

Town of Old Orchard Beach
Zoning Board of Appeals
January 26, 2015

Call to Order: 6:05pm	Call to Order
Roll Call: Ron Regis, David Boudreau, Ray DeLeo	Roll Call
Pledge of Allegiance	Pledge of Allegiance
<p>Item 4: Variance: Request to remove and replace an existing structure. Applicant: Dana and Elizabeth Winslow JK Custom Homes, LLC Address: 18 Odena Avenue MBL: 315-7-10 in the R-3 Zone.</p> <p>Ron Sabin: We are looking to remove the property and move it backwards because of the 3 foot setback from the street. It would be the same size and on the same lot. It is currently the only property in the neighborhood that does not have off street parking. So if we move it back it accomplishes to things. It gets it out of the FEMA flood zone, because currently it goes 3-4 feet into the structure and we want to move it out of that zone. Also, there will be a garage for off street parking.</p> <p>Ray DeLeo: Dan, can you tell us what the FEMA requirements will do to the other houses in this area?</p> <p>Dan Feeney: He has to move it enough to get parking in front, allowing a driveway to get his car off the street. I went down and looked at it and the only thing he can do is lift the building up. This gets him out of the flood zone and gives him parking at the same time. It gets him out of the right of way of the town.</p> <p>Ray DeLeo: My concern is other homes in that area. Are they in a similar circumstance?</p> <p>Dan Feeney: It's going to get worse down there. This will fit in and blend fine. It's going to get worse in 1-1.5 years when the new FEMA maps are adopted if they are adopted. The zones are going to change, the heights of water in the maps will be higher.</p> <p>Ray DeLeo: Now, are we opening up a can of worms with this, because all of a sudden we are going to have a flood of variances with people trying to move their house out of the flood zone?</p> <p>Dan Feeney: I can't totally answer that question but if I was a home owner I would look at this option. If I could afford to move my house back I would do that. This is an option for them to do that, it's available to them.</p> <p>Ray DeLeo: I have a question with the first answer to that first question, "In an effort to maximize property value, the current structure will be replaced with a new home."</p>	<p>ITEM 4</p>

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Dan Feeney: I don't know if this maximizes the property value, because I looked at that also. The one thing it does, is get it out of the flood zone which is desirable to me. The additional fees could be \$1,000 to \$12,000 more per year.

Ray DeLeo: I understand that, but that first question is about reasonable value not maximum value.

Dan Feeney: I think they are just doing a reasonable project. They aren't doing the maximum lot coverage.

Ron Sabin: The intent was not just to get the house out of the FEMA flood zone. There is no on-site parking. So, we have to move it back for that anyway and we can't just go 4-5 feet we have to move it 10-12 feet. So, the bonus to that is we move it out of the flood zone.

Ray DeLeo: He could build this house on the existing footprint and lot lines without a variance, correct? And he could build a garage and driveway with the house as is?

Dan Feeney: Nope. I'm not going to let anybody lift and building and put a garage without getting the cars off the street. It needs to have the space for a car to fit off the street. I recommended he push the house back as far as he can and get 1-2 cars off the street.

Ray DeLeo: This is a two story building what's going to be above the garage?

Ron Sabin: Well, the house.

Ray DeLeo: So, there's going to be living space above the garage.

Closed to the public at 6:15pm

4 Criteria: application answers:

- A. Currently the property has no on-site parking. This requires owners to park in the street and hinders the road's ability to function properly. The lack of on-site parking is also detrimental to the value of the home, and by extension impacts the value of the neighbor's houses as well. A variance to move the home back would be an important first step to correct these problems.

Ron Regis: Yes

David Boudreau: Yes

Ray DeLeo: Yes

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<p>B. A variance to move the home back is also motivated by a desire to place the home outside the proposed FEMA 2013 flood zone. Leaving the home in its current location, when the new flood zoning is accepted, would cause undue financial hardship as insurance premiums would immediately and drastically increase.</p> <p>Ron Regis: Yes David Boudreau: Yes Ray DeLeo: Yes</p> <p>C. This variance would not alter the essential character of the locality. Indeed, every other residence on the street has on-site parking and is more removed from the road. On account of this, the variance, if granted, would all the home to better complement and blend in with the surrounding houses.</p> <p>Ron Regis: Yes David Boudreau: Yes Ray DeLeo: Yes</p> <p>D. The reconstruction of the house would allow it's placement outside the flood zone. The proposed flood zoning has been undertaken independent of the owner and applicant but would place an additional burden upon any future owner. A variance would correct this situation.</p> <p>Ron Regis: Yes David Boudreau: Yes Ray DeLeo: Yes</p> <p>Motion to grant variance: Ron Regis Seconded: David Boudreau</p> <p>Call to Vote:</p> <p>Ron Regis: Yes David Boudreau: Yes Ray DeLeo: Yes</p> <p>Passes 3-0</p>	<p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p> <p style="text-align: center;">3 Yes – 0 No</p>
<p>Item 5: Variance: Seeking a non-conforming egress relocation Owner: Karyn A. Geary with applicant Daniel MacDonald Address: 46 Seaview Avenue MBL: 315-11-1 in the R-2 Zone</p>	<p style="text-align: center;">ITEM 5</p>

