

1 **Town of Cape Elizabeth**
2 **Minutes of the November 25, 2008 Zoning Board Meeting**

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4 **Members Present:**

5
6 James Walsh Jay Chatmas
7 Malcolm Weatherbie Leonard Gulino
8 Peter Howe David Johnson
9

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 @ 7:03 pm. Chair Gulino
13 noted for the record that there was no one here to record the meeting.
14

15 **B.) Approve the Minutes of 10/28/2008** – Mr. Chatmas wanted a correction on line
16 39 “Mr. Chatmas inquired”. Motion to approve the minutes as amended by David
17 Johnson. Seconded by Malcolm Weatherbie. All in favor
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19 **C.) Old Business – None**

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21 **D.) New Business**

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23 To hear the request of Jack Pilk representing the owner Sheldon Goldman, 24
24 McKenny Point Road, Tax Map U41, Lot 15, to reconstruct the existing dwelling
25 within 75 feet of the normal high water mark of the Atlantic Ocean by more than
26 50% of the value of said structure.
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28 Jack Pilk explained that the proposed project will consist of renovating the
29 existing structure at its current location. The owner loves view and simply wants
30 to dress up what is currently there. The project will not raise any of the current
31 roof levels and therefore will not further impede anyone’s views.
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33 Chair Gulino noted on the draft findings that the Section 19-4-4(3) should be 19-
34 4-4(B)(3).
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36 It was also noted on the application that the impervious surface coverage would
37 increase beyond the 20% limitation. Mr. Pilk stated that there will be no
38 impervious surface increase and amended the application to reflect that fact.
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40 Mr. Chatmas asked if the property was in a floodplain. Mr. Smith said no. Mr
41 Chatmas noted that the application was lacking a deed showing proof of
42 ownership and a letter of authorization from the owner to allow Mr. Pilk to
43 represent him. Mr. Smith confirmed there was a deed. Mr. Chatmas asked
44 applicant to supply these items for the file.
45

46 Mr. Chatmas asked if there was an intent to replace the 1961 septic system. Mr.
47 Pilk said it is in good working order so have no intention to replace.
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2 Mr. Chatmas asked if a new garage was going to be built to replace the garage
3 that is proposed to be converted to living space. Mr. Pilk said no.
4

5 Mr. Chatmas asked about the parts of the dwelling that are on slab, could those
6 be removed and added to the other side, away from the ocean? Mr. Pilk said the
7 owner would like to leave the footprint as is.
8

9 Mr. Weatherbie asked what the appraised value of the house is at present. Mr.
10 Pilk answered that the Town has the house assessed at \$200,000 and \$250,000
11 was the price of the renovation, thus more than the 50% threshold which is the
12 determining factor for ZBA review.
13

14 Mr. Chatmas questioned the patio area shown on the plan. Mr. Pilk did not know
15 of any proposed patio in that area and said it is not part of this application.
16

17 Mr. Walsh asked if William Fournelle from Advanced Leachfields LLC who did a
18 favorable report on the existing septic system was an engineer. The answer was
19 no. Mr. Smith said that as long as the system is functioning properly, no need to
20 replace.
21

22 Chair Gulino asked if anyone from the audience would like to speak for or
23 against the application. Mr. Vince Conti came forward and said he was neither
24 for or against.
25

26 Mr. Conti said he has lived at 28 McKenny Point Road for the past 11 years and
27 is a direct abutter to Mr. Goldman. He said that he wished he had heard from Mr.
28 Goldman personally. He has reviewed the application and understands there will
29 be no footprint expansion. His only concern is that if approved would that set a
30 precedent for others. Chair Gulino stated that each case is weighed individually.
31

32 Mr. Chatmas stated that most applications before them try to max out volume
33 and square footage, but that is not the case with this application.
34

35 With no others from the audience wishing to speak, Chair Gulino closed the
36 public hearing at 7:42 pm.
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38 Mr. Walsh stated that since no new septic design was submitted, that number 3
39 be removed from the draft findings of fact. Mr. Smith said that would be done.
40

41 Mr. Chatmas asked Mr. Smith if the foundation was in good shape. Mr. Smith
42 said he viewed the foundation from both the inside and out and that it is in
43 excellent shape. Mr. Chatmas stated for the record that the extensive remodeling
44 was to be within the original footprint and that he had no problem with the
45 dwelling being allowed to stay in its current location.
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47 Chair Gulino stated that it was really more of a remodel than a reconstruction.
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- 1 The conclusions on the draft approval/denial form were discussed and voted on
2 individually:
- 3 a.) The size of the lot. N/A No change in footprint. All in favor.
 - 4 b.) The slope of the land: N/A No change in footprint. All in favor.
 - 5 c.) The potential for soil erosion: there will be none if left in its present location.
6 All in favor.
 - 7 d.) The location of other structures on the property and on adjacent properties
8 N/A All in favor.
 - 9 e.) The location of septic system and other on-site soils suitable for septic
10 systems: The existing is functioning properly and is located in the front yard
11 directly adjacent to the dwelling. All in favor.
 - 12 f.) The impact on views: In its current location, no impact, but if moved there
13 may be an impact. All in favor.
 - 14 g.) The type and amount of vegetation to be removed: If allowed to be left where
15 is, no impact on vegetation. All in favor.
 - 16 h.) The physical condition and type of foundation present: The existing
17 foundation is in good shape. All in favor.

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19 A motion was made by Peter Howe to approve the request to reconstruct the existing
20 dwelling at its present location and seconded by James Walsh.
21 6 in favor, 0 opposed

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23 **E.) Communications – None**

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25 **F.) Adjournment - Motion by Dave Johnson to adjourn, seconded by Malcolm**
26 **Weatherbie. All in favor**

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