

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

TOWN OF CAPE ELIZABETH
MINUTES OF THE ZONING BOARD

March 28, 2006

7:00 p.m. Town Hall

Present: Len Gulino, Chair
Peter Black
Jay Chatmas

Michael Trangfaglia
Gib Mendelson
Jim Walsh

Absent: Robert Chatfield

Also present was Bruce Smith, Code Enforcement Officer.

Mr. Chatmas opened the meeting with roll call. He stated there would be a little change in the agenda, as there needed to be an election of officers, which typically takes place in December. He asked for a motion for Chair.

Mr. Mendelson made a motion to elect Mr. Gulino as Chair of the Zoning Board.

Mr. Chatmas seconded the motion. 6 in favor, 0 opposed.

Mr. Chatmas stated there needed to be a nomination for Secretary. He nominated Mr. Tranfaglia for Secretary.

Mr. Mendelson seconded the motion. 6 in favor, 0 opposed.

Mr. Chatmas made a few parting comments and thanked the members of the Board of which he had served with. The Board members with which he had served, had taken the time to research and understand the cases that have come before them. He thanked Mr. Smith as Code Enforcement Officer and his knowledge of the position. He also thanked Brian Cook and Laurie Palanza for the media support and the minutes recorded, respectively.

Mr. Walsh thanked Mr. Chatmas for his leadership role, for listening to the applicant, doing the homework and the willingness to participate. The Board has been fortunate to have Mr. Chatmas lead them for the last 2.5 years.

Mr. Gulino thanked Mr. Chatmas as Chair. The next item of business would be to review the minutes from November, 2005. With noted amendments, he asked for a motion.

Mr. Tranfaglia made a motion to accept.

Mr. Mendelson seconded the motion. 5 in favor, 0 opposed.

NEW BUSINESS

1 To hear the request of Christopher M. Supple, 6 Westfield Road, Tax Map U42, Lot 2-9
2 for a rear property line variance of 4' from the required 20' to construct an addition at 16'
3 from said property line.

4 Chris Supple, 6 Westfield Road, stated that approximately a year ago, they recognized the
5 deck was getting unsafe. They had started planning for replacing the deck and with the
6 growth of his family, they thought they would incorporate an addition to alleviate space
7 issues. The survey that was performed, had shown that the boundary lines were different
8 than what most of the neighbors had realized. He stated that they do have the smallest lot
9 in the neighborhood and realized they had to scale back addition to meet setbacks. The
10 proposal is a 12' x 10' addition to the dining room and below that would be a foundation
11 area that could be used for storage. The proposed deck will be smaller than the original
12 deck, but still need a setback reduction of 3'-8".

13 He stated that the deck was with setback guidelines, however, one corner of the addition
14 would not be in compliance with the Ordinance.

15 There will not be any negative impact on the environment, and the proposed addition
16 would stay in character with the rest of the neighborhood. He got comparable from the
17 surrounding neighborhood that had additions on them. He learned over the weekend that
18 one neighbor had to get a variance back in the 1980's, but all other neighbors complied
19 with setback regulations. He referred to Sec. 19-6-1, concerning "accessory structures",
20 and the fact that he could actually create a larger structure, with a smaller setback, would
21 be allowed.

for seeking input for applicants present

22 Mr. Gulino thanked the applicant, and asked about response from the neighbors.

23 Mr. Supple stated that all of the responses were positive.

24 Mr. Gulino asked to explain the discrepancy from the old survey to the new survey.

25 Mr. Supple did not know the specifics. Many of the neighbors would be surprised exactly
26 where their lot lines are.

27 Mr. Walsh asked the methodology used for the numbers in the application.

28 Mr. Supple stated that he used the boundary lines from the two surveys to give his best
29 estimate.

30 Mr. Gulino verified that the neighboring homes were in compliance with setbacks.

31 Mr. Supple confirmed that.

32 Mr. Smith clarified that it is not the average of the 10 houses, it needs to be the majority.

33 Mr. Chatmas asked if the applicant had contacted the Town for permission to do any
34 improvements as there is a Town owned easement on the property.

1 Mr. Supple stated no, he has only applied for the variance.

2

3 Mr. Gulino asked how the applicant could justify the economic injury.

4 Mr. Supple stated that by doing this project, they would actually be bringing their home
5 in line with other properties elsewhere. He stated that if they cannot get the variance,
6 they may have to move out of Town, due to the economic climate.

7 Mr. Gulino stated the application did not appear to meet the standards to grant the
8 variance.

And the Applicant agreed

9 Mr. Chatmas asked if he tried to configure the addition to respect the rear setback.

10 Mr. Supple stated that they had considered that but it wasn't really functional.

11 Mr. Gulino stated since there was no one else present in the audience he would close the
12 public portion of the meeting.

13 Mr. Tranfaglia stated it was this was difficult, as he would like to grant the variance, but
14 sees no legal standing for it and Mr. Chatmas agreed.

15 Mr. Gulino asked that they vote on the findings of facts.

16 1. The proposed variance is not a substantial departure from the intent of the Ordinance.

17 6 in favor, 0 opposed, 0 abstained

18 2. A literal enforcement of the Ordinance would cause a practical difficulty.

19 1 in favor, 5 opposed, 0 abstained

20 3. The need for the variance is due to the unique circumstances of the property and not to
21 the general conditions of the neighborhood.

22 6 in favor, 0 opposed, 0 abstained

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

26 0 in favor, 6 opposed, 0 abstained

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

29 6 in favor, 0 opposed, 0 abstained

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

31 2 in favor, 4 opposed, 0 abstained

32 7. The granting of a variance will not unreasonably adversely affect the natural
33 environment.

34 6 in favor, 0 opposed, 0 abstained

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

37 6 in favor, 0 opposed, 0 abstained.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

19

20

21

22

23

24

25

26

27

28

29
30
31
32
33
34
35

It was determined that since the elements had failed, the variance fails.

Next item of business was the issue of moving the meeting date of the next month's meeting as the Planning Board had a conflict. It was determined that it would be held on April 24, 2006.

Mr. Tranfaglia made a motion to adjourn.

Mr. Mendelson seconded the motion. 6 in favor, 0 opposed.

Respectfully submitted,

Laurie Palanza
Minutes Secretary

