

Town of Cape Elizabeth  
Minutes of the October 22, 2019  
Zoning Board of Appeals Meeting

Present:

Joseph Barbieri      Aaron Mosher      Colin Powers

Michael Vaillancourt      Michael Tadema-Wielandt

The Code Enforcement Officer (CEO), Benjamin McDougal was present. Matthew Caton, Kevin Justh and the Recording Secretary, Carmen Weatherbie, were absent.

A. Call to Order

B. Approve the minutes from July 23, 2019 meeting. A motion to approve the minutes was made by Joe Barbieri second by Colin Powers.

The motion passed. Vote: 4-0 (Kevin Justh approved by Email)

Aaron Mosher and Michael Tadema-Wielandt abstained.

A motion to approve the August 27 minutes was made by Michael Tadema-Wielandt and second by Aaron Mosher. 4-0 Joe Barbieri abstained.

C. Old Business: None

D. New Business

1. To hear the request of Carol Morrissette, representing the owners of the property at 9 Smugglers Cove Road, Map U10 Lot 47, to expand a nonconforming single-family dwelling based on Section 19-4-3.B.4 of the Zoning Ordinance.

Chairman Vaillancourt asked CEO McDougal for the background.

The CEO McDougal gave a brief summary of facts of 9 Smugglers Cove Rd, non-conforming lot, in the RA zone, the house is a single-family dwelling. It is also nonconforming to the current setbacks. The garage is currently 12.1 feet from the side and the main portion of the house is 20.9 feet from the side.

Carol Morrissette came to me with a proposal to remodel and expand this house and a portion of the expansion is in the area of the house that is not conforming to the side setback thus triggers zoning board procedure.

The Chair asked if there were any questions for Ben.

The Chair then turned the floor over to the applicant Carol Morrissette.

I'm here with Adam Kreautz of Residential Design Studio on behalf of Mark and Johanna Coggin the owners of 9 Smuggler Cove Rd. We really wanted to take advantage of the volume that we are by right allowed to expand into above the garage. But in order to access that part of the house that is within the setback, in fact 91 square feet of that is within the side setback would need to be increased in volume, which is triggering this whole process. Mark and Johanna have spoken to their neighbors and their direct abutters Lynn Bailets and Kathy Crosson at 1 Smugglers Cove Rd. All have expressed their support for this project specifically because it is as diminutive as possible within the setback. Like I said was 91 square feet within the setback that we are proposing to increase the volume of. I think this is straightforward so I will keep it short and sweet with that unless you have any questions. Thank you.

The Chair asked if there were any questions for the applicant.

Mr. Mosher spoke, I just want some clarification on the renderings this is on the satellite view and the existing proposed number seven, is that just a house next store obscured by trees.

Ms.Morrissette: Yes, that is exactly what that is. In fact, trees obscure all the properties on the street or they simply do not have a water view.

Mr. Mosher asked is if number seven's view would be impacted by the garage.

Ms.Morrissette: No, it is a single-family building there and those windows are already looking at the back of the garage as it stands now.

Mr. Mosher: Okay

The Chair asked CEO McDougal if he received any emails or phone calls.

Ceo McDougal did receive a few phone calls about the application, just general inquiries no opinions expressed.

The Chair said since there is no public present to comment does not look like we will get any more commentary. He then concluded to close the floor for public comment. I think we can go ahead and take any more consideration as for the Board considerations and thoughts with the application.

Mr. Barbieri expressed he thought the criteria on the building was clearly stated and he did not see any problem.

Mr. Powers responded the criteria was further demonstrated by the design not building on the second floor of the last garage bay and that would preserve any future buildup.

Mr. Tadema-Wielandt: Agrees this is straightforward and expressed his support of this project because there is clear data to support it.

The Chair: Thanked the applicant for a very complete application and the drawings were very helpful.

Chair Vaillancourt: I would entertain a motion to approve the request of Carol Morrissette.

Mr. Tadema-Wielandt motioned to approve  
Mr. Powers agrees to second. All in favor. Vote 5-0

The Chair: The application carries unanimously, thank you.

The Chair: We will now go through the findings of facts briefly.

**Findings of Fact:**

1. The property is a nonconforming lot in the RA zone. There is an existing single family dwelling on the property that is also nonconforming.

**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 onsite 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.
4. The applicant has demonstrated compliance with the requirements in Section 10-4-3.B.4.

Mr. Powers moved to approve the Findings of Fact and the Additional Findings of Fact; Mr. Barbieri seconded. All were in favor. Vote: 5-0

**E. Communications:** None.

**F. Adjournment:** Chairman Vaillancourt adjourned the meeting 7:20 p.m.

Respectfully submitted by Janet Staples

