

**TOWN OF OLD ORCHARD BEACH**  
**ZONING BOARD OF APPEALS MEETING MINUTES September 28, 2009**

<p><b>Call to Order at 7: 04 pm</b></p>	<p><b>Call to Order</b></p>
<p><b>Pledge to the Flag</b></p>	
<p><b>Roll Call:</b> Present: Mr. Ray DeLeo, Mr. Robert Quinn, Mr. Howard Evans, Ms. Tianna Higgins, and Mr. Philip Denison.          Mr. Philip Weyenberg and Ms. Eileen Payette; Absent.  <b>Staff:</b> Mike Nugent, Tori Geaumont.</p>	
<p><b>ITEM 1: Variance:</b> Robin M. Dayton, owner of 59 Fern Avenue, MBL 312-1-11, in the R2 Zone to permit the adjustment of the side and rear setbacks and lot coverage to construct a second means of egress. The owner is the appellant.</p>	<p><b>ITEM 1:</b>  <u><b>Variance: Robin Dayton, 59 Fern Avenue, MBL 312-1-11</b></u></p>
<p><b>Chairman DeLeo</b> read the appeal.          Robin Dayton, 59 Fern Avenue.          Ms. Dayton explained that her property has two houses on one lot that cannot be divided. She uses the smaller home as a rental. She has been concerned regarding egress, as there is only one primary egress. She is concerned about safety for her tenants.  <b>James B. Dayton, Harrison, Maine.</b> Mr. Dayton explained he is Ms. Dayton’s brother and is her contractor who has suggested doing this. He is trying to make this as tenant-friendly as possible.  <b>Ms. Higgins</b> asked if they are intending to have this be the main entrance.  <b>Mr. Dayton</b> stated it will not; it really cannot be.  <b>Mr. Evans</b> stated he was trying to match up the drawing with what they are doing.  <b>Mr. Nugent</b> stated they are not on the drawing.  <b>Mr. Dayton</b> approached the board and pointed out where the stairs would be.  <b>Chairman DeLeo</b> asked if the 6X8 landing was a deck, and if the stairs would be coming off that.  <b>Mr. Evans</b> asked which direction the stairs would be going.  <b>Ms. Dayton</b> stated they would be going towards the driveway. She stated she was trying to figure out a way to make it safer.  <b>Chairman DeLeo called for Abutters or correspondence.</b>  <b>PUBLIC HEARING CLOSED 7:13 p.m.</b>  <b>Chairman DeLeo</b> read the appeal.  <b>Chairman DeLeo</b> read criteria number one.  <b>With regards to section A.</b> The land in question <u>cannot</u> yield a reasonable return unless the variance is granted the appellant stated a reasonable use is to be able to safely get in and out of the structure. A second egress cannot be built without a variance.  <b>Chairman DeLeo</b> asked if they really need a 6’ x 8’ platform if this is a means of egress.  <b>Ms. Dayton</b> stated it does not need to be that big; she was trying to figure out what the best design would be. Mostly she just wants a secondary egress.  <b>Ms. Higgins</b> stated a 6’ x 8’ is not huge.  <b>Mr. Dayton</b> stated it is an out-swing door, and they did not want people to be in danger of falling off.  <b>Chairman DeLeo</b> stated he was concerned about it being used as a deck.  <b>Ms. Dayton</b> stated they were concerned about that too, but they were not sure of the towns’ guidelines.  <b>Mr. Nugent</b> stated the minimum standard is 3’ x 3’, but that is not practical here.  <b>Mr. Denison</b> agreed.  <b>Ms. Higgins</b> agreed.  <b>Mr. Quinn</b> agreed.  <b>Mr. Evans</b> agreed.  <b>Chairman DeLeo</b> agreed.</p>	<p style="text-align: center;"><b>PUBLIC HEARING</b></p>

