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3 **OLD ORCHARD BEACH PLANNING BOARD**
4 **Regular Meeting**
5 **January 10, 2019 6:30 PM**
6 **Town Council Chambers**
7 **REGULAR MEETING MINUTES**
8

9 **CALL MEETING TO ORDER AT 6:30 PM**

10
11 **PLEDGE TO THE FLAG**

12
13 **ROLL CALL**

14
15 **PRESENT:** Marianne Hubert
16 Robin Dube
17 David Walker
18 Marc Guimont
19 Vice Chair Win Winch
20 Chair Linda Mailhot
21

22 **STAFF PRESENT:** Planner Jeffrey Hinderliter, Associate Planner Megan McLaughlin
23

24 **Approval of Minutes: 12/6/18, 12/13/18**

25 12/6/18 and 12/13/18 meeting minutes are not available, so they will be tabled to the next meeting.
26

27 **Regular Business**

28 **ITEM 1**

29 **Proposal: Minor Subdivision: 2 Duplex Dwelling with a total of 4 residential units**
30 **Action: Determination of Completeness; Schedule Site Walk; Schedule Public Hearing**
31 **Owner: Donald Bouchard**
32 **Location: 189 Saco Avenue, MBL: 208-3-12**
33

34 The Planning Board last saw this proposal back in August of 2018. This proposal is for the construction
35 of 2 duplexes on the corner of Macarthur Ave and Saco Ave. The big difference between the original vs.
36 new proposal is the addition of a t-turnaround for the duplex that would egress onto Saco Avenue so the
37 owners of the duplexes would not be backing out of Saco Avenue.

38 There is one waiver request associated with this proposal:

39 A 27' driveway entrance is proposed as it allows for a shared curb cut and eliminates the need for an
40 additional access along both Saco Avenue and Macarthur Avenue. It also allows for a reduction in
41 impervious surface on site via driveway width and building cover, placing the garage entrances closer
42 together on the building design.

43 Our ordinance only allows for a 20' driveway entrance.

44 Staff recommends that the Board rule on this waiver.
45

46 Staff has discussed with the applicant that our ordinance does not allow for parking in the front setback
47 however they were allowed to put that t-turnaround to get the parking in the front of Saco Avenue. They
48 were not able to do that on Macarthur Avenue because it is an ordinance standard that they have to meet,
49 so they will be going before the Zoning Board of Appeals to get a Variance to be able to have parking in
50 the front setback on Macarthur Avenue.

1
2 There was a concern regarding the proposed buffer location and sight distance. In the 2019 submission,
3 they have incorporated an alternating pattern of arborvitae and pushed them off the property line by 8
4 feet to alleviate this concern.

5
6 A point of discussion is the current floodplain which shows a portion of one of the duplexes in the A
7 Flood zone.

8 Additional standards apply to the building being located in the floodplain, however, it appears the
9 standards will apply during construction. The Planning Board needs to be aware of one section in our
10 ordinance (listed below #5):

11 **Sec. 70-35. - Review of subdivision and development proposals.**

12 The planning board shall, when reviewing subdivisions and other proposed developments that require
13 review under other federal law, state law or local ordinances or regulations and all projects on five or
14 more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure
15 that:

- 16 (1) All such proposals are consistent with the need to minimize flood damage;
17 (2) All public utilities and facilities, such as sewer, gas, electrical and water systems are located
18 and constructed to minimize or eliminate flood damages;
19 (3) Adequate drainage is provided so as to reduce exposure to flood hazards;
20 (4) All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain,
21 floodway data. These determinations shall be based on engineering practices recognized by
22 the Federal Emergency Management Agency;

23 (5) Any proposed development plan must include a condition of plan approval requiring that
24 structures on any lot in the development having any portion of its land within a special flood
25 hazard area, are to be constructed in accordance with [section 70-32](#) of this article. Such
26 requirement will be included in any deed, lease, purchase and sale agreement, or document
27 transferring or expressing an intent to transfer any interest in real estate or structure, including but
28 not limited to a time-share interest. The condition shall clearly articulate that the municipality may
29 enforce any violation of the construction requirement and that fact shall also be included in the
30 deed or any other document previously described. The construction requirement shall also be
31 clearly stated on any map, plat, or plan to be signed by the planning board or local reviewing
32 authority as part of the approval process.

33 Staff recommended that the Applicant provide responses to the 5 flood plain standards that are in the
34 ordinance.

35
36 Staff will draft up a condition and have it available for the Board at the next meeting.

