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3 OLD ORCHARD BEACH PLANNING BOARD
4 Public Hearing & Regular Meeting MINUTES
5 August 12, 2021 6:30 PM
6 Town Hall Council Chambers
7
8

9 *MINUTES MAY NOT BE TRANSCRIBED VERBTIM. SECTIONS MAY BE PARAPHRASED FOR CLARITY. A*
10 *COMPLETE RECORDING MAY BE OBTAINED BY CONTACTING THE TOWN CLERK AT 207-934-4042 OR*
11 *kmclaughlin@oobmaine.com*
12

13
14 CALL MEETING TO ORDER

15
16 PLEDGE TO THE FLAG

17
18 ROLL CALL

19 Marianne Hubert

20 Chris Hitchcock

21 Win Winch

22 Robin Dube

23 Vice Chair Walker

24 Chair Mailhot
25
26

27 Chair Mailhot stated that the first item was the Minutes from the 4/8, 5/13, 6/10, and 7/8 meetings, and that she had a
28 couple of notes for the May and July minutes:

29 May Minutes page 6, Item 5, the record should reflect that the Chair turned this agenda item over to Vice Chair
30 Walker and that she did not participate in any discussions on this item. Also, on page 10, it should be noted that
31 Chair Mailhot asked the applicant to clarify how density was calculated and Caleb clarified that. Chair Mailhot then
32 advised the applicants that they could not borrow density from the 2 other adjacent properties that they own
33 considering those 2 parcels were not going to part of this development.

34 July Minutes, last page, the record should reflect that Chair Mailhot asked that the Minutes be brought forth for
35 approval, not that they be updated.
36

37 Chair Mailhot then asked for a motion to approve if no one had any other comments. Motion to approve was made by
38 Ms. Dube and was seconded by Vice Chair Walker. Chair Mailhot then stated that such will pass 5-0.
39

40 Regular Business

41 ITEM 1

42 Proposal: Conditional Use: Child Care Facility (Family Day Care)

43 Action: Discussion; Final Ruling

44 Applicant: Phoebe Cram

45 Location: 188 Portland Ave; MBL: 103-1-23; Zoning: RD
46

47 Assistant Town Planner Michael Foster updated the Board as follows:

48 **Updates since the last meeting:**

49 1. Applicant Phoebe Cram has provided the following:

- 50 • They have met with Public Works and Joe Cooper is ordering a blind drive sign
- 51 • They have submitted a permit to extend the driveway culvert so they can add space to the
- 52 turnaround

- 1 • A waiver request for a reduction in the required sight distance has been provided by the applicant
2 and it has been provided to you this evening.
3

4 2. Wright Pierce performed a sight distance measurement for the driveway on August 2nd:

- 5 • The sight distance measured 320 feet. The minimum sight distance requirement for a 35 MPH
6 posted speed limit is 360 feet. This is 40 feet less than required.
7

8 3. At the July meeting Planning staff and the Planning Board gave feedback to the applicant as to some
9 potential additional ways to address safety concerns, but the applicant hasn't indicated whether or not they
10 explored these options.

11 These included:

- 12 • Install a traffic mirror
13 • Propose staggered drop off and pick up times
14 • Have someone direct traffic during drop off and pick up times
15

16 **Options for the applicant:**

- 17 1. The waiver request for sight distance has been provided by the applicant
18 2. If the applicant has any additional ways they intend to address safety concerns they should provide
19 that information, and we would recommend that these would need to be included as conditions of
20 approval.
21

22 **RECOMMENDATION:**

23 So far the applicant has done what they said they would to address safety concerns, and the applicant
24 should have some updates tonight. Planning staff supports final approval if the Planning Board finds the
25 applicant provided justification for the waiver request and finds that the applicant has provided enough
26 supporting information that the safety concerns have been addressed. Any improvements that applicant
27 proposes to address the safety concerns should be included in the final approval. The applicant responses to
28 the standards are in the memo listed below the recommendation followed by motions.
29

