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2
3 **OLD ORCHARD BEACH PLANNING BOARD**
4 **Public Hearing & Regular Meeting**
5 **October 10, 2019 6:30 PM**
6 **Town Council Chambers**
7 **MEETING MINUTES**
8

9 **CALL MEETING TO ORDER**

10
11 **PLEDGE TO THE FLAG**

12
13 **ROLL CALL:**

14 Robin Dube
15 Marianne Hubert
16 David Walker
17 Vice Chair Win Winch
18 Chair Linda Mailhot
19 Mark Koenigs – Alt.
20 Chris Hitchcock – Alt.
21

22 **Staff Present:**

23 Assistant Planner Michael Foster
24 Intern Ian Miller
25

26 **Approval of Minutes: 9/5/19, 9/12/19**

27
28 **MOTION:**

29 Vice Chair Win Winch made a motion to approve the 9/5/2019 and 9/12/2019 meeting minutes, seconded
30 by Robin Dube.
31

32 **PASSES:**

33 (5-0)
34

35 **Public Hearing**

36 **Proposal: Conditional Use: Installation of small cell antenna on utility pole**

37 **Applicant: New Cingular Wireless PCS, LLC**

38 **Location: Utility pole in private parking lot adjacent to First Street/Depot Square (206-32-1);**

39 **Zoning: DD1**
40

41 Public hearing opened at 6:31 PM.

42 Dan Patry from 5 Temple Avenue introduced himself. Mr.Patry asked what the main purpose for the
43 antenna is. Assistant Planner Michael Foster stated that to his understanding this would be to increase the
44 service for AT&T in the downtown area. They have mentioned a potential for a couple more proposals for
45 similar small cell antennas.
46

47 There being no one else speaking for or against this item, the Public Hearing closed at 6:33 PM.
48
49
50

1 **Regular Business**

2
3 **Proposal:** Site Plan Review: Building rehab, add two units, one office, site improvements (e.g.,
4 parking, landscaping)
5 **Action:** Waiver Ruling; Final Ruling
6 **Owner:** Trahan Apartments – OOB LLC
7 **Location:** 68 East Grand Ave (304-6-1); Zoning: DD2, Shoreland GD and RP
8

9 Assistant Planner Michael Foster stated that the applicant had submitted a letter and it was read into the
10 meeting minutes:
11

12 **To all concerned:**

13 **“Weger Architects, as the representing Agent for the property owner Michelle Trahan and Trahan**
14 **Apartments LLC hereby request to withdraw our application for the 2 story, 2 unit addition at 68 East**
15 **Grand Ave (304-6-1); Zoning: DD2, Shoreland GD and RP”**
16
17

18 **ITEM 2**

19 **Proposal:** Conditional Use: Installation of small cell antenna on utility pole
20 **Action:** Discussion; Final Ruling
21 **Applicant:** New Cingular Wireless PCS, LLC
22 **Location:** Utility pole in private parking lot adjacent to First Street/Depot Square (206-32-1);
23 **Zoning:** DD1
24

25 Assistant Planner Michael Foster stated that the Applicant has responded to the two items of concern that
26 were pointed out by the Planning Board last month.
27

- 28 1. The Applicant provided an example of a similar small cell antenna located on Rt.1 in Saco.
- 29 2. The Applicant has provided an updated response to the Conditional Use Standard #6 where the
30 word noise was omitted in the original response.
31

32 The Conditional Use Standards and Standards for Architectural sitting on existing structures are included
33 in the memo.

34 Planning Staff recommends that the Board approve this application.
35

36 AT& T has a couple of locations in Old Orchard Beach that doesn't have maximum coverage and that
37 signals are not moving as quickly, delays, capacity issues such that this targeted small cell utility will help
38 bridge the gap.
39

40 **MOTION:**

41 David Walker made a motion to approve the Conditional Use for a small cell antenna architectural setting
42 located on the utility pole in the parking lot of 15 Old Orchard Street MBL:206-32-1; Zoning: DD1,
43 seconded by Robin Dube.
44

45 ***Chair Linda Mailhot read the Criteria and Responses for:***

46
47 **Sec. 78-1240. – Conditional Use Standards:**
48

- 49 1. The proposed use will not result in significant hazards to pedestrian or vehicular traffic, on-site or
50 off-site.