<p><b>With regards to part B.</b> The need for a variance is due to the unique characteristics of the property and not to the general conditions of the neighborhood the appellant stated the lot has two principle structures on it both legally nonconforming to setbacks. This is the only situation like this in the neighborhood.  <b>Mr. Denison</b> agreed.  <b>Ms. Higgins</b> agreed.  <b>Mr. Quinn</b> agreed.  <b>Mr. Evans</b> agreed.  <b>Chairman DeLeo</b> agreed.</p> <p><b>With regards to part C.</b> The granting of a variance will not alter the essential character of the locality the appellant stated the request is modest and is just a small stairway.  <b>Mr. Denison</b> agreed.  <b>Ms. Higgins</b> agreed.  <b>Mr. Quinn</b> agreed.  <b>Mr. Evans</b> agreed.  <b>Chairman DeLeo</b> agreed.</p> <p><b>With regards to part D.</b> The hardship is not the result of action taken by the appellant or a prior owner the appellant stated the structures are legally non-conforming and built near the lot lines before zoning existed. This is not a result of our actions.  <b>Mr. Denison</b> agreed.  <b>Ms. Higgins</b> agreed.  <b>Mr. Quinn</b> agreed.  <b>Mr. Evans</b> agreed.  <b>Chairman DeLeo</b> agreed.</p> <p><b>Ms. Higgins</b> moved to permit the adjustment of the side and rear setbacks and lot coverage to construct a second means of egress.  <b>Mr. Evans</b> seconded.  <i>Motion carries unanimously.</i></p>	<p style="text-align: center;"><b>Motion</b></p> <p style="text-align: center;"><b>Vote</b></p>
<p><b><u>ITEM 2: Miscellaneous Appeal &amp; Variance:</u></b> Michael Kelley, owner of 6 Maplewood Avenue, MBL 311-10-5, in the R-2 Zone to permit the adjustment of the left side yard setback (Miscellaneous Appeal) and lot coverage (Variance Request) to extend existing deck. The owner is the appellant.</p>	<p style="text-align: center;"><b><u>Item 2:</u></b>  <b><u>Miscellaneous</u></b>  <b><u>Appeal: Michael</u></b>  <b><u>Kelley, 6</u></b>  <b><u>Maplewood Avenue,</u></b>  <b><u>MBL 311-10-5</u></b></p>
<p><b>Michael Kelley, 6 Maplewood Ave.</b> Mr. Kelley explained they wish to extend the deck to be able to connect the house and the garage.  <b>Mr. Nugent</b> stated this is sort of an odd thing because the lot coverage was too much for just a miscellaneous appeal.  <b>Mr. Evans</b> asked if we can combine this.  <b>Mr. Nugent</b> stated it should be separate. They need both of these.  <b>Mr. Kelley</b> stated they will be occupying 55% of the lot.  <b>Chairman DeLeo</b> asked if we do the variance first.  <b>Mr. Nugent</b> stated yes. If the variance does not pass then the miscellaneous appeal cannot go.  <b>Mr. Denison</b> asked if this is already built.  <b>Mr. Nugent</b> stated that yes they had a building permit and were to be built within the footprint, but due to a misunderstanding this was built 2 feet out.  <b>Chairman DeLeo called for Abutters or correspondence.</b>  <b><i>PUBLIC HEARING CLOSED.</i></b>  <b>Chairman DeLeo read the appeal.</b></p>	<p style="text-align: center;"><b>PUBLIC</b>  <b>HEARING</b></p>

**With regards to part A.** The land in question cannot yield a reasonable return unless the variance is granted the appellant stated the deck is needed for outdoor living space, and will allow us to enjoy the property since there is no yard.  
**Ms. Higgins** asked if there was a reason why they did this as opposed to where it was.  
**Mr. Kelley** stated there is a slab that was on the property before. It was a matter of angling out from the garage. It will cover the slab. The house and the garage are offset from each other, and this made it fit better.  
**Chairman DeLeo** asked how small the deck would need to be for this to not be a variance.  
**Mr. Nugent** stated it would probably be 3' x 8'. The encroachment area was very small. It was only several feet, but without it the deck is not usable. The buildings are very close together.  
**Mr. Nugent** stated it is almost a zoning district which should have different bulk and space requirements. The zoning is very restrictions for this neighborhood.  
**Mr. Denison** agreed.  
**Ms. Higgins** agreed based on the circumstances of the lot.  
**Mr. Quinn** agreed.  
**Mr. Evans** agreed.  
**Chairman DeLeo** disagreed.

