

**TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES
July 30, 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: Chairman Ray DeLeo, Mark Lindquist, Ron Regis, Tianna Higgins. Absent: Owen Stoddard.</p> <p>Staff: James Butler, Code Enforcement Officer.</p>	<p>PUBLIC HEARING</p>
<p><i>Chair DeLeo read the criteria for the Public Hearing.</i></p>	
<p><u>ITEM 1:</u> Acceptance of the minutes of the May 21, 2012 meeting.</p> <p>Ron Regis made a motion to approve the ZBA meeting minutes for the May 21, 2012 meeting. Seconded by Mark Lindquist.</p> <p>Unanimous.</p>	<p><u>ITEM 1</u></p> <p><u>MOTION</u></p> <p><u>VOTE</u></p> <p><u>(4-0)</u></p>
<p><u>ITEM 2: Miscellaneous Appeal:</u> Fred Scott, owner of 36 Massachusetts Avenue, MBL 322-6-8 in the R3 Zone to permit extension of existing porch (5x7) towards the rear of structure to make it (7x9). Applicant (Ted Gwastz) is seeking approval of a miscellaneous appeal to permit expansion within rear yard setback.</p> <p>Mr. Ted Gwartz introduced himself to the Board. He explained that the applicant needs to extend the porch 2 feet for safe storage of a water heater and a laundry facility. Presently the units are exposed to weather conditions.</p> <p>There being no one speaking for or against the appeal, the public hearing closed at 7:10 p.m.</p> <p>Chair DeLeo read a letter from a citizen regarding this appeal.</p> <p>Letter dated 7/14/2012</p> <p>Please be advised that at property owners of 38 Massachusetts Ave. Old Orchard Beach, ME we have no objection to Item 2 – a permit to extend the porch at 36 Massachusetts Ave, on the property owned by Fred Scott.</p> <p>Sincerely, Karen L. and Robert H. Reynolds</p>	<p><u>ITEM 2</u></p> <p><u>Misc. Appeal</u></p>

Chair DeLeo read the four criteria for hardship:

- 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.**

RESPONSE: Existing building was constructed in 1955.

Ron Regis – Approved
Mark Lindquist – Approved
Chair DeLeo - Approved
Tianna Higgins - 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.**

RESPONSE: Current porch is very narrow. 5' wide 7' long. This expansion will allow the owner to utilize the porch in a safer and comfortable way.

Ron Regis – Approved
Mark Lindquist – Approved
Chair DeLeo - Approved
Tianna Higgins - 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.**

RESPONSE: Current structure and location on lot limit expansion opportunities. Only seeking a modest expansion of the current structure.

Ron Regis – Approved
Mark Lindquist – Approved
Chair DeLeo - Approved
Tianna Higgins - 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.**

RESPONSE: The existing porch is 7' x 5'. I proposed to be allowed to extend the existing porch 2 feet out from the house and 4 feet over to the left, which will be flush with the corner and 2 feet to the right. The setback from the house will be 11 feet.

Ron Regis – Approved
Mark Lindquist – Approved
Chair DeLeo - Approved
Tianna Higgins – Approved

Tianna Higgins moved to approve the Miscellaneous Appeal for Fred Scott of 36 Massachusetts Ave. to permit the extension of existing porch (5'x7') to a (7'x9') porch. Seconded by Ron Regis.

MOTION

<p>James Butler called for the vote:</p> <p>Ron Regis – Yes Mark Lindquist – Yes Chair DeLeo - Yes Tianna Higgins - Yes</p>	<p><u>VOTE</u></p> <p><u>(4-0)</u></p>
<p><u>ITEM 3: Miscellaneous Appeal:</u> Kathryn Smith, owner of 3 New Salt Road , MBL 325-5-10 in the R3 Zone to permit construction of a new, 2-story residence not exceeding the envelope bounds of the former structure on the rear and west lot lines, conforming on the easterly side and not exceeding 50% of the required front line setback . Applicant (John D. Morris) is seeking approval of a miscellaneous appeal to permit construction within front line setback.</p> <p>John Morris, representing Kathryn Smith introduced himself to the Board Members. On three sides of the proposed cottage, they are within the limits of the former structure. On the Street side, we could not get everything to fit within the 20’ required setback in this zone. It is a very small lot. We are here to seek a 50% reduction on that site. The purpose of the house will serve as a year round residence for the owners.</p> <p>Tianna Higgins asked why there is a 15’ yard setback on one side and no distance on the other side.</p> <p>Mr. Morris stated that the reason why it is not shown on the other side is because the former structure was actually beyond that. Mr. Morris believes that they are allowed, under the current ordinance, to go to the limit of the former structure. Part of the old structure was over the 3 sides except for the street side. He believes that this is in compliance because it does not exceed the limit of the former structure. The backside actually coincides with the limit of the former structure and on the other end which is facing towards the water. The setback on that is a considerable distance to the east from the proposed line.</p> <p>Tianna Higgins mentioned that normally, when you tear down a structure, you have to put it back to its original footprint or you have to ask for permission from the Board.</p> <p>Mr. Morris asked even if you are using less than the former footprint?</p> <p>Ms. Higgins stated yes, in ones that she has been involved with in the past.</p> <p>Mr. Boucher, an abutter from 8 New Salt Road introduced himself to the Board. Mr. Boucher asked whether the DEP covenants have to be met. Ms. Higgins stated that yes they do.</p> <p>Mr. Boucher asked if the DEP rules apply, then under section 7 is 20% the maximum allowed area of lot coverage.</p> <p>Tianna Higgins stated that she cannot speak for DEP rules, but that she believes that they would be allowed, as a minimum, with what was existing on the lot before, which was more than 20%.</p> <p>Mr. Boucher asked if they approve the request for the miscellaneous appeal, does that approve the whole plot plan.</p>	<p><u>ITEM 3</u></p> <p><u>Misc. Appeal</u></p>

Tianna Higgins stated that we are not essentially approving the house design but we would be approving the ability for them to go 9 feet into the front setback.