30 Chair Mailhot then asked the applicant to see if there was anything they wished to add this evening. The
31 applicant noted the following: they acknowledge the suggestions that were made but feel that the
32 recommendation of a traffic monitor is not a realistic expense for a child care facility for 6 children and
33 also that the idea of having someone in the road would not make the situation safer but would put that
34 individual in harm's way. For the traffic mirror, the applicant stated that they brought up that issue to Joe
35 Cooper (Public Works) when he was there looking at the culvert and that Joe felt that this would not be
36 necessary. For the staggered drop off times, that is something they would be willing to do, that they would
37 notify parents and put that in the contract but that they also need to be realistic in that the day care is for
38 children under the age of 5 so full compliance may not be entirely possible. In regard to extending the
39 culvert, they have submitted the permit and received approval from Joe Cooper and dropped it off for
40 approval for Jim Butler (Codes), and also that Public Works has informed them that they would have to pay
41 for it themselves; because of that, the applicant stated that they do not want to do the culvert until and
42 unless they are approved. The applicant also mentioned that she has screen shots of posts from Facebook
43 from parents on the Old Orchard Beach parents' board, noting that the posts are from parents who are in
44 dire need of child care in town.

45 Chair Mailhot then asked the Board members if they had any questions or comments. Vice Chair Walker
46 replied that he has serious concerns about safety, and that he is concerned that his name would be
47 associated with this. Ms. Dube then asked Town Planner Jeffrey Hinderliter if the applicant would go from
48 6 to only 5 children, would this be a home occupation and therefore have less stringent rules to go by?
49 Jeffrey Hinderliter replied that no, this would still fall under the child care umbrella, but that the rules

1 would be less restrictive for child care for less than 6 children. Ms. Dube then added that she feels like the
2 applicant has jumped through hoops to do everything that the Board has asked, and feels that the applicant
3 wouldn't want to even open a day care facility if they thought that there would be danger to the children.
4 Ms. Dube then asked if there is a bus stop across from their property, to which the applicants replied yes,
5 and Ms. Dube then stated that apparently the Town thinks that is a safe situation for children to cross the
6 road there and that should be taken into consideration. Mr. Winch then stated that he was up in the air on
7 this, that the culvert was a good idea and would entertain something conditional on the culvert, and that
8 staff verify that the culvert would be large enough for a reasonably-sized car to turn around in. Ms. Hubert
9 agreed with the others' comments, and Chair Mailhot stated that the applicants did an excellent job in
10 addressing the concerns of the Board. Chair Mailhot added that she did another drive by today, and still has
11 concerns about the turning and the backing out of the driveway, and that it is difficult for her to put her
12 stamp on it knowing that it's possible that something could happen to small children and a vehicle. The
13 applicant stated that there had been a day care business at that address before. Ms. Dube then asked Mr.
14 Winch that if they could guarantee that cars can turnaround and not have to back out, would he be
15 comfortable with the application. Mr. Winch replied that he has further concerns about the winter and
16 snowbanks. Applicant stated that the turnaround would be emphasized to all parents. Ms. Dube then made
17 a motion to conditionally approve the application, but it was determined that a waiver request re the sight
18 distances be voted on before a motion is made. Chair Mailhot then asked Ms. Dube if she minded if that
19 were done first, and Ms. Dube agreed. Town Planner Jeffrey Hinderliter then added that what may help
20 support the waiver request is recognition of some of the conditions, including the turnaround. Chair
21 Mailhot then asked for a motion to support the waiver request; Ms. Hubert made a motion to approve the
22 waiver request as allowed under Section 78-1568, requesting a 40 foot reduction in sight line from 360 feet
23 required for a 35 MPH road to 320 feet, applying Section 78-1466. The motion was seconded by Ms. Dube.
24 Chair Mailhot then asked the Board for any discussion on the waiver motion, and seeing none, asked Town
25 Planner Jeffrey Hinderliter to call for a vote. Results were as follows:

26
27 Ms. Hubert YES
28 Mr. Winch YES
29 Ms. Dube YES
30 Vice Chair Walker NO
31 Chair Mailhot NO
32

33 Chair Mailhot then stated that the vote carries 3-2, and that Ms. Dube could now make her motion. Ms.
34 Dube then rescinded her prior motion and made a motion as follows:

35
36 *I make a motion to conditionally approve the Conditional Use-Child care facilities application for a family*
37 *day care home to care for up to six children, located at 188 Portland Avenue, MBL: 103-1-23, in the Rural*
38 *District, applicant Phoebe Cram, with the following conditions:*

