

[Meeting Agenda](#) (February 22, 2005)

Draft Minutes ([October 26, 2004](#))

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## **AGENDA**

### ZONING BOARD OF APPEALS AGENDA

FEBRUARY 22, 2005

TOWN HALL 7:00P.M.

A. Call to Order

B. Approve the minutes of October 26, 2004

C. Old Business

D. New Business

1) To hear the request of William Turner & Persis Strong, 18 Smugglers Cove Road, Tax Map U10, Lot 42 to replace and enlarge the existing dwelling within 75 feet of the high water line of the Atlantic Ocean.

E. Communications

F. Adjournment

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## **DRAFT MINUTES**

TOWN OF CAPE ELIZABETH

ZONING BOARD OF APPEALS

October 26, 2004 7:00 p.m. Town Hall

Present: Jay Chatmas, Chair

Steven LaPlante

Jim Walsh

Len Gulino

Michael Tranfaglia

Gib Mendelson

Joe Guglielmetti

Mr. Chatmas opened the meeting with a roll call. The first order of business was approval of the September minutes. With corrections

noted, he asked for a motion.

Mr. Walsh made a motion to approve amended minutes.

Mr. Gulino seconded the motion. 4 in favor, 3 abstained.

## NEW BUSINESS

To hear the request of Holly Ready, 1 Rocky Point Lane, Tax Map U14, Lot 12 for a variance to increase the floor area or volume expansion of 25% allowed in a resource protection buffer to 40% in accordance with Section 19-5-2(B) and pursuant to Section 19-4-5(A)(5).

Mr. Chatmas gave an overview of the application. He asked Holly Ready to approach the podium and present her application.

Holly Ready, 1 Rocky Point Lane, described her summer cottage and her desire to turn it into a year round residence. She stated that when she met with the builder it was determined a lot of reparation would be needed for the building to meet code. The house is the smallest one in the area and she would like to add a couple dormers to make it larger. She is also proposing an 8' x 12.5 ft sunroom, which would meet setbacks and not affect the wetlands.

Mr. Gulino asked if she would be using the same foundation.

Ms. Ready stated no, the foundation will be replaced within the existing footprint.

Mr. Gulino asked for a breakdown of the increase of sq. footage and volume.

Mr. Smith stated that ordinance says the applicant may expand up to 25% footprint volume. The ordinance also allows for the applicant to come before the Board of Appeals to get an additional 15 % increase in volume, but not a footprint expansion.

Mr. Gulino asked if the applicant's proposal was less than 40% volume allowed in the Ordinance.

Mr. Smith stated the proposal does not exceed the 40% volume.

Mr. Mendelson stated that on one sheet it shows 8/100th of a percent over the 40% of volume.

Ms. Ready stated that was an option for roof protection over the front door. This would not be included.

Mr. Mendelson verified with Mr. Smith that there was not an issue of the project's volume being over 40%.

Mr. Smith affirmed that.

Mr. Chatmas questioned who had calculated the space and volume percentages.

Ms. Ready stated her father had done the calculations. He is an engineer and an architect.

Mr. Chatmas asked if the sunroom would be heated.

Ms. Ready stated yes.

Mr. Walsh asked if the septic was converted to be year round use.

Mr. Smith stated he didn't believe that the house was classified as seasonal. He said before he issued a building permit the septic system would be reviewed to confirm it's capacity for the total number of bedrooms for year round use.

Mr. Gulino asked who received notice of he application.

Mr. Smith stated it was the nearest 25 abutters or within 1000 ft of the property.

Mr. Chatmas thanked Ms. Ready and opened the meeting for public comment.

Florence Braff, 69 Hannaford Cove Road, is concerned with the impact on the wetlands and if the existing structure would be demolished in its entirety. She is also concerned of lighting from the house. She stated the drainage has changed since the two new leach fields were put in. She hopes the Board will look at any adverse impact that could occur on the wetlands. She hopes protections will be put into place to protect the wetlands, to stop runoff, contamination and leaching of lime while mixing cement.

Mr. Chatmas asked Mrs. Ready if she would like to comment on the issues presented.

Ms. Ready stated she respects how Mrs. Braff feels and intends to protect the wildlife and not disturb any of the critical wetland. She stated that she does not intend to have the lighting shining into the woods; however, she would need some lighting for her house. She discussed how her and a neighbor are trying to get year round water for their homes as it is currently summer water only.

Mrs. Braff asked how water could be brought into the site without impacting the wetlands as they are interconnected.

Mr. Smith stated that they have to take proper precautions in protecting wetlands while bringing in a water line.

Mr. Chatmas closed the Public Hearing. He asked Mr. Smith what assurance does the Board and the audience have that the critical wetlands would be carefully preserved during construction.

Mr. Smith stated that you have to put faith into the system and inform the applicant that they have to take the proper measures to protect the wetland and the his office will make sure that happens.

Mr. Chatmas stated the reason the applicant was here because of the 15% enlargement above the 25% allowed in the Ordinance. He asked Mr. Smith if she had stayed within the 25%, and had not needed a variance, would his office be taking the same precautions with the wetlands.

Mr. Smith stated yes.

Mr. Gulino stated that he had review the application in detail and that it appears that the applicant within the 40% maximum enlargement. He said the design was compatible with the area and substantially smaller than the majority of the abutters. He stated that with the comments of Mr. Smith he believes it to be a reasonable application and would support it.

Mr. Chatmas agreed and stated the calculations presented of square footage and volume of the footprint support the request. He stated the Ordinance provides that if the requirements are met they can approve the application and assumes careful attention will be made to the wetland in regard to the construction. He asked for any other comment. Hearing none, he asked to move to vote on the elements.

1. The proposed variance is not a substantial departure from the intent of the Ordinance. 7 in favor, 0 opposed, 0 abstained.

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

7 in favor, 0 opposed, 0 abstained.

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

7 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.

7 in favor, 0 opposed, 0 abstained.

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

7 in favor, 0 opposed, 0 abstained.

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

7 in favor, 0 opposed, 0 abstained.

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

7 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 435.

7 in favor, 0 opposed, 0 abstained.

A motion was made by Len Gulino to approve the variance appeal and seconded by Jim Walsh. 7 in favor, 0 opposed, 0 abstained.

Mr. Chatmas wanted to remind the Board that the next two months meetings are during holiday weeks. He also reminded the Board to think about applications for the Chair and Secretary for the Board. He asked for any comments. Hearing none he asked for and adjournment.

Mr. Mendelson made a motion to adjourn.

Mr. LaPlante seconded the motion. 7 in favor, 0 opposed.

Meeting adjourned at 9:05p.m.

Respectfully Submitted,

Laurie Palanza

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**TOWN OF CAPE ELIZABETH**

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