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Town of Cape Elizabeth Minutes of the February 25, 2014 Zoning Board of Appeals Meeting

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Members Present:

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Josh Carver	Matthew Caton	Barry Hoffman
John Thibodeau	Michael Tadema-Wielandt	Michael Vaillancourt

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The Code Enforcement Officer (CEO), Benjamin McDougal, and the Recording Secretary, Carmen Weatherbie, were also present.

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A. Call to Order: Chairman Josh Carver called the meeting to order at 7:00 p.m.

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B. Approval of Minutes:

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1. Approval of the Minutes for January 28, 2014 - A motion to approve the minutes was made by Mr. Vaillancourt; seconded by Mr. Carver. All present at that meeting were in favor. Vote: 5 – 0. Mr. Caton abstaining.

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C. Old Business: None.

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D. New Business:

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1. To hear the request of Michael Weiner for an approval to remodel and expand a nonconforming structure at 34 Reef Road, Map U13, Lot 12, per Section 19-4-3.B.3 of the Zoning Ordinance.

Chairman Carver asked Mr. McDougal for a brief update.

Mr. McDougal said John Mitchell described the proposed addition. The garage side of the house is 18.4 feet from the property line. The set back requirement is 25 feet. They would like to expand that section of the garage; parallel to the property line approximately 15 feet and they are not getting closer to the property line so a variance is not required. It is similar to the application heard last month based on § 19-4-3.B.3.

Chairman Carver asked the applicant's representative to step to the podium.

Sashie Minser, an architect of Mitchell & Associates, Portland, came to the podium to represent Michael Weiner. She said the property was a single-family residence in the Trundy Point neighborhood. It is ocean front property located entirely within the Residential A (RA) and Shoreland Overlay zones. It is a single-family residence. The lot size is 30,974 square foot. The set backs are shown on the plan. The front and side setbacks are 25 feet, the rear setback, 75 feet, is defined by the Shoreland Overlay Zone. They used the High Annual Tide Line because it is a more precise measurement. The existing septic system is in the front yard. The proposed addition of approximately 700 square feet is all in the front of the house. So approval is requested based on

1 Section 19-4-4-B.1 for non-conforming structures. No part of the addition is in the 75-
2 foot rear set back. The property is currently non-conforming because the existing house
3 is located closer to the property line than the required side setback. The proposed
4 addition will not increase the non-conformance of the house. Mr. Weiner has reached
5 out to neighbors to see if they had any issues with what he was proposing to do. They
6 did receive a few letters and e-mails none expressed any concern. There were no
7 negatives.

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9 Ms. Minser continued saying the lot coverage within the Shoreland Zone is required to
10 be 20% or less. The existing lot coverage is at 19.9%. To offset the lot coverage added
11 with the house addition, the applicant proposes to decrease the width of the driveway by
12 three feet for a length of approximately 90 feet. The removal of the paved surface
13 results in a total of 20% lot coverage.

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15 Details of the lot coverage and plans were discussed.

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17 Mr. McDougal clarified that the board is reviewing the application based on § 19-4-3.B.3,
18 which requires ZBA approval for the side setback. Section 19-4-4.B.1 requires strictly a review by
19 the CEO.

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21 The Ordinance, locations of neighbors responding, boundary survey information and
22 septic system were discussed. Ms. Minser stated the addition was adding living space
23 not increasing the number of bedrooms. The septic tank was installed in 2006.

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25 Mr. McDougal explained state law regarding setbacks and location of the septic tank. It
26 is not an issue.

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28 Chairman Carver cited e-mails from neighbors, Sandy and Chet Lunner of 33 Reef
29 Road and Nancy and Hank Hancock of 32 Reef Road, which stated they had no
30 objections to the improvements after reviewing the plans.

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32 Chairman Carver closed the floor to public comment.

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34 The board discussed the nonconformity and setbacks, the increase in the square
35 feet, the height of the roofline and how the language of the Ordinance applies to
36 this remodel. It was determined that the side setback needed Zoning Board
37 approval, not the entire plan or where the decrease in impervious surface must
38 come from to offset the lot coverage.

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40 Mr. Thibodeau motioned to approve the application; Mr. Vaillancourt seconded. All
41 were in favor. Vote 6 – 0.

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43 **Findings of Fact:**

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45 1. This is a request to remodel and expand a single family dwelling per Section 19-4-3.
46 B.3. of the Zoning Ordinance at Map U13, Lot 12, at 34 Reef Road. The applicant is
47 John Mitchell.

1 2. Michael Weiner is the owner of record of the property at Map U13, Lot 12.

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3 **Additional Findings of Fact:**

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5 1. The Zoning Board of Appeals has considered the size of the lot, the slope of the
6 land, the potential for soil erosion, the location of other structures on the property and
7 on adjacent properties, the location of the septic system and other on-site soils suitable
8 for septic systems, the impact on views, and the type and amount of vegetation to be
9 moved to accomplish the relocation.

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11 2. The proposed structure will not increase the nonconformity of the existing structure.

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13 3. The proposal structure is in compliance with the setback requirement to the greatest
14 practical extent.

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16 All were in favor. Vote 6 – 0.

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18 **E. Communications:** None.

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20 **F. Adjournment:** Chairman Carver adjourned the meeting at 7:42 P.M.