

Town of Old Orchard Beach  
 Zoning Board of Appeals Meeting Notes  
September 29, 2014

Call to order: 6:05pm	Call to Order
Pledge to the Flag	
<p>Roll Call:</p> <p>Ray DeLeo, Chair, Mark Lindquist and Ronald Regis</p> <p>Dan Feeney, Code Enforcement Officer, Valdine Camire, Code Enforcement Clerk</p>	
<p>Item 2: Variance David Edwards, Owner of 2 Cookman Drive MBL 317-8-1 in the R-2 zone. Applicant/Owner is seeking permission to build out deck and stairs to lot lines. (Tabled from 8-28-14 meeting)</p> <p>David Edwards: Following up from the last time this issue was addressed, still want the approval of the deck</p> <p>Open to questions from the board:</p> <p>Ronald Regis: Is that rock wall on town land?</p> <p>David Edwards: I think that's the neighbor's wall.</p> <p>Dan Feeney: The rock wall is the retaining wall and is part of the original structure since the building was built. I have documented it with pictures.</p> <p>Open to comments from the public:</p> <p>Earnest Tarbest of 1 Cookman Ave comments that the retaining wall sits on the lot line and was put in by Mr. Henry. It does not encroach on the 50 foot right-of-way. He supports the building of the Mr. Edward's deck as another way of egress.</p> <p>Public comments closed</p> <p>Justifications for the appeal:</p> <p style="padding-left: 40px;">A. The Land in question cannot yield a reasonable return unless the variance is granted.</p>	<p>Item 2</p> <p>Motion</p> <p>Vote</p> <p>3 Yes 0 No</p>

<p>Response: Similar dwelling in neighborhood home setback issues town is work on correcting All 3 in agreement.</p> <p>B. The need for variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.</p> <p>Response: Existing structure built 1969 needs another egress  All 3 in agreement.</p> <p>C. The granting of a variance will not alter the essential character of the locality.</p> <p>Response: similar structuring in area, similar issues  All 3 in agreement.</p> <p>D. The hardship is not the result of action taken by the appellant or a prior owner.</p> <p>Response: House built 1969 setbacks have not be issue I'm third owner.  All 3 in agreement.</p>	
<p>Item 3: Administrative Interpretation, Pine Ridge Realty – Appeal is for building permit issued to: Bernard J. Saulnier LLC, Owner of 3 Nicholas Drive MBL 105A-1-702 in the PMUD zone. Pine Ridge Realty is disputing whether a building permit should have been issued for this property. (Tabled from 08-28-2014 meeting) Item tabled again due to non-response from applicants</p>	<p>Item 3  Tabled</p>

<p>Item 4: Variance, Non-Conforming Lot. Jane Morin, Owner of Dube Street property. MBL 305-1-3 in the DD-2 zone. Scott McLeod applicant/agent. Applicant seeking a variance to demolish a derelict building and build a 5 unit structure on the site. The owner of the abutting property wants to add this site to their existing structure built in 2013-2014. (Tabled from 08-28-2014 meeting)</p> <p>Scott McLeod: The applicants have considered the previous comments of the committee and have changed the unit count from 5 units to 4 units and ask for a variance over the max lot coverage per single family requirements. They have also included a better parking plan to get tenants off the street and park on property instead of parallel on the street.</p> <p>Open to questions from the board:</p> <p>Dan Feeney: Reading a summary from the notes of a consulting lawyer. The lawyer’s notes suggest a “reasonable return” as quoted in the zoning code doesn’t mean a maximum return but rather that the tenants would be able to recover costs associated with developing that property. An example was used from the Town of Fryeburg siting a frontage issue, the town explained it as not necessary and so it was denied. The costs associated with this project on Dube Street would be very expensive.</p> <p>Ray DeLeo: If they were to build a single unit would it also recoup the same amount?</p> <p>Dan Feeney: No. A single unit wouldn’t cover the costs of development. Building a single family unit would not recover the same as the 4 unit rental and therefore would not meet the return on investment of around \$600,000 - \$700,000.</p> <p>Scott McLeod: The proposed building project would be \$750,000 plus the \$280,000 for the purchase of the property. The project could not be financed as a single unit.</p> <p>Mark Lindquist: Does this have to go through the Design and Review Committee?</p> <p>Ray DeLeo: Yes</p> <p>Open to public address:</p> <p>Mike Strum, Owner of the Brown Street abutting property</p>	<p>Item 4</p> <p>Motion</p> <p>2 Yes 1 No</p>
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Ocean Suites: We have turned over the property on Brown Street to a valuable property adding to the community, generating income for the city, generating business for the community. The property at Dube Street is not in good condition and should be torn-down. The change in this property would be good for all involved.

Close to public address at 6:30pm

Justification for the appeal:

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

Response: Given the condition of the building on site. It is in such disrepair that the only option is to demo the structure. At that point the cost to redevelop the site requires us to seek this variance in order to put in a 5 unit hotel and motel.

Questions:

Ronald Regis: Is a 2,500sf lot not big enough for a 4 unit property?

Lindquist agrees, Regis does not agree

DeLeo: The hardship of units to square feet is not satisfied. Not in agreement.

Scott McLeod: The construction loan requires 4 units to be economically viable.

Dan Feeney: The gross weight multiplier of 1,000 per unit is the requirement but zero lot lines have been met, it's great for the beach and it removes a building we should tear-down anyway. But can they pay the loan back?

Ray DeLeo: Are we setting a precedent with this approval?

Dan Feeney: No because each project is unique and this is an abutting project. The building comes down that should come down and the new building benefits the abutting properties.

