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Town of Cape Elizabeth Minutes of the October 28, 2014 Zoning Board of Appeals Meeting

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Present:

Josh Carver	Matthew Caton	Aaron Mosher
Michael Tadema-Wielandt	John Thibodeau	Joanna Tourangeau
Michael Vaillancourt		

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The Code Enforcement Officer (CEO), Benjamin McDougal was also present. Minutes drafted from record by Recording Secretary, Carmen Weatherbie.

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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. A motion to approve the minutes of August 26, 2014, was made by Mr. Tadema-Wielandt seconded by Mr. Thibodeau. All were in favor. Vote: 7 – 0.

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C. Old Business: None.

D. New Business:

1. To hear the request of Brian and Marianne Harrington for a variance to add a garage to their house at 5 Bayberry Lane (Map U19, Lot 58).

Brian Harrington came to the podium. He stated that when they bought the house in 2000 it had a one-car garage. Every other house, on the loop, has a two-car garage. On the left, the lot line is angled. The distance from the lot line to the back corner of the garage is 27 feet; a 25-foot setback is required. They would like to tear down the existing garage and build one that is 10 feet wider. That would reduce the setback to 17 and a-half feet. Impact on neighbors' sight lines would be minimal. Mr. Harrington referred to information in the package. He said none of the abutting neighbors had any concerns about the project.

In response to questions, Mr. Harrington replied that to place the garage on the other side of the house a number of trees would have to be removed and the driveway relocated. There is also a mudroom, abutting the kitchen that is just inside the garage. Because of the angle of the lot line the front corner of the garage would be close to the 25-foot setback.

Ms. Tourangeau thanked the applicant for one of the most complete packages the board has received.

The CEO stated that he received one voice mail in support as well as the seven signatures in support; there was nothing negative.

1 There was discussion with the applicant about lot lines and the pine trees on the lot
2 about eight feet away from the proposed garage.

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4 Finding no public comment, Chairman Carver open board discussion.

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6 After a brief discussion, Ms. Tourangeau moved to approve the variance request for 5
7 Bayberry Lane. Mr. Thibodeau seconded. All were in favor. Vote 7 – 0.

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9 **Findings of Fact:**

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11 1. This is a Variance Request for Map U19 Lot 58, 5 Bayberry Lane, Applicants: Brian
12 and Marianne Harrington.

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14 2. Brian and Marianne Harrington are the owners of record of the subject property.

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16 3. 5 Bayberry Lane is a non-conforming lot in the RA district. The required setbacks
17 are 25 feet from the front property line, 25 feet from the side, and 20 feet from the rear
18 property line.

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20 4. The proposed garage addition results in a side setback of 17 feet 4 inches from the
21 side property line. The front and rear setbacks are compliant.

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23 **Additional Findings of Fact:**

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25 1. The need for a variance is due to the unique circumstances of the property and not to
26 the general conditions of the neighborhood.

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28 2. The granting of a variance will not produce an undesirable change in the character of
29 the neighborhood and will not unreasonably detrimentally affect the use or market value
30 of abutting properties.

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32 3. The practical difficulty is not the result of action taken by the applicant or a prior
33 owner.

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35 4. No other feasible alternative to a variance is available to the petitioner.

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37 5. The granting of a variance will not unreasonably adversely affect the natural
38 environment.

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40 6. The property is not located in whole or in part within shoreland areas as described in
41 Title 38, Section 435.

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43 All were in favor of the Findings of Fact, and Additional Findings of Fact. Vote 7– 0.

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46 2. To hear the request Sandra Bechard for a Conditional Use Permit for a Home
47 Business Yoga Studio at her house on 6 Wheeler Road (Map U16, Lot 2).

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1 Sandra Bechard came to the podium. She stated that she teaches Yoga in the area at
2 different Yoga Studios and would like to teach private one-on-one lessons in her home.
3 They closed on the home in August, it is zoned for a home business and there is room.
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5 In response to questions, Ms. Bechard said there would be at most four people at any
6 one time, but mostly just one at a time. She would be the only teacher. There might be
7 two to three scheduled classes a week. She would like to put up a sign. The driveway
8 has the capacity to fit five cars, if all clients permitted per the day were there at the
9 same time. The converted garage would be the studio area. Noise would not be an
10 issue.

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12 Size of the sign would be no larger than the allowed four square feet.
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14 CEO McDougal said no correspondence was received concerning this request.
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16 Finding no public comment, Chairman Carver closed the floor.
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18 Board discussion concluded that the request meets the requirements of Ordinance
19 Section 19-5-5, Conditional Use, and the definition of Home Business in Section 19-1-3.
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21 The CEO stated the board should also consider the septic system. CEO McDougal has
22 talked with the applicant about this. He said it is a sizable septic system and it's only
23 the applicant and her husband living in the house. The flow going from the Yoga Studio
24 would be relatively small. If the house were used to capacity, e.g., six people living in
25 the house, we would ask that the septic system be expanded or reevaluated. So a
26 condition to that extent should be considered since the home business could continue
27 into the future.
28

29 There was discussion about the number of bedrooms in the home. For septic capacity
30 purposes the home business is equivalent to one bedroom.
31

32 Mr. Thibodeau moved to approve the request for a Conditional Use Permit for a Home
33 Business at 6 Wheeler Road (Map U16, Lot 2). Mr. Vaillancourt seconded. All were in
34 favor. Vote 7 – 0.
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36 **Findings of Fact:**

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38 1. This is a request for a Conditional Use Permit for a Home Business at 6 Wheeler
39 Road, Map U16, Lot 2.
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41 2. Gregg and Sandra Bechard are the owners of record of the subject lot.
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43 3. The proposal is consistent with the definition of Home Business found in Section
44 19-1-3 of the Town of Cape Elizabeth Zoning Ordinance.
45

46 4. The proposed use will not create hazardous traffic conditions when added to existing
47 and foreseeable traffic in its vicinity.
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- 1 5. The proposed use will not create unsanitary conditions by reason of sewage
2 disposal, emissions to the air, or other aspects of its design or operation.
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4 6. The proposed use will not adversely affect the value of adjacent properties.
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6 7. The proposed site plan and layout are compatible with adjacent property uses and
7 with the Comprehensive Plan.
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9 8. There are no proposed external alterations to the building or site.

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11 **Condition:**

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13 For septic capacity purposes this home business is considered to be equivalent to one
14 bedroom of septic use.

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16 All were in favor of the Findings of Fact and Condition. Vote 7 – 0.

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18 **E. Communications:** None.

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20 **F. Adjournment:** Mr. Thibodeau moved to adjourn. All were in favor. Vote 7 – 0.
21 Chairman Carver adjourned the meeting 7:32 p.m.