

1 **OLD ORCHARD BEACH PLANNING BOARD**
2 **Public Hearing & Regular Meeting**
3 **December 12, 2019 6:30 PM**
4 **Town Council Chambers**
5 **MEETING MINUTES**

6
7 **CALL MEETING TO ORDER 6:00 PM**

8
9 **PLEDGE TO THE FLAG**

10
11 **ROLL CALL**

12
13 **PRESENT:**

14 Chris Hitchcock
15 David Walker
16 Vice Chair Win Winch
17 Robin Dube
18 Marianne Hubert

19
20 **ABSENT:**

21 Chair Linda Mailhot
22 Mark Koenigs

23
24 **STAFF PRESENT:**

25 Planner Jeffrey Hinderliter
26 Assistant Planner Michael Foster

27
28 **Approval of Minutes: 11/7/19, 11/14/19**

29
30 **MOTION:**

31 Chris Hitchcock made a motion to approve the 11/7/19 and 11/14/19 meeting minutes, seconded by
32 Robin Dube.

33
34 **Planner Jeffrey Hinderliter called for the vote:**

35
36 **VOTE:**

37 Chris Hitchcock - Yes
38 David Walker - Yes
39 Vice Chair Win Winch - Yes
40 Robin Dube - Yes
41 Marianne Hubert – Yes

42
43 **PASSES:**

44 (5-0)

45
46 **Public Hearings**

47 **Proposal:** Conditional Use/Site Plan Review: Campground expansion- 17 new campsites

48 **Owner:** Seacoast RV Resort LLC

49 **Location:** 1 Seacoast Ln (102-3-5) & Portland Ave (102-3-7); Zoning: CO and RD

50

1 Public hearing opened at 6:32 pm.

2
3 Gregory and Kerrienne Strzelecki, owners of 2 Hideaway Road introduced themselves. They stated that
4 they are opposed to this proposal.

5 When they purchased the property, they did have concerns about Seacoast RV campsite being adjacent to
6 their property.

7 There are no visual barriers between the properties. They added a new maintenance building that is taller
8 than their house and their permanent view out their kitchen window and part of their living room is the
9 maintenance building.

10 They had looked back at the history of their property and zoning ordinances, and found out that the
11 original owner, Paul Rogers and Mike Mailhot had some disputes about this. In 2005 on Aug. 11th it was
12 agreed by the Board back then decided that as long as Mike Mailhot built an 8 ft. tall fence and planted 7
13 6 ft. high trees that would run the length of their property.

14 This was never enforced, there is no fence and the trees are not barriers. Originally, the Board changed
15 the ordinance for him to have a smaller zoning distance between the properties. The campsite is very loud
16 at the RV Park and throwing stuff into the wooded buffer zone, leave clippings rotting, animals leaving
17 feces in the woods, security lights pointing at their house.

18 At a minimum, they would like the original building permit be enforced and have an 8 ft. fence be
19 installed as close to the trailers as possible, and would like to include any new construction that they have.
20 In the back lot, it is most important that they go closest to the trailers on the new construction area
21 because it is uphill. They purchased the home September of 2019. They stated that if they had known that
22 there was a possibility of expansion there, they would have not bought the property. They both agreed
23 that a fence would solve their problem.

24
25 There being no one else speaking for or against the appellant, the public hearing closed at 6:48 pm.

26
27 **Proposal: Conditional Use/Shoreland Zoning: Nonconforming structure replacement,**
28 **relocation and 30% expansion**

29 **Owner: Don and Lynn Hoenig**

30 **Location: 17 Sandpiper Rd (324-6-6); Zoning: R3 and Shoreland RA**

31
32 Opened the public hearing at 6:49 pm

33
34 Andy Sparks with his wife Jane who live at 86 Seaside Ave. They have seen the plans and they are in
35 favor of this proposal and believes that this will be a great addition to the neighborhood.

36
37 Walter Dowling from 1 Sandpiper Road introduced himself. He and his wife are in favor of this proposal.

38
39 There being on one else speaking for or against this item, the public hearing closed at 6:51 pm.