- 39 1. *Conditional Use approval is dependent upon and limited to the proposal and plans contained in the*
40 *application dated 25 April 2021, and updated 25 June 2021, and all supporting documents and oral*
41 *representations submitted and affirmed by the applicant and its agents, and conditions imposed by*
42 *the Planning Board; any variation from such proposals, plans, supporting documents and*
43 *representations are subject to review and approval by the Planning Board, provided that de*
44 *minimis variation is subject to review and approval by the Town Planner.*
45 2. *The front yard shall remain free and clear of landscaping/vegetation that reduces sight lines.*
46 3. *The blind drive sign shall be installed prior to the childcare business license being issued.*
47 4. *The driveway turnaround shall be completed to the satisfaction of Town staff prior to the childcare*
48 *business license being issued.*
49

1 Ms. Dube then asked if a condition #5 should be added for the culvert, and after discussion, it was
2 determined that such was addressed in condition #4 and an additional condition did not have to be added.
3 Mr. Winch then seconded the motion. Chair Mailhot then read the criteria and responses:

4
5 **Sec. 78-1240. – Conditional Use Standards responses**

- 6 (1) The proposed use will not result in significant hazards to pedestrian or vehicular traffic, on-site or off-site.
7 ***Applicant Response:*** The child care will not cause any sort of hazard to pedestrian or vehicular traffic, on-site or off-
8 site. Nothing will change to the property to disrupt pedestrians or vehicular traffic. The property's driveway has
9 ample space to support the vehicles coming in and out without disrupting the street.
- 10 (2) The proposed use will not create or increase any fire hazard.
11 ***Applicant Response:*** Nothing will be added to the property that will create or increase any fire hazard. There is
12 nothing currently on the property to create or increase a fire hazard.
- 13 (3) The proposed use will provide adequate off-street parking and loading areas.
14 ***Applicant Response:*** The child care will provide plenty of off-street parking in the driveway and is large enough to
15 accommodate pick-up and drop-offs comfortably.
- 16 (4) The proposed use will not cause water pollution, sedimentation, erosion, or contamination of any
17 water supply.
18 ***Applicant Response:*** The child care will not cause any sort of pollution in any way. Our curriculum is actually
19 "green based", designed to fight against pollutants.
- 20 (5) The proposed use will not create unhealthful conditions because of smoke, dust or other airborne contaminants.
21 ***Applicant Response:*** As stated in Standard 4, we will not cause pollutants or contaminants of any kind, whether that
22 may be ground or airborne. The child care will not have any sort of open-flame that creates smoke, as it is dangerous
23 for the children and unnecessary for a child care.
- 24 (6) The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of
25 operation, noise, vibration or fire hazard or unreasonably restrict access of light and air to neighboring properties.
26 ***Applicant Response:*** The child care will not create any sort of nuisances to neighboring properties. We will not be
27 conducting or participating in any sort of activity that generates odors, fumes, glare, noise, vibration, fire hazard or
28 unreasonably restricts access of light. The property has a privacy fence on both sides where there are neighboring
29 properties.
- 30 (7) The proposed use will provide adequate waste disposal systems for all solid and liquid wastes
31 generated by the use.
32 ***Applicant Response:*** The child care will provide adequate waste disposal systems for all waste generated by our use.
33 It is in our daily practice to teach our children/students how to properly recycle, compost and dispose of trash in the
34 most efficient way possible. We will use composting bins, utilizing the compost in the gardens and recycling bins
35 inside the child care. The trash and recycling we produce will be properly disposed of and will be taken to the
36 transfer station OR picked up by a hired trash removal service.
- 37
38 (8) The proposed use will not adversely affect the value of adjacent properties.
39 ***Applicant Response:*** The child care will not adversely affect the value of the adjacent properties. If anything it will
40 bring convenience for adjacent families in need of child care.
- 41 (9) The proposed use will be compatible with existing uses in the neighborhood, with respect to the
42 generation of noise and hours of operation.
43 ***Applicant Response:*** The child care will be compatible with all existing businesses and family homes in the
44 neighborhood/street. The child care will not be generating any sort of notable noise and is only open during normal
45 business hours.
- 46 (10) The applicant's proposal must include any special screening or buffering necessary to visually obstruct the
47 subject property from abutting uses or to ensure the continued enjoyment of abutting uses.
48 ***Applicant Response:*** As stated in Standard 6, the property includes a privacy fence on either side of neighboring
49 properties. There is no other screening or buffering necessary. Neighboring uses will be able to enjoy their properties
50 as they do now.

1 (11) The applicant's proposal must adequately provide for drainage through and for preservation of existing
2 topography within its location, particularly in minimizing any cut, fill, or paving intended.

