

**TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES
MARCH 31, 2014**

<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, Owen Stoddard, Paul Weinstein, Ron Regis. Absent: Tianna Higgins, David Boudreau.</p> <p>Staff: Dan Feeney, Code Enforcement Officer, Valdine Camire, ZBA Clerk</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 February 24th meeting.</p> <p>Owen Stoddard made a motion to accept the February 24, 2014 meeting minutes with one amendment. In Item 3 for the Variance for Thomas and Carol Wells, Ron Regis <u>agreed</u> on the vote. Seconded by Mark Lindquist.</p> <p>Unanimous.</p>	<p><u>ITEM 1</u></p> <p><u>VOTE</u></p> <p><u>(5-0)</u></p>
<p><u>ITEM 2: Variance</u> Stuart Goldstein, Owner of 42 Winona Avenue, Ocean Park, ME, MBL 320-7-4 in the R-3 Zone. Thomas Rutka Applicant/Agent. Applicant is seeking a Variance request to demolish existing cottage and to build new dwelling in same footprint with additional living area on second floor and to add decks and overhang of an additional 294 sq ft. of area.</p> <p>Tom Rutka, applicant/agent for Stuart Goldstein introduced himself to the Board Members. The Mr. Goldstein is requesting a variance to remove the single family residence and to rebuild the cottage in the exact same footprint but going up and adding an entire second floor to top. The addition of the overhang is for protection for the building and the addition of the deck in the back is to allow them access to backyard space. They are increasing the square footage by 294 sq.ft. They are requesting an additional 294 sq. ft. for the additions of the overhang, the back deck and a set of stairs down to the ground. The new building will be built up on pilings to get it up and out of the flood plain. And they will be converting the cottage from seasonal to year round.</p> <p>The public hearing closed to the public at 7:12 pm.</p> <p><i>Mr. Deleo reads off the four criteria of hardship:</i></p> <p style="padding-left: 40px;">A. The land in question <u>cannot</u> yield a reasonable return unless the variance is granted.</p> <p>Response: Due to the age & condition of the existing cottage a full replacement of the structure is in order. The expansion in volume of the cottage by adding the new entire second floor (+100%) would not expand its footprint on this lowland lot, except for the increased size of the overhangs to 12” all around (+79sf), rear deck & landing (+173sf) & stairs for second egress off deck (+42sf) which equals a total expansion of 294 sf or 4.9%</p>	<p><u>ITEM 2</u></p> <p><u>VARIANCE</u></p>

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additional lot coverage. The land in question cannot yield a reasonable return that would be comparable to surrounding properties unless this variance is granted.

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

B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.

Response: Cottage was placed on site in the 1940's. It was moved here from S. Portland Coast Guard Station where it was a barracks. The entire lot is in the existing flood plain at the 6' to 7' elevation contour. The front porch was added in or around 1960. No major improvements have occurred to the building or the land since then, except the addition of the shed. The cottage shows up as an island made of wood on the flood maps. The new proposed elevation of the cottage 1st floor is 8.5' higher than the existing. This results in the loss of the usage of the back yard right outside the back door. The proposed lot coverage expansion by addition a new deck & stairs would help resolve that and also give a second means of egress. The expansion of the overhangs from about 6" existing to the proposed 12" on all roof edges provides basic protection for the walls, windows & doors. Although the required setbacks cannot be met for the overhangs, the deck and stairs do fit within the setbacks.

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

C. The granting of a variance will not alter the essential character of the Locality.

Response: A three story building among others of similar size, as well as larger sizes, will blend in seamlessly. The structure will be elevated by the use of driven wooden piles for the foundation. The area underneath will be utilized for parking, have overhead garage doors facing the street and be enclosed with a skirting all around it that is constructed to code for the purposes of breaking away in case of flood/wave action.

