



City of Westbrook

ZONING BOARD OF APPEALS

2 York Street Westbrook, Maine 04092 (207) 854-9105 Fax: (866) 559-0642

**CITY OF WESTBROOK
ZONING BOARD OF APPEALS
NOTICE OF PUBLIC HEARING
WESTBROOK HIGH SCHOOL, RM 114
July 10, 2018 7:00 P.M.
AGENDA**

Administrative Agenda

1. **Approval of June 12, 2018 minutes**

New Business

2. **Variance Request** – Daniel & Teresa Brady, 12 Louise Street, are requesting a five (5') foot side yard variance and a five (5') foot rear yard variance to allow the building of a twenty-four (24') x twenty-four (24') two (2) car garage. Tax Map: 025, Lot 086, Zone: Residential Growth Area 1.
3. **Variance Request** – Linda C. Giguere, 150 Bridge Street, is requesting a ten (10') foot side yard variance to allow the repair/replacement of the buildings side emergency egress stairway to current code. Tax Map: 038, Lot: 069, Zone: Residential Growth Area 1.

Adjourn



City of Westbrook, Maine

CODE ENFORCEMENT DEPARTMENT

2 York Street Westbrook, Maine 04092 (207) 854-0638 Fax (866) 559-0642

David Finocchietti
Code Enforcement Officer

MEMO

DATE: June 21, 2018

TO: Zoning Board of Appeals
FROM: David Finocchietti, City Code Enforcement Officer

Cc: File

RE: July 10, 2018 Zoning Board Meeting

Items in this memo:

1. Variance Request – Daniel & Teresa Brady

-
- 2. Agenda Item #1 – Variance Request** – Daniel & Teresa Brady, 12 Louise Street, are requesting a five (5') foot side yard variance and a five (5') foot rear yard variance to allow the building of a twenty-four (24') x twenty-four (24') two (2) car garage from Tax Map: 025, Lot: 084 to 12 Louise Street, Tax Map: 025, Lot 086, Zone: Residential Growth Area 1.

Project Description:

This is a variance request from Daniel & Teresa Brady – To build a twenty-four (24) x twenty-four (24) two (2) car garage needing a five (5') foot side yard variance and a five (5') foot rear yard variance. A smaller shed almost against the rear property line has been demolished and the new garage would be brought further away from the rear setback line.

For the Board's reference:

Our Land Use Ordinances defines **Practical Difficulty Variance**.

The Zoning Board of Appeals may grant a variance from the dimensional standards of the zoning ordinance when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:

- A. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
- B. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
- C. The practical difficulty is not the result of action taken by the petitioner or a prior owner;
- D. No other feasible alternative to a variance is available to the petitioner;
- E. The granting of a variance will not unreasonably adversely affect the natural environment; and
- F. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

Staff Comments:

The applicant's request is to build a twenty-four (24') x twenty-four (24') two (2) car garage. Staff is providing comment on each of the tests of the ordinance for the ZBA's consideration in this matter.

- A. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
 - a. Staff finds the proposed location of the garage will be in line with the existing house.
 - b. To push the garage further from the side lot line would be less in keeping with the neighborhood.
- B. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
 - a. Staff sees no issues on this point.
- C. The practical difficulty is not the result of action taken *by the petitioner* or a prior owner;
 - a. Staff finds this test is met for the following reason:
 - i. The property slopes to the right and would require fill that could change the natural drainage off the property.
 - ii. Driveway location was an existing condition.
- D. No other feasible alternative to a variance is available to the petitioner;
 - a. There is no feasible alternative as the property slopes dramatically.
- E. The granting of a variance will not unreasonably adversely affect the natural environment; and
 - a. Staff has no issues on this point.
- F. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.
 - a. Staff sees no issues on this point.

In closing, Staff does support this variance request to build a twenty-four (24') x twenty-four (24') two (2) car garage. To date there have been no abutter concerns received by the Code Department from the neighborhood.



City of Westbrook

DEPARTMENT OF PLANNING & CODE ENFORCEMENT

2 York Street

Westbrook, Maine 04092

(207) 854-0638

Fax: (866)559-0642

MEMO

DATE: June 21, 2018

TO: Zoning Board of Appeals

FROM: David Finocchietti, City Code Enforcement Officer

Cc: File

RE: July 10, 2018 Zoning Board Meeting

Items in this memo:

1. **Variance Request** – Linda C. Giguere, 150 Bridge Street.

2. **Agenda Item #1 – Variance Request** – Linda C. Giguere, 150 Bridge Street, is requesting a ten (10') foot side yard variance to allow the repair/replacement of the buildings side emergency egress stairway to current code. Tax Map: 038, Lot: 069, Zone: Residential Growth Area 1.

Project Description:

This is a variance request from Linda Giguere – To repair and replace emergency egress stairway to current code which requires a ten (10') foot side yard variance.

For the Board's reference:

Our Land Use Ordinances defines **Practical Difficulty Variance**.

*The Zoning Board of Appeals may grant a variance from the dimensional standards of the zoning ordinance when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty **and when the following conditions exist:***

- A. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
- B. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
- C. The practical difficulty is not the result of action taken by the petitioner or a prior owner;
- D. No other feasible alternative to a variance is available to the petitioner;

- E. The granting of a variance will not unreasonably adversely affect the natural environment; and
- F. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

Staff Comments:

The applicant's request is to repair and replace the emergency egress stairway. Staff is providing comment on each of the tests of the ordinance for the ZBA's consideration in this matter.

- A. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
 - a. Staff finds the proposed repair and replacement of the emergency egress is needed for life safety requirements, thus Staff takes no issue with this criteria.
- B. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
 - a. The stairway has always served as egress to the second floor apartment.
 - b. Staff sees no issues on this point.
- C. The practical difficulty is not the result of action taken *by the petitioner* or a prior owner;
 - a. Staff finds this test is met for the following reason:
 - i. When the home was built in 1900 there was no setback requirements.
- D. No other feasible alternative to a variance is available to the petitioner;
 - a. Stairs are required for egress.
 - b. Staff takes no issue with this criteria.
- E. The granting of a variance will not unreasonably adversely affect the natural environment;
 - a. Staff has no issues on this point.
- F. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.
 - a. Staff sees no issues on this point.

In closing, Staff takes no issue with the proposed variance to repair and replace the existing emergency egress stairway to current code that requires a step rise of 7" maximum, tread width of 11" minimum and a landing height not to exceed 12' without adding additional landings.

The egress stairs in existence do not meet any of these standards and represent a hazard.