3 *Applicant Response:* The child care will not be disrupting any topography, or do we intend to cut, fill or pave any
4 existing land.

5 (12) The applicant must be found to have adequate financial and technical capacity to satisfy the criteria in this
6 section and to develop and thereafter maintain the proposed project or use in accordance with all applicable
7 requirements.

8 *Applicant Response:* As the applicant, we are extremely confident in our ability to adequately finance the criteria in
9 this application. We are also confident that we will be able to maintain our property in accordance with the
10 requirements listed. It has been our goal ever since we bought the property to upgrade it to its true potential.
11

12 **Sec. 78-1268. - Child care facilities conditions responses**

13 (a) All child care facilities, family day care homes, group day care homes, day care center facilities, and nursery
14 schools shall comply with the following conditions:

15 (1) Required play areas for children shall be permitted in rear and side yards only.

16 *Applicant Response:* The child care play area is a fenced area in the backyard.

17 (2) All play areas shall be enclosed by a fence 48-inch in height above finished grade. Fence gates shall be latched at
18 the top.

19 *Applicant Response:* The child care play area is fenced with fencing that is 48 inches high above the finished grade
20 and all gates are latched at the top.

21 (3) Day care facilities are prohibited in multifamily housing units.

22 *Applicant Response:* The child care will take place in a family home, not in multifamily housing units.

23 (4) Individual child care facilities shall be situated no closer to another child care facility than five times the
24 minimum frontage requirement for the zoning district within which the proposed facility is located.

25 *Applicant Response:* The closest child care is the next town over, Saco, ME.

26 (5) Off-street parking shall be provided as follows: One parking space per each nonresident employee and a
27 minimum of one parking space per every four children, or portion thereof, of the total number allowed under the state
28 license.

29 *Applicant Response:* The child care will provide more parking spaces than the minimum requirement. Our driveway
30 can accommodate eight cars comfortably, and for the requirements, there only needs to be three.

31 (b) All child care facilities, family day care homes, group day care homes, day care center facilities and nursery
32 schools shall comply with the following conditions, if applicable:

33 (1) Family day care homes not subject to inspection by the state fire marshal's office shall request an inspection and
34 written report by the local fire inspector's office determining that there are no fire safety hazards present in the home.
35 If fire safety hazards are found to exist, the applicant shall comply with the recommended corrective actions prior to
36 the issuance of a statement of compliance by the code enforcement officer.

37 *Applicant Response:* The child care has already been inspected by a state fire marshal.

38 (2) Group day care homes, day care facilities and nursery schools shall comply with the following conditions:

39 a. Reserved.

40 b. Such facilities shall be permitted only on lots that fully comply with the minimum lot and frontage requirements of
41 the zoning district within which they are located, except that state-licensed facilities existing on the effective date of
42 the ordinance from which this chapter derives shall be allowed to continue upon demonstration of an existing license
43 active. If the use ceases for any reason, for a period of 12 months, any subsequent use of the property shall conform
44 to the regulations specified in the zoning district where the property is located.

45 *Applicant Response:* This will be a family day care home
46

47 Town Planner Jeffrey Hinderliter pointed out to Chair Mailhot that she does not need to read the following section:
48

49 **Sec. 78-965. Rural district Performance standards responses**

50 (a) Applicability. In addition to the performance standards contained in article VIII of this chapter, the
51 performance standards in this section shall apply to all uses in the rural district (RD).

