

**Old Orchard Beach Planning Board Public Hearing & Meeting Minutes
Thursday, May 13, 2010 at 7:00pm in Town Hall Council Chambers**

Meeting Called to Order at 7:00pm	
Pledge to the Flag	
Roll Call: Win Winch, Don Cote, Tianna Higgins, Mark Koenigs, Eber Weinstein (arrived 15 minutes late). <i>Absent:</i> Karen Anderson. <i>Staff:</i> Jessica Wagner and Gary Lamb.	
APPROVAL OF MINUTES: April 1, 2010 Workshop and April 8, 2010 Meeting	MINUTES
Mr. Cote made a motion to accept both meeting minutes. Ms. Higgins seconded the motion. <i>Motion Carries 4-0</i>	MOTION VOTE
ITEM 1: Determination of Complete Application: <u>Conditional Use Home Occupation Review:</u> Proposal to sell lobsters out of existing garage at 2 Oak Street, MBL 210-2-59.	ITEM 1
Mr. Winch set a site walk for June 3 rd at 5:45pm. Mr. Lamb: everything is complete, it is a very simple application - a lobsterman selling his own catch. Ms. Higgins motioned to determine application complete. Mr. Cote seconded <i>Motion Carries 4-0</i>	MOTION VOTE
ITEM 2: Public Hearing: <u>Conditional Use Review:</u> Proposal to re-establish 3 dwelling units at 44 Union Avenue, MBL 315-21-1 (per <i>Sec. 78-180 Appeals from restrictions on nonconforming uses</i>).	ITEM 2
<i>Opened and closed at 7:06pm with no one present to speak for or against.</i>	PUBLIC HEARING
ITEM 3: Final Review: <u>Conditional Use Review:</u> Proposal to re-establish 3 dwelling units at 44 Union Avenue, MBL 315-21-1 (per <i>Sec. 78-180 Appeals from restrictions on nonconforming uses</i>).	ITEM 3
Mr. Winch: at the site walk, the applicant laid out how they would provide for the appropriate number of parking spaces. Mr. Lamb: This apartment has been vacant since 2008. It is non-conforming in terms of density. This unit can be brought back and they will have adequate parking with the proposed improvements made. Ms. Higgins motioned to grant final approval for the Conditional Use proposal to re-establish 3 dwelling units at 44 Union Avenue, MBL 315-21-1 (per <i>Sec. 78-180 Appeals from restrictions on nonconforming uses</i>), with the condition that the parking area be expanded to hold an additional car. Ms. Koenigs seconded the motion. <i>Motion carries 4-0</i>	MOTION VOTE
ITEM 4: Public Hearing: <u>Conditional Use Amendment Review:</u> Smith's Garage Conditional Use amendment, located at 2 Whispering Pines Drive, MBL 105-1-16.	ITEM 4
<i>Public Hearing opened at 7:09pm</i> Mr. Ebenhoeh: we do not feel open-ended hours of operation are appropriate for	PUBLIC HEARING

