

<p>Call to Order at 7:07 pm</p>	<p>Call to Order</p>
<p>Pledge to the Flag</p>	
<p>Roll Call: Present: Vice Chair Robert Quinn, Mr. Phil Denison, and. Mr. Philip Weyenberg. Chairman DeLeo and Tianna Higgins were excused. Staff: Mike Nugent, Code Enforcement Officer. Tori Geaumont, ZBA Clerk.</p>	
<p>ITEM 1: Tabled Variance: Pamela F. Francis, owner of 31 Wintergreen Street, MBL 205-8-10, in the R2 Zone to permit the reduction of the front and rear yard setback to allow the reconstruction and expansion of a garage. The owner is the appellant.</p>	<p>Item 1: Tabled Variance: <u>Pamela Francis,</u> <u>31 Wintergreen</u> <u>Street,</u> <u>MBL 205-8-10</u></p>
<p>Pamela Francis explained the need for the variance was due to the fact her existing garage is damaged and in disrepair. She wishes to rebuild the garage and increase the size to make it more usable. She also wishes to build a second story for storage. Vice Chair Quinn asked about the photo in the packet and what that was. Ms. Francis stated that was just something for a visual reference for the board and is not the actual proposed garage. Vice Chair Quinn asked why there was no deed in the package and asked Ms. Francis when she bought the property. Ms. Francis stated she bought the property approximately 5-6 years ago. Mr. Denison inquired why she didn't want to move the garage closer to the house. Ms. Francis replied that she wanted the garage to stay in a similar position. Mr. Weyenberg asked if Ms. Francis investigated if she could rebuild the garage in any way without a variance. Ms. Francis stated she felt it was not possible and attaching the garage to the existing home was too cost prohibitive. Vice Chairman Quinn called for any abutters or correspondence. He then read into the minutes an email from an abutter. From: Tim Strohm <timstrohm@yahoo.com> Subject: Town of Old Orchard Beach Zoning Board To: tim.strohm@sunlife.com Cc: timstrohm@yahoo.com Date: Saturday, July 10, 2010, 3:22 PM</p> <p>Pamela F Francis, owner of 31 Wintergreen Street, MBL-205-8-10, in the R2 Zone to permit reduction of the front and rear yard setback to allow the reconstruction and expansion of a garage. The Owner is the appellant.</p> <p>This item was to be brought up on June 28, 2010 at the Old Orchard Beach Town Hall. I was sent a certified letter to attend this meeting as I am in opposition of</p>	<p style="text-align: center;">Public Hearing</p>

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the appeal ant Pamela F Francis. On Monday June 28, 2010 I was in attendance at the Town Hall for this meeting and Pam Francis did not show up. I was told that this would be held off until the last Monday of July. I was told to either attend this next meeting or send an email with my thoughts.

We have lived at 31 Portland Avenue since 2002. The appeal ant Pamela Francis used to own 29 Portland Ave which is located across Burdette Street from our house. At that time Pam Francis opened up this house to as many foreign summer workers as possible. The third floor of this house was lined with bunk beds and 20 plus summer workers at a time stayed in at 29 Portland Ave. This proved to be a nuisance to not only us, but other neighbors as these workers stayed out late, drinking, smoking, laughing at all hours. The result was beer bottles, and one of these folks removed a statue from another neighbor's yard and left it at the bottom of my steps. I had reported this abuse to the town repeatedly, and nothing ever came from it. When she ended up selling the house and moved to her current location the neighbors had hoped this would be the end of her practice of housing this many people in one house. As it turns out she now has at least 3 foreign workers living in her house at 31 Wintergreen Street.

Our concerns are that this new garage will be another opportunity for her to house more folks for the summer. I would have no issue for her to replace the current garage and build a replica of that garage, no bigger or taller. The garage in its current state is an eye-soar as well as a disabled vehicle that has sat in the yard for a year and a half.

I believe the town records will depict the long record of disregard that Pam Francis has had for her neighbors. My concern is shared with the other surrounding neighbors that she will continue to house as many summer workers as possible if she is allowed to expand the garage or expand her house.

Please do not allow this to happen.

Thank you,

Tim Strohm
31 Portland Ave
Old Orchard Beach, ME 04064
207-934-4083

Mr. Denison asked staff if Ms. Francis could rebuild in the exact same footprint without a variance.

Mr. Nugent stated yes she could and she also could expand vertically as well, although the garage would be somewhat odd-shaped.

Vice Chairman Quinn stated if she is grated the variance, the garage would double her square footage.

Ms. Francis stated she needed storage and this would not be somewhere people would stay in. She feels the change would be an improvement to the area.

Vice Chair Quinn stated he was not referring to the upstairs.

Mr. Denison asked staff what controls the town has as far as the use of the upstairs for storage only.

