$6,700 or about 1% of the property. She stated that he has rentals income from the unsold units at roughly \$900. per month.

She felt that the cottages had been vacant for more than 10 years.

Mr. Weyenberg asked the applicant if he was pursuing the water and sewer improvements with the Town. The applicant advises that they will bring in new lines for the project. He stated that he has confirmed that the water lines can handle the units and that the pressure issue for the Bower Ln. resident was do to corrosion on their personal line. Mr. DeLeo asked the applicant to elaborate on the traffic issue.

Mr. Weinstein advised that all traffic would enter from Saco Ave. and only a locked gated emergency entry would be on Bower Ln. at the request of the Fire Dept.

Mr. Weinstein also advised that they have eliminated all of the previously requested variances except the density, and that he has reduced that by two units. He advised that the prior density was 1000 sq.ft. per unit until the zoning changed to 5000 sq.ft. per unit. Further that it wasn't the applicant that created the non-conformity.

Mr. Weinstein asked Mike Nugent if this would require Planning Board approval for all of the technical standards.

Mike Nugent advised that Site plan review through the Planning Board is required where they will review traffic, drainage, sewer and water infrastructure capacity, snow storage, dumpster location, and parking.

Chairman DeLeo read the 4 criteria of approval for a Variance

The Board agreed that the land in question that formerly had 6 units yields no reasonable use without a variance. They also agreed that the need for the variance was due to the unique circumstances of the

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<p>No other abutters were present.</p> <p>Chairman DeLeo read the 4 criteria of approval for a Misc. Appeal</p> <p>The Board agreed that the 60 year old buildings on the lot were erected prior to the date specified for a limited yard reduction (2/3/98). They also agreed that the request is reasonably necessary for the applicant to enjoy their property similar to other properties in the zone. They agreed that it would not be practical to rebuild the building's entry in its current because the stairs encroach on Town property. The proposal eliminates all encroachments and the new entry is in the only practical location. Finally the Board agreed that the effects of the enlargement would not be substantially different from structures built in conformity with the yard size requirements.</p> <p>Mr. Evans moved to grant the appeal as presented</p> <p>Mr. Denison seconded the Motion</p> <p><i>Motion carries Unanimously</i></p>	<p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p>
<p><u>ITEM 3: Variance:</u> Patricia Salvucci., 65 Ocean Avenue, MBL 315-12-4 in the R-2 zone to permit the demolition of the building and replace with a new structure on approximately the existing footprint. This request requires a reduction in the front, side, rear yard setbacks and lot coverage. Owner is the appellant.</p>	<p style="text-align: center;">Item #3 Patricia Salvucci Tabled Variance 65 Ocean Avenue, 315-12-4 R-2 zone</p>
<p>Chairman DeLeo asked the appellant to explain the appeal.</p> <p>Leo Mullin, representing the owner, explained that granting of the Lot Coverage appeal would make it easier for the board to decide the tabled variance request.</p> <p>Mr. DeLeo stated that they would like to demo the existing house and detached garage and rebuild it similar to the original footprint, but eliminating stair encroachments and reducing some of the existing non-conformities, but also increasing the lot coverage.</p> <p>The Board had no further questions.</p> <p>Chairman DeLeo read the 4 criteria of approval for a Variance</p>	<p style="text-align: center;">Public Hearing</p>

