

**TOWN OF OLD ORCHARD BEACH  
ZONING BOARD OF APPEALS MEETING MINUTES  
April 29, 2013**

<p><b>Call to Order at <u>7:02pm</u></b></p>	<p><b>Call to Order</b></p>
<p><b>Pledge to the Flag</b></p>	
<p><b>Roll Call:</b> Present: Mark Lindquist, Ron Regis, Paul Weinstein, Ray DeLeo. Absent: Tianna Higgins and Owen Stoddard.</p> <p>Staff Present: Alan Borg; Assistant Code Enforcement Officer, Valdine Helstrom, ZBA Clerk</p>	<p><b>PUBLIC HEARING</b></p>
<p><i>Chair DeLeo read the criteria for the Public Hearing.</i></p>	
<p><b><u>ITEM 1:</u></b> Acceptance of the minutes of the March 25, 2013 meeting.</p> <p>Mark Lindquist made a motion to approve the March 25, 2013 meeting minutes, seconded by Ron Regis.</p> <p>All in favor.</p>	<p><b><u>ITEM 1</u></b></p> <p><b><u>MOTION</u></b></p> <p><b><u>VOTE</u></b></p> <p><b><u>(4-0)</u></b></p> <p><b><u>unanimous</u></b></p>
<p><b><u>ITEM 2: Miscellaneous Appeal :</u></b> Don Tardif, Applicant for 126 West Grand Avenue, MBL 315-15-2 in the NC-2 Zone to reduce side yard setback to permit construction of nonconforming means of egress construction. This is required by the town fire prevention code. Owner is Appellant.</p> <p>Don Tardif introduced himself to the Board Members. He informed the Board that he purchased the property on August of 2012. Code Officer James Butler came out to the property to inspect and was pointed out that a second means of egress needed to meet code although the previous owner was grandfathered. We are now at the time to proceed with the process of adding a second means of egress.</p> <p>There being no one speaking for or against the appellant, the Public Hearing closed at 7:07 p.m.</p> <p style="padding-left: 40px;"><b>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.</b></p> <p><b>RESPONSE:</b> Yes. The lot is a non-conforming lot of record.</p> <p>Paul Weinstein – Agree Ron Regis - Agree Mark Lindquist – Agree Chair Ray DeLeo – Agree</p>	<p><b><u>ITEM 2</u></b></p> <p><b><u>MISC.</u></b> <b><u>APPEALS</u></b></p>

TOWN OF OLD ORCHARD BEACH  
ZONING BOARD OF APPEALS MEETING MINUTES APRIL 29, 2013

**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. Secondary means of egress required by code. All neighboring properties very close to boundaries.

Paul Weinstein – Agree  
Ron Regis - Agree  
Mark Lindquist – Agree  
Chair Ray DeLeo – 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:** Yes. This is the only location. Secondary means of egress would meet code.

Paul Weinstein – Agree  
Ron Regis - Agree  
Mark Lindquist – Agree  
Chair Ray DeLeo – 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:** Yes. Would stay consistent with neighborhood.

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

Ron Regis made a motion to approve a Miscellaneous Appeal to Don Tardif, 126 West Grand Avenue, MBL 315-15-2 in the NC-2 Zone to reduce side yard setback to permit construction of nonconforming means of egress construction. Seconded by Paul Weinstein.

Assistant Code Officer Alan Borg called for the vote:

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

**MOTION**

**MISC.**  
**APPEAL**  
**APPROVED**

**(4-0)**

**Unanimous**

TOWN OF OLD ORCHARD BEACH  
ZONING BOARD OF APPEALS MEETING MINUTES APRIL 29, 2013

**ITEM 3: Miscellaneous Appeal : Robert MacDonald, Applicant of 12 Woodland Ave, MBL 314-3-7 in the R-2 Zone to reduce rear yard by 50% reduction up to 10' to allow construction of 24'x 22' addition to existing 1-story house. Owner is Appellant.**

**ITEM 3**  
**MISC.**  
**APPEALS**

Robert MacDonald introduced himself to the Board Members and stated that he would like to add an addition. His father is getting older and would like for him to have some privacy as well as Mr. MacDonald and his wife.

There being no one speaking for or against the appellant, the Public Hearing closed at 7:12 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:** Existing building started as a camp in the early 1900's.

