

**TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES
August 26, 2013**

<p>Call to Order at <u>7:02 pm</u></p>	<p>Call to Order</p>
<p>Pledge to the Flag</p>	
<p>Roll Call: Present: Paul Weinstein, Ron Regis, Mark Lindquist, Owen Stoddard, David Boudreau, Chairman Ray DeLeo. Absent: Tianna Higgins. Staff: James Butler, Code Enforcement Officer, Val Helstrom, ZBA Clerk</p>	<p>PUBLIC HEARING</p>
<p><u>ITEM 1: Acceptance of the minutes of the June 24, 2013 meeting.</u></p> <p>Ron Regis made a motion to approve the June 24, 2013 meeting minutes, seconded by Paul Weinstein.</p> <p><i>James Butler called for the vote:</i></p> <p>Paul Weinstein – Yes Ron Regis – Yes Mark Lindquist - Yes Owen Stoddard – Abstained (was not present at June 24, 2013 meeting) Chairman Ray DeLeo - Yes</p>	<p><u>ITEM 1</u></p> <p><u>MOTION</u></p> <p><u>VOTE</u></p> <p><u>(4-0-1)</u></p>
<p>Chair DeLeo read the criteria for the Public Hearing.</p>	
<p><u>ITEM 2: Miscellaneous Appeal:</u> Scott McLeod, Applicant for 6 Brown Street Owner AMS Brown Street Apartments, LLC, MBL 305-1-2 in the DD-2 Zone. Applicant is seeking Miscellaneous Appeal to reduce side yard setback to permit construction of nonconforming means of egress construction. This is required by the town fire prevention code. Applicant is Appellant on behalf of the owner.</p> <p>There was no one at the meeting speaking for the appellant. Code Officer Jim Butler informed the Board Members that he had met with Mr. McLeod and he was prepared to come to the meeting last month that was postponed.</p> <p>Mr. Butler explained that at 6 Brown Street, there was an old run down apartment that had to be torn down and rebuilt. The original plan was not to tear it completely down, but once they stripped the inside, they realized how bad it was structurally.</p> <p>Mr. Butler and the Town Planner, Jeffrey Hinderliter decided to issue them a permit to rebuild as it stood so that they wouldn't need any further approvals. But when they got going on the project to meet current code requirements for the egress on the side staircase coming down on the side onto Brown Street. They would have to extend past the original footprint which prompted this non-conforming means of egress to be approved.</p> <p>What they are proposing are the minimum requirements of the code.</p>	<p><u>ITEM 2</u></p>

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<p>There are no other options to where the stairs could go for the secondary means of egress.</p> <p>The abutting owners of 2 Brown Street introduced themselves to the Board Members. They are concerned that the drip line towards the back of the building is pretty close to their property line.</p> <p>Mr. Butler suggested that if there is a concern that they would be encroaching on their property, their best interest is to contact an attorney and address their concerns.</p> <p>Ron Regis made a motion to table this agenda item until the next meeting without prejudice, second by David Boudreau.</p> <p>All in favor.</p>	<p><u>MOTION</u></p> <p><u>VOTE</u></p> <p><u>(5-0)</u></p>
<p><u>ITEM 3: Variance:</u> Kathleen A. Ahearn, Applicant for 29 Fort Hill Avenue, MBL 309-9-10 in the R-2 Zone, to allow functional division so properties can be sold with a driveway, reducing minimum lot frontage and minimum lot size. Owner is Appellant.</p> <p>Kathleen Ahearn introduced herself to the Board Members and explained to them that she owns 2 lots (29 Fort Hill and 31 Fort Hill) She is trying to sell lot #31 so she would like to acquire a functional division of the two lots.</p> <p>There is a driveway on 29 Fort Hill but no driveway on 31 Fort Hill.</p> <p>Ms. Ahearn passed out to the Board Members a document of a prior ZBA approval on a split very similar to hers.</p> <p>Jim Butler stated that this wouldn't meet the criteria of a Miscellaneous Appeal and her attorney also recommended that she should apply for a Variance as well.</p> <p>There being no one speaking for or against this Appeal, the Public Hearing closed at 7:25 p.m.</p> <p><i>Mr. Deleo reads off the four criteria of hardship:</i></p> <p>A. The land in question <u>cannot</u> yield a reasonable return unless the variance is granted.</p> <p>Response: Cannot be sold without a driveway.</p> <p>Paul Weinstein – Agree Ron Regis – Agree Mark Lindquist – Disagree Chair Ray DeLeo – Disagree Owen Stoddard - Agree</p> <p>B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood</p>	<p><u>ITEM 3</u></p>

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This Appeal was postponed until the next months ZBA meeting per applicant.

ITEM 5: Miscellaneous Appeal: Sandra Dudley, Applicant for 50 Foote Street, MBL 205-19-4 in the R-2 Zone. Applicant is seeking Miscellaneous Appeal to reduce Side yard setback by 50% to 7.5' to permit construction of deck. Owner is the Applicant.

ITEM 5

Darren Knox, General Contractor and brother of Ms. Dudley who lives at 65 Union Avenue, Old Orchard Beach was here representing his sister.

He informed the Board that they are here for a reduction in side yard setback because they need a connecting walkway to connect the decks front and back which is still on the footprint of the main house.

Mr. Knox explained that there is 16.6 feet from foundation to property line and 22.6 feet from foundation to foundation and passed around some pictures to the Board Members.

There being no one speaking for or against the appellant, the Public Hearing closed at 7:32 p.m.

- 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: Yes. Non conforming lot of record.

Paul Weinstein – Agree
Ron Regis – Abstain
Mark Lindquist – Agree
Chair Ray DeLeo – Agree
Owen Stoddard – Agree

- 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: We wish to add a deck which will enhance the property.

Paul Weinstein – Agree
Ron Regis – Abstain
Mark Lindquist – Agree
Chair Ray DeLeo – Agree
Owen Stoddard – Agree

- 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: This is the only practical location for a deck on this property.