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Daniel MacDonald: I am the husband of Karyn A. Geary, but I handle the work there. It's not a relocation necessarily. It's a three family house, owner occupied seasonally with two units that have been rented out in years past. On the second floor apartment, there is no fire exit. The fire chief said that it needed a point of egress. I looked at the requirements and it seems to be a public policy and safety issue. The minimum structure dimensions are 4' X 8' and if they want it smaller I am okay with that. It's between the house and the shed. On the second floor there's a kitchen window and I would like to put it there, have a step down, make a turn and then go straight down. It's in the rear of the property with the 25' setback on that side. The front of the house is on Hillside and this is on the rear. It's a small footprint, it's not a deck. The number one reason is fire safety and there's really no excuse for that.

David Boudreau: The only thing you are asking for is a 3 foot variance. Everything else would be the same?

Daniel MacDonald: Yes sir. My neighbors and I did talk about it.

Dan Feeny: I just want to mention that we did have one abutter comment that as long as what's here is all that is being built, they would have no problem with it. They just didn't want people hanging out.

Ray DeLeo: Is this new construction? Is this something that fell through the cracks?

Dan Feeny: It is something that should have been done when they issued the license to rent, but it never was. It was a different time and a different standard then. I went out there and I couldn't see a better place to put the stairway from the second floor. It's certainly the most remote location.

Daniel MacDonald: I bought the house, I have triplet 10 year olds and I don't want them to get hurt. I'm also an attorney in Massachusetts, so I see all the problems when you cut corners. I looked at it in the process of buying it. I talked to the fire chief and plumber. No one made me do it, but I volunteered.

Closed to public at 6:30pm

2 Criteria: application answers:

- A. Yes. The stairway is the minimum structure dimensionally as required. See supporting diagram.

Ron Regis: Yes

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<p>David Boudreau: Yes Ray DeLeo: Yes</p> <p>B. True. Due to the lot and location of the structure on the lot it would not be practical to construct the stairway in conformance with applicable space and bulk requirements. The structure was built within one foot of the rear line in a time period pre-dating the current setback rules.</p> <p>Ron Regis: Yes David Boudreau: Yes Ray DeLeo: Yes</p> <p>Motion to grant variance and miscellaneous appeal: Ron Regis Seconded: David Boudreau</p> <p>Call to Vote:</p> <p>Ron Regis: Yes David Boudreau: Yes Ray DeLeo: Yes</p> <p>Passes 3-0</p>	<p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p> <p style="text-align: center;">3 Yes – 0 No</p>
<p>Item 3: Variance: A front yard variance, non-conforming setback of 9’ to 5’3” Owner: Miranda Barrett with applicant Christopher Delano Address: 1 Camden Avenue, MBL: 309-4-3 in the R-2 Zone</p> <p>Christopher Delano: Miranda lives on the corner lot of 1 Camden Avenue and she has a seasonal rental while living there year-round. She is adding a porch onto the front of her house. She is looking for an easier entrance into the house. Right now there is a brick stoop that extends 5 feet from the house. I have some images of that which I can pass around. So, she was looking to add something on her house that would update the curb appeal. That stoop is a non-compatible feature of the neighborhood architecture. It will be compatible with the neighborhood and the character of the house. Look at the town ordinances we need a 20 foot setback from the street, we don’t have that. We don’t have the boundary line exactly pinned, but I do have the dimensions of the street. So the front of the house to the street is 21’4”. So we are at 16 feet from the street currently. In order to get a sitting front port and easier access we are trying to get a 7 foot porch, but to not go too close to the street we are making it 6 feet. And then adding the stairs you get closer and closer to the street. So it’s 8’9” from the house to the end of the stairs. The benefits are having a front</p>	<p style="text-align: center;">ITEM 3</p>

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porch compatible with the style of the house and safer access into the house.