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<p>Mr. Denison asked about the garage. Mr. Collins advised that it is to be demolished.</p> <p>Mike Nugent explained that the prior density at the time of purchase was 1000 sq.ft. per unit, now it is 5000 sq.ft. per unit.</p> <p>Chairman DeLeo called for abutters</p> <p>Robert Hebert from the Saunders Condos, spoke in favor of the variance</p> <p>Mr. DeLeo read letters from abutters Robert Nelson and Diane Purlin supporting the variance.</p> <p>No other abutters were present</p> <p>Chairman DeLeo read the 4 criteria of approval for a Variance.</p> <p>The applicant stated that when they bought the property in 1989, the Zoning allowed for the conversion from seasonal to year round, the applicant could not afford to do it then. Now the rules have changed, and they are not allowed to. The Board agreed. Regarding uniqueness, the applicant asserted that the property has sufficient parking, but lacks density and predates the code that raised the density. The Board agreed. The Board also agreed that the project would not alter the character of the locality. Finally, the applicant stated that the hardship was a result of codes being enacted after the buildings were built that placed the structures into nonconformity. The Board agreed.</p> <p>Mr. Weyenberg moved to approved the appeal as presented</p> <p>Mr. Denison seconded the Motion</p> <p><i>Motion carries Unanimously</i></p>	<p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p>
<p>ITEM 5: Miscellaneous Appeal: Kenneth & Corina Sargent, 6 Olympia Avenue, MBL 211-10-1 in the R-4 zone; to permit the expansion of the existing shed from 5' x 10' to 10'x 20' This request requires a reduction in the side and rear yard setbacks. Owner is the appelliant.</p>	<p style="text-align: center;">Item 5 Miscellaneous Appeal Kenneth & Corina Sargent, 6 Olympia Ave., MBL 211-10-1 R-4 Zone</p>

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Chairman DeLeo read the appeal.

Corina Sargent explained that they needed to expand their storage area in order store things that are currently in the yard, to make the property more attractive.

Mr. Denison stated that he noticed that the construction had commenced.

Ms. Sargent indicated that an eager family member had started the work, but ceased.

Mr. DeLeo asked what the existing structure next to the shed was.

Ms. Sargent indicated that it was a tall one-car garage.

Discussion ensued regarding the driveway location

Chairman DeLeo called for abutters.

No Abutters were present.

Chairman DeLeo read the 4 criteria of approval for a Misc. Appeal

The Board agreed that the 1974 garage on the lot was erected prior to the date specified for a limited yard reduction (2/3/98). They also agreed that the request for adequate storage and an uncluttered yard is reasonably necessary for the applicant to enjoy their property similar to other properties in the zone. They agreed that it would not be practical to build the addition due to the location of the existing garage. Finally the Board agreed that the effects of the enlargement would not be substantially different from structures built in conformity with the yard size requirements.

Mr. Evans moved to approved the appeal as presented

Mr. Denison seconded the Motion

Motion carries Unanimously

Motion

Vote

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<p>ITEM 6: Administrative Appeal: Jane Mount, 4 Boisvert St. , MBL 305-4-8 in the DD-2 zone; to review the denial of a permit to replace the existing two family home on the lot. Owner is the appellant.</p>	<p style="text-align: center;">Item #6 Administrative Appeal Jane Mount 4 Boisvert St. MBL 305-4-8 DD-2</p>
<p>Chairman DeLeo read the appeal.</p> <p>Shawn Douston, Douston Construction, was present representing the owners.</p> <p>Mike Nugent explained that while discussing the proposed renovation project, we were able to ascertain through the Assessor’s records that the change from a One family to a Two family happened in 1978 or 1979. There are no building permits in the Town offices for these two years for any properties. The applicants and staff searched all archives and could find nothing. Further the proposed change met the space and bulk requirements at that time and was a permitted use in the zone.</p> <p>The applicant would like to demolish the structure and replace it but staff cannot grant a permit for the two-family because it doesn’t comply with today’s density and the Town’s lack of permit records doesn’t give the reviewer a legal basis to grant the permit.</p> <p>Mike Nugent advised that there is a two family on the property and it is very old. The Town licensed the rental.</p> <p>Mr. DeLeo asked to clarify that it was an existing structure and around 1978 they changed it to a two family. Mike Nugent explained that according to the applicant the existing structure was converted and they added the rear porch for access when the use change occurred in 1978. According to the applicant Town staff inspected the building during the process and a rental license was issued. Mike Nugent advised that the applicants and staff searched the records for hours and none exist. Mr. Evans interjected that nevertheless, it’s there. Mike Nugent reiterated the difficulty with the 2001 density changes.</p> <p>Mr. Denison asked about the bump out on the right side of the building, expressing concern that it is very close to the lot line. The Builder indicated that it has been reduced by nearly two feet, and will use the square footage elsewhere in the new structure.</p> <p>Mr. DeLeo asked if he went back to 1978 and they were building this</p>	<p style="text-align: center;">Public Hearing</p>

