

BOARD OF ZONING APPEALS

Docket # 360

**APPLICATION FOR VARIANCE OR
APPEAL TO BOARD OF ZONING APPEALS**

Name of Appellant: Louise Rollins

Mailing Address: 21 Brooklawn Avenue

City: Augusta State: ME Zip: 04330 Tel. No. 242-8648

Name of Owner: Louise Rollins

Location of Subject Property if Different from Above: Manley Street

Map: 26 Lot: 42

The undersigned requests that the Board of Zoning Appeals consider one of the following:

- 1. An Administrative Appeal: Relief from the decision, or lack of decision, of the Code Enforcement Officer or Planning Board in regard to an application for a permit. The undersigned believes that (check one):

an error was made in the denial of the permit

the denial of the permit was based on the misinterpretation of the ordinance

there has been a failure to approve or deny the permit within a reasonable period of time

Other _____

Please explain in more detail the facts surrounding this appeal (please attach a separate piece of paper). You should be as specific as possible so that the Board of Appeals can give full consideration to your case.

X 2. A Variance:

- a. Nature of Variance: Describe generally the nature of the variance.

The variance is requested to erect a residential home on Manley Street. The parcel is shown as Lot 42 on Tax Map 26 in the City's Tax Maps and is located within the Low Density Residential (RA) District. The RA District requires 10' side and rear setbacks and a 10' setback along Manley Street. A minimum density of 10,000 sf is required in the RA District. The parcel is 63' wide by 120' deep having a total area 7,560 sf and is shown as lot 36 on a Subdivision Plan by E.E. Greenwood & Co. dated November 1910.

The applicant also owns another abutting parcel on Brooklawn Avenue, which is shown as Lot 46 on Tax Map 26 in the City's Tax Maps. This parcel is also in the RA District and has 96' of frontage and 72' of depth, yielding a total area of 6,912 sf. This parcel is

depicted as Lot #1 and was purchased by Clayton & Louise Rollins in 1972. Clayton then sold the parcel to Louise in a deed dated August 23, 1989 and shown in Book 121 on Page 3613 in the Kennebec County Registry of Deeds. The parcel on Manley Street is described as Lot #2 in the same deed. Lot #1 is a portion of Lots 14 & 15 shown on a Subdivision Plan entitled Plan of Property Formerly Maine Childrens Home Society Based on Plan by A.G. Norcross dated May 27, 1930 and recorded in Book 9 on Page 76 in the Kennebec County Registry of Deeds.

The City's Land Use Ordinance under Section 3.5.8 Nonconforming lots of record states the following:

Contiguous lots, vacant or partially built: If two or more contiguous lots are in single or joint ownership of record at the time of or since adoption or amendment of this ordinance, and if any of these lots do not individually meet the dimensional requirements of this ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the minimum dimensional requirements. The lands involved shall be considered to be a single parcel, and no portion of said parcel shall be built upon or sold which does not meet the minimum dimensional requirements of this ordinance; nor shall any division of the parcel be made which creates any dimension or area below these minimum dimensional requirements.

The City has combined the two parcels of land into one because neither one meets the dimensional standards within the LUO. The applicant has a home on Brooklawn Avenue and is asking for a variance for the purpose of erecting a home on Manley Street.

In addition, a sketch plan of the property to scale must accompany this application showing dimensions and shape of the lot, the size and locations of existing structures, the locations and dimensions of proposed buildings or alterations, and any natural or topographic peculiarities of the lot in question.

b. Justification of Variance: In order for a variance to be granted, the appellant must demonstrate to the Board of Zoning Appeals that the strict application of the terms of the ordinance would cause undue hardship. There are four criteria, which must be met before the BZA can find that a hardship exists. Please explain how your situation meets each of these criteria listed below:

i. The land in question cannot yield a reasonable return unless the variance is granted. (Augusta Land Use Ordinance, Sec. 6.4.2.2 1 (b) i)

The City has created one parcel out of the two parcels that were both part of approved subdivisions with the enactment of the Land Use Ordinance (LUO). Essentially the applicant has lost a lot and is unable to build a home on the parcel of land on Manley Street. Therefore the land cannot yield a reasonable rate of return.

ii. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood. (30MRSA 4963, Subsec. 3B)

It must be shown that well-documented, exceptional conditions affect the particular land or building, which do not generally affect other property in the district. (Augusta Land Use Ordinance, Sec. 6.4.2.2 1 (b) ii)

The unique circumstances of the property are that the two building lots have been combined into one parcel and instead of having two buildable lots there is only one.

iii. The granting of a variance will not alter the essential character of the locality. (Augusta Land Use Ordinance, Sec. 6.4.2.2.1 (b))

The granting of this variance will not alter the character of the locality. The applicant is proposing a single family residential home on Manley Street. The residential homes on Manley Street are all with like sized parcels, thus this proposal would blend in with the existing neighborhood.

iv. The hardship is not the result of action taken by the appellant or a prior owner. (Augusta Land Use Ordinance, Sec. 6.4.2.2 1 (b) iv)

The applicant purchased building lots of land with one on Brooklawn Avenue and the other on Manley Street. These parcels were purchased (1972) well before the implementation of the LUO. The hardship was caused by the implementation of the language within the LUO combining two adjacent non-conforming parcels of land into one.

c. Additional Factors Applicable to Variances: Please address the following additional factors:

1. Explain how a variance from the particular terms of this ordinance can be granted without detriment to the public interest or the health, safety, or general welfare of the residents of the municipality, and without impairment of the integrity of the Comprehensive Plan for municipal development, or of the purpose and intent of this ordinance. (Augusta Land Use Ordinance, Sec.6.4.2.2)

The applicant is asking to erect a home in a residential neighborhood. This certainly will not cause a detriment to the public or affect the health, safety or general welfare of any residents within the municipality.

