

1                                   **OLD ORCHARD BEACH PLANNING BOARD WORKSHOP**  
2                                   **Town Council Chambers**  
3                                   **July 6, 2017 6:00 PM**  
4  
5

6 **Present:** Win Winch, Eber Weinstein, Chair Linda Mailhot, Robin Dube, Ryan Kelly and Mike  
7 Fortunato. **Absent:** Mark Koenigs. **Staff Present:** Planner Jeffrey Hinderliter, Assistant Planner Megan  
8 McLaughlin.  
9

10 **Workshop called to order at 6:00 pm.**

11  
12 **ITEM 1:**

13 **Proposal:**       **Ordinance Amendment: Amendment to Chapter 78 – Zoning, Article III –**  
14                                   **Conformance and Nonconformance, Division 2 – Nonconformities, Section 78-180-**  
15                                   **Appeals from restrictions on nonconforming uses.**

16 **Action:**         **Discussion; Schedule Public Hearing**  
17

18 Section 78-180 nonconformance ordinance:

19 We are having a public hearing, and we will make a recommendation and then it will go to the council. At  
20 the meeting, because it is an unusual item, we will have a description for people in attendance and then  
21 make a decision. Town Council will also hold a public hearing.  
22

23 **ITEM 3**

24 **Proposal:**       **Site Plan Review: Expansion of existing nonresidential (retail) building**

25 **Action:**         **Discussion; Schedule Final Ruling**

26 **Owner:**         **Harold H. Harrisburg, Phylis I Harrisburg and Harrisburg Group Gen Partnership**

27 **Location:**      **9 East Grand Ave., MBL: 306-2-6**  
28

29 There were concerns raised by staff, at the board level and generally about the development proposed at  
30 East Grand Ave. In the memo, there are a number of questions, carried over from the meeting back in  
31 April. The concerns are with the overhang and platform encroachment going into the public right of way.  
32 The PB asked for revisions to the building plans, and we did not receive those. The building construction  
33 needs to have a plan in writing to transfer this to codes. After the last meeting, the board felt that there  
34 needed to be a better plan for loading and unloading.  
35

36 We were debating whether to put this on the agenda or not because we did not receive any of the  
37 information from the owner that we had requested. The recommendation will be to table the item until we  
38 receive the loading and unloading plan, the updated building plans and the waivers (a big item).  
39

40 Warehousing is not allowed in a DD-1 district, which this property is currently in; the question raised is if  
41 stocking for the owners other two businesses in this building would be considered legal. Town planner  
42 Jeffery will check with licensing to see if the business licenses are in the same name. The town's  
43 definition of warehousing is not helpful, but keeping stock for another distributor is considered  
44 warehousing. The real concern for abutters is off-premises sales.  
45

1 Suggested: A condition that it only be storage for what is stored on premises.

2  
3 There is some argument made in the application materials; this is a nonconforming use zone, and  
4 according to sections 178 and 179, you cannot expand that nonconforming use to parts of the building  
5 that weren't in existence at the time that it became nonconforming. The owner cannot do warehousing in  
6 the upstairs according to general law, but also as a matter of expansion on a nonconforming use cannot be  
7 done.

8  
9 Loading and unloading is a particular problem because the agreement/ordinance is that the police chief  
10 can designate loading and unloading zones. The agreement that the police chief has worked out with the  
11 Harrisburg's is that: On Harrisburg Avenue, the trucks will park and that forklifts will bring merchandise  
12 from there. Loading from above a public way is dangerous for multiple reasons; in some areas the  
13 ordinance is that there must be a permit and proof of insurance. The PB is unaware of any reason that they  
14 cannot load and unload on the first floor. The town could be liable if anything were to happen to the  
15 public from the forklift.

16  
17 The new plan does include more information than what was in the April Plan. The new plan still does not  
18 include the class one property boundary survey, which can be waived but there wasn't a real survey done.  
19 Topography is not needed, as it is only an addition. The owner must request a waiver or change the plan.

