

Town of Cape Elizabeth
DRAFT Minutes of the October 24, 2023
Board of Zoning Appeals Meeting
A Hybrid Meeting

Present:

Joseph Barbieri
Adam Foster-Webster
Colin Powers

Doreen Blanc Rockstrom
Kevin Justh

Diana Chapman
Katherine Kerkam

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. The Chair reviewed the procedures on how to participate remotely and the protocols based on the Maine Municipal Association Board of Appeals Manual.

Roll call. All members were present. A quorum was declared.

B. Approval of Minutes: Approval of the Minutes for September 26, 2023: A motion to approve the minutes was made by Mr. Powers; seconded by Ms. Rockstrom. The motion carried. Vote: 5 to 0. 2 abstained; they were not present at that meeting.

C. Old Business: None.

D. New Business: To hear the request of Elizabeth and Kyle Kirby, owners of the property at 20 Surf Road (Map U05 Lot 60), to enlarge their garage based on Section 19-4-3.B.4 of the Zoning Ordinance.

Chairman Justh asked CEO McDougal for the background. The CEO stated that Mike Backman of Waterhouse Builders showed him drawings of the proposal to expand upward on the house. The foundation is not changing. The part of the project that applies to the Zoning Board is the 4 feet of garage that is within the side setback, and the proposed second floor addition will be set back 2 feet from the edge. The proposed addition is 6 feet from that side property line. It is shown clearly in the application. Four feet of the proposed dormer is within that side setback. This is a nonconforming lot in the RC Zone. Setbacks are 10 feet on the side, 20 feet on the front, and 15 feet on the rear. They clearly meet the front and rear setbacks. They just meet it on the left side of the house. The right side is what's of interest tonight.

The CEO said the applicant sent an email to clarify some numbers in the application. Mr. McDougal explained. The current side setback is 4 feet from the side property line. The second floor is bumped in by 2 feet, so it will be 6 feet. They are not getting more nonconforming.

Mike Backman explained that there would be no soil erosion. It will be the same roof, with no additional runoff. Portions of the garage within the footprint will be reinforced. Mr. Backman displayed a GIS map. Adjacent properties were discussed. Their garage is about 12 to 15 feet from the abutter's garage on Maiden Cove. There are currently four parking spots in the driveway; that is not changing. There will be no impact on views. All three abutters were in favor.

The Chair said this is not a variance; it is an expansion on a nonconforming lot. The CEO confirmed that an overhang (up to 2 feet) is an architectural detail.

Mr. McDougal stated that no correspondence was received.

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

Mr. Powers moved to approve the request of Elizabeth and Kyle Kirby, owners of the property at 20 Surf Road, Map U05 Lot 60, 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 7 to 0.

Findings of Fact:

1. The property is a nonconforming lot in the RC zone. The property contains a single-family dwelling.
2. The attached garage is 4 feet from the side property line, and the required setback is 10 feet. The owner would like to add a dormer above the garage, 6 feet from the side 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.

Mr. Powers moved to approve the Findings of Fact and Additional Findings of Fact; Ms. Kerkam seconded. The motion carried by a roll call vote of 7 to 0.

E. Communications: None.

F. Adjournment: Chairman Justh adjourned the meeting at 7:22 p.m.