40
41 **Regular Business**

42 **ITEM 1**

43 **Proposal: Conditional Use/Site Plan Review: Campground expansion- 17 new campsites**

44 **Action: Discussion; Final Ruling**

45 **Owner: Seacoast RV Resort LLC**

46 **Location: 1 Seacoast Ln (102-3-5) & Portland Ave (102-3-7); Zoning: CO and RD**

47
48 Assistant Planner Michael Foster stated that at the last months Planning Board meeting, there was a
49 determination of completeness made and there were some remaining comments from Wright Pierce that
50 BH2M was going to address, also some construction detail comments related to engineering and general
51 considerations. Staff is recommending that those items be satisfied and continuing to work with Wright

1 Pierce if they have not already addressed these items.
2

3 Bill Thompson, Project Manager with BH2M Engineers for Seacoast RV Resort LLC. These 17 new
4 campsites will be put into 2 different locations on the project site. Had a sitewalk in October, and on
5 November 14th with a summery letter generated by Wright Pierce and the Town at that time. Their
6 submission back to the Town was November 21st with response to those comments.
7

- 8 • They do have to go to DEP for an amended site location permit and part of that will be for them
9 to review the
10 stormwater report.
- 11 • They recommend that the Applicant consider slope protection and guardrails along the site drive.
12 They are in
13 favor of wood guardrails the help protect any vehicles and their maneuvering with the side slope
14 coming down off
15 of the pavement.
- 16 • Recommend the O&M plan to follow the Towns post construction stormwater management
17 program. Wright Pierce sent a summary of what they would like to see. This can be prepared after
18 final approval.
- 19 • A review of the towns Performance Guarantee has been submitted. \$137,300 has been outlined in
20 their submission for the different components to build out these 17 sites.
21

22 Comments on construction details. They wanted some additional spot grades. Comment about a catch
23 basin detail (numbers perhaps needs to be adjusted). They want to move sewer manhole #3. Construction
24 details on the vegetative soil filters, they have a small filter out in the back. Clarification on labeling of
25 the 4" pipes vs. 6" pipe.

26 In regards to screening, they do plan on using a solid fence.

27 Mr. Thompson stated that he will pass the information of the short comings from the abutters on to the
28 owners and get these issues rectified from the approvals back in 2003 and needs to be brought up to what
29 was approved. The owners of the campground are very willing to keep the neighbors happy. Would
30 recommend a solid fence be included on the existing park. This would be a Conditional Approval.

31 Assistant Planner Foster stated that he did review the file to find out about the prior decision, but there
32 was just too much to go through so he didn't come to a final decision or see what had been finalized. Mr.
33 Foster stated that if the Board is comfortable with the buffer, it would be appropriate to have the fence.
34 Planner Jeffrey Hinderliter stated staff would like the cost (if it is not constructed at that time) added into
35 the performance guaranteed for the landscaping and buffering.

36 Robin Dube also suggested that the Planning Board make a recommendation that the owners do
37 something with the spotlight so that it will not be aiming at the neighbors house.
38

39 David Walker read the responses to the Criteria Use Standards:
40

41 **Sec. 78-216. Review procedure - Criteria for Approval Responses** 42

- 43 1. The proposed project conforms to all standards of the zoning district and meets or exceeds
44 performance standards specified in this article and article VIII of this chapter.
45 **Response: Project site is zoned for this existing use. Our proposed improvement is for a**
46 **maintenance building and will meet all setbacks per zoning. All performance standards**
47 **specified in Article VIII shall be met.**
48

- 1 2. The proposed project has received all required zoning board of appeals and/or design review
2 permits as specified in division 2 of article II and article V of this chapter, if applicable, and has
3 or will receive all applicable federal and state permits.

4 **Response: Zoning Board of Appeals is not required for this project. All performance**
5 **standards in division 2 of Article II and Article V have been met.**
6

- 7 3. The proposed project will not have an adverse impact upon the quality of surficial or groundwater
8 resources.

9 **Response: The stormwater design for this small increase in impervious area will prevent**
10 **any adverse impact on the quality of surface drainage or groundwater.**
11 **This site is served by public water and public sewer.**
12

- 13 4. The project provides adequate stormwater management facilities to produce no additional peak
14 runoff from the site during a 25-year storm event or any other event so required by the planning
15 board, and will not have an undue impact on municipal stormwater facilities or downstream
16 properties.

17 **Response: The small increase of impervious will be managed to prevent any peak runoff**
18 **from a 25-year storm. The proposed increase in impervious is 1/10 of an acre.**
19

- 20 5. The proposed project will not have an adverse on-site and off-site impact upon existing vehicular
21 and pedestrian circulation systems within the community or neighborhood.

22 **Response: The proposed use will not result in any new vehicular trips from the existing use.**
23 **The proposed maintenance building will be used by the existing staff.**
24

- 25 6. The proposed project will not have an adverse impact upon environmental quality, critical
26 wildlife habitats, marine resources, important cultural resources, or visual quality of the
27 neighborhood, surrounding environs, or the community.