**With regards to part B.** The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood the appellant stated unlike most homes in the neighborhood that have 100% lot coverage, and since the house and garage are separate this new deck will reconnect them.  
**Mr. Denison** agreed.  
**Ms. Higgins** agreed.  
**Mr. Quinn** agreed.  
**Mr. Evans** agreed.  
**Chairman DeLeo** agreed.

**With regards to part C.** The granting of a variance will not alter the essential character of the locality the appellant stated the new part of the deck will only add to a neighborhood that is in dire need of beautification.  
**Mr. Denison** agreed.  
**Ms. Higgins** agreed.  
**Mr. Quinn** agreed.  
**Mr. Evans** agreed.  
**Chairman DeLeo** agreed.

**With regards to part D.** The hardship is not the result of action taken by the appellant or a prior owner the appellant stated the property was developed prior to the adoption of zoning, and there no conforming locations on the lot.  
**Mr. Denison** agreed.  
**Ms. Higgins** agreed.  
**Mr. Evans** agreed.  
**Mr. Quinn** agreed.  
**Chairman DeLeo** agreed.

**Mr. Evans** moves to adjust the lot coverage to permit the extension of an existing deck.  
**Ms. Higgins** seconded.  
**Motion is unanimous.**

**Motion**

**Vote**

**PUBLIC  
HEARING**

**With regards to the Miscellaneous Appeal:**

**Mr. Kelley** explained this is required due to the stairs of the deck being approximately 2 feet into the setbacks in the left side setback.

**Chairman DeLeo called for Abutters or correspondence.**

**With regards to part 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 appellant stated the house was built in 1900 and the garage was built in 1969.

**Mr. Denison** agreed.

**Ms. Higgins** agreed.

**Mr. Quinn** agreed.

**Mr. Evans** agreed.

**Chairman DeLeo** agreed.

**With regards to part 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 the appellant stated this deck would enhance our useable yard space.

**Mr. Denison** agreed.

**Ms. Higgins** agreed.

**Mr. Quinn** agreed.

**Mr. Evans** agreed.

**Chairman DeLeo** agreed.

**With regards to part 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 structures in conformance with the currently applicable yard size or lot coverage requirements the appellant stated the new deck removes 8 feet of our driveway and is the only way to connect the house to the garage.

**Mr. Denison** agreed.

**Ms. Higgins** agreed.

**Mr. Quinn** agreed.

**Mr. Evans** agreed.

**Chairman DeLeo** agreed.

**With regards to part D.** The impacts and effects of the enlargement, expansion or new principal building or structure on the 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 the appellant stated more than half of my neighbors have small decks.

**Mr. Denison** agreed.

**Ms. Higgins** agreed.

**Mr. Quinn** agreed.

**Mr. Evans** agreed.

**Chairman DeLeo** agreed.

**Ms. Higgins** moved to permit the adjustment of the left side yard setback to extend existing deck.

**Mr. Evans** seconded.

*Motion is unanimous*

**Motion**

**Vote**

**ITEM 3: Miscellaneous Appeal:** Jill K. Snow, owner of 3 Crystal Lane, MBL 316-10-1, in the BRD Zone to permit the adjustment of the left side yard setback to construct code compliant stairway from second floor deck. Diane Doyle is representing the owner.

**Item 3:  
Miscellaneous  
Appeal: Jill Snow, 3  
Crystal Lane,  
MBL 316-10-1**

**Diane Doyle, Doyle Enterprises;**

**Mr. Denison** pointed out that Mr. Doyle has done some pro bono work for the YMCA for which he is on the board. He does not feel this will affect his judgment, but wishes the board to know.

**Ms. Doyle** explains the request. She stated this home will be taken down because is it within a state of disrepair. They wish to have a stairway coming down from the second floor which will be 8.2 feet from the side yard setback. They are reducing the square footage of the home and therefore reducing lot coverage. The closest point will be 8.2 feet from the side setback.

Currently there is a fire escape which was a wooden staircase, and the entire house is 8.88 feet from the side yard setback. They want to slide the structure over so the entire house will be 11.2 feet from the side yard setback, but with the addition of the stairway the closet point will be 8.2 feet.

