

Town of Cape Elizabeth
Minutes of the May 26, 2020
Zoning Board of Appeals Meeting
Zoom Webinar ID: 959 1587 0167

As a result of the COVID-19 virus, the Zoning Board 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	Kevin Justh	Aaron Mosher
Colin Powers	Michael Tadema-Wielandt	Michael Vaillancourt

The Code Enforcement Officer (CEO), Benjamin McDougal, participated in the webinar. The Recording Secretary, Carmen Weatherbie, prepared the minutes from the recorded video.

A. Call to Order: Chair Michael Vaillancourt called the meeting to order at 7:00 p.m.

B. Approval of Minutes:

1. Approval of the Minutes for April 28, 2020: A motion to approve the minutes was made by Mr. Justh; seconded by Mr. Mosher. All were in favor. Vote: 6 – 0.

C. Old Business: None.

D. New Business:

1. To hear the request of Lucas and Kristen Homicz, owners of the property at 5 LedgeWood Lane, Map U36 Lot 31, to expand a nonconforming single-family dwelling based on Section 19-4-3.B.4 of the Zoning Ordinance.

Mr. Justh said he lives within 500 feet of the Homiczes and that they are personal friends. Mr. Justh has no financial ties to the application. He felt he could be impartial.

Mr. Barbieri stated the Dr. Homicz was his family dentist and he knows Kristen. He felt he could be impartial.

Mr. Tadema-Wielandt also stated that he knows the Homiczes as their kids are in school and play together. He felt he could be impartial.

Chairman Vaillancourt thanked the members for their disclosures. No one voiced concern for a conflict of interest by the disclosures.

Chairman Vaillancourt asked CEO McDougal for the background. The CEO stated that Mr. and Mrs. Homicz wanted to expand their house. They have a non-conforming lot in the RA Zone. The original house was built in 1961. The non-conforming setbacks are 25 feet on the front and 25 feet on the side. The house as it currently sits doesn't meet either setback. It is 18.3 feet from the front property line and 24.6 feet from the side property line. They want to expand by adding a story. Part of that upper story addition is within the setback; therefore, it triggers Zoning Board Approval. The Homiczes are not going to get closer to the property lines; the additional will go straight up.

The CEO said two emails in support of the project were received.

Dr. Homicz stated that the CEO accurately described the project. The plan to expand is not an entire story; it is just an area of the house that will go up a floor for an ensuite master bedroom. The plan is not to change the footprint, except in one small area that is not in the area of setback concern, for an entry portico.

There was a brief discussion concerning the front portico/porch area. The CEO stated it was 27.4 feet from the front property line. It complies with the zoning setback.

The chair noted there were no members of the public logged in to the webinar.

The board discussed the language of the Ordinance and the condition of the existing house and foundation. The house is on public sewer. Two direct abutters are supportive.

Mr. Powers moved to approve the request Lucas and Kristen Homicz, owners of the property at 5 LedgeWood Lane, Map U36 Lot 31, to expand a single family dwelling based on section 19-4-3.B.4 of the Zoning Ordinance. Mr. Mosher seconded. Motion was approved by of a roll call vote: 6 – 0.

Findings of Fact:

1. The property is a nonconforming lot in the RA zone. There is an existing single family dwelling on the property that is also nonconforming.
2. The existing house, constructed in 1961, does not meet the current 25-foot side and front setback requirements and the owners are proposing to expand the 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 Section 19-4-3.B.2 in the Zoning Ordinance.

5. The Zoning Board of Appeals has considered the physical condition and type of the foundation.

Mr. Powers moved to approve the Findings of Fact and Additional Findings of Fact; Mr. Justh seconded. Motion was approved by of a roll call vote: 6 – 0.

E. Communications: None.

F. Adjournment: Chairman Vaillancourt adjourned the meeting 7:37 p.m.