

OLD ORCHARD BEACH PLANNING BOARD

Workshop Notice

December 1, 2016 6:00 PM

Town Council Chambers

Call to Order at 6:05 pm	Call to Order
<p>Roll Call: Chair Mark Koenigs, Win Winch, Ryan Kelly and Mike Fortunato Absent: Eber Weinstein, Robin Dube. Vice Chair Linda Mailhot Staff: Town Planner, Jeffrey Hinderliter, Town Assistant Planner, Megan McLaughlin.</p>	
<p>Site Walk, 5:30 PM Proposal: Conditional Use: Accessory Dwelling Unit Owner: Mark and Catherine Andrews Location: 98 Ross Rd., MBL: 105-4-4, RD</p> <p>Present: Chair Mark Koenigs, Ryan Kelly, Mike Fortunato. Staff: Town Planner, Jeffrey Hinderliter, Town Assistant Planner, Megan McLaughlin. Public: none.</p> <p>Site Walk begins at 5:35 PM</p> <ul style="list-style-type: none"> • Board members go over plans and review site. • Determine how the garage and accessory dwelling are situated on plans and where they exist on site. • Discuss the improvements that are proposed to the building's exterior front and rear. • Discuss 2nd means of egress including its location. • Discuss interior use of space for the accessory dwelling. • Review the common entrance and how the entrance will work leading into the garage and upstairs to the accessory dwelling. • Discuss the need for fire separation between the garage and common entrance and the garage and accessory dwelling unit • Discuss use of garage space. • Reviewed site to determine if parking will be adequate. <p>Site Walk closes at 5:55 PM</p>	
<p>Workshop Discussion</p> <p>Planner Jeffrey Hinderliter informed the Planning Board members that he will have the memo ready for them tomorrow. Planner Hinderliter also asked the Planning Board members if they could bring their information that was previously submitted from the last meeting on items 2, 3 & 4 to the December 8, 2016 regular Planning Board meeting.</p>	
<p>APPROVAL OF MINUTES: 11/3/16, 11/10/16</p>	
<p><u>Public Hearing (To be held on 12/8/16, 7:00 PM)</u></p> <p>ITEM 1 Proposal: Conditional Use: Accessory Dwelling Unit Owner: Mark and Catherine Andrews Location: 98 Ross Rd., MBL: 105-4-4, RD</p>	<p><u>ITEM 1</u></p>

<p><u>Items 1 & 2:</u></p> <p>Planner Hinderliter stated that this looks like a straightforward proposal. Trying to figure out the rear and front space of the exterior. The only item that the Planning Board requested was the current deed, which the Planning Board has in their packets.</p> <p>Recommending approval on this accessory dwelling unit. There are no need for conditions.</p>	
<p><u>Regular Business</u></p> <p><u>ITEM 2</u></p> <p>Proposal: Conditional Use: Accessory Dwelling Unit Action: Final Ruling Owner: Mark and Catherine Andrews Location: 98 Ross Rd., MBL: 105-4-4, RD</p>	<p><u>ITEM 2</u></p>
<p><u>ITEM 3</u></p> <p>Proposal: Conditional Use and Shoreland Nonconforming Structure Expansion/Relocation/Replacement: Replace and expand single-family dwelling with the Residential Activity Shoreland Zone.</p> <p>Action: Update; Final Ruling Owner: Ron Sabin Location: 129 West Grand Ave., MBL: 319-12-5, R3 & RA</p> <p>Town Planner Hinderliter stated that the applicant secured the Variance with the ZBA. In terms of What the ZBA has decided, whether the Planning Board agrees with it or not, they have appeared to have followed procedure and they made their decision. They have ruled on the correct application. Unless the Planning Board chooses to appeal the ZBA’s decision then we need to live with that. Mike Fortunato asked if this change the criteria for the 30%. Planner Hinderliter said that yes it changed and what got passed the other night was that they had different criteria to review, which was a Variance, before it was for a Miscellaneous Appeal. Mike Fortunato asked why did they give them the Variance? Win Winch mentioned that with anything new it has to be built up 6’ above the flood line. So it is going to be up anyways, so they said why not put a garage under the building. Planner Hinderliter stated that the Shoreland Zoning issue may have been resolved and the decision for the Planning Board has been made by the Zoning Board. Mike Fortunato mentioned that at least it was correctly done. Planner Hinderliter stated that the Planning Board still has the Conditional Use. The 12 Criteria. There are still some legitimate issues out there: 6 Preliminary issues:</p> <ul style="list-style-type: none"> • Off street parking • Driveway • Building height with sunlight access and compatibility with surrounding structures. • Sewer lines backing up. • The main electrical lines proximity to the structure as proposed. • Drainage problems. <p>In the Planners memo he has linked these standards to the particular Conditional Use criteria. Chair Koenigs asked if the Fire Chief has weighed in on the life safety.</p>	<p><u>ITEM 3</u></p>

