

[Meeting Agenda](#) (December 23, 2003 - ~~meeting canceled~~)

Draft Minutes ([October 28, 2003](#))

## **AGENDA**

The meeting of the Zoning Board scheduled for December 23 has been canceled. The next scheduled meeting is on January 27, 2004.

ZONING BOARD OF APPEALS AGENDA - ~~canceled~~

DECEMBER 23, 2003

TOWN HALL 7:00p.m.

A. Call to Order

B. Approve the minutes of October 28, 2003

C. Old Business

D. New Business

1) To hear the request of Mark & Laura Morris, 53 Bowery Beach Road, Tax Map U17, Lot 41 for an accessory dwelling unit.

E. Communications

F. Adjournment

## **DRAFT MINUTES**

TOWN OF CAPE ELIZABETH, MAINE

MINUTES OF ZONING BOARD OF APPEALS

October 28, 2003 7:00 p.m., Town Hall

Present: Jay Chatmas, Chair

Joseph Guglielmetti

Steven Laplante

Gib Mendelson

Michael Tranfaglia

Absent: Jack Kennealy

James Walsh

Bruce Smith, the Code Enforcement Officer, was also present for the meeting.

Dr. Chatmas called the meeting to order. He stated since there were five members present there would be a quorum.

Dr. Chatmas introduced the first item on the agenda: To approve the August 26th meeting minutes. He asked for comments.

Hearing none, Dr. Chatmas asked for a motion to approve.

Mr. Guglielmetti made a motion to approve the minutes. Motion was seconded by Mr. Tranfaglia. 4 in favor 0 opposed 1 abstained.

Dr. Chatmas took a moment to thank Barbara Lamson on behalf of the board for an outstanding job performed and wish her well with her new endeavors in the school department. Dr. Chatmas also wanted to welcome Laurie Palanza as the new recording secretary.

Dr. Chatmas had one item he wanted to mention concerning the City of Portland. They had sent invitations to the board members for a municipal training session on Sept. 11th at the Portland City Hall. Dr. Chatmas and Michael Tranfaglia both attended the meeting and thought it was effective and insightful. Dr. Chatmas wanted to thank the City of Portland for the invitation.

Dr. Chatmas stated there wasn't any old business.

Dr. Chatmas proceeded to new business, the first item being a request by Mark & Laura Morris to be rescheduled.

The second item on the agenda was to hear an appeal of Michael and Jennifer Duddy of 11 Crescent View Avenue for a right side property line variance of 2 ft from the required 25 ft to construct a second story addition over the existing garage and breezeway at 23 ft from the property line. Dr. Chatmas asked Mr. Duddy if he would make his presentation.

Mr. Duddy thanked the board for having him back. He stated his request for a two ft side lot line setback variance to construct an addition over the garage to complement ongoing renovations at his property. In Mr. Duddy's prior application he had established that this would conform with the character of the neighborhood so he wanted to address any questions that the board might have.

Dr. Chatmas asked the board if they had any questions for Mr. Duddy.

Mr. LaPlante complemented on an application well done. Mr. La Plante wanted to confirm that the scope of the proposed variance will not take him beyond the existing boundaries of the building.

Mr. Duddy confirmed that it did go beyond the building envelope to the lot line. He stated the garage is separated from the house by a mudroom that is 6' wide within the lot so it does exceed the footprint of the house, but not in the direction infringing on any lot line setback.

Dr. Chatmas asked if there were any other comments

Hearing none, Dr. Chatmas closed the public discussion of the

meeting.

Dr. Chatmas asked the members of the board if there were any comments.

Mr. Guglielmetti stated that he had taken a drive by the location and thought the renovations were well designed and would enhance the neighborhood.

Dr. Chatmas agreed that the application was complete and the property comparisons were met and justified. He stated since there would be no further expansion into the setback area, he felt the request was tenable.

Mr. LaPlante spoke about the quality of the application and wanted to make sure the building's envelope was not to be expanded upon.

Mr. Smith pointed out that although the foundation footprint will not be increased, the garage would be garrisoned out by a foot.

Dr. Chatmas asked if the front would remain in the setback and if the rear setback was not a factor to which Mr. Smith agreed.

With no further discussion, Dr. Chatmas asked for a vote on the conclusion.

## CONCLUSIONS

1. The proposed variance is not a substantial departure from the intent of the ordinance.

5 in favor, 0 opposed, 0 abstained.

2. A literal enforcement of the Ordinance would cause a practical difficulty.

5 in favor, 0 opposed, 0 abstained.

3. The need for the variance is due to the unique circumstances of the property and not the general conditions of the

of the neighborhood.

5 in favor, 0 opposed, 0 abstained.

4. The granting of the variance will not produce an undesirable change in the character of the neighborhood and will not

unreasonably detrimentally affect the use or market value of abutting properties.

5 in favor, 0 opposed, 0 abstained.

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

5 in favor, 0 opposed, 0 abstained.

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

5 in favor, 0 opposed, 0 abstained.

7. The granting of a variance will not unreasonably adversely affect the natural environment.

5 in favor, 0 opposed, 0 abstained.

8. The property is not located in whole or in part within shoreland areas as described in Title 38, section

45. 5 in favor, 0 opposed, 0 abstained.

Dr. Chatmas asked for a motion.

Mr. Mendelson made a motion for the variance to be approved.  
Mr. Guglielmetti seconded the motion and was approved

5 in favor, 0 oppose, 0 abstained.

Communications was the next item on the agenda. Mr. Smith had received none.

Dr. Chatmas asked Board members about Thanksgiving week.  
Everyone at meeting could attend the meeting in November.

Dr. Chatmas asked for a motion to adjourn. Motion was made by Mr. Laplante and seconded by Mr. Guglielmetti.

Meeting adjourned at 7:20pm.

Respectfully Submitted,

Laurie Palanza, Minutes Secretary

**TOWN OF CAPE ELIZABETH**

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