<p>this neighborhood. Because of the fact that the Smiths work for the town, there may be a conflict of interest with this application. We feel this business is growing and will continue to grow, and we want to have a comprehensive review to take place for this project. We hope the Board is prepared to defend an appeal to this decision if it is made.</p> <p>Mr. Smith: I am not an employee of the town. I have not had a complaint in 16 years of business, until last year when this buffer was taken out.</p> <p>Ms. Lisa O’bar: we don’t consider Whispering Pines Drive a neighborhood. As it was said at the last meeting, it should be my family that is the most impacted because we share the road. If the Ebenhoehs consider themselves part of the neighborhood, they should help maintain the road. I support what is being presented in this application. The fence is a sufficient buffer.</p> <p>Ms. Smith: the planning staff has been really good about keeping things from me. A lot of this stuff related to this application was going on in the office and I didn’t even know it. I didn’t know who Jake Ebenhoeh was the first few times he came in the office. I have worked in the Planning Office since 2004, and I have always made an effort to keep my issues fair and above board. When we installed apartments, we didn’t need a rental license because family was living there, but we got one anyway. We do not have a growing business, but Tim has gotten busier. If his hours were cut, it would really affect his business.</p> <p>Mr. Winch read a letter from Steven Thomas (tenant who lives directly above the garage). In this letter he stated that he had no complaints about the noise or hours of operation coming from the Smith’s Garage business.</p> <p>Mr. Ebenhoeh: For the record, I do work for the town. I meant that Mr. Smith works for the town repairing city vehicles. With open-ended hours, he very well could work until 2am. Just because he doesn’t work until 2am now, doesn’t mean he won’t at another point in time.</p> <p>Public Hearing Closed at 7:17pm.</p>	
<p>ITEM 5: Final Review: <u>Conditional Use Amendment Review:</u> Smith’s Garage Conditional Use amendment, located at 2 Whispering Pines Drive, MBL 105-1-16.</p>	<p>ITEM 5</p>
<p>Mr. Cote: has Mr. Lamb spoken to Adrian Fredrickson, the professional Arborist?</p> <p>Mr. Lamb: Yes, the arborist made a recommendation for of species that would provide a successful buffer. The landscaping plan presented to you is based on her recommendation. In my opinion, they have met the intent of the buffering Ordinance.</p> <p>Mr. Cote: I am very happy with the fence and the trees. The only thing I want to be sure of is that the fence is straightened out to be 90 degrees with the ground.</p> <p>Ms. Higgins: I agree. The buffering was there and was meant to be left there. But, we can not put back all of the trees. This more than adequately takes care of the buffer. In time, these trees will be a better buffer than what was there in the first place. I agree with the proposed planting as shown.</p> <p>Mr. Cote: the trees grow 25ft high and 12ft wide, according to the professional arborist.</p> <p>Mr. Koenigs: the fence and the plantings meet the buffering requirements.</p>	

Mr. Lamb read the buffering requirements for the record:

Sec. 78-1822. Buffering. *The application of buffering, as required in this chapter, shall be for the purpose of visually obstructing views of land use activities from a specified vantage point on other properties. Buffering shall achieve between 75 percent to 100 percent yearround visual obstruction as specified by the planning board.*

Sec. 78-1823. Screening and buffering materials. *Earthwork, vegetation, water, fences, walls, and other suitable structures or a combination thereof may be employed to achieve the required screening or buffering effect. The retention of natural vegetation and topography shall be employed as a screening tool whenever possible.*

Sec. 78-1824. Specific design standards (a) Conifer buffers. *Conifer vegetation employed for buffering purposes alone shall consist of a minimum of eight feet in height at installation and shall be planted six feet on center in an alternate pattern.*

Sec. 78-1825. Effective period.

Unless otherwise specified by the planning board, all designated screening and buffering shall achieve the required degree of visual obstruction within three years of installation.

Mr. Winch: They are adding fencing and trees to serve as the buffer.

Mr. Koenigs: Will this fence be here for the length of the business?

Mr. Lamb: Yes, you can require this.

Mr. Koenigs: in the future, they may want to install a fence along the Eastern Trail. Will the approval of this plan prohibit them from installing a barrier between the business and the eastern trail?

Mr. Lamb: they could add a fence. This would not diminish the buffering of the business.

Mr. Koenigs: Item 4 in the Staff Notes states that this proposed use will not cause sedimentation and erosion. What about the portion of road that appears to have been improved? Did this cause erosion?

Ms. Higgins: that road had nothing to do with the business, so it doesn't apply to this Conditional Use review of this business.

Mr. Lamb: if Mr. Smith was to come back to divide the property, this will come back to the Planning Board for Subdivision Amendment Review. The vegetative buffer is set back over 50ft from the property line incase land is divided and a road is put in.

Mr. Winch: how long would you like to work each evening?

Mr. Smith: I would like to work into the evening. I have always worked at night, but I do not have a specific time. I was not aware of the hours of operation were ever in place until this buffer was removed and the neighbors complained.

Mr. Winch: the first time the hours of operation restriction was brought to your attention when this whole thing started?

Mr. Smith: correct. It was not an issue until the trees came down.

