

OLD ORCHARD BEACH PLANNING BOARD
 Public Hearing and Regular Meeting
 January 12, 2017 - 7:00 PM
 Town Council Chambers

Call to Order at 7:00 pm	Call to Order
Pledge to the Flag	
Roll Call: Vice Chair Linda Mailhot, Ryan Kelley, Robin Dube, Win Winch, Eber Weinstein, Mike Fortunato. Absent: Chair Mark Koenigs. Staff: Jeffrey Hinderliter, Planner; Megan McLaughlin; Assistant Planner.	
<p>Public Hearing ITEM 1 Proposal: Conditional Use Amendment of Approved Plan/Appeals from Restrictions on Nonconforming Uses (Overnight Cabins): Change use of 7 units from seasonal to year-round (currently 5 year-round use for a total of 12) Owner: SRA Varieties Inc., D.B.A. Paul's II Location: 141 Saco Ave., MBL: 311-1-10, GB2</p> <p>Vice Chair Mailhot opened the public hearing up at 7:02 pm. There being no one speaking for or against this item, the public hearing closed to the public at 7:02 pm.</p>	ITEM 1
Regular Business	
<p>APPROVAL OF MINUTES: 12/1/16; 12/8/16</p> <p>12/01/2016 Minutes: The meeting minutes for the Workshop on December 1, 2016 were not available.</p> <p>12/08/2016 Minutes: Vice Chair Mailhot had a couple of minor corrections: Page 7: Second paragraph: Recuse instead of Recluse. Page 8: Under Chair Koenigs comment, the blank line should read the remainder of this comment could not be understood. Page 9: Half way down the page, 206 should read 2016.</p> <p>Win Winch extended a thank you Valdine Camire for getting these meeting minutes done for the Planning Board as he understood that she was quite ill and had little time to get these done.</p> <p>Win Winch made a motion to approve the 12/08/2016 meeting minutes with these minor corrections noted, seconded by Mike Fortunato.</p> <p>Unanimous.</p>	<p><u>MOTION</u></p> <p><u>VOTE</u></p> <p><u>UNANIMOUS</u></p>

ITEM 2

Proposal: Conditional Use Amendment of Approved Plan/Appeals from Restrictions on Nonconforming Uses (Overnight Cabins): Change use of 7 units from seasonal to year-round (currently 5 year-round use for a total of 12)

Action: Discussion; Schedule Final Ruling

Owner: SRA Varieties Inc., D.B.A. Paul's II

Location: 141 Saco Ave., MBL: 311-1-10, GB2

ITEM 2

Planner Hinderliter updated the Board members on this proposal.

There is some new information in the Board's packet for January. One of the big items that was requested was a revised site plan. Also included are some building plans which were actually submitted back in 2015. The applicant's stated that these are the most accurate plans. Also included are the applicant's responses to the Department Heads. The Department Heads have a few concerns and our Town Manager Larry Mead has a few concerns as well. Also included in the packets are the responses to the 12 Conditional Use Standards because they are part of the applicant's responses to the Department Heads to establish compliance with the 12 Conditional Use Standards.

What is most important in terms of the standards that the Planning Board is using for review to determine compliance is the responses to the Appeals from Restrictions on non-conforming uses. How this proposal came about and how is this allowed to continue to exist and go through the various review process. It was vacant at one time, then it went to seasonal use and now it is for year round use. They currently have 5 year round units and they are looking for the 7 remaining units to go to year round. The big standard that the applicant needs to approve to secure the 7 year round proposal is they must prove to the Planning Board that the impact and effects of this enlargement, expansion, extension, resumption or conversion to another non-conforming use on existing uses in the neighborhood will not be substantially different from, or greater than the impact and effects of the non-conforming use before the proposed enlargement, expansion, extension, resumption or conversion to another non-conforming use. This means that by adding 7 more year round units, the effects of this impact will be no greater than how it exists today with 5 year round units and 7 seasonal units.

One of the questions that the Planning Board had is what the actual use is. The use appears to be turning into something that is more conforming than what existed. Prior it was always an overnight cabin use. Overnight cabins are not permissible in this particular zoning district. A hotel use is a permissible allowable use in this zoning district. So we tried to find a use within our ordinance where its definition is similar to how this business is operating. The one that seemed to fit the best is a hotel and included in the memo is the definition. A lot of this non-conforming use standard is geared to the use remaining non-conforming but in this case it's becoming more of a conforming use because hotels are permitted and overnight cabins were not permitted. We still have the 12 conditional use standards that deal with the impacts that a property will have on abutting properties, impacts to municipal services, finances and so on. One of the questions about licensing and tried to sort it out in the memo. We are recommending that we refer this back to codes to work on the licensing and try to figure out what matches what. Often the Planning Board approves a project that doesn't exist, only approving the use for the land and the occupancy and licensing comes at a later date. One of the problems that we have had with this proposal is the inconsistencies with the material that we are getting. We still have the standards that we have in place... the restrictions from non-conforming uses standards and also the 12 Conditional Use Standards. This is the burden of proof that the applicant has to meet those standards.

