

**Town of Waldoboro  
Board of Appeals  
Meeting Minutes  
April 20, 2004**

**I. Call to Order**

The Board of Appeals met in the Town Office Meeting Room on Tuesday, April 20, 2004. Chairman of the Board, Sam Chapman called the meeting to order at 6:32pm and roll call was done. At this time it was decided that no one on the Board had a conflict of interest.

CEO Black told the Board that Bob Morin had resigned.

Members present were Samuel Chapman, Art Emanuelson, and Russell Hansen. Staff present was Code Enforcement Officer John Black and Norma Hill recording secretary.

Public Present was Frederick Bischoff

**II. Minutes**

Mr. Emanuelson motioned to approve the minutes of February 19, 2004, seconded by Mr. Hansen and approved 3-0.

**III. Frederick and Ann Bischoff, Request to Reduce Sideline setback, 42 Broad Cove West, Tax Map R1, lot 24.**

CEO Black presented the Board with a corrected copy of the application and Chairman Chapman read this aloud. The variance is for 6 feet.

Mr. Hansen questions if more of a variance is needed. Specifically, the Shoreland Ordinance, Section 15 Q3 of Waldoboro Shoreland Ordinance stating for that 75 feet to 250 feet back in order to clear the trees for the addition another variance would be required. The garage will not exceed 35 feet in height. The variance regarding trees will be included as well tonight.

What is being requested tonight is a setback waiver and a variance from Section 15, Q3 (clearing vegetation for development).

Jurisdiction was established for Setbacks in Shoreland Zoning Section 12, E1 and Section 17A minimum lot size ordinance.

Mr. Bischoff has lived here summers for 20+ years and would now like to live here permanently. Central heating has been installed at their home. They would now like to erect a garage attached to the house. This would encroach upon the lot line with his neighbor. His neighbors have no problem with this project.

Mr. Hansen and Mr. Bischoff then discussed the lay out of the land and lot lines to clarify the project.

The Board then discussed the Justifications of Variance Requirements that the applicant filled out on the application. Mr. Bischoff feels a garage would be warranted for winter use as previously this had been used only as a summer residence.

Mr. Emanuelson asked Mr. Bischoff how many cars they own. They own two that are in very good shape.

Chairman Chapman noted that most people in Maine need a garage for the winter months.

Mr. Bischoff noted the garage would provide some storage, which they currently don't have. He does not plan on putting an apartment above the garage.

If Mr. Bischoff built the garage behind the house it would then not be attached to the house, as he would like. The way he is proposing is very straightforward and would attach to the breezeway. He feels the property would be more valuable with a garage.

The abutters were notified and only Mr. Rood responded. He is in favor of this project.

**Motion: Mr. Emanuelson motioned to grant the variance, seconded by Mr. Hansen.**

**General Discussion:**

Mr. Hansen feels the garage could be located into the common land and then under Shoreland Zoning Section 12, C1 – expansion of non-conforming structures in Shoreland Zoning.

Mr. Bischoff noted that the land in that area behind the house is very wet until about July. The line for the pump to the well is also in this area.

CEO Black noted that Mr. Rood (joint owner of common land) might not be in favor of this option.

Mr. Hansen has a hard time thinking the applicant meets the standards of question one on the application. He also noted the garage could be built differently and requirements still be met.

Mr. Emanuelson asked Mr. Bischoff what the estimate of cost would be for the project. He does not know this yet.

Mr. Hansen and Chairman Chapman then discussed the requirement of Shoreland Zoning for this project.

Discussion then ensued about the variance for the vegetation requirement.

Mr. Hansen stated a theory on how this could be solved without needing a variance.

Mr. Bischoff asked what would happen if his neighbor deeded him those 6 feet he is in need of. This could also solve the setback requirement and if he moved the trees that particular variance is not needed. CEO Black thinks maybe that particular variance needs to be heard but with a condition to remove/replace.

Mr. Emanuelson asked if the applicant was planning on selling in the near future. No he is not.

CEO Black and the Board then discussed undue hardship and reasonable return monetarily.

There is a unique circumstance for this property because it is wet on the backside of the property. It is also close to the well.

In trying to work through questions 1 and 2 on the application the Board has decided that based on previous Board decisions it is noted that having a garage yields greater financial return in Maine and that the location of the well and wet land prohibits placing the garage elsewhere.

The Applicant will withdraw his request for a variance for setback. He will still need a variance for the vegetation requirements. It was noted that the garage configuration could be changed to meet setback requirements versus buying 6 feet from his neighbor.

Trees less than 4 inches in diameter do not need to be considered in the replacement program. Height requirement is 35 feet in Shoreland for buildings.

Section 15, Q.3. in Shoreland Zoning regarding vegetation was discussed. There will be minimal cutting of trees, the trees will be replaced one to one of the trees taken down that are over 4 inches in diameter as a condition on granting the building permit and meeting setback requirements.

The questions on the back of the application were voted on.

- 1) **The land in question cannot yield a reasonable return unless a variance is granted. Vote is 3-0.**
- 2) **The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood. Vote is 3-0**
- 3) **The granting of a variance will not alter the essential character of the locality. 3-0 in favor.**
- 4) **The hardship is not the result of action taken by the applicant or a prior owner. 3-0.**

The applicant has withdrawn the setback variance request.

**VOTE:** To grant the variance motioned on earlier the vote is 0-2-1 (Mr. Emanuelson).

**Motion:** To grant the variance on the vegetation request with conditions, 3-0.

**IV. Other Business**

None.

**V. Adjournment.**

Adjournment was at 7:55pm with a motion by Mr. Emanuelson and vote of 3-0.

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Samuel R. Chapman, Chairman

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Norma A. Hill  
Recording Secretary

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Arthur Emanuelson

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Barbara Swiderek

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C. Russell Hansen