David Boudreau: So you are proposing 5'3" for the front yard from the street? Rather than the 9 feet it is right now, right?

Christopher Delano: The approximate boundary line is the sidewalk? (to Miranda) I have a dimension of 21'4" from her house to the street.

Ray DeLeo: From the front drip line?

Christopher Delano: No. Actually from the house. There's a 1 foot overhang.

Ray DeLeo: So, how far from the house with the porch and the stairs and everything?

Christopher Delano walks up to the board members and points out the dimensions on his sketches.

David Boudreau: My question is, right here, is that 9 feet here?

Dan Feeny: The 9 feet is to the property line not the road. If there was a sidewalk it would be there.

Ron Regis: So most of the bump out is the stairs.

Ray DeLeo: So what do the houses in that neighborhood usually have?

Dan Feeny: They have porches. I do have a question for Chris, through the chair. Chris, the stairs that you are proposing are 2 step inset. The rise and tread on those?

Christopher Delano: 7/11

Dan Feeny: I think he's done everything he can to maximize the space with the platform and the stairs. He's done everything he can to get a deck on. 6 feet is the minimum for a farmer's porch.

Ray DeLeo: So, it's 6 feet but where the door is, it's a little bit shorter.

Christopher Delano: Yes, because of the stairs.

Ray DeLeo: One other thing, with the variance, we would like to stipulate that the variance is for the porch and not for the house.

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Pat Clibby, 4 Camden Ave: I was the listing broker for when Miranda bought the home and the improvements she's made are incredible. She is doing this as a great finishing touch. The brick façade and concrete is crumbling. It's going to improve the neighborhood.

Michelle Arnold, 5 Camden Ave: Since Miranda has moved into the neighborhood her house has completely transformed. She has done a wonderful job, it's just amazing. It doesn't look like the brick steps go with the house, like Pat said, they are crumbling. It doesn't even look safe to walk on.

Closed to Public at 6:45pm

Answers to application questions:

- A. Currently, the owner rents the property weekly during the summer months. A front entry porch where the renters can enjoy summer evenings outside is an important feature to help the owner rent her property. Currently the existing side entry stoop projects 5'-0" from the face of the house. We are proposing an additional foot of depth for a new front porch along the entire front of the house in order to allow for a suitable outdoor sitting area for three persons and to give straight-ahead entry that is easy to navigate with bags and suitcases.

Ron Regis: Yes

David Boudreau: Yes

Ray DeLeo: Yes

- B. 1 Camden Avenue is a corner lot and enjoys a great place in this walking neighborhood. The house currently has a brick, side entry stoop to access the main front entrance. This element is foreign in both form and material to the style and character of the house. We are proposing a front entry, full width, sitting porch in a style already seen in the neighborhood, harmonious with the style of the house, and common to the vernacular of Maine.

Ron Regis: Yes

David Boudreau: Yes

Ray DeLeo: Yes

- C. As one walks in this community, along Camden Avenue and other nearby streets, the current setback of 20 feet is the exception, rather than the norm. A large number of the houses are within 10' of the street. Because of this, the homes with features set closer to

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<p>the street seem to be the ones complementing the essential character of the neighborhood, rather than violating it.</p> <p>An important architectural component a walking neighborhood is the front porch. We see this as a prescribed feature in many successful planned communities, such as Seaside, FL, and in vibrant walking neighborhoods across the country. Without the street-side activity that a front porch fosters, people tend to either gather in their private back yards, inside, or they venture elsewhere to socialize. This strips activity away from the street, thereby decreasing both the level of social engagement with the neighborhood and the feeling of security along the street. The front porch we are proposing is intended to be a gathering spot for the owner and her guests. It will enhance the character and function of both the house and the surrounding neighborhood.</p> <p>Ron Regis: Yes David Boudreau: Yes Ray DeLeo: Yes</p> <p>D. I could not find any documented history of this lot being adjusted in any way to deleteriously affect the usability of the lot. The owner has, however, had a discussion with a past owner of the property who says that the house once had a full width front porch attached to it. Unfortunately, I have yet to find any photograph showing this porch of supporting drawings to verify it. I am hopeful, however, that I will have something before the Planning Board meeting to confirm or deny this.</p> <p>Ron Regis: Yes David Boudreau: Yes Ray DeLeo: Yes</p> <p>Motion to grant variance: David Boudreau Seconded: Ron Regis</p> <p>Call to Vote:</p> <p>Ron Regis: Yes David Boudreau: Yes Ray DeLeo: Yes Passes 3-0</p>	<p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p> <p style="text-align: center;">3 Yes – 0 No</p>
<p>Item 2: Administrative Interpretation: (Reconsideration) Pine Ridge Realty Appeal is for the Building Permit issued to Bernard J. Saulnier LLC.</p>	<p style="text-align: center;">ITEM 2</p>

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Owner: Bernard J. Saulnier LLC.

