

CAPE ELIZABETH  
ZONING BOARD OF APPEALS

August 24, 2004

7:00pm Town Hall

Jay Chatmas, Chair  
Leonard Gulino  
Joe Guglielmetti  
Michael Tranfaglia  
Gib Mendelson

Absent: James Walsh  
Steven LaPlante

Mr. Chatmas called the meeting to order. The first order of business was approval of the minutes from the July 27, 2004 meeting. With revisions requested, Mr. Chatmas asked for a motion of approval. The minutes were approved 3 in favor, 2 abstained.

NEW BUSINESS

To hear the appeal of James & Elizabeth Samenfeld-Specht, 325 Mitchell Road, Tax Map U32, Lot 4A for a front property line variance of twelve feet-six inches (12' - 6") from the required forty feet to construct an addition at twenty-seven feet-six inches (27' - 6") from said front property line.

Mr. Chatmas stated that there were enough members to have a quorum and that for the variance to be approved there would have to be 4 out of 5 votes in favor. He asked that the applicant approach the podium and review the application.

Elizabeth Samenfeld-Specht, 325 Mitchell Road, stated that currently their entire house is not in compliance with the Ordinance. Their intention is to add a one -car garage with a bedroom above. They measured their neighbors' setbacks and found 7 out of 12 were as close or closer than their own property. They had looked at moving the addition to the back of the house; however, it would not keep in character with the house or the neighborhood.

Mr. Gulino stated the pictures attached were of the different houses used in comparison and each of those had listed footage. He wanted to know what the setback was measured from.

Mrs. Samenfeld-Specht stated it was from the road to the front of the house.

Mr. Gulino asked if there was currently a driveway to her house.

Mrs. Samenfeld-Specht stated there is currently a gravel driveway, and the garage would start where the gravel ends.

Mr. Chatmas wanted to make a correction to the application and have the current front set back read 10' - 8", and her request is for a variance is a proposed 27' 6" from the property line.

Mr. Tranfaglia questioned whether the variance was needed for the side setback or the front set back.

Mr. Smith clarified that the side setback will be met, however, since she does not meet the front setback and she is expanding a nonconforming structure a variance is needed.

Mr. Mendelson asked about the pages in her application with signatures.

Mrs. Samenfeld-Specht stated that they were from neighbors in support of the variance.

Mr. Chatmas asked about the large parcel at rear of her property and if she knew what it was.

Mrs. Samenfeld-Specht stated it was conservation land.

Mr. Chatmas closed the Public Hearing and opened Board discussion.

Mr. Mendelson looked at the property and thought there were unique circumstances with the close proximity to the road and that this was precisely the type of circumstance when providing for a variance and that the variance should be approved.

Mr. Chatmas asked Mr. Smith why on Mitchell Road there is a setback of 40 feet.

Mr. Smith stated he did not know the rationale other than volume of traffic.

Mr. Chatmas asked the applicant if she was aware if the property lines had been moved back for widening the road in the past.

Mrs. Samenfeld-Specht stated that she had called Public Works and was told it would be at least 15 years before that may be considered.

Mr. Chatmas asked if the applicant had looked at alternatives for the addition.

Mrs. Samenfeld-Specht stated that they looked at other opportunities and had tried several different drawings but determined the addition would be architecturally ugly.

Mr. Gulino stated the drawings were very helpful. He believes the application meets all 8 factors for approval. He also stated he appreciated that she had visited the neighbors and took the time to get their approval.

Mr. Chatmas asked for any other comments. Hearing none, he asked the Board to vote on the elements for the variance approval. All 8 items were found to be satisfactory and were approved 5 in favor, 0 opposed.

A motion was made by Mr. Gulino to approve the variance appeal and seconded by Mr. Mendelson. 5 in favor, 0 opposed.

Mr. Tranfaglia made an amendment stating that it is a variance from the Sec. 19-6-3 of the Ordinance, not 19-6-1.

Mr. Chatmas addressed correspondence, specifically the Freedom of Access Law.

Mr. Gulino wanted to tell the Board that this law declares all deliberations are for public consumption.

Mr. Tranfaglia made a motion for the meeting to adjourn. Mr. Gulino seconded the motion. 5 in favor, 0 opposed.

Meeting adjourned at 7:40p.m.

Respectfully Submitted,

Laurie Palanza  
Minutes Secretary