Mr. Cote: In the last three years, we have had mechanic garages come to us and I don't remember the hours of operation being restricted at any other auto repair business in town.

commission's suggestions. We cannot do this as part of regular Planning Board agendas. I am in agreement in not pursuing the conservation commission suggestions at this time. I think they are all tied together, so I don't think we should pursue any of them. At the same time, I don't want to lower any standards we already have.

Mr. Cote: I have been reviewing this all week long, trying to understand this. This is not the time or place to make the changes. At this time, I make a motion that the Planning Board not consider the Conservation Commission suggestions and go with the minimum DEP standards as long as the current Ordinance standards are not compromised.

Ms. Higgins seconded the motion.

Mr. Weinstein: I agree. We have such a time limitation on this; it is difficult to make such changes at this time. I would go along with Ms. Higgins and Mr. Cotes suggestions at this time.

Mr. Winch: what is the timeline for approving this new Ordinance?

Mr. JT Lockman: Michael Morse at the DEP made a list of all towns that will be receiving DEP mandated Ordinance. You are not on this list and you are in the grace period right now. We don't know how long this is going to go on.

Ms. Higgins: we are going to get into serious discussions on merely the minimum standards. I believe the Conservation Commissions suggestions are something we should pursue in the fall when the Planning Department is less busy.

Mr. Winch: perhaps we can take this on as one suggestion a month from the fall into the winter.

Mr. Cote: I agree. There is not enough time for us to process this at this time. We can do it later.

Mr. Winch: I do not want to see these ideas lost, but we simply do not have the time right now.

Mr. Koenigs: I am also a Conservation Commission member. I have spent more time reviewing these standards. There has been quite a bit of work done by a few volunteers. I am concerned that a few of these people are going to get burned out. However, I have to agree with the rest of the Board. We have hired a consultant to help bring us our Ordinance into compliance. I would like add into this motion that we allow time after the passing of the Shoreland Zoning to review the Conservation Commission's suggestions. My main point is that I'm worried people like John will feel shut out, so we need to ensure this idea is revisited. I think going above and beyond some of the minimum standards is something we should consider.

Mr. Lamb: we do not need to amend the motion. You can simply put it on the agenda this fall.

Mr. Bird: Mr. Lamb's recommendations are rather outrageous. You do not have that much of a pressing time issue. This was supposed to be done a year or two ago, and it hasn't been done. The DEP has allowed a grace period. I don't think OOB deserves to just take the minimum. We have an environment that is our resource. Taking the state minimum is kind of disgraceful if we can't do anything better than that. I thought we were going to enter into a discussion and

MOTION

<p>hash out some of these points. I think the planning board and planning staff should take the time to draft something more than the bare minimum.</p> <p>Mr. Lamb: I appreciate Mr. Bird's passion. I respect that he doesn't agree with my opinion. When you look at the coastal sand dune standards and other DEP requirements, you will see there are already very strict restrictions. I recommend that the Planning Board and Conservation Commission take the time in the field to learn about the areas that we may protect.</p> <p>Mr. Lockman: The situation here is much like that in Elliot (which I did a couple of years ago). They asked me to prepare aerial photography and count the number of houses were in the different buffers. That town, with the exception of a couple areas went with the minimum standards. That took approximately 6 months.</p> <p>Ms. Higgins: We are still a long way from getting the council to approve these minimums. I am in not in favor of abandoning these completely. We should review them in the fall.</p> <p><i>Motion carried 4-1 (Mr. Koenigs voted in opposition)</i></p> <p>Mr. Lamb: Mr. Lockman and I will bring the map to further completion. And we can have the public hearing in June.</p> <p>Mr. Winch scheduled a public hearing for June 10th at 7:00pm. The meeting will begin at 6:30pm so the Shoreland Zoning can be at the end of the meeting and start at 7:00pm.</p>	<p>VOTE</p>
GOOD & WELFARE	GOOD & WELFARE
None.	
Meeting Adjourned at 8:23	ADJOURN
Chair, Win Winch	

I, Jessica Wagner, Secretary to the Planning Board of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of seven (7) pages is a true copy of the original minutes of the Planning Board Meeting of May 13, 2010.