1 **Applicants Response: The facility will be unmanned and will not result in a significant**
2 **increase in traffic or other hazards to pedestrians on or off site.**

3 2. The proposed use will not create or increase any fire hazard.

4 **Applicants Response: The proposed use will not create or increase any fire hazard. AT&T's**
5 **facility will be monitored remotely to detect malfunction.**

6 3. The proposed use will provide adequate off-street parking and loading areas.

7 **Applicants Response: AT&T's facility will be unmanned. Maintenance personnel will park in**
8 **the exiting parking area on site.**

9 4. The proposed use will not cause water pollution, sedimentation, erosion, or contamination of any
10 water supply.

11 Applicants Response: AT&T's facility will be unmanned and will not require water or sewer
12 services. A passive use, AT&T's facility will not generate smoke, odors, dust, waste, glare, erosion,
13 sedimentation, water pollution or significant amounts of traffic.

14 5. The proposed use will not create unhealthful conditions because of smoke, dust or other airborne
15 contaminants.

16 **Applicants Response: AT&T's facility will not generate smoke, odors, dust, waste, glare or**
17 **significant amounts of traffic.**

18 6. The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare,
19 hours of operation, noise, vibration or fire hazard or unreasonably restrict access of light and air to
20 neighboring properties.

21 **Applicants Response: Though operating 24 hours a day, 7 days a week AT&T's facility will be**
22 **unmanned and will not create a nuisance to neighboring properties. A passive use, AT&T's**
23 **facility will not generate smoke, odors, noise in excess of applicable town ordinances, dust, waste,**
24 **glare, erosion, sedimentation, water pollution or significant amounts of traffic.**

25 7. The proposed use will provide adequate waste disposal systems for all solid and liquid wastes
26 generated by the use.

27 **Applicants Response: AT&T's facility will be unmanned and will not generate any solid or**
28 **liquid waste.**

29 8. The proposed use will not adversely affect the value of adjacent properties.

30 **Applicants Response: AT&T's facility will not adversely impact the values of adjacent**
31 **properties because the facility will not generate smoke, odors, dust, waste, glare, erosion,**
32 **sedimentation, water pollution or significant amounts of traffic.**

33 9. The proposed use will be compatible with existing uses in the neighborhood, with respect to the
34 generation of noise and hours of operation.

35 **Applicants Response: AT&T's facility, although operating 24 hours a day, 7 days a week will**
36 **be unmanned and will not generate unreasonable amounts of noise or significant amounts of**
37 **traffic. (Please refer to the updated noise study previously submitted.)**

1 10. The applicant's proposal must include any special screening or buffering necessary to visually
2 obstruct the subject property from abutting uses or to ensure the continued enjoyment of abutting
3 uses.

4 **Applicants Response: AT&T's pole extension and the antenna will be of a neutral, non-**
5 **reflective color to minimize potential visual impacts.**

6 11. The applicant's proposal must adequately provide for drainage through and for preservation of
7 existing topography within its location, particularly in minimizing any cut, fill, or paving intended.

8 **Applicants Response: There will be no change in the existing topography of the site, nor the**
9 **amount of impervious surfaces thereon as a result of AT&T's facility.**

10 12. The applicant must be found to have adequate financial and technical capacity to satisfy the criteria
11 in this section and to develop and thereafter maintain the proposed project or use in accordance with
12 all applicable requirements.

13 **Applicants Response: AT&T operates a nationwide communications system that offers**
14 **enhanced features such as caller id, voicemail, email, superior call quality and high-speed data**
15 **services and has the financial and technical capacity to develop and maintain the facility.**

16 *Chair Mailhot read the Criteria and Responses Standards for:*

17 **Sec. 78-1311. - Standards for architectural siting (AS) on existing structures.**
18

19 1. Antennas, receivers, lightning rods, guy wires, and any other wireless telecommunications facility
20 equipment shall be attached to an existing building in such a manner as to not project above the
21 roofline, ridgeline, peak, or steeple of the structure as observed from public lands and ways, or from
22 historic sites and buildings.

23 **Applicants Response: AT&T's facility will not be attached to a building in this provision of**
24 **the ordinance. Does not apply to this application.**

25 2. A wireless telecommunications facility antenna or equipment attached to a building or structure roof
26 shall not contrast with the color, texture, or linear orientation of the roofing materials.

