

TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES **August 30, 2010**

Call to Order at 7:07 pm	Call to Order
Pledge to the Flag	
<p>Roll Call: Present: Vice Chair Robert Quinn, Mr. Phil Denison, Mr. Philip Weyenberg, Chairman DeLeo, and Tianna Higgins.</p> <p>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 Street,</u> <u>MBL 205-8-10</u></p>
<p>Mr. Nugent advised the board that Ms. Francis contacted him earlier and stated she would be late to the meeting, and he requested the board move to the next item. The board agreed.</p>	
<p>ITEM 2: Administrative Appeal: Daniel Michael, owner of 6 Reggio Avenue, MBL 319-15-5, in the R3 Zone to review the determination that the structure cannot be converted from seasonal to year-round occupancy. The owner is the appellant.</p>	<p>Item 2: Administrative Appeal: <u>Daniel Michael,</u> <u>6 Reggio Avenue,</u> <u>MBL 319-15-5</u></p>
<p>Daniel Michael, owner of 6 Reggio Avenue. Mr. Daniel explained the request for the administrative appeal. He is selling the property and the buyer wishes to add heat to the second floor thus making this year round.</p> <p>Mr. Nugent explained the original division of property at this location. In the early 2000's, the lot was divided and conditions of approval were put on this specific structure to stay seasonal. This was done by the prior Planner and Code Enforcement Officer. He found that by doing this they had created some non-conforming lots. He does not have the authority to allow this, and that is why Mr. Michael is here.</p> <p>Chairman DeLeo questioned which cottage exactly this was pertaining to.</p> <p>Mr. Nugent approached the board and showed them on the plot plan.</p> <p>Chairman DeLeo asked if the issue is due to being able to add heat to the second floor.</p> <p>Mr. Nugent explained at the time of the approval there was a different ordinance for year-round structures. This was recently changed. Density was an issue at that time. Off-street parking would be an issue now if this is approved.</p> <p>Mr. Weyenberg asked if lot #2 was a conforming lot.</p> <p>Mr. Nugent responded no.</p> <p>Mr. Quinn questioned if there was enough parking.</p> <p>Mr. Nugent explained he did not know. The appellant has not satisfied the parking requirements to him. That would be the next</p>	<p style="text-align: center;">PUBLIC HEARING</p>

<p>step.</p> <p>Chairman DeLeo questioned what the board is being asked.</p> <p>Mr. Nugent explained they can either uphold Mr. Nugent's decision or reverse it and allow this to be converted from seasonal to year-round occupancy.</p> <p>Mr. Michael explained that the house in question is on a separate lot and not part of the four cottages show. He stated this is a single-family home.</p> <p>Ms. Higgins asked if Mr. Michael owned the cottages.</p> <p>Mr. Michael stated now.</p> <p>Mr. Nugent explained this should have originally been brought to the ZBA to approval the variance for the original division and then he would not need to be here.</p> <p>Mr. Quinn asked Mr. Nugent what the dividing line between seasonal and year-round was.</p> <p>Mr. Nugent explained it was a matter of whether the structure could be inhabited 12 months out of the year, not whether is actually is. The board tonight will only be stating the structure can be converted to year-round use. In order to get the permit from Mr. Nugent the appellant needs to satisfy all the issues of seasonal conversion, including parking requirements.</p> <p>Chairman DeLeo asked if he could get the upstairs to be heated by not adding a separate heating system would he need to be here.</p> <p>Mr. Nugent explained that to do anything he would need to get a change of use permit. He read from the Housing Ordinance explaining this.</p> <p>Mr. Denison asked if there is anything that specifically states parking requirements.</p> <p>Mr. Nugent read the actual ordinance in regards to change of use and parking requirements.</p> <p>Chairman DeLeo called for any abutters or correspondence.</p> <p>Nancy Moreshead, realty for buyers. Ms. Moreshead explained they feel that this should be allowed, as there is another home exactly like this which was allowed to do it, but the condition was put on for an unknown reason. It limits the use of the property severely.</p> <p>PUBLIC HEARING CLOSED AT 7:24 P.M.</p>	
<p>Ms. Higgins asked if the board should refer to this as lot#2 or as 6 Reggio Avenue.</p> <p>Mr. Nugent stated 6 Reggio Avenue.</p> <p>Mr. Quinn asked if this is approved did Mr. Nugent know if there were 2 parking spots.</p> <p>Mr. Nugent responded he has not seen any proof of that. He will need 2 spaces and appropriate curb cuts from Department of Public Works.</p> <p>Mr. Weyenberg stated this seems very similar to lot #1, and this was approved, but we do not know why, correct?</p> <p>Mr. Nugent concurred.</p>	

TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES August 30, 2010

<p>Ms. Higgins moved to approve the appeal and allow the seasonal conversion of 6 Reggio Avenue. Mr. Weyenberg seconded. Motion passes unanimously.</p>	<p>Motion</p> <p>Vote</p>
<p>ITEM 3: Variance: Erwin Bates c/o Edrice Bates, owner of 12 Lawn Avenue, MBL 309-2-4, in the R2 Zone to permit the adjustment of the rear yard setback and lot coverage for the construction of a canopy over existing oil tank. The owner is the appellant.</p>	<p>Item 3: <u>Variance, Edwin Bates c/o Edrice Bates, 12 Lawn Avenue MBL 309-2-4</u></p>
<p>Edrice Bates, owner of 12 Lawn Avenue. Mrs. Bates explained she would like to build a canopy over the existing oil tank so to keep the snow and ice off of the tank for protection and to be able to read and see the tank level device. Chairman DeLeo called for any abutters or correspondence. Mr. Nugent stated it was brought to his attention today by the owner that the oil tank had originally been on the porch of the house, but it failed, and when they were required to replace the tank the oil company would not install the tank on the porch. It needs to be on a concrete slab so they were forced to change the location of the tank due to the failure. Mr. Denison asked if they are granted this can they at some point in time enclose the tank? Mr. Nugent answered they could, unless a condition was placed on the approval. PUBLIC HEARING CLOSED 7:30 p.m.</p>	<p>PUBLIC HEARING</p>
<p>Chairman DeLeo 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 our oil tank needs protection from ice and snow. There is no way to do this and comply with the setbacks. Without the heat the house cannot be used. Without the protection the tank is exposed to damage. Mr. Weyenberg agreed. Mr. Denison agreed. Ms. Higgins agreed. Mr. Quinn agreed. Chairman DeLeo agreed. 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 the lot is very small and the building was built in the 1940's and is non-conforming to yard space requirements. The oil tank is on the rear of the house outside. Mr. Weyenberg agreed. Mr. Denison agreed. Ms. Higgins agreed. Mr. Quinn agreed. Chairman DeLeo agreed.</p>	

TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES August 30, 2010

<p>With regards to part C. The granting of the variance will not alter the essential character of the locality the appellant stated it will improve the appearance. Mr. Denison agreed. Mr. Weyenberg agreed. Ms. Higgins agreed. Mr. Quinn agreed. Chairman DeLeo agreed. With regards to part D. The hardship is not the result of action taken by the appellant or a prior owner the appellant stated the house was built before regulations. This minor roof structure will keep the oil tank safe. The owner or prior owner cannot control the ice and snow without this variance. Mr. Denison agreed. Mr. Weyenberg agreed. Ms. Higgins agreed. Mr. Quinn agreed. Chairman DeLeo agreed. Mr. Quinn moved to permit the adjustment of the rear yard setback and lot coverage for the construction of a canopy over existing oil tank. Ms. Higgins seconded. Motion passes unanimously</p>	<p>Motion</p> <p>Vote</p>
<p>ITEM 4: Variance: Michael & Rose Grimanis, owners of 15 Milliken Street, MBL 205-6-10, in the DD1 Zone to permit the adjustment of the rear yard, left side, and right side yard setback, as well as lot coverage for the construction of a deck. The owner is the appellant.</p>	<p>Item 4: Variance: <u>Michael & Rose</u> <u>Grimanis, 15</u> <u>Milliken Street,</u> <u>MBL 205-6-10</u></p>
<p>Rose Grimanis, 15 Milliken Street. Mrs. Grimanis explained the variance request. She wished to create this deck to make it easier for handicap accessibility. Mr. Weyenberg asked the height of the deck. Mrs. Grimanis answered 12"-18". Chairman DeLeo questioned if the shortness of the deck would require this to not need a permit. Mr. Nugent clarified that if this was concrete or stone, such as a patio, it would not need a permit, but since it is a wood frame structure it needs the permit. Chairman DeLeo asked if this deck could be built over and closed in, in the future. Mr. Nugent stated yes it could as it becomes part of the footprint of the building. Mr. Quinn inquired if this deck will be level with the homes. Mrs. Grimanis said it would. Ms. Higgins asked how the board could go forward with this. The first criteria state a hardship, and since she is planning on building stairs and not a handicap ramp to the deck there isn't any handicap</p>	<p>PUBLIC HEARING</p>

TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES August 30, 2010

<p>hardship. Mr. Nugent given the question the board can chose to table this and the applicant can come forward and redo the application. Mr. Quinn felt that would be the reason to not approve this, as the answers were based on this being wheelchair accessible, but the deck will have stairs. Ms. Higgins felt it was in the applicant's best interest to have this tabled and redo the application, as her answers tonight are different than what is on the application. Ms. Higgins moved to table item #4 without prejudice. Mr. Weyenberg seconded. Motion passes unanimously</p>	<p>Motion</p> <p>Vote</p>
<p>ITEM 5: Variance: Edward & Mary Kaye Winslow, owners of 23 New Salt Road, MBL 325-6-4, in the R3 Zone to permit the adjustment of the right and front yard setbacks for the construction of a garage. The owner is the appellant.</p>	<p><u>Item 5: Edward & Mary Kaye Winslow, 23 New Salt Road, MBL 325-6-4</u></p>
<p>Edward Winslow, 23 New Salt Road. Mr. Winslow explained the variance request. Ms. Higgins wanted to have clarification that there is no change in the size of the garage. Mr. Winslow concurred. Chairman DeLeo called for any abutters or correspondence. Edmond Boucher, 8 New Salt Road. Mr. Boucher stated he was in favor of this variance. He felt the new garage would be an asset and was architecturally pleasing. He urged the board to approve. Mr. Winslow also clarified that there will be no sink or toilet in the garage as there was on the original submission. The DEP requested he remove this so there would be no chance of habituation. PUBLIC HEARING CLOSED AT 7:50 p.m. Mr. Nugent asked the appellant if the roof overhang was wider. Mr. Winslow stated it was not. Mr. Nugent advised the board that this would be confirmed prior to demolition of the existing garage.</p>	<p>PUBLIC HEARING</p>
<p>Chairman DeLeo 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 existing single-car garage was built in July of 1956, before the date of adoption of the existing set-back requirements. The current garage footprint is 13 feet from the front property line and 3 feet from the right property line. Our home does not have a basement or enough storage available in our current garage to allow for storage of autos, a snow blower, storm windows and screens, yard furniture, yard and garden maintenance equipment, etc. We feel that to be able to protect our vehicles and personal property in the winter months in Maine is a reasonable request. Mr. Weyenberg agreed.</p>	

TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES August 30, 2010

<p>Mr. Denison agreed. Ms. Higgins agreed. Mr. Quinn agreed. Chairman DeLeo agreed. 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 the set-back variance is necessary to permit us to use and enjoy our property in essentially the same manner as other properties are utilized in the same zoning district. The unique circumstances of the property (the garage was built in 1956, prior to our ownership) and not the general conditions in the neighborhood require the need for the variance. Mr. Weyenberg agreed. Mr. Denison agreed. Ms. Higgins agreed. Mr. Quinn agreed. Chairman DeLeo agreed. With regards to part C. The granting of the variance will not alter the essential character of the locality the appellant stated there are many other homes in our neighborhood that have 2-car garages. The proposed change in our garage structure will not alter the character of our neighborhood, and will definitely blend in with the surrounding houses. In fact, we believe the new structure to be an improvement over the existing one. Mr. Denison agreed. Mr. Weyenberg agreed. Ms. Higgins agreed. Mr. Quinn agreed. Chairman DeLeo agreed. With regards to part D. The hardship is not the result of action taken by the appellant or a prior owner the appellant stated parcel #2 was purchased in 1933 and added to parcel #1 (which was purchased in 1928). The existing single-car garage was built in July 1956 on what was parcel #2, before current set-back requirements and our ownership. We ask that the Variance Committee grandfather the existing garage right-side and front set-backs due to the original garage construction date. Mr. Denison agreed. Mr. Weyenberg agreed. Ms. Higgins agreed. Mr. Quinn agreed. Chairman DeLeo agreed. Ms. Higgins moved to permit the adjustment of the right and front yard setbacks for the construction of a garage. Mr. Quinn seconded. Motion passes unanimously.</p>	<p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p>
<p><u>ITEM 1: Miscellaneous Appeal:</u> Pamela F. Francis, owner of 31</p>	<p style="text-align: center;"><u>Item 1: Pamela Francis, 31</u></p>

TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES August 30, 2010

<p>Wintergreen Street , MBL 205-8-10, in the R2 Zone to permit the reduction of the front and rear yard setback to allow the construction of a garage. The owner is the appellant.</p>	<p><u>Wintergreen Avenue, MBL 205-8-10</u></p>
<p>Pamela Francis, 31 Wintergreen Street. Ms. Francis explained her appeal. She wants to demolish the existing garage and rebuild a larger one more in the center of the open area on her property. Ms. Higgins wanted to clarify which property it was. She had a difficult time finding it when driving around. Ms. Francis explained where the house was located. Chairman DeLeo called for any abutters or correspondence. Tim Strohm, 31 Portland Avenue. Mr. Strohm stated he was happy to have the garage replaced, but he was concerned regarding living area above the garage. Ms. Francis rents to foreign work students, and there is a history of many young students staying at her property making a lot of noise and commotion. Ms. Higgins asked what the size of the existing garage is. Mr. Nugent stated it was 12' X 24'. Mr. Denison pointed out that there would be no facilities in the garage and that it could be specified not to be housing. Ms. Francis would need a license. Mr. Nugent stated that in that zone a boarding house kicks in after 2 tenants. Mr. Denison stated that if there are no facilities then she would not get a permit anyway. Mr. Nugent stated that rights go with the property unless the board was clear on conditions. That would be the only way the neighbor would be better protected. Ms. Francis stated she is not interested in having anyone stay on the second floor. This is only for storage above and vehicles below. She does have a license to rent for her home, but would not want to do that for the garage. Mr. Weyenberg asked if Ms. Francis would consider herself as having a business providing foreign housing. Ms. Francis stated no. She does have some students who have returned from a prior year. PUBLIC HEARING CLOSED 8:07 p.m.</p>	<p>PUBLIC HEARING</p>
<p>Chairman DeLeo 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 home was constructed in 1935 prior to current ordinances, codes and setback requirements. Mr. Weyenberg agreed. Mr. Denison agreed. Ms. Higgins agreed. Mr. Quinn agreed.</p>	

