

1
2
3 **OLD ORCHARD BEACH PLANNING BOARD**
4 **Regular Meeting**
5 **July 11, 2019 6:30 PM**
6 **Town Council Chambers**
7 **MEETING MINUTES**
8

9 **CALL MEETING TO ORDER 6:30 PM**
10

11 **PLEDGE TO THE FLAG**
12

13 **ROLL CALL:**
14

15 Chair Linda Mailhot
16 Vice Chair Win Winch
17 Robin Dube
18 David Walker
19 Marianne Hubert
20 Chris Hitchcock, Alternate

21 **Absent:** Mark Koenigs, Alternate
22

23 **Staff Present:**
24

25 Planner Jeffrey Hinderliter
26 Assistant Planner Michael Foster

27 **Approval of Minutes: 5/9/19, 6/6/19, 6/13/19**
28

29 Meeting minutes are not available for the 5/9/19, 6/6/19 and 6/13/19.

30 **Regular Business**

31 **ITEM 1**

32 **Proposal:** Subdivision: 2 Duplex (4 residential apartment units)
33 **Action:** Final Plan
34 **Owner:** Earle Enterprises, LLC
35 **Location:** 4 Smithwheel Rd, MBL: 210-2-16; Zoning: R4

36
37 Planner Jeffrey Hinderliter stated that at the last meeting the Planning Board determined that this proposal
38 was complete and also approved the Preliminary Plan Application. The Planning Board had approved 2
39 waiver requests at the last meeting.

- 40 • To reduce the offset from intersections from 100 feet to 60 feet and
41 • To reduce the parking aisle space from 25' to as close to 25' as possible. Granting the waivers
42 was contingent upon removal of the Smithwheel Rd. driveway access for the single-family and
43 adjustment to the original parking aisle width request so the distance increases as much as
44 possible.

45
46 The applicant has followed through with both of these items and has shown these on the plan.
47

48 Both Wright Pierce and Staff had additional comments after the June meeting.
49 The Applicant sent a response to these comments on July 9th 2019 (after the Planning Board submission
50 deadline).

1 Planner Hinderliter and Wright Pierce looked over these responses and Wright Pierce covered some of the
2 highlights. In regards to the new information, Staff recommends that the Board should make a decision on
3 the following:

4
5 1. Development of an inspection and maintenance plan and confirmation, by the PB, that the property
6 owner will be required to provide annual certification showing the stormwater system is working
7 properly.

8
9 2a. and 2b. There are two remaining items to coordinate with Public Works. This includes the
10 radius of Ervin Ave and Smithwheel Rd appears to encroach on the subject property and coordination
11 with PW and CCTV inspection of the existing sewer line. According to the memo in regards to the
12 former, its PW preference to have the Town ROW relocated to the existing intersection of the
13 roadway (triangular portion extending to north of NET Pole #2). Regarding the latter, PW recommend
14 the applicant review the sewer issue concern and if repairs are required they be completed at the time of
15 project construction. The PB should determine if these items should be addressed before a final vote or
16 before project commencement.

17
18 3. Auto-turn results. The Fire Chief received the auto-turn results and did not comment on this.
19 Staff feels the results are acceptable and this item has been addressed.

20
21 4. Performance guarantee. A performance guarantee worksheet was submitted and will be
22 reviewed by staff before project commencement (if project is approved). This is our typical approach for
23 performance guarantees.

24
25 5. Discussion around removal of berm and vegetation between proposed driveway and Ryefield
26 Dr. WP recommends a plan note about removal of berm and proposed grades for this area, specifically as
27 required by the traffic assessment recommendations.

28
29 6. Stormwater drainage. WP discussed these items with the project engineer. Revised details are
30 anticipated. These revisions should be included in the next final plan submission.

31
32 7. WP recommends the applicant review the open bottom dry well design and separation of
33 potential sediments from the crushed stone.

34
35 8. Confirm limit of clearing and removal of the existing chain link fence along Ervin and
36 Smithwheel. Plan note indicates removal but it's not known how much fence will be removed.