37
38 Wright Pierce had comments on the sewer layout and the connection. The Applicant, Wright Pierce and
39 Public Works will get together and finalize the details on the sewer. Wright Pierce was concerned with an
40 internal sewer system in the development and Wright Pierce is recommending that they connect directly
41 out into the street.

42
43 In regards to the 36" culvert there is already an existing easement however there is not really any details
44 on the location or the width of it. This culvert on 189 Saco Avenue is slated for an upgrade this summer.
45 Staff is recommending the applicant formalize a 30' easement so the Town will be able to get in to
46 upgrade the culvert.

47
48 **To recap:**

- 1 1. There is 1 waiver request associated with the 27 foot driveway width (Ordinance only allows for
- 2 20 feet).
- 3 2. The Applicant will need to obtain a variance for parking in the front setback on Macarthur.
- 4 3. No lighting has been proposed, the ordinance requires that this meet a certain standard. Should it
- 5 be shown on the plan?
- 6 4. Is the PB all set with the alternating arborvitaes 8 feet off of the property line?
- 7 5. The PB will need to add a condition for one of the duplexes located in the floodplain.
- 8 6. Responses from the Applicant on the five floodplain standards.
- 9 7. The Applicant will need to address the outstanding Wright Pierce comments.
- 10 8. Formalization of a 30 foot easement to upgrade the 36-inch culvert adjacent to the property.
- 11 9. Planning Staff recommends the Applicant provide updated responses to the 14 Subdivision
- 12 Criteria.
- 13 10. Planning Staff recommends the Applicant show snow storage locations on the plan for the
- 14 turnaround area.

15
16 Associate Planner McLaughlin stated that once they determine the application complete, the timeline for
17 subdivision is 60 days.

18
19 Applicant Jim Fisher from Northeast Civil Solutions and representing Donald Bouchard introduced
20 himself.

21 Mr. Fisher explained that this is a vacant lot which has vegetation around the perimeter.

22 They are looking to put up 2 duplexes with a 1 car garage (with no basements, just frost wall). One duplex
23 will come out on Saco Avenue and have turnouts which are in the front setback and are not to be used for
24 parking.

25 They will be going before the Zoning Board of Appeals for A Variance approval to allow parking within
26 the front setback on Macarthur Avenue for one proposed duplex because the GB-1 District does not allow
27 parking in the front setback.

28
29 They are trying to keep these buildings out of the flood plain.

30 He explained that they are looking for a waiver for the width of 27' for the driveways where they enter
31 Saco and Macarthur Avenue.

32
33 Mr. Fisher addressed some of the questions that Staff had:

- 34 • Proposal for the need to minimize flood damage.
- 35 • Installation of utilities: the only utilities other than overhead electrical will be the sub grade
- 36 utilities.
- 37 • Sewer lines will come across to a manhole then connect into the public system. The water lines
- 38 are direct connects.
- 39 • There will be overhead electricity and the infrastructure is already in place.
- 40 • The poles also have cobra lights on them. The only other lighting will be porch lights at the front
- 41 doors.
- 42 • Snow storage will be on site.
- 43 • The town has requested a 35 ft. easement and will be centered on the culvert system.

44
45 Marc Guimont questioned why they didn't consider just one driveway off of Macarthur?

46 Mr. Fisher stated that there were restrictions from DEP.

47 Mr. Guimont also asked why they didn't build 1- 4 family dwelling instead of 2 duplexes.

48 Mr. Fisher stated that it didn't esthetically fit into this neighborhood and they wanted to keep the
49 character of the neighborhood.

50

1 Chair Mailhot brought up some issues:

- 2 • The waiver request of 7 ft. over 20 is a 35% increase to that opening.
- 3 • The applicant needs to respond to the 5 flood plain standards.
- 4 • The applicant needs to address the outstanding Wright Pierce comments.
- 5 • Formalization of the 30 ft. easement.
- 6 • The applicant needs to address the updated responses to the 14 subdivision criteria.
- 7 • In regards to the underground vs. overhead utilities (ordinance says underground) the board needs
- 8 to decide.
- 9 • DPW is requesting some sort of insulation over the sewer manholes.

10
11 Chair Mailhot expressed concern that the turnaround will be used for parking purposes.
12 Mr. Fisher stated that they could shorten up the depth of the turnarounds to discourage this.

13
14 David Walker is concerned with narrowing the curb cut. This would potentially be dangerous especially
15 coming out of Saco Avenue.

16
17 Win Winch was concerned with changing the size of the culvert in the future and what would regulates
18 that?