**Ms. Higgins** asked if the stairway that was there was taken down.

**Ms. Doyle** stated the original survey was done by Paul Gadbois. They could not get in touch with him. They then contacted Dow and Coulombe. The stairway was not on the original survey.

**Ms. Higgins** asked which one.

**Ms. Doyle** explained that the second one they submitted was the one she was talking about.

**Ms. Higgins** asked if they are here because they are not putting the house in the exact same footprint.

**Ms. Doyle** stated that they are changing the footprint but it is less nonconforming. Even though they are moving the home farther from the setbacks, but still not within the setbacks.

**Chairman DeLeo** asked if the stairs were still up would she be here now.

**Ms. Doyle** explained that the stairway needed to be longer. They feel they are doing something better, but it is still not the 15 feet. She stated the photograph shows it is in disrepair.

**Mr. Quinn** wanted clarification if the stairs was the only issue.

**Mr. Nugent** stated yes because it is a nonconforming structure, and if it is going to be different they need to come here.

**Ms. Doyle** stated they are making it less nonconforming.

**Mr. Nugent** stated this is also subject to DEP approval because it is in the frontal dune.

**Chairman DeLeo called for Abutters or correspondence.**

**Chairman DeLeo** read letter from Timothy Foster, 3 Union Avenue, Old Orchard Beach, ME.

**PUBLIC  
HEARING**

ZONING BOARD OF APPEALS  
TOWN OF OLD ORCHARD BBEACH  
1 Portland Avenue  
Old Orchard Beach, ME 04064

September 28, 2009

RE: 3 Crystal Lane, MBL 316-10-1; Miscellaneous Appeal

According to the Building Ordinances in order for a Miscellaneous Appeal to be approved certain conditions must be met:

- That the reduction of the yard size is reasonably necessary to permit the owner to use and enjoy the property in essentially the same manner as similar properties in the zoning district and
- That it would not be practical to construct the proposed expansion in conformance with

the currently applicable side yard.

Also according to Building code there is no requirement for an outside stairway for a single family home.

It is not possible to ascertain by looking at the submitted photo whether the fire escape originally went to the ground. We believe it only went from the second to the third floors. The application states in several places (pg 1 description; pg.2d and pg.3b) that the fire escape is in existence. Yet, in Ms. Doyle's cover letter she states "the fire escape which had been attached to the building until last year". Therefore, since the fire escape has been removed then it should no longer be considered as part of the existing footprint.

On page 2b, the application states that "most houses on the beach have main access from the main living space to the beach." However, the proposed stairway will lead to Crystal Lane not the beach. Furthermore, access to the beach from the Snow property has been eliminated to the north by a locked gate erected by the proprietors of the Seacoast Motel to town property.

Most oceanfront homes have their fronts facing the beach side with parking in the back. The "proposed" plan will have the front of the Snow's home facing Crystal Lane. Ms. Doyle states "that the stairway COULD go on the front of the front of the house and meet the required front yard setback but it would be unsightly". Ms. Doyle states "because the home is in the frontal dune, we must put it up on piers which will add three feet to the height." It seems to me that a 3 foot high stair case leading to the first floor entrance is a normal and consistent design among similar properties with similar zoning. As most homes are slightly elevated and front stairs are the normal and accepted architectural appearance. Since the cars will need to park in front of the house, won't there be a need to have a stairway from the ground up to the first floor? The application/surveys do not state where the bedrooms are to be located. It seems that if an entrance to the new home occurs from the side and at the second floor level, occupants from the first floor will need to go up one floor and then exist down a flight of stairs. For these reasons the Miscellaneous Appeal should be denied.

Without a set of plans to review, it is impossible to imagine what the new house will look like. Ms. Doyle states (pg. 2d) "that we are eliminating the bulkhead and front stairs". The survey drawn by Dow & Coloumbe, Inc. shows the "proposed" building (as provided by the client). The only set of stairs it shows are the ones noted in the application that extend to the second floor at a possible height of 13 feet or more. Is it possible that after further consideration, Ms. Snow may decide it is more feasible and reasonable to enter the home from the first floor especially in inclement weather?