Vice Chair Mailhot stated that tonight the Planning Board will be having a discussion and then scheduling a final ruling, but the final ruling will not be taking place tonight.

Eber Weinstein would like to see the hotel re-defined and would like to see the applicants apply it as a hotel. Mr. Weinstein also mentioned the problem with building #5 that doesn't have an occupancy permit according to codes. In some ways it wouldn't affect the ruling because it has no license yet.

Win Winch would like to see some kind of a checklist of what the outstanding Department Heads issues are.

Eber Weinstein suggested that he would like to see everything satisfied before anything is done.

Planner Hinderliter mentioned that at the last Development Review Committee meeting with the Department Heads, we asked for comments from everyone. Public Works, Police Department, Codes and the Fire Department.

The only new comment was from the DPW Director who would like to see more measurements on the driveway regarding the parking spaces and does he need handicapped parking. The Police Department still has the same comments from the last meeting. Codes didn't provide us with comments however one of the issues is the oil trucks and having access and codes worked with the applicants on these items. Codes has concerns about the 12 units and making sure that it remains the 12 and also some concerns about the parking spaces.

Planner Hinderliter stated that maybe we can ask each Department Head if their comments and concerns have been filled and have that for the Planning Boards February meeting.

Vice Chair Mailhot asked what the parking requirements are for this project.

Planner Hinderliter stated that the parking requirement for the hotel use is one space per unit then 50% of the parking requirements for associated uses plus one space per 2 employees.

The total spaces needed would be 7 spaces up top and 12 spaces for the guest rooms down below.

Vice Chair Mailhot would like to consolidate the questions for the applicants and have those addressed at one time and then we will have staff comments first.

Mike Fortunato mentioned that when they were on the site walk it is a little deceiving from the plan that with the 2-7 spaces the ground slopes down and he doesn't know how you can get 2-7 spaces in that particular area. He also finds it difficult to think that there are actually 7 parking spots there along with the fact that if you park there then there is no drive thru.

Eber Weinstein asked if parking spaces need to be delineated on the ground itself.

Planner Hinderliter stated that yes they should.

Eber Weinstein stated that this could possibly be one of the conditions.

Relative to the parking they have 8.6" for the cars and it seems a bit tight. What are the requirements?

Planner Hinderliter stated that 8.6" width and 17.6" length is the requirement for the 90 degree parking space for compact cars. It is adequate in terms of what our ordinance requires.

Robin Dube asked if the 2 grandfathered buildings have parking spaces for those 2 buildings.

Planner Hinderliter stated with this sort of proposal, there is the opportunity to grandfather. That is what the whole non-conforming use standard is really all about is grandfathering or continue to let you operate or even in some cases expand a non-conforming use. The Planning Board has some flexibility in determining what is grandfathered and what is not because this isn't your brand new vacant lot approval.

Ryan Kelly asked about the licensing matching up with the units.

Planner Hinderliter stated that there is a recommendation to the Planning Board to have codes sit down with the applicant and go through what has been licensed and what has been granted as occupancy permits compared to the plan that the Planning Board has in their packets.

Vice Chair Mailhot mentioned that in the Fire Department comments there was something about wanting a complete and monitored fire alarm system.

Planner Hinderliter mentioned that this particular item was not specifically addressed or perhaps maybe not agreed by the applicants to do.

Vice Chair Mailhot stated that one of the Police comments is about the use of these for more than the normal occupant for an efficiency unit. Should we consider to do a type of condition about the number of occupants if we even get that far.

Planner Hinderliter stated that he believes that they can. With our conditions we try to figure out how to work that condition in so that it's associated with one of your approval standards.

Vice Chair Mailhot mentioned that previously the Planning Board talked about the difference between a hotel and how this was presented, she wants to know what the current description on the business license as far as what type of business it is.

Planner Hinderliter said that it simply said cabin.

