

**Town of Rockport Zoning Board of Appeals
PUBLIC HEARING
Wednesday, January 26, 2011 – 7:00 p.m.
Rockport Opera House Downstairs Meeting Room
Meeting Televised on Channel 22**

Present: David C. Gordon, Vice Chair
George D. Benson
Michael P. Galgano
Mark W. Masterson

Also Present: Thomas M. Ford, Planning Director
Nancy Ninnis, Recording Secretary

AGENDA

NEW BUSINESS

1. **Bruce A. and Patricia A. Westphal**, Domingo Properties, LLC, 60 Berry Drive, Pacheco, CA 94553
Request: Review for an expansion of a grandfathered nonconforming structure (add 220 sq. ft. deck and enclose an existing 186 sq. ft. deck) in the shoreland setback area under the provisions of Section 1412.3(1) of the Rockport Land Use Ordinance. Represented by Beckstrom Architecture & Planning.
Property: 33 Sea Street – Tax Map 28, Lot 69
District #901 – Harbor Village District
District #1400 – Shoreland Zoning Overlay District

OTHER BUSINESS

2. Review and Approval of Minutes

The meeting was called to order at 7:08 p.m.

Vice Chair Gordon: I am filling in for Chairman Stephen Bowen, who was not able to attend the meeting, and I have established that we have a quorum. I have also confirmed that no Board members have a conflict related to the proposed project.

I. BRUCE A. AND PATRICIA A. WESTPHAL

Representation: **Gregg A. Haining**, Vision Builders, Inc.
1 Business Circle, Rockport, ME 04856
Tel: 207-236-4985; Fax: 207-236-3578
Rosie Curtis, Beckstrom Architecture & Planning
P.O. Box 1200, 280 South Street, Rockport, ME 04856

Tel: 207-594-3306; Fax: 207-594-3307

Re: 33 Sea Street – Map 28, Lot 69
District #901 – Harbor Village District
District #1400 – Shoreland Zoning Overlay District

Request: Review for an expansion of a grandfathered nonconforming structure (add 220 sq. ft. deck and enclose an existing 186 sq. ft. deck) in the shoreland setback area under the provisions of Section 1412.3(1) of the Rockport Land Use Ordinance.

PRESENTATION:

Gregg Haining: I am here representing Vision Builders, which will do the construction work on this project, along with Rosie Curtis, representing Beckstrom Architecture & Planning. The project is an expansion of a grandfathered building in the Shoreland Zone consisting of enclosing an existing deck with a sunroom/living space, adding a new deck on the south side and two dormers on the upper roof. Because the roof height is two feet over the 34-foot height maximum, the roof must maintain an 8/12 pitch. On the south elevation we are also including a two-foot cantilever for a bay window. The calculations we have provided do accommodate the 8/12 dormer pitch indicating that the total expansion is under the 30% allowable maximum.

BOARD QUESTIONS:

Mr. Galgano: What is the outbuilding used for?

Gregg Haining: As a workshop and for boat storage. It is not used as a living space. Should the outbuilding have been included in the 30% expansion calculations?

Planning Director Ford: No, it is included in the calculations for lot coverage, but it is not a factor in the 30% expansion rule. We include only the main building for the expansion calculations.

Mr. Masterson: How did you calculate the volume?

Rosie Curtis: By internal measurement. I received a memo from Code Enforcement Officer Scott Bickford advising that the Beckstrom working drawings provide the most accurate information and that is what we used. Actually, Eric Beckstrom's calculations are more conservative than mine and we used his for this application.

Mr. Masterson: Calculation of expansion is based on the configuration of the building in 1989. Is there anything that shows that this house has previously been expanded since 1989 such that some of the 30% total maximum may have already been used?

Planning Director Ford: There is no definitive record, although there is some indication that there was some rearrangement of the structure during the 1992-1994 period within the framework of the 1989 law. It was looked into by the Zoning Board of Appeals, but there is no documentation in the file.

Mr. Masterson: So we are working on the assumption that there has been no previous expansion.

Gregg Haining: I have worked on more recent previous projects, but they all involved only internal renovations.

Mr. Masterson: Does the bump-out count as square footage?

Planning Director Ford: It does if it has a floor, but not if it is a seat.

Mr. Masterson: The dormers look like they are above the second floor. Is there going to be a third floor?

Gregg Haining: There is already a third floor now, which is a big open loft area. One of the dormers will be utilized in a new bathroom.

Mr. Masterson: So they will add to the square footage?

Gregg Haining: No, there is no additional square footage. Everything has been taken into consideration.

Rosie Curtis: The dormers were included in the volume calculations.

Mr. Masterson: I just wanted to confirm for the record that the calculations include the volume and square footage of all the relevant space.

Mr. Galgano: Do you know the flood plain designation for this property?

Gregg Haining: We received that information yesterday from Gartley & Dorsky. The basement slab elevation is at 15.24 feet and the main floor, which is where our work will start, is at 22.8 feet. The property is in the BE zone. The base flood elevation is 20 feet for a 100-year flood. The basement could be under five feet of water, but our work is three feet above the flood elevation. I will include this information in an email for the file record.