Since the application is for new construction, there is no reason why the home cannot house internal staircases from floor to floor. Since the applicant states twice in the application that a stairway can be constructed that would meet the setback requirements, the Miscellaneous Appeal should be denied. Additionally, being unsightly does not seem to meet the requirements of the approval of a Miscellaneous Appeal either.

I believe they have not met the requirements for a Miscellaneous Appeal. I ask that their request be denied.

Timothy R. Foster  
3 Union Avenue  
Old Orchard Beach, ME

ZONING BOARD OF APPEALS  
TOWN OF OLD ORCHARD BEACH  
1 Portland Avenue  
Old Orchard Beach, ME 04064

September 28, 2009

RE: 3 Crystal Lane, MBL 316-10-1; Miscellaneous Appeal-Consent Letter

TO WHOM IT CONCERNS:

Due to the late notice I received and the large distances I must travel to get to Maine, I cannot attend the Town Meeting. However, I have asked that Rose Anne Smith represent my interest in the town's discussions involving this matter.

Timothy R. Foster  
3 Union Avenue  
Old Orchard Beach, ME

**Rose Ann Smith**, representative for Timothy Foster

**Ms. Doyle** stated the new proposed building has an internal stairway. The main living space is on the second floor, and the stairway will lead up to the deck. We could reconstruct the stairway as it was and make it 3 feet wide. We are proposing to move the entire house farther away from the side yard setback which should please everyone.

**Chairman DeLeo** asked if the house is changing size.

**Ms. Doyle** stated it is becoming smaller. They are only adding the stair. The area was occupied by house before, and will now be occupied by stairs.

**Rose Ann Smith**, presented the board with an aerial photo of the property.

**Ms. Higgins** asked if Ms. Smith felt that Diane did not answer her questions.

**Ms. Smith** stated no.

**Mr. Nugent** stated there is a direct means of egress.

**Ms. Higgins** stated they do not need to submit plans to the board only plot plans.

**Ms. Doyle** approached the board and Ms. Smith and shows plans of the home to explain where the stairs will be and why they wish to have them in that place.

**Ms. Smith** stated that Mr. Foster wanted the house to be smaller to exist in the setbacks.

**Chairman DeLeo** stated they are not nonconforming, but less nonconforming.

**Ms. Smith** stated she thought the reason they are here is for the stairway and it is unsightly.

**Chairman DeLeo** stated it is not the boards concern whether it is unsightly or not.

**Ms. Smith** believes they have answered all questions of Mr. Foster.

**Ms. Doyle** offered to let Mr. Foster and Ms. Smith see all of the plans for the home.

**PUBLIC HEARING CLOSED at 7:57p.m.**

**Chairman DeLeo** read requirement of limited reduction of yard size/limited expansion of lot coverage.

**With regards to part 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 appellant stated the house was built prior to 1914. When Jill Snow's grandparents purchased the property in 1959, the house was on the land.

**Ms. Higgins** asked how this works. The existing house was there and will be changed.

**Mr. Nugent** stated the rights are given to the property by establishment.

**Mr. Denison** agreed.  
**Ms. Higgins** agreed.  
**Mr. Quinn** agreed.  
**Mr. Evans** agreed.  
**Chairman DeLeo** agreed.

**With regards to part 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 the appellant stated most houses on the beach have main access from main living space to the beach. The kitchen, dining, living area are on the 2<sup>nd</sup> floor. Previously the 2<sup>nd</sup> floor was accessed by a fire escape.

**Mr. Denison** agreed.  
**Ms. Higgins** agreed.  
**Mr. Quinn** agreed.  
**Mr. Evans** agreed.  
**Chairman DeLeo** agreed.

**With regards to part 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 structures in conformance with the currently applicable yard size or lot coverage requirements the appellant stated the stairway could go on the front of the house and meet the required front yard setback. It would be unsightly so we are asking to replace an existing fire escape with stairs that meet code.

**Mr. Denison** agreed.  
**Ms. Higgins** disagree.  
**Mr. Quinn** agreed.  
**Mr. Evans** agreed.  
**Chairman DeLeo** agreed.

