

**TOWN OF OLD ORCHARD BEACH  
ZONING BOARD OF APPEALS MEETING MINUTES  
May 20, 2013**

<p><b>Call to Order at <u>7:10 pm</u></b></p>	<p>Call to Order</p>
<p><b>Pledge to the Flag</b></p>	
<p><b>Roll Call:</b> Present: Ron Regis, Paul Weinstein, Chair Ray DeLeo. Absent: Mark Lindquist, Tianna Higgins and Owen Stoddard.</p> <p>Staff Present: Valdine Helstrom, ZBA Clerk</p>	<p><b>PUBLIC HEARING</b></p>
<p><b><u>ITEM 1:</u></b> Acceptance of the minutes of the April 29, 2013 meeting.</p> <p>Paul Weinstein made a motion to approve the April 29, 2013 meeting minutes, seconded by Ron Regis.</p> <p>Unanimous.</p>	<p><b><u>MOTION</u></b></p> <p><b><u>VOTE</u></b></p> <p><b><u>(3-0)</u></b></p>
<p><i>Chair DeLeo read the criteria for the Public Hearing.</i></p>	
<p><b><u>ITEM 2: Miscellaneous Appeal:</u> Wayne Smith &amp; Jeffrey Davenport, Applicant of 87 Seaview Avenue, MBL 314-8-7 in the R-2 Zone, to 25% reduce Front yard setback on Somerset Ave to 15' &amp; Front Yard Setback on Park Ave to 15' to allow construction of 12'x 32' garage on property. Owner is Appellant</b></p> <p>Jeffrey Davenport, 87 Seaview Avenue introduced himself to the Board Members. He stated that he and his partner Wayne Smith revised the plans on a proposed 2-bay garage so that they could file a Miscellaneous Appeal opposed to a Variance for a reduced setback. They are only requesting a 1-bay garage.</p> <p>Ron Regis commended Mr. Davenport for having worked with his neighbors while going through this process.</p> <p>Mr. Davenport stated that he will be grading the property so that the water will drain away from the neighbor's house and go towards the street into a natural drainage. There are 3 basins which are shown on the map that he provided for the Board Members. Mr. Davenport also added that he will be installing a curb along side of the fence to ensure that the water that comes off of the garage will channel down.</p> <p>Chair DeLeo read into the minutes a letter from Robert Maguzu from 82 Park Avenue, Old Orchard Beach (abutter to 87 Seaview).</p> <p><b><u>To: Old Orchard Beach Zoning Board</u></b></p> <p><b><u>I am writing today to express my concern regarding the request for a set-back variance and proposed building of a garage on the corner of Park and Somerset Avenues. As the ONLY direct property abutter at 82 Park Ave, I would be the most significantly affected by this development. My primary concern is the water run-off and drainage from a structure built in this location. The proposed placement and natural elevated grade of land could possibly cause water to flood my yard and the crawl space beneath my home.</u></b></p>	<p><b><u>ITEM 1</u></b></p>

However, I would be willing to remove my objection if several conditions were placed by the board on the building permit. First, the structure be limited, now and always, to one story. Second, the structure is designed with a shed roof, the angle sloping toward Somerset Ave to mitigate the water run-off. The removal of much of the grass and large tree on the corner will further exacerbate the flooding of the property at 82 Park Ave. These are minimal requests for such a potentially damaging effect and loss of property value.

Thank you for your consideration.

Sincerely,

Robert Magazu

82 Park Avenue

Old Orchard Beach, ME

Chair DeLeo read into the minutes a letter from the Applicants Jeffrey Davenport and Wayne Smith to Robert Magazu and Michael Roberge from 2 Park Avenue, Old Orchard Beach.

Dear Bob & Mike:

Regarding our desire to build a 2-bay garage on the vacant corner of Somerset and Seaview, we have reconsidered our position by making adjustments to the original plan to accommodate all of your concerns. They are as follows:

1.) We have re-filed all paperwork and plans to construct a single story 1-bay garage with a 25% reduction of set backs. This plan is within town charter guidelines as well as should meet your concerns regarding any children playing on that corner.