Vice Chair Mailhot mentioned that the Planner will be getting together with codes and going over the plan with them to see what they have licenses for and get the descriptions are on those business

licenses. Also include how the occupancy permits were issued.
Ryan Kelly asked about where they are going to be plowing the snow.
The applicants stated that they will be plowing the snow in the corner adjacent to building #2 and building #3.
Vice Chair Mailhot asked about the oil trucks coming back on their property.
The applicants stated that they are permanently gone.
Vice Chair Mailhot asked about spaces 2 through 5 that are in the area used to access buildings 2,3,4 and 5. Since the Union Ave. area is going to be an exit only. If they are using that space for all parking, how is traffic supposed to get from Saco Ave. to buildings 2,3,4 and 5?
The applicants stated that the plan is wrong, there shouldn't be parking there because that is where the slope is. They agreed to fix the plan for the next meeting.
Vice Chair Mailhot asked if the 7 units that they want to go year round vacant currently.
 The applicants stated that they were vacant at this time.
Eber Weinstein suggested something to think about would be that if each one of those buildings had 2 year round units that would give them 9 year round units. It would free up parking more and would still give them a return on their money.
Vice Chair Mailhot would find it more helpful if the buildings were numbered 1,2,3,4,5,6 etc... through 12 and show unit numbers in these buildings.
 The applicants stated that they will change the plan to reflect that.
Eber Weinstein also mentioned that the Fire Dept. also asked for numbering on the buildings.
Mike Fortunato asked if there is something that the Planning Board has to approve.
Planner Hinderliter doesn't think that this is a requirement for the Planning Board to approve because the standards are too broad. The Planning Board has flexibility. If the Planning Board doesn't feel that they cannot approve it, you have to site the specific standard or standards why they are not in compliance with a particular standard or the proposal would not be in compliance.
Mike Fortunato asked if there is a need in town for more low income housing.
Eber Weinstein stated that there is always a need for low income housing.
Planner Hinderliter suggested that this project will be renamed as a hotel.

ITEM 3
Proposal: Determination of parcels inclusion with 2004 Campground Registration
Action: Discussion; Decision
Owner: Paradise Acquisitions LLC
Location: 60 Portland Ave, MBL: 205-1-32; 50 Adelaide Rd, MBL: 106-2-2 (portion of)

Planner Hinderliter had a request from the applicant to table this item tonight because their legal counsel could not be present. He is recommending the Planning Board table this.

Win Winch made a motion to table this item, seconded by Ryan Kelly.

Planner Jeffrey Hinderliter called for the vote:

Ryan Kelly – Yes
 Win Winch – Yes
 Eber Weinstein – Yes
 Mike Fortunato – Yes
 Vice Chair Mailhot – Yes

ITEM 3

MOTION

VOTE
(5-0)
UNANIMOUS

ITEM 4

Proposal: Major Subdivision: 20 lot cluster subdivision for single-family residential use
Action: Sketch Plan review
Owner: Kevin Beaulieu & Steven Beaulieu
Location: Ross Rd, MBL: 107-1-4, 14 & 16, RD

ITEM 4

Assistant Town Planner gave a brief overview of the project. This is a sketch plan for a 20 lot cluster sub division for residential homes on Ross Road across from Easy Street. They are proposing to have 20 lots in Old Orchard Beach but there is a possibility to have an additional 20 lots in Saco. There are a few things to consider with the Goosefare Water Shed and 2nd means of egress.

Bill Thompson, Project Manager from BH2M brought the Board Members up to date on this proposal. The first phase would be in Old Orchard Beach with Kevin Beaulieu and the second phase would be with Kevin Beaulieu and his brother Steven Beaulieu in Saco.

There is an 18 acre parcel on the Ross Road that they are proposing to locate the subdivision.

In the cluster subdivision the lots would be 20,000 sf. and a little bit greater in area. They are proposing to bring public water and gas in from the Eastern Trail. There are 18 lots. Lot 20 is an existing house.

The two lots are proposed to come in off of the Ross Road, everything else would come off internally. Have had wetlands mapped and there is a wetland in the center and in the Saco area. The first road will be 600 ft. in. and the second road off of that is about 750 ft. The main road in would be 24' wide with sidewalk. Full utilities: water, storm drainage, underground electric. And the second road will not serve as many but could also be a 24' wide road. Sidewalk, curb, storm drain collection. Storm drain proposal, run the drains down to the detention pond in the front and then into a culvert under the Ross Road. There was a question by Wright Pierce about a depressed area and there was some excavated areas over the years with water in it. Mr. Beaulieu had DEP go out and look at it and said that he was allowed to bring some fill in. It was not a wetland and was no issue. We will get a letter from DEP to support those findings.

Are proposing 18 lots. The ordinance says that after 15 lots you need a second means of egress. They will be proposing a waiver request given the fact that the next phase would come out onto and emergency gated access to utilizing Easy Street. They are currently looking into the legal issues.