Ray DeLeo: Is this a seasonal property rental?

Response: This is a year-round, not seasonal rental, for

students, or visitors for holidays.

Scott McLeod: The summer-time turn around would mainly carry the loan. Not many tenants in the rest of the year.

Ray DeLeo: Are they the legal owners?

Dan Feeney: The purchaser agreement is a legal agreement that makes them the viable owners.

Ray DeLeo: So the land and development is part of the sale. If it doesn't get approved then the sale doesn't go through?

Jane Morin: I'm hoping this variance can be granted because it saves me the cost of winterizing it and remodeling it for the winter. There is a hole in the roof and agrees it should be demolished. She sees no problem for the new owners to develop it.

Ronald Regis: But isn't this too many units for the square footage of the land according to the zoning code?

Ray DeLeo: Does it increase the value of the Brown Street property?

Dan Feeney: It indirectly does.

Scott McLeod: This situation is unique and no one was aware of the square footage requirements.

Ray DeLeo: Well the number of units could decrease and the price per unit could increase which would cover the income for this investment.

Scott McLeod: But the units did not go up in size from the previous plan. We reduced the total structure by one unit size.

Ray DeLeo: So you aren't using up the total lot size?

Mrs. Strum: The property has been in the family for 70 years and we are proposing four one-bedroom units that would benefit the merchants. This is a place for families and is a "classy" place reasonably priced for families. The income of which we are happy to share with Old Orchard Beach. We've even upgraded the electrical service with our earlier project. This development is not an outrageous request.

Ronald Regis asks about the indoor pool

Ray DeLeo: Where are the plans for the pool?

Scott McLeod approaches the committee and explains the proposed plans for the pool on their site maps.

Ronald Regis: Are there any bathrooms?

Scott McLeod explains that the rental facilities would have their own bathrooms.

Ray DeLeo: At this point, I cannot change my vote.

Dan Feeney: We cannot approve the other 3 hardships without agreement on this first approval.

Ray DeLeo reads the lawyer's notes: What the board will be looking for: whether or not you can recoup the costs which are not as high a financial return for you but merely a reasonable return which gives the board a right to limit the building of the property.

Ronald Regis: I might agree to 3 units but not 4 or 5 because of that.

Mrs. Strum: The numbers only work for the mortgage, the bank says we need 4 units. We can't go below four. Is there another suitable project for this property?

Ray DeLeo: The original building on Brown Street doesn't have a pool, therefore this property is enhancing the original building. His concern is about the value of the property itself not being enough to sustain the property despite the abutting property.

Ronald Regis: Agrees that the garage should be torn-down.

Mrs. Strum: Notes that the first floor unit would be ADA compliant and so would the pool to provide access.

Ray DeLeo: Notes that those are requirements and not options to the build and that the applicants would not need to build separate bathrooms or install a sprinkler system by doing the 4 units separately.

Dan Feeney: The real issue here is the allowance of a variance for square footage per unit.

Ronald Regis: Would 3 units and keeping the pool still work?

Mrs. Strum: We are not the owners of the Brown Street property so, we are not the same owners of the abutting property.

Dan Feeney: Confirms that Mr. & Mrs. Strum would own the Dube Street property and their sons would own the abutting Brown Street property.

Ray DeLeo: But they are sharing the pool and facilities.

Dan Feeney: Pools in town are open to other people rather than only the tenants. The pool being shared has already been done, it's still the unit size that's the problem.

Ronald Regis: We can only legally limit the size of the building.

Ray DeLeo: I will reconsider my vote and I will agree then.

Dan Feeney: May we have a roll call on the first hardship?

All 3 in agreement.

- 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: Building the new structure will provide better street front parking for the property at hand. Because of the design the parking area will pull in off the street instead of parallel with the street and partially on the road. As exists now.

All 3 in agreement.

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

Response: The area is surrounded by hotel/motels now. Removing the garage and building is new structure as a positive to the character of Old Orchard Beach.

All 3 in agreement.

<p>D. The hardship is not the result of action taken by the appellant or a prior owner.</p> <p>Response: No this building has just gone by it's life expectancy. It has been there for many many years and is now border-line condemnable.</p> <p>Regis disagrees, Lindquist and DeLeo agree.</p> <p>Motion by Mark Lindquist to grant the variance, seconded by DeLeo.</p> <p>Ronald Regis – No</p> <p>Mark Lindquist – Yes</p> <p>Ray DeLeo – Yes</p>	
<p>Item 5: Administrative Interpretation, Saco Avenue Rentals, LLC Co-Owner of 155 Saco Avenue: 207-2-12 in the GB-1 zone. David R. Ordway Esq. Agent/Applicant for units 1C, 2B and 2C at 155 Saco Avenue. The appeal is for a construction permit issued for a commercial building to build a 10,000sf structure. (Tabled from 08-28-14 meeting)</p> <p>Tabled due to non-response from the applicants.</p>	<p>Item 5</p> <p>Tabled</p>
<p>Motion to table items 3 and 5 by Lindquist, seconded by Regis.</p>	<p>Vote</p> <p>3 Yes 0 No</p>
<p>Motion to approve Meeting Minutes from March 31<sup>st</sup> and August 25<sup>th</sup> by Lindquist, seconded by DeLeo.</p>	<p>Vote</p> <p>3 Yes 0 No</p>
<p>Motion to Adjourn by Regis, seconded</p>	<p>Vote</p> <p>3 Yes 0 No</p>

I, Molly Phillips, Secretary to the Planning Board of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of Three (3) is a true copy of the original minutes of the Zoning Board of Appeals Meeting of September 29, 2014.

*Molly Phillips*