28 **Response: The proposed 2400 s.f. maintenance building will be located to the rear of**
29 **existing R.V. sites and will exceed the minimum setback along the one abutting residential**
30 **property. The required buffer will be maintained**
31

- 32 7. The proposed project will not produce noise, odors, dust, debris, glare, solar obstruction or other
33 nuisances that will adversely impact the quality of life, character, or the stability of property
34 values of surrounding parcels.

35 **Response: All proposed activities associated with the maintenance building will be**
36 **conducted in the building. No noise, odors, debris, glare or other nuisances are anticipated.**
37 **The existing use is a seasonal R.V. park requiring minimal maintenance.**
38

- 39 8. The proposed project will not have a negative fiscal impact on municipal government.

40 **Response: No negative fiscal impact on municipal government will result from this**
41 **construction and use of the maintenance building.**
42

- 43 9. The proposed project will not have an adverse impact upon surrounding property values.

44 **Response: The proposed maintenance building will be buffered from the one residential**
45 **property. No outside storage or services will be conducted along this abutting property.**
46
47

- 1 1. The proposed use will not result in significant hazards to pedestrian or vehicular traffic, on-site or
2 off-site.

3 **Response: The on-site roadway design allows for easy movement throughout the site. The**
4 **off-site traffic can enter and exit via the 20 foot wide roadway with sight distance exceeding**
5 **the minimum required. The access road will have 25' radius to ease traffic in and out. The**
6 **proposed gate is located 120' in from the Ross Road pavement and we have provided a turn**
7 **around outside the gate. At the nearest intersection of Ross Road and Portland Avenue**
8 **there is a 4 way stop which will significantly reduce problems in that area.**
9

- 10 2. Proposed use will not create or increase any fire hazard.

11 **Response: The normal operation of a campground does not by itself increase or create any**
12 **fire hazard. The park rules will not allow any open fires. There will be a fire hydrant at**
13 **the entrance to the campground.**
14

- 15 3. Provide adequate off street parking –

16 **Response: By zoning two spaces per campsite has been provided.**
17

- 18 4. Will not cause water pollution, sedimentation, erosion or contamination of any water supply.

19 **Response: This site is designed with a private sewer and water system. No septic systems or**
20 **drilled wells are proposed. All construction will be done to prevent any erosion.**
21

- 22 5. Will not create unhealthful conditions because of smoke, dust or other airborne contaminants.

23 **Response: Park rules will control by not allowing open fires. With a normal operation**
24 **there will be no dust or other airborne contaminants.**
25

- 26 6. Will not create nuisances to neighboring properties because of odors, fumes, glare, hours of
27 operation, noise, vibration or fire hazard, or unreasonable restrict access to light and air to
28 neighboring property.

29 **Response: Odors – No odor, becoming a nuisance, will be generated by a campground.**

30 **Fumes – Not from a campground use. There will be no open fires.**

31 **Glare – The street lights will include a cutoff panel to prevent light spilling onto abutting**
32 **properties. The closest light from the abutting residence is approximately 300' thru the**
33 **woods.**

34 **Hours of operation – Quiet times are spelled out in the Park Rules.**

35 **Noise – Park Rules will control this.**

36 **Vibration or fire hazard – Vibration should not be an issue with the operation of a**
37 **campground.**

38 **Restricting light and air is not an issue with a camper.**
39

- 40 7. Provide adequate waste disposal for solid and liquid waste generated by use.

41 **Response: We have two dumpster locations and an engineered sewer system to handle waste**
42 **water.**
43

- 44 8. Will not adversely affect the value of adjacent properties.

45 **Response: Studies have shown that there is no impact to property values.**
46

- 47 9. Use will be compatible with existing uses in the neighborhood with respect to generation of noise
48 and hours of operation.

1 **Response: Item 6 discusses noise and will be controlled by Park Rules with “Quiet Time”.**
2 **Residential uses are not governed by such rules.**
3 **Hours of Operation – Park Rules will be in place and enforced.**

4
5 10. Must include special screening or buffering proposed project proposed a 30 foot buffer which
6 meets the zoning requirements for campgrounds.

7 **Response: This area is wooded and will remain undisturbed.**

8
9 11. Must provide for drainage minimizing cuts and fills.

10 **Response: The design provides for protection of downstream areas and all drainage will be**
11 **collected and directed to the proposed stormwater level spreader.**

12
13 12. Applicant to have adequate financial and technical capacity.