37
38 9. Sewer connection. WP recommends an invert of sewer connection and if sewer drop is over 6
39 inches include a drop structure. Also, the inclusion of an inside drop bowl and confirmation of sewer
40 manhole size.

41
42 10. WP recommends the plans show more information associated with the drain manholes. This
43 includes invert notes, and note requiring contractor confirmation of inverts and a test pit to confirm
44 elevation of existing storm drain line and reporting to engineer.

45
46 11. WP recommends several changes and additions to the erosion and sedimentation control
47 plans. This includes installations of ESC's along Smithwheel and Ervin, revised language on Plan Sheet
48 6 Note 3, note regarding inspections by engineer-of-record during and following installation of the
49 infiltration system, summary of specific inspection requirements by engineer-of-record during
50 construction.

51

1 12. WP offers recommendations regarding post-construction stormwater management plan. This
2 includes ensuring the plan includes all requirements in the “Post-Construction Stormwater Management
3 Plan” guidance document or at a minimum (depending on annual certification requirement), specific
4 details on project contact info and BMP summary. If annual certification is needed this should be
5 included in final plan submission. Also (and this could be a condition) WP recommends long term
6 operation and maintenance details for infiltration system and dry well meet minimum requirements define
7 by DEP Best Management Practices manual.

8
9 Staff is recommending taking another month to button things up to make sure that everyone is all set for a
10 final vote.

11 Other additional comments:

- 12
- 13 1. The Fire Chief states: “Although currently exempted by local ordinance, I am asking that the
14 developer consider the installation of an automatic sprinkler system that is compliant with the
15 adopted fire code.”
 - 16 2. Note on final plan as well as condition that makes it clear the single-family driveway access to
17 Smithwheel shall be discontinued before occupancy permits are issued for any unit in the
18 proposed duplexes.
 - 19 3. Add detail of berm and arborvitae on plan details sheet.
 - 20 4. It appears the existing fence and vegetation will be the buffer along Ervin Ave. Does the PB find
21 this acceptable? Members may want to take a quick ride and check this out.
 - 22 5. Did the applicant submit an ability to serve letter from MEWater?

23

24 Travis Letellier from Northeast Civil Solutions stated that the vegetation barrier between the property and
25 Ervin Avenue is substantial and they don't feel that they need to do anything with this.

26 The Stormwater Maintenance Agreement for their system that is on site will contain an entire 25 year
27 storm event. The connection to the MS-4 system is a last resort. They do not feel that a lot of water will
28 be going into the system, but if there were an issue, they would comply with it. On the corner on Ervin
29 Avenue that abuts the property has a mortgage on the property so any changes to the property will need to
30 go through bank approval so at this point they are fine with the small amount of encroachment.

31 They are committed to scoping the sewer line during the construction.

32 Mr. Letellier has been talking with Wright Pierce about comments that they have.

33

34 Board Members went through the 5 bullet points from Staff:

- 35
- 36 1. Development of an inspection and maintenance plan and confirmation, by the PB, that the
37 property owner may be required to provide annual certification showing the stormwater
38 system is working properly.

39

40 Chair Mailhot stated that she would recommend this because (a) she feels that the town should protect
41 itself and (b) its MS-4 Stormwater permitting that they have to get through DEP to mandate that people
42 who are connecting to our MS-4 Stormwater system have an annual inspection. She believes that the
43 Board should enforce these items moving forward.

- 44
- 45 2. Is the Planning Board ok with the Town R.O.W. encroaching on their Property?

46

47 Chair Mailhot feels that if Public Works has no problem and the Developer/Owner/Applicant has no
48 problem that she is ok with this.

- 49
- 50 3. Sprinkler system.

51 Chair Mailhot doesn't see a need for a sprinkler system because it is not required by code.

1 4. Buffer along Ervin Avenue.
2 Chair Mailhot stated that this is very heavily vegetated currently with old growth (trees, scrub brush, etc.)
3 She has no problem with no requiring a buffer.

4
5 Robin Dube asked if the Town requires anyone to pay for the once a year inspections for sewer.
6 Planner Hinderliter doesn't think they are required by law because they predate the MS-4 program.