20  
21 The recommendations are for the planning board to identify the outstanding items and for the applicant to  
22 submit a written response to comply with the planning board's requests.

23  
24 **ITEM 4:**

25 **Proposal: Major Subdivision: 20 lot cluster subdivision for single-family residential use**  
26 **(Eastern Trail Estates)**

27 **Action: Preliminary Plan Review/Determination of Completeness; Schedule Public Hearing;**  
28 **Schedule Final Ruling**

29 **Owner: Kevin Beaulieu & Steven Beaulieu**

30 **Location: Ross Rd, MBL: 107-1-4, 14 & 16**

31  
32 Eastern Trail Estates:

33 We have determined that there is too much critical information that the planning board needs to see  
34 before we felt comfortable that the planning was complete. We were able to schedule a site walk, but not  
35 a public hearing.

36  
37 One of their initial submissions had a preliminary traffic letter, there was a hump in the road that was  
38 noticed during the site walk and the PB is concerned with the site distances.

39  
40 The big items are the two waivers that were requested:

41 One is for the cluster subdivision that says that there must be a common septic system, the owners and  
42 many others believe that individual septic systems are better, whether from an environmental or fiscal  
43 stand point. Many builders request individual septic systems because their houses sell better that way; the

1 Town of Old Orchard needs to either change the law on common septic systems or enforce it because  
2 people keep requesting waivers.

3 The second waiver is the one access for fifteen lots, and there would normally be two. Easy St, which is  
4 one of the accesses, is a difficult street to get to and through. It is suggested that a condition be that once  
5 construction begins in the fifteenth lot, that they create a second form of egress.  
6

7 There were concerns about the lots former use, which was a junk yard. After looking through the file,  
8 which was the BH2M, regular submission and storm water submission, the data was for soils for septic  
9 and soils for drainage purposes, nothing for the exploration of what could be underneath. On site, you can  
10 see broken glass and other things. A person adjacent to the property had said that it used to be the biggest  
11 junk yard in town. In the purpose statement, it says that “The purpose of subdivision review is to ensure  
12 the comfort, convenience, safety, health and welfare of the people, to protect the environment and  
13 promote an economically sound and stable community.” To ensure that the environment is safe, we can  
14 check the junk yard properties.  
15

16 **ITEM 5:**

17 **Proposal:** Site Plan Review: Expansion of existing corps and admin building, parking lot  
18 construction, relocation of Church Street, park construction, building demo,  
19 landscaping, site work  
20 **Action:** Preliminary Plan Review/Determination of Completeness; Schedule Site Walk and  
21 Public Hearing; Schedule Final Ruling  
22 **Owner:** The Salvation Army  
23 **Location:** 6<sup>th</sup> St, Union Ave, Church St, Oakland Ave, 15<sup>th</sup> St; MBL: 311-6-1,12, 8; MBL: 311-  
24 4-1,2,3,4,5  
25

26 The plan they proposed had a lot of work put into it, one of the things no longer in the plan is the  
27 tabernacle, which will remain as is and won't be removed. The park area will no longer be included in  
28 the plan because of concerns with public use.  
29

30 The applicant is looking for a determination of completeness. We have a waiver request as a result of staff  
31 recommendation. The Salvation Army has acquired a lot of parcels adjacent to the existing lot, and the  
32 parcels ended up remaining separate. Even if the owner is the same for multiple parcels, separate parcels  
33 still have regulations that still apply for zoning purposes. The easiest way to make this a cleaner plan is to  
34 merge these lots that they have acquired. For the parking area, this creates three parking lots on one lot;  
35 the access requirements say that you can only have one driveway per lot along a local street frontage. This  
36 will not work in this case, the applicant is asking for the three access points to be located along Church St.  
37 There will be no access through Union Avenue. Staff had Palmer do a traffic report and the results of that  
38 report was that the improvements will improve access management overall. The waiver request is, in part,  
39 due do the applicant complying with staff recommendations. Church Street will not be changed into a one  
40 way.  
41

42 The full boundary survey is not included in this submission. A boundary survey was performed on this  
43 parcel a little while ago and the information that exists was just verified by on-site visualization  
44 techniques. The survey exists, it just hasn't been updated.