27 **Applicants Response: AT&T's pole extension and antenna will be of neutral, non-reflective**
28 **color to minimize potential visual impacts upon the neighborhood.**

29 3. No wireless telecommunications facility equipment shall be mounted on any structure or located on
30 any property that is in violation of the BOCA National Property Maintenance Code, 1993 edition, or
31 any other building code so adopted by the town council. Buildings or properties in violation of the
32 BOCA National Building Code, 1993 edition, or any other building code so adopted by the town
33 council, or any structure in a dilapidated condition shall be rehabilitated in a manner approved by
34 the planning board prior to the attachment of wireless telecommunications facility equipment.

35 **Applicants Response: To AT&T's knowledge, neither the pole nor the site is in violation of**
36 **any code.**

37 4. Wireless telecommunications facility equipment shall be designed to be visually compatible with
38 the texture and color of the background building material.

39 **Applicants Response: AT&T's pole extension and antenna will be of neutral, non-reflective**
40 **color to minimize potential visual impacts upon the neighborhood.**

1 5. Mitigation measures of architectural siting of a wireless telecommunications facility shall conform
2 to the dominant architectural period of the host structure.

3 **Applicants Response: AT&T’s pole extension and antenna will be of neutral, non-reflective**
4 **color to minimize potential visual impacts upon the neighborhood.**

5 6. Wireless telecommunications facility equipment shall be located on the structure so as to be visually
6 compatible with the rhythm and proportion of voids (windows and doors) and solids (facade) of the
7 background structure.

8 **Applicants Response: AT&T’s pole extension and antenna will be of neutral, non-reflective**
9 **color to minimize potential visual impacts upon the neighborhood.**

10 7. Wireless telecommunications facility equipment shall not project beyond the facade of the building
11 or structure in a manner that visually compromises the profile of the structure at the predominant
12 angle of viewer observation. It is advised that wireless telecommunications facility equipment be
13 visually disguised as architectural detail or incorporated into architectural detail where feasible,
14 especially in locations within the historic districts, on historic structures of moderate to high
15 historic/architectural value, or in areas of high viewer populations.

16 **Applicants Response: AT&T’s facility will comply with this provision of the ordinance.**

17 8. Ground facilities shall be screened from the street and all adjacent properties in all districts except
18 the industrial district. Buffering shall consist of evergreen vegetation that achieves 90 percent year
19 round visual obstruction from all potential viewer populations at the time of planting, solid wooden
20 fencing, earth mounding, or combination thereof. The planning board may approve a buffer, which
21 achieves less than 90 percent visual obstruction where the proposed ground facility is a building and
22 the planning board determines that the location, style, and architectural detailing of the building are
23 visually compatible with other buildings in the immediate vicinity of the site and with the character
24 of the surrounding neighborhood.

25 **Applicants Response: AT&T’s facility does not entail the placement of additional structures**
26 **at ground level on the site and AT&T respectfully asserts that a vegetative buffer is not**
27 **necessary in this instance.**

28 *Assistant Planner Michael Foster called for the vote:*

29 **VOTE:**

- 30 Robin Dube - Yes
- 31 Marianne Hubert - Yes
- 32 David Walker - Yes
- 33 Vice Chair Win Winch - Yes
- 34 Chair Linda Mailhot – Yes

35
36 **PASSES:**
37 (5-0)

38
39 **ITEM 3**

40 **Proposal: Site Plan Review: Wastewater Treatment Facility new administration building**
41 **construction**

42 **Action: Determination of Completeness, Schedule Site Walk and Public Hearing**

43 **Owner: Town of Old Orchard Beach**

44 **Location: 24 Manor Street (108-4-3); Zoning: R3**

1
2 Assistant Town Planner Michael Foster stated that this proposal is for a new 3,211 sf. wastewater
3 treatment facility administration building to be located adjacent to the existing administrative building.
4 The new building is going to provide work office space, lavatory space, restroom, conference room and
5 storage. This proposal is falling under a Plenary Site Plan Review because it is a non-residential building
6 that is over 1,000 sf. This is located in an R-3 District which allows for municipal uses. The proposed
7 structure meets all of the district setbacks. To make a determination of a complete application, the
8 Planning Board needs to verify that Section 78-215 Plenary Site Plan Review Application submission
9 requirements have been met.