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

D. The hardship is not the result of action taken by the appellant or a Prior owner.

Response: The lot in question was laid out in the surveys dated 1892 &

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<p>1898. The structure was placed there in the 1940's. The present owner's acquired this property from their family in 1995. There have been no significant changes to the lot or land since then.</p> <p>Paul Weinstein – Agree Ron Regis – Agree Mark Lindquist – Agree Chair Ray DeLeo – Agree Owen Stoddard – Agree</p> <p>Owen Stoddard made a motion to approve the variance for Stuart Goldstein, Owner of 42 Winona Avenue, Ocean Park, ME, MBL 320-7-4 in the R-3 Zone for a variance to demolish the existing cottage and to build a new dwelling in the same footprint with additional living area on second floor and to add decks and overhang of an additional 294 sq ft. of area, seconded by Mark Lindquist.</p> <p><i>Dan Feeney called for the vote:</i></p> <p>Paul Weinstein – Agree Ron Regis – Agree Mark Lindquist – Agree Chair Ray DeLeo – Agree Owen Stoddard – Agree</p> <p>Unanimous.</p>	<p style="text-align: center;"><u>MOTION</u></p> <p style="text-align: center;"><u>VOTE</u> <u>(5-0)</u></p>
<p><u>ITEM 3: Miscellaneous Appeal George and Mary Jane Aube, Owner of 23 Cherry Hills. MBL 105A-1-B13 in the PMUD Zone. Charlie Briggs Applicant/Agent. Applicant is seeking a Miscellaneous Appeal to request a front yard setback encroachment of 2 ft. Dwelling exists on said lot.</u></p> <p>Charlie Briggs, Agent for Mr. & Mrs. Aube along with Mr. & Mrs. Aube introduced themselves to the Board Members. They are asking for a Miscellaneous Appeal to add the front yard setback by 2 ft. for the Title Insurance. The subdivision setbacks were changed and they, as well as the original developer were unaware. They assumed that the setbacks were 25' but they were 30'. They are currently at 28'.</p> <p>Mr. Feeney informed the Board Members that he discussed this with the Town Planner, Jeffrey Hinderliter and had sent a letter of no action to the lawyer, but they wouldn't accept the letter of no action.</p> <p>The Public Hearing closed at 7:25 pm.</p> <p><i>Mr. Deleo reads off the four criteria</i></p> <p style="padding-left: 40px;">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: N/A</p>	<p style="text-align: center;"><u>ITEM 3</u> <u>MISC. APPEAL</u></p>

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Paul Weinstein – Agree
Ron Regis – Agree
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: Yes. Due to the radius of the road, it appears that I am 2 ft. over the 30' requirement.

Paul Weinstein – Agree
Ron Regis – Agree
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: N/A

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

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: Virtually no impact.

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

Mark Lindquist made a motion to approve this Miscellaneous Appeal for George and Mary Jane Aube, Owner of 23 Cherry Hills. MBL 105A-1-B13 in the PMUD Zone to adjust the front yard setback encroachment by 2 ft. as requested. Seconded by Ron Regis.

Dan Feeney called for the vote:

Paul Weinstein – Agree
Ron Regis – Agree
Mark Lindquist – Agree
Chair Ray DeLeo – Agree

MOTION

(5-0)

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<p>Owen Stoddard – Agree</p> <p>Unanimous.</p>	
<p><u>ITEM 4: Miscellaneous Appeal Todd and Belinda Morse, Owner of 44 Maine Avenue, MBL 322-8-9 in the R-3 Zone. Carl Goodwin Applicant/Agent, Applicant is seeking the Demolition of shed and Build 22’x 24’ft Garage.</u></p> <p>Adam Goodwin from Carl A. Goodwin Inc. representing Todd and Belinda Morse introduced himself to the Board Members. They are here requesting a Miscellaneous Appeal to reduce the front setback by 5 ft. 25% of the 20 ft. requirement. And the left side yard to a 7’ 10” setback.</p> <p>Letters of support are incorporated in these meeting minutes:</p>	<p style="text-align: center;"><u>ITEM 4</u> <u>MISC. APPEALS</u></p>

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March 19, 2014

Zoning Board of Appeals
Old Orchard Beach Town Hall
1 Portland Ave.
Old Orchard Beach, ME 04064

Attn: Dan Feeney
Code Enforcement Officer

I am writing in reference to agenda Item 4 for the Public Hearing scheduled for March 31, 2014 at 7pm.

