

**TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES
AUGUST 27, 2012**

<p>Call to Order at <u>7:05 pm</u></p>	<p>Call to Order</p>
<p>Pledge to the Flag</p>	
<p>Roll Call: Present: Tianna Higgins, Mark Lindquist, Owen Stoddard, Chairman Ray DeLeo. Absent: Philip Denison, and Ron Regis.</p> <p>Staff: James Butler, Code Enforcement Officer, Val Helstrom, ZBA Clerk</p>	<p style="text-align: center;">PUBLIC HEARING</p>
<p><i>Chair DeLeo read the criteria for the Public Hearing.</i></p> <p>The ZBA Board moved forward to discuss Item 4.</p>	
<p><u>ITEM 4: Miscellaneous Appeal:</u> Terry Nagle, owner of 90 Ross Road, MBL 105-4-12 in the RD Zone to permit construction of a new single family home. Applicant is seeking approval of a miscellaneous appeal of the minimum lot size requirement without sewer or water. Owner is the appellant.</p> <p>Both Jim and Terry Nagle were present. Jim Nagle introduced himself to the Board and asked the Board Members to review a request for a lot with approximately 400’ frontage and to allow them to develop (2) lots. They have also had a septic system design on that proposed lot anticipating that there might be some questions whether the lot would accommodate sub surface waste water. Mr. Nagle also included a design for a three (3) bedroom home as a retirement home for himself and his wife.</p> <p>Ms. Higgins asked why it is necessary to create two (2) more non-conforming lots?</p> <p>Mr. Nagle stated that the intention is to retain entire ownership of the entire parcel.</p> <p>Ms. Higgins asked why are they dividing this to have two (2) lots with frontage?</p> <p>Mr. Nagle didn’t think that he could get another dwelling unit on one lot and he suspects someone will acquire the other lot at some point in planning over time. He thinks that it would be easier to convey if it had its own lot that was a legitimate town recognized lot. It would be nice to have a designated set of meets and bounds that indicates where the lot begins and ends in relationship to the location of the house so it would be much easier to convey that when that time came. He informed them that he included a survey that is included in their packets.</p> <p>Ms. Higgins asked a question in regards to the public sewer and water, she couldn’t find anything that stated if that is a requirement or not.</p> <p>Chair DeLeo stated that the code states that if you are not within 1000 feet of a waterline, you can put in a well. If you are in 1000 feet you have to run a pipe from wherever the water is located to the home.</p> <p>Mr. Nagle approached Ronnie Boutet, the former owner of Dunegrass about this and he indicated that The Birches are the owner of the water as well as the sewer across the street and is currently privately owned by them and there is no interest in allowing anyone else</p>	<p style="text-align: center;"><u>ITEM 4</u></p>

to connect to it.

The Board Members stated that this Miscellaneous Appeal can go before the ZBA Board to allow them to build on the sub-lot but it has to go before the Planning Board for the “division” of the lot because this is part of a subdivision.

Mr. Lindquist questioned that under the existing use of the property the Nagles had stated that there is a single family home with an accessory unit and wanted to know what the accessory unit was.

Mr. Nagle stated that there is an accessory dwelling unit located above the garage that was used for his grandmother but it has been vacant for a year.

Ms. Higgins stated that we would be approving reduced frontage for 2 lots.

Mr. Nagle stated that they are requesting reduced frontage for 238’ on the existing lot and 150’ on the proposed lot.

ZBA Officer James Butler stated that in the zoning of the property you have to have at least 200’ of frontage so he wouldn’t need a miscellaneous appeal for that lot because it is 238’ so it would only be for the 200’ minimum for the proposed lot. He also informed the Board that the requirement is 30,000 sq. ft. if you have water and sewer and 40,000 without water and sewer.

Mr. Nagle stated that the proposed lot would have 46,100 sq. ft. and the other one is 48,700 sq. ft. He stated that it is keeping with everyone to the West of his lot.

Peter Brennan from 88 Ross Road introduced himself to the Board. He thought that the Nagles were appealing for less than 75,000 sq. ft. minimum for a single dwelling home and this is what he was told when he bought his lot.

Tianna Higgins informed him that this was in a subdivision so the requirements are different than a single family lot.

Mr. Brennan is concerned with his pins being moved because of the proposed construction. Chair DeLeo informed him that his pins should not move.

Mr. Brennan was also concerned that there was nothing on the plans that had shown where the house would be placed on the lot.