19 Mr. Fisher stated that the Town would need to go to its reviewing engineer for this.
20 All members agreed that the culvert needs to be upgraded.

21
22 **MOTION:**

23 Robin Dube made a motion to approve the waiver request from section 78-1467 to allow for a 27' curb
24 cut driveway entrance on Macarthur Avenue and a 27' shared curb cut entrance for Saco Avenue
25 seconded by Win Winch.

26
27 **VOTE:**

28 David Walker – Yes
29 Robin Dube – Yes
30 Marc Guimont – No
31 Vice Chair Win Winch – Yes
32 Chair Linda Mailhot – No

33
34 **PASSES: (3-2)**

35
36 **MOTION:**

37 Robin Dube made a motion to approve the Determination of Completeness for a minor subdivision to
38 create 2 duplex units with a total of 4 residential units at 189 Saco Avenue and schedule a Public Hearing
39 on February 14, 2019 and a sitewalk on February 7, 2019 at 5:30 pm. seconded by Win Winch.

40
41 **VOTE:**

42 David Walker – Yes
43 Robin Dube – Yes
44 Marc Guimont – No
45 Vice Chair Win Winch – Yes
46 Chair Linda Mailhot – No

47
48 **PASSES: (3-2)**

49
50 **ITEM 2**

1 **Proposal: Conditional Use: Accessory Dwelling Unit**
2 **Action: Ruling on Findings of Fact**
3 **Owner: David and Deborah Walker**
4 **Location: 5 Winona Avenue, MBL: 321-5-3**
5

6 The Planning Board approved this project at the December, 2018, Planning Board meeting. However, the
7 responses to the Accessory Dwelling Unit and Conditional Use Standards were not read into the record.
8 Due to this oversight, Planning Staff recommends the Planning Board make a formal ruling on the
9 Findings of Fact.

10
11 **Responses to the Conditional Use Standards:**

12 **Sec. 78-1240. - Standards.**

13 Before authorizing any conditional use, the planning board shall make written findings certifying that
14 the proposed use is in compliance with the specific requirements governing individual conditional use
15 and demonstrating that the proposed use meets the following standards:

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

18 *There will be no additional traffic generated as this is an existing ADU with seasonal use*
19 *mostly and private off-street parking.*

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

21 *This property was built according to all applicable Town and State codes for fire safety. It was*
22 *inspected for insurability and has a hard wired smoke and carbon monoxide detection system.*

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

24 *There are four private parking spaces with the current driveway as well as two garage spaces*
25 *when required. There are also four street spaces available but not needed for this ADU.*

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

28 *The proposed ADU is in current use therefore will have no impact on the existing nor*
29 *adjoining properties.*

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

32 *This is an administrative request for an existing ADU. There will be no unhealthful conditions*
33 *generated by this request.*

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

37 *This is an administrative request for an existing ADU. There will be no noise, fumes,*
38 *vibrations, fire hazards nor restriction of air or light generated to neighboring properties by this*
39 *request.*

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

42 *There is weekly public trash pick-up at this location as well as city sewerage previously*
43 *approved for a five bedroom dwelling. The current dwelling consists of four bedrooms.*

44 (8)The proposed use will not adversely affect the value of adjacent properties.
45

1 ***This is a new year-round home constructed amongst older seasonal properties will only serve to***
2 ***enhance current property values.***

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

5 ***This ADU will only have limited use during peak seasons which is generally three to four***
6 ***months when family members come to visit.***

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

10 ***Construction of this residential property was approved by the Planning Office in 2016 with***
11 ***existing buffering. No new buffering is required for this request. This ADU currently exists***
12 ***within the previously approved plans.***

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

16 ***Plans for drainage, cut, fill and paving were previously approved with building plans submitted***
17 ***in 2015. There will be no new changes to topography generated by this request.***

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

21 ***This is an administrative request with no new construction required. This ADU was built***
22 ***during the initial construction phase in 2016. There should be no financial impact as a result of***
23 ***this administrative request.***

24

25 **Responses to the Accessory Dwelling Unit Standards:**

26 **Sec. 78-1272. - Accessory dwelling unit.**

27 The purpose of the sections concerning accessory dwelling units is to provide a diversity of
28 housing for residents while protecting the single-family character of residential neighborhoods.
29 Accessory dwelling units are allowed as conditional uses in all residential districts and shall comply
30 with the following conditions:

31 (1) The accessory dwelling unit shall be accessed via the living area of the primary structure, and
32 all other entrances to the accessory dwelling unit shall appear subordinate to the main
33 entrance. Any proposed additions to the main structure or accessory structures shall be
34 designed to be subordinate in scale and mass to that of the main structure and compatible with
35 the architectural style and quality of the main structure.