Planner Hinderliter stated that this was just brought up to the Departments yesterday, lost some time due to the holidays but the Fire Chief will be weighing in on this. We also have our electrical inspector, Rodney Belanger who is on top of this. He has been in touch with CMP and he has concerns about this because what he said is that the electrical lines are supposed to be 8’ from a structure and they are closer than 8’ with the structure as proposed.

Win Winch had a couple of questions:
 1. Is this going to be the same setback as the house next door?
 2. Is it over the right of way or over the property, so it’s an easement?

Planner Hinderliter stated that we still have the Conditional Use to rule on and we still have the Shoreland Zoning. There’s not much we can do with the Shoreland Zoning part, but the Conditional Use is still applicable and each of these 6 standards are conditionally related to Conditional Use.

The Planning Board gave Mr. Sabin a couple of options and they told him he could come back to the Planning Board and resume from where he left off. So we are resuming the final plan. The Planning Board will have the option to make a decision next Thursday.

The only new information that the Planning Board has is the opinion from our Town Attorney. The last document is the Variance written decision.

Mike Fortunato asked how the parking going to meet the criteria?

Planner Hinderliter stated that this is a tough one. One of the arguments is that it is a single family home and it will continue to be a single family home, so if you have a single family, is it a change of use. And when you have a change of use does it meet any of the criteria where you can now enforce a code to make it better. One thing the Planning Board can consider is that you are expanding the use by adding new bedrooms. So by expanding the use does that then say you can now require that it meets the parking. With the Conditional Use standards they are kind of broad, it provides flexibility. The requirement there is for off street parking. It is only on street parking from Pavia to Orchard Street.

Mike Fortunato asked if the 2 spaces apply.

Planner Hinderliter stated that if you are building a brand new structure on a vacant lot and it was a single family dwelling, yes absolutely because a single family dwellings require 2 off street parking spaces. However this is an existing structure and the use is not changing. An argument could be made “Are they grandfathered” for that parking?

ITEM 4

Proposal: Conditional Use Amendment of Approved Plan/Appeals from Restrictions on Nonconforming Uses (Overnight Cabins): Change use of 7 units from seasonal to year-round (currently 5 year-round use for a total of 12)
Action: Discussion; Schedule Site Walk; Schedule Public Hearing
Owner: SRA Varieties Inc., D.B.A. Paul’s II
Location: 141 Saco Ave., MBL: 311-1-10, GB2

Planner Hinderliter had talked to the applicants and they stated that they had to go to a conference and they really wanted the Planning Board to reschedule. Planner Hinderliter told them that if they want some sort of decision on this that they need to make this their priority. At the end of the conversation, they said that they would be there.

Win Winch mentioned that they did pave the driveway on Union Street.

Planner Hinderliter stated that the with new material that they provided this month, there were 3 primary items that the Planning Board requested and they submitted these items:

- Write up on how they manage their establishment.
- Response to the appeals from non-conforming uses.

- Their most recent drawing of the layout for parking, building dimensions and identifying the curb cut location etc.