7
8 Chair Mailhot feels that there should be a requirement before the permits are issued that the sewer issue
9 be taken care of.

10 David Walker stated that he concurs with Chair Mailhot on this issue.

11 Mr. Lettelier stated that the infiltration system is new.

12 Jim Fisher with Northeast Civil Solutions introduced himself.

13 Mr. Fisher stated that as far as the Town's comments, there is no issue with road encroachment, no
14 problem with the buffers however with the single house sewer line for the proposed development, they
15 had a complaint that there was a crack in the line before the client purchased the property. When he did
16 purchase the property, he fixed the cracked line so this is not an issue. There is no issue with the annual
17 certification as well.

18 As far as the Wright Pierce comments, Mr. Fisher stated that they had addressed all of the comments that
19 they had the last time. These are new comments and if they had them before they could have addressed
20 them before. They had tried to reach out to the Town Engineer and they could not reach her. These
21 comments are all very minor. These are comments relative to construction and not approval.

22 Chair Mailhot stated that being that there is no motion, this will be a non-action item, and will visit this
23 again at the August Planning Board meeting.

24 **ITEM 2**

25 **Proposal:** Site Plan Review: Building rehab, add two units, one office, site improvements (e.g.,
26 parking, landscaping)
27 **Action:** Determination of Completeness; Schedule Site Walk and Public Hearing
28 **Owner:** Trahan Apartments – OOB LLC
29 **Location:** 68 East Grand Ave, MBL: 304-6-1; Zoning: DD2, Shoreland GD and RP

30 Assistant Planner Foster stated that this proposal was brought before the Planning Board at the June
31 meeting. The building is two stories and currently has 4 units that are licensed for year round rentals. This
32 proposal is to add two additional stories along with two units and an office. The applicant was asked to
33 clarify the exact use of the "units" and responded that one unit is to remain owner occupied, three existing
34 units are to remain as short-term rentals, two new units to be long-term rentals or sold depending on
35 market conditions, and one office for use by Trahan Apartments LLC.

36 Short-term rentals (in this case) seem to fit a lodging use, specifically motel use than a residential use.
37 Long term fits more into a residential use and the office would be non-residential use. Staff's opinion is
38 that this a mixed use building as long as the short term rentals continue to be short term Two waivers are
39 formally requested:

- 40 (1) To reduce the minimum parking space requirement from 12 spaces to 9 spaces.
41 (2) To allow for removal of snow from site instead of providing an on-site disposal area.

42 Staff also feels that an additional waiver is needed:

- 43 (3) Requires a 24' driveway width and the proposal is for 12'. The existing width looks like it is
44 16' based on the 2017 aerial photo. Staff believes that 24' is excessive in this case, but with

1 the further width reduction from what exists, an expansion with the use of a waiver will be
2 required. The Applicant should also provide supporting information to justify the waiver
3 request.
4

5 In addition, Staff recommends that the applicant speak to Public Works, Fire and Police Departments as
6 their support may increase their chance of a successful waiver request.
7

8 **Fire Chief Fred LaMontagne comments**

9 While construction drawings have not been submitted, it is most likely that the proposed structure will be
10 required to have an automatic sprinkler system installed throughout all levels of the structure. As such, I
11 would ask that the applicant provide a letter from the local water district certifying that there is sufficient
12 water flow and water pressure to meet the requirements of an automatic sprinkler and stand-pipe system
13 should either or both be required.
14

15 **RECOMMENDATIONS**

16 Staff feels the primary outstanding issues are those associated with the waiver requests and the Fire
17 Chief's request. Regarding PB's action on determination of completeness, staff believes the PB has two
18 options.
19

20 The first is the PB does not make a determination of completeness until further info is submitted to
21 support the waiver requests, a driveway width waiver request and justification, and a letter is provided by
22 ME Water as requested by the Fire Chief. In this case no motion is required.
23