10 Staff mentioned some items were potentially missing:

- 11 • The landscape plan
12 The applicant responded that there are no new plantings on the project, and no new species are
13 being introduced.
- 14 • Schematic elevation of proposed signs
15 The only new signage being proposed is a new handicapped accessible sign for parking. In
16 addition, the current wastewater facility sign will be relocated. The relocation of the current sign
17 and placement of the accessible parking sign would not require the sign information submittal.
18

19 The cost estimate previously identified in the memo as missing were provide in appendix C.
20

21 There were 2 minor items that were noted by Staff:

- 22 • The application was missing a signature.
- 23 • Number 18 was checked off which indicates part of the property is within a flood hazard. The
24 back portion of the lot does fall under the Shoreland Zoning Resource Protection Zone, however
25 it is over 400 ‘ from this proposed building and no portion of the lot is shown in the current flood
26 zone.

27 The applicant has also indicated that there is no DEP permitting associated with this project that they are
28 aware of.

29 It appears that they will meet the screening and buffering standards. It is noted in the plans that privacy
30 slats will be provided and the existing fence will be along the backside of the building.

31 Staff recommends that the Planning Board make a determination of a complete application subject to
32 receiving the following items:

- 33 • Responses to the criteria for approval.
- 34 • Schedule and Public Hearing and sitewalk.
35

36 **MOTION:**

37 David Walker made a motion to make a Determination of Completeness subject to receiving the
38 following responses to the criteria for approval. Deadline of 10/28/2019 and a site review, seconded by
39 Vice Chair Win Winch.
40

41 *Assistant Planner Michael Foster called for the vote:*

42 **VOTE:**

43 Robin Dube - Yes
44 Marianne Hubert - Yes
45 David Walker - Yes
46 Vice Chair Win Winch - Yes
47 Chair Linda Mailhot – Yes
48

49 **PASSES:**

50 (5-0)

1
2 There will be a sitewalk on November 7, 2019 at 5:30 PM. and a public hearing on November 14, 2019 at
3 6:30 PM.
4

5 **ITEM 4**

6 **Proposal: Subdivision Amendment: Amend lot lines to combine lots and re-delineate lot lines**
7 **Action: Rule on Amendment**
8 **Owner: Daily Double, LLC**
9 **Location: Sawgrass Subdivision, Blueberry Ln (105A-1-L); Zoning: PMUD**
10

11 Assistant Planner Foster stated that this proposal is for a subdivision amendment to voluntarily adjust lot
12 lines to the previously approved and amended plan for Sawgrass Subdivision. This is considered a major
13 subdivision because it contains more than 4 lots.

14 The Applicant is proposing to combine 2 lots (lot 9 and 10) on the 2017 plan to form a single new lot
15 which will be lot 8.

16 This requires lots 2-6 to be re-delineated to re-align those lots. This results in 4 less residential lots than
17 what was originally approved. Staff recommends approval of this proposal.
18

19 **MOTION:**

20 Robin Dube made a motion to approve the Subdivision Amendment to the Sawgrass Subdivision MBL:
21 105A-1-L to combine lots 9 & 10 to form the new lot 8 and re-delineate previously amended lots 2-6 into
22 lots 2-5, seconded by David Walker.
23

24 *Assistant Planner Michael Foster called for the vote:*

25 **VOTE:**

26 Robin Dube - Yes
27 Marianne Hubert - Yes
28 David Walker - Yes
29 Vice Chair Win Winch - Yes
30 Chair Linda Mailhot – Yes
31

32 **PASSES:**

33 (5-0)
34

35 **ITEM 5**

36 **Proposal: Conditional Use: Appeals from restrictions on nonconforming uses- resume multi-**
37 **family residential use (4 units) and add ground floor commercial use**
38 **Action: Discussion; Determination of Completeness, Schedule Site Walk and Public Hearing**
39 **Owner: Coastal Parking LLC**
40 **Location: 7 Temple Ave (324-15-10); Zoning: NC1**
41

