Town of Cape Elizabeth
Minutes of the April 27, 2022
Zoning Board of Appeals Meeting

Present:

Joseph Barbieri	Adam Foster-Webster	Kevin Justh
Katherine Kerkam	Michael Tadema-Wielandt	

The Code Enforcement Officer (CEO), Benjamin McDougal was also present.

A. Call to Order: Acting Chairman Justh 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: Approval of the Minutes for March 22, 2022: A motion to approve the minutes was made by Mr. Tadema-Wielandt; seconded by Foster-Webster. Vote: 4 – 0 in favor. Mr. Barbieri abstained; was not present at the March meeting.

C. Old Business: None.

D. New Business Item 1:

To hear the request of Colin Pears and Christina Day, owners of the property at 1 Roundabout Lane (Map U36 Lot 76), to expand their home based on Section 19-4-3.B.4 of the Zoning Ordinance.

Acting Chairman Justh asked CEO McDougal for the background. The CEO stated that this is a nonconforming lot in the RA Zone. The applicants' designer has a proposal to do a one-story expansion on the rear of the house. The way the house sits, a corner of the house is 10 feet from the side property line. The nonconforming set back is 25 feet. They are proposing an addition off the rear that would be 12 feet 6 inches from that property line. This is further from that property than the existing structure so it will not be more nonconforming.

Mr. Pears stated that they love the house and just wanted to change the roofline and the house as little as possible. They feel this design does that.

In response to questions, the Mr. Pears said the expansion is located where it is because of the chimney at the center back of the house. They could not put it anywhere else. Esthetically, if we look at the house from the back it creates a nice balance. The house is unique in that you can see the house from the rear on Salt Spray Road. The expansion will sit on lawn, so little or no vegetation will be disturbed.

The CEO stated that he received one email and one phone call in support of this project.

Finding no additional public comment, Acting Chairman Justh closed the floor.

There was a brief board discussion. The application was well done.

Mr. Tadema-Wielandt moved to approve the request of Colin Pears and Christina Day, owners of the property at 1 Roundabout Lane (Map U36 Lot 76), to expand their house based on Section 19-4-3.B.4 of the Zoning Ordinance; Mr. Foster-Webster seconded. All were in favor. Vote 5 – 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 is 10 feet from the side property line. The required side setback is 25'. The owner would like to expand the house by constructing a single story addition, 12' 6" 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 in the Zoning Ordinance.

Mr. Tadema-Wielandt moved to approve the Findings of Fact and Additional Findings of Fact; Mr. Foster-Webster seconded. All were in favor. Vote: 5 – 0.

D. New Business Item 2:

To hear the request of Dave Ornvold, representing Grant Burgess, owner of the property at 216 Mitchell Road (Map U33 Lot 51), to add a second floor to his garage based on Section 19-4-3.B.4 of the Zoning Ordinance.

Acting Chairman Justh asked CEO McDougal for the background. The CEO stated that Mr. Ornvold is the designer for this project. This is a nonconforming lot in the RC Zone. It is an interesting lot because it's a very large lot but it is also very narrow. It does not have the road frontage to be a conforming lot. It is extremely narrow at the point where the house is, so that the garage is roughly three feet from the side property line. The proposal is to add living space above the garage and also connect the garage to the house with living space. And also to add an Accessory Dwelling Unit, which is the next

agenda item. Because rationally you can't approve a use until you have an approved the structure. It is the same set of plans and attachments for both applications.

Mr. Dave Ornvold stated he was representing the Burgess' who just had their first baby. For clarification, they are not adding a second story to the existing garage, just a dormer to the north side of the structure so that they can make the most out of the existing half-story that is there. The goal of this is to have the space for their family, primarily for the mother, who lives in California to come and stay. She would like to come and stay and have a place that's her own, and allow the family to have their own space. This creates layers of privacy for all.

The connecting element was to comply with the attached requirement for the Accessory Dwelling Unit. This will create an inviting semi-formal front entry and create a space that could be used as a family-friendly dinning room. They are keeping the ADU at 600 square feet. They are keeping one bay of the existing garage and creating a new carport.