**With regards to part D.** The impacts and effects of the enlargement, expansion or new principal building or structure on the 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 the appellant stated we are replacing an existing fire escape. The code required stairs take up a larger footprint than the fire escape but we are eliminating the bulkhead and front stairs and making the house narrower so the total footprint is less.

**Mr. Denison** agreed.  
**Ms. Higgins** agreed.  
**Mr. Quinn** agreed.  
**Mr. Evans** agreed.  
**Chairman DeLeo** agreed.

**Mr. Quinn** moved to permit the adjustment of the left side yard setback to construct code compliant stairway from second floor deck.

**Mr. Evans seconded.**  
*Motion is unanimous*

**Motion**

**Vote**

**ITEM 4: Variance:** Justin & Jody Stiegemeier, owners of 9 Ancona Avenue, MBL 321-4-4, in the R3 Zone to permit the adjustment of the front and right side yard setback and lot coverage to reconfigure/rebuild the existing structure. Adam Goodwin is representing the owners.

**Adam Goodwin**, 146 Temple Avenue.

**Mr. Goodwin** explained the miscellaneous appeal. Existing lot coverage is only 35%, and the proposed structure is actually smaller and will be 34.7%. He stated he still needs the variance

**Item 4: Variance**  
**Justin & Jody**  
**Stiegemeier, 9**  
**Ancona Ave,**  
**MBL 321-4-4**



**PUBLIC  
HEARING**

because the proximity of the house is so close. Mr. Goodwin gave the board photographs of the current house and how the house is going to look. He stated he is trying to square up the house a little.

**Mr. DeLeo** asked if they are turning back at an angle.

**Mr. Goodwin** shows where the house is going to be on the plot plan. Currently the stairs are in a public way and are going to be pulling it back 2.5 feet.

**Mr. DeLeo** asked if it is now encroaching the sidewalks.

**Mr. Nugent** stated they are now encroaching slightly on the sidewalk, and the back is encroaching on a neighbors property. The changes will alleviate that.

**Mr. Goodwin** showed Chairman DeLeo on the plot plan which drawing was the proposed house.

**Ms. Higgins** asked about egress.

**Mr. Goodwin** showed where the egress will be.

**Chairman DeLeo called for abutters and correspondence.**

September 27, 2009

Mr. Mike Nugent  
Code Enforcement Officer  
Zoning Board of Appeals  
Old Orchard Beach Town Hall  
1 Portland Avenue  
Old Orchard Beach, ME 04064

RE: September 28, 2009 Zoning Board of Appeals Agenda Item #4 Variance – 9 Ancona Avenue, Ocean Park, Maine

Dear Mr. Nugent:

In response to your letter of September 11, 2009, and as the owners of property located at 12 Ancona Avenue in Ocean Park, we are writing in support of the variance requested by Justin & Jody Stiegemeyer, owners of property at 9 Ancona Avenue in Ocean Park.

We feel the Stiegemeyer's request is reasonable and will allow for a far better design enhancing our neighborhood and the town of Old Orchard Beach. Our home is located directly across from the proposed construction and we are very pleased with the design. We are concerned that if the variance were not approved the design would be negatively impacted.

In my opinion, as a licensed architect, the appeal of the homes on Ancona Avenue is their consistency of architecture and scale. This variance will allow the Stiegemeyer's home to continue this tradition.

Thank you for your correspondence, and Kate and I encourage the Zoning Board of Appeals to grant this variance.

Sincerely,

Steven J. Zannoni, AIA  
Kathleen H. Zannoni

**Nancy McBride, 10 Colby Avenue.** Ms. McBride stated the existing structure is on her property, and she feels the building is horrible now and needs to be torn down.

**Chairman DeLeo** read the appeal.

**Chairman DeLeo** read criteria number one.

**With regards to section A.** The land in question cannot yield a reasonable return unless the variance is granted the appellant stated the existing structure located at 9 Ancona Avenue was built in 1900 and is in an irreparable state. Setback reductions are required to alter the shape of the house's footprint in order to make the house more functional. The new design will retain the covered porch to keep it like many homes in the area, but a 19' wide house is not desirable in today's housing market.