2.) Last spring you both mentioned that you would prefer that we move over the fence and stain your side of the fence due to the fact that there were wooden pallets along the Park Avenue side. Your request has been completed.

3.) At the previous April 29<sup>th</sup> meeting you had mentioned that at one time our underneath was a garage. Be aware that when we purchased the property from the Cote's there was no mention of such. We did however discuss that possibility with the previous Code Enforcement Officer, Mike Nugent. He informed us that it would not be possible and in fact would be a code violation due to the fumes and the fact that the property is a permitted 3-unit multi family dwelling.

4.) Regarding your concerns of flooding, that certainly deserves discussion. While we appreciate your recommendation to build on Seaview Ave, it simply would not work. There is a 4 foot down grade from Seaview to Park. That in itself would create flooding. What we are proposing is a 2 foot grade away from your property along the fence into the triple catch basin and natural waterway on the corner of Somerset and Park. This resolves all concerns and actually improves drainage at that location. Your sump pump will run much less.

5.) As you know, we own 120 ft on Somerset, 80 ft on Seaview and 40 ft. on Park Avenue. We are allowing you 1 ft. from the boundary line on Park Ave. and 2.5 ft. on Seaview Ave. to use and enjoy. We will gladly grant an easement for that property if you would like. At your expense, have your attorney draft the documents and forward them to our attorney Neal Weinstein. The documents can then be signed and recorded at the registry of deeds.

In summation, thank you for giving us the opportunity to address all of your concerns.

*Should you have additional questions do not hesitate to contact us before May 20<sup>th</sup>. We do kindly ask that you remove any and all flowers and plants that may be yours up to the property line of the fence on or before May 21<sup>st</sup>.*

*Thank you,*

*Seaview Rentals*

*cc: Zoning Board of Appeals (all board members)*

There being no other comments from the public, the hearing closes to the public at 7:22 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:** Yes, building was constructed prior to adoption of provision. Also, property is a triple corner lot combined as one lot. Lot size is 120' on Somerset Avenue, 80' on Seaview Avenue and 40' on Park Avenue.

Paul Weinstein – Agree  
Ron Regis - 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:** Yes, within a 1 block radius there are (4) 2-bay garages and (6) 1-bay garages.  
Also please note: Joint owner Wayne Smith is a disable retired Air Force Veteran of 23 years of service. Mr. Smith had a stroke and is ½ paralyzed and needs a garage for his vehicle in harsh winter months.

Paul Weinstein – Agree  
Ron Regis - 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:** There is no practical way to construct a garage without approval of reduced set-backs.

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

<p><b>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.</b></p> <p><b>RESPONSE:</b> No, a single story 1-bay garage will actually enhance the appearance of the neighborhood as well as hold property values with current market conditions. Also, See attached letters in support of the project.</p> <p>Paul Weinstein – Agree Ron Regis - Agree Chair Ray DeLeo – Agree</p> <p>Ron Regis made a motion to approve the 1 story, single bay garage on the corner lot or Park and Somerset for Wayne Smith and Jeffrey Davenport as included in their application, seconded by Paul Weinstein.</p> <p>Valdine Helstrom called for the vote:</p> <p>Ron Regis – Approve Paul Weinstein – Approve Chair DeLeo – Approve</p> <p>Unanimous.</p>	<p><b><u>MOTION</u></b></p> <p><b><u>VOTE</u></b></p> <p><b><u>(3-0)</u></b></p>
<p>Ron Regis made a motion to adjourn at 7:26 p.m., seconded by Paul Weinstein.</p> <p>All in favor.</p>	<p><b><u>MOTION</u></b></p> <p><b><u>VOTE</u></b></p> <p><b><u>(3-0)</u></b></p>
<p>GOOD AND WELFARE ADJOURNMENT CHAIRMAN RAY DELEO</p>	

I, Valdine Helstrom, Zoning Board of Appeals Clerk for the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of Four (4) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting held on May 20, 2013.

*Valdine L. Helstrom*