This is a Miscellaneous Appeal by Todd and Belinda Morse of 44 Maine Ave., Ocean Park. They are applicants seeking the demolition of shed and building a 22' x 24' garage.

As an abutter to their property, I have no concerns with their plans. It will not have any adverse effect.

Thank you for your understanding.

Sincerely,

Mary Anne Ferazzi
Mary Anne Ferazzi
95 Randall Ave.
Ocean Park, ME 04063

*Good luck!
Don't want to see
the final project.*

MOTION

VOTE

(5-0)

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TO: To whom this may concern

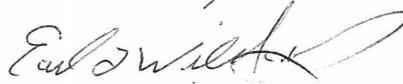
DATE: 3/18/2014

FROM: EARL + BOBBIE WILCHER

SUBJ: ADDITION TO TODD AND BALINDA MOOSE'S
HOME AT 44 MAINE AVE.

WE HAVE REVIEWED TODD'S BUILDING PLAN AND
HAVE NO OBJECTIONS.

Sincerely,



Bobba Wilcher
3/18/14

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2370 Decelles,
Ville St. Laurent, Quebec,
H4M 1C1
March 18, 2014

Letter of Attestation

This letter is to attest that Mr. Todd Morse, of Maine Avenue in Ocean Park, Maine, has spoken to me in person concerning plans drawn up to expand buildings on his property on Maine Avenue in Ocean Park. I have seen the plans and discussed their implications with Mr. Morse to my satisfaction.

I am aware that the plans involve expanding a building to within seven and a half feet of our shared property line of the parcel of land that I own at 48 Maine Avenue, Ocean Park: property number 003220000800008.

I have no objections, reservations or concerns about his plans.



James Owens

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March 30, 2014

Zoning Board of Appeals
Old Orchard Beach
1 Portland Ave.
Old Orchard Beach, ME 04064

Attn: Dan Feeney
Code Enforcement Officer

We are writing in reference to Agenda # 4 for the Public Hearing scheduled for Monday, March 31, 2014 at 7:00pm.

This is a miscellaneous appeal by Todd and Belinda Morse of 44 Maine Ave in Ocean Park. They are applicants seeking the demolition of a storage shed and the building of a 22'x24' garage.

As owners of the property across the street at 49 Maine Ave, we have no objection to their plans.

Thank you.



Janet and Edward Hryniewicz
49 Maine Ave, PO Box 7042
Ocean Park, ME 04063

Closed to the public at 7:35 pm.

Mr. Deleo reads off the four criteria

- 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: The house that is existing on this lot was built in 1932. This was before the adoption of the provision.

Paul Weinstein – Agree
Ron Regis – Agree
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: A garage in our climate is a common occurrence to store vehicle in a residential district 3 zone. Granting of the requested reduction will not grant homeowner special

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circumstances, yet they will have the same lot use as others in this zone.

Paul Weinstein – Agree
Ron Regis – Agree
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: Due to the existing house location and proximity to the front and both sidelines, a garage of usable size cannot be constructed that would conform to currently applicable front and sideline setback requirements.

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

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 neighborhood consists of single family homes. If the new garage were able to meet the currently applicable yard restrictions, then it would have the same non-existent impacts or effects to the existing uses in the neighborhood as the garage that does not meet the setbacks. This house is and will remain a single family home.

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

Owen Stoddard made a motion to approve the Miscellaneous Appeal for Todd and Belinda Morse, Owner of 44 Maine Avenue, MBL 322-8-9 in the R-3 Zone to demolish the 10' x 12' shed and build a 22' x 25' single story garage. Seconded by Mark Lindquist.

Dan Feeney called for the vote:

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

Unanimous.

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ADJOURN	
The meeting adjourned at 7:55 p.m.	
GOOD AND WELFARE	
Dan Feeney informed that Board Members that there will be a Cooperative Extension: Community Development Class if interested.	

I, Valdine Camire, Secretary to the Zoning Board of Appeals of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of eleven (11) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting held on March 31, 2014

Valdine Camire