

1 TOWN OF CAPE ELIZABETH
2 MINUTES OF THE ZONING BOARD

3
4 October 24, 2006

7:00 p.m. Town Hall

5
6 Present: Len Gulino, Chair
7 Robert Chatfield
8 Jay Chatmas
9 Peter Black

Jim Walsh
Malcolm Weatherbie
Michael Tranfaglia

10
11 Also present was Bruce Smith, Code Enforcement Officer.

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13 Mr. Gulino opened the meeting by reviewing the Agenda. The first order of
14 business was approval of the June 27, 2006 minutes. He asked if there was any
15 discussion or a motion.

16
17 Mr. Tranfaglia made a motion to approve as written.

18
19 Mr. Chatfield seconded the motion. 7 in favor, 0 opposed.

20
21 NEW BUSINESS

22
23 To hear the request of Mary & Paul Godfrey, 11 Algonquin Road, Tax Map U12,
24 Lot 106 for a left sideline variance of fifteen (15) feet from the required twenty five
25 (25) feet for a 20' x 20' addition and a left sideline variance of five (5) feet from
26 the required fifteen (15) feet for a 10' x 20' deck.

27
28 Mr. Black recused himself from the application as he is knows the applicants
29 from church.

30
31 Mr. Paul Godfrey, 11 Algonquin Road, stated that reason for this application
32 would be for his wife, who is a professional chef and would like to expand
33 business by enlarging the existing kitchen. He believes the proposal before the
34 Board is the only feasible option.

35
36 Mr. Gulino told Mr. Godfrey that if there were to be a home occupation, they
37 would have to go before the Board.

38
39 Mr. Godfrey stated he was aware of this, and they were taking this new proposal
40 in steps.

41
42 There was discussion amongst the Board and the applicant concerning the
43 number of homes that meet the setback criteria for them to grant a variance. It
44 was determined that, based on the application currently in front of the Board,
45 they would be unable to grant the variance
46

1 Mr. Gulino placed 3 options in front to the applicant. The Board could vote on the
2 proposal in front of them that evening, the applicant could request tabling the
3 application, and try and work different numbers, or he could withdraw the
4 application entirely.

5
6 Mr. Godfrey requested a tabling of the application and bring something forward
7 the next month. He thanked the Board.

8
9 The application was tabled until the following month.

10
11 Mr. Gulino moved to the second item under new business.

12
13 To hear the appeal of Catherine & Greg Miller, 7 Crescent View Ave., Tax Map
14 U16, Lot 63 for a left sideline variance of five feet six inches (5' – 6") from the
15 required twenty five (25) feet to allow an existing farm porch and 2nd floor
16 addition to remain at 19' – 6" from said property line.

17
18 Mr. Black recused himself as he is friends with the applicant.

19
20 Ms. Catherine Miller, 7 Crescent View Ave., gave an overview of the application
21 before the board. She stated that when she originally came before the Board for
22 a variance in 2001, she had the lot surveyed and there was an error in that
23 survey and therefore needs an amended variance. The addition is already in
24 place and has been received favorably by the neighbors.

25
26 Mr. Chatmas asked Mr. Smith what could be done in the future to prevent such
27 an error from happening.

28
29 Mr. Smith stated that the most he could continue to do is instill to future
30 applicants the need to be accurate with site plans and surveys. The minimum
31 allowed currently is a mortgage survey.

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33 Mr. Gulino stated as the criteria seems to be met, he asked the Board to vote on
34 the findings of fact.

35
36 **CONCLUSIONS**

- 37
38 1. The proposed variance is not a substantial departure from the intent of the
39 Ordinance.
40 6 in favor, 0 opposed, 0 abstained.
41 2. A literal enforcement of the Ordinance would cause a practical difficulty.
42 6 in favor, 0 opposed, 0 abstained.
43 3. The need for the variance is due to the unique circumstances of the property
44 and not to the general conditions of the neighborhood.
45 6 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 6 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 6 in favor, 0 opposed, 0 abstained.
- 8 6. No other feasible alternative to a variance is available to the petitioner.
9 6 in favor, 0 opposed, 0 abstained
- 10 7. The granting of a variance will not unreasonably adversely affect the natural
11 environment.
12 6 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 6 in favor, 0 opposed, 0 abstained.
- 16

17 **JUDGEMENT**

18 A motion was made by Mr. Chatfield to approve the variance appeal and
19 seconded by Mr Walsh.

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21 Meeting was adjourned at 8:20 p.m.

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24 Respectfully submitted,

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26 Laurie Palanza
27 Minutes Secretary

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