

**TOWN OF OLD ORCHARD BEACH
ZONING BOARD OF APPEALS MEETING MINUTES August 1, 2011**

Call to Order at 7:03 pm	Call to Order
Pledge to the Flag	
<p>Roll Call: Present: Philip Weyenberg, Chairman DeLeo, Owen Stoddard, Ron Regis, and Mark Lindquist. Tianna Higgins and J. Philip Denison were excused. Staff: Mike Nugent, Code Enforcement Officer. Tori Geaumont, Secretary.</p>	
<p>ITEM 1: Variance: Walter & Shirlie Murphy, owners of 184R Portland Avenue, MBL 103-1-21/103-1-20 in the RD Zone to permit reduction of the minimum lot size and associated setbacks to reconfigure the lots. The owner is the applicant.</p>	<p>Item 1: Variance: <u>Walter & Shirlie Murphy, 184R Portland Avenue, MBL 103-1-21</u></p>
<p>Mr. Nugent stated that at the request of staff that we table this item, as an abutter was not given adequate time to prepare, as their notice went to a prior address. Mr. Regis moved to table item 1 until next month's meeting. Mr. Weyenberg seconded. <i>Motion passes unanimously</i></p>	<p style="text-align: center;"><u>Tabled</u></p> <p style="text-align: center;"><u>Motion</u></p> <p style="text-align: center;"><u>Vote</u></p>
<p>ITEM 2: Variance: Lucinda Solomon, owner of 16 New Salt Road, MBL 324-1-7 in the R3 Zone to permit the reconstruction of the non-conforming structure damaged by means beyond owner's control and not reconstructed within the allotted time. The owner is the appellant.</p>	<p>Item 2: Variance: <u>Lucinda Solomon, 16 New Salt Rd, MBL 324-1-7</u></p>
<p>The Solomon's property was vandalized and had a subsequent fire. They needed to get a variance from the DEP for them to rebuild. This process was over a year. Now they have their permitting.</p> <p>Mr. Nugent stated the building burned sometime in April of 2009. Someone broke into it and as an act of vandalism burned most of it down. As it turned out, the building ended up to be a total loss due to water damage and mold. The Solomon's were in discussions with their insurance company for a long period of time. When the insurance company agreed with them, the DEP told them they needed to elevate the building because they are in a coastal erosion zone. They hired an engineer who actually persuaded the DEP to let them use the existing foundation without elevating. They received a variance, one of 7 in the history of the DEP. If the house had not been damaged at all, they could come in for a building permit and tear down and rebuild the house.</p> <p>Chairman DeLeo asked if the board needs to go through the criteria. Mr. Nugent felt it would be prudent. Chairman DeLeo called for any abutters or correspondence. PUBLIC HEARING WAS CLOSED Chairman DeLeo read the criteria for number one.</p> <p>With regards to part A. The land in question <u>cannot</u> yield a reasonable return unless the variance is granted the appellant stated the home was damaged beyond repair and will not be able to be replaced under current zoning. Mr. Weyenberg agreed. Mr. Stoddard agreed. Mr. Regis agreed. Mr. Lindquist agreed. Chairman DeLeo agreed.</p> <p>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 the home was destroyed due to arson in April 2009 when it was broken into. Due to coastal sand dune rules and insurance delays. We have been unable to rebuild within two years. Mr. Stoddard agreed.</p>	<p style="text-align: center;"><u>PUBLIC HEARING</u></p>