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<p>Mr. Nugent stated that there would be staff control during the construction, but afterwards it would be up to the owner to do the right thing. PUBLIC HEARING CLOSED</p>	
<p>Vice Chair Quinn read the criteria for number one. With regards to part A. The land in question cannot yield a reasonable return unless the variance is granted the appellant stated the garage is unusable from damage that occurred from being hit by a car. The entire side of the garage was smashed in and caused other damage to the entire garage. The garage cannot be reasonably salvaged or repaired. The garage is beyond reasonable repair and needs to be demolished and replaced. Replacement is the only option to make any reasonable use of the probably garage. Presently it is not usable in this condition. Mr. Denison disagreed. Mr. Weyenberg disagreed. Vice Chairman Quinn disagreed. Vice Chairman Quinn then asked staff if it would be prudent to move on to the next sections or not since part A criteria was not met. Mr. Nugent stated it was up to the applicant. She may wish to adjust the plan so that the need for a variance is changed to a miscellaneous appeal which is much easier for the board to justify. Ms. Francis indicated she would like to do that. Mr. Denison moved to table without prejudice. Mr. Weyenberg seconded. Motion passes unanimously.</p>	<p style="text-align: center;">Motion Vote</p>
<p>ITEM 2: Miscellaneous Appeal: Carmania Cottage Trust, owner of 46 Randall Avenue, MBL 323-10-11, in the R3 Zone to permit the adjustment of the rear yard setback to allow for construction of a 10'X10' addition. Tom Rutka is representing the owners.</p>	<p style="text-align: center;"><u>Item 2:</u> <u>Miscellaneous</u> <u>Appeal:</u> <u>Carmania</u> <u>Cottage Trust,</u> <u>46 Randall</u> <u>Avenue, MBL</u> <u>323-10-11</u></p>
<p>Tom Rutka, Rutka Construction Inc. Mr. Rutka explained the need for the miscellaneous appeal which was due to the cottage being repaired and remodeled after damage from a tree this past winter. The reconfiguration of the addition required the need to encroach somewhat into the setbacks. Vice Chairman Quinn called for any abutters or correspondence. PUBLIC HEARING CLOSED.</p>	<p style="text-align: center;">Public Hearing</p>
<p>Vice Chair Quinn read the criteria for number one. With regards to part 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 of record the appellant stated the cottage was built in 1883 according to owner's</p>	

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<p>plaque on front of cottage. Mr. Weyenberg agreed. Mr. Denison agreed. Vice Chairman Quinn agreed. With regards to part 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 requested reduction is 3 feet over 10 feet and is an extension of the rear building line. There is no conflict with the 15 foot side yard setback. Mr. Weyenberg agreed. Mr. Denison agreed. Vice Chairman Quinn agreed. With regards to part 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 structures in conformance with the currently applicable yard size or lot coverage requirements the appellant stated the proposed work includes removal of the existing 5' 3" x 6' 6" landing and associated steps that were all within the 20 foot rear setback (see "as-built" drawing). Mr. Weyenberg agreed. Mr. Denison agreed. Vice Chairman Quinn agreed. With regards to part D. 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 impact of this work will be blended in with the existing cottage, the additional side porch (new) and fit the neighborhood style and size of cottages. Mr. Weyenberg agreed. Mr. Denison agreed. Vice Chairman Quinn agreed. Mr. Weyenberg moved to permit the adjustment of the rear yard setback to allow for construction of a 10'X10' addition. Mr. Denison seconded. Motion passes unanimously.</p>	<p>Motion</p> <p>Vote</p>
<p>ITEM 3: Variance: Jeff & Pam Chute, owners of 62 Winona Avenue, MBL 320-8-2, in the R3 zone to permit the reduction of the right yard setback to allow for construction of a porch. Carl A. Goodwin Inc., is representing the owners.</p>	<p>Item 3: <u>Variance: Jeff & Pam Chute, 62 Winona Avenue MBL 320-8-2</u></p>
<p>Adam Goodwin, Carl Goodwin Construction, Inc. Mr. Nugent explained that on the variance the zoning is stated as R3 which it is, but it is also in the shoreland zone which is the reason why</p>	<p>Public Hearing</p>