We didn't determine it complete last time because of these items.
 Win Winch brought up the issue that the town has an ordinance on staying in motels 30 days. Then you have to check out and check back in again.

Ryan Kelly asked if the parking space sizes are 96" per parking spaces.
 Planner Hinderliter stated that they are.
 Ryan Kelly also mentioned that the dumpster is supposed to be fenced in.
 Planner Hinderliter stated that the applicants had fenced in the dumpster completely and put a lock on it, however people were now putting things like tv's and furniture on the outside of the enclosure.
 Planner Hinderliter mentioned to them about getting a security camera.

They did submit what was requested, however there are obvious flaws.

ITEM 5

Proposal: Determination of parcels inclusion with 2004 Campground Registration
Action: Discussion; Decision
Owner: Paradise Acquisitions LLC
Location: 60 Portland Ave, MBL: 205-1-32; 50 Adelaide Rd, MBL: 106-2-2 (portion of)

Town Planner Hinderliter told the Board that he has tried to keep everyone up to date on this, including the people who abut Paradise Park.
 There is still nothing that points 100% to some of the lots that were in question who are in our zoning review of this proposal. What we decided on is that the campground overlay district as a district really doesn't exist. It is there for informational purposes only. Where the campgrounds exist is where they were approved according to the 2004 registration process where all the campgrounds at that time had to go through the registration process and it just kind of stopped back in August. When we stopped we wanted to get some information from our Town Attorney to see if he could help us in any way. What it comes down to is a decision by the Planning Board whether they feel that some of the lots that are in question were part of the 2004 campground registration process. There is no formal application. It is not a conditional use or site plan or subdivision. The Planning Board needs to make a determination based on the 2004 decision.
 Chair Koenigs stated that they have expanded twice since 2004 and we have applications of those expansions, and in those applications they define the limits of the campground. The Chair would like to see those.
 Planner Hinderliter stated that we had a few similar situations with a few campgrounds where they expanded into areas after 2004 that weren't on that campground overlay or appeared to be even part of the 2004 registration.
 Mike Fortunato asked if they came before the Planning Board for this.
 Planner Hinderliter stated that in one case they did which was Hidden Pines. What makes that one a little different is because campgrounds are permissible in that base zoning district. But the campground overlay district and the map doesn't show it as the campground overlay and as he recalls the 2004 application did not include that area as part as the registered campground but the base zoning district allowed campgrounds.
 Mike Fortunato asked if it has come up a couple of times since 2004 how come it wasn't definitively addressed?
 Planner Hinderliter stated that he didn't know why.
 This matter is very unique. One thing to remember is that you are not approving a development at this time but you would be allowing a development to come into existence at campground into these areas but this would be the next step.
 And if someone doesn't agree with the decision, they can appeal the decision.

