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**Town of Cape Elizabeth, Maine
Minutes of Zoning Board of Appeals**

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August 26, 2003

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7 P.M., Town Hall

8 Present: Jay Chatmas, Chair
9 Joseph Guglielmetti
10 Jack Kennealy
11 Steven LaPlante
12 Michael Tranfaglia
13 James Walsh
14

8 Absent: Gib Mendelson

15 Bruce Smith, the Code Enforcement Officer, was also present for the meeting.
16

17 Dr. Chatmas called the meeting to order and asked the Board members to introduce
18 themselves. He then asked for comments on the minutes from the previous meeting.
19 The following amendments were requested:
20

21 Page 2, Line 13 – Correct reference of one year prior to two years prior.
22 Page 6, Line 23 – strike the word “the”
23

24 With no further corrections noted, motion was made by Mr. Guglielmetti to approve the
25 minutes. Motion was seconded by Mr. LaPlante 4 in favor 0 opposed 2 abstained
26 (Mr. Kennealy and Mr. Tranfaglia were not present for the June meeting)
27

28 **OLD BUSINESS**
29

30 None
31

32 **NEW BUSINESS**
33

34 **To hear the request of Mary-Robin Guthrie**, 1174 Sawyer Road, Tax Map U46, Lot
35 11 for a left side property line variance of fourteen (14) feet from the required twenty five
36 (25) feet to construct a 12' x 30' single story addition at eleven (11) feet from the left
37 side property line.
38

39 Mr. LaPlante recused himself from the proceedings since he shares a property line with
40 the applicant.
41

42 Mr. Smith noted that the variance requested would correctly be four feet. At the time
43 that the legal ad needed to be placed, he did not have a confirmed figure from the
44 application. He explained that as long as the amount of variance requested did not
45 exceed what was advertised, the incongruity was of no consequence.
46

47 Mary-Robin Guthrie addressed the Board and explained her reasons for pursuing the
48 variance request. She described her house as very small with basement stairs that were

1 very steep and narrow. She described the basement area as constantly damp and
2 moldy and wanted to construct an addition which would provide storage space and a
3 better location for her washer and dryer. She stated that she has hired a builder who
4 has drawn plans for an addition which will increase the first floor area off the rear of the
5 house. The addition will not be visible from the street and only slightly visible from the
6 side properties. Ms. Guthrie noted that the project had met with the Code Enforcement
7 Officer's approval given the variance be granted by the Board.

8
9 Dr. Chatmas asked Ms. Guthrie to confirm the setback of the addition and its position
10 with respect to the foundation of the garage. She explained that the addition would
11 begin at the inside rear wall of the garage and not increase the garage area.

12
13 Dr. Chatmas asked about alterations to the septic plan. Ms. Guthrie deferred to her
14 Builder, Norm Richman, for an explanation.

15
16 Norm Richman introduced himself as the owner of Cape Builders and stated his
17 residence as 13 Spoonrift Lane, Cape Elizabeth. He stated that Al Frick had done a
18 soils test on the applicant's property and had drawn up a new schematic for a proposed
19 system. The plan was submitted and approved by the Code Enforcement Officer. Some
20 excavation work will be necessary to move the hook-up to the house.

21
22 Dr. Chatmas asked if the height on the addition would be comparable to the existing
23 home. Mr. Richman stated that the roof height was less all around. With regard to the
24 existing basement, Mr. Richman stated that no alterations would be made because the
25 area was too wet.

26
27 Dr. Chatmas asked how the applicant had derived the setback information for the
28 comparable property owners. Mr. Richman said that he had visited the properties
29 personally and compiled the figures

30
31 Dr. Chatmas opened the floor to public comment.

32
33 Steve LaPlante, 1176 Sawyer Road, introduced himself as a direct abutter to the
34 applicant. He stated that as an abutter to the property he did not feel adversely
35 impacted by the project nor did he consider the alteration to lend a negative impact to
36 the neighborhood. Mr. LaPlante recognized the difficulty Ms. Guthrie experienced with
37 her basement and considered the variance a reasonable request. He felt that the
38 addition would be an improvement to the home and a general asset to the value of the
39 neighborhood. He saw no compelling reason to deny the approval.

40
41 With no further persons coming forward, Dr. Chatmas closed the public portion of the
42 meeting and returned discussion to the Board.

43
44 Mr. Kennealy conceded with Mr. LaPlante's comments and complimented the
45 application for its completeness. He stated that he had visited the neighborhood and
46 felt the improvements to the home consistent with the surrounding properties. Mr. Walsh
47 echoed those assessments.

1 Dr. Chatmas was satisfied that the addition would be mostly contained within the
2 existing confines of the house and offer a low profile from the street. He asked for a vote
3 on the standards.
4

5 **FINDING OF FACTS**

6
7 The appellant is the owner of a property at 1174 Sawyer Road, Tax Map U46, Lot 11
8

9 The property is located in a Residential A District and contains 38,000 sq. ft. of land
10 area
11 with 80 ft. of street frontage, and is therefore a nonconforming lot of record.
12

13 **CONCLUSIONS**

- 14
15 1. The proposed variance is not a substantial departure from the intent of the
16 Ordinance.
17 5 in favor, 0 opposed
18
- 19 2. A literal enforcement of the Ordinance would cause a practical difficulty.
20 5 in favor, 0 opposed
21
- 22 3. The need for the variance is due to the unique circumstances of the property and
23 not to the general conditions of the neighborhood.
24 5 in favor, 0 opposed
25
- 26 4. The granting of the variance will not produce an undesirable change in the
27 character of the neighborhood and will not unreasonably detrimentally affect the
28 use or market value of abutting properties.
29 5 in favor, 0 opposed
30
- 31 5. The practical difficulty is not the result of action taken by the applicant or a prior
32 owner.
33 5 in favor, 0 opposed
34
- 35 6. No other feasible alternative to a variance is available to the petitioner.
36 5 in favor, 0 opposed
37
- 38 7. The granting of a variance will not unreasonably adversely affect the natural
39 environment.
40 5 in favor, 0 opposed
41
- 42 8. The property is not located in whole or in part within shoreland areas as
43 described in Title 38, section 435.
44 5 in favor, 0 opposed
45
46
47

1 A motion was made by James Walsh to grant the variance applied for by Mary-Robin
2 Guthrie from the strict application of the Zoning Ordinance requirement of Sec. 19-6-1,
3 for a left side property line variance of four (4) feet from the required twenty five (25) feet
4 to construct a 12' x 30' single story addition at twenty-one (21) feet from the left side
5 property line. Motion was seconded seconded by Jack Kennealy. 5 in favor, 0 opposed
6
7

8 **COMMUNICATIONS**
9

10 None were brought forward.

11
12 Dr. Chatmas asked for a motion to adjourn.

13
14 Motion was made by Mr. Kennealy and seconded by Mr. Tranfaglia. 6 in favor and 0
15 opposed.

16
17 Meeting adjourned at 7:40PM.
18
19
20

21 Respectfully submitted,

22
23 Barbara H. Lamson, Minutes Secretary
24
25