

Town of Cape Elizabeth
Minutes of the June 27, 2023 Board
of Zoning Appeals Meeting
A Hybrid Meeting

Present:

Diana Chapman

Katherine Kerkam
Rockstrom

Adam Foster-Webster
Colin P. Powers

Kevin Justh
Doreen Blanc

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

A. Call to Order: Chairman Justh called the meeting to order at 7:00 p.m. Chairman Justh reviewed the procedures on how to participate remotely and the protocols based on the Maine Municipal Association Board of Appeals Manual.

CEO McDougal called the roll. Six board members were present in the Council Chambers.

B. Approval of Minutes: Approval of the Minutes for May 23, 2023: A motion to approve the minutes as corrected was made by Mr. Foster-Webster, seconded by Mr. Powers. All were in favor. Vote 6 - 0.

C. Old Business: None.

D. New Business: To hear the request of Peterson Design Group, an architecture firm, representing Robert and Ann Hecker, owners of the property at 1207 Shore Road, Map U11 Lot 3, to expand their house based on Section 19-4-3.B.4 of the Zoning Ordinance.

Chairman Justh asked CEO McDougal for the background. The CEO stated that Erik Peterson, an architect with Peterson Design Group, wants to do a remodel and expansion of an older house on Shore Road. This is a nonconforming house in the RA Zone. It meets the setbacks 40 feet from Shore Road, 25 feet from Julie Ann Lane, 25 feet from the eastern property line, and 20 feet from the rear. The proposed additions affect the western and eastern sides of the property. On the Julie Ann Lane side, the structure is currently 14 feet from the property line. The proposed addition on that side would be 18 feet from that line, within the 25-foot setback, without making the structure more nonconforming because the current structure is 14 feet from that property line. On the eastern side of the property, the current structure is 16 feet from that property line; there would be an addition going off the rear and front that would also be 16 feet from that property line, assuming that the house is parallel to the property line. The house would have to be perfectly aligned with the eastern property line to keep from being more nonconforming. We don't yet have a survey to confirm that.

Erik Peterson with Peterson Design Group said Robert and Ann Hecker, who have owned the house for several years, want to add a first-floor bedroom with an attached bathroom on the east side, and on the west side, a small den off the kitchen would be added. As far as the survey, the pins were found for this property. Sebago Technics did a survey for the prior owner of the abutting property on the east. They are coming to stake out that line. But it has not been done yet. The additions are pretty small, only 4.5 feet on the front and 5 feet on the rear. They would not be any closer to the line than that side of the existing house. The east side is the side that abuts 1203 Shore Road, which had the survey. Joseph Manning and Linda Jacobs, the current owners of that property, wrote a letter approving the Heckers' addition plans.

There is a septic system and a pool on the property.

Mr. Peterson responded to board questions by stating the increase in lot coverage is just 1%; it is a 20,000-square-foot lot. The dimensions of the additions are: east rear, 5 feet by 14 feet; front, 4.5 feet by 18 feet; on the west side, the den, outside the existing house, 5 feet by 15 feet. The septic system is sized for three bedrooms. The neighbor on the east side is about 130 feet away. No views are impacted; it is a wooded area. There will be a crawl space under the new additions. The patio is also new.

CEO McDougal said he received one email in support.

The Chair asked for public comment. Finding no public comment, Chairman Justh closed the floor.

Board discussion: The applicant has stayed within the required bounds. A survey is still necessary. Sebago Technics will provide a statement as to the line on the east side. The application as submitted does not increase the nonconformity. The CEO explained how the prior survey line along with the dimensions to the front and rear corners of the existing structure could be acceptable and would be survey quality, although not technically a boundary survey. It would be the necessary survey information.

Mr. Foster-Webster moved to approve the request of Robert and Ann Hecker, owners of the property at 1207 Shore Road, Map U11 Lot 3, to expand their house based on Section 19-4-3.B.4 of the Zoning Ordinance as presented by Peterson Design Group. Mr. Powers seconded. The motion carried. Vote 6 - 0.

Findings of Fact:

1. The property is a nonconforming lot in the RA zone. The property contains a single family dwelling.
2. The existing house has frontage on both Shore Road and Julie Ann Lane. The existing house is 14 feet from the western property line fronting Julie Ann Lane and 16 feet from the eastern property line. The owners would like to expand the house by constructing an addition 18 feet from the western property

line fronting Julie Ann Lane and two additions on the eastern side, 16 feet from the property line.

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, and the impact on views.
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 building reconstruction meets the setback to the greatest practical extent based on the criteria in Sections 19-4-3.B.2 and B.4 of the Zoning Ordinance.

Condition: The applicant agrees that both additions on the eastern side of the structure will not be any closer than the existing structure to the eastern boundary as located by a licensed surveyor. The additions will not increase the nonconformity.

Mr. Powers moved to approve the Findings of Fact, Additional Findings of Fact, and the Condition; Ms. Chapman seconded. The motion carried. Vote 6 - 0.

E. Communications: None.

F. Adjournment: Chairman Justh adjourned the meeting at 7:47 p.m.