

Town of Cape Elizabeth
Minutes of the August 28, 2018
Zoning Board of Appeals Meeting

Present:

John Craford
Aaron Mosher

Kevin Justh
Michael Vaillancourt

The Code Enforcement Officer (CEO) Benjamin McDougal was also present.

A. Call to Order: Chair Michael Vaillancourt called the meeting to order at 7:00 p.m.

B. Approval of Minutes: John Craford amended the minutes of June 26 as follows: On the last page, it states Mr. Craford abstained – he voted against. The minutes of May 22, 2018 and June 26, 2018, as amended above, were approved. All were in favor. Vote: 4 – 0.

C. Old Business: None.

D. New Business:

To hear the request of Melissa S. Anderson, owner of the property at 24 Meadow Way, Map U21 Lot 115, to expand a nonconforming single-family dwelling based on Section 19- 4-3.B.4 of the Zoning Ordinance.

Chairman Vaillancourt asked the CEO to review this request. Mr. McDougal said the applicant sought a building permit to do a farmer's porch on the front of her house. Once we reviewed setback issues, we found that a full-length porch, 6.5 feet in width, the width of the current porch, would create a setback issue. Mr. McDougal explained her options. This is the one she chose.

Ms. Anderson stated she would like to get approval for the expansion of the porch. Currently the porch is 6.5 by 10 feet. The length of the house is about 29 feet. If it would help get approval of the full length, she is willing to adjust the width to 5.5 feet. There are several farmer's porches in the neighborhood. She had a site survey done to determine where the front property lines were. Ms. Anderson requested approval for a covered, open, farmer's porch with the dimensions 5.5 feet by 29 feet.

In response to board questions, Ms. Anderson said the whole porch would be 5.5 feet in width. The footing for the current porch is cement sonotubes.

Mr. Craford asked the CEO if steps counted in the setbacks. The CEO stated technically it depends how they are built; surveyors never show steps as they relate to setbacks. Mr. McDougal replied it is an important issue, as we do not want to see a lot of variances if someone needs one or two steps to get out of their house for an egress issue. Mr. Craford said because of the curvature of the road the 5.5 width of the porch

still increases the setback problem. The CEO suggested that the ZBA have the surveyor confirm that the resulting porch is not getting closer to the front property line.

Mr. Mosher discussed the concept of not increasing the nonconformity with the CEO. The chairman reviewed the criteria of the Ordinance. In response to a question, Ms. Anderson stated the steps would be in the same place. There was more discussion about the safety of steps.

There was no public comment. Mr. McDougal stated he did not receive any comments.

Chairman Vaillancourt closed the floor to public comment.

Mr. Craford moved to approve the request. The motion was amended to read: to approve the request of Melissa S. Anderson, owner of the property at 24 Meadow Way, Map U21 Lot 115, to expand a nonconforming single-family dwelling based on Section 19- 4-3.B.4 of the Zoning Ordinance contingent upon the surveyor verifying that the setback incursion is not increased. All were in favor. Vote: 4 – 0.

The chairman advised Ms. Anderson and her surveyor to be in touch with the CEO with the findings concerning the front setback.

Findings of Fact:

1. The property is a nonconforming lot in the RC zone. There is an existing single family dwelling on the property.
2. 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 impact on views, and the type and amount of vegetation to be removed to accomplish the relocation.
3. The proposed structure will not increase the nonconformity of the existing structure.
4. The proposed structure is in compliance with the setback requirement to the greatest practical extent.

Condition:

That a surveyor must verify that the setback incursion is not increased from the existing incursion.

Mr. Justh moved to approve the Findings of Fact and the Condition; Mr. Craford seconded. All were in favor. Vote: 4 – 0.

E. Communications: None.

F. Adjournment: Chairman Vaillancourt adjourned the meeting at 8:23 p.m.

Minutes submitted by Recording Secretary, Carmen Weatherbie.