14 **Response: Financial capacity will be provided by applicant.**

15 **Technical capacity thru design and construction layout will be done by BH2M an**
16 **engineering and surveying firm in business for 35 years doing similar projects**

17
18 **MOTION:**

19 Robin Dube made a motion to approve the Seacoast RV Resort LLC 17 new campsite expansion located
20 at 1 Seacoast Lane, MBL 102-3-5 and Portland Avenue MBL 102-3-7 in a campground overlay and rural
21 district with a condition that the applicants address any remaining considerations against construction
22 detail comments to the Town Planner’s satisfaction prior to the required pre-construction meeting and
23 adding an 8 ft. fence between Gregory and Kerriane Strezelecki’s property and the new construction,
24 seconded by Marianne Hubert.

25 *Planner Jeffrey Hinderliter called for the vote:*

26
27 **VOTE:**

28 Chris Hitchcock - Yes

29 David Walker - Yes

30 Vice Chair Win Winch - Yes

31 Robin Dube - Yes

32 Marianne Hubert – Yes

33
34 **PASSES:**

35 (5-0)

36
37 **ITEM 2**

38 **Proposal: Conditional Use/Shoreland Zoning: Nonconforming structure replacement,**
39 **relocation and 30% expansion**

40 **Action: Discussion; Final Ruling**

41 **Owner: Don and Lynn Hoenig**

42 **Location: 17 Sandpiper Rd (324-6-6); Zoning: R3 and Shoreland RA**

43
44 Brennon Binette with MCS on behalf of Don and Lynn Hoenig introduced himself. He is here along with
45 Jim Bernard, who is the architect and builder of this project. Currently there is a non-conforming single
46 family residential home that opposes into the setback that is right up against the road. It is located within
47 the A2 flood zone. The current parcel that has the structure on it has a finish floor elevation of 10.9.1.
48 They have pulled the proposed house back away from the road making it more conforming to the
49 surrounding lots. They raised the structure to a finished floor elevation to about 2.9 ft. higher than what

1 the original one was. PBR was submitted and approved by the DEP and pulled it out of the way of the
2 erosion hazard area, added a driveway and gave it a hammerhead.

3
4 There were 2 outstanding items that have been completed:

- 5 • Identifying the flood plain on the site plan
- 6 • Reducing the driveway width so it meets the driveway width standards

7
8 Staff recommends approval with no conditions.

9
10 Chris Hitchcock read the Conditional Use Standards:

11
12 **Sec. 78-1240. – Conditional Use Standards.**

13 (1) The proposed use will not result in significant hazards to pedestrian or vehicular traffic, on-site or off-
14 site.

15 ***Response: The project will not cause any significant hazards to pedestrians or vehicular traffic on or***
16 ***off site. The proposed project is moving the structure farther away from the road edge causing less of***
17 ***a hazard for traffic and pedestrians.***

18
19 (2) The proposed use will not create or increase any fire hazard.

20 ***Response: The proposed project will not create or increase any fire hazard to the town or surrounding***
21 ***properties.***

22
23 (3) The proposed use will provide adequate off-street parking and loading areas.

24 ***Response: The project meets the two required off street parking stalls with the use of garage and***
25 ***driveway. Loading zones will not be used for this single family residential structure.***

26
27 (4) The proposed use will not cause water pollution, sedimentation, erosion, or contamination of any
28 water supply.

29 ***Response: The proposed use will not cause water pollution, sedimentation, erosion or contamination of***
30 ***any water supply. During construction all erosion and sedimentation requirements will be followed as***
31 ***required by MDEP and MDOT item #656.***

32
33 (5) The proposed use will not create unhealthful conditions because of smoke, dust or other airborne
34 contaminants.

35 ***Response: The proposed single family residential structure will not create unhealthy conditions due to***
36 ***smoke, dust or airborne contaminants.***

37
38 (6) The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare,
39 hours of operation, noise, vibration or fire hazard or unreasonably restrict access of light and air to
40 neighboring properties.

41 ***Response: The proposed single family structure will not create nuisances to abutting properties***
42 ***including odors, fumes, glare, hours of operation, noise, vibration or fire hazard or restrict access to***
43 ***air or light.***

44
45 (7) The proposed use will provide adequate waste disposal systems for all solid and liquid wastes
46 generated by the use.

47 ***Response: The proposed use will tie into an existing on-site sewer pipe which will remove all solid and***
48 ***liquid waste generated by use of this structure. Trash generated will be removed by the public trash***
49 ***removal service in the local area.***

50
51 (8) The proposed use will not adversely affect the value of adjacent properties.

1 **Response: The proposed structure will not adversely affect the adjacent properties. The new structure**
2 **will bring the site into conformance with surrounding properties.**

3
4 (9) The proposed use will be compatible with existing uses in the neighborhood, with respect to the
5 generation of noise and hours of operation.

