

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

Call to Order at 7:00 pm	Call to Order
<p>Pledge of Allegiance Roll Call: George Kerr, Chair; William Daley; Robert Scoville, and Linda Mailhot, Vice Chair. Excused: Steve Bryant. 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.</p>	Minutes: Tabled
<p><u>Item 2: Chapter 78: Section 78, Article I: In General/Definitions.</u> Mr. Nugent went over the changes that were addressed; sidewalk café, child care, manufactured housing, etc were concurrent with the state. Swimming pools needed to be made consistent as there were areas where they were considered accessory structures and others where they were not. They are considered accessory structures so that needed to be changed. Chairman Kerr asked the committee if there were any comments or questions. Seeing none, he asked for a motion. Vice Chair Mailhot moved to refer Chapter 78, Article 1 to the Town Council. Mr. Daley seconded. King Weinstein, Old Orchard Beach. Mr. Weinstein asked if the committee could clarify that the elderly housing definition be consistent with the state. Vice Chair Mailhot withdrew her motion. Mr. Daley withdrew his second. Vice Chair Mailhot moved to refer Chapter 78, Article I with the Elderly Housing definition consistent with state and federal standards. Mr. Daley seconded. Motion passes unanimously. Chairman Kerr asked about Shoreland Zoning and where does the state stand in regards to the proposed changes. Mr. Nugent answered that if Town Council approved, it will need to go to the DEP and they will have 45 days to review. Chairman Kerr asked if Mr. Nugent has been in correspondence with the DEP. Mr. Nugent stated he had, and the Town Council can approve on the next meeting of April 4, 2011.</p>	<p><u>Item 2: Chapter 78: Section 78, Article I: In General/Definitions.</u></p> <p style="text-align: center;">Motion Vote</p>
<p><u>Item 3: Chapter 78: Section 78, Article II: Administration and Enforcement.</u> Mr. Nugent went over the proposed changes from the last meeting. Changes made were the cost of an Administrative Appeal to be paid for by the town. This was in 78-68. He then also changed 78-94, under Miscellaneous Appeals regarding handicapped access being available to all buildings and not only residential. Chairman Kerr added that in section 78-70 "or designee" was added.</p>	<p><u>Item 3: Chapter 78: Section 78, Article II: Administration and Enforcement.</u></p>

<p>Vice Chair Mailhot wanted to know the criteria for changing “shall to may” in section 78-38.</p> <p>Mr. Nugent explained that this is in regards to a double fee, and he felt it should be at the discretion of the code enforcement officer to decide if it would be truly necessary, as most of the time, people build without a permit because they do not know they need one for what they are doing. He feels that doesn't seem fair and would like to build in some flexibility.</p> <p>Vice Chair Mailhot referred to section 78-95, non-conforming means of egress and questioned if the code enforcement officer can just issue a building permit for handicapped accessibility.</p> <p>Mr. Weinstein asked if the town could acquire the ability to take corrective action instead of solely fining a property.</p> <p>Mr. Nugent stated he would have to contact someone. If this was a life safety issue the town does have the right currently, but otherwise, he is not sure.</p> <p>Mr. Weinstein wanted this looked into.</p> <p>Mr. Nugent went on to 78-34 which addresses the 7 day waiting period. Staff does not always need that 7 days, and it seems a little unfair to make a citizen wait when there is no need to. He explained that work needs to be started within 6 months of issuing the permit, and then be completed within 2 years, but the applicant can come in and get an extension.</p> <p>Chairman Kerr felt that the flexibility of that is good, and thought the CEO should have the right to do this without fee.</p> <p>Mr. Nugent stated if nothing has changed the applicant could not have to pay the minimum fee as it is now. This needs to be changed.</p> <p>Chairman Kerr asked if there was anything else. He stated Mr. Nugent will modify the changes that were addressed here, and asked if it was the wish of the committee to bring it to the Town Council at that point.</p> <p>Vice Chair Mailhot wished to see the changes first.</p> <p>Chairman Kerr stated they would table Article II subject to the changes that are to be made for the next meeting.</p>	
<p><u>Item 4:</u> Chapter 78: Section 78, Article III: Conformance and Nonconformance.</p> <p>Chairman Kerr asked the committee if it was their wish to send this on to council.</p> <p>Vice Chair Mailhot moved to refer Chapter 78: Section 78, Article III to the Town Council.</p> <p>Mr. Daley seconded</p> <p>Motion passes unanimously.</p>	<p><u>Item 4:</u> Chapter 78: Section 78, Article III: Conformance and Nonconformance.</p> <p>Motion Vote</p>
<p><u>Item 5:</u> Chapter 78: Section 78, Article IV: Site Plans.</p> <p>Mr. Nugent explained the changes. Section 78-212.4 was increased to 1000 sf to make consistent throughout. He also pointed out an exemption.</p> <p>Mr. Weinstein stated that in Saco, the minimum is 5,000sf and felt that</p>	<p><u>Item 5:</u> Chapter 78: Section 78, Article IV: Site Plans.</p>