There being no one else speaking for or against this miscellaneous appeal, the public hearing closed at 7:27 p.m.

Chair DeLeo read the four criteria for hardship:

- 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.**

RESPONSE: A Miscellaneous Appeal is sought for reduction of the front line setback on the subject property to 50% of the ordinance requirement or 9' to allow enough space to accommodate the bedroom wings of the proposed structure. The structures were originally built 1946 and added on to several times since. The lot was cleared in March of this year.

Ron Regis – Approved
Mark Lindquist – Approved
Chair DeLeo - Approved
Tianna Higgins – 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.**

RESPONSE: The proposed cottage has been designed to maintain the modest scale of the neighborhood residences while accommodating the families seasonal gatherings. Particular attention has been given to scale. The cottages, roofs and overall massing to capture views to the southeast from many points while using modest, traditional fenestration and shingle finishes.

Ron Regis – Approved
Mark Lindquist – Approved
Chair DeLeo - Approved
Tianna Higgins – 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.**

RESPONSE: Given the owners need, it is simply not possible to fit sufficient living space entirely within the previous building envelope though quite modest bedroom sizes and very careful manipulation of. The attached overlay plan shows the concerted effort to match the footprint of “new” to “former”

Ron Regis – Approved
Mark Lindquist – Approved
Chair DeLeo - Approved
Tianna Higgins – 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.**

RESPONSE: By carefully breaking down the elements of the proposed structure, with a group of small gable roof elements, the effect of the design respects and compliments the architectural fabric

<p>of the neighborhood and should further enhance its surroundings.</p> <p>Ron Regis – Approved Mark Lindquist – Approved Chair DeLeo - Approved Tianna Higgins – Approved</p> <p>Tianna Higgins moved to approve the Miscellaneous Appeal for Kathryn Smith on 3 New Salt Road to permit the construction of a new 2-story residence not exceeding the former structure except for the front set back to be 9 feet, and prior to a building permit being issued that all the permits must be in hand and accommodating. Seconded by Ron Regis.</p> <p>James Butler called for the vote:</p> <p>Ron Regis – Yes Mark Lindquist – Yes Chair DeLeo - Yes Tianna Higgins - Yes</p>	<p><u>MOTION</u></p> <p><u>VOTE</u></p> <p><u>(4-0)</u></p>
<p><u>ITEM 4: Miscellaneous Appeal:</u> Roderick MacDonald, owner of 12 Woodland Avenue, MBL 314-3-7 in the R2 Zone to permit construction of a new 24 x 22 expansion to existing 1 story house. Applicant is seeking approval of a miscellaneous appeal to permit expansion within rear yard setback. Owner is the appellant.</p> <p>Roderick MacDonald introduced himself to the Board Members. Mr. MacDonald is seeking an approval for a Miscellaneous Appeal to add a new 24' x 22' expansion to the existing 1 story house.</p> <p>Mr. Jack Newton from 15 Lake Avenue, abutter to the applicant stated that he has no objection to what Mr. MacDonald is proposing to do.</p> <p>There being no one else for or against this Appeal the meeting is closed to the public at 7:37 p.m.</p> <p>Chair DeLeo read the four criteria for hardship:</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>RESPONSE: Existing building started as a camp in the early 1900's.</p> <p>Ron Regis – Approved Mark Lindquist – Approved Chair DeLeo - Approved Tianna Higgins – 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>RESPONSE: Put on an addition with a bedroom, bath, and living room. My father is getting older</p>	<p><u>ITEM 4</u></p> <p><u>MISC. APPEAL</u></p>

and has a hard time with physical limits and has a hard time climbing stairs.

Ron Regis – Approved
Mark Lindquist – Approved
Chair DeLeo - Approved
Tianna Higgins – 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.

RESPONSE: The current structure is 19' x 1" from the property line. Seeking to expand 7' x 5" past the existing structure.

Ron Regis – Approved
Mark Lindquist – Approved
Chair DeLeo - Approved
Tianna Higgins – 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.

RESPONSE: I propose to be allowed to place a 22' x 24' addition to the house. 24' will run past the existing building 7' x 5" and 22' out of the left side of the building with an exit door in front of addition with a landing and stairs going along the side of the addition.

Ron Regis – Approved
Mark Lindquist – Approved
Chair DeLeo - Approved
Tianna Higgins – Approved

Tianna Higgins moved to approve a miscellaneous appeal for 12 Woodland Avenue to construct a new 24' x 22' expansion as well as an 8' x 4' deck and stairs to the current 1-story house. Seconded by Mark Lindquist.

James Butler called for the vote:

Ron Regis – Yes
Mark Lindquist – Yes
Chair DeLeo - Yes
Tianna Higgins - Yes

MOTION

VOTE

(4-0)

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 Six (6) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting held on July 30, 2012.

Valdine L. Helstrom