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3 **OLD ORCHARD BEACH PLANNING BOARD**
4 **June 7, 2018 5:30 PM (Site Walk, On-Site)**
5 **June 7, 2018 6:00 PM (Workshop, Council Chambers)**
6

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

10 **Site Walk 7 June 2018 @ 5:30 PM**

11 **Proposal:** **Site Plan Review (Dollar General): Demo existing building and construct new**
12 **7,225 sq. ft. retail building including associated parking, sidewalks and other site**
13 **improvements**

14 **Applicant:** **Zarembo Group**

15 **Location:** **19 Heath St., MBL: 309-9-33**
16

17 **Present:** Chair Linda Mailhot, Robin Dube, Marc Guimont; Gary Gannon. **Staff Present:** Planner
18 Jeffrey Hinderliter, Associate Planner Megan McLaughlin. Applicants and Abutters.
19

20 Open: 5:30 PM

21 Jeffrey Hinderliter discusses the site walk procedure and why a second site walk was scheduled. He asks
22 the applicants to introduce the proposal and to show the site. The following was reviewed and discussed:

- 23 • Property boundary by Fort Hill Rd was identified
- 24 • Location of Fort Hill sidewalk and curb was shown and discussed
- 25 • Dollar General will cut a check payable to town to cover costs of the sidewalk and curb
26 construction. Not doing this work now because the town is planning sewer work in the area.
- 27 • Concerns about the location of the CMP pole adjacent to Fort Hill- if it remains in the road it will
28 be a problem. It should be on inside of curb.
- 29 • Discussed appearance of business from Fort Hill. A fence will not be installed, a guardrail will.
- 30 • Go to rear of property. Discussion includes property line location, removal of fence, retaining
31 wall on abutting property, grading of site. Concerns about retaining wall being “tagged”.
- 32 • Go to front of property. Question about where parking will be located, front of proposed building
33 and overall layout. Applicant identifies these items on full sized plan.
- 34 • Store delivery discussed including how trucks will maneuver, time of delivery, noise. Applicant
35 stated a condition restricting delivery hours to store hours would be acceptable.
- 36 • Go to west side of building. Applicant identifies property line. Noted that it appears squatters
37 appear to be spending time back there and the potential dangers created.
- 38 • Go to front of building. Site walk closes at 5:55 PM
- 39 • Applicant stays after meeting to discuss with abutters
40

41 **CALL WORKSHOP TO ORDER 6:00 PM.**
42

43 **Present:** Chair Linda Mailhot, Robin Dube, Marc Guimont, Win Winch, David Walker. **Absent:** Gary
44 Gannon, Mark Koenigs. **Staff Present:** Planner Jeffrey Hinderliter, Associate Planner Megan
45 McLaughlin.
46

47 **Regular Business***

48 **ITEM 1**

49 **Proposal:** **Site Plan Review: Demo existing building and construct new 7,225 sq. ft. retail**
50 **building including associated parking, sidewalks and other site improvements**

1 **Action:** Discussion; Final Ruling
2 **Applicant:** Zaremba Group
3 **Location:** 19 Heath St., MBL: 309-9-33
4

5 Megan McLaughlin stated that we will be holding another site walk and public hearing and making a final
6 ruling on the project.

7 The outstanding items are:

- 8 • Maintenance Agreement
- 9 • Easement for construction and Maintenance and Public access to the sidewalk.

10

11 The applicant stated that he intends to have this completed by next Thursday.

12 Already have the amount for the escrow agreed on. Approx. \$25,000 for sidewalk.

13 Meeting with Finance Director to go over a form to have them sign and make it official.

14 It may be a condition that the Planning Board says that they issue that check by the start of construction.
15

16 Robin Dube mentioned that the public is concerned about the fencing for safety reasons.

17 Jeffrey Hinderliter mentioned this place needs to be cleaned up or it could catch fire.
18

19 **ITEM 2**

20 **Proposal:** Major Subdivision: 10 lot residential subdivision (Red Oak Phase III)

21 **Action:** Discussion; Final Ruling

22 **Owner:** Mark & Claire Bureau

23 **Location:** End of Red Oak Dr.
24

25 Megan McLaughlin mentioned to the Board Members that “Final Ruling” was mislabeled on the agenda
26 and should say discussion and “Preliminary Plan Vote”.