42 Assistant Planner Foster stated that this is a Conditional Use Proposal to rebuild a structure that is
43 proposed to have a first floor commercial unit and a total of 4 residential units. The original non-
44 conforming structure was demolished on 3/28/2013 and the previous use was for 5 seasonal units. Based
45 on Shoreland Zoning and underlying NC-1 District Space and Bulk requirements the previous structure
46 was considered a non-conforming structure because it does not meet the setback or lot coverage. Section
47 78-178 non-conforming structures states that if a structure is demolished for any reason other than
48 destruction or damage beyond the owners control it may be replaced within 2 years. The applicant is
49 trying to make the proposal under Section 78-180 and this is the Appeals from Restriction on non-
50 conforming uses. A non-conforming use of land or a nonconforming use of a structure may be enlarged,

1 increased, extended, moved to another portion of the lot or parcel, reconstructed, structurally altered,
2 resumed after cessation for a period of more than two years, but less than ten years, or converted to
3 another nonconforming use.

4 The Planning Board may not approve any such enlargement, increase, extension, movement, construction,
5 alteration, resumption or conversion, unless it finds that the impact and effects of this enlargement,
6 expansion, extension, resumption or conversion to another nonconforming use on existing uses in the
7 neighborhood will not be substantially different from or greater than the impact and effects of the
8 nonconforming use before the proposed enlargement, expansion, resumption or conversion
9 to another nonconforming use.

10 One issue that staff found interpreting this is it applies to the nonconforming use but it doesn't seem that
11 it can be applied to rebuild a nonconforming structure outside of the 2 year rebuild window allowed.
12

13 Chair Mailhot stated that she believes the applicant needs to change the structure so that it conforms, then
14 bring it back to the Board.
15

16 **ITEM 6**

17 **Proposal: Conditional Use/Shoreland Zoning: Nonconforming structure 30% expansion**

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

19 **Owner: Beth Gilman**

20 **Location: 2 Captain's Rd (102-3-2); Zoning: Shoreland RP**
21

22 This is a Conditional Use Proposal because it is located within Shoreland Zoning and Sec. 78-1181 –
23 Nonconformance states that a nonconforming structure may be added to or expanded after obtaining a
24 conditional use permit from the Planning Board.

25 Because this is located in, on or over any protected resource or located adjacent to a coastal wetland, great
26 pond river stream or brook, Planning Staff suspects this requires a DEP permit.

27 This is considered a nonconforming structure according to Sec. 78-1181 because all new principal and
28 accessory buildings and structures in the shoreland zone shall be set back at least 100 feet, horizontal
29 distance, from the upland edge of a wetland or coastal wetland. This is within 100' of the HAT/wetland
30 area in RP and allows for no more than a 30% expansion. This addition proposed is to be constructed at
31 an angle increasing its conformity compared to the current structure. The current structure is shown as
32 being approximately 46' 10" from the wetland boundary and the proposed addition to the structure will
33 increase this distance to approximately 55' 10" from the wetland. This will ensure no further
34 encroachment towards the wetland.

35 The submitted plans contain some volume totals. The plans note that they were changed to keep the
36 expansion, volume and floor area below the 30% allowed. These show that the maximum allowed total
37 volume is 11,790 cu.ft and the proposed total volume is 10,080 cu.ft. Staff would like to see how the
38 floor area and volume were calculated to confirm that the addition is indeed no more than the 30%
39 expansion.

40 The responses from the Conditional Use Standards and Shoreland Zoning Performance Standards were
41 checked off as meeting the requirements however the responses need to be submitted.

42 Staff believes that this proposal meets the standards and the structure is not being made more
43 nonconforming, but to confirm staff needs to see the current structure, volume and proposed structure
44 volume calculations and floor area.

1 If the Planning Board decides to make a determination of a complete application it should be with the
2 conditions that (1) existing structure and proposed addition volumes be submitted for verification, and (2)
3 responses to the Conditional Use Standards and Shoreland Zoning Performance Standards be submitted as
4 required.

5 If a determination of a complete application is made, a public hearing should be scheduled as required for
6 Conditional Uses.

7 **MOTION:**

8 David Walker made a motion to determine this application as complete for the Shoreland Zoning
9 Conditional Use Structure addition at 2 Captains Way, MBL: 102-3-2 subject to receiving the following
10 items by the November meeting submission deadline of 20/28/2019 (1) the existing structure and
11 proposed addition volumes for verification, and (2) the responses to the Conditional Use Standards and
12 Shoreland Zoning Performance Standards being submitted, seconded by
13 Vice Chair Win Winch.