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<p>Mr. Regis agreed. Mr. Lindquist 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 house will be rebuilt in a similar and compatible style with other homes in the neighborhood. Mr. Weyenberg agreed. Mr. Stoddard agreed. Mr. Regis agreed. Mr. Lindquist 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 home was built by our family in 1957. We raised it and improved it in 2001, after being destroyed by arson in 2009 we were required to obtain a variance from the DEP to rebuild on the existing foundation this was the reason for the delay. Mr. Weyenberg agreed. Mr. Stoddard agreed. Mr. Regis agreed. Mr. Lindquist agreed. Chairman DeLeo agreed. Mr. Regis moved to permit the reconstruction at 16 New Salt Road of the non-conforming structure damaged by means beyond owner's control and not reconstructed within the allotted time. Mr. Weyenberg seconded. <i>Motion passes unanimously.</i></p>	<p style="text-align: center;"><u>Motion</u></p> <p style="text-align: center;"><u>Vote</u></p>
<p><u>ITEM 3: Variance:</u> The Salvation Army, owner of 104 Union Avenue, MBL 311-4-2 in the R2 Zone to permit the adjustment of the 75 foot limitation to allow the sign at the above location to advertise the Seaside Pavilion during summer months. Cheryl Pouloupoulos is the agent.</p>	<p style="text-align: center;"><u>Item 3: Variance:</u> <u>The Salvation Army, 104 Union Avenue</u> <u>MBL 311-4-2</u></p>
<p>Chairman DeLeo stated he did know Ms. Pouloupoulos, but that would not affect his decision. Cheryl Pouloupoulos explained why the Salvation Army wanted to be able to change the sign during the summer, as the Seaside Pavilion only is open in the summer months. Chairman DeLeo asked if the Salvation Army is here because it is so far away from the Pavilion. Mr. Nugent explained that there are several different lots that the Salvation Army campus sits on and technically the lot is 400 feet away which makes them non-compliant. Chairman DeLeo pointed out that it is a dimensional variance. Mr. Regis asked if this needs to be seasonal. Chairman DeLeo pointed out that they want it to say Salvation Army in the winter. Mr. Nugent explained that they can currently put one of the signs on it, but they need the variance for the sign to be changed to the Seaside Pavilion. Mr. Weyenberg asked if the board needs to limit the time frame for when each sign is up. Chairman DeLeo called for any abutters or correspondence. <i>PUBLIC HEARING WAS CLOSED</i> Chairman DeLeo read the criteria for number one. With regards to part A. The land in question <u>cannot</u> yield a reasonable return unless the variance is granted the appellant stated because of the location of the Pavilion we are unable to advertise on the campus within the limitations of the sign ordinance. Patrons are unable to find the Pavilion. Mr. Weyenberg agreed.</p>	<p style="text-align: center;"><u>PUBLIC HEARING</u></p>

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<p>Mr. Stoddard agreed. Mr. Regis agreed. Mr. Lindquist agreed. Chairman DeLeo agreed. 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 this property has been used for the same purpose since 1885. The entire campus is owned by The Salvation Army in West Nyack, New York. The Old Orchard Beach Corps of The Salvation Army and The Seaside Pavilion share the buildings on this campus and work together in planning programs and events. Mr. Weyenberg agreed. Mr. Stoddard agreed. Mr. Regis agreed. Mr. Lindquist 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 sign will not change in size and will improve the aesthetics of the campus and the neighborhood. Mr. Weyenberg agreed. Mr. Stoddard agreed. Mr. Regis agreed. Mr. Lindquist 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 use of the campus predates zoning. The Salvation Army's Seaside Pavilion has a need to advertise in a contemporary fashion. Mr. Weyenberg agreed. Mr. Stoddard agreed. Mr. Regis agreed. Mr. Lindquist agreed. Chairman DeLeo agreed. Mr. Regis moved to permit the adjustment of the 75 foot limitation to allow the sign at the above location to advertise the Seaside Pavilion as they see fit. Mr. Weyenberg seconded. <i>Motion passes unanimously.</i></p>	<p style="text-align: right;"><u>Motion</u></p> <p style="text-align: right;"><u>Vote</u></p>
<p>ITEM 4: Acceptance of Minutes: June 27, 2011 Mr. Stoddard moved to accept the minutes from June 27, 2011. Mr. Weyenberg seconded. <i>Motion passes unanimously.</i></p>	<p style="text-align: right;"><u>Motion</u></p> <p style="text-align: right;"><u>Vote</u></p>
<p>GOOD & WELFARE Karen Murphy stated that there was some inconsistency in the granting of the two variances. Mr. Nugent stated that the only thing the board can do is vary the dimensional standards, but cannot grant something that is not allowed in the zone. Ms. Murphy asked if the board does adhere to reasonable return criteria. Mr. Nugent stated that the board has a non-precedent setting action. They have great flexibility depending on the differences in each and every application. Chairman DeLeo stated that he has been on the board for 7 years, and the hardest thing to get back was number one. Mr. Nugent stated that the board was focused in on the financial aspect of the variance, and that is not how to make their approvals. He explained that the board is somewhat of an "out". Chairman DeLeo stated when there is contentiousness and abutter issues it is harder for us</p>	<p style="text-align: right;">Good & Welfare</p>

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as a board to approve something. Mr. Stoddard stated that the word “reasonable” is in the application, and that is how we make our decisions. When I first moved to OOB, my family and I could not find the Pavilion.	
Meeting adjourned at 7:35 p.m.	Adjourned

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 () pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting on August 1, 2011

Tori Geaumont