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<p>the variance is necessary.</p> <p>Mr. Goodwin explained the SA and need for variance. The encroachment they are discussing is to go within the 75 foot setback which is only for the shoreland zoning. The addition is well within the setbacks of the R3 zone, but since this is also in the shoreland zoning overlay there is a need for this variance. He also stated that he has been in touch with DEP and have some correspondence (field determination form) which he gave to the board members.</p> <p>Mr. Denison disclosed to the board that Mr. Goodwin is doing some work for his daughter, but he feels this would not have any bearing on his decision. He then asked Mr. Goodwin if this is just for the enclosed porch.</p> <p>Mr. Goodwin stated this was correct. He explained the home is not currently a 4-season home and is being converted to one. Due to this, and the fact that the house is in a flood zone requiring specific elevations and basements, etc, some of the square footage in the home is being taken for a utility room for furnaces, etc. Therefore, the need to create more square footage for the home in the form of a porch is necessary.</p> <p>Mr. Weyenberg asked for clarification of the need for DEP approvals, etc. He asked if the DEP has jurisdiction.</p> <p>Mr. Nugent explained that the field determination form is for a different set of regulations, and if Mr. Goodwin gets this variance they will need to report this to the DEP regarding shoreland zoning. The shoreland zone department can overturn this variance. He clarified that these are two different things.</p> <p>Mr. Weyenberg then asked if Planning Board will need to review this.</p> <p>Mr. Nugent stated yes. He also pointed out that the entire Shoreland Zoning is currently undergoing review and change.</p> <p>Vice Chairman Quinn asked if the ZBA's approval will trigger DEP and Planning Board.</p> <p>Mr. Nugent verified this. First the variance is needed, then DEP will be notified about the board's decision, and then if they do not overturn this, it will go to Planning Board.</p> <p>Vice Chairman Quinn commented that when he went out to take a look at the property it was quite spongy and wet. He asked Mr. Goodwin what the foundation will be.</p> <p>Mr. Goodwin explained that there is a question where or not there will be foundation under the porch, but if necessary the foundation will be something called "big feet".</p> <p>Vice Chairman Quinn called for any abutters or correspondence.</p> <p>PUBLIC HEARING CLOSED</p>	
<p>Vice Chair Quinn read the criteria for number one.</p> <p>With regards to part A. The land in question cannot yield a reasonable return unless the variance is granted the appellant stated the lot we are working with is located in an A2 flood zone and is encroached by a wetland. Due to the flood zone and the new home</p>	

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<p>being built for 4 season permanent residence use, the existing covered porch square footage needs to be applied as a utility room. A variance to reduce the wetland setback allowing us to build an attached enclosed porch would allow a reasonable return.</p> <p>Mr. Weyenberg agreed.</p> <p>Mr. Denison agreed.</p> <p>Vice Chairman Quinn agreed.</p> <p>With regards to part B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood the appellant stated despite the area at the rear of the lot being labeled a wetland, the Maine Department of Environmental Protection does not hold enforcement of activities such as ours in this area's vicinity as stated by the DEP in a letter to the homeowner after two site visits. Seeing as the state will allow our activities we would ask the Town of Old Orchard Beach to grant a variance to reduce the wetland setback. This differs from much of Ocean Park that is regulated by the DEP.</p> <p>Mr. Weyenberg agreed.</p> <p>Mr. Denison agreed.</p> <p>Vice Chairman Quinn agreed.</p> <p>With regards to part C. The granting of the variance will not alter the essential character of the locality the appellant stated the granting of our variance would allow us to build a house in its existing footprint with the addition of a covered porch that conforms to the lot lines setbacks and lot percentage coverage maximums as laid out in the town's ordinances, therefore the granting of our variance will not alter the character of the locality.</p> <p>Mr. Denison agreed.</p> <p>Mr. Weyenberg agreed.</p> <p>Vice Chairman Quinn agreed.</p> <p>With regards to part D. The hardship is not the result of action taken by the appellant or a prior owner the appellant stated when this and surrounding lots were created there were no zoning ordinances. When the house was placed and built around 1920 there was also no zoning or wetland setbacks. The lots size, shape, and proximity to the wetland and where it and the house were created compose the hardship. The formation of flood zones and their attached building requirements add to that hardship.</p> <p>Mr. Denison agreed.</p> <p>Mr. Weyenberg agreed.</p> <p>Vice Chairman Quinn agreed.</p> <p>Mr. Denison moved to permit the reduction of the right yard setback to allow for construction of a porch.</p> <p>Mr. Weyenberg seconded.</p> <p>Motion passes unanimously</p>	<p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p>
<p>ITEM 4: Variance: Robert & Sharon Thompson, owners of 45 School Street, MBL 206-24-47, in the R1 Zone to permit the reduction of the left side yard, rear yard setback, and lot coverage to allow for construction of an 8'X12'</p>	<p style="text-align: center;">Item 4: Variance: Robert & Sharon</p>

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<p>addition. The owner is the appellant.</p>	<p><u>Thompson, 45 School Street, MBL 206-24-47</u></p>
<p>Robert Thompson explained the need for the variance was due to his wife's illness. Mr. Denison asked about where the deck and addition were on the diagram. Mr. Thompson explained he will be taking out a section of the deck for the addition. Mr. Nugent stepped in and stated it seems that Mr. Thompson did not need the variance after all. Mr. Denison moved to remove the item without prejudice. Mr. Weyenberg seconded. Motion passes unanimously.</p>	<p style="text-align: center;">Motion Vote</p>
<p><u>Item 5 Approval of Minutes</u> Mr. Denison moved to table the minutes of June 28, 2010 to the next meeting in August. Mr. Weyenberg seconded. Motion passed unanimously</p>	<p style="text-align: center;">Motion Vote</p>
<p><u>Good & Welfare</u></p>	
<p>Mr. Denison moved to adjourn. Vice Chairman Quinn seconded. Motion passed unanimously. Meeting adjourned 7:55 pm</p>	<p style="text-align: center;">Adjournment</p>

I, *Tori Geaumont*, Secretary to the Zoning Board of Appeals of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of seven (7) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting on July 26, 2010

Tori Geaumont