Also in a cluster subdivision they are required to have either public sewer or a central sewer system. They would like to propose a waiver on individual sub surface disposal system on each lot. They are well aware of the Goosefare Brook Shed post construction stormwater ordinance. Had done a boundary/topo survey, wetlands have been done and has road design sheets.

Win Winch asked about open space and homeowners association.

Bill Thompson stated that there is about 4 acres of open space which would be available to the lot owners and they would have a homeowners association.

Eber Weinstein asked if there is going to be any public connection between the trail and Blueberry Plains.

Mr. Thompson stated that this would be built and offered as a public road.

Eber Weinstein asked about the fact that this will potential be in 2 towns and the fact that they may add 13 units will that change the definition of cluster zoning that we have in our town. Mr. Weinstein would like to get some information from Saco before Old Orchard Beach gets involved because of the potentiality of being 2 different developments.

Mr. Thompson stated that this is almost like a stand-alone project. The Saco proposal will meet different standards than Old Orchard Beach.

There is a notification process which the Planning Board will be notified when this goes before Saco.

Megan McLaughlin has already addressed this with Planner in Saco. She told him that it is just a sketch plan right now but when this goes before a public hearing the Saco Planning Board has the opportunity to make comments at that time.

Eber Weinstein if these 2 developments affect the lot coverage as far as our codes in OOB goes?

Planner Hinderliter stated no. You can think of it as a stand-alone subdivision in terms of our codes. Our ordinances are still the same. What does make it different is there are additional units than what

<p>you are approving (Saco) that we will be sharing some of the infrastructure. Eber Weinstein would like to see a copy of the traffic survey that was done in the past. Win Winch mentioned that the primary access will be coming in from Saco and the Chief had raised the question about Cascade Road/Ross Road intersection. Mr. Winch believes that this is a non-issue. Planner Hinderliter would like to get something from the engineers to get their projections that would help the Planning Board. He mentioned that we did have a traffic impact fee. We have \$12,800 in an account that has been dedicated for traffic improvements, but there are questions of when does a project qualify, what type and what is the threshold etc... In 2009 the Planning Board was going to have a public hearing to straighten some of these issues out for traffic impact and it just sort of stopped. Eber Weinstein questioned the single collection point sewage vs. septic system. If septic systems are better then why do we have as a condition to have central? Why don't we just change it if in fact that is a better solution. He would like to see our ordinances reflect best practices. Vice Chair Mailhot asked Mr. Thompson about not seeing any information about signage in regards to the naming of the development on the plan. Mr. Thompson stated that the applicant is working on that. Robin Dube wants to clarify that traffic will be coming from Saco and go thru to OOB and go down the Ross Road? Bill Thomson (walked away from the microphone)...</p>	
<p><u>ITEM 5</u> Proposal: Major Subdivision: 9 lot residential subdivision (Red Oak Phase II) Action: Sketch Plan review Owner: Mark Bureau Location: 141 Portland Ave, MBL: 104-2-2, RD</p> <p>Assistant Planner Megan McLaughlin stated that back in 2004 the Red Oak Development was approved as a minor 3 lot subdivision and in 2005 came back for an amendment the extend the road and create 1 additional lot. At that time it was called Phase II of the project. The last lot was created in the summer of 2016. There have been some issues with DEP. The applicant constructed a stormwater pond within 25 ft. from the stream. The applicant is working with DEP to get a plan in place to move that pond. This is still an open case. Jason Vafiades, here representing the applicant introduced himself to the Board Members. Mr. Vafiades was brought into this project in the fall of 2016, but he is aware of all of the issues and he does have a plan in place. The pond was within 75 ft. of the stream. Some of the pipe and some of the work they did in the bank went into the 25 ft. buffer to the streams. The permit by rule is ready to go to DEP and he will supply a copy for the town. The applicant wants to extend the road to the back of the property, retaining a 50' right of way to another piece of land. In the case of any future development, they had to allow for an additional 50' for connectivity. This will have private septic system, public water and all underground utilities. Two reasons that they did not go with a cluster subdivision is</p> <ul style="list-style-type: none"> • Because everyone seems to be using cluster, they would like to have a little different market approach. • When he is using septic systems, he likes to have a little more land in the lot. It spreads out the ground water. <p>Eber Weinstein stated that would like more information and would like to make sure that everything gets taken care of before they go forward with this. Mr. Vafiades stated that by the time preliminary comes, they will have the letter from DEP. It is only a 2 week period on permit by rule and they have met with DEP and staff came up with a restoration plan.</p>	<p><u>ITEM 5</u></p>

Robin Dube asked if this is going about Seacoast RV Resort.

