

OLD ORCHARD BEACH PLANNING BOARD
“SPECIAL MEETING MINUTES”
Thursday, April 22, 2014
7:00 pm
Town Council Chambers

Call to Order at 7:08 pm	Call to Order
Pledge to the Flag	
<p>Roll Call: Chair Carl D’Agostino, Win Winch, Mark Koenigs. Absent: Eber Weinstein, Mike Fortunato. Staff: Jeffery Hinderliter; Town Planner.</p>	
<p><u>ITEM 1</u> Provide Recommendation To Council: Amend the Town of Old Orchard Beach Code of Ordinances, Chapter 78 (Zoning), Article VI (Districts), Division 8 (General Business District 1), Sec. 78-803 (Conditional Uses) to allow Tattoo Parlors as a Conditional Use within the General Business District 1 (GB-1); Chapter 78 (Zoning), Article VI (Districts), Division 16 (Historic Overlay District), Sec. 78-1135 (Prohibited Uses) to prohibit Tattoo Parlors within the Historic Overlay District; Amend Chapter 78 (Zoning), Article I (In General), Sec. 78-1 (Definitions), to add definitions “Tattoo Parlor” and “Tattoo, tattooed, tattooing.”</p> <p>The Planning Board is here tonight to make a determination whether it is in the best interest of the Town of Old Orchard Beach to allow this conditional use within GB-1 and also to define a tattoo parlor.</p> <p><i>Overview from Town Planner Jeffrey Hinderliter:</i></p> <p>The owner of the tattoo establishment met with Mr. Hinderliter and requested to seek what his options were after the Zoning Board of Appeals denied his Administrative Appeal to establish the tattoo parlor at the proposed location. The only option that Mr. Hinderliter suggested for him was to proceed through the ordinance zoning change standards. The applicant chose to move forward with that. Before going to Town Council and the Planning Board, the applicant requested that it should be determined that the use of the tattoo establishment is an adult business or a personal service. Both of these uses are permissible in this zoning district. Mr. Hinderliter suggested that this proposal move forward unless it was defined as a tattoo parlor as they are in other districts in town. So the proposal that was moved forward to the Council and the Planning Board was to keep the use defined as a tattoo parlor allowed in the GB-1 district and make it a conditional use so they would receive additional oversight above and beyond what a typical building permit or business license has. Conditional Use means that the Planning Board can weight in whether the use is appropriate for the district.</p> <p>The Town Council held a public hearing last week and the Planning Board held a public hearing the week before and as part of the Planning Board’s responsibilities, they are to provide a recommendation to the council as to whether they feel comfortable recommending that the tattoo parlor be allowed as a conditional use within the GB-1 district. Mr. Hinderliter also added that there were another couple of items, when he looked into the ordinances, that he felt needed to be tightened up a bit so he tweaked the</p>	ITEM 1

definition of a tattoo parlor and identifying it as a conditional use to provide additional protection within our ordinances for tattoo parlor uses.

Chair D’Agostino feels that it is the Planning Boards goal to treat our ordinances as ordinances that are made for the masses rather than individuals. He doesn’t feel that it is appropriate for the Town of Old Orchard Beach to adopt ordinances for the good of one business. Chair D’Agostino also added that it is not enforced by the State, so if it did get into Superior Court it would fail.

Win Winch agrees that a tattoo parlor is not much different than a nail parlor which paints the human body (fingernails) and that is the definition of a tattoo parlor. There is a nail parlor that is currently located in the GB-1 zone. Mr. Winch stated that he has heard no negative comments about this tattoo parlor from the community. He doesn’t see any problem with this, additionally this will be a conditional use and provide oversight, which means that every time there is an application, there is a public hearing, site walk and the Planning Board takes the vote. Mr. Winch recommends making this conditional use because there is still a lot of control over potential other “like businesses” in the area.

Mark Koenigs recommends that we need to add definitions to tattoo parlors. If tattooing is an allowable conditional use in the GB-1 zone, he would recommend that the standards for Conditional Use section 78-1240 be followed. In addition there should be an added division to conditions, specifically for tattooing that would further guide the future applicants and Planning Board to plan and judge the applicants proposals. There are 2 standards which should be considered modifying for tattoo establishments. It establishes a distance and should be a boundary point away from day care facilities, schools, parks, playgrounds, churches or public buildings or occupied by another adult business.

Mr. Koenigs also recommends considering this as a Conditional Use looking at land use and what we should do moving forward to clarify this. This business has an economic added benefit to an area. Mr. Koenigs added that the standards need to be very clear. He is not willing to prohibit the use if that is what the public wants.

If the Planning Board members need to come up with performance standards, they would have to go through the process again to make them applicable to part of this proposal and the Planning Board can make this part of their recommendation to the Town Council. Mr. Hinderliter would develop the performance standards and bring them back to the Planning Board for presentation to the Town Council.

Chair D’Agostino asked Mr. Hinderliter asked if this would affect the Comprehensive Plan. Mr. Hinderliter stated that the Comprehensive Plan isn’t an ordinance, it provides recommendations to create an ordinance.

Chair D’Agostino stated that when we create these conditions, it needs to be focused on Old Orchard Beach’s Economic Development Plan.

Mark Koenigs made a motion to make a recommendation to the Town Council that Chapter 78 Zoning Article I, in general Section 78-1 definitions be amended as proposed by the Town Planner and that we further recommend that Chapter 78 Zoning Article VI, Districts, Division 8 General Business District 1 (GB-1); Chapter 78-803 (Conditional Uses) be amended. Section 78-803 shall be amended by adding the underscore language as follows: 5 Tattoo Parlors, further recommend the amendment to Chapter 78 (Zoning Article VI) Districts Division 16 (Historic Overlay District) Section 78-1135 (Prohibited Uses) shall be amended by adding the underscore language as follows: 7 Tattoo Parlors. Further recommend these (Tattoo Parlors) as prohibited uses in that District Overlay are also prohibited in both the DD-1 and GB-1 in the Historic Overlay District for clarity.

MOTION

<p>The third recommendation, under conditional uses 78 Zoning Article V (District Division 8) General Business District GB-1 that those conditional uses follow the standards for 78-1240 and further, we recommend that specific Conditional Uses (which we cannot recommend tonight) shall be added under Article VII, Division 2, conditions under a new Section 78-1277, or so numbered by the Town Planner’s recommendations to the Planning Board if so asked, or required by the Town Council. Specific Conditional Uses for Tattoo Parlors to be a Planning Board recommendation to Town Council if requested by Town Council. Seconded by Win Winch.</p> <p><i>Planner Jeffrey Hinderliter called for the vote:</i></p> <p>Mark Koenigs – Yes Win Winch – Yes Carl D’Agostino – Yes</p>	<p>VOTE</p> <p>(3-0)</p>
<p><u>Good & Welfare</u></p>	
<p>ADJOURNMENT CARL D’AGOSTINO, CHAIRMAN</p>	
<p>Meeting adjourned at 8:03 pm</p>	<p>Adjournment</p>

I, Valdine Camire, Administrative Assistant to the Planning Board of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of three (3) pages is a true copy of the original minutes of the Planning Board Meeting of April 22, 2014.

Valdine Camire