

TOWN OF OLD ORCHARD BEACH
ORDINANCE REVISION COMMITTEE MEETING MINUTES February 16, 2011

Call to Order at 6:59 pm	Call to Order
<p>Pledge of Allegiance Roll Call: George Kerr, Chair; William Daley; Steve Bryant and Linda Mailhot, Vice Chair. Excused: Robert Scoville Staff: Mike Nugent, Code Enforcement Officer</p>	<p><u>ROLL</u> <u>CALL</u></p>
<p><u>Item 1: Approval of Minutes</u> Tabled to the next scheduled meeting so as to have quorum.</p>	Minutes: Tabled
<p><u>Item 2: Chapter 78: Section 78, Article I: In General/Definitions.</u> Vice Chair Mailhot inquired as to the definition of café and why the number 8 was used; questioned whether this was a state definition. Mr. Nugent was not sure and stated he would look into that. Chairman Kerr addressed the addition of the sidewalk café and read that into the records. He stated the committee modified that to allow outside dining and possibly create revenue for the town. He then moved on to the change in child care. He stated the definitions now mirror state law. Those will be reflected in the subsequent chapters regarding childcare. Vice Chair Mailhot asked why we did not just reference the state language in the definitions, as she felt we had done this. Mr. Nugent stated this was just specific to this town and the definitions probably need to be this, as there are other regulations that they tie into. Chairman Kerr referenced manufactured housing definition. He stated that now the universal building code is in effect from the state that deals with the state wide law. Mr. Nugent agreed. He pointed out that the swimming pool definition was contradictory, and it was made cohesive. No definition of a complimentary use. Because there are specific spacing requirements for complimentary staff wanted some very specific language. Chairman Kerr asked for any discussion. Seeing none he went on. Mr. Nugent explained that the definitions for shoreland zoning are not part of this document at this time. It will be after the council approves the changes. These will be married together with this document once it goes through the council. There were no further questions regarding definitions.</p>	<p><u>Item 2: Chapter 78: Section 78, Article I: In General/Definitions.</u></p>
<p><u>Item 3: Chapter 78: Section 78, Article II: Administration and Enforcement.</u> Vice Chair Mailhot had two questions regarding 78-68, item (b). regarding notification with certified mailings. Does not feel that the cost should be on the applicant for an administrative appeal. Mr. Nugent will craft the wording for this. Vice Chair Mailhot asked in the case of condominiums do they need</p>	<p><u>Item 3: Chapter 78: Section 78, Article II: Administration and Enforcement.</u></p>

<p>to notify everyone in the condo? Mr. Nugent stated currently the owner needs to notify all the owners in the condominium. The cost can be prohibitive. Staff will check with town's attorney and see if we can change this. Chairman Kerr asked if it was okay to just notify the association. Mr. Nugent stated he will check legal about this. He referred to 78-94, regarding limited expansion of lot coverage. He made it clear that you can ask for 5% more of what is allowed in your district and ask for a miscellaneous appeal. Above that would be considered a variance. He then proposed to take out the limited yard reduction restriction of residential properties and make it clear that if they can quality of limited yard reductions it should be for accessory structures as well as primary buildings on the property. Vice Chair Mailhot asked about 78-69, Applications (a) regarding the fee for administrative appeals. She did not feel like this was a fair burden for the applicant. Mr. Nugent explained it is customary for every town. Chairman Kerr asked how often this happens. Mr. Nugent explained that in the last 3-4 years he has been here there has been one. The staff typically tries to find a way to make everyone happy and work with the applicants to figure out a solution. Vice Chair had another questions regarding 78-95. She inquired if the building inspector was allowed to okay handicapped access. Mr. Nugent stated they are exempt for residences but not commercial structures. The ZBA is also almost required to grant these. Chairman Kerr asked why not for the commercial buildings as well. Every building should be ADA accessible. Mr. Nugent felt it made all the sense in the world. He will make those proposed changes. Chairman Kerr asked if anyone had any further questions. John Byrd commended that he agreed with Vice Chair Mailhot about not needing to pay for the administrative appeal. He then moved on.</p>	
<p><u>Item 4: Chapter 78: Section 78, Article III: Conformance and Nonconformance.</u> Chairman Kerr referred to 78-142. Mr. Nugent referenced the handicapped accessibility, and staff will make that for all premises. He then went on to explain how staff suggests request for reduction is not any more than 25% of the required front yard and not more than 50% of the side or rear year, and the expansion can fit no where else on the lot. If those criteria are met the applicant does not need to go to the board. If they could fit what they requested within the setbacks, but wanted to change anyway, the ZBA would then need to hear this. Chairman Kerr asked if the ZBA has seen this and agrees. Mr. Nugent stated yes. He then stated this was it for the section.</p>	<p style="text-align: center;"><u>Item 4:</u> Chapter 78: Section 78, Article III: Conformance and Nonconformance.</p>

