

TOWN OF OLD ORCHARD BEACH  
 ZONING BOARD OF APPEALS MEETING MINUTES      April 26, 2010

<p><b>Call to Order at 7:02 pm</b></p>	<p><b>Call to Order</b></p>
<p><b>Pledge to the Flag</b></p>	
<p><b>Roll Call:</b> Present: Chairman Ray DeLeo, Ms. Tianna Higgins, Mr. Robert Quinn, and Mr. Philip Weyenberg. Mr. Phil Denison, excused.  <b>Staff:</b> Mike Nugent, Code Enforcement Officer. Tori Geaumont, ZBA Clerk.</p>	
<p><b>ITEM 3: Miscellaneous Appeal:</b> Dawn &amp; Jonathan Gentley, owners of 6 Cookman Avenue, MBL 317-8-8 in the R2 Zone, to permit the adjustment of the side yard set back for the construction of a deck. The owner is the appellant.</p>	<p style="text-align: center;"><b><u>Item 3:</u></b>  <b><u>Miscellaneous</u></b>  <b><u>Appeal: Dawn &amp;</u></b>  <b><u>Jonathan</u></b>  <b><u>Gentley, 6</u></b>  <b><u>Cookman</u></b>  <b><u>Avenue,</u></b>  <b><u>MBL 317-8-8</u></b></p>
<p><b>Chairman DeLeo</b> moved Item 3 to address first, as the appellant was not feeling well and requested this.  <b>Jonathan Gentley, 6 Cookman Avenue.</b> Mr. Gentley explained his home was built before zoning, and he would like to build a deck. He stated this would not encroach on any other properties.  <b>Chairman DeLeo called for any abutters or correspondence.</b>  <b>Ernest Tarbox, 1 Cookman Avenue.</b> Mr. Tarbox stated he supports this, and since Mr. Gentley has purchased the property he has taken steps to improve it from being a seasonal cottage to a nice, year-round home.  <b>PUBLIC HEARING CLOSED.</b></p>	<p style="text-align: center;"><b>Public</b>  <b>Hearing</b></p>
<p><b>Chairman DeLeo</b> read the criteria for number one.  <b>With regards to part A.</b> 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 home was built in 1960's.  <b>Mr. Quinn</b> agreed.  <b>Ms. Higgins</b> agreed.  <b>Mr. Weyenberg</b> agreed.  <b>Chairman DeLeo</b> agreed.  <b>With regards to part 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 the appellant stated we would like to enjoy our backyard utilizing a deck.  <b>Mr. Weyenberg</b> agreed.  <b>Mr. Quinn</b> agreed.  <b>Ms. Higgins</b> agreed.  <b>Chairman DeLeo</b> agreed.  <b>With regards to part C.</b> Due to the physical features of the lot and/or the location of existing structures on the lot, it would not be practical</p>	



TOWN OF OLD ORCHARD BEACH  
ZONING BOARD OF APPEALS MEETING MINUTES April 26, 2010

<p><b>Chairman DeLeo</b> agreed.</p> <p><b>With regards to part 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 the appellant stated previous deck was removed in 2008 to construct addition. Sliding doors were installed and proposed deck discussed during previous appeal. Most homes in the area have a deck off the back of their home. We are requesting this to replace what we had. Previous deck was 200 sf. This will be 192 sf.</p> <p><b>Mr. Weyenberg</b> agreed.</p> <p><b>Mr. Quinn</b> agreed.</p> <p><b>Ms. Higgins</b> agreed.</p> <p><b>Chairman DeLeo</b> agreed.</p> <p><b>With regards to part C.</b> 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 structures in conformance with the currently applicable yard size or lot coverage requirements the appellant stated the property has 2 front setbacks. This request is for the setback along Patoine Place. The build is limited to this due to the septic tank location and the sliding glass doors that were installed as an exist point during the 2008 project. The intent was to have the deck built to replace the one removed during the 2008 build.</p> <p><b>Mr. Quinn</b> agreed.</p> <p><b>Mr. Weyenberg</b> agreed.</p> <p><b>Ms. Higgins</b> agreed.</p> <p><b>Chairman DeLeo</b> agreed.</p> <p><b>With regards to part D.</b> 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 we feel the effects of this expansion will have no affect on existing homes or be different than uses in the neighborhood.</p> <p><b>Ms. Higgins</b> agreed.</p> <p><b>Mr. Quinn</b> agreed.</p> <p><b>Mr. Weyenberg</b> agreed.</p> <p><b>Chairman DeLeo</b> agreed.</p> <p><b>Ms. Quinn</b> moved to permit the adjustment of the front yard setback for the construction of a deck at 110 Ross Road.</p> <p><b>Ms. Higgins</b> seconded.</p> <p><b>Motion passes unanimously.</b></p>	<p style="text-align: center;"><b>Motion</b></p> <p style="text-align: center;"><b>Vote</b></p>
<p><b>Item 2: Miscellaneous Appeal: Richard &amp; Cindy Meoli, owners of 6 Saunders Avenue, MBL 303-3-11 in the BRD Zone, to permit the adjustment of the rear set back for the construction of a deck. The owner is the appellant.</b></p>	<p style="text-align: center;"><b>Item 2: Miscellaneous Appeal: Richard &amp; Cindy Meoli, 6 Saunders</b></p>