Paul Weinstein – Agree  
Ron Regis - Agree  
Mark Lindquist – Agree  
Chair Ray DeLeo – 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:** Put on addition with a bedroom, bathroom, living room, exit door with stairs. My father is getting older and needs some help getting along.

Paul Weinstein – Agree  
Ron Regis - Agree  
Mark Lindquist – Agree  
Chair Ray DeLeo – 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:** Current structure is 19'1" from property line. Seeking to expand 8' past existing structure.

Paul Weinstein – Agree  
Ron Regis - Agree  
Mark Lindquist – Agree  
Chair Ray DeLeo – 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:** I propose to be allowed to place a 22' x 24' addition to the house. 24' will

**TOWN OF OLD ORCHARD BEACH  
ZONING BOARD OF APPEALS MEETING MINUTES APRIL 29, 2013**

<p>run along house with 8' running past house. 22' will run out 8' past house on left side of building with an exit door in front of addition with landing stairs along the front of the addition.</p> <p>Paul Weinstein – Agree Ron Regis - Agree Mark Lindquist – Agree Chair Ray DeLeo – Agree</p> <p>Mark Lindquist made a motion to grant a Miscellaneous Appeal for Robert MacDonald, 12 Woodland Avenue, MBL 314-3-7 in the R-2 Zone to reduce rear yard by 50% reduction up to 10' to allow construction of 24' c 22' addition to existing 1-story house. Seconded by Ron Regis.</p> <p>Assistant Code Officer Alan Borg called for the vote:</p> <p>Paul Weinstein – Yes Ron Regis – Yes Mark Lindquist – Yes Chair Ray DeLeo – Yes</p>	<p style="text-align: center;"><b><u>MOTION</u></b></p> <p style="text-align: center;"><b><u>MISC.</u> <u>APPEAL</u> <u>APPROVED</u></b></p> <p style="text-align: center;"><b><u>(4-0)</u></b></p> <p style="text-align: center;"><b><u>Unanimous</u></b></p>
<p><b><u>ITEM 4: Variance :</u> Carl Goodwin Inc., Applicant for 49 Maine Ave, MBL 322-5-3 in the R-3 Zone owned by Edward &amp; Janet Hryniewicz, to reduce Front yard setback to 9'6'' to allow construction of 30'x 28' addition to existing house. Owner's agent is Appellant.</b></p> <p>Adam Goodwin, representing Carl Goodwin, Inc. introduced himself to the Board Members and informed them that they were asked by the homeowners to build them an addition. They would like to have a master suite on the first floor, it is currently on the second floor. They would also like to expand the living area and augment their small existing kitchen. The reason why they need a Variance instead of a Miscellaneous Appeal is due to the size of the requested set back. They do not want to push the addition any further back because the further to the front that they can get the entrance in, it will make the existing house work more efficient. The owners bought this in 1999.</p> <p>There being no one speaking for or against this proposal, the Public Hearing closed at 7:22 p.m.</p> <p><b><i>Mr. Deleo reads off the four criteria of hardship:</i></b></p> <p><b>A. The land in question <u>cannot</u> yield a reasonable return unless the variance is granted.</b></p> <p><b>RESPONSE:</b> The lot the addition will be built on is a substandard lot. This was a remodeled seasonal unit over a garage. The garage was retrofitted to a sub par living and kitchen area. The variance and addition will allow a proper kitchen and master suite to be created making the new house comparable to others in the neighborhood.</p> <p>Paul Weinstein – Disagree Ron Regis – Agree Mark Lindquist – Disagree Chair Ray DeLeo – Agree</p>	<p style="text-align: center;"><b><u>ITEM 4</u></b></p> <p style="text-align: center;"><b><u>VARIANCE</u></b></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.**

**RESPONSE:** The lot at 49 Maine Avenue was comprised of three smaller lots. The house was built in 1946 on the center lot and kept forward to utilize the most flat part of the lot. When the substandard flanking lots with the same owners' name met the adopted town ordinances, all three then became one. We are left to make an addition work with the existing house placed on the town manufactured lot.

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

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

**RESPONSE:** The addition will not alter the essential character of the neighborhood because the addition will not change the use of the property from a single family home. The addition will also compliment the house, which will allow it to blend very well with the neighboring homes.

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

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

**RESPONSE:** The hardship is due to the age of the lot and the house being built before the town adopted its current ordinances. They pushed the house so close to the front lot line because they could at the time. To make an addition work correctly with the house's interior layout and its actual placement on the lot a variance is required.

