

1 TOWN OF CAPE ELIZABETH
2 ZONING BOARD OF APPEALS

3
4 October 26, 2004

7:00 p.m. Town Hall

5
6 Present: Jay Chatmas, Chair
7 Steven LaPlante
8 Jim Walsh
9 Len Gulino
10 Michael Tranfaglia
11 Gib Mendelson
12 Joe Guglielmetti
13

14 Mr. Chatmas opened the meeting with a roll call. The first order of business was approval
15 of the September minutes. With corrections noted, he asked for a motion.
16

17 Mr. Walsh made a motion to approve amended minutes.
18

19 Mr. Gulino seconded the motion. **4 in favor, 3 abstained.**
20

21 NEW BUSINESS
22

23 To hear the request of Holly Ready, 1 Rocky Point Lane, Tax Map U14, Lot 12 for a
24 variance to increase the floor area or volume expansion of 25% allowed in a resource
25 protection buffer to 40% in accordance with Section 19-5-2(B) and pursuant to Section
26 19-4-5(A)(5).
27

28 Mr. Chatmas gave an overview of the application. He asked Holly Ready to approach the
29 podium and present her application.
30

31 Holly Ready, 1 Rocky Point Lane, described her summer cottage and her desire to turn it
32 into a year round residence. She stated that when she met with the builder it was
33 determined a lot of reparation would be needed for the building to meet code. The house
34 is the smallest one in the area and she would like to add a couple dormers to make it
35 larger. She is also proposing an 8' x 12.5 ft sunroom, which would meet setbacks and not
36 affect the wetlands.
37

38 Mr. Gulino asked if she would be using the same foundation.
39

40 Ms. Ready stated no, the foundation will be replaced within the existing footprint.
41

42 Mr. Gulino asked for a breakdown of the increase of sq. footage and volume.
43

44 Mr. Smith stated that ordinance says the applicant may expand up to 25% footprint
45 volume. The ordinance also allows for the applicant to come before the Board of Appeals
46 to get an additional 15 % increase in volume, but not a footprint expansion.

1 Mr. Gulino asked if the applicant's proposal was less than 40% volume allowed in the
2 Ordinance.
3
4 Mr. Smith stated the proposal does not exceed the 40% volume.
5
6 Mr. Mendelson stated that on one sheet it shows 8/100th of a percent over the 40% of
7 volume.
8
9 Ms. Ready stated that was an option for roof protection over the front door. This would
10 not be included.
11
12 Mr. Mendelson verified with Mr. Smith that there was not an issue of the project's
13 volume being over 40%.
14
15 Mr. Smith affirmed that.
16
17 Mr. Chatmas questioned who had calculated the space and volume percentages.
18
19 Ms. Ready stated her father had done the calculations. He is an engineer and an architect.
20
21 Mr. Chatmas asked if the sunroom would be heated.
22
23 Ms. Ready stated yes.
24
25 Mr. Walsh asked if the septic was converted to be year round use.
26
27 Mr. Smith stated he didn't believe that the house was classified as seasonal. He said
28 before he issued a building permit the septic system would be reviewed to confirm it's
29 capacity for the total number of bedrooms for year round use.
30
31 Mr. Gulino asked who received notice of he application.
32
33 Mr. Smith stated it was the nearest 25 abutters or within 1000 ft of the property.
34
35 Mr. Chatmas thanked Ms. Ready and opened the meeting for public comment.
36
37 Florence Braff, 69 Hannaford Cove Road, is concerned with the impact on the wetlands
38 and if the existing structure would be demolished in its entirety. She is also concerned of
39 lighting from the house. She stated the drainage has changed since the two new leach
40 fields were put in. She hopes the Board will look at any adverse impact that could occur
41 on the wetlands. She hopes protections will be put into place to protect the wetlands, to
42 stop runoff, contamination and leaching of lime while mixing cement.
43
44 Mr. Chatmas asked Mrs. Ready if she would like to comment on the issues presented.
45

1 Ms. Ready stated she respects how Mrs. Braff feels and intends to protect the wildlife and
2 not disturb any of the critical wetland. She stated that she does not intend to have the
3 lighting shining into the woods; however, she would need some lighting for her house.
4 She discussed how her and a neighbor are trying to get year round water for their homes
5 as it is currently summer water only.

