

1 **Town of Cape Elizabeth**
2 **Minutes of the October 28, 2008 Zoning Board Meeting**

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4 **Members Present:**

5
6 Peter Black Jay Chatmas
7 Malcolm Weatherbie Leonard Gulino
8 Peter Howe David Johnson
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10 Also present was the Code Enforcement Officer, Bruce Smith

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12 **A.) Call to Order** – Meeting called to order by Chair Gulino @ 7:02 pm

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14 **B.) Approve the Minutes of 02/26/2008** – Motion to approve the minutes as written
15 by Peter Howe. Seconded by Peter Black. All in favor

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17 **C.) Old Business – None**

18
19 **D.) New Business**

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21 To hear the request of Jonathan Courtney & Johanna Franzel, 10 Wentworth Rd,
22 Tax Map U18, Lot 51 for a left sideline variance of 5 (five) feet from the required
23 25 (twenty-five) feet to construct a 6' – 6" x 8' – 0" mudroom addition at 20
24 (twenty) feet from said left sideline.

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26 Mr. Courtney explained that the existing home is small, only 1000 sq ft and would
27 like the mudroom addition to free up existing living space. Went on to say that
28 located the mudroom addition to have the least amount of encroachment.

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30 Mr. Gulino questioned the new south property line in red. Mr. Courtney explained
31 that the line had not been clear for years and as a result he obtained a quick
32 claim deed from the abutter. Mr. Gulino questioned if plenty of room to that line.
33 Mr Courtney said there was about 42'

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35 Mr. Chatmas asked how the neighbors' side setbacks were determined. Mr.
36 Courtney explained he overlaid tax maps with aerials from google earth together
37 with walking the properties and talking to property owners.

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39 Mr. Chatmas inquired about the validity of the estimates were valid and asked
40 Mr. Courtney if he was comfortable with these estimates. He replied in the
41 affirmative.

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43 Mr. Chatmas commented that 3 & 5 Pond View were most impacted and asked
44 Mr. Courtney if they had any negative comments. He replied that they were
45 comfortable with the project.

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47 Mr. Chatmas questioned distance to Great Pond. Mr. Courtney replied 800-900
48 ft. Mr. Chatmas verified with Mr. Smith that no issue with Great pond.

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2 Mr. Gulino asked about existing buffering next to 3 Pond View. Mr. Courtney said
3 none existed.
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5 Chair Gulino asked if any further questions. Being none, he closed the public
6 hearing at 7:18 pm.
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8 Mr. Chatmas stated site plan valid, obtained enough comparables that met the
9 Practical Difficulty standards.
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11 Mr. Gulino stated that he appreciated the document signed by neighbors, not
12 required but helpful.
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14 Mr. Gulino asked for a vote on each of the standard conclusions:
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- 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 6 in favor, 0 opposed, 0 abstained
- 20 3. The need for the variance is due to the unique circumstances of the property and not
21 to 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
24 of the neighborhood and will not unreasonably detrimentally affect the use or market
25 value of abutting properties.
26 6 in favor, 0 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 6 in favor, 0 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
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39 A motion was made by Peter Black to approve the variance appeal and seconded by
40 David Johnson
41 6 in favor, 0 opposed
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43 **E.) Communications – None**
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45 **F.) Adjournment - Motion by Peter Black to adjourn, seconded by Malcolm**
46 **Weatherbie. All in favor**
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