

Town of Cape Elizabeth  
**DRAFT** Minutes of the October 23, 2018  
Zoning Board of Appeals Meeting

Present:

Matt Caton  
Aaron Mosher

Kevin Justh  
Michael Vaillancourt

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

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

**B. Approval of Minutes:** Mr. Justh moved to approve the minutes of August 28, 2018; seconded by Mr. Mosher. All were in favor. Vote: 4 – 0.

**C. Old Business:** None.

**D. New Business:**

1. To hear the request of Kent Shomaker, owner of the property at 600 Preble Street, Map U2 Lot 5, to expand a nonconforming single-family dwelling by adding a roof deck 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 Shomakers consulted him about having a roof deck on a portion of their house. Most of their house is two-story and a small section of it is one story; they would like to add a deck on top of the one-story portion of the house. They do not meet the 10 foot side setback so he explained options to them.

Mr. Shomaker stated the one-story portion is an old porch, which was closed in to create a four-season room. What we wish to do is reconstruct the porch so that it is square with the rest of the house. While doing that we would replace the roof and put a deck on top of the roof area, which would be accessed through a second story bedroom. That would give us a nice view from our backyard without impinging on our neighbors' views. It would also give us egress from the second floor.

In response to board questions, Mr. Shomaker replied that the windows would be replaced by a sliding glass door. Currently the floor is cantered so it is lower on one side, so we would have the floor leveled and reframe the porch to straighten the windows. They have consulted several contractors but have not chosen one. The existing side door would remain. The footprint would remain the same; there are no other changes.

Public Comment: Mr. Rob Mainville of 598 Preble Street, an abutter, stated that the Shomaker house is currently 4' 3" from the property line. It is very congested; we can

look thought each other's windows. The house are tiny and close together. His house was built in 1913; theirs a bit later, as a guest house for a hotel. Mr. Mainville asked if he could look at any drawings or renderings of the proposed deck. He was interested if they could put something on the railing to block the view to the west. Mr. Mainville had not looked at the application. The proximity to the two houses was discussed. He knew that a survey was done, however he did not see any markers on the property line between their two houses. There were some on the opposite side.

In response to questions, Mr. Mainville said their bedroom window would be the closest to their deck. Mr. Mainville stated he was not necessary opposed to the deck, but would like to see a plan drawing. He would also appreciate some privacy walls or panels on the side facing their house. He asked, why have the setback at all if we are here talking about adjusting the setback in an area that is so congested. Mr. Shomaker had not talked to the applicants concerning their plans. He mentioned a fence that was erected without their knowledge. He had no concerns about runoff or drainage as a result of this project.

There was no additional public comment. Chairman Vaillancourt closed the floor to public comment.

Mr. McDougal stated he did not receive any comments or feedback.

When asked the CEO said the standard height for a railing is 36 inches. The height of the house was unknown. When asked Mr. Shomaker stated he would replace the pitched roof with a flat roof. They had considered a privacy panel or barrier. The railing would be posts with wire. They did not have a specific design as they wanted approval of the idea first. The base of the deck wouldn't be higher than the windows that would be replaced with a sliding door.

Board members felt it necessary to have more information, such as conceptual drawing of the project and view photos.

Linda Soarers who also resides at 600 Preble Street commented on the boundary survey, noting that their house sits further back on the lot than the abutters; therefore, the proposed deck would be further away from other neighbors. Ms. Soarers said there is no room in Mr. Mainville's home that looks out on the current roof. She discussed other view information including mentioning a barrier planter.

Mr. Shomaker said he was willing to provide the board with additional information. The Chair advised Mr. Shomaker to submit the additional information to Mr. McDougal.

Mr. Justh moved to table the request of Kent Shomaker, owner of the property at 600 Preble Street, Map U2 Lot 5, to expand a nonconforming single-family dwelling by adding a roof deck based on Section 19-4-3.B.4 of the Zoning Ordinance, until more information is provided. Mr. Mosher seconded. All were in favor. Vote: 4 – 0.

2. To hear the request of Teresa Simpson, representing the property owners of 3 Gladys Road, Map U19 Lot 7-28, to replace and expand a nonconforming single-family dwelling based on Section 19-4-3.B.3 of the Zoning Ordinance.

Chairman Vaillancourt asked the CEO to review this request. Mr. McDougal said the applicant contacted him with site plans and architectural plans and asked about the process to put a second story on an existing single story dwelling. A portion of the dwelling is outside the setback line; so in order to go straight up with an addition it requires this type of approval under 19-4-3.B.3. They are reconstructing the first story as well, so it is a complete reconstruction using the same foundation without encroaching on the setbacks.

The owner, Doug Monson, actually grew up in this existing ranch home stated designer, Teresa Simpson. The home was built in 1964. There is an attached garage. The Monsons have two children and they have simply outgrown this home but they do not wish to leave the neighborhood. Ms. Simpson has helped them design a home with a second story. They are going to demolish the entire home down to the foundation, which is structurally sound. We are going to redo the rear patio and in the front we would like to remove the existing steps and add a covered porch with steps to conform to the front setback. We are adding 12 and a half feet to the height to the home; the overall height, at the tallest point is 28' 9".

In response to board questions, Ms. Simpson replied the front stairs are angled to conform to the setback but there is also a hill there. The existing garage slab is quite a bit lower is another reason for the stairs to go right into the hill. It is an existing full basement; it will be new from the sill up. The footprint is the same other than the covered porch. Ms. Simpson had a picture of the existing house which she showed the board. There will be no excavation; the base of the porch will be done with posthole diggers. The structure of the deck was discussed. The CEO stated that open decks have a setback of 15 feet in that zone.

The neighbor behind them has written a letter in support of the project. No one else's view would be affected.

Mr. McDougal stated he did get an email from the abutter to the north with a couple general questions. He responded and they replied sounds good.

There was no public comment. Chairman Vaillancourt closed the floor to public comment.

The board commented on the thoroughness of the application.

Mr. Justh moved to approve the request of Teresa Simpson, representing the property owners of 3 Gladys Road, Map U19 Lot 7-28, to replace and expand a nonconforming single-family dwelling based on Section 19-4-3.B.3 of the Zoning Ordinance. Mr. Mosher seconded. All were in favor. Vote: 4 – 0.

**Findings of Fact:**

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

**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, location of the septic system, the impact on views, and the type and amount of vegetation to be removed to accomplish the replacement.

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

**E. Communications:** None.

**F. Adjournment:** Chairman Vaillancourt adjourned the meeting at 7:55 p.m. The next meeting is Wednesday, December 5, 2018