24 The second is the PB makes a conditional determination of completeness subject to receiving further info
25 to support the waiver requests, a driveway width waiver request and justification, and a letter is provided
26 by ME Water as requested by the Fire Chief. In this case a motion is required: *Motion to conditionally*
27 *determine Trahan Apartments – OOB LLC Site Plan application as complete. Conditions: 1. Submission*
28 *of additional documentation to support waivers of the reduction parking space and snow removal*
29 *requirements; 2. Submission of waiver request and justification for reduction in minimum driveway*
30 *width; 3. Submission of ME Water letter.*
31

32 If the PB makes a determination of completeness, a site walk (optional) and a public hearing can be
33 scheduled.
34

35 Chris Duplantis, Project Manager from Weger Architects introduced himself. In regards to the driveway
36 width, a requirement being a 12' minimum width as stated the driveway was already non-conforming.
37 They feel that 12' is more adequate. This will only be a one-way street.
38 With the current conditions there is a cantilever deck already protruding from the structure which makes
39 the current condition closer to the proposed deck and is the same footprint as the existing deck.
40

41 Applicant has a letter stating that snow removal will not be an issue.
42 When they requested 3 short-term rentals, they requested that have 3 spaces. One for each short-term
43 rental and one for an employee. 4 spaces for the 2 long term rentals and 2 as the owner occupied unit. The
44 Applicant is proposing 9 spaces.
45

46 The rear of the lot of the current project is in the RP Zone and everything will be pervious, however the
47 main portion of the existing lot will remain asphalt and is in the General Zone. They will address any
48 recommendations concerning water and they will sprinkle the building. They have submitted the site plan
49 points of interest and have addressed those concerns.
50

51 Chair Mailhot commented on the waivers:
52 They are not requesting a parking space for the owner/occupied unit, but what if the building ownership
53 passes to someone else and it is not owner/occupied?
54

1 Mr. Duplantis stated that in that case they would request a variance for the one additional parking space.
2 Chair Mailhot also has a concern with the 12' driveway and snow storage.

3

4 **MOTION:**

5 Win Winch made a motion to determine the application conditionally complete, with the condition that
6 they get the additional information for the waiver requests (parking & snow storage) and the justification
7 for the reduction and the submission for Maine Water, seconded by Robin Dube.

8

9 **VOTE:**

10 Chair Linda Mailhot - Yes
11 Vice Chair Win Winch - Yes
12 Robin Dube - Yes
13 David Walker -Yes
14 Marianne Hubert -Yes

15

16 **PASSES: (5-0)**

17

18 Chair Mailhot scheduled a site walk on August 1, 2019 at 5:30 PM. and Public Hearing will be on August
19 8, 2019.

20

21 **ITEM 3**

22 **Proposal:** **Ordinance Amendment: Amend zoning map and ordinance language associated
with a lot in the GB1 District**

23

24 **Action:** **Discussion**

25 **Applicant:** **Eastwood Development Corp**

26

27 Planner Hinderliter stated that this proposal is requesting a change to the zoning map and a change to the
28 ordinance language.

29 The zoning map change proposes to extend the General Business 1 (GB1) Zoning District into the area
30 currently identified Residential 4 (R4) so the entire lot will be zoned GB1. Currently, the GB1 district
31 extends into the lot 400 linear feet from the centerline of Ocean Park Rd. The remainder of the lot is
32 zoned R4.

33

34 The zoning ordinance change will seek to make an exemption or some kind of exception to the 400 linear
35 feet from the centerline in 78-801 (a). This is because the proposal requires the extension of GB1 beyond
36 400 linear feet.

37 This proposal is for a zoning map amendment and also a zoning ordinance amendment.

38

39 **Use**

40 Currently 15 Ocean Park Rd is vacant. Its last use was overnight cabins which ceased approximately 8
41 years ago. Because the property zoning is split between two districts, some uses allowed in one district
42 are not allowed in the other. The lot owner wants to maximize the property options by increasing its
43 allowable uses and believes replacing the R4 with GB1 will do this. The GB1 allows almost all of the
44 uses allowed in the R4 as well as a mix of nonresidential uses.

45

46 Adjacent land uses include a campground (OOB Campground) abutting one side and the rear and a
47 single-family, apartment building, and nonresidential (food service). Adjacent zoning districts include
48 GB1, R4 and Campground Overlay.