Planning Director Ford: When you come in for a building permit, the Code Enforcement Officer will review that information with you. If construction is above flood elevation, it will not be an issue.

PUBLIC COMMENT: There was no public comment.

Vice Chair Gordon: For the record, please provide your responses to the Section 703.3 Special Exception criteria.

Rosie Curtis: We have responded to the Special Exception criteria as follows:

1. *That the proposed use will not have an adverse effect on the natural environment and/or that the site for that use does not have unusual physical characteristics such as topography, soils, lot size or shape which would have an adverse effect on surrounding properties.*

The proposed expansion simply seeks to enclose an existing deck, add a modest exterior deck on posts and two shed dormers, so will not cause any adverse effects.

2. *That the proposed use would not significantly depreciate the value of surrounding property.*

Because the proposed expansion will only add a deck to the building footprint, it will not affect the value of the surrounding properties.

3. *That the proposed use will not create an unreasonable demand for public services, including, but not limited to, public roads, fire protection, police protection, solid waste disposal, sewage treatment, public water supplies, schools, public open spaces and recreational programs and facilities.*

This is a minimal expansion that does not add any plumbing fixtures and only adds a modest exterior deck to the footprint of the building.

4. *That the proposed use would not result in an inordinate amount of pedestrian and/or vehicular traffic at or surrounding the site and/or cause any problems regarding emergency vehicle access.*

The proposed addition will not cause an increase in occupancy and does not encroach upon the driveway or the road. It will therefore not cause these adverse effects.

5. *When put to any other use, a structure originally designed as a dwelling unit shall not be put to a use that would cause rapid deterioration of the structure.*

The existing structure is a dwelling and shall continue to be used as a dwelling.

6. *That the proposed use will not have an adverse effect on surrounding property in consideration of the expanse of pavement, intensity of use and the buildings' bulk and material.*

This is a minimal expansion that does not increase the amount of pavement or encourage an increase in occupancy. Enclosing an existing deck and adding a small new deck and two dormers will not have an adverse affect on surrounding property.

7. *That the proposed use will not have an adverse effect on the use and quiet possession of surrounding property owners, including, but not limited to, hours of operation, type of traffic and noise levels at property lines.*

The existing and proposed use is a residential dwelling, which will not cause those adverse affects.

The applicant shall provide sufficient information and documentation to assure that the use will meet all applicable requirements under Section 800, General Standards of Performance.

Before granting any special exceptions, the Board of Appeals may refer the application to the Planning Board for an informational report concerning the effect of the request on the surrounding area and any other pertinent data with respect to the Comprehensive Plan of the Town of Rockport.

The proposed building and use will meet all of the requirements set forth in Section 800 and have already been approved by the Rockport Planning Board in September 2006 and July 2009.

House/Porch	1,325 sq. ft.
Driveway	<u>580 sq. ft.</u>
Total Coverage	2,505 sq. ft.
Extra Allowed Coverage	559 sq. ft.
Proposed Coverage (Deck)	<u>220 sq. ft.</u> or 16.3% Lot Coverage
Remaining Allowed Coverage	339 sq. ft.

Existing house is base for future expansion:

Existing Volume	28,525.00 cu. ft.
30% More Volume Allowed	8,577.50 cu. ft.
Enclosing existing porch	
Adding Window Bay	
Adding 2 Gable Dormers	<u>3,135.43 cu ft.</u>
Remaining Allowed Volume	5,442.06 cu. ft.

Existing house is base for future expansion:

Existing Area	3,715.00 sq. ft.
30% More Area Allowed	1,114.50 sq. ft.
New Deck	220 sq. ft.
New Bay	<u>28 sq. ft.</u> <u>248.00 sq. ft.</u>
Remaining Allowed Area	866.50 sq. ft.

VOTE:	George Benson	Yes – Based on review of the materials, the project meets the Special Exception criteria
	Michael Galgano	Yes – Based on review of the materials, the project meets the Special Exception criteria
	David Gordon	Yes – Based on review of the materials, the project meets the Special Exception criteria
	Mark Masterson	Yes – Based on review of the materials and discussion with the applicant, presuming the square foot and volume calculations are accurate, the project meets the Special Exception criteria

The motion was passed 4-0-0.

II. OTHER BUSINESS

Review and Approval of Minutes:

Mr. Benson: I was previously Chair of the Zoning Board of Appeals, but Stephen Bowen was elected Chair at the beginning of the meeting.

MOTION – Michael Galgano/SECOND – George Benson: To approve the minutes of the Zoning Board of Appeals meeting of September 22, 2010 as amended. The motion was passed 3-0-1 with Mark Masterson abstaining because he was not present at the meeting.

The meeting was adjourned at 7:40 p.m.

The next meeting of the Zoning Board of Appeals has not yet been scheduled.

Nancy Ninnis
Recording Secretary