Appeal Applicant: Pine Ridge Realty represented by Edward S. McColl Esq.
Attorney

Address: 3 Nicholas Drive; MBL: 105A-1-702 in PMUD zone.

Edward McColl Esq.: I am happy to explain the appeal, answer some questions for the board, answer questions for Mr. Saulnier and make it simple for everybody. This relates to Dunegrass, a complicated development, it was approved back in the 1980's. It's an overall development approved by the state, the county and the Planning Board. Over the years my clients Ronnie Boutet and Barbara Butet sold the golf course to Dominator Golf LLC. Dominic wanted to put some of the units on the golf course. Bernie Saulnier was the recipient of some of those units and went into the Planning Office and got a building permit. There have been many legal battles between Dominator Golf and the Boutet's regarding these issues at Dunegrass. As we explained in our appeal, if the permit was obtained in fraudulence and Dominator and Mr. Saulnier's company never planned on compensating the Boutet's. We believe the town then should revoke the permits and the parties can decide whether to do business or not.

Bernard Saulnier: I just want to clarify. I am not in business with Dominator Golf. I bought that property outright and it was approved by the Town using the same engineers, architects and everything that Ronnie has used throughout the project. It has nothing to do with me. And from what I understand, the town doesn't have any authority in private contracts. I don't know why I'm here.

Dan Feeney: Well, I'd like to hear Mr. McColl's question to me first. I understand Bernie's position.

Edward McColl Esq.: Am I correct Mr. Feeney that it was presented as an amendment to the original Dunegrass plan and was a start-from-scratch subdivision proposal?

Dan Feeney: Unfortunately I wasn't here when this initially started so I don't have the answer to that. The town's attorney has stated over and over again that we are not a party to this issue. This is between Boutet and Dominator. I have seen pieces of this development in my time with the Town and I have seen nothing that counteracts what the town's attorney has told me to do. Our Town Planner already looks at these projects before they come to me.

Ray DeLeo: So, the bottom line is, he was sold a piece of property that he couldn't build on or shouldn't have built on. Is the concern that you are taking developable units from the total?

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<p>Edward McColl Esq.: Given that Mr. Saulnier was not a party to the original deal, then an essential part of our argument is missing for our appeal. If he says he's independent of Dominator Golf than he's not part of this.</p> <p>David Boudreau: So, let me understand this. You want us to listen to this reconsideration for the purposes of non-payment to your client. It has nothing to do with money? Regardless of your agreement, the Town's only obligation is meet the requirements of ownership and codes are met. Whoever comes for the permit has to prove those things. My understanding is that approval for a development is not for one person it's an approval for the total development. If the lawyers did their job in the real estate transaction, what else would there need to be. I guess I don't understand why you are here? Unless there is something that he has done wrong in procedure with issuing the permit, then I make a motion that we not reconsider this permit.</p> <p>Ron Regis: There's nothing we can do here. What we have to do is deny this so that you can go to court and that's just what's going to happen.</p> <p>Motion to Deny Reconsideration: David Boudreau Seconded: Ron Regis</p> <p>Call to Vote:</p> <p>Ron Regis: Yes David Boudreau: Yes Ray DeLeo: Yes Passes 3-0</p>	<p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p> <p style="text-align: center;">3 Yes – 0 No</p>
<p>Approval of Meeting Minutes: Motion to Accept: David Boudreau Second: Ron Regis</p> <p>Call to Vote: Ron Regis: Yes David Boudreau: Yes Ray DeLeo: Yes Passes 3-0</p>	<p style="text-align: center;">Meeting Minutes Motion</p> <p style="text-align: center;">Vote</p> <p style="text-align: center;">3 Yes – 0 No</p>
<p>Adjournment 7:22pm</p>	<p style="text-align: center;">ADJOURNMENT</p>

I, Molly Phillips, Secretary to the Zoning Board of Appeals of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of ten pages (10) is a true copy of the original minutes of the Zoning Board of Appeals Meeting of January 26, 2015.

Molly Phillips