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3 **OLD ORCHARD BEACH PLANNING BOARD**
4 **Public Hearings & Regular Meeting**
5 **May 9, 2019 6:30 PM**
6 **Town Council Chambers**
7 **MEETING MINUTES**
8

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

10
11 **PLEDGE TO THE FLAG**

12
13 **ROLL CALL**

14 **Present:** Chris Hitchcock, Alt.

15 Robin Dube

16 David Walker

17 Marianne Hubert

18 Vice Chair Win Winch

19 Chair Linda Mailhot

20
21 **Absent:** Mark Koenigs, Alt.

22
23 **Staff Present:** Planner Jeffrey Hinderliter

24 Assistant Town Planner Michael Foster

25
26 **Approval of Minutes: 4/4/19, 4/11/19**

27
28 **MOTION:**

29 Win Winch made a motion to approve the Planning Board Minutes for 4/4/19 and 4/11/19.

30 Seconded by David Walker.

31
32 **VOTE:**

33 Robin Dube - Yes

34 David Walker - Yes

35 Marianne Hubert - Yes

36 Vice Chair Win Winch - Yes

37 Chair Linda Mailhot – Yes

38
39 **CARRIES:**

40 **(5-0)**

41
42 **Public Hearings**

43 **ITEM 1**

44 **Proposal:** Minor Subdivision: 2 Duplex (4 residential apartment units)

45 **Owner:** Earle Enterprises, LLC

46 **Location:** 4 Smithwheel Rd, MBL: 210-2-16; Zoning: R4

47
48 Public Hearing opened at 6:31 PM

49

1 Christine Adams President of Royal Crest Condominium Association at 2 Ryefield Drive. Some of the
2 owners of the association have concerns of placement where this is going to be built. Some of the land
3 that has been plotted out has been used by the association for over 20 years now. The association would
4 like to enter into friendly negotiations with Andrew. Christine stated she was not present at the walk
5 through last week but other owners were present and had great conversations with Andrew. The
6 association feels they will be able to enter peaceful negotiations, however at this time just for formalities
7 they have received a retainer with Monaghan Leahy Associates just simply so that if it is the association's
8 property and they have ownership over it they are represented. They do have a retainer for adverse
9 possession claims.

10
11 Closed Public Hearing at 6:33 PM

12
13 **Regular Business**

14 **ITEM 2**

15 **Proposal: Major Subdivision: 5 Unit Condominium Building**

16 **Action: Final Ruling**

17 **Owner: SJ Peacock Builders**

18 **Location: 21 Union Ave, MBL: 315-15-3; Zoning NC-2**

19
20 Associate Planner McLaughlin stated that the Planning Board previously approved the preliminary plan at
21 the April meeting but there were still questions pertaining to parking and snow storage that need to be
22 addressed. The applicant presented turning diagrams for the parking area but at the time the Board felt
23 that those didn't address concerns for getting in and out of parking spaces when the lot is full. The Board
24 requested that the applicant submit a formal lease agreement for half of South Street, a snow storage lease
25 agreement to store snow on the adjacent property, a plan demonstrating how vehicles will maneuver in
26 the two parking spaces next to the dumpster, an ability to serve letter from Maine Water, and a response
27 to the April 1, 2019 Wright Pierce Memo. The applicant did provide a Quit Claim Deed to staff and they
28 may have copies to hand out tonight if you want to review them. They also submitted a waiver request for
29 snow removal that the Planning Board will have to rule on this month. The ordinance requires them to
30 designate areas on site for snow storage and the deed they presented is to designate an offsite storage
31 location. The turning diagrams that they submitted appear to work for a standard size car. Wright Pierce
32 had some comments on parking. One recommendation to solve some of the potential issues that they saw
33 was to designate some of the spots in the area near dumpster as compact spots. The ordinance allows for
34 up to 40% of parking spots to be designated as compact spots. They can have up to three which may help
35 with the situation so there aren't many large vehicles in that area causing issues. Another issue we noticed
36 which is probably just a typo on plan is that the parking spot to the left of the handicap parking spot is
37 now 8.5 feet wide and it is supposed to be 8.6 feet wide if it is a compact spot. They will need to fix that
38 and designate it as a compact spot. For this month we recommend that you first rule on the waiver request
39 for snow removal. If the Planning Board does not rule in favor of the waiver request then the applicant is
40 going to have to find some way to rework the plan for snow storage. You can push the final decision off
41 until next month depending on the outcome of the waiver and some items that is an option.

