

1 TOWN OF CAPE ELIZABETH
2 ZONING BOARD OF APPEALS
3

4 June 28, 2005

7:00 p.m. Town Hall

5
6 Present: Jay Chatmas

Absent: Stephen LaPlante

7 Jim Walsh

Joe Guglielmetti

8 Len Gulino

9 Gib Mendelson

10 Michael Tranfaglia

11
12 Also present was Bruce Smith, Code Enforcement Officer.

13
14 Mr. Chatmas opened the meeting with roll call and proceeded to the first item of
15 business, approval of the minutes.

16
17 With one correction noted, Mr. Chatmas asked for a motion.

18
19 Mr. Gulino made a motion to accept the amended minutes.

20
21 Mr. Mendelson seconded the motion. 4 in favor, 0 opposed. (Mr. Tranfaglia arrived late)

22
23 OLD BUSINESS

24
25 To hear the administrative appeal of Paul Coulombe, John Fatula and Audrey Fatula of
26 the Code Enforcement Officer's issuance of building permit # 050343 and flood hazard
27 development permit # 050344 on property at 24 Reef Rd, Tax Map U13, Lot 14, and
28 issuance of subsurface wastewater disposal system permit #'s 3143 & 3144 on property
29 at 26 Reef Rd, Tax Map U13, Lot 14B, all for development of 24 Reef Road. (*Appellants
30 and appellees have jointly requested a tabling of this item until next month*)

31
32 Mr. Walsh asked if this application should be withdrawn instead of carried over every
33 month.

34
35 Mr. Smith stated that this was not a typical situation. If the applicant were to withdraw
36 their application, they would have to reapply and pay another fee.

37
38 Mr. Chatmas asked for motion.

39
40 Mr. Mendelson moved that the item be tabled.

41
42 Mr. Gulino seconded the motion. 5 in favor, 0 opposed.

43
44
45 NEW BUSINESS
46

1 To hear the request of Randel S. Hale, 10 Oakwood Road, Tax Map U24, Lot 18 for a
2 conditional use permit to have an accessory dwelling unit within the existing single-
3 family dwelling.

4
5 Mr. Chatmas asked if the applicant would give a description of the existing property and
6 the intentional use for the accessory dwelling unit.

7
8 Mr. Hale stated the house is currently used as a single-family home. There will not be
9 any modifications to the exterior of the house, only a kitchen will be added to the interior
10 on one side of the house so his in-laws may cook their meals whenever they wanted.

11
12 Mr. Gulino questioned whether there would be any change in the footprint of the
13 building.

14
15 Mr. Hale stated there would not be any change.

16
17 Mr. Chatmas asked about the for sale sign that was in front of the property.

18
19 Mr. Hale stated there was a for sale sign on the property, which he had listed because the
20 real estate market was up. There have not been any offers on the property. He stated that
21 they have had the intention to put in another kitchen for some time.

22
23 Mr. Mendelson asked the applicant if he were to receive an acceptable offer, would he
24 take it.

25
26 Mr. Hale stated yes, however, it would have to be prior to August 1st because he doesn't
27 want to move their kids during the school year.

28
29 Mr. Walsh asked if the property was listed with the proposed change.

30
31 Mr. Hale stated absolutely not.

32
33 Mr. Mendelson asked where his in-laws are currently living.

34
35 Mr. Hale stated they are living in the house now.

36
37 Mr. Chatmas opened the floor for public comment.

38
39 Kenneth Fogg, resides at 10 Oakwood Rd, Mr. Hale's father-in-law and future occupant
40 of the A.D.U, stated that his wife is still working crazy hours and they are on the run all
41 the time. This makes it difficult as far as meals are concerned. This has been their intent
42 for a long time.

43
44 Gary Beckwith, 13 Oakwood Rd, has lived on Oakwood Rd since 1956 and has seen the
45 growth and changes on the street. The addition was done with care and meeting Town
46 codes and the property is a double lot. There is adequate parking. He would like to see
47 the application move forward.

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Mr. Chatmas asked if there were any other public comments. Hearing none, he closed the public hearing and opened the meeting for Board discussion.

Mr. Walsh asked if there was an apartment in the home currently without a kitchen.

