

Town of Cape Elizabeth  
Minutes of the September 26, 2017  
Zoning Board of Appeals Meeting

Present:

Matthew Caton  
Michael Vaillancourt

John Craford  
Stanley Wisniewski

Aaron Mosher

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

**A. Call to Order:** Acting Chairman Vaillancourt called the meeting to order at 7:03 p.m.

**B. Approval of Minutes:**

1. Mr. Mosher moved to approve the minutes of May 23, 2017; the motion was seconded by Mr. Wisniewski. Vote 5 – 0 in favor.
2. Mr. Mosher moved to approve the minutes of June 27, 2017; the motion was seconded by Mr. Caton. Vote 5 – 0 in favor.
3. Mr. Mosher moved to approve the minutes of July 25, 2017; the motion was seconded by Mr. Caton. Vote 5 – 0 in favor.
4. Mr. Wisniewski moved to approve the minutes of August 22, 2017; the motion was seconded by Mr. Caton. Vote 4 – 0 in favor. Mr. Mosher abstaining.

**C. Old Business:** None.

**D. New Business:**

1. To hear the request of Zach Petsinger representing Ramanujam Shubbupoongothai and Palaniappan Uthaya, the owners of 2 Dearborn Drive, Map U22, Lot 1, to expand a nonconforming single-family dwelling based on Section 19-4-3.B.4 of the Zoning Ordinance.

Acting Chair Vaillancourt asked CEO McDougal for a summary of the issues. Mr. McDougal said Mr. Petsinger met with him a couple months ago for a building permit to expand one side of this house. On the plan you can see a bump out at the middle of the house, basically they want to square the house off by infilling the two corners. One of those corner infills does not meet the required setback to Scott Dyer Road. By infilling that corner you are not getting closer to the property line you are just infilling an area that doesn't meet current setbacks, so it is not becoming more nonconforming you

are just infilling in a nonconforming location. Which brings us to Section 19-4-3.B.4. Expansion of a Nonconforming Structure.

Mr. Petsinger of Birdseye Construction in Cape Elizabeth stated the owners just want to fill in those two corners, single floor only. The kitchen is along the Scott Dyer side and they use the small bump out for a small dining room table. This would give them a much bigger kitchen area. They are within the setbacks towards Dearborn. Although we are not getting any closer to Scott Dyer we are building within that setback. We just want to come six feet out the whole way. In response to questions Mr. Petsinger said that corner is a little further away from Scott Dyer because the house is not parallel to the road. That corner will be around 29 feet from Scott Dyer.

CEO McDougal said the setback is 40' from Scott Dyer. On the Scott Dyer side of the house, about one-third of the house is in that setback. The setback distance increases for busier roads. The RC Zone Section 19-6-3 Table in Section E applies. Because of the angle of the house, the addition is actually getting further away from Scott Dyer.

Mr. Petsinger stated the two corners are approximately 6' X 11' each. The middle bump out is 6' X 12'. That's why we are just going six feet out. Esthetically it will make the house look better because the bump out doesn't fit the style of the home. It is one story, 66 square feet that is nonconforming. The Existing bump out is conforming and the other corner is conforming. We will be tearing down the bump out and rebuilding it clean and fresh.

Mr. Craford asked the CEO to explain the nonconformity. The language of the Ordinance along with the definition of increasing nonconformity of a structure was discussed as it pertains to this situation.

Mr. Petsinger said the lawn there is level, there is nothing major to be moved. The water and electric are in different parts of the house. We are not putting in a massive foundation. The existing bump out is on 12" piers so we are using that same style for a total of six, 12-inch piers.

There was no public comment.

The CEO said no correspondence was received.

Mr. Craford moved to approve the request of Zach Petsinger representing the owners of 2 Dearborn Drive, Map U22, Lot 1, to expand a nonconforming single-family dwelling based on Section 19-4-3.B.4 of the Zoning Ordinance. Mr. Mosher seconded. All were in favor. Vote: 5 – 0.

**Findings of Fact:**

1. Ramanujam Shubbupoongothai and Palaniappan Uthaya are the owners of 2 Dearborn Drive, Map U22, Lot 1.

2. The subject lot is a nonconforming lot in the RC Zone.

**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 soils suitable for septic systems, the impact on views, and the type and amount of vegetation to be removed to accomplish the relocation.

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.

Mr. Craford moved to approve the Findings of Fact and Additional Findings of Fact; Mr. Wisniewski seconded. All were in favor. Vote: 5 – 0.

**E. Adjournment:** Acting Chairman Vaillancourt adjourned the meeting at 7:25 p.m.