1 (b) Lighting. Notwithstanding the standards for parking lot lighting specified in division 4 of article VIII of this
2 chapter, all freestanding site lighting shall:
3 (1) Not exceed the height of the principal building or 14 feet, whichever is less.
4 **Applicant Response:** There is no such lighting that will be freestanding. All lighting needed for parking spot spaces
5 and visibility will be solar paneled lighting on the ground and is no higher than 12 inches.
6 (2) From a nonresidential use, not shed more than 0.5 footcandle onto surrounding residential or nonresidential
7 properties.
8 **Applicant Response:** The childcare will be a residential use and there is no such lighting that will shed onto
9 surrounding properties.
10 (3) Be shielded to prevent point source glare.
11 **Applicant Response:** The childcare and neighboring properties will be shielded by a privacy fence on both sides
12 where there are neighboring properties. There is no such lighting that will need to be shielded for neighboring
13 properties. The only source of light we will be using is sunlight.
14 (c) Parking. All parking must meet the requirements of division 4 of article VIII of this chapter.
15 **Applicant Response:** Parking will be provided for persons attending the childcare. The driveway is the primary
16 source of parking, which allows for the necessary parking spots needed for each child and employee.
17 (d) Signage. Permitted uses advertising products or services offered on the premises in the rural district (RD)
18 shall conform to the following standards:
19 (1) Materials. All proposed signage in the RD district shall be constructed of wood, metal and or fabric.
20 **Applicant Response:** The material we are using for signage is wood.
21 (2) Lighting. All proposed signs may be illuminated by one or more shielded external light fixtures affixed to the
22 building, the sign, or uplights emanating from the ground. All sign lighting shall be white-colored illumination.
23 **Applicant Response:** The light that will be used to illuminate the sign will be a solar paneled light, attached to the top
24 of the sign and will be soft white in illumination.
25 (3) Area and dimensions. Area and dimensions shall be as follows:
26 a. Maximum aggregate signage for any parcel shall not exceed 50 square feet, with no single sign to exceed 25
27 square feet in area.
28 **Applicant Response:** Our sign is expected to be 4 square feet.
29 b. Freestanding signs shall not exceed 15 feet in height and shall not exceed the allowable square footage. Square
30 footage of signage allocated for the freestanding sign shall be subtracted from the maximum allowable square
31 footage.
32 **Applicant Response:** The sign will be attached to the mailbox, allowing it to be no more than 10 feet high.
33 c. Permitted sign area is not transferable between sides of the building located on a corner lot.
34 **Applicant Response:** The residential property is not located on a corner lot.
35 (e) Buffering. All buffering for the rural district shall conform to the landscaping and buffering of division 7 of
36 article VIII of this chapter.
37 **Applicant Response:** As stated in the conditional use standards, buffering for neighboring properties is already
38 installed in the form of privacy fencing on both sides where there are neighboring properties.
39
40 Chair Mailhot then stated that there is a motion by Ms. Dube and a second by Mr. Winch; she then asked if
41 there was any discussion on the motion and seeing none, she called for the vote. Town Planner Jeffrey
42 Hinderliter then called for the vote, the results of which were:
43 Ms. Hubert YES
44 Mr. Winch YES
45 Ms. Dube YES
46 Vice Chair Walker NO
47 Chair Mailhot NO
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49 Chair Mailhot then stated that vote carries 3-2.

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ITEM 2

Proposal: Major Subdivision and Site Plan Review: 26-lot residential subdivision and 10 single-resident houses to be built as part of a condo association
Action: Preliminary Plan Determination of Completeness; Schedule Site Walk; Public Hearing
Owner: Mark and Claire Bureau, Mark Bureau
Location: Red Oak Drive (Phase II); 139 Portland Ave; Zoning: RD

Chair Mailhot turned this item over to Vice Chair Walker and noted that she will not be participating in any discussion on this matter. Vice Chair Walker then asked for staff comments at which point Assistant Town Planner Michael Foster updated the Board as follows:

- This subdivision was last before the Planning Board in May. This will be located off from the existing previous Red Oak phase on Red Oak Drive, where a proposed street extension will loop through the development.
- Planning staff and Wright Pierce (WP) had a conference call with Charlie Burnham of Atlantic Resource Consultants (ARC) on July 27, 2021 to discuss the outstanding comments.
- The WP memo dated 8/3/2021 reflects this most recent conversation and it is included in your packets.

A few of the bigger items to review that need to be resolved:

1. Connection with existing public streets requirement (Sec. 74-309. - Design standards)

- The applicant has submitted a waiver request for this item dated June 22, 2021. In May the Planning Board requested feedback from the Fire Department and from Public Works.
 - The Fire Department response was that the “issue regarding the access road is remedied through planning, public works and town engineer.” Fire Chief LaMontagne pointed out that the connection with existing public streets is required by Town ordinance. (email 7/22/21)
 - Public Works director Joe Cooper responded to the applicant and to planning staff that he is not in favor of waivers that limit access in any way at all. (email 7/19/21)
 - Stephanie Hubbard with Wright Pierce pointed out that there is a stream crossing on Red Oak Drive and if this were to fail there would be no access to the 24 lots and 10 condos beyond the stream crossing. Public Works agreed on the stream crossing concern. (email 7/15/2021).
In the 8/3/21 WP memo it is noted that information is needed on the roadway crossing at Jones Creek.
 - The 2018 approved plan amendment for Red Oak limited the number of lots allowed because of the one connection:
“Should the plan be amended to include a 15th lot that is accessed by Red Oak Drive, an amended subdivision plan shall be provided to the planning board that contains a second means of egress.”