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<p>building would we have given them a permit for a duplex under the rules at that time. Mike Nugent indicated that they would have.</p> <p>Discussion ensued regarding procedure.</p> <p>Mr. Weyenberg moved to Grant the Administrative Appeal as presented</p> <p>Mr. Evans seconded the Motion</p> <p><i>Motion carries Unanimously</i></p>	<p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p>
<p>ITEM 7: Variance: Jane Mount, 4 Boisvert St. , MBL 305-4-8 in the DD-2 zone; to permit the demolition of the building and replace with a new structure within the existing footprint and to winterize the structure. This request requires a reduction in the front, side, rear yard setbacks and lot coverage and density. Owner is the appellant.</p>	<p style="text-align: center;">ITEM 7: Variance Jane Mount, 4 Boisvert St. MBL 305-4-8 DD-2 zone;</p>
<p>Chairman DeLeo read the appeal.</p> <p>Shawn Douston, Douston Construction, was present representing the owners. Explained that the Mounts would like to demo the existing building and rebuild the structure w/ vertical expansion.</p> <p>Mr. Weyenberg asked if the structure would comply with the 35 foot height requirement. Mr. Douston indicated that it would apply.</p> <p>Mr. Deleo asked about the expansions to the footprint.</p> <p>Mr Douston replied that the plan included the reduction of the existing bump out on the left side and absorbing that square footage into a slight increase in overall building width to 22.1' for the first 20 linear feet of the structure, maintaining the right side setback at 14.2 feet and increasing the left side setback from 1' 8" to 3'6" . The right rear corner of the building will be squared off and the exterior porches and stairs will be absorbed into the footprint. The rear setback will be 7'8". Mr. Douston went over the plans with the Board.</p> <p>The building will be a year round two unit structure.</p> <p>Chairman DeLeo called for abutters</p> <p>Chairman DeLeo read the 4 criteria of approval for a Variance.</p>	

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<p>The applicant stated that the building envelope is so small on the lot that a replacement structure could not be placed on the lot and comply with setbacks. With regard to the seasonal to year round conversion, when they bought the property in 1977, the Zoning allowed for the conversion (density of 100 sq.ft. per unit) from seasonal to year round, the applicant has always intended to perform this conversion. Now the rules have changed and they are not allowed to. The Board agreed. Regarding uniqueness, the applicant stated that the lot is small and lacks frontage, more so than many of the other lots in the area. The Board agreed. The Board also agreed that the project would not alter the character of the locality. Finally, the applicant stated that the hardship was a result of codes being enacted after the buildings were built that placed the structures into nonconformity and will now not allow necessary replacement. The Board agreed.</p> <p>Mr. Denison moved to approved the appeal as presented</p> <p>Mr. Weyenberg seconded the Motion</p> <p><i>Motion carries Unanimously</i></p>	
<p>ITEM 1: APPROVAL OF MINUTES</p> <p>Mr. Denison moved to approve the minutes of the 9/29/08 ZBA Regular Meeting as written. Mr. Evans Seconded the motion</p> <p><i>Motion carries Unanimously</i></p>	<p>Approval of Minutes</p>
<p>Mr. Evans moved to adjourn @ 8:45 pm Mr. Weyenberg seconded.</p> <p><i>Motion carries Unanimously</i></p>	<p>Adjournment</p>

I, Mike Nugent ,Acting Secretary to the Zoning Board of Appeals, do hereby certify that the foregoing document consisting of ten (10) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting of October 27 , 2008.