42
43 Jim Fisher from Northeast Civil Solutions introduced himself as representing SJ Peacock. Jim provided
44 the board with information regarding snow storage easements.

45
46 Chair Mailhot responded that they can be passed out but the Board doesn't typically have time to review
47 on the evening they are passed in and that is why there are submission deadlines.

48
49 Jim Fisher responded that he also has the snow removal contract if they would like to see that as well. He
50 stated he understands the Boards ability to review new materials at the meeting, so they highlighted the
51 one phrase that discusses the storage of snow and the location of the dumpster. He added that they would

1 like to get final approval with conditions depending on what the board would like. Essentially what we
2 are looking at here is the proposed building, the parking area, and the portion of South Street that we have
3 already received that was abandoned by the town over 40 years ago. Mr. Peacock has this and Mr. Perkins
4 who didn't formally have his, now has his, and all the abutters have theirs as well, a piece of the vacated
5 portions.

6
7 Robin Dube asked if they have it from Perkins in writing.

8
9 Jim Fisher responded no, that's by law. What the affidavit does from the Town is to be able to basically
10 acknowledge what they normally would have acknowledged 40 years ago when they actually voted to
11 vacate that. And now what this does is formalize the abandonment to the owners on either side of these
12 rights of way.

13
14 Chair Mailhot stated that this is different from the snow storage that Robin was thinking about. He is
15 talking about the 50% of that paper street.

16
17 Jim Fisher added that with where the dumpster is parking is tight. Mr. Peacock obtained a notarized
18 easement, perpetual easement, for use of this area for snow storage. The big tree can remain, although it's
19 dying and will probably come down within a short period of time, but we don't have any intention of
20 taking it down immediately. The dumpster was moved from one section to another, angled so any vehicle
21 can back up there very easily and still take care of it. This opens up the maneuverability for the parking
22 area for these two spaces back by the dumpster where it would have literally been a three point turn but
23 now we don't need it anymore because this aisle width is wider than the actual stall itself just to give you
24 a spatial idea of what we are looking at. Anybody who actually parks in these areas where they would
25 have had to do a three point turn now all they have to literally do is back out here and come straight into
26 Union Avenue.

27 There was one question from the Engineers memo regarding stormwater that was back in this area, [South
28 St to Ocean Ave] they just had a question, and you'll see there is a photograph in your packets towards
29 this end of the way it looks now. This will be improved with four feet of crushed gravel which goes down
30 well over a foot and then it is all sand as far as infiltration is concerned. Travis Letellier, our chief
31 engineer, had a conversation with the gentleman who runs the store [Tami Lyn's Place, 126 W Grand
32 Ave]. The question from the independent reviewing engineer was is there a problem or was there a
33 problem stormwater wise with this structure and the answer is no. He's got a full basement and there is no
34 sump down there. They use that as considerable storage for the store itself. Now what we are proposing to
35 do is essentially excavate that down to a full depth of about 12-18 inches, backfill that with loose gravel,
36 so that when any stormwater that does get into this area particularly off the rooflines for both of these
37 structures will come right down here and actually go through the gravel, and infiltrate into the sand
38 beneath it.

39 One of the things that Megan mentioned was corrected. There is a bit of a misnomer in the comments
40 about the width of the parking stall. This is shown as eight and a half feet, which is actually eight feet six
41 inches. Engineering scales are based on tenths, architectural scales are based on inches. If you have any
42 questions I'd be happy to address them, answer them the way I may be able to, and we'll go from there.

43
44 Chair Mailhot stated that given the submission tonight, which generally we don't like to take, will need to
45 be reviewed. The only other outstanding issue is the Letter of Financial Capacity that was in the packet is
46 just a letterhead from the owner/applicant stating that it is going to be self-funded. That's never a type of
47 accepted Letter of Financial Capacity.