Mr. Ornvold explained the plans and design concept.

In response to questions, the Mr. Ornvold said the existing garage is in great shape; they will be doing necessary improvements to frost protect the slab. The connector meets the setback and square foot requirements. Part of the garage conversion will be mudroom space for the main house. The footprint of the garage that will be turned into ADU space is 304 square feet.

The CEO stated that he did not receive any correspondence concerning this application.

Finding no public for comment, Acting Chairman Justh closed the floor.

There was a brief board discussion. The application was well done.

Mr. Foster-Webster moved to approve the request of Dave Ornvold, representing Grant Burgess, owner of the property at 216 Mitchell Road (Map U33 Lot 51), to expand the second floor to his garage based on Section 19-4-3.B.4 of the Zoning Ordinance; Mr. Barbieri seconded. Vote 5 – 0 in favor.

Findings of Fact:

1. The property is a nonconforming lot in the RC zone. The property contains a single-family dwelling.

2. The existing garage is 2' 8" from the side property line. The required setback is 10 feet. The owner would like to expand it by expanding the second story of the garage.

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 in the Zoning Ordinance.

5. The proposed connection between the house and the garage meets the 10-foot setback and therefore does not need to be included in this approval.

Mr. Tadema-Wielandt moved to approve the Findings of Fact and Additional Findings of Fact; Mr. Foster-Webster seconded. All were in favor. Vote: 5 – 0.

D. New Business Item 3:

To hear the request of Dave Ornvold, representing Grant Burgess, owner of the property at 216 Mitchell Road (Map U33 Lot 51), to create an Accessory Dwelling Unit above the existing garage.

Acting Chairman Justh announced that new state legislation, LD 2003, was signed today concerning Accessory Dwelling Units. The town's current Zoning Ordinance applies for this item tonight.

Acting Chairman Justh asked CEO McDougal for the background. The CEO stated that this is to have an Accessory Dwelling Unit in what is now the garage. This would convert a portion of the garage into living space for an Accessory Dwelling Unit.

In response to questions, Mr. Ornvold explained how the square footage for the ADU was figured. The CEO also explained the intent and interpretation of the percentage requirements in the ordinance. The entrance into the ADU is in the mudroom. There will also be a sliding door for access.

Finding no public comment, Chairman Carver closed the floor.

There was a brief board discussion.

Mr. Tadema-Wielandt moved to approve the request of Dave Ornvold, representing Grant Burgess, owner of the property at 216 Mitchell Road (Map U33 Lot 51), to grant the conditional use permit to create an Accessory Dwelling Unit based on Sections

19-7-5 and 19-5-5 of the Zoning Ordinance; Mr. Foster-Webster seconded. All were in favor. Vote 5 – 0.

Findings of Fact:

1. This is a request for a Conditional Use Permit to create an Accessory Dwelling Unit based on Sections 19-7-5 and 19-5-5 of the Zoning Ordinance.

2. The subject property is 216 Mitchell Road (Map U33 Lot 51).

3. The subject property is a nonconforming lot in the RC zone. A single-family dwelling is currently on the lot. The existing garage structure is nonconforming relative to the side setback.

4. Grant Burgess is the owner of the property.

Additional Findings of Fact:

1. The proposed use will not create hazardous traffic conditions when added to existing and foreseeable traffic in its vicinity.

2. The proposed use will not create unsanitary conditions by reason of sewage disposal, emissions to the air, or other aspects of its design or operation.

3. The proposed use will not adversely affect the value of adjacent properties.

4. The proposed site plan and layout are compatible with adjacent property uses and with the Comprehensive Plan.

5. The design and external appearance of any proposed building will constitute an attractive and compatible addition to its neighborhood, although it need not have a similar design, appearance or architecture.

6. The applicant has demonstrated compliance with the requirements in Section 19-7-5.B of the Zoning Ordinance.

Mr. Tadema-Wielandt moved to approve the Findings of Fact and Additional Findings of Fact; Mr. Barbieri seconded. All were in favor. Vote: 5 – 0.

E. Communications: None.

F. Adjournment: Acting Chairman Justh adjourned the meeting 7:59 p.m.