

TOWN OF CAPE ELIZABETH  
MINUTES OF THE ZONING BOARD

November 28, 2006

7:00 p.m. Town Hall

Members Present: Len Gulino, Chair  
Michael Tranfaglia  
Malcolm Weatherbie

Robert Chatfield  
Jay Chatmas

Absent: Jim Walsh, Peter Black

Also present was Bruce Smith, Code Enforcement Officer.

Mr. Gulino opened the meeting with roll call and proceeded to acceptance of the October 24, 2006 month's minutes.

Mr. Chatfield made a motion to accept as written.

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

OLD BUSINESS

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

Mr. Smith made a clarification concerning the application. The Godfrey's revised application before the Board this evening is only asking for a variance of 3 ft from the original request of 15 ft. Since the revision is asking for a smaller variance, a new legal ad was not needed.

Mr. Godfrey, 11 Algonquin Rd, gave a brief overview of his updated submission. He stated that the 3' variance reduction derives from neighborhood setback comparisons and should be feasible. He indicated to a submitted 11 x 17 map with a table of setback numbers. 8 out of 15 homes, a majority, had a setback of 22 ft or less.

Mr. Gulino asked if the measurements were taken from aerials or Town files.

Mr. Godfrey stated both.

Mr. Chatmas thanked the applicant for his resubmission and for coming back before the Board.

Mr. Gulino asked for any further comment from the Board. With none forthcoming, he asked the Board to vote on the Conclusions.

### Conclusions

1. The proposed variance is not a substantial departure from the intent of the Ordinance.  
5 in favor, 0 opposed, 0 abstained
2. A literal enforcement of the Ordinance would cause a practical difficulty.  
5 in favor, 0 opposed, 0 abstained
3. The need for the variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood.  
5 in favor, 0 opposed, 0 abstained
4. The granting of the variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties.  
5 in favor, 0 opposed, 0 abstained
5. The practical difficulty is not the result of action taken by the applicant or a prior owner.  
5 in favor, 0 opposed, 0 abstained
6. No other feasible alternative to a variance is available to the petitioner.  
5 in favor, 0 opposed, 0 abstained
7. The granting of a variance will not unreasonably adversely affect the natural environment.  
5 in favor, 0 opposed, 0 abstained
8. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.  
5 in favor, 0 opposed, 0 abstained

### JUDGEMENT

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

Mr. Gulino thanked the applicant.

Mr. Smith stated that the next Zoning Board meeting is scheduled for December 26<sup>th</sup>, 2006. He acknowledged that he was not aware of anything pending for the Board, and with the Holiday, would expect the next meeting to be held in January.

Mr. Tranfaglia made a motion to adjourn.

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

Meeting adjourned at 7:20 p.m.

Respectfully submitted,

Laurie Palanza  
Minutes Secretary