48
49 Town Planner Hinderliter responded that they've been used on smaller projects. Typically what we do is
50 before construction begins we have the owner secure a performance guarantee. So we essentially have the

1 financial capacity guaranteed at that point before a shovel can even hit the ground as part of a
2 construction bond, or letter of credit, or third party/tri party agreement.
3
4 Chair Mailhot confirmed that the Town would not let anything happen without getting something more
5 substantial than what this letter is on letterhead.
6
7 Planner Hinderliter responded correct.
8
9 Chair Mailhot stated she wanted to make absolutely sure because as mentioned she has never seen such a
10 letter of financial capacity. Wanted to make sure that is part of the pre-construction process. That's not
11 something that needs to be any type of a condition.
12
13 Planner Hinderliter responded no, it is part of the process.
14
15 David Walker mentioned he has some questions about the new area that was secured. Is the dumpster still
16 going to be fenced.
17
18 Jim Fisher responded yes.
19
20 David Walker asked about access if the trash truck can access the dumpster behind the parking space.
21
22 Jim Fisher responded that the previous dumpster was at 90 degrees and this one will be set at a 45 degree
23 angle to allow for maneuverability. Because it is at an angle they will be able to back right in.
24
25 Chris Hitchcock mentioned he voted to not require a curb planted island because the dumpster in effect in
26 the old design provided that protection between the two vehicles parked at different orientations. Now
27 you don't have that protection, it's up to the chair if we need to address the waiver of the planting island
28 in light of that.
29
30 Chair Mailhot added that it is a good question.
31
32 Jim Fisher responded that he certainly understands the question. Typically from a safety perspective you
33 are right. In this case however we got a double win because by moving the dumpster where it is we freed
34 up an extra ten feet of space. Its possible someone could back out into a car there but there is almost thirty
35 feet of space. Unless someone backs the wrong way, it's not likely.
36
37 Chris Hitchcock responded he was working on it from requirement standpoint not a safety standpoint.
38 The island is a requirement but the dumpster acted as an island. The question is if the waiver is legitimate.
39
40 Marianne Hubert asked if there is room for an island now.
41
42 Jim Fisher responded that there is room but he is not sure what effect it would have. Without the island it
43 leaves more room to negotiate the turns.
44
45 Chair Mailhot asked Planner Hinderliter how this change impacts the waiver for an island.
46
47 Planner Hinderliter responded that he has never had that happen and would need to look into it.
48
49 Robin Dube added that she feels it is better because the space is opened up now.
50
51 Vice Chair Winch added he agrees with Robin.

1
2 Chair Mailhot asked board members if it would have changed their votes.
3
4 Marianne Hubert responded she didn't vote but there is more space now.
5
6 Chair Mailhot added that it is something we should look more into. For the voting tonight if there is a
7 regular member absent for the public hearing and an alternate votes, when else does the alternate vote in
8 the process.
9
10 Planner Hinderliter read ordinance continued seating of alternate member that when an alternate votes at
11 the public hearing that alternate shall continue to serve as a voting member.
12
13 Chair Mailhot read the subdivision criteria responses.
14
15 Robin Dube asked about how often the trash pickup will happen in regards to the dumpster.
16
17 Jim Fisher responded that it will be a locked dumpster and maintained by the Homeowner Association.
18
19 Chair Mailhot clarified that memo comments were addressed for snow storage, parking spot width, and
20 some for Wright Pierce comments from April 30, 2019 memo.
21

22 **MOTION:**

23 Robin Dude made motion to approve final plan for 5 unit condominium at 21 Union Ave with condition
24 to address Wright Pierce comments in memo dated April 30, 2019.
25 Seconded by David Walker.
26

27 **VOTE:**

28 Mr. Hitchcock-Yes
29 Ms. Dube-Yes
30 Mr. Walker-Yes
31 Vice Chair Winch-Yes
32 Chair Mailhot-Yes
33

34 Carries 5:0
35

36 ITEM 3

37 Proposal: Minor Subdivision: 2 Duplex (4 residential apartment units)
38 Action: Determination of Completeness; Ruling on Preliminary Plan
39 Owner: Earle Enterprises, LLC
40 Location: 4 Smithwheel Rd, MBL: 210-2-16; Zoning: R4
41