36 ***This ADU is accessed through the existing front door of this property which is a common***
37 ***entrance.***

38 (2) The accessory dwelling unit shall have at least 500 square feet of floor area but shall not
39 exceed 50 percent of the floor area of the main dwelling unit. Floor area measurements shall
40 not include unfinished attic, basement or cellar spaces nor public hallways or other common
41 areas.

42 ***This existing ADU was built at 569 sq. ft. which includes one bedroom, one living room,***
43 ***one full bathroom and an eat-in kitchen. The entire residential property has 2816 square***
44 ***feet of living space with ADU comprising 20.2% of the main dwelling unit.***

45 (3) The dwelling shall be served by a single electrical service.

1 *There is only one service serving this home with one meter from Maine Central Power*
2 *Company.*

3 (4) Only one accessory apartment shall be permitted per lot. It shall be made part of the main
4 residence.

5 *This is the only ADU on this lot. It has existed since 2016 when the current occupancy*
6 *permit was issued.*

7 (5) Accessory apartments shall not be permitted for any nonconforming structure or use, where
8 nonconformity is due to the use of the premises, as opposed to nonconforming dimensional
9 requirements.

10 N/A

11
12 **MOTION:**

13 Win Winch made a motion to approve the Findings of Facts, seconded by Robin Dube:

14
15 **VOTE:**

16 David Walker – (Abstained)

17 Robin Dube – Yes

18 Marc Guimont – Yes

19 Vice Chair Win Winch – Yes

20 Chair Linda Mailhot – Yes

21 Marianne Hubert – Yes

22
23 **PASSES: (5-0)**

24
25 **ITEM 3**

26 **Proposal: Conditional Use: Shoreland Zoning Nonconforming Structure 30% Expansion**

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

28 **Owner: Cynthia Lyons**

29 **Location: 21 Winona Avenue, MBL: 321-6-3**

30
31 Planner Jeffrey Hinderliter briefed the Board Members with the primary items associated with the 30%
32 expansion.

- 33
- 34 • Reconstructed structures must be relocated from the regulated water source to the greatest extent
 - 35 possible.
 - 36 • The structures expansion does not exceed 30% of the existing sf. structure or volume.
 - 37 • The structure expansion does not increase the non-conformity of the structure so you basically
 - 38 need to adhere to all of the
 - 39 • Setbacks and not encroach any further into one of the setbacks.
 - 40 • The proposal conforms to the 12 Conditional Use Criteria and the proposal conforms to the 8
 - 41 standard conditions
 - 42 in the Shoreland zone.
- 43

44 Mr. Hinderliter stated that this is a solid proposal however one of the challenging items is the flood plain.
45 There was only a small piece of the existing regulated flood plain that impacted this structure but that
46 would result in changes to the whole structure.

47
48 Mr. Hinderliter gave an update on the future Flood Plain Maps. He just received notification that due to
49 the appeal on the Flood Plain, the mapping is delayed until maybe 2020.

50

1 Another issue with this proposal is the front staircase.
2 It is a non-conforming setback and there is no other place to put it that isn't non-conforming.
3 You can expand into the conforming area however you cannot make it more non-conforming.
4 There is a special ordinance standard that allows an appeal through the Zoning Board of Appeals for
5 egress.
6 This proposal will go to the Zoning Board of Appeals at the end of the month.

7
8 Marianne Hubert asked if there was a height restriction.
9 There is a 35' height restriction and they will be meeting the height requirement.

10
11 Applicant Walter Wilson from Design Company introduced himself.
12 He stated that the foundation will not be in a flood plain so it allows them to add a bathroom and laundry
13 area in the new basement area of the house.

14
15 **MOTION:**

16 David Walker made a motion to determine the application complete for the Conditional Use Shoreland
17 Zoning non- conforming structure 30% expansion application with a condition that the applicant secure
18 the Zoning Board of Appeal approval for the front stairs before the Planning Board issues Final Ruling
19 and also to schedule a Public Hearing for February 14, 2019, seconded by Win Winch.

