



Zoning Board of Appeals  
Post Office Box 875  
Ogunquit, Maine 03907-0875

**OGUNQUIT ZONING BOARD OF APPEALS  
MEETING MINUTES  
MARCH 12, 2020**

**CALL TO ORDER - 4:00 p.m.**

Members Present: Jay Smith, Chair (Term Expires 2020)  
Jerry DeHart, Vice Chair (Term Expires 2020)  
Mike Horn (Term Expires 2021)  
Doug Mayer (Term Expires 2022)  
Carole Aaron (1<sup>st</sup> Alternate) (Term Expires 2020)  
Glen Deletetsky (2<sup>nd</sup> Alternate) (Term Expires 2020)

Members Excused: Peter Griswold, Secretary (Term Expires 2022)

Also Present: Scott Heyland, Ogunquit Code Enforcement Officer.

Mr. Smith noted that a quorum was present; and the Board would follow the agenda as posted.

Mr. Smith noted that, due to Mr. Griswold’s absence, Ms. Aaron would be a full voting member for the duration of this meeting.

**ACCEPTANCE OF MINUTES – December 12, 2019.**

**Ms. Aaron Moved to Accept the Minutes from the December 12, 2019 Meeting as Submitted.**

**AARON/DEHART 5:0 UNANIMOUS**

**OLD BUSINESS – None**

**NEW BUSINESS**

- 1. RHONDA BROOKS and BRENDA SCHIFFER – 240 Berwick Road – Map 16 Block 85 – RD. Variance Request under OZO Article 5.2.B.2.c: Disability Variances.**

Mr. DeHart informed the Board that Ms. Brooks and Ms. Schiffer are longstanding clients; and his company (Coastal General Construction) represents them for this application. As such he requested that he be recused from hearing this case.

The Board agreed that Mr. DeHart should recuse himself; and Mr. DeHart left the auditorium.

Mr. Smith confirmed that the Board had standing to hear this case; and he moved Mr. Deletetsky to full voting member status in Mr. DeHart's absence.

Norm Clough from Coastal General Construction addressed the Board as the Applicants' representative. He summarized that the Applicants are requesting a variance from the side setback so that a temporary ramp and deck can be constructed for wheelchair access, for Ms. Schiffer, from the driveway's elevation to the home's first floor level. He noted that he had submitted a survey and structural plans for the proposed ramp and deck. He added that they are requesting this variance based upon the Americans with Disabilities Act (ADA).

Mr. Smith summarized that this property involves a non-conforming structure due to side setback violations. It is also a non-conforming lot due to acreage and street frontage issues.

Mr. Smith noted that there may be a requirement that once the disability goes away the zoning violation will go away; and subsequently the Variance.

Mr. Clough responded that the application includes a provision that any granted variance will be for a temporary structure; and if the property is conveyed the structures noted under the variance will be removed. The proposed ramp and deck will be freestanding and will not be attached to the existing structure.

Mr. Smith quoted Article 5.2.B.2.c of the Ogunquit Zoning Ordinance which states that "The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling...". He noted for the record, that this is an important standard.

Mr. Smith noted that the closest abutter has stated that he has reviewed the application and is willing to accommodate the applicants as long as the additional structure is removed should the property be sold or if the need for the disability variance no longer exists.

Mr. Mayer noted that the proposed deck is somewhat substantial in size.

Mr. Clough responded that the applicant has asked for an enlarged deck so that a wheelchair can safely and comfortably turn around and maneuver between the ramp and the home's entrance.

Mr. Mayer asked if they plan to use a metal roof to deflect snow and rain.

Mr. Clough responded that they do; and the roof will help keep snow and ice off the deck.

Mr. Smith noted a letter from the Applicant's doctor confirming the need for the proposed structure.

Mr. Smith confirmed that the Applicant has proven that the need for the disability variance is

valid; and that the proposed structure will be temporary as required by the Ordinance.

**Mr. Deletetsky Moved to Grant the requested Variance for RHONDA BROOKS and BRENDA SCHIFFER – 240 Berwick Road – Map 16 Block 85 – RD. Variance Request under OZO Article 5.2.B.2.c: Disability Variance; with the understanding that the addition will be removed at the conclusion of the handicapped condition or if the property is transferred to a new owner.**

**DELETETSKY/HORN 5:0 UNANIMOUS**

**2. MARYANN HARRINGTON – 7 Oak Lane – Map 8 Block 73 – RD. Variance Request under OZO Article 5.2.B.2.c: Disability Variance.**

Mr. Smith noted that Mr. DeHart had rejoined the Board, however Mr. Smith would allow Mr. Deletetsky to retain his voting member status for the duration of the meeting.

Ms. Harrington addressed the Board. She stated that the front of the house has a concrete landing which is unsafe. She wants to replace the concrete with decking and “walker” steps up to the deck / house entrance. This will allow them to access the house from the driveway. She noted that the front lawn area is also uneven and unsafe for her partner to access.

Mr. Smith noted that this application involves a non-conforming structure on a non-conforming lot. He confirmed that this application involves a request under the Disability Variance standards of the Zoning Ordinance.

Mr. Horn asked about the site survey which indicates a new deck on the right side of the house.

Ms. Harrington responded that there will be two decks constructed but only the deck and stairs on the front of the house fall under this variance request. The other deck will meet code requirements and isn't part of this application.

Mr. Mayer asked if the new structure would be removed if the disability no longer exists?

Ms. Harrington responded that it will.

Mr. DeHart asked how high the door to the house is from the existing concrete pad.

Mr. Heyland responded that the proposed ramp will be about a four foot (4') elevation difference between the driveway and the door to the house.

Mr. DeHart asked for confirmation that the applicant is asking for a new 7'x14' deck with an ADA ramp to the ground; and both will be in the setback.

Ms. Harrington responded “that is correct”.

Ms. Harrington responded that the deck will be a place for the person with the disability to sit outside; and also catch his balance before he comes up, or goes down, the stairs.

Mr. Horn asked if the applicant could provide a physician's letter confirming that a person residing in, or regularly using, the house has a disability.

Ms. Harrington agreed to get such a letter and provide it to the Land Use Office for the file.

Mr. DeHart noted that the Board needs to consider the language in Article 5.2.B.2.c which states, in part: "The board shall restrict any variance granted under this sub-article solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability". He asked if the Board has to consider the size of the proposed deck and if it is more than is needed to have a walker or wheelchair access the building.

Mr. DeHart added that the Board should absolutely grant Disability Variances. The Town wants people to be able to age in place with dignity and comfort; and that the Board has a Code to follow and has to look at each application individually and apply Ordinance standards to it.

**Ms. Aaron Moved to Grant the requested Variance for MARYANN HARRINGTON – 7 Oak Lane – Map 8 Block 73 – RD. Variance Request under OZO Article 5.2.B.2.c: Disability Variances; with the understanding that the addition will be removed at the conclusion of the handicapped condition or if the property is transferred to a new owner; and the Applicant will supply the requested physicians letter.**

**AARON/HORN 5:0 UNANIMOUS**

**CODE ENFORCEMENT OFFICER BUSINESS – None**

**OTHER BUSINESS – None**

**ADJOURNMENT –**

**Mr. Horn Moved to Adjourn at 4:45 p.m.  
HORN/AARON 5:0 UNANIMOUS**

Respectfully Submitted

*Maryann Stacy*

Maryann Stacy  
Recording Secretary

*Accepted as Submitted: June 11, 2020*