42 Associate Planner McLaughlin explained that formal review from the Planning Board began last month.
43 The applicant requested a number of waivers. First waiver is to reduce minimum driveway spacing on 30
44 MPH road from 125 feet to 90 feet to allow the current driveway for existing single family home to
45 remain where it is with new driveway off from Smithwheel. The second is to reduce the offset from
46 intersections from 100 feet to 60 feet which allows for the purposed driveway to be placed closer to
47 Ryefield for sight distance purposes. The third is to reduce aisle width for 90 degree parking spaces from
48 25 feet to 20 feet to allow the purposed parking area to fit within the proposal as designed. They may
49 need to request a fourth waiver to reduce the offset separation between existing driveway and Ervin Rd
50 from 100 feet to 95 feet. There are a number of comments in Wright Pierce memo on some ideas to look
51 into to use existing driveway. Aside from waivers a no cut buffer is recommended to be shown on

1 construction plans. Decisions on waivers need to be made before making determination of completeness
2 if the waivers are approved and then rule on preliminary plan.

3
4 Travis Letellier pointed out that the plans haven't changed from last month. As far as potential access off
5 from Ervin it is small with only a 25 foot right-of-way with pavement width averaging 18 feet, which
6 would be smaller than the proposed driveway. The sight distance for Ervin is poor.

7
8 David Walker pointed out that during the public hearing condo association made claim for adverse
9 possession.

10
11 Chair Mailhot stated that it does not affect what the board does. There are various driveways and
12 intersections and it is preferred that this be reviewed by a traffic engineer. Waivers requested are high
13 percentage wise, between 30-40% of the standards.

14
15 David Walker agreed.

16
17 Robin Dube asked about Dunkin Donuts traffic studies that were done.

18
19 Chair Mailhot responded that this is different with the waiver requests and with all the changes the
20 situation in its entirety should be reviewed.

21
22 Travis Lettelier stated typically a development like this will produce 4 four trips during peak hour early
23 morning or late evening hour and he doesn't see a traffic study as necessary.

24
25 Chair Mailhot mentioned David Walker agreed to a traffic study and asked if any other Planning Board
26 members would like to have a traffic engineer review it.

27
28 Marianne Hubert agreed that it should be reviewed by a traffic engineer.

29
30 Chair Mailhot stated that there is a consensus among the Planning Board and asked Planner Hinderliter
31 what there doing with the proposal tonight.

32
33 Planner Hinderliter stated that it seems like the waiver requests will be denied and would essentially kill
34 the project. If it leads to a denial it would delay it a year before it could come back before the board. It
35 would be wise to table the proposal until the applicant submits a study from a traffic engineer.

36
37 Chair Mailhot asked the applicant if they wanted to table the item until it is reviewed by a traffic engineer
38 before the Board votes on waivers.

39
40 Travis Lettelier responded yes.

41
42 **MOTION:**

43 Vice Chair Winch made a motion to table.
44 Seconded by David Walker.

45
46 **VOTE:**

47 Ms. Dube- No

48 Mr. Walker-Yes

49 Ms. Hubert-Yes

50 Vice Chair Winch-Yes

51 Chair Mailhot-Yes

1
2 Carries 4:1

3
4 ITEM 4

5 Proposal: Conditional Use: Accessory Dwelling Unit
6 Action: Final Ruling
7 Owner: The Village at Pond View Woods, LLC
8 Location: 206 Portland Ave, MBL: 103-1-432; Zoning RD
9

10 Associate Planner McLaughlin explained that the board previously tabled this proposal at the March
11 meeting because it did not meet the standards of the ADU ordinance. The first standard requires that the
12 ADU shall be accessed via the living area of the primary structure. The Planning Board stated that
13 accessing the ADU from the garage does not qualify as entering through the living area of the primary
14 structure. The second standard requires that ADUs shall be designed to be subordinate in scale and mass
15 to that of the main structure. The PB stated that the original design of the ADU gives the appearance of a
16 large two family home rather than a single family home with an ADU, thereby not meeting this standard.
17 The new submission appears to be a single family home and not a two family. The septic system design
18 and new plans are included in the packets to review. We recommend you read the responses to both the
19 Conditional Use and ADU Standards, and make a final ruling.

