

Town of Cape Elizabeth  
Corrected Minutes of the July 26, 2022  
Zoning Board of Appeals Meeting

Present:

Joseph Barbieri  
Colin Powers

Adam Foster-Webster

Kevin Justh

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

**A. Call to Order:** Acting Chairman Justh called the meeting to order at 7:01 p.m. and reviewed protocols based on Maine Municipal Association Board of Appeals Manual.

**B. Approval of Minutes:** Approval of the Minutes for May 24, 2022: Minutes should be corrected to read CEO vice ECO on Page 2, middle of third paragraph. A motion to approve the minutes, with the noted correction was made by Mr. Foster-Webster; seconded by Mr. Barbieri. Vote: 4 – 0 in favor.

**C. Old Business:** None.

**D. New Business:** The applicant for the first agenda item was not present. A motion to hear the second agenda item first was made by Mr. Foster-Webster; seconded by Mr. Barbieri. Vote: 4 – 0 in favor.

**New Business Item 2:**

To hear the request of Chris Herlihy, representing Adam and Leah Young, owners of the property at 204 Two Lights Road (Map U15 Lot 16), to reconstruct and expand their house and garage based on Section 19-4-3.B.3 and B.4 of the Zoning Ordinance.

Acting Chairman Justh asked CEO McDougal for the background. The CEO stated that he's been speaking with the architect, Chris Herlihy, for a number of months. This is a relatively old house built 100 - 120 year ago. Remodeling the house doesn't seem reasonable due to its condition. They are proposing to do a reconstruction of the house and garage and expand it. In this RA Zone, there are very narrow lots; there is almost no building envelope — just a very narrow legal envelope on this lot. Almost anything built on these lots would have to come to the Zoning Board unless rebuilt in kind.

Mr. Chris Herlihy stated they would like to remove the existing house. It has a rubble foundation with some concrete, varying heights of dirt basement. It has been added onto a couple times. There are 3 foundation pieces. Every option kept leading back to starting fresh. Mr. Herlihy showed plans for the reconstruction. Plans are to widen the path between the two houses, increasing 1.5 feet to provide access to the back. They will be replacing a dated retaining wall that's on one side of the property using concrete and stone. He did a study on the neighboring houses and effects of this reconstruction.

They looked closely at the house next door at 202, along with walking around the neighborhood and looked around for any place they might be interfering with views of any sort. From the neighbor's house, they recognized a view that they preserved by scooping out a porch.

The CEO stated this is not in the Shoreland Overlay district.

In response to questions Mr. Herlihy said the homeowners have reached out to neighbors, so far there are no concerns. Both houses on either side are short term rentals. There will be an all new replacement septic system with new leach field. Vegetation removed will be just grass.

The CEO stated that he received one supportive email concerning this application and one email that expressed some general concerns about the massing in the neighborhood

Public Comment: Mr. Wayne Brooking, Jr., of 223 Two Lights Road, wanted to look closer at proposed plan and design. He currently has view of whole lighthouse from front yard. He was curious if his view would be affected. He was given a copy of the plans and could not tell. Mr. Brooking stated it was not a big deal; he was just curious.

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

There was a brief board discussion. The application was well thought out.

The board was concerned about there being only 20% building coverage on the lot. The CEO stated that will be a survey quality number that will be verified before a building permit is issued.

The lot only 50 feet wide, with a requirement of a 25 foot side set back, so a variance is required. This plan does not increase the nonconformity. It does increase the distance to the front property line and one side property line and holds the property line on the other side.

Mr. Powers moved to approve the request of Chris Herlihy, representing Adam and Leah Young, owners of the property at 204 Two Lights Road, Map U15 Lot 16, to reconstruct and expand their house and garage based on 19-4-3.B.2, B.3 and B.4 of the Zoning Ordinance. Mr. Foster-Webster seconded. Vote 4 – 0 in favor.

### **Findings of Fact:**

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

### **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, B.3, 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. All were in favor. Vote: 4 – 0.

**New Business Item 1:**

Finding the applicant not present, Acting Chair Justh moved to table Agenda Item 1: To hear the Variance request of Ronald Stanton, owner of the property at 25 Stonybrook Road (Map U3 Lot 137), to construct an addition on the front of his house 10 feet from the front property line. Mr. Powers seconded. Vote 4 – 0 in favor.

**E. Communications:** None.

**F. Adjournment:** Acting Chairman adjourned the meeting 7:21 p.m.