

Town of Cape Elizabeth
Minutes of the June 27, 2017
Zoning Board of Appeals Meeting

Present:

John Craford
Michael Vaillancourt

Michael Tadema-Wielandt
Stanley Wisniewski

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

A. Call to Order: With a quorum present, Acting Chairman Vaillancourt called the meeting to order at 7:08 p.m.

B. Approval of Minutes: Approval of the minutes of May 23, 2017, was tabled until the next meeting.

C. Old Business: None.

D. New Business: To hear the request of Kevin Browne, representing Gregory and Alice Eaton, owners of 5 Sea Barn Road, Map U08 Lot 44, to replace the existing nonconforming structure on the property based on Section 19-4-4.B.3 of the Zoning Ordinance.

CEO McDougal stated that he and Kevin Browne discussed the reconstruction of the single family dwelling at 5 Sea Barn Road several months ago. The existing house is within 75 feet of the normal high water line of the ocean. The new construction could not be placed further back so Mr. McDougal informed Mr. Browne that the matter of greatest practical extent based on Section 19-4-4.B.3 would have to come before the Zoning Board.

Kevin Browne of Kevin Browne Architecture referred to plans he had posted for the board and stated that the footprint of the new structure was very similar to the old footprint. The septic system is tucked back into the corner as far as possible and is the primary reason the structure cannot be set further back without impeding on the drainage swale. Frick Associates did the septic design. Currently the house has six bedrooms, we are proposing eight bedrooms over pretty much the same footprint; the ground floor is only 38 square feet larger. With the new design there is actually less volume and footage within the 75 foot setback. If the house were slid back it would be more nonconforming on the left side setback. The garage in the new design is cantered back a little to make the right side more conforming. There is ledge under the house. The existing basement under a portion of the house will still be the basement without additional blasting if the house remains on the same footprint.

Mr. Browne continued by stating that this is a tired old house that has been added on resulting in floors of varying levels. The new home would have level flooring and be more efficient and look better for the community. The front section of both the old and the new structures at two stories is the tallest; the garage is one story, the new wing is 1 ½ stories not two like the front. Mr. Browne said he spoke with neighbor Connie Buttlar about views on the left corridor of the house; they are not building into that. Current landscaping interferes with view; he said they are sensitive to that.

Sarah Witte, Landscape Architect, stated they are working within the setbacks and confines of the site. The type of septic system will be more efficient; there will be a pretreatment component and concrete chambers. There is a tree out front as well as others on site that they will try to save; if any are lost to construction, they will be replaced. There is currently a loop driveway that will be changed to a simple driveway for the three-car garage. There is one patio, which may be made smaller, and another that will be removed from the plan. There are some grade changes to a daylight basement. They will be working with the infrastructure that is there as much as possible.

In response to board questions Mr. Browne stated there was some issues when the septic was installed in 1998 as it drained to the neighbor's property creating a grassy wetland. That area was mounded up to improve water drainage. Ms. Witte stated there was no gully or soil washing away on the site; it is a stable landscape site. However, she encourages buffer plantings because grass to the water's edge isn't ideal for water quality. There will be no expansion of impact with the new, more efficient septic system.

Chairman Carver opened the floor for public comment.

Dr. Connie Buttlar has lived for 20 years at 5 Lawson Road, which is immediately behind this property, said they have seen this property's expansion and thought previously there were plenty of restrictions they didn't have to think about it. But it turned out that they had to regrade their property because they were getting quite a lot of water in their basement because that septic system was mounded up and enlarged. Presently they have small water views along both sides of this house. The view on the left is very important to them. There is a tree that was recently planted that sits in the middle of their driveway that is growing into the electric wires and blocks their view. She tried to reach the owners, Greg and Alice Eaton, and has been unable to do so this spring to get this resolved before tonight's meeting. Dr. Buttlar said they are a little leery of an eight-bedroom structure in a neighborhood where most houses have three or four bedrooms. In response to board members questions, Dr. Buttlar said the increased height of the structure will impact their views; but if some of the tallest greenery could be cleaned up, it would be a good compromise.

Ms. Witte stated she had not known of these landscaping issues and would be happy to work with Dr. Buttlar to preserve her views with the landscaping.

CEO McDougal said he had not received any comments or correspondence concerning this request.

There was no additional public comment. The floor was closed for public comment.

Board members commented that the building footprints were remarkably similar. Largely this structure is within the original footprint. They were sensitive to Dr. Buttlar's concerns and encourage the applicant to work with Dr. Buttlar.

Mr. Wisniewski moved to approve the request of Kevin Browne, representing the property owners, Gregory and Alice Eaton, to reconstruct and expand a nonconforming single family dwelling at 5 Sea Barn Road, Map U08 Lot 44 based on Section 19-4-4.B.3 of the Zoning Ordinance. Mr. Tadema-Wielandt seconded. Vote: 4 – 0, in favor.

Findings of Fact:

1. This is a request of Kevin Browne, representing the property owners, Gregory and Alice Eaton, to reconstruct and expand a nonconforming single family dwelling at 5 Sea Barn Road, Map U08 Lot 44 based on Section 19-4-4.B.3 of the Zoning Ordinance.
2. The subject lot is a nonconforming lot in the RA Zone and it is in the Shoreland Performance Overlay District.

Additional Findings of Fact:

1. The Zoning Board of Appeals has considered the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soil suitable for septic systems, the impact on views, and the type and amount of vegetation to be removed to accomplish the reconstruction.
2. The proposed structure will not increase the nonconformity of the existing structure.
3. The proposed structure is in compliance with the setback requirement to the greatest practical extent.
4. The total amount of floor area and volume of the original structure cannot be relocated beyond the setback requirement for a new structure.

All were in favor of the Findings of Fact and Additional Findings of Fact. Vote 4 – 0.

E. Communications: None.

F. Adjournment: Acting Chairman Vaillancourt adjourned the meeting at 7:43 p.m.