Mr. Nagle informed the Board Members that when and if he is able to build, everything will be checked thoroughly by a surveyor.

Chair DeLeo read a letter from Chad Morin, from 85 Ross Road stating that he opposes the plan to reduce the minimum lot size and reduce the minimum road frontage. He is also concerned about waste water flooding into the brook behind the house.

Stephanie Hewitt from 88 Ross Road introduced herself to the Board Members and stated that they had purchased their lot because they wanted to build in the rural area of the town and were told when they bought the lot that the laws were in place that no one else could build around them. Also she wasn’t aware of a sub-division next to their lot.

Mr. Nagle presented the Board with the map of the subdivision that was approved in 1979.

The public hearing closes at 7:50 p.m.

Chair DeLeo read off the Criteria for a **Miscellaneous Appeal**:

- 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 house was built approximately 1980 as were others in this neighborhood. All homes are built on approximately 1 acre lots without the now required 200' frontage and lot width. This is a 2.1 acre lot with 400' frontage.

Stoddard – Approved

Lindquist – Approved

Higgins- Abstain (as she didn't have a copy of the deed which states when the house was built.)

DeLeo - Approved

- 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.**

Most lots are approximately 1 acre with an average lot frontage and width of 150'. All have homes with private water and sewer.

Stoddard – Approved

Lindquist – Approved

Higgins- Approved

DeLeo - Approved

- 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.**

Existing house was located at the extreme end of the lot in anticipation of creating a second lot or house in the future.

Stoddard – Approved

Lindquist – Approved

Higgins- Approved

DeLeo - Approved

- 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.**

Allowing the creation of a second lot would make our lots 1 acre +like our neighbors. It would also allow us approximately 200' frontage – more than our neighbors. Again all of our neighbors have private water and sewer on lots of 1 acre with less than 200' frontage. Public water and sewer is not available.

Stoddard – Approved

Lindquist – Approved

Higgins- Approved

DeLeo - Approved

<p>Tianna Higgins made a motion to approve the reduction of minimum lot requirement of 150' frontage pending Planning Board approval for splitting a parcel within a subdivision,. Seconded by Mark Lindquist.</p> <p>James Butler called for the vote:</p> <p>Owen Stoddard – Yes Mark Lindquist – Yes Tianna Higgins - Yes Chair DeLeo - Yes</p>	<p><u>MOTION</u></p> <p><u>MISC.</u> <u>APPEAL</u> <u>APPROVED</u></p> <p><u>(4-1)</u></p> <p><u>Unanimous</u></p>
<p><u>ITEM 5: Miscellaneous Appeal:</u> Paul & Kelly Goguen, owner of 11 Maplewood Avenue, MBL 311-9-11 in the R-2 Zone to permit expansion of existing deck to 8'x18'. Applicant is seeking approval of a miscellaneous appeal of the minimum rear yard setback. Owner is the appellant.</p> <p>Paul Goguen introduced himself to the Board. He is proposing an extension of a deck. He is in the Salvation Army campground area and most of the lots there are 30' x 30' and he has a 60' x 30' lot.</p> <p>The public hearing closes at 8:00 p.m.</p> <p>Chair DeLeo read off the Criteria for a Miscellaneous Appeal:</p> <p>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.</p> <p>Existing 29' door is recessed into the side of the house, which makes locking/unlocking the door difficult resulting in broken locks and keys. Set back from 5' 5", set back rear 8'.+</p> <p>Stoddard – Approved Lindquist – Approved Higgins- Approved DeLeo - Approved</p> <p>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.</p> <p>To improve the property usage by installing a deck for enjoyment and alleviate egress issues.</p> <p>Stoddard – Approved Lindquist – Approved Higgins- Approved DeLeo - Approved</p> <p>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</p>	<p><u>ITEM 5</u></p>