TOWN OF OLD ORCHARD BEACH  
ZONING BOARD OF APPEALS MEETING MINUTES April 26, 2010

	<u>Avenue,</u> <u>MBL 303-3-11</u>
<p><b>Richard Meoli, 6 Saunders Avenue.</b> Mr. Meoli explained they wanted to add a deck to square off the property and make the home similar to the other homes in the neighborhood.</p> <p><b>Chairman DeLeo called for any abutters or correspondence.</b></p> <p><b>PUBLIC HEARING CLOSED</b></p> <p><b>Ms. Higgins</b> asked if the reduction includes the stairs.</p> <p><b>Mr. Nugent</b> confirmed.</p>	
<p><b>Chairman DeLeo</b> read the criteria for number one.</p> <p><b>With regards to part A.</b> 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 structure was built approximately in 1920.</p> <p><b>Mr. Quinn</b> agreed.</p> <p><b>Ms. Higgins</b> agreed.</p> <p><b>Mr. Weyenberg</b> agreed.</p> <p><b>Chairman DeLeo</b> agreed.</p> <p><b>With regards to part 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 the appellant stated the pattern of development in the BRD district includes deck.</p> <p><b>Mr. Weyenberg</b> agreed.</p> <p><b>Mr. Quinn</b> agreed.</p> <p><b>Ms. Higgins</b> agreed.</p> <p><b>Chairman DeLeo</b> agreed.</p> <p><b>With regards to part C.</b> 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 structures in conformance with the currently applicable yard size or lot coverage requirements the appellant stated there are no conforming locations for a deck on the lot.</p> <p><b>Mr. Quinn</b> agreed.</p> <p><b>Mr. Weyenberg</b> agreed.</p> <p><b>Ms. Higgins</b> agreed.</p> <p><b>Chairman DeLeo</b> agreed.</p> <p><b>With regards to part D.</b> 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 deck will square off the building to minimize impact on abutters.</p> <p><b>Ms. Higgins</b> agreed.</p> <p><b>Mr. Quinn</b> agreed.</p> <p><b>Mr. Weyenberg</b> agreed.</p>	

TOWN OF OLD ORCHARD BEACH  
ZONING BOARD OF APPEALS MEETING MINUTES April 26, 2010

<p><b>Chairman DeLeo</b> agreed.  <b>Mr. Weyenberg</b> moved to permit the adjustment of the rear set back for the construction of a deck at 6 Saunders Avenue.  <b>Mr. Quinn</b> seconded.  <b>Motion passes unanimously.</b></p>	
<p><b>Item 4: Variance: Peter Gammo, owner of 91 Union Avenue, MBL 314-15-3, in the R2 Zone to permit the adjustment of the front, rear and left side set backs and lot coverage for the construction of a garage. The owner is the appellant.</b>  Peter Gammo, 91 Union Ave, addressed the board and explained what he would like to do. He currently has a canvas garage in the spot per prior ZBA approval, and he would like to replace it with a real garage. He also explained that the property he lives in will no longer be used as a business, only a single-family home.  <b>Chairman DeLeo</b> asked where the canvas garage is currently.  <b>Mr. Gammo</b> explained it had been moved to clean out behind in.  <b>Mr. Nugent</b> corrected the size of the garage will be 22 ft X 30 ft. The plans state it will be 24 ft x 26 ft.  <b>Ms. Higgins</b> asked if the front setback goes to 17'.  <b>Mr. Nugent</b> stated it will still be 15' feet due to the overhangs.  <b>Chairman DeLeo</b> asked what the distance of the right side of the garage is to the stairs.  <b>Mr. Gammo</b> did not know.  <b>Mr. Weyenberg</b> asked why the garage was not going to be connected to the house.  <b>Mr. Gammo</b> stated there was a porch on the second floor.  <b>Chairman DeLeo</b> asked if there were any issues with the abutters.  <b>Mr. Gammo</b> stated that everyone received their letters and no one was here tonight to speak about it.  <b>Mr. Nugent</b> then showed the board the returned receipts for the letters.  <b>Mr. Gammo</b> stated that if the board wanted him to put the garage in a different spot he would.  <b>Chairman DeLeo</b> asked the height of the building next to the property.  <b>Mr. Nugent</b> stated it is a two-story building so approximately 25ft. Accessory structures in that zone can only be 20 ft tall.  <b>Ms. Higgins</b> asked why not put a one-car garage.  <b>Mr. Gammo</b> stated they have several cars.  <b>Chairman DeLeo called for any abutters or correspondence.</b>  <b>PUBLIC HEARING CLOSED</b></p>	<p><b>Public Hearing</b></p>
<p><b>Chairman DeLeo</b> read criteria number one.  <b>With regards to section A.</b> The land in question <u>cannot</u> yield a reasonable return unless the variance is granted the appellant stated the attached garage is to replace canvas garage. The land has a home on it and setbacks restrict a garage to be placed to protect my cars, etc.  <b>Ms. Higgins disagreed.</b>  <b>Mr. Quinn disagreed.</b>  <b>Mr. Weyenberg disagreed.</b>  <b>Chairman DeLeo disagreed.</b>  <b>With regards to part B.</b> The need for a variance is due to the unique</p>	