14

15 *Assistant Planner Michael Foster called for the vote:*

16 **VOTE:**

17 Robin Dube - Yes

18 Marianne Hubert - Yes

19 David Walker - Yes

20 Vice Chair Win Winch - Yes

21 Chair Linda Mailhot – Yes

22

23 **PASSES:**

24 (5-0)

25

26 **ITEM 7**

27 **Proposal: Conditional Use/Shoreland Zoning: Nonconforming structure 30% expansion**

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

29 **Owner: Tom and Leigh Mundhenk**

30 **Location: 9 West Tioga (320-11-3); Zoning: R3 and Shoreland RA**

31

32 This is a proposal to remove an existing deck and construct a sunroom in its place. This is located in both
33 Shoreland Zoning and the AE Flood zone. It is considered a 30% expansion according to Shoreland
34 Zoning because the deck is located within 100' of the highest annual tide. Sec. 70-32- Flood Development
35 standards requires that new construction and substantial improvements meet flood standards. Although
36 this is an existing structure, it has had improvements that are considered substantial by definition. Earlier
37 this year there was a \$75,000.00 dormer addition. Substantial improvement means any reconstruction,
38 rehabilitation, addition, or other improvement of a structure, individually or cumulative within a ten-year
39 period, the cost of which equals or exceeds 50 percent of the market value of the structure before the start
40 of construction of the improvement. When the applicant first submitted this proposal we did not realize
41 that it was a substantial improvement due to previous remodel and the applicant was unaware it needed to
42 meet the flood development standards. For the PB to be able to review this proposal you will need to have
43 updated plans meeting the flood criteria.

44 Staff recommends that the Planning Board table this if the applicant requests to do so until plans
45 indicating compliance with the flood development standards are submitted. If the applicant decides that

1 they do not want to move forward they should request that the proposal be pulled from further planning
2 board review.

3
4 The Board voted in regards to whether David Walker should recuse himself from this proposal as the
5 owners are neighbors and friends of his.

6
7 *Assistant Planner Michael Foster called for the vote:*

8 **VOTE:**

9 Robin Dube - No

10 Marianne Hubert - Yes

11 Chris Hitchcock – No

12 Vice Chair Win Winch - No

13 Chair Linda Mailhot – No

14

15 **PASSES:**

16 (4-3)

17

18 Owner Tom Mundhenk introduced himself. They submitted the application to the Planning Board being
19 within 100’ of the highest annual tide. Because of the prior improvement that they made, they would also
20 have to comply with the floodplain requirements.

21

22 Assistant Planner Michael Foster stated that the cost was based on the OOB Tax Assessment Card. Staff
23 will get further details to find out if the owner could have a market analysis done.

24

25 Vice Chair Win Winch made a motion to table this item without prejudice, seconded by Robin Dube.

26

27 *Assistant Planner Michael Foster called for the vote:*

28 **VOTE:**

29 Robin Dube - Yes

30 Marianne Hubert - Yes

31 David Walker - Yes

32 Vice Chair Win Winch - Yes

33 Chair Linda Mailhot – Yes

34

35 **PASSES:**

36 (5-0)

37

38 **ITEM 8**

39 **Proposal:** Conditional Use/Shoreland Zoning: Nonconforming structure replacement and 30%
40 expansion

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

42 **Owner:** Jerry and Pam Scheinfeldt

43 **Location:** 13 Oceana Ave (321-15-2); Zoning: R3 and Shoreland RA

44

45 Assistant Planner Foster stated that the structure will be going in to the current footprint and not within
46 the required shoreland zoning or in the current floodzone so this doesn’t require conditional use review by
47 the Planning Board.

48

49 There is no action being taken on this. Staff has determined that it does not need to come to the Board.

1
2 **ITEM 9**

3 **Proposal: Conditional Use/Shoreland Zoning: Nonconforming structure replacement and 30%**
4 **expansion**

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

6 **Owner: George and Mary Moszynski**

7 **Location: 13 Hampton Ave (319-2-4); Zoning: R3 and Shoreland RA**
8

9 This is a proposal to replace a nonconforming single family structure in the Residential Activity
10 Shoreland Zone that is located within 100' of the Highest Annual Tide (HAT). This property is also
11 located in the AE Flood Zone. The current structure does not meet the current or proposed FEMA Flood
12 elevation and the owners want to bring it up to flood standards.