<p style="text-align: center;">coverage requirements.</p> <p>From existing footprint of stairs – 18’ long deck will encompass new egress from house.</p> <p>Stoddard – Approved Lindquist – Approved Higgins- Approved DeLeo - Approved</p> <p>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.</p> <p>Existing stairs footprint off the street to be maintained. 8’ off rear setback does not effect abutters. Most homes in this neighborhood do not conform to lot set back requirements (old salvation army campground) The deck along with creating a safer egress will make for our summer enjoyment.</p> <p>Stoddard – Approved Lindquist – Approved Higgins- Approved DeLeo - Approved</p> <p>Mark Lindquist made a motion to grant a Miscellaneous Appeal for Paul and Kelly Goguen, owners of 11 Maplewood Avenue MBL 311-9-11 in the R-2 Zone to permit the expansion of an existing deck to 8’ x 18”. Seconded by Tianna Higgins.</p> <p>James Butler called for the vote:</p> <p>Owen Stoddard – Yes Mark Lindquist – Yes Tianna Higgins - Yes Chair DeLeo - Yes</p>	<p style="text-align: center;"><u>MOTION</u></p> <p style="text-align: center;"><u>MISC. APPEAL APPROVED</u></p> <p style="text-align: center;"><u>(4-1)</u></p> <p style="text-align: center;"><u>Unanimous</u></p>
<p><u>ITEM 3: Variance:</u> MCJ, LLC, owner of 203 East Grand Avenue, MBL 202-3-13 in the BRD Zone to adjust the highest annual tide (high watermark). Applicant (MCJ, LLC) is seeking an extension of a previously approved variance approved by this board dated February 29, 2012. The variance was to adjust the highest annual tide (high watermark) to allow construction of a single family home. Owner is the appellent.</p> <p>This is his second extension.</p> <p>Tianna Higgins made a motion to approve the extension of Variance for 203 East Grand Avenue, MBL 202-3-13 in the BRD Zone to adjust the highest annual tide (high watermark). Seconded by Owen Stoddard.</p> <p>James Butler called for the vote:</p> <p>Owen Stoddard – Yes Mark Lindquist – Yes Tianna Higgins - Yes Chair DeLeo - Yes</p>	<p style="text-align: center;"><u>ITEM 3</u></p> <p style="text-align: center;"><u>MOTION</u></p> <p style="text-align: center;"><u>VARIANCE EXTENSION APPROVED</u></p> <p style="text-align: center;"><u>(4-1)</u></p> <p style="text-align: center;"><u>Unanimous</u></p>

<p><u>ITEM 2: Variance:</u> Ray & Heidi DeLeo (Atlantic Birches, Inc)., owners of 20 Portland Avenue, MBL 205-1-25 in the R-1 Zone to reduce the minimum lot size requirement allowing appellant to build a new home.(Ray & Heidi DeLeo (Atlantic Birches, Inc) is seeking extension of previously approved variance by this board dated March 13, 2012. Owner is the appellant.</p> <p>Ray DeLeo recluses himself from this Variance extension request.</p> <p>Ray and Heidi DeLeo (Atlantic Birches, Inc.) is seeking an extension for a previously approved Variance.</p> <p>Owen Stoddard made a motion to approve an extension of a previously approved Variance on 20 Portland Avenue, MBL 205-1-25 in the R-1 Zone to reduce the minimum lot size requirement allowing appellant to build a new home. Seconded by Mark Lindquist.</p> <p>James Butler called for the vote:</p> <p>Owen Stoddard – Yes Mark Lindquist – Yes Tianna Higgins - Yes</p>	<p><u>ITEM 2</u></p> <p><u>MOTION</u></p> <p><u>VARIANCE</u> <u>EXTENSION</u></p> <p><u>APPROVED</u></p> <p><u>(3-0)</u></p>
<p><u>Acceptance of the minutes of the July 30, 2012 meeting.</u></p> <p>Tianna Higgins made a motion to approve the meeting minutes for July 30, 2012, seconded by Mark Lindquist.</p> <p>Stoddard – Abstained (Mr. Stoddard was not at the July 30, 2012 meeting) Lindquist – Approved Higgins- Approved DeLeo - Approved</p>	<p><u>MINUTES</u></p> <p><u>MOTION</u></p> <p><u>VOTE</u></p> <p><u>(3-1)</u></p> <p><u>Unanimous</u></p>
<p>ITEM 6: Discussion whether or not abutters need to be re-notified if a variance or miscellaneous appeal is being considered for an extension for time.</p> <p>James Butler could not find anywhere in the ZBA ordinance that the abutters need to be notified for an extension of a previously approved Variance or Miscellaneous Appeal. As long as nothing has changed with the original approval.</p> <p>All agreed.</p>	<p><u>ITEM 6</u></p>

Tianna Higgins made a motion to adjourn at 8:10 p.m. Seconded by Owen Stoddard.	
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I, Valdine Helstrom, 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 held on August 27, 2012.

Valdine L. Helstrom