TOWN OF OLD ORCHARD BEACH  
ZONING BOARD OF APPEALS MEETING MINUTES April 26, 2010

<p>characteristics of the property and not to the general conditions of the neighborhood the appellant stated the setbacks were created after the home was build on the property.</p> <p><b>Ms. Higgins disagreed.</b></p> <p><b>Mr. Weyenberg disagreed.</b></p> <p><b>Mr. Quinn agreed.</b></p> <p><b>Chairman DeLeo agreed.</b></p> <p><b>With regards to part C.</b> The granting of a variance will not alter the essential character of the locality the appellant stated this will improve the property by removing the canvas garage. Many homes in the area have garages and building the garage will improve the neighborhood.</p> <p><b>Mr. Weyenberg agreed.</b></p> <p><b>Mr. Quinn agreed.</b></p> <p><b>Ms. Higgins agreed.</b></p> <p><b>Chairman DeLeo agreed.</b></p> <p><b>With regards to part D.</b> The hardship is not the result of action taken by the appellant or a prior owner the appellant stated the building was built before the current zone was created and is over 100 years old.</p> <p><b>Mr. Quinn agreed.</b></p> <p><b>Mr. Weyenberg agreed.</b></p> <p><b>Ms. Higgins agreed.</b></p> <p><b>Chairman DeLeo agreed.</b></p> <p><b>Mr. Nugent</b> explained at that point, that if the variance is denied the appellant cannot come forward for another 24 months to try to get the variance again.</p> <p><b>Chairman DeLeo</b> asked the appellant if they would like to table this without prejudice.</p> <p><b>Mr. Gammo</b> stated he wanted to do this.</p> <p><b>Mr. Quinn</b> moved to table item 4, Variance for Peter Gammo at 91 Union Avenue without prejudice.</p> <p><b>Ms. Higgins</b> seconded.</p> <p><b>Motion passed unanimously.</b></p> <p><b>Mr. Gammo</b> then asked the board what they were specifically looking for.</p> <p><b>Ms. Higgins</b> stated that he was to work with Mr. Nugent regarding the specifics.</p> <p><b>Mr. Gammo</b> then asked if he found a way to attached the garage to the home would that be good.</p> <p><b>Chairman DeLeo</b> stated he was heading in the right direction.</p>	<p style="text-align: center;"><b>Motion</b></p> <p style="text-align: center;"><b>Vote</b></p>
<p><b>Item 5: Variance: owner of 34 Fern Park Avenue, MBL 206-14-2 in the R2 Zone, to permit the adjustment of the right side setback for the construction of a garage and the left side yard setback for the construction of a 6'X20" addition. The owner is the appellant.</b></p>	<p style="text-align: center;"><b>Item 5:</b> <b>Variance</b> <b>Kim Girard, 34</b> <b>Fern Park</b> <b>Avenue</b> <b>MBL 206-14-2</b></p>

**Kim Girard, 53 Bayberry Lane, Saco, Me.** Mr. Girard is the owner of 34 Fern Park Avenue and explained the variance. He is asking for the variance to build a garage, half-bath, and entry-way so he and his wife can live in the home. He explained they currently live in Saco, but wish to move back into this home, as it is a one-story home, and he has terminal cancer. Due to his condition, he wishes to have a garage so he does not need to clean off the cars, etc.

**Chairman DeLeo called for any abutters or correspondence.**

**Brigit Rioux, daughter of Yvette Rioux, 2 Idelwild Avenue.** Ms. Rioux explained her mother's concerns with the garage being built, as Mr. Girard has a plumbing business and there is a lot of debris on his property. She feels he would not take any better care of the property than he does now. She then showed pictures to the board of the debris.

**Mr. Quinn** asked if the pictures were recent.

**Ms. Rioux** stated yes, they were taken several days ago.

**Mr. Nugent** explained that if any resident has an issue with garage, etc. to please call the code enforcement office, and he will take care of it right away. He deals with these kinds of complaints every day, and he was quite sure Mr. Girard would be happy to clean up the problem.