13 The Applicant has indicated that the proposal requires a DEP sand dune permit.

14 Before a determination of a complete application can be made more information needs to be provided.
15 The following items need to be submitted and are described in detail below:

- 16 1. To determine the volume of the new proposed structure is not 30% or more of the existing
17 structure we need to see the plans and volume calculations for the existing structure.
- 18 2. It appears that there is room on the lot for the building to be relocated to increase its distance
19 from the water setback to the greatest practical extent.
- 20 3. The applicant states that this will meet Sec. 70-32. – Flood Development standards. We need
21 engineered plans showing that the structure will meet these requirements.

22
23 **1. Volume**

24 It appears that with the proposed areas to be enclosed that currently aren't, the volume will be
25 increased. Without the existing structure plans and volume calculations, we cannot determine that
26 the proposed structure expansion meets the under 30% allowed by Sec. 78-1181. - Nonconformance.
27 Our ordinance defines *Volume of a structure* as the volume of all portions of a structure enclosed
28 by a roof and fixed exterior walls as measured from the exterior faces of these walls and roof. The
29 plans show the ground floor as containing a garage and storage area, but containing no volume.
30 Our definition of volume would count these proposed ground floor areas as volume. With the
31 current structure decks and covered areas not enclosed we will need to ensure that the current
32 structure volume calculations do not include these areas. This is important to clarify because a
33 nonconforming building may be added to or expanded provided that the expansion doesn't
34 increase its nonconformity. It appears the proposed front stairs are outside the current footprint
35 and would increase its nonconformity. If these stairs are outside the current footprint, they will
36 require ZBA approval because they are within the front setback.

37 **2. Relocation**

38 Sec. 78-1181 – Nonconformance (3) *Reconstruction or replacement* requires that in determining
39 whether the structure reconstruction or replacement meets the water setback to the greatest
40 practical extent, the planning board shall consider, in addition to the criteria in subsection (c)(2),
41 Relocation, above, the physical condition and type of foundation present, if any.

42 In determining whether the structure relocation meets the setback to the greatest practical extent,
43 the planning board shall consider the following:

- 44 a. size of the lot
- 45 b. slope of the land
- 46 c. potential for soil erosion
- 47 d. location of other structures on the property and on adjacent properties

- e. location of the septic system and other on-site soils suitable for septic systems
- f. type and amount of vegetation to be removed to accomplish the relocation

It appears there is space on this lot to relocate the proposed building to be further from the HAT while still meeting the 20' rear setback. This relocation further from the HAT would also increase conformity with the 20' front setback.

Flood Development standards, Sec. 70-29. - Application for permit.

This standard requires the following certifications as required in section 70-32 by a registered professional engineer or architect:

Planning staff recommends that a determination of completeness not be made until further documentation is provided showing that the volume is not being increased 30% or more, that the proposed structure meets the water setback to the greatest practical extent, and the proposed structure will meet the flood development standards. Because of the layout of the current structure and site, we recommend that the PB schedule a site walk even though it is not a requirement. The PB may schedule a site walk at any time during the application review.

Builder Diane Doyle introduced herself. There have been many things added on over the years to this building.

She stated that she could work with staff and clarify the volume calculations. With the HAP zone, you cannot expand it by more than 30% in the volume or square footage. One of the problems that if you lift up the house due to comply with FEMA flood regulations, you exceed the 30% already.

She suggests that on the first floor, instead of having solid wall, they would have slats. This could never be enclosed and turned into finished space.

This is a double lot so the possibility does exist that they could move it off the footprint, still meet the setbacks, and still have a house that does not look like a doublewide.

There will be a sitewalk on November 7, 2019 at 5:15 PM. and a Public Hearing on November 14, 2019 at 6:30 PM.

Other Business
Good and Welfare

Mark Koenigs asked about the status of the Comprehensive Plan.

Comprehensive Plan Member Win Winch stated that it is moving along well and has good participation.

Assistant Planner Foster stated that they are currently working on the Future Land Use Plan.

ADJOURNMENT 7:35 PM

I, Valdine Camire, Administrative Assistant to the Planning Board of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of Twelve (12) pages is a true copy of the original minutes of the Planning Board Meeting of October 10, 2019.