2. Sewer connection

- We now understand how they are going to be able to connect to the previous Walnut/Milliken Street areas that there were concerns about. We have the memo from Chris White saying they are upgrading those and that they could connect, as long as there is a condition that no occupancy permits would be signed off on until those are completed. The remaining questions had to do with pump station connection and private pump station and how that would work.

1 **3. Stormwater**

- 2 • The applicant has since responded to some of our questions and provided some updates yesterday,
3 but we haven't yet had the chance to go over those.
4

5 Michel Foster then said there was a list of items from previous memos, and that he would go through those,
6 and that they are highlighted in the Board's packets. He said that some had been responded to and just not
7 fully completed with a response, or that there was just a note that needed to be added to the plans.
8

9 **RECOMMENDATION:**

10 Planning staff recommends the Planning Board provide feedback to the applicant. Michael Foster stated
11 that the biggest item needing feedback on is the waiver for the street connection. Michael also mentioned
12 that there are a lot of outstanding items and those should be resolved before a determination of
13 completeness is made.

14 Vice Chair Walker then added that there were a number of Wright Pierce comments that needed to be
15 addressed, and also pointed out that Mr. Hitchcock would be voting in place of Chair Mailhot on this item.
16

17 Charlie Burnham of Atlantic Resource Consultants then addressed the Board, and stated that they would
18 like to formally withdraw the waiver request as it has been made clear by both the Fire Department and
19 Public Works that they would like 2 accesses. He also stated that the requests are being sorted out and
20 addressed, and the sewer/pump station is one of the bigger items that is still being addressed. Re that, he
21 said the pump station is being redesigned and sized, and the updated version will achieve the minimum 3.2
22 ft per second as desired. Charlie then stated that he is now hoping that a Site Walk can be scheduled for that
23 second crossing. Vice Chair Walker then asked if everything would be marked out for the Site Walk, to
24 which Charlie replied yes. Vice Chair Walker then asked if there were a maintenance easement that would
25 be needed for stormwater, and Charlie replied that no, easements would not be needed as the property is
26 owned; Charlie said that the deeds would be provided. Charlie also mentioned that the required sight
27 distances at the end of the road are achieved, and the next plans will indicate that. Vice Chair Walker then
28 asked for Board comments, and Mr. Winch addressed the second access road. Charlie stated that the plan
29 was to put in a 12' wide paved access lane, to which Vice Chair Walker stated it had to be an improved
30 road. Charlie replied that this was intended to remain private, that they were not looking for the town to
31 take over this road, that they were looking to put in an emergency entrance in case the first street crossing
32 failed. Town Planner Jeffrey Hinderliter replied that typically the town does require an improved road
33 according to our road standards, and one option for the applicant to consider is to seek waivers from those
34 road standards and come in with a modified design so that the road would serve more for emergency
35 purposes as compared to a full-out road, which may be a good idea. Jeffrey also suggested that the
36 applicant take a look at the road construction standards and see which standards they'd like to modify.
37 Charlie then responded that they are proposing a 16' fire-certified road to get in there. Vice Chair Walker
38 then stated that he would like to see a completed plan with road designs before a Site Walk is scheduled.
39 Ms. Dube then asked about the sewer connection off Milliken; Charlie replied that once the lines are
40 replaced they will tie-in. Assistant Town Planner then said that according to a memo from Chris White, the
41 work by the town to replace the lines is scheduled to begin this fall, to which Ms. Dube reiterated that
42 nothing could be done until that is completed. She then asked about the second exit and if it would be
43 crossing any streams etc., to which Charlie replied they would be crossing Jones Creek and would be
44 putting in a culvert and would be getting DEP approval. Vice Chair Walker then stated to Charlie that they
45 are not looking for a fire road, that they are looking for 2 means of access to that development. Vice Chair
46 Walker then proposed that they schedule a Site Walk for September 2 at 5:30pm.
47
48
49