6 **Response: The proposed single family residential use will match the existing uses within the residential**
7 **neighborhood.**

8
9 (10) The applicant's proposal must include any special screening or buffering necessary to visually
10 obstruct the subject property from abutting uses or to ensure the continued enjoyment of abutting uses.

11 **Response: The existing vegetation between abutting properties will remain to provide screening and**
12 **keep the existing look of the property. This will ensure the enjoyment of the abutting uses and will not**
13 **visually obstruct the subject property from abutting uses.**

14
15 (11) The applicant's proposal must adequately provide for drainage through and for preservation of
16 existing topography within its location, particularly in minimizing any cut, fill, or paving intended.

17 **Response: The proposed project will provide adequate drainage through the preservation of the**
18 **existing topography within its location, with minimal fill. Pavement on site will be for the proposed**
19 **driveway to meet the two parking stall minimum for off street parking.**

20
21 (12) The applicant must be found to have adequate financial and technical capacity to satisfy the criteria
22 in this section and to develop and thereafter maintain the proposed project or use in accordance with all
23 applicable requirements.

24 **Response: The owner has adequate financial and technical capacity to rebuild a single family**
25 **residential home and meet all standards set forth in the ordinance.**

26
27 **78-34 (e) Standard conditions in any shoreland zone.**

28 (1) Will maintain safe and healthful conditions;

29 **Response: The proposed residential structure will maintain safe and healthy conditions to both the**
30 **environment and surrounding neighbors.**

31
32 (2) Will not result in water pollution, erosion, or sedimentation to surface waters;

33 **Response: The proposed use will not cause water pollution, sedimentation, erosion or contamination of**
34 **any water supply. During construction all erosion and sedimentation requirements will be followed as**
35 **required by MaineDEP and MDOT item #656.**

36
37 (3) Will adequately provide for the disposal of all wastewater;

38 **Response: The proposed use will tie into an existing on-site sewer pipe which will remove all solid and**
39 **liquid waste generated by use of this structure. Trash generated by the use will be removed by the**
40 **public trash removal service within the local area.**

41
42 (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

43 **Response: The new structure will not have an adverse impact on spawning grounds, fish, aquatic life**
44 **or other wildlife habitat.**

45
46 (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;

47 **Response: The project will conserve shore cover and visual aspects. No access to inland and coastal**
48 **water will be affected.**

49
50 (6) Will protect archaeological and historic resources as designated in the comprehensive plan;

51 **Response: No archeological or historical resources will be affected by this project.**

1
2 (7) Will avoid problems associated with floodplain development and use;

3 ***Response: Problems associated with floodplain development and use will be avoided.***
4

5 (8) Is in conformance with the provisions of all applicable shoreland zoning standards in division 17 of
6 this chapter.

7 ***Response: This project is in conformance with all provisions that are applicable within the Shoreland***
8 ***Zoning Standards in Division 17 of this chapter.***
9

10 **MOTION:**

11 Marianne Hubert made a motion to approve the Conditional Use Shoreland Zoning nonconforming
12 structure 30% expansion, replacement and relocation application for a single-family dwelling located at
13 17 Sandpiper Road, seconded by David Walker.
14

15 **Planner Jeffrey Hinderliter called for the vote:**
16

17 **VOTE:**

18 Chris Hitchcock - Yes

19 David Walker - Yes

20 Vice Chair Win Winch - Yes

21 Robin Dube - Yes

22 Marianne Hubert – Yes
23

24 **PASSES:**

25 **(5-0)**
26

27 **ITEM 3**

28 **Proposal: Conditional Use/Shoreland Zoning: Nonconforming structure 30% expansion**

29 **Action: Determination of Completeness; Schedule Site Walk and Public Hearing**

30 **Owner: Tom and Leigh Mundhenk**

31 **Location: 9 West Tioga (320-11-3); Zoning: R3 and Shoreland RA**
32

33 Assistant Planner Michael Foster stated that this proposal is to replace and enclose an existing deck to
34 make a new sunroom. The reason that this is before the Planning Board is because it is within 100' of the
35 highest annual tide and shoreland zoning allows no more than a 30% increase. Even though this is in an
36 existing footprint of a current deck, the enclosure will increase the volume. This will not be more than a
37 30% expansion. We need to make sure that this will meet the flood development standards. Staff received
38 the estimate (price opinion) from Ocean Park Realty.

