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**TOWN OF CAPE ELIZABETH, MAINE  
MINUTES OF ZONING BOARD OF APPEALS**

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**October 28, 2003**

**7:00 p.m., Town Hall**

Present: Jay Chatmas, Chair  
Joseph Guglielmetti  
Steven Laplante  
Gib Mendelson  
Michael Tranfaglia

Absent: Jack Kennealy  
James Walsh

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

Dr. Chatmas called the meeting to order. He stated since there were five members present there would be a quorum.

Dr. Chatmas introduced the first item on the agenda: To approve the August 26<sup>th</sup> meeting minutes. He asked for comments.

Hearing none, Dr. Chatmas asked for a motion to approve.

Mr. Guglielmetti made a motion to approve the minutes. Motion was seconded by Mr. Tranfaglia. 4 in favor 0 opposed 1 abstained.

Dr. Chatmas took a moment to thank Barbara Lamson on behalf of the board for an outstanding job performed and wish her well with her new endeavors in the school department. Dr. Chatmas also wanted to welcome Laurie Palanza as the new recording secretary.

Dr. Chatmas had one item he wanted to mention concerning the City of Portland. They had sent invitations to the board members for a municipal training session on Sept. 11<sup>th</sup> at the Portland City Hall. Dr. Chatmas and Michael Tranfaglia both attended the meeting and thought it was effective and insightful. Dr. Chatmas wanted to thank the City of Portland for the invitation.

Dr. Chatmas stated there wasn't any old business.

Dr. Chatmas proceeded to new business, the first item being a request by Mark & Laura Morris to be rescheduled.

The second item on the agenda was to hear an appeal of Michael and Jennifer Duddy of 11 Crescent View Avenue for a right side property line variance of 2 feet from the required 25ft to a construct a second story addition over the existing garage and breezeway at 23ft from the property line. Dr. Chatmas asked Mr. Duddy if he would make his presentation.

1 Mr. Duddy thanked the board for having him back. He stated his request for a two ft side  
2 lot line setback variance to construct an addition over the garage to complement ongoing  
3 renovations at his property. In Mr. Duddy's prior application he had established that this  
4 would conform with the character of the neighborhood so he wanted to address any  
5 questions that the board might have.

6  
7 Dr. Chatmas asked the board if they had any questions for Mr. Duddy.

8  
9 Mr. LaPlante complemented on an application well done. Mr. La Plante wanted to  
10 confirm that the scope of the proposed variance will not take him beyond the existing  
11 boundaries of the building.

12  
13 Mr. Duddy confirmed that it did go beyond the building envelope to the lot line. He  
14 stated the garage is separated from the house by a mudroom that is 6' wide within the lot  
15 so it does exceed the footprint of the house, but not in the direction infringing on any lot  
16 line setback.

17  
18 Dr. Chatmas asked if there were any other comments

19  
20 Hearing none, Dr. Chatmas closed the public discussion of the meeting.

21  
22 Dr. Chatmas asked the members of the board if there were any comments.

23  
24 Mr. Guglielmetti stated that he had taken a drive by the location and thought the  
25 renovations were well designed and would enhance the neighborhood.

26  
27 Dr. Chatmas agreed that the application was complete and the property comparisons were  
28 well met were met and justified. He stated since there would no further expansion into the  
29 property into the setback area, he felt the request was tenable.

30  
31 Mr. LaPlante spoke about the quality of the application and wanted to make sure the  
32 building's envelope was not to be expanded upon.

33  
34 Mr. Smith wanted to point out that although the foundation footprint will not be  
35 increased, the garage would be garrisoned out by a foot.

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37  
38 Dr. Chatmas asked if the front would remain in the setback and if the rear setback was  
39 not a factor to which Mr. Smith agreed.

40  
41 With no further discussion, Dr. Chatmas asked for a vote on the conclusion.

## 42 43 **CONCLUSIONS**

- 44  
45 1. The proposed variance is not a substantial departure from the intent of the ordinance.  
46 5 in favor, 0 opposed, 0 abstained.

- 1  
2 2. A literal enforcement of the Ordinance would cause a practical difficulty.  
3 5 in favor, 0 opposed, 0 abstained.  
4  
5 3. The need for the variance is due to the unique circumstances of the property and not  
6 the general conditions of the  
7 of the neighborhood.  
8 5 in favor, 0 opposed, 0 abstained.  
9  
10 4. The granting of the variance will not produce an undesirable change in the character  
11 of the neighborhood and will not  
12 unreasonably detrimentally affect the use or market value of abutting properties.  
13 5 in favor, 0 opposed, 0 abstained.  
14  
15 5. The practical difficulty is not the result of action taken by the applicant or a prior  
16 owner.  
17 5 in favor, 0 opposed, 0 abstained.  
18  
19 6. No other feasible alternative to a variance is available to the petitioner.  
20 5 in favor, 0 opposed, 0 abstained.  
21  
22 7. The granting of a variance will not unreasonably adversely affect the natural  
23 environment.  
24 5 in favor, 0 opposed, 0 abstained.  
25  
26 8. The property is not located in whole or in part within shoreland areas as described in  
27 Title 38, section  
28 435.  
29 5 in favor, 0 opposed, 0 abstained.  
30

31 Dr. Chatmas asked for a motion.

32  
33 Mr. Mendelson made a motion for the variance to be approved. Mr. Guglielmetti  
34 seconded the motion and was approved

35 5 in favor, 0 oppose, 0 abstained.  
36

37 **Communications** was the next item on the agenda. Mr. Smith had received none.  
38

39 Dr. Chatmas asked Board members about Thanksgiving week. Everyone at meeting  
40 could attend the meeting in November.  
41

42 Dr. Chatmas asked for a motion to adjourn. Motion was made by Mr. Laplante and  
43 seconded by Mr. Guglielmetti.  
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45 Meeting adjourned at 7:20pm.  
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1 Respectfully Submitted,  
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3 Laurie Palanza, Minutes Secretary  
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