50 Chair Mailhot then introduced Item 3.

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3 ITEM 3

4 Proposal: Ordinance Amendments (GB2 Lodging Unit Density): Ch. 78, Art. VI, Div. 9, Sec 78-835
5 Action: Review Draft Ordinance Amendment; Schedule Public Hearing
6 Applicant: Landmatters, LLC
7 Location: General Business 2 Zoning District
8

9 Town Planner Jeffrey Hinderliter presented the following information to the Board:
10

- 11 • This item is a zoning ordinance amendment proposing to add a density standard for lodging uses
12 within the GB2 District. The lodging use already is a permitted use in this district
- 13 • The proposed density standard is 1,200 sq. ft. of minimum net lot area per lodging establishment
14 unit. This standard will apply to the entire GB2 District
- 15 • Currently, the ordinance allows lodging uses in the GB2 but it does not have a density requirement
16 specific for lodging uses. It has a residential and nonresidential density requirement at 5,000 square
17 feet of lot area minimum per unit, but no lodging-specific density requirements.
- 18 • When reviewing zoning ordinance amendments we consider a number of things including current
19 ordinance language, existing use of properties in the zoning district, and the big one, consistency
20 with the comprehensive plan
- 21 • Regarding current ordinance language, lodging units are an allowed use in the GB2 but a lodging
22 specific density calculation is not. The question- was the intent of the Town to not include a density
23 standard specific to lodging and have density calculated through the nonresidential minimum lot
24 size per unit standard?
- 25 • There are 8 other zoning districts in town that allow lodging, some have a specific lodging density
26 calculation and some do not, so I looked to the comp plan for insight
- 27 • Regarding comp plan consistency, I concluded that this amendment is consistent with a majority of
28 the applicable sections of the plan. Although, when reviewing density calculations, and this may be
29 the most important, I could not clearly conclude if it is or is not consistent
- 30 • When comparing comp plan districts and current ordinance zoning districts, I found the comp plan
31 and current ordinance are similar- several zoning districts do not have a lodging specific density
32 calculation for those districts that allow lodging. This tells me the current ordinance calculates
33 density as the comp plan intended- to calculate density through a general minimum lot area per unit
34 and not specific to lodging establishments
- 35 • But how the recommendations from the comp plan transferred to the ordinance is not entirely
36 consistent- only one of the comp plan districts and current zoning districts allow lodging
37 establishments and have a lodging density calculation while 3 current zoning districts have a
38 lodging specific density calculation. This tells me ordinance drafters allowed specific lodging
39 density calcs in districts that did not have lodging density calcs in the comp plan. Similar to what is
40 proposed
- 41 • Regarding existing land uses, several high-density lodging uses already exist in the GB2 district.
42 For example, the Lighthouse Cabins at 74 Saco Ave has an approx. density of 1,393 sq. ft. of lot
43 area per unit. I believe this proposed amendment is consistent with what exists.
- 44 • Finally, there are a number of other things to consider when increasing density- fire prevention,
45 parking, neighborhood impacts, traffic, etc. but some are hard to measure without a specific
46 development proposal. Note that establishment of new lodging will require planning board review
47 so a future proposal will be required to address these items
- 48 • Note the Town is not the applicant so the applicants will have to make their argument for
49 consistency

1 Town Planner Jeffrey Hinderliter also stated that this is a formal application and that the Board will
2 have to schedule a Public Hearing and go through the typical ordinance amendment process.

3 Chair Mailhot then asked the applicants if they had anything to add. The applicant introduced Chris Johnson, a
4 retired attorney who is helping him on this process. Chris stated that the Old Orchard Beach ordinances are
5 inconsistent and ambiguous by virtue of the nature of how they were created. His proposition is that they clarify and
6 create meaningful standards that will apply across all the districts that make sense in terms of lodging. He feels that
7 the disparity among districts re lot size requirements or the absence thereof should be addressed, and that is why they
8 are proposing an amendment to the ordinance that would justify and create meaningful standards to the GB2 district.
9 Chair Mailhot then asked Chris to define lodging, seeing that it is not currently defined; Chris replied that it be
10 defined similarly to hotel and motel with a limitation on the outside number of units. Town Planner Jeffrey
11 Hinderliter then replied that there is a definition of lodging, called a lodging establishment, and a lodging
12 establishment means a hotel, motel, bed and breakfast, or inn; he added that what gets confusing is that each of those
13 4 types of lodging establishments then has its own definition. Ms. Dube then asked what is the intention of the
14 applicant, to which Chris stated it is the use of the old post office building as a lodging building, perhaps consisting
15 of 6 or 8 units. Ms. Hubert then added that she is concerned about the traffic on Saco Avenue. Vice Chair Walker
16 clarified that for exceptions of this sort, Old Orchard does have a contract zone that could be applied for, and Town
17 Planner Jeffrey Hinderliter stated that such was one of the options under consideration. Vice Chair Walker then
18 asked if there were other proposals that were denied due to the minimum density requirement in that zone; the answer
19 was no.