2. No variance shall be granted for placement of a structure less than five (5) feet from the property line unless the abutting owner gives a construction, maintenance and repair easement, which shall be recorded with the Kennebec County Registry of Deeds. No variance shall be granted which does not provide for a snow storage area of a minimum of five (5) feet from the right-of-way line. In shoreland areas, the minimum setback from the normal high water mark for subsurface sewage disposal facilities shall not be reduced by variance. (Augusta Land Use Ordinance, Sec. 6.4.2.2 (2))

A plan has been provided with this application depicting the building envelope available for the property on Manley Street. No proposed structure will be within 5' of any property line and no snow storage will occur within 5' of any right of way line.

3. The issuance of any variance shall be contingent upon the applicant's agreeing in writing to indemnify and save harmless the City against all loss, cost, damage or expense occurring by reason of the erection or maintenance of a structure and upon his or her filing with the City Clerk a certificate of public liability insurance covering property damage up to one thousand dollars (\$1,000) and bodily damage with a coverage of ten thousand to twenty thousand dollars (\$10,000-\$20,000) minimum limits. (Augusta Land Use Ordinance, Section 6.4.2.5)

The applicant agrees with the insurance limits mentioned above.

4. In shoreland areas, the Board of Appeals shall not grant a variance unless it makes a finding, based on clear and convincing evidence presented to it, that the proposed use would meet the provisions of the following: (as listed in section 6.3.4 (5) a)

- a. If the proposal contains known sensitive areas such as erodible or shallow soils, wetlands, aquifers, aquifer recharge areas, floodplain or steep slopes (over 15%), what special engineering precautions will be taken to overcome these limitations?

N/A.

- b. Does the proposal conform to applicable local, State DEP and Federal EPA air quality standards including but not limited to odor, dust, fumes or gases which are noxious, toxic or corrosive, suspended solid or liquid particles, or any air contaminant which may obscure an observer's vision?

N/A.

- c. Does the proposal conform to applicable local, State DEP and Federal EPA water quality standards, including but not limited to erosion and sedimentation, runoff control, and solid wastes and hazardous substances?

N/A.

- d. Will all sewage and industrial wastes be treated and disposed of in such a manner as to comply with applicable federal, state and local standards?

N/A.

- e. Shoreland and Wetland Districts: Will the proposal:

- i. maintain safe and healthful conditions;

N/A.

- ii. not result in water pollution, erosion, or sedimentation to surface waters;

N/A.

- iii. adequately provide for the disposal of all wastewater;
N/A.
- iv. not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
N/A.
- v. conserve shore cover and visual, as well as actual points of access to inland and coastal waters;
N/A.
- vi. protect archaeological and historic resources as designated in the 1988 Growth Management Plan;
N/A.
- vii. avoid problems associated with flood plain development and use; and
N/A.
- viii. conform with the provisions of Section 5.3.1, Special Shoreland Standards.
N/A.

I certify that the information contained in this application and its supplement is true and correct.

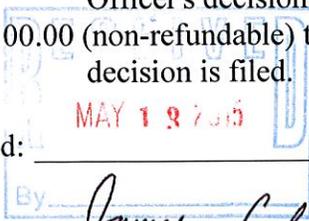
James Cobbi

Date May 06, 2015

Appellant

Note to the Appellant: This form should be returned to the Chairperson of the Board of Zoning Appeals, Bureau of Code Enforcement, City Center Plaza, 16 Cony Street, Augusta, Maine 04330-5298. You will be notified of the date of the hearing on your appeal. Please submit 15 copies of the application by 3 pm.

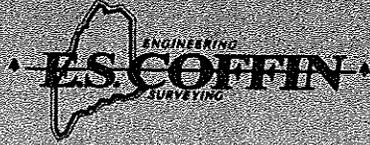
FILING FEE: \$ 100.00 (non-refundable) to be paid when variance is filed.
 \$ 50.00 (non-refundable) to be paid when an appeal of the Code Enforcement Officer's decision is filed.
 \$ 100.00 (non-refundable) to be paid when an appeal of the Planning Board's decision is filed.



Date Fee Collected: _____ Code: (CSZONE) 10356531 531010

Applicant's Signature: *James Cobbi*

Effective: May 21, 2007 Council Order 109



E.S. COFFIN ENGINEERING & SURVEYING
432 CONY ROAD - P.O. BOX 4687
AUGUSTA, MAINE 04330-1687
207-623-9475

Savings Bank of Maine

52-7246/21-12

5/11/2015

39744

PAY TO THE ORDER OF

City of Augusta

\$ **100.00

One Hundred and 00/100

DOLLARS

City of Augusta
16 Cony Rd
Augusta, ME 04330-5298

MEMO

[Signature]
AUTHORIZED SIGNATURE

Security features included. Details on back.

⑈039744⑈ ⑆211272465⑆ 90⑈485⑈864⑈

E.S. COFFIN ENGINEERING & SURVEYING

39744

City of Augusta

Clayton Rollins

5/11/2015

100.00

The Bank of Maine

CITY OF AUGUSTA,
16 CONY STREET

MISCELLANEOUS PAYMENT RECPT# 023056

DATE: 05/13/15 TIME: 10:25
CLERK: cheryl DEPT: CODE
CUSTOMER#: 0

100.00

PARCEL: BZA APP-LOUISE ROLLI

CHG: CSZONE ZONING PERMIT 100.00

PAID AMT

10 PAID BY NAME
ES COFFIN EN PAY METHOD
CHECK

SBN/39744

AMT TENDERED: MANLEY ST
AMT APPLIED: 100.00
CHANGE: 100.00