**Ms. Higgins** asked if they do not need the lot coverage variance.

**Mr. Nugent** stated they did not.

**Ms. Higgins** asked if the variance is for both fronts.

**Mr. Nugent** stated yes, because they are on the corner lot. The rear will be opposite seaside so the side yard is perpendicular to seaside. He pointed out where the fronts, side, and backs are.

**With regards to part B.** The need for a variance is due to the unique characteristics of the property and not to the general conditions of the neighborhood the appellant stated a variance is required for the property at 9 Ancona due to the fact that the house actually exceeds the boundary lines and partially sits on the property Map 321 Block 4 Lot 5. In order to pull the new house onto its own property, minimize right sideline encroachment, and expand the sub-standard house the setbacks on the sides noted need to be decreased for this property.

**Mr. Denison** agreed.

**Mr. Evans** agreed.

**Mr. Quinn** agreed.

**Ms. Higgins** agreed.

**Chairman DeLeo** disagreed.

**Chairman DeLeo** asked if it decreased for the property.

**Mr. Nugent** stated reduced. It is semantics. He needs an adjustment.

**With regards to part C.** The granting of a variance will not alter the essential character of the locality the appellant stated the house to be built with approval of this appeal has similar exterior attributes as with the existing house as well as neighboring homes. The proximity of the new house is comparable to the existing house as well as most other homes in the area. We are making the current 9 Ancona situation better by decreasing the amount of boundary line encroachment where the lot abuts neighbors on two different sides while containing the house to its own lot.

**Mr. Denison** agreed.

**Mr. Evans** agreed.

**Mr. Quinn** agreed.

**Ms. Higgins** agreed.

**Chairman DeLeo** agreed.

**With regards to part D.** The hardship is not the result of action taken by the appellant or a prior owner the appellant stated the house was built in 1900 as a camp. As it currently stands the house could not be saved and retrofitted for four season use due to its lack of proper foundation and serious racking as seen by the obvious lean of the building. When the substandard lot was created and the house was originally built there was no zoning in place. A hardship is established due to the age of the house and the size of the lot.

**Mr. Denison** agreed.

**Mr. Evans** agreed.

**Mr. Quinn** agreed.

**Ms. Higgins** agreed.

<p><b>Chairman DeLeo</b> agreed.</p> <p><b>Ms. Higgins</b> moved to permit the adjustment of the front and right side yard setback and lot coverage to reconfigure/rebuild the existing structure.</p> <p><b>Mr. Denison</b> seconded.</p> <p><i>Motion passed unanimously</i></p>	<p><b>Motion</b></p> <p><b>Vote</b></p>
<p><b>ITEM 5: Miscellaneous Appeal:</b> Anne Pomroy, owner of 30 School Street, MBL 206-28-29, in the R1 Zone to permit the adjustment of the right side yard setbacks to construct a code compliant stairway. The owner is the appelliant.</p>	<p><b>Item 5:</b>  <b><u>Miscellaneous Appeal; Anne Pomroy, 30 School Street, MBL 206-28-29</u></b></p>
<p><b>Ms. Pomroy</b> stated she was here a year ago for a misc. appeal. A deck was torn off and a sunroom was added. Drawings were submitted, but no plans for stairs were submitted. Setback is 10 feet from sideline. Originally she had a very small set of stairs. She needs a bit of a landing due to the sunroom and storm door. The stairs will be 10.5 from her side line.</p> <p><b>Ms. Higgins</b> stated the deck needed a Miscellaneous Appeal and asked if it mattered that it is no longer is just a deck.</p> <p><b>Mr. Nugent</b> stated they got the Miscellaneous Appeal for the sunroom. They received Miscellaneous Appeal in the 90s for the deck. They got approval to change the deck to a sunroom last year. The stairs do not work because there is a monitor heater outlet in that area.</p> <p><b>Ms. Pomroy</b> stated she took the drawing from a year ago and added on to it so therefore it may be somewhat confusing. The sunroom has been completed, but now she cannot enter it without the stairs.</p> <p><b>Ms. Higgins</b> asked how large the sunroom is.</p> <p><b>Ms. Pomroy</b> stated 7 feet. The landing is 6.6inches.</p> <p><b>Mr. Nugent</b> stated is it 5'x 6', but it is L-shaped. The stairway is within that but comes out beyond that. That sets the stairs away from the monitor.</p> <p><b>Ms. Higgins</b> stated she can now see this. She asked if staff can confirm the date of the home.</p> <p><b>Mr. Nugent</b> stated yes.</p> <p><b>With regards to part A.</b> 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 appelliant stated the existing building was erected prior to the date of adoption of this provision.</p> <p><b>Mr. Denison</b> agreed.</p> <p><b>Mr. Quinn</b> agreed.</p> <p><b>Mr. Evans</b> agreed.</p> <p><b>Ms. Higgins</b> agreed.</p> <p><b>Chairman DeLeo</b> agreed.</p> <p><b>With regards to part B.</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 the appelliant stated many School Street residences have a combination of stairs with a landing. A Miscellaneous Appeal was granted by the ZBA on October 7, 2008. The design approval for the addition of a sunroom did not include plans for entryway/exterior steps. A landing at the top of the proposed stairway is necessary for two reasons; (1) allowance for a storm door to swing outward and (2) moving steps away from house and to right of sunroom entrance to avoid monitor heater vent pipe.</p> <p><b>Mr. Denison</b> agreed.</p> <p><b>Mr. Quinn</b> agreed.</p>	<p><b>PUBLIC HEARING</b></p>