20 Chair Mailhot then asked for a motion to schedule a Public Hearing for September 9; motion was made by Vice
21 Chair Walker and was seconded by Ms. Dube. Chair Mailhot then asked for any discussion and seeing there was
22 none, she asked for the vote to be called. Town Planner Jeffrey Hinderliter called for the vote, the results of which
23 were as follows:

24
25 Ms. Hubert YES
26 Mr. Winch YES
27 Ms. Dube YES
28 Vice Chair Walker YES
29 Chair Mailhot YES

30
31 Chair Mailhot then stated that carries 5-0, and a Public Hearing is scheduled for September 9 at 6:30pm.
32
33
34

35 ITEM 4

36 Proposal: Conditional Use: Nonconforming structure 30% expansion on single-family
37 Action: Determination of Completeness; Schedule Site Walk and Public Hearing
38 Applicant: Joe and Tammy Heathco
39 Location: 80 Temple Ave; MBL: 322-11-6; Zoning: R3 and RA
40

41 Town Planner Jeffrey Hinderliter presented the following to the Board:
42

- 43 • This item is a proposed expansion of a nonconforming structure in the shoreland zone
- 44 • This item is much easier than many of the previous shoreland nonconforming proposals we've seen
45 as it not a tear down rebuild, large expansion or something close to the waterbody
- 46 • The expansion is a 9 x 18 two-story, 324 sq. ft. addition to a single family structure
- 47 • Because the existing structure and proposed addition are within the 100' waterbody setback, it
48 requires a shoreland zoning review
- 49 • In the case of this proposal, there are two primary standards- Is the proposed structure closer to the
50 regulated resource than the existing structure, and is the proposed structure sq. footage and volume
51 30% or less of the existing structure square footage and volume

- 1 • This proposal meets both standards as it is further away from the water and it is under the 30%
2 calculation
- 3 • We recommend the Planning Board make a determination of completeness with the condition
4 mentioned in staff memo to clarify some language in one of the responses, and to schedule a Public
5 Hearing for September 9. A site walk is not required but can be scheduled if the Planning Board
6 feels the need

7
8 Chair Mailhot then asked the applicant if they had anything they wished to state. The applicants stated that
9 they purchased the property last October and they have been improving the property, and this improvement
10 would be mainly to create better inside space primarily with the stairs.

11 Mr. Winch then made a motion to determine the application complete for a conditional use as follows:

12
13 *I will make a motion to determine as complete the application for a Conditional Use Shoreland Zoning*
14 *nonconforming structure 30% expansion located at 80 Temple Ave. with the following condition:*

- 15 1. *Amend second sentence in #4 of the standard conditions in the shoreland zone to state: The addition is not*
16 *closer to the 100 ft. water setback than the existing structure*

17
18 This motion was seconded by Vice Chair Walker. Chair Mailhot then asked for any further discussion, and seeing
19 there was none, called for the vote. Town Planner Jeffrey Hinderliter called for the vote, the results of which were:

20
21 Ms. Hubert YES

22 Mr. Winch YES

23 Ms. Dube YES

24 Vice Chair Walker YES

25 Chair Mailhot YES

26
27 Chair Mailhot stated that carries 5-0, that a site walk is not necessary, and a Public Hearing will be scheduled for
28 September 9 at 6:30.

29
30
31 Other Business Nothing to discuss

32 Good and Welfare Nothing to discuss

33
34
35 ADJOURNMENT

36 Seeing that there was nothing else for discussion, Chair Mailhot adjourned the meeting at 7:59PM

37
38
39 *I, Laurie Aberizk, Administrative Assistant to the Planning Board of the Town of Old Orchard Beach, do hereby*
40 *certify that the foregoing document consisting of Eleven (11) pages is a true copy of the original minutes of the*
41 *Planning Board Meeting of August 12, 2021.*

42
43
44 X 
45 Laurie Aberizk