6
7 Mrs. Braff asked how water could be brought into the site without impacting the wetlands
8 as they are interconnected.

9
10 Mr. Smith stated that they have to take proper precautions in protecting wetlands while
11 bringing in a water line.

12
13 Mr. Chatmas closed the Public Hearing. He asked Mr. Smith what assurance does the
14 Board and the audience have that the critical wetlands would be carefully preserved
15 during construction.

16
17 Mr. Smith stated that you have to put faith into the system and inform the applicant that
18 they have to take the proper measures to protect the wetland and the his office will make
19 sure that happens.

20
21 Mr. Chatmas stated the reason the applicant was here because of the 15% enlargement
22 above the 25% allowed in the Ordinance. He asked Mr. Smith if she had stayed within
23 the 25%, and had not needed a variance, would his office be taking the same precautions
24 with the wetlands.

25
26 Mr. Smith stated yes.

27
28 Mr. Gulino stated that he had review the application in detail and that it appears that the
29 applicant within the 40% maximum enlargement. He said the design was compatible with
30 the area and substantially smaller than the majority of the abutters. He stated that with
31 the comments of Mr. Smith he believes it to be a reasonable application and would
32 support it.

33
34 Mr. Chatmas agreed and stated the calculations presented of square footage and volume
35 of the footprint support the request. He stated the Ordinance provides that if the
36 requirements are met they can approve the application and assumes careful attention will
37 be made to the wetland in regard to the construction. He asked for any other comment.
38 Hearing none, he asked to move to vote on the elements.

- 39
40 **1. The proposed variance is not a substantial departure from the intent of the**
41 **Ordinance. 7 in favor, 0 opposed, 0 abstained.**
42 **2. A literal enforcement of the Ordinance would cause a practical difficulty.**
43 **7 in favor, 0 opposed, 0 abstained.**
44 **3. The need for the variance is due to the unique circumstances of the property**
45 **and not to the general conditions of the neighborhood.**
46 **7 in favor, 0 opposed, 0 abstained.**

1 4. The granting of the variance will not produce an undesirable change in the
2 character of the neighborhood and will not unreasonably detrimentally affect the
3 use or market value of abutting properties.

4 **7 in favor, 0 opposed, 0 abstained.**

5 5. The practical difficulty is not the result of action taken by the applicant or a prior
6 owner.

7 **7 in favor, 0 opposed, 0 abstained.**

8 6. No other feasible alternative to a variance is available to the petitioner.

9 **7 in favor, 0 opposed, 0 abstained.**

10 7. The granting of a variance will not unreasonably adversely affect the natural
11 environment.

12 **7 in favor, 0 opposed, 0 abstained.**

13 8. The property is not located in whole or in part within shoreland areas as
14 described in Title 38, section 435.

15 **7 in favor, 0 opposed, 0 abstained.**

16

17 A motion was made by Len Gulino to approve the variance appeal and seconded by Jim
18 Walsh. **7 in favor, 0 opposed, 0 abstained.**

19

20

21 Mr. Chatmas wanted to remind the Board that the next two months meetings are during
22 holiday weeks. He also reminded the Board to think about applications for the Chair and
23 Secretary for the Board. He asked for any comments. Hearing none he asked for and
24 adjournment.

25

26 Mr. Mendelson made a motion to adjourn.

27

28 Mr. LaPlante seconded the motion. **7 in favor, 0 opposed.**

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31 Meeting adjourned at 9:05p.m.

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35 Respectfully Submitted,

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37 Laurie Palanza

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