20
21 **VOTE:**

22 David Walker – Yes
23 Robin Dube – Yes
24 Marc Guimont – Yes
25 Vice Chair Win Winch – Yes
26 Chair Linda Mailhot – Yes

27
28 **PASSES:**

29 **(5-0)**

30
31 **Other Business**

- 32 1. **Findings of Fact Signatures: 114 Portland Avenue (Home Occupation), 5 Winona (ADU)**
33 **Seacoast RV Maintenance Building, Skateboard Park Expansion**
34 2. **Mylar Signature: Seacoast RV Maintenance Building**
35 3. **Discuss Accessory Dwelling Unit Definition**

36
37 Associate Planner McLaughlin gave the Board Members some background on the current ADU
38 Standards.

39
40 This discussion is in light of the recent influx of ADU proposals the Planning Board has reviewed and the
41 concern brought about by Town Staff regarding the recent use of ADUs for short-term rentals.

42
43 We typically think of an ADU as an in-law apartment but it has appeared to morph into more than “just an
44 in-law apartment,” so what would the Planning Board like to see as the sole purpose of an ADU?

45
46 Staff provided 10 questions for the Board Members to review:

- 47
48 1. Why do we feel ADU-related ordinance standards need to change?
49 2. What are the positives and negatives of ADU's?
50 3. If ADU's are not allowed, would this create problems? Any potential unintended consequences?
51 For example, will this reduce affordable housing options and aging in place alternatives?

- 1 4. Are there trends and issues driving the need for ADU's? How do we address these? Are we
2 considering these during our discussion?
- 3 5. Should ADU's be allowed but regulated in a different manner (e.g., use for relatives and friends
4 only)?
- 5 6. Does the ordinance capture the intent of an "Accessory Dwelling Unit" that the PB would like to
6 see?
- 7 7. If not, what information needs to be added into the ordinance to capture that intent?
 - 8 a. Would the PB like to see more information in there regarding them for the purpose of an
9 "in-law" apartment?
- 10 8. Should there be information added into the ordinance regarding the use of ADUs for short-term
11 rentals? Is this something the PB wants to prohibit in all ADUs no matter what district they are
12 in?
- 13 9. Should the Zoning Districts themselves be amended to allow ADUs in all residential districts as
14 defined in Sec. 78-1272?
- 15 10. What changes need to be made to the five ADU conditions?
 - 16 a. Should "*all other entrances shall appear subordinate*" to the ADU be better defined so it
17 is easier to rule on?
 - 18 b. What about the requirement that they have at least 500 square feet of floor area but that
19 they cannot exceed 50% of the floor area of the main dwelling unit. Should this be
20 amended?
21

22 The Board agreed that they want the ADU's to be more like an in law apartment as opposed to a short
23 term rental.
24

25 Chair Mailhot stated that the intent is for family dwellings.
26

27 Marianne Hubert was concerned with the parking restrictions and have additional parking provided. She
28 also mentioned that it should be a maximum of 750 sf. or no more than 1000 sf.
29

30 Win Winch suggested to have a restriction on the deed stating that when the property changes hands that
31 it ceases to be an ADU.
32

33 Chair Mailhot suggested to maybe see some sort of a line item in the ordinance that states you cannot get
34 a business license to rent an accessory dwelling unit.
35

36 Planner Hinderliter stated that this would have to go through the typical ordinance process:

- 37 • Planning Board creates the standard.
- 38 • Opportunity for Public Hearing once those standards are created.
- 39 • Then moves on to Council.

40 Planner Hinderliter also mentioned that the existing definitions needs to be more descriptive.
41

42 Board Members were in favor of people being able to make use of this ordinance as a way to support
43 homecare stay for family members.
44

45 Robin Dube asked what is considered short term rental.

46 Planner Hinderliter stated that typically when it is under 30 days of occupancy it becomes more of a
47 transient type of occupancy.
48

49 Chair Mailhot suggested that we should tighten up the language in the ordinance.
50

51 It was suggested that these rentals should be in areas of parking requirements vs. density requirements.

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Good and Welfare

Associate Planner McLaughlin stated that they had the final walkthrough at the new Dollar General store on Heath Street and they are looking for a final C of O.

There was a Condition of Approval for a 6' chain link fence behind the guardrail. Dollar General had a different interpretation and doesn't want to provide a chain link fence. They asked if they could just add landscaping instead. Board Members agree that there should definitely be a 6' chain link fence there for safety purposes.

Update of the Milliken Mills Brick House:
The owners will be demolishing the brick house and they had asked if they could incorporate an Accessory Dwelling Unit in the design because the bricks will cost them extra money. They want to market it as an in-law apartment. They will be presenting this proposal to the Planning Board next month.

ADJOURNMENT at 8:09 PM.

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 Ten (10) is a true copy of the original minutes of the Planning Board Meeting of January 10, 2019.

