

**TO: Old Orchard Beach Planning Board**  
**FROM: Jeffrey Hinderliter, Town Planner**  
**SUBJECT: May Planning Board Meeting Summary**  
**DATE: 12 May, 2015**

**Below is a brief summary of pertinent issues related to the May 14 Planning Board Agenda items:**

**ITEM 1**

Proposal: Conditional Use: Accessory Dwelling Unit  
Action: Review Submissions; Determination of Completeness; Schedule Site Walk;  
Schedule Public Hearing  
Owner: Laura Alves and Derek Alves  
Location: 8 Neptune Rd., MBL: 103-1-304, RD District

**(BACKGROUND)**

This proposal is for an accessory dwelling unit within a single-family dwelling which is currently under construction. The Planning Board has reviewed accessory dwelling units a number of times and there is nothing that stands out that makes this proposal different from the others.

The primary ordinance standards this proposal must conform to are the Conditional Use Accessory Dwelling standards and the 12 Conditional Use standards. (See attachment 1).

The Planning Board should first determine if all information has been submitted so that the Board can determine complete as submitted or identify what additional information should be submitted and conditionally determine complete based upon submission of additional information. This determination should be based on review of the submitted documents and the accessory dwelling unit and 12 Conditional Use Standards to see if the submissions provide enough information to the Planning Board so that the Board can conduct a proper review. Second, the Planning Board should schedule a site walk on 4 June and Public Hearing on 11 June.

**RECOMMENDATIONS:** This is a straight-forward proposal. I recommend the Planning Board determine the submission complete (as-is or conditionally) and schedule a site walk and Public Hearing.

**ITEM 2**

Proposal: Conditional Use/Relocation of Non-Conforming Structures: Remove two detached residential units and replace with one residential duplex.  
Action: Review Submissions; Determination of Completeness; Schedule Site Walk;  
Schedule Public Hearing  
Owner: Estate of Stanley Weinstein Et Al  
Location: 2 Puffin St., MBL: 303-7-2, BRD and Limited Commercial Districts

**(BACKGROUND)**

This proposal is for removal of two detached dwelling units and to construct one two-family building. The proposal is within a Shoreland Zoning Overlay District (limited commercial) and the Beach Front Resort District. Both the overlay and BRD Districts allow two-family use.

I believe there are 2 primary issues the Planning Board should consider. Parking and which non-conforming structure standards apply.

First, the ordinance requires 2 parking spaces for each unit (total 4 spaces). The plans show 1 parking space for each unit (Total 2 spaces) located within garages on the property. I believe the following questions should be considered/answered:

- Can the applicant provide two additional off-street parking spaces?
- If not, can the applicant provide 2 off-street dedicated spaces on another property (as I recall, the PB approved a similar proposal on the other side of Puffin Street during early 2014 which allowed the Friendship Motel to dedicate parking spaces on their property for a development adjacent to the hotels property)?
- If both of the questions in the bullets above do not work, can the applicant take advantage of an existing nonconformity? In other words, if off-street parking currently does not exist and the applicant is providing some (but not all) off-street parking beyond what exists, does this mean the applicant is making a current nonconforming condition more conforming?
- If the applicant and/or the PB feel the proposal cannot address parking, perhaps the proposal should be referred to the Board of Appeals.

Second is the question of non-conformance. Non-conformance is typically applied to structures, use and lots. In my opinion, it is the nonconforming provisions related to structures which are most applicable to this proposal because the current and proposed structures do not conform to setback requirements.

As you know, the proposal is located in a shoreland overlay and BRD District. Both districts have different nonconforming structure/setback standards. The shoreland overlay nonconforming structure/setback standards are associated with the water setback. If a structure is located within the 100' water setback, then the shoreland nonconforming standards apply. If the structure is located beyond the 100' water setback then the nonconforming structure not within the shoreland zone applies. See the nonconforming structures within the shoreland zone standards (see attachment 2) and nonconforming structures not within the shoreland zone (see attachment 3). In order to determine which nonconforming structure standards apply, I believe the applicant should provide a plan, prepared by a land surveyor or engineer, identifying the location of the water setback. Once we know if the structure is within or not within the 100' water setback, we will then know which nonconforming structure setback standards to use for review.

**RECOMMENDATIONS:** I recommend the following:

- 1.) Parking matter to be sorted out.
2. Submission of a plan, prepared by a land surveyor or engineer, identify location of 100' water setback.

- 3.) If the PB determines the application is complete, I recommend this be conditionally based on providing responses/submissions to the parking and 100' water setback plan.
- 4.) I recommend the PB schedule a site walk for 4 June and Public Hearing 11 June.