

Town of Cape Elizabeth
Minutes of the September 26, 2023 Board
of Zoning Appeals Meeting
A Hybrid Meeting

Present:

Joseph Barbieri
Colin Powers

Adam Foster-Webster
Doreen Blanc Rockstrom

Katherine Kerkam

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

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

Members announced their presence by name. A quorum was declared.

B. Approval of Minutes: Approval of the Minutes for August 22, 2023: A motion to approve the minutes was made by Mr. Powers; seconded by Mr. Foster-Webster. The motion carried. Vote: 4 to 0. Ms. Kerkam abstained; she was not present at that meeting.

C. Old Business: None.

D. New Business:

1. To hear the request of Chris and Amy Gamble, owners of the property at 10 Woodland Road (Map U1 Lot 12), to enlarge their house based on Section 19-4-3.B.4 of the Zoning Ordinance.

Vice Chairman Kerkam asked CEO McDougal for the background. The CEO stated that the contractor for the Gambles requested a building permit to add a shed dormer on the rear of the house or a partial additional story to the house, depending on how you look at it. Half of the house is in South Portland. We have established that everything they are doing complies with zoning in South Portland. For the portion of the house that is in Cape Elizabeth, the side setback is 10 feet. The existing corner of the house is 5 or 6 inches into that 10-foot setback. So it is about 9.5 feet from the property line. They are going straight up on that. Technically, there isn't even added floor area, because it's just wall. It's just the corner. It is in the RC Zone on the South Portland line.

Chris Gamble stated the house was built within the setback by about 5 or 6 inches. They would like to build straight up from that. They would like to put the shed dormer on the whole house to put in another bedroom for their kids. The foundation is 8" poured concrete, in good condition. No vegetation will be removed. Next door neighbor, Lisa Carter, wrote a letter in favor. The setbacks are not changing.

Mr. McDougal received one letter of support from Lisa E. Carter.

The chair asked for public comment. Finding no public comment, Vice Chairman Kerkam closed the floor.

Mr. Powers moved to approve the request of Chris and Amy Gamble, owners of the property at 10 Woodland Road, Map U1 Lot 12, to expand their house based on Section 19-4-3.B.4 of the Zoning Ordinance. Mr. Foster-Webster seconded. The motion carried by a roll call vote of 5 to 0.

Findings of Fact:

1. The property is a nonconforming lot in the RC zone. The property contains a single family dwelling. The owner would like to add a dormer to the rear of the house.
2. The rear corner of the house is just over 9 feet from the side property line and the required setback is 10 feet.
3. Half of the house is South Portland.

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 impact on views, and the physical condition and type of foundation present.
2. The proposed structure will not increase the nonconformity of the existing structure.
3. 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 in the Cape Elizabeth Zoning Ordinance.

Mr. Powers moved to approve the Findings of Fact and Additional Findings of Fact; Mr. Barbieri seconded. The motion carried by a roll call vote of 5 to 0.

2. To hear the request of Frank and Lynn Morang, owners of the property at 17 Kettle Cove Road (Map U16 Lot 33A), to reconstruct and expand their garage based on Sections 19-4-3.B.3 and B.4 of the Zoning Ordinance.

Vice Chairman Kerkam asked CEO McDougal for the background. The CEO stated that there is a dilapidated garage in the back corner of their property and was built a long time ago. It does not meet the current setback requirements. This is a nonconforming lot in the RA Zone. The side setback is 25 feet and 20 feet on the rear, today. They would like to reconstruct the garage and add some living space on the second floor.

Lynn Morang stated the garage is not functioning as it should, water gets in and there is no way to lock it. They would like to park a car in the garage. It is also home for bikes,

a generator, and a snow blower. They would like a home office space and a fitness room above the garage. The height will be increased; currently, there is a storage area above the bay. The height is in line with the home. This garage abuts their neighbors' garage. The CEO added the height of the proposed garage in 20 feet; the roof pitch is pretty low.

In response to questions, Ms. Morang said no one has a view of the water. One person would be using the new bathroom. Construction will not affect the septic system. Neighbors on all sides support their plans. There will be no additional bedrooms.

The CEO received a letter from James Huebener, an immediate abutter, in support of the project.

The chair asked for public comment. Finding no public comment, the floor was closed.

Mr. Foster-Webster moved to approve the request of Frank and Lynn Morang, owners of the property at 17 Kettle Cove Road, Map U16 Lot 33A, to reconstruct and expand their garage based on Section 19-4-3.B.4 of the Zoning Ordinance. Mr. Barbieri seconded. The motion carried by a roll call vote of 5 to 0.

Findings of Fact:

1. The property is a nonconforming lot in the RA zone.
2. There is an old garage on the property that the owners would like to reconstruct and replace, and expand upward on the same footprint.

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 on-site soils suitable for septic systems, the impact on views, and the physical condition and type of foundation present.
2. The proposed structure will not increase the nonconformity of the existing structure.
3. 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 in the Zoning Ordinance.

Mr. Powers moved to approve the Findings of Fact and Additional Findings of Fact; Mr. Foster-Webster seconded. The motion carried by a roll call vote of 5 to 0.

E. Communications: None.

F. Adjournment: Vice Chairman Kerkam adjourned the meeting at 7:36 p.m.