<p>The Chair received a letter from Jensen Baird Gardner & Henry Attorneys, representing the Brookside Condo Association and he asked the Town Planner if he could distribute this letter to the Planning Board members.</p> <p>What the Planning Board will be deciding are these lots that are part of the 2004 campground registration or they can also table it.</p>	
<p>ITEM 6</p> <p>Proposal: Site Plan Review: Expansion of existing nonresidential (retail) building Action: Determination of Completeness; Schedule Site Walk and Public Hearing Owner: Harrisburg H&P & Harrisburg Group Gen Partnership Location: 9 East Grand Ave., MBL: 306-2-6, DD1</p> <p>Planner Hinderliter stated that this proposal went to the Design Review Committee and was approved for a Certificate of Appropriateness. Now it comes before the Planning Board and the application is incomplete. Not only is the application incomplete, we have other information that was requested as part of the application process which includes responses to the 9 Site Plan Review Criteria (which is what the Planning Board uses to rule on the proposal) and items associated with the Preliminary Site Plan Review that are not being waived. We didn't receive any additions to the waiver requests by the deadline. So without waivers being granted and the site plan that isn't submitted, Planner Hinderliter doesn't think that the Planning Board can rule on this application.</p> <p>Planner Hinderliter will send the Planning Board Members a memo which will include the site plan standards.</p> <p>Mike Fortunato asked what is the planned use for this proposal.</p> <p>Planner Hinderliter stated that this is for retail space for first and second floor.</p> <p>If there is going to be a waiver of the site plan requirements, then we need to have what requirements are being requested for the waiver and the justification as to why.</p> <p>We can schedule a site walk, we just cannot have a public hearing.</p> <p>Chair Koenigs wants to make it known and to enforce our own procedures that we are not going to take new submissions after the deadlines and try to review it.</p>	
<p>Other Business</p> <p>Update: Conditional Use, Subdivision Amendment; Site Plan Amendment: Summerwinds II</p> <p>Assistant Planner McLaughlin told the Board Members that in their packets are the draft notice of decisions that we worked on for the preliminary plan decision on Summerwinds II.</p> <p>There were 3:</p> <ul style="list-style-type: none"> • Conditional Use • Site Plan • Subdivision <p>Megan went through the meeting video, typed them up the minutes verbatim and highlighted the important things, pulled it out and tried to capture everything in the Notice of Decision.</p> <p>Yesterday, Megan McLaughlin, Jeffrey Hinderliter and Larry Mead met with Bernie Saulnier and Bill Thompson (BH2M) and discussed the decision and gave them the draft to give them an idea of what the Planning Board will be looking for with their next submission and they said that they will be back for the January Planning Board meeting for the second Preliminary Plan decision to try and correct the things that were brought up at the meeting.</p> <p>Planner Hinderliter stated that the Notice of Decisions in the past have been signed by staff.</p> <p>Mike Fortunato asked how can someone continue with their project if they do not have a performance</p>	

<p>bond? He has a problem with a developer that doesn't follow through. He agrees that this should be in the ordinance. Megan McLaughlin stated that moving forward, they have been on top of every single proposal that has come through. Planner Hinderliter stated that what our ordinance requires right now is they submit their performance bond paperwork, our engineer agrees to it and they have the financial capacity to do that. Also with Summerwinds II what we said to Bernie Saulnier and Bill Thompson was to think of these items as a condition, they need to re-submit and address these items because these are the items that are preventing them from going beyond preliminary plan right now. They have not satisfactorily met what the Planning Board feels they need to meet.</p> <p>Discussion: Shoreland Zoning</p> <p>Right now with the Ron Sabin plan, the Planning Board has sole authority that has been shown by our Town Attorney that we are supposed to vote if someone has a non-conforming structure and they want to expand it up to 30% or they want to replace/relocate, but there are some cases where maybe it's going to bog down the Planning Board so we should probably be dealing with this a couple times a month, but now that we are all used to it. We should be dealing with it more than we have in the past. Everything seems to be in the right direction moving forward. Chair Koenigs asked if we don't have to change the ordinance based on what the Code Enforcement Officer stated that the State changed their ruling, they changed their stance on the 30%. Hinderliter stated that this is something that we are going to look at. But also one of the questions will be for some cases, like Ron Sabin, do you think that if we take the Planning Board ruling on the 30% and just leave it up to the Code Enforcement Officer, will that be ok in some cases. The Chair stated that what he understood the email to say is that the State doesn't require the 30% anymore. Megan McLaughlin stated that they changed it from 30% volume to 30% footprint but they didn't give a deadline for communities to adopt that. And the 30% volume is more stringent than the 30% footprint so we can stay with that. Planner Hinderliter stated that proposals like Ron Sabin where you don't have that water body and it's a non-conforming structure and their looking for 30% rule, should we still have the Planning Board continue to be the jurisdiction and do you think we can put these proposals to Code Enforcement to take care of in the future.</p>	
<p>GOOD AND WELFARE</p>	
<p>ADJOURNMENT</p> <p>MARK KOENIGS, CHAIR</p>	
<p>Meeting adjourned at 7:43 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 Six (6) pages is a true copy of the original minutes of the Planning Board Meeting of December 1, 2016.

Valdine Camire