



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

**OGUNQUIT ZONING BOARD OF APPEALS
REGULAR BUSINESS MEETING
DECEMBER 8, 2022
DUNAWAY CENTER MAIN AUDITORIUM
and via ZOOM
1:00 P.M.**

1. ROLL CALL and CALL TO ORDER - 1:00 p.m.

Mr. Deletetsky called the roll:

Members Present: Jay Smith, Chair
Peter Griswold, Vice Chair
Glenn Deletetsky, Secretary
Mike Horn
Doug Mayer (1st Alternate)

Members Excused: Jerry DeHart

Also Present: Tyler McOsker, Code Enforcement Officer
Benjamin Lewando, Applicant
William McDonough, Applicant
David Ballou, Esq, Applicants' Legal Counsel

Mr. Smith noted that Mr. Mayer would be moved to full voting member status in the absence of Mr. DeHart.

Mr. Smith confirmed that a quorum was present.

2. ACCEPTANCE OF MINUTES – September 8, 2022

**Mr. Griswold Moved to Accept the Minutes of the September 8, 2022 Meeting as Submitted.
GRISWOLD/DELETETSKY 5:0 UNANIMOUS**

3. UNFINISHED BUSINESS – None

4. **NEW BUSINESS –**

BENJAMIN LEWANDO and WILLIAM AND SUSAN MCDONOUGH – 90 Ocean Street (Map 9 Block 33 RD) and 92 Ocean Street (Map 9 Block 33-A RD). Variance Request under Article 225-5.2.B(2)(a) Relaxed Dimensional Standards for a proposed lot line adjustment.

Mr. Smith confirmed that there were no Board members with a conflict sufficient to disqualify him/them from hearing this case.

Mr. Smith confirmed that the Board had jurisdiction/standing to hear this case.

Attorney David Ballou addressed the Board as the Applicants' legal counsel and give a brief overview of the project as well as the overall objectives for the proposed lot changes.

Applicant William McDonough and Applicant Benjamin Lewando also presented their arguments as to the reasons for the proposal for Mr. Lewando to sell a portion of this lot to the McDonough's.

Mr. Smith opened the floor to abutters and other members of the public.

Susan Nobile – 48 Ocean Street expressed her support for the request for a variance and asked the Board to approve it.

Albert Vasquez – 85 Riverbank Road – Mr. Vasquez's property abuts the rear of the Applicants' properties, he noted the currently inactive use of the garage and expressed concern that should the variance be granted the use may change and he is concerned about an increase in noise and loss of his privacy.

Rebecca Fox – 21 Marginal Avenue suggested a vegetative buffer might alleviate Mr. Vasquez's concerns.

Chairman Smith reviewed two e-mails which came from abutters: Norman DeMarais – 106 Ocean Avenue and Alan and Judy Ross – 86 Ocean Street.

Code Enforcement Officer McOsker reviewed his November 23, 2022 Memo to the Board wherein he reiterated that "moving the property line will create a nonconforming structure along two sides of the garage."

With no further requests to be heard from the public or the Applicants, Chairman Smith closed the public portion of the Hearing at 1:40 p.m.

After discussion, the Board reviewed Standards i through vi of Chapter 225-5.2.B.2.a and came to the following decisions:

- i. The need for the variance is due to the unique circumstances of the property and not to the general condition of the neighborhood.

Vice Chair Griswold Moved to Find this Standard “Not Met”.
GRISWOLD/DELETETSKY 5:0 UNANIMOUS

- ii. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably or detrimentally affect the use or market value of abutting properties.

Vice Chair Griswold Moved to Find this Standard “Met”.
GRISWOLD/HORN 5:0 UNANIMOUS

- iii. The practical difficulty is not the result of action taken by the petitioner or a prior owner.

Vice Chair Griswold Moved to Find this Standard “Not Met”.
GRISWOLD/DELETETSKY 5:0 UNANIMOUS

- iv. No other feasible alternative to a variance is available to the petitioner.

Vice Chair Griswold Moved to Find this Standard “Not Met”.
GRISWOLD/DELETETSKY 5:0 UNANIMOUS

- v. The granting of a variance will not unreasonably or adversely affect the natural environment.

Vice Chair Griswold Moved to Find this Standard “Met”.
GRISWOLD/HORN 5:0 UNANIMOUS

- vi. The property is not located in whole or in part within the Shoreland Zone.

Vice Chair Griswold Moved to Find this Standard “Met”.
GRISWOLD/DELETETSKY 5:0 UNANIMOUS

Vice Chair Griswold Moved to Deny the Application for BENJAMIN LEWANDO and WILLIAM and SUSAN MCDONOUGH – 90 Ocean Street (Map 9 Block 33 RD) and 92 Ocean Street (Map 9 Block 33-A RD). Variance Request under Article 225-5.2.B(2)(a) Relaxed Dimensional Standards for a proposed lot line adjustment, on the grounds that Standards i, iii, and iv of Chapter 225-5.2.B.2.a were not met.
GRISWOLD/DELETETSKY 5:0 UNANIMOUS

Chairman Smith noted that the relevant Ogunquit Zoning Ordinance Sections are:

- Chapter 225-1.4 – Conformity;
- Chapter 225-2.2 - Definitions – Accessory Building or Structure;
- Chapter 225-5.2.B(2)(a) - Relaxed Dimensional Standards;
- Chapter 225-5.3 – Appeals Procedure.

- 5. **CODE ENFORCEMENT OFFICER BUSINESS** – None
- 6. **OTHER BUSINESS** – None

7. **ADJOURNMENT** –

**Vice Chair Griswold Moved to Adjourn at 2:21 p.m.
GRISWOLD/DELETETSKY 5:0 UNANIMOUS**

Respectfully Submitted

Maryann Stacy

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Recording Secretary

Notes:

- *These minutes are a summary of what was discussed and are not a transcript.*
- *Copies of referenced documents will be maintained in the Application packet on file with the Land Use Office.*
- *All Board meetings are video archived, and may be viewed for one year after the meeting date, on the Town of Ogunquit's website at www.townofogunquit.org.*