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3 **OLD ORCHARD BEACH PLANNING BOARD**
4 **January 3, 2019 6:00 PM (Workshop, Council Chambers)**
5 **WORKSHOP MEETING MINUTES**
6

7 **Note: The purpose of the Workshop is for the Planning Board to receive packets and an agenda**
8 **item update From staff**
9

10 **CALL WORKSHOP TO ORDER 6:30 PM**
11

12 **PRESENT:** Robin Dube
13 David Walker
14 Marc Guimont
15 Marianne Hubert
16 Chair Linda Mailhot
17

18 **ABSENT:** Mark Koenigs
19 Vice Chair Win Winch
20

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

24 **Regular Business***

25 **ITEM 1**

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

31 Associate Planner Megan McLaughlin stated that they have made some improvements on the plan.
32 The Planning Board last saw this proposal back in August of 2018. This is for the construction of (2) 2
33 story duplexes that they are planning to put up with a garage underneath on the corner of Macarthur Ave
34 and Saco Ave. The big difference is the addition of a t-turnaround for the duplex that egress onto Saco
35 Avenue.

36 They contacted DEP and got a permit to move one of the duplexes within the stream setback area and
37 they are trying keep it out of the floodplain. They weren't able to do the same for the second duplex and
38 staff is working on discussing that with them to see what their options are.
39

40 1. They are asking for a waiver so that they can share a curb cut. Right now it is 27' and the town
41 ordinance only allows for a 20' curb cut. They are asking for 27' so that the duplex can have one
42 entrance out onto Saco Avenue.
43

44 2. Minor information on lighting.
45

46 3. The buffer location and the site distance. They are proposing an alternating pattern of arborvitaes and
47 they pushed them off of the property line by about 8' so that will help with the site distance and also will
48 buffer the property.
49

50 4. One of the big issues right now is that one of the duplexes is in a flood zone currently. Where this is a

1 minor subdivision there are 5 criteria that they have to meet to be able to develop in the floodplain. The
2 Planning Board rules on these 5 standards and she recommends that they provide a response to them.

3
4 5. Condition of approval that the Planning Board has to put on the proposal.

5
6 Wright Pierce had a number of concerns about the sewer layout, runoff from Saco and Macarthur Avenue,
7 the easement over the 36" pipe and driveway layout.

8 They will coordinate more with Public Works to flush out some of the details.

9
10 On the 36" culvert there is a ditch and there is also a culvert with a stream that is Goosefare Brook. The
11 culvert has been identified as being in poor shape and needs to be upgraded. It is slated to be updated this
12 coming summer. Wright Pierce recommended that as part of this proposal, the Planning Board request
13 that they provide a 30' easement for the town to be able to get in and do the work. They are saying that
14 they have an easement but there is no detail on it and they cannot locate it.

15
16 Associate Planner McLaughlin stated that staff have a list of 10 items for the Board to consider.

- 17
18 1. There is 1 waiver request associated with the 27 foot driveway width (Ordinance only allows for
19 20 feet).
- 20 2. The Applicant will need to obtain a variance for parking in the front setback on Macarthur.
- 21 3. No lighting has been proposed, the ordinance requires that this meet a certain standard. Should it
22 be shown on the plan?
- 23 4. Is the PB all set with the alternating arborvitaes 8 feet off of the property line?
- 24 5. The PB will need to add a condition for one of the duplexes located in the floodplain.
- 25 6. Responses from the Applicant on the five floodplain standards.
- 26 7. The Applicant will need to address the outstanding Wright Pierce comments.
- 27 8. Formalization of a 30 foot easement to upgrade the 36-inch culvert adjacent to the property.
- 28 9. Planning Staff recommends the Applicant provide updated responses to the 14 Subdivision
29 Criteria.
- 30 10. Planning Staff recommends the Applicant show snow storage locations on the plan for the
31 turnaround area.

32
33 If the Planning Board is okay with the proposal as presented, the board can make a determination of
34 completeness and schedule a Site Walk/Public Hearing for February.