27 We held the site walk last month and this month we are holding the Public Hearing and have a new
28 Submission. The applicant provided a response to staff comments as well as Wright Pierce comments.

29 There is an email from our Town Attorney about the deed issue associated with lot #7 and he said that the
30 Planning Board should not try and make a determination on the deed and said that there is a condition that
31 could be added to the plan.

32 In some of the Wright Pierce comments, Stephanie Hubbard recommended that some of the Conditions of
33 Approval that they have written on the plan be updated such as not going over 15 lots because it then
34 triggers the requirement for a second means of egress. The condition on the plan states “The
35 sub-division is limited to development on lot 10 without amended approval by the town of Old Orchard
36 Beach Town staff of a secondary egress.”

37 For clarification purposes Staff has provided a different way of phrasing it to achieve what they were
38 hoping to achieve to address that ordinance standard. They also mentioned that the stormwater ponds
39 being the responsibility of the Homeowners Association and also that the Developer and Homeowners
40 Association should enter into Maintenance Agreement with the Town for Stormwater purposes. Staff has
41 also recommended that they give us one plan for the development with the current floodplain and one
42 plan for the development with the letter of map amendment. He said that the Planning Board should not
43 try and make a determination on the deed and said that there is a condition that could be added to the plan.
44 Town Staff asked if they could see modest street lighting in the development. The applicant said that they
45 have street lights at the end of each of the driveways however those are not always turned on.
46

47 **ITEM 3**

48 **Proposal:** Subdivision/Site Plan Amendment: Amend Atlantic Park Condominium to allow
49 construction of 21 new units, sidewalks, parking, access ways, landscaping, and
50 other misc. improvements.

51 **Action:** Discussion; Final Ruling

1 **Owner: KAP Atlantic, LLC**
2 **Location: 11 Smithwheel Rd., MBL: 210-1-7**
3

4 There were comments from Wright Pierce and Department Head comments and we asked for responses to
5 these.

6 Planner Hinderliter believes this is a real solid submission. We recommend there be one condition for the
7 Maine Department of Environmental Protection permit before construction begins. They discussed that
8 Reserve Avenue will be a good thru way however this could possible become a short cut so they have
9 created a breakaway gate there. The Fire Department agreed with this as well as the proposal and are
10 satisfied.

11 Planner Hinderliter recommends the gate key will be provided to the Condo Association, Public Works
12 and Fire/Police. Marc Guimont suggested having a Daisy Chain.

13
14 BH2M and Mr. King have been working with the Homeowners Association to try and satisfy them.
15 They will be putting a 4 foot chain link fence around the pond.
16 “Existing perimeter fence to be repaired or replaced as needed.” Abutters requested this and I just want to
17 be sure this is not forgotten. It would be helpful if a decision and plan is made soon.

18
19 **ITEM 4**

20 **Proposal: Ordinance Amendments: Amend 78-747 (3) to allow Medical Marijuana Registered**
21 **Dispensary as a Conditional Use in the Downtown District 2**

22 **Action: Discussion; Schedule Public Hearing**

23 **Applicant: Thomas Mourmouras**

24 **Location: Downtown District 2**
25

26 Planner Hinderliter stated that the Planning Board can recommend changes, however Mr. Mourmouras
27 does not have to agree to those changes.

28 Right now we have a Marijuana Registered Dispensary that is permissible land use in the GB-1 District.
29 We also have the Historic Overlay in the GB-1. The Marijuana Registered Dispensaries are not permitted
30 in that Overlay District.

31
32 Mr. Mourmouras is asking if the Marijuana Registered Dispensary be allowed as a Conditional Use in the
33 DD-2 District.