Mr. Smith stated there was an apartment years ago. There was a complaint, and the stove and refrigerator were removed.

Mr. Chatmas stated the ordinance does support the creation of an accessory dwelling unit. He stated that the application appears to meet the criteria set forth and comments were supportive. He asked the Board to vote on the five elements.

1. The proposed use will not create hazardous traffic conditions when added to existing and foreseeable traffic in its vicinity.
5 in favor 0 opposed 0 abstained.
2. The proposed use will not create unsanitary conditions by reason of sewage disposal, emissions to the air, or other aspects of its design or operation.
5 in favor 0 opposed 0 abstained.
3. The proposed use will not adversely affect the value of adjacent properties.
5 in favor 0 opposed 0 abstained.
4. The proposed site plan and layout is compatible with adjacent property uses and with the Comprehensive Plan.
5 in favor 0 opposed 0 abstained.
5. The design and external appearance of any proposed building will constitute an attractive and compatible addition to its neighborhood, although it need not have a similar design, appearance or architecture.
5 in favor 0 opposed 0 abstained.

A motion was made by Mr. Gulino and seconded by Mr. Tranfaglia to approve the application of Mr. Hale for an accessory dwelling unit. 5 in favor, 0 opposed.

Mr. Chatmas introduced the second item of New Business.

To hear the request of Celia Grand, 239 Spurwink Ave., Tax Map U27, Lot 20 for a conditional use permit to operate a home business, specifically a psychotherapist office.

Ms. Celia Grand, 239 Spurwink Avenue, is applying to move her business into her home.

Mr. Chatmas asked for a description of her business.

Ms. Grand stated she is a licensed clinical social worker that practices psychotherapy. She works mostly with high functioning adults and couples, provides consultation to other therapists, and also teaches within the Northeast, soon to be international. Most of her clients are high functioning that deal with attachment issues and their relationships with other people. She specializes in adults that have experienced trauma during childhood. The teaching aspect will be done totally out of the home.

1
2 Mr. Chatmas asked the applicant to describe the term “high functioning adults”.
3
4 Ms. Grand stated that they are clients that hold jobs, have children, and lead full live but
5 have a problem that is bothering them. They do not have major mental illness, criminal
6 records, or personality disorders. She is known in this area and does not have to bill
7 insurance companies so she only has clients that can afford her services.
8
9 Mr. Chatmas asked what all the initials stood for that were at the end of her name on the
10 letterhead she had submitted.
11
12 Ms. Grand stated L.C.S.W. stood for Licensed Clinical Social Worker. BCD is a credential
13 stating that she is a Board Certified Diplomate in clinical social work, in which she had to
14 get recommended for and take an exam. The P.A. means that she is incorporated into her
15 own private practice.
16
17 Mr. Gulino stated her application indicated 6-7 clients per day, which would equate to 12-
18 14 car trips. He asked if she had any evidence of daily traffic on the road.
19
20 Ms. Grand stated she had counted traffic for a ½ hour on June 18th and there were 115 cars
21 that drove by and that there were also a number of businesses that currently exist on
22 Spurwink Ave.
23
24 Mr. Gulino stated that her application had indicated there would not be signage and asked
25 if the Board made that a condition of approval, would that be an issue?
26
27 Ms. Grand stated that would not be a problem.
28
29 Mr. Gulino asked about the improvements the applicant would make to the property.
30
31 Ms. Grand stated she wanted to add an attached garage with a room above for her office.
32 There will also be a small waiting room with a half bath.
33
34 Mr. Gulino asked if the driveway would change.
35
36 Ms. Grand stated that there is a turn around that she is going to extend and add landscaping.
37
38 Mr. Gulino asked if they would be able to turnaround and drive out.
39
40 Ms. Grand stated yes clients would be able to do that.
41
42 Mr. Walsh stated that her application mentioned the possibility of group therapy. He asked
43 if there would be sufficient parking.
44
45 Ms. Grand stated that her groups were typically 3-6 people. The groups that have 6 people
46 will meet in sublet space elsewhere. She does think that she would have enough parking
47 for 5-6 clients.