35
36 **ITEM 2**

37 **Proposal: Conditional Use: Accessory Dwelling Unit**

38 **Action: Ruling on Findings of Fact**

39 **Owner: David and Deborah Walker**

40 **Location: 5 Winona Avenue, MBL: 321-5-3**

41
42 Planner Hinderliter stated that The Planning Board approved this project at the December, 2018, Planning
43 Board meeting. However, the responses to the Accessory Dwelling Unit and Conditional Use Standards
44 were not read into the record. Due to this oversight, Planning Staff recommends the Planning Board make
45 a formal ruling on the Findings of Fact.

46
47 **ITEM 3**

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

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

50 **Owner: Cynthia Lyons**

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

1 This proposal is for the reconstruction and 30% expansion of a single-family dwelling in the Shoreland
2 zone. Reconstruction and expansions of nonconforming structures in the Shoreland zone must meet 5
3 primary ordinances:

- 4 1. Reconstructed structures must be relocated so they are set back from the water (in this case the
5 HAT) to the greatest practical extent.
- 6 2. Structure expansion does not exceed 30% of the existing square footage or volume.
- 7 3. Structure expansion does not increase the nonconformity (e.g., building the structure closer to the
8 water setback).
- 9 4. Proposal conforms to the 12 Conditional Use criteria.
- 10 5. Proposal conforms to the 8 standard conditions in the Shoreland zone.

11
12 Regarding this proposal's conformance with each of the above:

- 13 1. The structure cannot move anywhere else on the lot without it being nonconforming or even more
14 nonconforming to other setbacks; therefore staff feels the structures proposed location is set back
15 at the greatest extent possible. The site plan shows a building envelope that conforms to setback
16 requirements. As you'll see it is quite small and the structure can't be shifted without
17 encroaching into other setbacks. In addition to setbacks, floodplain is an important factor in the
18 structures location. Floodplain will be discussed below.
- 19 2. The proposed expansion does not exceed the 30% of the existing square footage or volume. After
20 several attempts, the applicant managed to design this project so it falls just under 30%. The
21 applicant does an excellent job showing the calculations (see plans). Also, the cover letter
22 provides a summary.
- 23 3. The proposed structure is not closer to the water setback than the existing structure. In fact, the
24 proposed structure is slightly further away from the water at the southwest corner.
- 25 4. The applicant's responses to the 12 Conditional Use criteria show the proposal conforms to these
26 criteria.
- 27 5. The applicant's responses to the 8 standard conditions in the Shoreland zone as well as the
28 submitted plans show the proposal meets these conditions.

29
30 A challenging piece of this proposal is the floodplain. As you'll see on the site plans, there are 3 different
31 flood zones on this property- A2, B, C. The A2 zone is the zone that is most restrictive. Development in
32 this zone requires structures to meet applicable floodplain regulations. Even if a portion of a structure is
33 located in this zone, the entire structure is treated as if it's in the zone. Zones B and C are not regulatory
34 zones so structures placed in these zones do not have regulatory requirements.

35
36 In order to comply with A2 zone floodplain requirements, the applicant decided to remove the portions of
37 the structure that are in the zone. As you'll see in the proposed site plan, the structure southwest corner
38 has been altered so all portions physically attached to the ground are not in the A2 zone. A small portion
39 of the cantilevered deck will hang over the zone with a finished floor elevation of 14.83' which is 5.83'
40 above the A2 zone has flood elevation of 9'. These alterations effectively removed the proposal from the
41 A2 zone which removed the structure from required compliance with the floodplain regulatory
42 requirements.

43
44 So, all the boxes appear to be checked to make this project one the PB can approve. There is one
45 problem- a portion of the proposed stairs at the front of the structure (facing Winona) is being
46 horizontally expanded outside of the footprint of the original structure in the front setback. Although the
47 setback distance is not decreasing, the structure and proposed staircase is nonconforming and
48 nonconforming structure expansions having special rules that allow for expansions but still have
49 limitations as to what and how a structure can expand. Town ordinances allow for this expansion because
50 the stairs are part of an egress. Although, approval must be secured through the Zoning Board of Appeals
51 through the nonconforming means of egress standards.