39 Upon reviewing other files, he did find a letter from a previous Code Enforcement Officer had asked a
40 direct question about market value and how to determine that, and the response was that the insurance
41 replacement cost most closely represents the market value. He asked if the owners could provide that
42 information and the number listed on that was \$275,000, which is lower than what was provided but also
43 higher than what our town assessment value is.
44

45 Planner Hinderliter stated that the flood plain does not fall under the Planning Board's jurisdiction, this
46 has a bearing on the Planning Board's decision because if the applicant is required to comply with the
47 flood plain, standards for substantial improvement could mean a change in the 30% calculations.
48

49 It appears that there are still some questions regarding whether this does go over that substantial
50 improvement threshold.
51

1 **MOTION:**

2 Robin Dube made a motion to table the application without prejudice until the applicant submits a market
3 analysis for appraisal showing fair market value, seconded by Chris Hitchcock.

4
5 David Walker stated that it is costly to have an appraisal done for a fair market value, and because the
6 applicant took steps to get value based on comps in the area, and requiring someone to repeat those steps
7 would be rather onus to the applicant.

8
9 The owner stated that the question was raised when he was here in October was could he use some other
10 measure of market value or is he limited to the towns assessed value?

11 He then talked with the assessor and he gave him the definition of market value. He then went to a realtor
12 who was most familiar with property value and asked him to give him an assessment to the market value.
13 The ordinance says Market Value. His realtor stated that it was \$330,000 and the insurance companies
14 number is \$275,000, either of these figures would make it less than the 30%.

15
16 Assistant Planner Foster asked what would happen if a determination of completeness was made subject
17 to receiving some of these items where it could be not approved in the future in the final decision if we
18 weren't provided the correct items for what we needed.

19 Planner Hinderliter stated that this is a possibility and what would need to happen between now and the
20 public hearing is getting together with the Code Enforcer and the Applicant to figure this out.

21
22 Chris Hitchcock stated that the assessment doesn't look reasonable to him.

23
24 **Planner Jeffrey Hinderliter called for the vote:**

25
26 **VOTE:**

- 27 Chris Hitchcock - Yes
- 28 David Walker - No
- 29 Vice Chair Win Winch - Yes
- 30 Robin Dube - Yes
- 31 Marianne Hubert – Yes

32
33 **PASSES:**

34 **(4-1)**

35
36 Planner Hinderliter suggested for the Assistant Planner Foster to contact the State Flood Plain
37 Coordinator and we can get an example to the Applicant.

38
39 **ITEM 4**

- 40 **Proposal:** Site Plan: Sketch Plan Review Retail building, Fueling Station, Self-Storage
- 41 **Buildings**
- 42 **Action:** Discussion; Recommendations
- 43 **Owner:** Colonial Motor Court LLC
- 44 **Location:** 15 Ocean Park Rd (210-10-3); Zoning: GB1

45
46 Planner Jeffrey Hinderliter stated that the current submission is a sketch plan. The Board has done a
47 comprehensive review on this proposal and felt that it warranted that.
48 The four primary items: Landscaping and Buffering, Off-Site Traffic Impacts, On-Site Vehicle
49 Maneuvering, Stormwater Management. The Applicant will request some waivers as well because of the
50 proximity that the driveways on this property are to arterial and collector roads.

1 There are 2 items that are related to the primary items are the location of the fuel pumps as it relates to
2 traffic and getting more details on the propane building.
3 The primary concern with the fuel pumps is the traffic on Ocean Park Road. RV's and other large
4 vehicles, we see that there is a potential for traffic impacts on Ocean Park Road and internally trying to
5 maneuver around. We will be getting the traffic engineers perspective on this as well.
6 Second, we would like more information about the propane area so that we ensure the safety of the
7 abutting property owners.
8
9 The proposal will require a Traffic Impact permit from MDOT.
10 Once the Applicant submits a traffic report, we will look to have our own peer review Traffic Engineer.
11
12 Jim Bernard doing business as Eastwood Development Bldg. Corp. and the Building Contractor here with
13 Eric Williams from SER Engineering.
14 He came before the Board earlier this year trying to do an amendment to the property because they had 2
15 zones on one piece of property. The owners thought that they had 1 piece of commercial property because
16 they had been paying taxes on it. Mr. Bernard brought it to their attention so they met with Staff to find
17 out what needed to be done in order to correct that. Planner Hinderliter suggested to see if the Planning
18 Board and the Council would endorse this. They came up with the idea of running a gas station with the
19 self-service storage in the back. They were going to be doing a sandwich shop, convenience store/gas
20 station on the front portion to tie everything together so that the owners could run the 2 businesses
21 together. They hired Eric Williams to do the design and using the land as the best possible use since this
22 is the gateway to the community. The family has owned this since 1948. The site is always maintained
23 and well groomed. They will be hiring a landscaping engineer to put together design work.
24
25 Eric Williams from SER Engineering introduced himself. The family is part of the Champaign Energy
26 Business, so they are very familiar with the propane dispensing piece. They want to bring some character
27 to the building. The owners also have an office building and an operation in Arundel and it is a top notch
28 business and is very well maintained.
29
30 Lighting is one of the components of why the owners why the current configuration of the site might be
31 better.
32 Having more of the higher use of the area located at the frontage adjacent to Ocean Park Road. This is
33 where the higher concentration of lighting will be.
34
35 All of the stormwater on the property collects at a depression. It does not have a natural course of
36 drainage. There is no drainage or stormwater that discharges from the property to the Ocean Park Road
37 storm drain system. They will not have an impact on the public stormwater system.
38 The owner is negotiating with the abutting campground to provide a natural drainage easement at the SW
39 corner of the property. They will be meeting and complying with all of the stormwater ordinances for the
40 Town as well as obtaining a Stormwater permit from MDEP. They had a preliminary meeting the MDEP
41 and in concept they thought the approach would work and meet their criteria for Stormwater Quality
42 Control.
43
44 Marianne Hubert has concerns with the access to the storage area that is though a gas station having only
45 1 access road.
46 There will be 2 lanes for larger trailers to come in and there is still a 20' driving lane for thru vehicles to
47 come around if they want to. They have provided 30' driving lanes around the entire back and sides of the
48 building and even more on the Eastern side. We also have 50 – over 60 feet of turning room around the
49 East and West sides of the pumps. Typically in a normal fuel station you may see 25-30 feet. They will
50 also have small propane tank refills.