20
21 Chair Mailhot pointed out that she would want to see the whole structure exterior clad as brick, not brick
22 veneer or something that looks like bricks. Looking at the plan it looks like the main house is brick and
23 the rest is clapboard or vinyl. To keep historical style and character, which was a condition of subdivision
24 approval, the whole structure should be brick.

25
26 Robin Dube added that the original house was brick but the barn was wood.

27
28 Chair Mailhot responded that the original house did not have an Accessory Dwelling Unit either.

29
30 The applicant reiterated that the original house was brick but the barn was wood so they kept it the same.

31
32 Vice Chair Winch mentioned that they were trying to preserve the look of the building so any changes
33 should match the original.

34
35 Chair Mailhot read the responses to the Conditional Use and ADU Standards.

36
37 **MOTION:**

38 David Walker made motion to approve the accessory dwelling unit at 206 Portland Ave in the Rural
39 District MBL 103-1-432 with the condition that the entire building be real brick not a facade or other
40 building material.

41 Seconded by Robin Dube.

42
43 **VOTE:**

44 Mr. Walker-Yes
45 Ms. Hubert-Yes
46 Ms. Dube-Yes
47 Vice Chair Winch-Yes
48 Chair Mailhot-Yes

49
50 Carries 5:0
51

1 ITEM 5
2 Proposal: Subdivision Amendment (Eastern Trail Estates): Adjust shared property line for lots 17 &
3 18
4 Action: Ruling on Amendment
5 Owner: Ross Road LLC
6 Location: Mary's Way, MBL: 107-1-417 & 418; Zoning RD
7

8 Planner Hinderliter stated that there are outstanding items to be submitted before staff can provide a
9 favorable recommendation. Outstanding items are erosion control measures installed on lots 18, 19, & 20
10 to be installed and need to be field verified; a twelve inch culvert that has sedimentation issues and needs
11 erosion & sedimentation controls installed; a vegetation restoration plan and schedule for lots 5, 16, 17, &
12 18 is to be submitted to staff; and a copy of the Post-Construction Management Plan and signed
13 maintenance agreement submitted to staff.
14

15 Marianne Hubert asked if they could approve the amendment pending the required items be addressed.
16

17 Robin Dube responded that tabling would be much better in this situation.
18

19 **MOTION:**

20 Robin Dube made motion to table.
21 Seconded by Vice Chair Winch.
22

23 **VOTE:**

24 Mr. Walker- Yes
25 Ms. Hubert- Yes
26 Ms. Dube- Yes
27 Vice Chair Winch- Yes
28 Chair Mailhot- Yes
29

30 Carries 5:0
31

32 ITEM 6

33 Proposal: Conditional Use: Installation of small cell antenna on utility pole
34 Action: Determination of Completeness; Schedule Site Walk and Public Hearing
35 Owner: Public Right-of Way; Applicant: New Cingular Wireless PCS, LLC
36 Location: Utility pole in public right-of-way adjacent to First Street/Depot Square; Zoning DD
37

38 Assistant Planner Foster responded that the applicant has requested this item be removed until they can
39 provide the additional materials. Planning staff supports this request and recommends the Board table
40 their consideration of this proposal until next meeting.
41

42 **MOTION:**

43 Robin Dube made motion to table.
44 Seconded by Vice Chair Winch
45

46 **VOTE:**

47 Ms. Dube-Yes
48 Mr. Walker-Yes
49 Ms. Hubert-Yes
50 Vice Chair Winch-Yes
51 Chair Mailhot-Yes

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Carries 5:0

Sign Findings of Fact

- Minor Subdivision; 189 Saco Ave; Donald Bouchard
- Site Plan: 9 East Grand Ave

Other Business

None

Good and Welfare

David Walker responded go Bruins!

ADJOURNMENT 7:38 PM

I, Michael Foster, Assistant Planner of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of Nine (9) pages is a true copy of the original minutes of the Planning Board Meeting of May 9, 2019.



20