<p>Chairman Kerr stated that was on for this.</p>	
<p><u>Item 5:</u> Chapter 78: Section 78, Article IV: Site Plans. Chairman Kerr referred to section 4, construction and expansion of off-street parking, he felt this should be 1,000 feet to make consistent. Number 3 states 1,000 sf, and he wanted to keep this number consistent throughout the ordinance. Mr. Nugent will change this. Vice Chair Mailhot asked if a building changes from a residence to a commercial property does it need to go to site plan review. Mr. Nugent stated it would because requirements are different. Vice Chair Mailhot asked if this is something we would want to change. Chairman Kerr asked that maybe we could spell it out if there is nothing that changes they do not need to go to a site plan. Mr. Nugent explained that further along it states that there are criteria for this to be done administratively if the changes are minimal. This has not been problematic in the past. He then explained for administrative site plan review staff felt the square footage should be increased. The board concurred. Vice Chair Mailhot asked about section 78-215, item number 8 (c). asked what "cultural character impact assessment". Mr. Nugent felt this was done a long time ago, and he is not sure the Planning board looks at that. We can request to delete that piece. We are looking for the visual quality and architectural design. It is like a judgment. Vice Chair Mailhot asked about 78-216, review procedure. Item number 4(c), 1, determination of completeness. She had a problem with an application not be determined complete in the past which she felt was complete and was stall tactics. She was unsure if there could be some control over that. Mr. Nugent felt this was a human resources problem, and the staff person should not hold up a process for whatever reason. The Planning Board needs a complete package, and he was unsure about having some standards. Vice Chair Mailhot asked if there could be any fixes for this. Mr. Nugent stated that it reads clearly that this is a planning board decision not the planners. Chairman Kerr felt that things have changed in the community, and it is somewhat easier for the community to work with current staff. He asked if anyone had any other comments for site plans. Seeing none, he moved on.</p>	<p><u>Item 5:</u> Chapter 78: Section 78, Article IV: Site Plans.</p>

Item 6:Chapter 78: Section 78, Article V: Design Review.

Chairman Kerr stated there was discussion as to whether the board even needed to exist. Redundancies have tried to be eliminated. Residential design review, etc does not seem applicable. This is not necessarily conducive to the community to restrict residences. Vice Chair Mailhot stated as a property owner she does not like to have anyone telling her what she can or cannot do with the colors of her roof, etc.

Chairman Kerr agreed. There is an enormous amount of expense for applicants to go through this.

Mr. Nugent asked if he should summarize the changes that are proposed.

Chairman Kerr agreed.

Mr. Nugent explained the historic district was left untouched.

Chairman Kerr asked why that area is classified as historical.

Mr. Nugent felt that there was a larger concentration of historical buildings. With DD1 or DD2 if you do anything, other than some very specific minor things, you need to have some architectural design review.

Chairman Kerr clarified this included a deck, fence, anything.

Mr. Nugent explained the need for residential buildings to require this is excessive. If your property is in the DD1 district only, and if you are putting on addition or a brand new building you will need to go to some level of design review.

Chairman Kerr noted this is in Section is 78-426. He stated that due to the season the process is long and it is prohibitive.

Mr. Nugent stated if they are limited to 4-6 weeks of process it limits the ability to do what they wish. We feel we can preserve the downtown without limiting the businesses.

Chairman Kerr asked about signage and if this should be staff driven.

Mr. Nugent clarified this is a staff thing now. He explained to the board that there used to be 8 staff members 3 years ago, and now there are 3 and will be 4 when the planner is hired. We need do things in a timely manner and with half the staff we need to streamline things.

Chairman Kerr wanted to make sure the 1,000 feet is consistent.

Vice Chair Mailhot asked about 78-246, Purpose. She asked about technical design assistant. Do the people on the board have technical experience.

Mr. Nugent was not sure if there was an architect on the board.

Chairman Kerr stated that he has been in front of the board, and there is now an architect on the committee. He felt that if something is not spelled out sometimes people tend to go beyond. It is a subjective thing.

