

1 **Town of Cape Elizabeth**  
2 **Minutes of the September 28, 2010, Zoning Board Meeting**  
3

4 **Members Present:**

5  
6 Peter Black Peter Howe  
7 Jay Chatmas Thomas Kinley  
8 Leonard Gulino John Thibodeau  
9

10  
11 Also present were the Code Enforcement Officer, Bruce Smith, and Recording  
12 Secretary, Carmen Weatherbie.  
13

14 **A. Call to Order** – Meeting was called to order by Acting Chairman Leonard Gulino at  
15 7:02 pm.  
16

17 **B. Approve the Minutes of June 22, 2010** – A motion to approve the minutes was  
18 made by Mr. Black; seconded by Mr. Howe. All were in favor.  
19

20 **C. Old Business** – None.  
21

22 **D. New Business** – To hear the request of Jeff and Tara Bucci, 4 Kettle Cove Road,  
23 Tax Map U16, Lot 7A, for a left side property line variance of eight feet from the required  
24 25 feet, a right side property line variance of 17 feet from the required 25 feet and a  
25 front property line variance of 5 feet from the required 25 feet to construct a second and  
26 third floor addition.  
27

28 Chairman Gulino asked Mrs. Bucci to come to the podium and present her application.  
29

30 Mr. Smith stated, for clarification, that the applicants thought there was a ten foot  
31 distance between the property line and the right corner of the house; however, when it  
32 was measured it was found to be eight feet.  
33

34 Mrs. Bucci said she would like to amend to application to eight feet.  
35

36 Mrs. Bucci stated she was a fourth grade teacher at Pond Cove Elementary School.  
37 She would like to expand her current home by building up on the original footprint. She  
38 did a lot of research for this application and learned a lot. She asked the Board to look  
39 at the comparison houses in the neighborhood. There are photos and square footage  
40 amounts for the houses that have been expanded enclosed in the application.  
41

42 Mrs. Bucci said they have done a lot of work on the inside and in the yard of their home.  
43 Their house is the smallest house in the Kettle Cove/Crescent View neighborhood. It is  
44 672 square feet, including the little walk-in alcove at the side of the house.  
45

46 Mrs. Bucci said she asked some neighbors to attend this meeting and she bought some  
47 letters from others with her.  
48

1 Mr. Smith stated that he also received two positive e-mails from Janice Reale and Sara  
2 Whitney.  
3  
4 Mrs. Bucci read letters from Katharine and Fred Beringer, 10 Kettle Cove Road, Chad  
5 and Jackie Muse, 25 Crescent View Avenue, Clara Appleton 31 Crescent View Avenue,  
6 and Olivia Reale-Hatem, a fifth grader. All in support of the application.  
7  
8 Mrs. Bucci stated they were willing to alter the inside of the house to accommodate a  
9 two foot void in that corner, to make the inside wall 10 feet from the property line.  
10  
11 This house was built at the same time as all the others in the neighborhood and built on  
12 the best location for the lot. This house was built close to the road because behind it  
13 was the septic system and behind that a wetland area.  
14  
15 Mr. Gulino asked if the neighbor on the side with the eight foot set back was in support  
16 of the expansion. Mrs. Bucci said yes, they were supportive; however, she did not have  
17 anything in writing from them.  
18  
19 Mrs. Bucci guided the Board through the package she submitted, stating they would like  
20 to build up two levels. On the second level would be two bedrooms and a bathroom  
21 and the third level would be a possible bedroom later. They want to add the additional  
22 space while doing one expansion.  
23  
24 When asked, Mrs. Bucci said the lot was  $\frac{3}{4}$  of an acre. Mr. Gulino then found that  
25 2300' square feet was shown.  
26  
27 Mrs. Bucci explained the different highlighted maps in the application. One map shows,  
28 equal to or greater than the proposed square feet, and one map shows setbacks, both  
29 front and side. 59% have setbacks less than or equal to 25 feet and 52% have  
30 setbacks less than or equal to 10 feet, that is 15 properties (in bold) out of 29 properties.  
31  
32 Mr. Thibodeau noted there were five or six properties with eight foot setbacks.  
33  
34 Mrs. Bucci believed that their setback was 10 feet until just a couple days ago. So  
35 everything (in the application) is based on that.  
36  
37 The height of the three stories was discussed. Mr. Smith said height would not be an  
38 issue. Mr. Bucci arrived. Mrs. Bucci stated they had not purchased any building plans  
39 yet.  
40  
41 Mr. Gulino asked about proportions of the house and how it might look.  
42  
43 Mrs. Bucci explained her drawing of a possible design with a portion noted as "unlivable  
44 space" to meet the setback, as suggested by Mr. Smith.  
45  
46 Mr. Smith explained how the space would not be floored over and not accessible, like a  
47 knee wall that would not count, similarly to angling a roof for proper drainage.  
48