1
2 Mr. Chatmas asked if there was on street parking.
3
4 Ms. Grand stated no.
5
6 Mr. Chatmas asked how long her therapy sessions are.
7
8 Ms. Grand stated they are typically 50 min. to an hour. Group therapy would be 1 ½ hrs.
9
10 Mr. Chatmas asked about the training she would be doing and if that would be on-site.
11
12 Ms. Grand stated it is off-site.
13
14 Mr. Chatmas asked if she would be advertising.
15
16 Ms. Grand stated the only advertising would be in her own newsletter, which is through the
17 National Organization of Social Work.
18
19 Mr. Chatmas asked how long the applicant had been practicing therapy.
20
21 Ms. Grand stated 17 yrs post grad and 23 since an undergrad.
22
23 Mr. Tranfaglia asked if she would be employing anyone.
24
25 Ms. Grand stated no.
26
27 Mr. Tranfaglia asked if she would be having any biohazardous materials or outdoor
28 storage.
29
30 Ms. Grand stated no to both.
31
32 Mr. Tranfaglia stated that he did not believe that she currently had enough parking to allow
33 for two extra vehicles.
34
35 Ms. Grand stated that she is going to take what is currently there and pave asphalt over the
36 grassy area, which will allow a greater parking area.
37
38 Mr. Trangfaglia stated his concerns with the parking for the group therapy and the
39 appointment that would be following the group therapy.
40
41 Ms. Grand stated that it is imperative that she creates a safe place for her clients, not only
42 for the liability, but also for her clients to feel safe and for her to be accessible. She also
43 provided a list of neighbors who support her endeavor.
44
45 Mr. Gulino stated his concerns with the lack of a traffic study.
46
47 Mr. Smith stated that there wasn't any existing documentation from any other businesses.

1 He believes there is sufficient traffic that she would not exceed the 2% vehicle trips.
2
3 Mr. Walsh asked if the Board could require that vehicles exiting Ms. Grand's property to
4 leave face first.
5
6 Mr. Smith stated he could require that, however, there would be no way to police it.
7
8 Mr. Chatmas thanked the applicant and opened the floor for public comment.
9
10 Jan Sloven, 12 Marion St., and a colleague of Ms. Grand, stated that she has brought great
11 skills to the area and has been helpful to the clinical community. She has a wonderful
12 character and the clinician work she does is amazing. She has single handedly trained a
13 number of clinicians.
14
15 Jonah Rosenfield, 243 Spurwink Ave., located just to the south of the applicant, stated that
16 since Ms. Grand moved into the tiny house, she has done significant improvements. He
17 and his wife have known since she moved in that she wanted to expand the house. Ms.
18 Grand has also become a friend and he has total faith in her as a neighbor and professional.
19
20 Mr. Chatmas asked Mr. Rosenfield about the traffic situation.
21
22 Mr. Rosenfield stated that there are a lot of cars on the road. His major concern on
23 Spurwink Avenue is the speed.
24
25 Mr. Chatmas asked for any comments in opposition of the application.
26
27 Brian Ray, 226 Spurwink Ave, stated he is not really against the business, but has concerns
28 about the clientele that might come into contact with his 8 yr old daughter. Since her
29 presentation, he has learned that it would be high functioning adults she would consult.
30
31 Ms. Grand stated he brought up a good concern. She does not work with people with
32 schizophrenia, bi-polar disorder, criminal records or are dangerous. Since this is a home
33 business, she is the one at greatest risk and does screen clients. She gets a lot of direct
34 referrals from lawyers due to car accidents. Her clients are not long term as they pay out of
35 pocket and the therapy is very expensive.
36
37 Mr. Walsh stated it would be important to educate clients concerning the traffic on that
38 road.
39
40 Mr. Chatmas discussed an email concerning the nature of the business, traffic issues, and
41 signage.
42
43 Mr. Chatmas closed the public hearing and opened up Board discussion.
44
45 Mr. Chatmas asked Mr. Smith how they could make sure the egress for the driveway is
46 met.
47