34 He is not proposing any of the other rules or laws, everything will remain the same.
35

36 This is only a recommendation and if the Planning Board approved this it would still have to go to
37 council.
38

39 Planner Hinderliter wanted the Planning Board to know that the Medical Marijuana Registered
40 Dispensary is not the same use as we just reviewed and according to the council they are 2 separate uses
41 so this does not conflict with the moratorium. This is a stand-alone proposal.
42

43 Chair Mailhot suggested that the Planning Board be given a bulleted list of how it is different from the
44 storefronts.
45

46 The Planning Board members need to hear about this proposal, educating themselves and the memo
47 provides a bit of a guidance. Then if they feel comfortable, they can schedule a public hearing.
48

49 David Walker asked if anyone knows the historical reasons why a dispensary that is allowed in this zone
50 and for what purpose and why we didn't allow it in other zones.
51

1 **ITEM 5**

2 **Proposal:** Conditional Use (Shoreland Zoning): Nonconforming structure replacement and 30
3 % expansion- demo and construction of 1200 sq. ft. 1-family dwelling
4 **Action:** Determination of Completeness; Schedule Site Walk and Public Hearing
5 **Owner:** Todd and Kathy Whitney
6 **Location:** 68 Colby Ave, MBL: 320-1-1
7

8 The structure is within the setback of the highest annual tide within that 100' setback so that makes it a
9 non-conforming structure. And it is also in a flood plain.

10 They are proposing to put the structure in the same exact footprint as the existing one.

11 They want to elevate the ground floor level to meet the future flood plain requirements.

12 However we still have today's standards. They need to ensure that this area that is being elevated is
13 truly not square footage or volume for Shoreland Zoning purposes. It is being elevated for strictly for
14 compliance with Flood Plain purposes. It cannot be finished or used for recreational or habitable purposes
15 however we need more information to show that.

16 The PB should decide if they can make a determination of completeness and schedule a site walk and
17 public hearing.

18 Motion to determine the application complete based on complying with the following conditions by 25
19 June:

- 20 1. Amend the response to Conditional Use standard #12 to show the property owner has the ability
21 to finance project.
- 22 2. Amend Shoreland Zoning standard #3 to include a statement regarding how the home will
23 provide for adequate disposal of waste water.
- 24 3. Amend Shoreland Zoning standard response to #8 to explain how the project complies with the
25 nonconforming structure 30% expansion standard (78-1181 (c) (1) and nonconforming structure
26 reconstruction or replacement standard (78-1811 (c) (3) .
- 27 4. Provide status of DEP permitting.
- 28 5. Provide response to current driveway.
- 29 6. Provide documentation that shows the ground floor area meets applicable floodplain standards
30 and is only being elevated for floodplain purposes. This could include elevation certificates or
31 something official that shows how this building is being designed to comply with floodplain
32 standards.
- 33 7. Provide a plan that shows a definitive fixed location of the existing and proposed structure to
34 ensure it does not become more nonconforming as it relates to the waterbody/HAT setback.
- 35 8. Any other items the PB thinks should be included?
36

37 Planner Hinderliter stated that he believes the new Flood Zone Maps will become official during mid
38 2019.

39
40 **Other Business**

41
42 **ITEM 6**

43 **Review and discussion of Planning Board Procedures**
44

45 All agreed that this is a good opportunity to go over the Planning Board policies.
46

47 There is an MMA class coming up in Portland on July 26th. **MMA's Local Planning Boards
48 And Boards of Appeal sponsored by the Maine Municipal Association.**

49 In addition, Planner Hinderliter will be getting one of the Town's Attorneys to come and spend a little
50 time with the Board as a whole.
51

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3 **3.3 Continued Seating of Alternate Members. If an alternate member is acting as a voting**
4 **member for the public hearing of an application, this alternate shall continue to serve as a**
5 **voting member when present for this item at all subsequent meetings.**
6

7 Chair Mailhot added that it needs to be determined if we should change these procedures to state if an
8 alternate member is acting as a voting member for the first Public Hearing in the event that there is more
9 than one Public Hearing.

10
11 Robin Dube stated that she understood that typically an alternate member can vote only if there is a
12 regular member absent.

