

Town of Cape Elizabeth  
**DRAFT** Minutes of the July 27, 2021  
Zoning Board of Appeals Meeting

Present:

Matthew Caton  
Colin Powers

Kevin Justh  
Michael Tadema-Wielandt

Aaron Mosher  
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. and reviewed protocols based on Maine Municipal Association Board of Appeals Manual.

**B. Approval of Minutes:** Mr. Justh moved to approve the minutes of June 22, 2021; seconded by Mr. Tadema-Wielandt. The minutes were approved by of a vote of 6 - 0.

**C. Old Business:** None.

**D. New Business:**

**Agenda Item 1.** To hear the request of Suzanne Van Wye, owner of the property at 49 Wells Road, Map U58 Lot 33, to enlarge a nonconforming single family dwelling based on Section 19-4-3.B.4 of the Zoning Ordinance.

The CEO stated Ms. Van Wye would like an addition on the back of her house. She is aware that her house sits almost entirely in the front setback. It is an old house, very close to the road.

Ms. Van Wye said that about half of the purposed addition falls inside the setback. The total addition is about 215 square feet. She's lived in the house for 51 years and raised a family there. This was always a small house, so she has no need to down size; however, she would like to be able to live on one floor. An existing space would be converted into a first floor master bedroom and an existing hall would be extended to the kitchen and a full bath and laundry would be added.

The CEO stated he received three emails from immediate abutters in support of the project.

Public Comment: None.

In response to questions, Ms. Van Wye stated that she has a septic tank that pumps to the town sewer. Architect Stephen Pondelis prepared the drawing in the application. As far as impact on views, the back of the house will be more esthetic for the neighbor behind.

The CEO stated this lot is shown on the Cross Hills Subdivision Plan. The side setback is 25 feet. This is a one-story addition.

Mr. Mosher moved to approve the request of Suzanne Van Wye, owner of the property at 49 Wells Road, Map U58 Lot 33, to expand her house based on Section 19-4-3.B.4 of the Zoning Ordinance. Mr. Tadema-Wielandt 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 does not meet the front setback requirement. The owner would like to construct an addition on the rear of the house, part of which is still within the 40 foot front setback.

**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 enlargement 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. Justh moved to approve the Findings of Fact and the Additional Findings of Fact; Mr. Mosher seconded. The motion carried. Vote: 6 - 0.

**Agenda Item 2.** To hear the request of Neil Martelle and Sara Hirshon, owners of the property at 22 Pilot Point Road, Map U12 Lot 100, to enlarge a nonconforming single family dwelling based on Section 19-4-3.B.4 of the Zoning Ordinance.

Mr. Martelle handed out additional color photos. In 2015 they purchased house, then had twins. The plan is to expand generally within the current footprint with the exception of a small addition to the back, which will close in the current screened in porch, for about 150 square feet increase. The west side is 19 feet to the shared fence. The site plan is from the mortgage. They want to maximize their living space.

The CEO did not receive any formal comments. He did receive one informal call phone; he answered their questions.

Public Comment: None.

In response to board questions, Mr. Martelle stated they are not going closer to the fence, just over the existing garage. It will not go any closer to the front. Views are not impacted due to the slope in the area. It will be a two-story addition where current porch is located, just slightly bigger.

Mr. Powers moved to approve the request of Neil Martelle and Sara Hirshon, owners of the property at 22 Pilot Point Road, Map U12 Lot 100, to expand their house based on Section 19-4-3.B.4 of the Zoning Ordinance. Mr. Tadema-Wielandt 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 does not meet the side setback requirement. The owner would like to expand the house vertically, 19 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 enlargement 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 the Additional Findings of Fact; Mr. Mosher seconded. The motion carried. Vote: 6 - 0.

**E. Communications:** None.

**F. Adjournment:** Chair Vaillancourt adjourned the meeting at 7:32 p.m.