1 Robin Dube expressed her concern for the lighting. Mr. Williams stated that they understand the
2 Performance Standards that will have to be met for this.
3 When it comes down to the traffic issues, it will be handled by MDOT. They do have a Traffic Engineer
4 working on the permit application for the Traffic Movement Permit.
5 David Walker stated that he had gotten some items that Chair Mailhot (in her absence) sent to him:
6

- 7 • The gas pumps should be further back allowing more staging area for longer vehicles.
- 8 • Putting the retail store to the front should help.
- 9 • Old Orchard Beach is RV friendly.
- 10 • Presently there is no gas station in town that can accommodate that larger vehicles.
- 11 • Would like to see an electrical vehicle charging station on the property.
- 12 • She has concerns about the LP filling station and wondering if this is a necessary component to
13 the development.
- 14 • She would like to see a light at Smithwheel Road and /or a cooperative effort between the
15 business and Old Orchard Beach Campground to have a common entrance off of their theoretical
16 light which would be great for the Campground and their patrons and the gas station.

17
18 **ITEM 5**

19 **Proposal: Zoning Map Amendment: Change portion of the Industrial zoning district to the**
20 **Rural zoning district**

21 **Action: Discussion; Schedule Public Hearing**

22 **Owner: Mezoian Development, LLC**

23 **Location: Ross Rd (105-2-7); Current Zoning: RD and ID**
24

25 This proposal is directly associated with is the Cluster Subdivision however the density would not work
26 with the current zoning district (Industrial). One of the better ways to resolve that was to re-zone a
27 portion of the area so the cluster was in the Rural District. The proposal shows that out of the total 86
28 acres that are part of the primary parcel, approximately 22 acres are associated with the proposed zoning
29 change which is being Industrial to the Rural District.
30

31 Planner Hinderliter talked about:

32 • **Spot Zoning**

33 The question of “Spot Zoning” is something to consider as part of our review. Spot zoning has been
34 defined as the process of singling out a property for a use classification totally different from the
35 surrounding area for the benefit of the property owner to the detriment of other owners. To determine
36 whether a proposed amendment creates a spot zone, the following should be considered:

- 37 • Size of area associated with the amendment. Is it just a small parcel, neighborhood, entire zoning
38 district?
- 39 • Use classification and development of adjacent property
- 40 • Relation of amendment to existing zoning patterns and objectives
- 41 • History of the amendment
- 42 • Benefits or detriments to the owner, adjacent owners, neighborhood, town
- 43 • Is the proposed change pursuant to and consistent with the comp plan
44

45 When deciding if a proposed amendment constitutes spot zoning the PB should apply the comments
46 above to the facts of the specific proposal.
47

48 Regarding this zoning change, the purpose is not to allow a permitted or conditional land use that
49 currently is not allowed- it’s to increase the residential density. Residential land uses are allowed in both

1 zoning districts and that will not change. In fact, this change would remove the potential to develop this
2 land for most industrial uses because the ID will be replaced with RD.

3
4 The primary abutting land use is undeveloped town owned and undeveloped privately owned land.
5 Single-family uses abut and are the primary built land uses in this area. This includes a higher density
6 cluster subdivision (Eastern Trail Estates).