**Mr. Girard** commented that he was very sorry for the debris, and he would be happy to clean it up right away.

**Mr. Nugent** explained the property is a legally, non-conforming business which has been there for many, many years.

**Mr. Girard** then explained the debris was on a separate lot which he owns, but not on the lot where the house is and where the garage is proposed.

**Chairman DeLeo** then read into the minutes a letter from Joanne and Michael Gifun, owners of 32 Fern Avenue.

TOWN OF OLD ORCHARD BEACH  
ZONING BOARD OF APPEALS MEETING MINUTES April 26, 2010

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21 April 2010

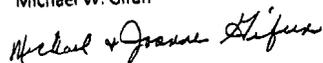
Joanne and Michael Gifun                      Property Owner: 34 Fern Park Avenue, Old Orchard Beach, ME  
516 23<sup>rd</sup> Street  
Niceville, Florida 32578  
850-729-3687

Sirs,

We must take exception to this encroachment to within three feet our property as it would decrease the property value and inhibit future construction of a dwelling on this property.

Thankyou

Michael W. Gifun



**PUBLIC HEARING CLOSED**

**Chairman DeLeo** read criteria number one.

**With regards to section A.** The land in question cannot yield a reasonable return unless the variance is granted the appellant stated today everyone expects to have an attached garage to their house. The garage will add to the safety and convenience of the house.

**Ms. Higgins agreed.**

**Mr. Quinn disagreed.**

**Mr. Weyenberg disagreed.**

**Chairman DeLeo agreed.**

**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 when the house was first constructed by my father in 1951, it was situated on the lot to allow for the addition of a garage at a future date. Since then, the setbacks have changed. The garage was figured on the 3' setback. This land has been in my family since it's purchase in 1951. The existing shop building was constructed as a business building and has always been used as such.

**Ms. Higgins agreed.**

**Mr. Weyenberg agreed.**

TOWN OF OLD ORCHARD BEACH  
ZONING BOARD OF APPEALS MEETING MINUTES April 26, 2010

<p><b>Mr. Quinn agreed.</b>  <b>Chairman DeLeo agreed.</b>  <b>With regards to part C.</b> The granting of a variance will not alter the essential character of the locality the appellant stated the addition of a garage will definitely blend in with the surrounding houses.  <b>Mr. Weyenberg disagreed.</b>  <b>Mr. Quinn agreed.</b>  <b>Ms. Higgins agreed.</b>  <b>Chairman DeLeo agreed.</b>  <b>With regards to part D.</b> The hardship is not the result of action taken by the appellant or a prior owner the appellant stated at the time of construction of the house in 1951, it was positioned on the lot to accommodate the addition of a garage at a future time. This criteria favoring grandfathering of the garage due to the original construction time. The existing driveway has always been within 3' of the lot line.  <b>Mr. Quinn agreed.</b>  <b>Mr. Weyenberg agreed.</b>  <b>Ms. Higgins agreed.</b>  <b>Chairman DeLeo agreed.</b>  <b>Mr. Quinn</b> asked if the appropriate thing to do at that time would be to table without prejudice.  <b>Ms. Higgins</b> pointed out that monetary issues can have no bearing on our decision of hardship.  <b>Mr. Quinn</b> also pointed out that there are many homes in the area that do not have garages.  <b>Ms. Higgins</b> felt that the driveway is already there. The building is new, but the use will be the same, and cars will still be there. The garage would fit in the back of the home, but it would look bad.  <b>Mr. Quinn</b> moved to table item 5, Variance for Kim Girard, 34 Fern Park Avenue without prejudice.  <b>Mr. Weyenberg</b> seconded.  <b>Motion passed unanimously.</b></p>	<p style="text-align: center;"><b>Motion</b></p> <p style="text-align: center;"><b>Vote</b></p>
<p><b><u>Item 6: Selection of Officers</u></b>  <b>Ms. Higgins</b> moved to nominate Mr. DeLeo as Chairman of the Zoning Board of Appeals.  <b>Mr. Weyenberg</b> seconded.  <b>Chairman DeLeo</b> abstained.  <b>Motion passed 3-0-1</b></p> <p><b>Chairman DeLeo</b> moved to nominate Mr. Quinn as Vice Chair of the Zoning Board of Appeals.  <b>Ms. Higgins</b> seconded.  <b>Mr. Quinn</b> abstained.  <b>Motion passed 3-0-1</b></p>	<p style="text-align: center;"><b>Motion</b></p> <p style="text-align: center;"><b>Vote</b></p> <p style="text-align: center;"><b>Motion</b></p> <p style="text-align: center;"><b>Vote</b></p>
<p><b><u>Item 7: Approval of Minutes</u></b>  February 22, 2010 and March 29, 2010</p>	