1 This is not necessarily a Shoreland zoning matter because it does not impact the Shoreland zoning water
2 setback. In fact the PB would most likely not hear of this because it is a non-Shoreland nonconformance
3 matter and typically administered by the PB and Code Office. But, because stairs are part of the structure
4 being reviewed by the PB, the PB must consider this during review of the proposal. We believe the need
5 for ZBA should not hold this proposal up from moving forward in the PB process but it should be
6 resolved before the PB's final ruling.
7

8 Staff recommends the PB determine the application complete with the following condition: The
9 applicant/owner shall secure ZBA approval for the front stairs before the PB issues a final ruling. Also,
10 we recommend a public hearing is scheduled for 14 Feb and, if the PB feels there is a need, a site walk for
11 7 Feb.
12

13 **Other Business**

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

18 At the January 10th meeting, the Planning Board will begin the discussion on the Accessory
19 Dwelling Unit (ADU) definition and ordinance provisions. This discussion is in light of the recent
20 influx of ADU proposals the Planning Board has reviewed and the concern brought about by
21 Town Staff regarding the recent use of ADUs for short-term rentals.
22

23 We typically think of an ADU as an in-law apartment but it has appeared to morph into more than
24 "just an in-law apartment," so what would the Planning Board like to see as the sole purpose of
25 an ADU?
26

27 **Discussion Questions for the Planning Board:**

- 28 1. Why do we feel ADU-related ordinance standards need to change?
- 29 2. What are the positives and negatives of ADU's?
- 30 3. If ADU's are not allowed, would this create problems? Any potential unintended consequences?
31 For example, will this reduce affordable housing options and aging in place alternatives?
- 32 4. Are there trends and issues driving the need for ADU's? How do we address these? Are we
33 considering these during our discussion?
- 34 5. Should ADU's be allowed but regulated in a different manner (e.g., use for relatives and friends
35 only)?
- 36 6. Does the ordinance capture the intent of an "Accessory Dwelling Unit" that the PB would like to
37 see?
- 38 7. If not, what information needs to be added into the ordinance to capture that intent?
39 a. Would the PB like to see more information in there regarding them for the purpose of an
40 "in-law" apartment?
- 41 8. Should there be information added into the ordinance regarding the use of ADUs for short-term
42 rentals? Is this something the PB wants to prohibit in all ADUs no matter what district they are
43 in?
- 44 9. Should the Zoning Districts themselves be amended to allow ADUs in all residential districts as
45 defined in Sec. 78-1272?
- 46 10. What changes need to be made to the five ADU conditions?
47 a. Should "*all other entrances shall appear subordinate*" to the ADU be better defined so it
48 is easier to rule on?
49 b. What about the requirement that they have at least 500 square feet of floor area but that
50 they cannot exceed 50% of the floor area of the main dwelling unit. Should this be
51 amended?

1
2 Chair Linda Mailhot brought up a few things that should be looked at.

- 3
- 4 • Are we asking the right questions in the ordinance
 - 5 • Is the 5 criteria the only criteria?
 - 6 • Is the 5 criteria worded correctly in order to allow this?
 - 7 • Are we allowing something that shouldn't be allowed in our town.
 - 8 • Should we be allowing anyone to put up an apartment anywhere they want in town as long as
 - 9 they meet these 5 criteria?

10 Marc Guimont asked what is our goal with this? What do we want to accomplish?

11
12 Win Winch explained that if you have 1 dwelling unit per lot, and this is all that is allowed, you cannot
13 have 2 families living there. If you meet these 5 criteria, you then can have 2 units which would not have
14 been allowed otherwise.

15
16 Planner Hinderliter stated that the Accessory Unit allows you to get a second dwelling unit in without
17 meeting the density requirements in the ordinance. So there is a loophole in the ordinance that allows you
18 to get a higher density than you are typically allowed to get.

19
20 If we rescind the ordinance, all of the existing would be grandfathered.

21
22 **ADJOURNMENT**

23
24 ***Note: Workshop Agenda Public Hearings and Regular Business items are for discussion purposes**
25 **only. Formal decisions on these items are not made until the Regular Meeting.**

26
27 *I, Valdine Camire, Administrative Assistant to the Planning Board of the Town of Old Orchard*
28 *Beach, do hereby certify that the foregoing document consisting of Five (5) is a true copy of the*
29 *original minutes of the Planning Board Workshop Meeting of January 3, 2019.*

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