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

There was further discussion on this item:

Mark Lindquist questioned whether there is a need for a variance vs. a miscellaneous appeal.

Alan Borg agrees that it is the functionality of the house when the addition is combined with the existing home.

Mark Lindquist added that the question addresses the issue of reasonable return in the eyes of the law and it sounds like the request for the Variance is due to the front yard setback which is not going to be any closer to the street. The issue of the

TOWN OF OLD ORCHARD BEACH  
ZONING BOARD OF APPEALS MEETING MINUTES APRIL 29, 2013

Variance is also due to the design of the house to make it reasonable for their needs vs. financial gain.

Ron Regis mentioned that he would have liked it if the addition could have moved further back, but corresponding to the existing house, this is probably the best location.

Adam Goodwin informed the Board Members that the front of the house of the addition was driven by where they wanted to go through into the addition from the existing house. A common space. The existing bump on the back of the house is a storage area on the first floor and on the second floor it is a screen porch.

Mark Lindquist that he will agree to yield a reasonable return for (a) if it is stated in the motion that the addition will remain a one story home.

**After much discussion, this portion of the criteria was re-voted on:**

**A. The land in question cannot yield a reasonable return unless the variance is granted.**

**RESPONSE:** The lot the addition will be built on is a substandard lot. This was a remodeled seasonal unit over a garage. The garage was retrofitted to a sub par living and kitchen area. The variance and addition will allow a proper kitchen and master suite to be created making the new house comparable to others in the neighborhood

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

Ron Regis made a motion to approve a Variance for Edward and Janet Hryniewicz, 49 Maine Avenue, MBL 322-5-3 in the R-3 Zone to reduce front yard setback to 9’6” to allow construction of 30’ x 22’ addition to existing house and the addition to remain a single story home. Seconded by Mark Lindquist.

Assistant Code Officer Alan Borg called for the vote:

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

**MOTION**

**VOTE**

**VARIANCE  
APPROVED**

**(4-0)**

**Unanimous**

TOWN OF OLD ORCHARD BEACH  
ZONING BOARD OF APPEALS MEETING MINUTES APRIL 29, 2013

**ITEM 5: Variance : Wayne Smith & Jeffrey Davenport, Applicant of 87 Seaview Avenue, MBL 314-8-7 in the R-2 Zone, to reduce Front yard setback on Somerset Ave to 2'6'' & Front Yard Setback on Park Ave to 9'6'' to allow construction of 24' x 24' garage on property. Owner is Appellant.**

Mark Lindquist recluded himself from the meeting as he stated that he knows Mr. Smith and Mr. Davenport.

Jeffrey Davenport informed the Board Members that he and his partner Wayne Smith would like to build a 24' x 24' single story, two bay garage creating a new entrance off of Park Avenue. Somerset Avenue is the only setback that is required. Mr. Davenport also added they have contacted the Old Orchard Beach Public Works they do have approval for opening the street and moving the stop sign over.

Code Officer Alan Borg stated that they should have included a sufficient plot plan with their application.

There was discussion whether this should be a Variance or a Miscellaneous Appeal.

Abutters Robert Magazu and Michael Roberge from 2 Park Avenue introduced themselves to the Board Members.

Their biggest concern is that if they are allowed to construct this garage on the corner, it will block visibility from Somerset Avenue onto Park Street. There are a lot of children that live on that Street and this will create a blind spot. This will also create drainage issues and severely impact their property.

Mr. Regis stated that the Zoning Board of Appeals cannot give them a variance of 15' of town owned property.

Mr. Regis made a motion to table this item without prejudice until they have a chance to talk to Code Officer James Butler. Mr. Weinstein seconded the motion.

Paul Weinstein – Yes  
Ron Regis – Yes  
Chair DeLeo – Yes  
Mark Lindquist – Recluse himself

**ITEM 5**  
**VARIANCE**

**MOTION**

**VOTE**  
**(3-0-1)**

TOWN OF OLD ORCHARD BEACH  
ZONING BOARD OF APPEALS MEETING MINUTES APRIL 29, 2013

GOOD AND WELFARE ADJOURNMENT CHAIRMAN RAY DELEO	
---	--

*I, Valdine Helstrom, Secretary to the Zoning Board of Appeals of the Town of Old Orchard Beach, 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 held on April 29, 2013.*

*Valdine L. Helstrom*