1  
2 The third primary problem is grading and drainage comments from Wright Pierce. The memo notes that  
3 the existing storm drainage systems downstream are taxed and therefore the management or  
4 predevelopment to post development flows are critical in this project area. We don't believe that the  
5 applicant was aware of that at this time. We would just like to make sure that they see them about that.

6  
7 Other things such as signage, wheel stops and HVAC noise can be addressed at the meeting.

8  
9 No department head comments

10  
11 Staff recommends we approve the waiver request, we need to discuss the boundary survey issue and that  
12 the applicant provide codes at the time of permitting with the boundary survey. If the planning board can  
13 determine completeness we will need to make it contingent upon receiving certain information. The PB  
14 will have to schedule a site walk for the third of August and hold a public hearing on the tenth.

15  
16 **ITEM 6:**

17 **Proposal:** Major Subdivision: 8 lot residential subdivision (Red Oak Phase III)  
18 **Action:** Preliminary Plan Review/Determination of Completeness; Schedule Site Walk and  
19 **Public Hearing; Schedule Final Ruling**  
20 **Owner:** Mark & Claire Bureau  
21 **Location:** 141 Portland Ave, MBL: 104-2-2

22  
23 A nine lot subdivision, standard with no waivers. The one issue with this is DDP. Staff recommends that  
24 the PB determine this complete and to schedule site walk and public hearing.

25  
26 **ITEM 7:**

27 **Proposal:** Conditional Use (Home Occupation): Personal Services (Psychic Readings)  
28 **Action:** Determination of Completeness; Schedule Site Walk and Public Hearing; Schedule  
29 **Final Ruling**  
30 **Owner:** Mary & Greg Desjardins  
31 **Location:** 94 Saco Ave, MBL: 206-5-10

32  
33  
34 The business on Saco Ave was found to be operating illegally, and was turned into a two family home.  
35 They can do a home occupation in a two family home. The applicant and the deeds show two different  
36 people, which needs to be resolved. "The home occupation or profession shall be carried out on wholly  
37 within the principle structure or an owner occupied two family." The deed identifies the owner as Mary  
38 and Gregory Desjardins but the home occupation will be run by Sam Miller.

39  
40 "With a home occupation, you can only have one sign that does not exceed two square feet." The  
41 applicant is proposing a twelve square foot time, and states that there is a grandfathered twelve square  
42 foot sign. It is more than what the home occupation allows, but is less than what the GB-2 district allows.  
43 According to the permit files, there was a realtor there and there was a permitted sign in 2008, but this  
44 was a permissible use and not a home occupation.

1  
2 The dumpster also needs to be shielded on three sides.

3  
4 Other Business

5  
6 Cherry Hill Pump Station:

7 The station is being monitored regularly, it is not build to capacity, it is supposed to run as is, and it is  
8 functioning well.

9  
10 The volume of water going through is below expected because of low residency. If every home changed,  
11 from retirement couple to large family or rental the pump station would need to be changed. A home  
12 owners association would fix the worry of growing residency.

13  
14 The Red Brick House:

15 It was one the agenda, we had decided that before we take any action we were going to call the town  
16 attorney who said that the planning boards responsibility is to approve or deny a project and cannot do  
17 anything further. It is codes responsibility to enforce any laws or conditions. The PB can assert itself if the  
18 applicant comes back for an amendment to the plan. What staff recommends is that the PB provides a  
19 recommendation to the code officer that states that the condition is not being complied with. The best way  
20 to do this is through a letter which will be asked at the next meeting under other business and will not be  
21 voted on.

22  
23 Good and Welfare

24  
25 ADJOURNMENT

26  
27 *I, Rebekka Joensen, Secretary to the Planning Board of the Town of Old Orchard Beach, do*  
28 *hereby certify that the foregoing document consisting of Five (5) pages is a true copy of the*  
29 *original minutes of the Planning Board Meeting of July 6, 2017.*

30