13
14 Planner Hinderliter said that he can do some research on this through MMA and bring back to the Board
15 Members.

16
17 **3.4. Waiver of Procedures**

18 **Upon the vote of all members, the Planning Board may waive any of the procedures**
19 **outlined herein with the exception of Section 9.0 Conflicts of Interest herein.**
20

21 **4.0 SITE WALKS**
22

23 **4.1 Site Walks as a Legal Meeting**

24 **The applicant, all abutters, and the general public shall be notified of the time, date, and**
25 **location of the site walk. Since site walks shall be regarded as legal meetings of the**
26 **Planning Board, the public shall not be barred from attending the site walk and the**
27 **applicant or the duly authorized agent thereof shall be in attendance. In the event that the**
28 **applicant or his/her agent fails to appear at a scheduled site walk, the Planning Board may**
29 **postpone said site walk until another time to be called by the Chair. The Planning Board**
30 **will not entertain public questions directly during site walks. Public and abutter questions**
31 **regarding the application and site should be submitted to the Planning Board through the**
32 **Town Planner. Public comments are encouraged and should be presented formally by**
33 **correspondence to the Planning Board or presented in person during the Public Hearing.**
34

35 **4.2 Site Walk Scheduling**

36 **If determined to be required or warranted by ordinance for a proposed application, a site**
37 **walk will be scheduled prior to the next monthly workshop meeting or at another time**
38 **mutually agreed by majority vote but prior to the next monthly regular meeting. The Chair**
39 **retains the discretionary authority to call for a site walk at any time.**
40

41 In regards to site walks and site walk scheduling the Planning Board will not entertain public questions
42 directly during the site walks. Win Winch mentioned that it would be a good thing to have something to
43 pass out to the public that this is for informational purposes only and incorporate our email address so
44 they can email us with their concerns.

45
46 Site walks shall be regarded as legal meetings. Chair Mailhot stated that this is not addressed in the
47 procedures. The only thing that is addressed in the procedures is a Public Hearing. Missing a Public
48 Hearing and having an alternate being in attendance for the Public Hearing as opposed to someone else.

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3 **5.0 AGENDA**
4

5 **5.1 Application Submission Deadlines**

6 **To be placed on the agenda for a Planning Board meeting, the applicant must file a**
7 **complete application to the Town Planner, seventeen (17) calendar days before the**
8 **scheduled monthly regular meeting. All subsequent technical information and letters from**
9 **Town officials and consulting engineers shall be submitted to the Town Planner, ten (10)**
10 **calendar days prior to the next monthly regular meeting date. It shall be the discretion of**
11 **the Town Planner to accept submission data after the ten day deadline, provided that the**
12 **Planning Department can review and deliver the information to the Planning Board at**
13 **least seven (7) calendar days prior to the monthly regular meeting at the monthly**
14 **workshop meeting. No applicant shall be placed on the agenda without all of the initial**
15 **submission requirements specified by the application forms submitted to the Planning**
16 **Department by the submission deadline.**
17

18 **5.2 Agenda Procedures**

19 **New applications will be placed on the agenda on a first-come, first-served basis. The**
20 **Planning Board has established an informal limit of six (6) substantive items for each**
21 **agenda. The number of items on the agenda may be reduced or expanded by the Chair**
22 **depending upon time and scheduling. The agenda shall be created by the Town Planner**
23 **and published after the Chair’s, or in the absence of the Chair the Vice-Chair’s consent.**
24

25 **5.3 Requests for Agenda Time**

26 **Space on agenda may not be reserved by a call, letter, or partial submission.**
27 **There have been no problems with this so far.**
28

29 **5.4 Order of Agenda Items**

30 **Items continued or tabled, at previous meetings will receive scheduling priority over new**
31 **applications.**
32

33 Staff has put together a calendar of agenda items and new applicants get this calendar along with their
34 application.