<p>1,000sf is much too small. This would help to shorten up the period of review.</p> <p>Mr. Nugent felt there would be a lot more of an impact with 5,000sf, and he was a little hesitant about that. He will check with Saco and see what their threshold it and report back to the committee.</p> <p>Chairman Kerr asked if there needs to be a specified square footage at all, and Mr. Nugent felt the town needs to differentiate.</p> <p>Chairman Kerr asked Mr. Nugent what number he would feel comfortable with and stated he agreed with Mr. Weinstein.</p> <p>Mr. Nugent stated he did not disagree, but needed to check with neighboring towns to have some sort of consistency.</p> <p>Chairman Kerr asked if it was the committees wish to table this item. The committee agreed.</p>	
<p><u>Item 6:</u> Chapter 78: Section 78, Article V: Design Review.</p> <p>Mr. Nugent went over the changes.</p> <p>Chairman Kerr felt that there were no issues as far as design review in section 78-351.</p> <p>Vice Chair Mailhot stated she still had questions about this. She voiced her support of landowner rights and felt that the Design Review Committee was more a duplication of what the Planning Board already does.</p> <p>Mr. Nugent stated that right now any change to any building in DD1 or DD2 needs to go through some sort of design review. He changed this and made it only in DD1 and takes out everything except an enclosed addition on a building or a new building, as well as if it is under 1000 sf or less, it would be administrative, but over the 1000 sf it goes to the committee.</p> <p>Chairman Kerr asked if under site plan discussing expansions it would be consistent with that. He asked whether the committee wished to continue with this wording at all or not have the Design Review process at all. This could just be part of the Planning Board approval.</p> <p>Mr. Weinstein asked if Staples Street is part of the DD1.</p> <p>Mr. Nugent stated it was, as well as Imperial Street.</p> <p>Mr. Scoville asked if the Planning Board does this anyway.</p> <p>Mr. Nugent stated they approve the design review certificate. This is committee chooses to do away with the section regarding the committee, but left the standards the Planning Board would have the right to review and enforce.</p> <p>Chairman Kerr clarified that he felt the Design Review Committee was a big of a redundancy.</p> <p>Mr. Nugent explained that if the board wishes to pursue this the Planning Board would need to take a closer look at design standards than they do now.</p> <p>Mr. Weinstein asked if per DRC, applicants need to have a performance guarantee and if they are held to the exact plan the DRC approves.</p>	

Mr. Nugent stated that the applicant would need to have the exact same plan. He explained he felt that Mr. Weinstein was asking about having the CEO is able to approve minor changes that were needed due to the way the building needed to be constructed.

Mr. Weinstein asked how performance assurances work for rehab work.

Mr. Nugent stated these were done for the facades due to grant restrictions.

Vice Chair Mailhot reiterated that she felt the Design Review Committee process is an extra burden. She felt it would save a lot of time to eliminate this.

Chairman Kerr clarified that as it stands now, with the new changes that have been proposed by Mr. Nugent, this is only for DD1.

Mr. Nugent agreed.

Chairman Kerr asked if this was the wish of the committee.

Vice Chair Mailhot stated that personally she would suggest doing away with the Design Review Committee entirely.