49

50 **Spot Zoning**

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

- 5 • Size of area associated with the amendment. Is it just a small parcel, neighborhood, entire zoning
district?
- 6 • Use classification and development of adjacent property
- 7 • Relation of amendment to existing zoning patterns and objectives
- 8 • History of the amendment
- 9 • Benefits or detriments to the owner, adjacent owners, neighborhood, town
- 10 • Is the proposed change pursuant to and consistent with the comp plan

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

15 **Comp Plan Consistency**

16 Consistency with the adopted comprehensive plan is another matter the PB must consider. Zoning map
17 and ordinance amendments must be consistent with the currently adopted comprehensive plan. Regarding
18 this proposal, its staff’s opinion the changes are consistent with the adopted comp plan.

19 The 1992 future land use plan map shows the entire lot as the General and Highway Business District
20 (B2) Zoning District. The future land use plan map is overlaid on the zoning district map in-effect at that
21 time. The zoning in-effect at that time appears to be the exact same as it is today- 400’ of GB1 with the
22 remainder as R4. What this tells me is the zoning district was not changed to reflect the future land use
23 map which is why we continue to have the current district designation (GB1 and R4) and not the zoning
24 district (B2) proposed by the comp plan. So, it could be argued the zoning districts (GB1 and R4) as
25 currently shown is not in conformance with the adopted comp plan- the lot should be entirely with the B2
26 and this proposal will actually make the zoning district consistent with the comp plan.

27 The B2 is identified as a growth area which, in general, means the lands are physically suitable for
28 development or redevelopment and contain sufficient area to accommodate planned growth and
29 development. Specifically, the 1992 comp plan states the B2 District is intended for business uses where
30 exposure to passing motorists is an asset in attracting patrons (Sec. V, p. 9).

31 The B2 district, as described in the comp plan, is quite similar to the GB1 district. Both districts
32 encourage commercial growth and recognize the advantages of being close to a highly travelled road. One
33 may ask should we change the district to B2 instead of extending GB1. Our answer to that is a change to
34 B2 would require the creation of an entirely new ordinance along with all the space and bulk,
35 performance standards, etc. Such a change would be much more involved than the one proposed.
36 Because GB1 and B2 are quite similar, we see no need to proceed with that approach.

37 The Board will be ruling on a Zoning Amendment and one of the primary tests for the Zoning
38 Amendment is the consistency with the Comprehensive Plan.

39 Chair Mailhot suggested that if this comes before the Board next time, she asked if staff could put in the
40 memo a list of what the allowed uses in the GB-1 Zone are.

41 Win Winch questioned if we had an automatic buffering zone between a Residential and Commercial
42 boundary line.

43 Planner Hinderliter stated that you wouldn’t make a change like this unless you were considering some
44 non-residential options. When you have a non-residential proposal, they have their own buffering

1 standards that would be reviewed by the Planning Board. Planner Hinderliter stated that they could
2 possibly look into adding a buffer requirement although that might expand the ordinance amendment.
3

4 James Bernard representing Eastwoods Development Corporation introduced himself. He stated that this
5 is a 7 acre parcel and the family is still looking at what the best use of the property is. They have 317' of
6 frontage and 1200' of depth.
7

8 **ITEM 4**

9 **Proposal:** **Conditional Use: Installation of small cell antenna on utility pole**
10 **Action:** **Determination of Completeness; Schedule Site Walk and Public Hearing**
11 **Owner:** **Public Right-of Way; Applicant: New Cingular Wireless PCS, LLC**
12 **Location:** **Utility pole in public right-of-way adjacent to First Street/Depot Square; Zoning DD1**
13

14 Assistant Planner Foster stated that Centerline Communications reached out to Staff and requested that
15 this proposal be tabled until they can address further comments that they received from the town.
16

17 **MOTION:**

18 Win Winch made a motion to table this item without prejudice, seconded by Robin Dube.
19

20 **VOTE:**

21 Marianne Hubert -Yes
22 David Walker - Yes
23 Robin Dube - Yes
24 Vice Chair Win Winch - Yes
25 Chair Linda Mailhot – Yes
26