Mr. Nugent stated the design standards are part of what you will see in the next chapter. The board can go through that and make it better.

Chairman Kerr felt that whatever the powers of the committee are

<p>need to be spelled out. Mr. Nugent stated that the committee agreed that the standards put them in a hard situation at times. Chairman Kerr felt that the intent of the board was not to look at residential properties. A lot of this is overlapping of the planning board so what is the purpose of going to both boards. It is an unfair cost. Vice Chair Mailhot asked about 78-352 regarding window replacement. Mr. Nugent that would be staff and only if it was from the street. Chairman Kerr asked if this is just staff at this time. Mr. Nugent stated yes. The part Vice Chair Mailhot discussed was only for historical district. Chairman Kerr stated the next section will be coming at our next meeting. Mr. Nugent stated he will get together the standards of this specifically. He also stated since the town is going through the comprehensive planning stages, he is not sure how in depth the committee wishes to go through density standards, etc. Chairman Kerr concurred with that. John Byrd, Ocean Park, commented he felt that covering everything in those districts is ridiculous. He suggested including Imperial and Staples Street. Chairman Kerr stated any applicants would need to go through planning board. There are still safety nets. Mr. Nugent stated there are still guidelines that need to be followed.</p>	
<p><u>Item 6: Good & Welfare</u> Mr. Nugent stated there was a town council workshop dealing with sidewalk cafes, and they are going forward with a public hearing. Chairman Kerr suggested that the fees that are collected should be put towards things like trash pick-up, etc. The town should be the beneficiary of that and should not be a burden to the taxpayer. Jerome Begert, Gables Way, asked Mr. Nugent if Shoreland Zoning may go back to Town Council. Mr. Nugent stated there was a request for a citizen to fix something that really needed to be fixed. The council had several options. The town manager believes that on March 1st they will be resetting the Public Hearing with the fix. Mr. Begert asked if the state decides to weaken or get rid of the shoreland zoning requirement what would happen with the town. Mr. Nugent explained that all the committees will have an input on what to do with the ordinance. Chairman Kerr stated he had given some suggestions regarding sand dune regulations in Augusta, and he gave some of his opinion as to what the governor's thoughts were. He sited an instance with the DEP that they incurred a fee on an applicant for developing their property with a small addition that was exuberant because they wanted to</p>	<p style="text-align: center;"><u>Item 6: Good & Welfare</u></p>

<p>discourage the growth. That is not what they are there for. He felt that he thought what Governor LePage wanted was to streamline the processes in the state government in the same way we are trying to streamline things in Old Orchard Beach.</p> <p>John Byrd, Ocean Park stated he would strongly encourage adopting the shoreland zoning amendments. He feels that no committee has actually gone through this. The planner had put it out to SMRP, and then put out to the attorney, who both made changes. He felt that the planning board had no hand in how the map was made.</p> <p>Chairman Kerr asked which map he is talking about.</p> <p>John Byrd stated it is the map made by Tom Burns. He cannot figure out the shoreland zoning map.</p> <p>Chairman Kerr stated that we reviewed a lot of the map, and he thought that the lines were reflective of the MGS.</p> <p>Mr. Nugent stated that it is reflective of the highest annual tide which is elevation 6.5. John has not seen it yet, but it is not reflected on the shoreland zoning map. Everything on the map is identical to the text version. For someone who doesn't read maps every day it can be difficult but for someone like me who uses it to provide permits, etc. he is comfortable with it. The 6.5 line is half way down the beach.</p> <p>John Byrd stated he would look at the map tomorrow.</p> <p>Chairman Kerr stated after speaking with the EPA, one of the few places gaining sand is Old Orchard Beach. The town takes good care of the beach.</p> <p>Mr. Nugent stated these are all living documents and can change, and should change.</p> <p>Chairman Kerr stated there are many, many stages in the process with several public hearings. Committee's want this to be a public process. He asked if there was any other good and welfare. The next meeting will possibly be on March 9th.</p>	<div style="border: 1px solid black; height: 500px; width: 100%;"></div>
<p>MEETING ADJOURNED AT 8:13 P.M.</p>	<p><u>Adjournment</u></p>

I, Tori Geaumont, Secretary to the Ordinance Revision Committee of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of six (6) pages is a true copy of the original minutes of the Ordinance Revision Committee Meeting on February 16, 2011

Tori Geaumont