35 The Planning Board has established an informal limit of six (6) substantive items for each
36 Agenda and we have been capping it at 10. This has been working out for the Board thus far.
37

38 **6.0 PUBLIC HEARINGS**
39

40 Some site plan policy’s say “shall conduct a public hearing” and in subdivisions it says “may conduct a
41 public hearing”. This language is right from our ordinance. If we wanted to change that it shouldn’t be
42 changed in a policy, it needs to be changed in the ordinance.
43

44 Chair Mailhot mentioned that we should look into the length of time to permit individuals to speak during
45 public hearings. The intent of the public hearings is for residence and property owners.
46
47

1 **6.1 Conditional Uses**

2 **The Planning Board shall conduct a public hearing for all Conditional Use applications**
3 **pursuant to Chapter 78 Sec. 1238 (b) (2) Public hearing of the Town of Old Orchard Beach**
4 **Ordinance.**

5
6 **6.2 Subdivisions**

7 **The Planning Board may conduct public hearings for major and minor subdivisions in**
8 **accordance with Chapter 74 Article IV Division 4 Sec. 74-206(e) preliminary plan and Sec.**
9 **74-231(f) final plan.**

10
11 We always hold public hearings on sub-divisions, conditional uses and site plan review. We don't have to
12 for plan amendments but for some of the bigger plans we have had site walks and Public Hearings.
13 The Planning Board has the ability to schedule a Public Hearing or not.

14
15 **7.0 GENERAL FORMAT OF MEETINGS (OTHER THAN PUBLIC**
16 **HEARINGS)**

17
18 **7.1 Staff Reports**

19 **The Town Planner will provide a report of the project to the Planning Board. The**
20 **applicant will have a chance to explain and answer questions if necessary to further**
21 **provide insight regarding the proposed application. The Planning Board may permit**
22 **questions or comments from the public at all meetings.**

23
24 **7.3 Public Submission/Testimony**

25 **The public may provide written information pertaining to projects where the Board does**
26 **not require public hearings. The Planning Board will accept written information no later**
27 **than seven (7) calendar days before the date of the regular meeting. This will enable the**
28 **Planning Board to read and digest the information before the meeting. Receipt of the**
29 **written documentation will not be permitted at the meeting.**

30
31 The Public Hearing is its own section in our policy and has its own standards.

32
33 **8.0 CONFLICTS OF INTEREST**

34
35 **8.1 Definition of Conflict of Interest**

36 **A potential conflict of interest for a Planning Board member shall be defined as any**
37 **application tendered by a family relation, business associate, or an application proposed by**
38 **an abutter to the property owned or leased by a Planning Board member; or any situation**
39 **where a Planning Board member believes that he/she cannot render an impartial ruling on**
40 **a pending application.**

41
42 It's good to establish and try to sort out if there is a conflict of interest during the actual meeting and
43 before any sort of discussion.

44
45 **8.2 Notification and Procedure**

46 **In the event that a Planning Board member or alternate may have a conflict of interest in**
47 **any pending application, said member shall notify the Chair of the conflict. Upon**

1 **affirmation per section 8.4, a Planning Board member shall relinquish his/her seat to an**
2 **alternate Planning Board member designated by the Chair to serve as a regular member in**
3 **all Planning Board deliberations on the subject application. The excused member shall**
4 **reclaim his/her seat immediately after the Planning Board resumes consideration of any**
5 **application or business other than the application of potential conflict.**

6
7 In the event that a Planning Board member or an alternative may have a conflict of interest in any
8 pending application, said member shall notify the Chair of the conflict. And if the Chair has the conflict,
9 notify the Vice Chair.

10
11 All members agreed that the Planning Board's policies are working well so far.
12 This might be something to continue at some point.

13
14 **ADJOURNMENT**

15
16 *Note: Workshop Agenda Public Hearings and Regular Business items are for discussion purposes only.
17 Formal decisions on these items are not made until the Regular Meeting.

18
19 **ADJOURNMENT 7:23 PM**

20
21 *I, Valdine Camire, Administrative Assistant to the Planning Board of the Town of Old Orchard*
22 *Beach, do hereby certify that the foregoing document consisting of Eight (8) pages is a true copy*
23 *of the original minutes of the Planning Board Meeting of June 7, 2018.*

24 