7
8 If the zoning amendment is adopted it essentially gives the applicant the green light to move forward with
9 the 37-lot cluster subdivision. This will certainly benefit the applicant. As to the detriments this may
10 create to adjacent land owners, most of the adjacent land is undeveloped and assuming the applicant
11 remains true to their stated intents, the land use (residential) will be the same as nearby properties. The
12 density would be allowed to increase so this would create additional traffic which may be considered a
13 detriment. When thinking of benefits and detriments, the PB should consider what the current district,
14 industrial, could create.

15
16
17 • **Comp Plan Consistency**

18 Consistency with the adopted comprehensive plan is another matter the PB must consider. Zoning map
19 amendments must be consistent with the currently adopted comprehensive plan. Regarding this proposal,
20 its staff's opinion the changes are consistent with the adopted comp plan.

21
22 The 1992 Future Land Use Plan Map (FLUPM) shows not only the 22 acres associated with the proposed
23 change but the entire 86 acre lot within the Rural Zoning District. In fact, the FLUPM changes the ID to
24 the Light Industrial District (L1) and has a significant reduction in land area compared to what is shown
25 on the current zoning map. And, none of the L1 is located on the lot associated with the change. What
26 this tells us is the zoning district as its shown today was not changed to reflect the FLUPM which is why
27 we continue to have the current district designation, ID, and not the zoning district, RD, as proposed by
28 the comp plan. So, it could be argued the zoning district as currently shown is not in conformance with
29 the adopted comp plan- the lot should be entirely with the RD and this proposal will actually make the
30 zoning district consistent with the comp plan.

31
32 According to the Future Land Use Plan, the RD designation intent is to “preserve the open, rural character
33 of OOB by encouraging agriculture and forestry uses and discouraging suburban-type residential
34 development activity and assuring that any development that does occur is done in a manner which
35 preserves the aesthetic rural character of the community” (V-3). A read of the above and thinking what
36 could potential exist here (cluster subdivision), one would question how the development could meet this
37 standard. But, further review of the RD in the Future Land Use Plan shows the recommended policies to
38 preserve rural character include “clustered residential uses, creation of smaller lots for residential
39 developments, and individual lots created as part of the development shall have their frontage on an
40 internal road rather than on an existing Town road” (V-3, V-4). Along with recommendations for open
41 space, this is pretty much what the 37-lot cluster is proposing.

42
43 The letter of authorization states: “Any zoning change should be conditioned on Mezoian Development
44 LLC purchasing the land and should not go into effect until title is transferred.” A condition such as this
45 may work for a contract zone but we are not reviewing a contract zone. I’m not sure if the PB or Council
46 can apply a condition such as this which essentially gets the town involved in a private real estate
47 transaction. What if the transaction fell through for some reason- does this make the zoning null and
48 void? What does this bind the town too? What if the land P&S is subject to more than the zoning
49 amendment and includes the subdivision being approved- if the zoning cannot change until title is
50 transferred the PB would review this proposal as if the zoning did not change which puts us exactly where
51 we are now- the subdivision as proposed could not be approved because of the ID zone density calcs. I

1 can certainly understand why this condition is requested but, as advisor to the PB and being responsible to
2 protect the town's interest, it makes me nervous. Ultimately, I think this matter needs to be cleared up in
3 writing so we know the current property owners' authorization of the applicant moving forward is not
4 conditional. If this condition was not applied would the property owner still authorize the applicant to
5 pursue the zoning change? This matter should be cleared up before the PB makes a recommendation.
6

7 One final note, a similar zoning district map change was approved for a nearby property a few years ago
8 (2017). This change approved removal of the ID and extension of the RD for the lot located at MBL 105-
9 2-16.

10 Planner Hinderliter is recommending to the Planning Board is that we need to get our Town Attorney
11 involved and get an opinion on this. He also recommends that the Planning Board schedule a Public
12 Hearing.
13

14 There is also a real possibility of an appeal and you should really get those questions answered before an
15 appeal.
16

17 Steve Blake with BH2M stated that the homes will be in the \$300,000 range. They would like to try and
18 preserve the land as much as possible.
19

20 **Other Business**
21 **Good and Welfare**
22

23 ADJOURNMENT 7:12 PM
24

25 *I, Valdine Camire, Administrative Assistant to the Planning Board of the Town of Old Orchard*
26 *Beach, do hereby certify that the foregoing document consisting of Fourteen (14) is a true copy*
27 *of the original minutes of the Planning Board Meeting of December 12, 2019.*
28

29 
30