

Town of Cape Elizabeth
DRAFT Minutes of the January 26, 2021
Board of Zoning Appeals Meeting
Zoom Webinar ID: 948 4552 4235

As a result of the COVID-19 virus, the Board of Zoning Appeals conducted the meeting via Zoom meeting remote access, as provided by Maine law. Zoom allowed all Zoning Board members, applicants, and members of the public to hear all discussion and hear votes, which were taken by roll call, as required by law. Information to access the meeting by video/audio or audio only was provided to the public in advance.

Participating Members of the Board:

Joseph Barbieri
Aaron Mosher
Michael Vaillancourt

Matthew Caton
Colin Powers

Kevin Justh
Michael Tadema-Wielandt

The Code Enforcement Officer (CEO), Benjamin McDougal participated in the webinar. The Recording Secretary, Carmen Weatherbie, was logged on.

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

B. Approval of Minutes:

1. Approval of the Minutes for December 2, 2020: A motion to approve the minutes was made by Mr. Justh; seconded by Mr. Barbieri. All were in favor. Vote: 7 - 0.

C. Old Business: None.

D. New Business:

To hear the request of Erik and Leah Lippmann, owners of the property at 528 Spurwink Avenue, Map U43 Lot 6, to reconstruct and enlarge a detached garage on their property based on Sections 19-4-3.B.3 and B.4 of the Zoning Ordinance.

Chairman Vaillancourt asked CEO McDougal for the background. The CEO stated that a year ago they started talking about replacing the old dilapidated shed/garage in their backyard that is roughly 13' from property line. They would like to reconstruct it and expand it a bit using the 13' setback rather than the 25' setback required in the zoning district. That 25' setback is based on it being a nonconforming lot in the RA Zone. That setback is for an accessory structure.

Leah Lippmann said they want to replace the existing structure. The new structure is slightly smaller but is it on the same footprint. It houses all the stuff they need on a property. Their house has minimal storage. Erik Lippmann stated they are asking to go

a little taller than what it is now. It has a flat roof now, which in a typical winter they have to shovel. They want a steeper roof to prevent having to do that.

CEO said they could replace it in kind with a simple building permit, but a 1 to 2 pitch shed is not very useable or practical to replace it that way. So they are expanding slightly into the 25' setback.

The CEO stated he did not receive any public comments and there were no attendees logged in to the meeting.

Finding no public participants logged in, Chairman Vaillancourt closed the floor.

A board member ask the CEO for clarification of the expand, enlarge, and reconstruct language. The CEO said they are doing all of those things, so different sections of the Ordinance apply. They are reconstructing, replacing, and expanding by adding the loft. The half story loft above is the expansion, which triggered the ZBA. The expansion is a cubic foot increase; they are staying on the same footprint.

In response to questions, Mr. Lippmann said the current foundation is a floating slab which has cracked and crumbled and shifts with the frost. They hope to take that out and replace it with a frost wall foundation. In response to location questions, Mr. Lippmann said the garage portion of it is basically for small canoes, kayaks, not vehicles. The center of the lot is the backyard. Mrs. Lippmann said the area in front of the shed, where it could get moved is lower and gets wet. A lot more site work would be needed.

There is no plumbing proposed. The current electrical panel would be maintained.

The board found the application to be complete and well prepared.

Mr. Justh moved to approve the request of Erik and Leah Lippmann, owners of the property at 528 Spurwink Avenue, Map U43 Lot 6, to reconstruct and enlarge a detached garage on their property based on Sections 19-4-3.B.3 and B.4 of the Zoning Ordinance. Mr. Tadema-Wielandt seconded. Motion was approved by a roll call vote: 7 – 0. All were in favor.

Findings of Fact:

1. The property is a nonconforming lot in the RA zone. The property contains a single-family dwelling and a shed.
2. The existing shed does not meet the side setback requirement. The owner would like to reconstruct and expand the shed without getting closer to 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 Section 19-4-3.B.2, B.3, and B.4 in the Zoning Ordinance.

Mr. Justh moved to approve the Findings of Fact and Additional Findings of Fact; Mr. Tadema-Wielandt seconded. Motion was approved by a roll call vote: 7 – 0. All were in favor.

E. Communications: 2021 meeting schedule, updated Freedom of Access Act (FOAA) guidelines, and continued remote meetings were discussed.

F. Adjournment: Chairman Vaillancourt adjourned the meeting 7:23 p.m.