<p><b>Mr. Evans</b> agreed.  <b>Ms. Higgins</b> agreed.  <b>Chairman DeLeo</b> agreed.</p> <p><b>With regards to part C.</b> 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 structures in conformance with the currently applicable yard size or lot coverage requirements the appellant stated my sideyard setback from my neighbor would be 10-1/2 feet for a distance of 8 feet. I currently have an approved 10 foot setback for the full length of the sunroom addition.</p> <p><b>Mr. Quinn</b> asked if that is the length of the stairway.  <b>Mr. Nugent</b> stated stairway and landing.  <b>Mr. Denison</b> agreed.  <b>Mr. Quinn</b> agreed.  <b>Mr. Evans</b> agreed.  <b>Ms. Higgins</b> agreed.  <b>Chairman DeLeo</b> agreed.</p> <p><b>With regards to part D.</b> The impacts and effects of the enlargement, expansion or new principal building or structure on the 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 the appellant stated the proposed stairs are necessary to enter my home. Regardless of width, the stairs could not be constructed in conformance with sideyard setback requirements. The impact on the neighborhood existing uses would be nonexistent.</p> <p><b>Mr. Denison</b> agreed.  <b>Mr. Quinn</b> agreed.  <b>Mr. Evans</b> agreed.  <b>Ms. Higgins</b> agreed.  <b>Chairman DeLeo</b> agreed.</p> <p><b>Ms. Higgins</b> moved to permit the adjustment of the right side yard setbacks to construct a code compliant stairway.  <b>Mr. Evans</b> seconded.  <i>Motion passed unanimously</i></p>	<p><b>Motion</b></p> <p><b>Vote</b></p>
<p><b>GOOD &amp; WELFARE</b>                  Mr. Nugent stated the JADD appeal will be going to superior court. Mr. Nugent also stated the Ordinance Revision committee has been selected and had an informal meeting last week.</p>	<p><b>Good &amp; Welfare</b></p>
<p><b><u>ITEM 6: Approval of Minutes:</u></b>                  August 31, 2009  <b>Mr. Quinn</b> moved to approve the minutes from August 31, 2009  <b>Mr. Evans</b> seconded.</p>	<p><b>Motion</b></p> <p><b>Vote</b></p>
<p><b>Ms. Higgins</b> moved to adjourn.  <b>Mr. Evans</b> seconded.</p>	<p><b>Motion</b></p> <p><b>Vote</b></p>
<p><b>Meeting adjourned 8:30 pm</b></p>	<p><b>Adjournment</b></p>

*I, Tori Geaumont, Secretary to the Zoning Board of Appeals of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of twelve (12) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting on September 28, 2009*