1 Mr. Smith stated it would be up to him to make sure the plan is followed.
2
3 Ms. Grand stated the addition would be done prior to her conducting business in her house.
4
5 Mr. Gulino asked if she could live with the limitation of 3 vehicles, plus her own.
6
7 Ms. Grand stated yes.
8
9 Mr. Mendelson asked if she could mind any limitation in her hours. As daylight erodes in
10 the winter, it makes her driveway more dangerous to exit.
11
12 Ms. Grand stated that the bulk of traffic is from 5 to 6:00pm and therefore would be easier
13 for a client to leave after 6:00 p.m. She stated she would consider changing the 6:00 end
14 time if she could start her day earlier. She would be willing to have a range of 8:00 a.m. to
15 5:00 p.m.
16
17 Mr. Chatmas stated he didn't have any concerns with the hours requested. He asked if there
18 were any other concerns amongst the Board.
19
20 Mr. Gulino stated his concerns because it is a relatively small lot and in order for there to
21 be sufficient room for a turn around, there should be consideration for the number of
22 vehicles parked there. He would like to see a limitation of 3 vehicles parked there at a time,
23 especially in the winter with the snow banks. His other consideration is there not be
24 signage for the business.
25
26 Mr. Tranfaglia explained the balancing that the Board tries to create by letting residential
27 neighborhoods have home businesses with minimal impact on the neighborhoods. He is
28 concerned about the parking.
29
30 Ms. Grand gave an overview of the proposed parking.
31
32 Mr. Smith asked if she would have 27 ft of width.
33
34 Ms. Grand stated yes and drew a picture for the Board to illustrate the parking.
35
36 Mr. Smith stated that with the master plan he could ensure 27', which means 3 cars can
37 park there, and have the ability to turnaround and exit the driveway.
38
39 Mr. Chatmas asked that they vote on the following elements for the application.
40
41 1. The proposed use will not create hazardous traffic conditions when added to
42 existing and foreseeable traffic in its vicinity including the conditions that there be a
43 maximum of 14 vehicle trips a day, a maximum of three vehicles parked in addition to
44 to the applicant, and that the three parking spaces have the ability to turnaround prior to
45 exiting.
46 5 in favor, 0 opposed, 0 abstained
47 2. The proposed use will not create unsanitary conditions by reason of

1 sewage disposal, emissions to the air, or other aspects of its design or operation.
2 5 in favor, 0 opposed, 0 abstained
3 3. The proposed use will not adversely affect the value of adjacent properties.
4 5 in favor, 0 opposed, 0 abstained
5 4. The proposed site plan and layout are compatible with adjacent property
6 uses and with the Comprehensive Plan.
7 5 in favor, 0 opposed, 0 abstained
8 5. The design and external appearance of any proposed building will constitute
9 an attractive and compatible addition to its neighborhood, although it need not have a
10 similar design, appearance or architecture.
11 5 in favor, 0 opposed, 0 abstained
12 Mr. Chatmas added an additional condition that there would be no signage at the property.
13
14 Mr. Gulino asked what the hours of operation would be.
15
16 Ms. Grand stated she would prefer to have a range of 8:00 a.m. to 5:00 or 6:00p.m.
17
18 The Board discussed hours of operation and decided on 8:00 a.m. to 6:00 p.m. with a
19 maximum of 14 daily vehicle trips.
20
21 Mr. Tranfaglia made the following motion.
22
23 In the matter of the application of Celia Grand, who is the owner of the property located at
24 239 Spurwink Avenue, U27 Lot 20, that the application of conditional use permit for a
25 home business be approved with the conditions as follows:
26 1. That there be a maximum of 14 vehicle trips a day, a maximum of three vehicles parked
27 to addition to the applicant, and that the three parking spaces are arranged for vehicles
28 have the ability to turn around prior to exiting.
29 2. That there would be no business signage at the property.
30 3. That the business hours of operation be 8:00 a.m. to 6:00 p.m.
31
32 Mr. Gulino seconded the motion. 5 in favor, 0 opposed.
33
34 Mr. Chatmas confirmed there were no communications and that the next Zoning Board
35 meeting is scheduled for July 26, 2005. He asked for a motion to adjourn.
36
37 Mr. Tranfaglia made a motion to adjourn.
38
39 Mr. Walsh seconded the motion. 5 in favor, 0 opposed.
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41 The meeting adjourned at 8:45pm.
42
43 Respectfully submitted,
44
45 Laurie Palanza
46 Minutes Secretary
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