1 Mrs. Bucci named the lots that have expanded in square feet. Lots 40, 41, 48, 53 to 63,  
2 59.  
3  
4 Mr. Gulino verified with Mr. Smith if the issue on this application was the side setback  
5 not square footage. It was agreed the setback was the issue.  
6  
7 Dr. Chatmas mentioned that the application was comprised of two different selection  
8 groups, which is a significant deviation from Board practices in the past. 29 properties  
9 were used to compare front and side setbacks and 51 properties for the square footage.  
10 Dr. Chatmas asked Mrs. Bucci for her logic for using these groups.  
11  
12 Mrs. Bucci replied she had thought about what her neighborhood was and when the  
13 houses were built.  
14  
15 Dr. Chatmas mentioned using the closest houses to the applicants' for comparison.  
16  
17 There was a discussion about houses to use for the comparison group, what is the  
18 Buccis's neighborhood and, the differences in the houses across Bowery Beach Road.  
19 Is Richman Terrace or Ocean House part of the natural neighborhood? It would be up  
20 to the applicants to prove that the sample data fit their request. Comparable would be  
21 50 percent.  
22  
23 Mr. Smith stated that customarily there are three ways to compare: one is just a simple  
24 circumference where you pull everything in, there is no question at all: two, is to go up  
25 and down the street the same distance, for example, you go up the street 50 feet, you  
26 go down the street 50 feet or up 75 feet and down 75 feet; or three, which is the  
27 hardest of the three, and that's to try to convince the board what is the neighborhood for  
28 the comparisons.  
29  
30 There was more discussion about distance of setbacks and unlivable space on the  
31 interior. Mr. Smith stated the ordinance says the setback should be to the face of the  
32 exterior. Mr. Smith stated this was usually allowed for roofs to obtain a proper pitch for  
33 drainage and is really not applicable here. It is unique for roofs. Some Board members  
34 were not comfortable with allowing a boxing off of a knee wall arrangement. Mr. Smith  
35 stated he was also less comfortable with that plan.  
36  
37 Considerations of alternate plans for expansion of the house were discussed. The  
38 house is currently 21 feet by 32 feet. The second floor could possibility be built with the  
39 second floor offset two feet from the bottom. "Grandfathering" would allow for the  
40 original building but does not apply to expansions. Dr. Chatmas suggested they look at  
41 the possibility of moving the septic system and expanding at the rear of the house.  
42  
43 There was a discussion about the survey data. Mrs. Bucci stated she submitted two  
44 different sets of data, because she saw applications in the archives where that was  
45 done, while she was doing her research. Mr. Gulino said that the latest Ordinance  
46 requires a more mathematical approach to make the decisions less subjective.  
47  
48 The application, as currently postured, does not provide the data needed for  
49 consideration said Mr. Gulino. The Board has addressed three concerns: one, the right

1 side setback would have to be pushed to ten feet; two, the front setback, needs  
2 comparable data to justify the setback of 20 feet, and three, the issue of the survey  
3 data, using the same comparables.

4  
5 Three neighbors were in attendance and spoke in favor of the applicants. They were:  
6 Catherine Miller, who recently moved from 7 Crescent View Avenue, Scott and Nancy  
7 Irving of 27 Crescent View Avenue.

8  
9 There was no one to speak in opposition.

10  
11 Chairman Gulino thanked the neighbors for their comments.

12  
13 The Bucci's requested to table their request until March to gather additional supportive  
14 data. Chairman Gulino said the Board would be happy to reconsider the application at  
15 that time.

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17 **F. Communications** – None.

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19 **G. Adjournment** – Motion by Mr. Howe to adjourn; seconded by Mr. Black. All were in  
20 favor. Meeting adjourned at 8:46 pm.