27 **CARRIES: (5-0)**
28

29 **ITEM 5**

30 **Proposal:** **Conditional Use: Accessory Dwelling Unit**
31 **Action:** **Determination of Completeness; Schedule Site Walk and Public Hearing**
32 **Owner:** **Ross Road LLC; Applicant: Michelle Masters**
33 **Location:** **Kylie Lane, Lot 8 Eastern Trail Estates; Zoning RD**
34

35 Assistant Planner Foster stated that this is a new proposal and it is also the first accessory dwelling unit
36 (ADU) to be reviewed under the new ADU ordinance. The owner is interested in purchasing lot #8 in the
37 Eastern Trail Estates and construct a single family dwelling unit with an ADU for her mother. The lot
38 purchase is conditional with ADU approval. ADU's are permitted in the Rural District as a Conditional
39 Use. They have provided responses to both the Conditional Uses and Accessory Dwelling Unit.
40

41 A 624 sf ADU with 1 bedroom is being proposed. The total residence proposed including the ADU is
42 2500 sf. This meets the ADU standards where the proposed ADU is over 500 square feet and under 50%
43 of the floor area of the main dwelling unit. The proposed ADU does not exceed the 1,000 sf ADU
44 maximum and will not contain more than two bedrooms. The single family home is designed to appear as
45 such. The entrance to the ADU will be through the breezeway in the living area of the primary structure.
46

47 One item that was not submitted is proof of right, title or interest. The applicant is not the owner and as
48 far as we know, has no established rights to the property. Ownership is currently Ross Road LLC.
49 Documentation establishing the applicant's right, title or interest must be submitted before the next
50 meeting.
51

1
2 **RECOMMENDATIONS:**

3 Staff recommends the PB conditionally determine the application as complete; Schedule Site Walk if PB
4 determines a site walk is necessary and schedule Public Hearing.

5
6 The owner stated that the developer has approved this use.
7

8 **MOTION:**

9 David Walker made a motion to determine the Ross Road LLC, applicant Michele Masters, Accessory
10 Dwelling Unit application as complete condition upon staff receipt of acceptable right, title or interest
11 documentation before the next Planning Board meeting, seconded by Win Winch.
12

13 **VOTE:**

14 Marianne Hubert -Yes

15 David Walker - Yes

16 Robin Dube - Yes

17 Vice Chair Win Winch - Yes

18 Chair Linda Mailhot – Yes

19
20 **CARRIES: (5-0)**

21
22 Chair Mailhot doesn't feel that the site walk is necessary since there will be no structure there however
23 the Board Members are welcome to drive by the site at their convenience.
24

25 Chair Mailhot scheduled a Public Hearing on August 8, 2019.
26

27 **Certificates of Appropriateness**

- 28 1. Proposal: Add two units, an office, and two stories, with exterior stairs, and an elevator to
29 existing two story 4 unit building. Applicant: J Brud Weger- Agent. Location: 68 E Grand Av,
30 304-6-1, DD-2

31
32 **MOTION:**

33 Robin Dube made a motion to approve the Certificate of Appropriateness for owner Trahan Apartments
34 OOB, LLC to rehabilitate and construct additions to the existing building and install landscaping and other
35 slight improvements for the property located at 68 East Grand Avenue, MBL: 304-6-1, seconded by Win
36 Winch.
37

38 **VOTE:**

39 Marianne Hubert -Yes

40 David Walker - Yes

41 Robin Dube - Yes

42 Vice Chair Win Winch - Yes

43 Chair Linda Mailhot – Yes

44
45 **CARRIES: (5-0)**

46
47 **Sign Findings of Fact**

- 48 • Subdivision Amendment: Eastern Trail Estates
49

50
51 **Other Business**

1 Good and Welfare

2
3 ADJOURNMENT 7:46 PM

4
5 *I, Valdine Camire, Administrative Assistant to the Planning Board of the Town of Old Orchard*
6 *Beach, do hereby certify that the foregoing document consisting of Ten (10) is a true copy of the*
7 *original minutes of the Planning Board Meeting of July 11, 2019.*

8
9 
10