

**TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS
Monday, November 24, 2008**

<p>Roll Call: Mr. Ray DeLeo, Mr. Phillip Weyenberg, Mr. Howard Evans were present and Mike Nugent was present as Staff Support</p>	<p>Roll Call</p>
<p>ITEM 1: Variance: Mark Lindquist, Owner of 8 Eden Lane, MBL 206-7-2 in the R-2 zone; to allow the legalization of an existing garage apartment. This request requires a variance in the density requirement. Owner is the appellant.</p>	<p>Item 1 Variance Mark Lindquist 8 Eden Lane. 206-7-2 R2 Zone</p>
<p>Chairman DeLeo read the appeal.</p> <p>Mr. Lindquist explained that he purchased the property 15 months ago and that he looked at the property there was a kitchen in the garage that had been used for rentals. He stated that he checked it out in the Town Office with the realtor. The assessor’s office had a record of the apartment. He went ahead and purchased the property.</p> <p>He advised that he had renovated the building and upon inspection by the Code Office, the zoning issue was discovered and that he received a letter to stop work. The unit was almost complete.</p> <p>Mr. Weyenberg asked if he had tenants in the unit. The appellant stated that he did not.</p> <p>Mr. Evans asked if the appellant lived there year round. The appellant stated that he did. Mr. Evans asked if the unit has been rented. The appellant advised that he has not rented the unit, but that it had been a summer rental in the past.</p> <p>Mike Nugent explained the assessor’s records and that the unit was in the records in the 1980’s</p> <p>Mr. DeLeo asked if the only thing that was making this “not legal” was the fact that it had no license.</p> <p>Mike Nugent advised that there was also no change of use permit to make it legal for zoning purposes.</p> <p>Mr. DeLeo asked if the unit was livable.</p> <p>Mike Nugent replied that it had been nicely renovated.</p> <p>Discussion ensued regarding procedure</p>	<p>Public Hearing</p>

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<p>Chairman DeLeo called for Abutters.</p> <p>No Abutters were present</p> <p>Chairman DeLeo read the 4 criteria of approval for a Variance</p> <p>The Board agreed that because the purchase of the property was dependent on the use of the existing second unit, the land in question will not yield this reasonable use without a variance. Mr. Evans wanted to clarify that the unit was not being created, but updated, and it was bought as two units. They also agreed that the need for the variance was due to the unique circumstances of the property and general conditions of the neighborhood due to the fact that the apartment had existed and was in the assessor's records. The board felt that the granting of the variance would not alter the character of the locality as the unit had been rented by the previous owner; there is sufficient off street parking and that there are two unit properties in the neighborhood and that because the use predates zoning; the need for a variance was not a result of action taken by the owner.</p> <p>Mr. Weyenberg moved to grant the appeal as presented</p> <p>Mr. Evans seconded the Motion</p> <p><i>Motion carries Unanimously</i></p>	<p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p>
<p><u>ITEM 2: Miscellaneous Appeal:</u> Mark Lindquist, Owner of 8 Eden Lane, MBL 206-7-2 in the R-2 zone; to permit the adjustment to the right side and rear setbacks and lot coverage to allow the construction of walkways and decking. Owner is the appellant.</p>	<p style="text-align: center;">Item 2 Miscellaneous Appeal Mark Lindquist 8 Eden Lane. 206-7-2 R2 Zone</p>

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Chairman DeLeo asked the appellant to explain the appeal.

Tom Rutka, representing the owner, clarified that the existing structure would remain and be lifted, “Raised” not “Razed” and that there would be additions on the right side and rear (facing the property from Maine Ave.) A new box bay window on the Maine Ave. side; all of which would meet the percentages allowed for a limited yard reduction. The approval also included code compliant means of egress stairs on the Maine Ave. side, the Bridge St. side The Bridge St stair has an 8’ x 3’ 8” roofed platform, and on the left side of the building (facing the property from the Bridge St. side) This request requires a reduction in the front, side, and rear yard setback. A survey has been performed and submitted. Tom Rutka explained the different segments of the projects and the improvements and expansions to the building and means of egress. The stairs would need adjustment to accommodate the vertical expansion. The entry way stairs would remain open with an overhand type covering.

Mr. Weyenberg asked if the steps on the Bridge St. side, with the new footprint fall into the variance category. Mike Nugent advised that there is a separate miscellaneous appeal for code compliant means of egress or handicap access ramp.

The Builder advised that the bow window on the Maine Ave. side of the building is with in the limited yard reduction standard.

Mr. Weyenberg asked about the third set of step on the “rear” of the building. Mr. Rutka indicated that there was a set of stairs there as well but included that in the Miscellaneous appeal for limited yard reduction on the rear.

Mr. Evans asked about lot coverage, as it exists now.

Mr. Rutka advised that it is currently 604 sq.ft. (20.13%) and the proposed is 1004.4 sq.ft (33.48%) and 40% is allowed

The Board had no further questions.

Chairman DeLeo read the 4 criteria of approval for a Miscellaneous Appeal:

The Board agreed that the building on the lot was erected in 1947 prior to the date specified for a limited yard reduction (2/3/98). They also agreed that because the request is within the limited yard reduction allowable set backs it is reasonably necessary for the applicant to enjoy their property similar to other properties in the zone.

They agreed that it would not be practical to build this in a conforming area because the allowable building envelope is smaller than the

**Public
Hearing**

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<p>ITEM 4: Miscellaneous Appeal: Mark Lipka, Owner of Unit 6 at 22 Oceana Ave., MBL 321-19-2 in the R-3 Zone, to permit the adjustment of the rear yard setback to allow the construction of a code compliant stairway. Owner is the appellant.</p> <p>ITEM 5: Miscellaneous Appeal: John Dixon, Owner of 12 Highland Ave., MBL 312-3-4 in the R-2 Zone, to permit the adjustment of the front yard setback to allow the construction of a code compliant stairway. Owner is the appellant.</p> <p>Mr. Evans Moved to Table Item 5 Mr. Weyenberg seconded the Motion</p> <p>Mr. Weyenberg moved to Table Item 4 Mr. Evans seconded the Motion</p> <p>Unanimous in Favor</p>	<p>Items 4 and 5 Tabled to the December 29, 2008 Meeting</p>
<p>The Minutes from the October 24, 2008 meeting were not finished.</p> <p>Mike Nugent advised that Mr. Denison has requested to be moved to a regular member status from an alternate. Tianna Higgins should be available to return in December as well.</p> <p>A copy of all of the term expirations would be provided to the board at the next meeting.</p>	
<p>Mr. Evans moved to adjourn @ 8:45 pm Mr. Weyenberg seconded.</p> <p><i>Motion carries Unanimously</i></p>	<p>Adjournment</p>

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I, Mike Nugent ,Acting Secretary to the Zoning Board of Appeals, do hereby certify that the foregoing document consisting of eight (8) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting of November 24, 2008.