Chairman Kerr asked for a motion.

Mr. Daley injected that he agreed and felt this would be one less level of bureaucracy.

Vice Chair Mailhot wanted clarification that there would still be a Design Review Committee for the historic district.

Chairman Kerr said yes.

Vice Chair Mailhot stated that if Planning Board is going to do this for everything else in town why not have them do it for the historic district as well.

Mr. Nugent felt that not protecting the historical district was a bad idea, and there should be some sort of review process for that.

Vice Chair Mailhot clarified that she did not want there to not be a review process for that, but only wanted to change the process.

Chairman Kerr asked Mr. Nugent if since the DRC has been in operation there been any changes proposed in the historical district.

Mr. Nugent explained that most have been administratively done, as they have been small and not seen as a substantial change.

Mr. Weinstein suggested omitting the entire section 5. References to Design Review Committee will be Planning Board or staff.

Mr. Daley asked what will make the decision on what can or cannot be done in a district.

Mr. Nugent explained it will be the underlying district that will dictate this.

Jerome Begert, Gables Way. Mr. Begert asked who decided what the historical district was and who was in it.

Mr. Nugent answered this was done at the last Comp Plain in 1994.

Mr. Beget asked if there is a contradiction with the historical district and code violations what is done.

Mr. Nugent stated that there are a lot of new products available that

can work for egress and life safety without jeopardizing the historical integrity of a property.

Mr. Begert asked if the historical district is set in stone.

Mr. Nugent stated that this can be addressed by the current Comprehensive Committee.

Vice Chair Mailhot referred to 78-354, c, the last sentence which refers to automatic denial. She would request this be taken out.

Mr. Nugent stated there was no reason for this and can be taken out, but should check with legal.

Mr. Weinstein commented that he felt the "automatic approval" verbiage is interesting, as a committee could drag its feet to ultimately deny something, and this would take that away.

Chairman Kerr asked Mr. Nugent to make sure if the language is necessary. He asked if it was the intent of the committee to exclude DD1 and DD2 under 78-426 so Mile can prepare this.

The committee agreed.

Chairman Kerr referred to 78-Article VI. He stated the Comprehensive Plan Committee is making changes so the ORC should probably just leave this. Signage had been discussed. We also talked about food stands, outside displays, as well as parking.

Mr. Nugent stated that is what the Police Department is finishing up on the parking. He then discussed temporary signage and some ideas about that. There was a time when the town sent people out to police that. Staff has been eliminated to that point that we do not have the manpower to do it. Staff has a problem because no one wants to ignore an ordinance.

Chairman Kerr stated that some ordinances the town does not need any longer and are too restrictive. He also feels that outside displays should be allowed and the fees collected could be used for the town. The town in general needs to loosen up regulations. Does the committee concur? Committee agreed.

Mr. Nugent stated he has gotten some complaints already about a seasonal banner. There is not adequate staff to take care of these things, and he felt it should not be an ordinance. In the DD1 district, multi-family dwellings ca not be used on the first floor. There have been issues with that restriction. This may be an issue for the Comp Plan Committee. Also, regarding food stands restrictions, the sidewalks now are much wider than they have been in the past. He also brought up the fact that tattoo parlors are much different than they have been in the past, in the same way we dealt with massage therapists. The committee may want to change that.

Chairman Kerr stated that the committee needs to address some of this at the next meeting. The committee wants to be more flexible during the summer.

Mr. Weinstein was concerned with sandwich boards. He thinks they are a good thing, but need to be regulated somewhat.

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Mr. Nugent assured him that criteria will be created. Mr. Begert suggested some sort of retractable, overhead sandwich board. Chairman Kerr explained that they would not be at eye level where they need to be. Mr. Nugent stated that Tori will look into that.	
<u>Good & Welfare:</u> None	<u>Item 6: Good & Welfare</u>
Vice Chair Mailhot moved to adjourn. Mr. Daley seconded. Motion passes unanimously. Meeting adjourned at 8:23 p.m.	<u>Adjournment</u>

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 March 16, 2011

Tori Geaumont