Vice Chair Linda Mailhot brought up the fact that Seacoast RV Resort is a company that she has an interest in and is a direct abutter to the next phase of this project. She explained that she has nothing going on in that area. It is completely built out. She doesn't see how this would affect this project, however it may be something that the Board may want to vote on as a conflict of interest.

Ryan Kelly asked about the 3 existing houses and is the one with the pool behind it one of the original 3.

Mr. Vafiades stated that yes it was and the driveway exits onto Portland Avenue.

Jim Logan, Soil and Wetland Scientist and working with the applicant introduced himself. He stated that he provided test pits and he formerly worked for Albert Frick Associates.

Eber Weinstein stated that he noticed that lot #1 on the diagram looks there are 2 building envelopes.

Mr. Vafiades stated that by code you can build on either side. He also stated that they will probably remove the 2 small building envelopes on lot #1 and lot #9.

Mr. Logan stated that the applicant had him look closely at that 1st lot for septic system placement needing to meet the 100' setback of this particular stream vs. the 75' setback that DEP requires for structures. There was no place there to meet the Standard Maine Plumbing Code for setback to the stream, however the applicant was reluctant to give up on that potential spot which could be for a storage building for the owner of that lot. It does present a placement to put a structure, however not a structure with a wastewater system. That is why there are 2. The other one which as a stream crossing to get to it could be taken off of the plan.

Assistant Planner McLaughlin asked Mr. Vafiadis a question regarding lot #1. The piece to the left of the stream (which could be a storage building) is that where the detention pond is.

Mr. Vafiadis stated that the detention pond is near the road and in front of the front line setback by a considerable amount.

Mr. Logan will upgrade that pond as part of the process.

Eber Weinstein asked about private road vs. public road.

Mr. Logan told the Board Members that the applicant anticipates that it will be private until such time the connection might be. The roads will be 24' with sidewalks and it will be designed by the town standards.

Assistant Planner McLaughlin asked if the house to the left of lot 9 was just completed because on the online GIS it doesn't show up but it also shows that house as part of the same MBL as the lots 1-9 on the new phase. And when that lot came before the Planning Board back in 2005 it was considered Phase II and this is also considered Phase I. We may want to clear that up.

Mr. Logan stated that the GIS may not have been updated. The lot has been sold and separated out. We would put a note on that that it would not be for a resident for out building use only.

Eber Weinstein asked if the house is part of lot #9.

Mr. Logan said that they actually have a survey plan that shows that is a separate lot.

Eber Weinstein stated that it would be helpful to show that on the plan.

Vice Chair Mailhot asked with the possible connection between lots #7 and #8, what is the thought on the future for that.

Mr. Vafiadis stated that large swath of undeveloped land that is currently held by the same applicant that owns back land behind Mark and Claire Bureau's (applicants) current residence for future development.

Assistant Planner Meagan stated that Stephanie Hubbard from Wright Pierce brought up the fact that 3 lots are FEMA regulated zones.

Mr. Vafiades will take a closer look at that.

Other Business

Findings of Fact:

- 1. Ron Sabin, Nonconforming Structure Expansion/Replacement,**

<p style="text-align: center;">129 West Grand Ave. 2. Mark and Catherine Andrews, Accessory Dwelling Unit, 98 Ross Rd</p> <p>Planning Board members signed the Findings of Facts.</p>	
<p><u>Good & Welfare</u></p> <p>Eber Weinstein mentioned that he went by the brick house on Portland Avenue and noticed that it is collapsing. The Planning Board had an agreement with the previous owners that they would take care of it.</p> <p>The Assistant Planner stated that she has reached out to the owners to see what their plan is and they said that they are still working on it.</p> <p>Vice Chair Mailhot asked the Planner if this would fall under the ordinance of unkempt buildings. The Planner stated that this could fall under the property maintenance codes or dangerous building standards.</p> <p>Ryan Kelly mentioned that it could probably fall under both. In his opinion it is pretty shameful.</p> <p>Vice Chair Mailhot asked for the Planner to look into this and see if we can get some sort of corrective action.</p>	
<p>ADJOURNMENT</p> <p>LINDA MAILHOT, VICE CHAIR</p>	
<p>Meeting adjourned at 8:38 pm</p>	<p>Adjournment</p>

I, Valdine Camire, Administrative Assistant to the Planning Board of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of Eight (8) pages is a true copy of the original minutes of the Planning Board Meeting of January 12, 2017.

Valdine Camire