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2 OLD ORCHARD BEACH PLANNING BOARD
3 Public Hearing & Regular Meeting MINUTES
4 January 13, 2022 6:30 PM
5 Town Hall Council Chambers
6
7

8 *MINUTES MAY NOT BE TRANSCRIBED VERBTIM. SECTIONS MAY BE PARAPHRASED FOR CLARITY. A*
9 *COMPLETE RECORDING MAY BE OBTAINED BY CONTACTING THE TOWN CLERK AT 207-934-4042 OR*
10 kmclaughlin@oobmaine.com
11

12
13 CALL MEETING TO ORDER
14

15 PLEDGE TO THE FLAG
16

17 ROLL CALL

18 Marianne Hubert

19 Win Winch

20 Robin Dube

21 Jay Kelley

22 Chair Walker

23 Vice Chair Hitchcock
24
25

26 Chair Walker stated that it was the time to elect Chair and Vice Chair for the Board, and asked for nominations for
27 the position of Chair. Mr. Winch then nominated Mr. Walker and this was seconded by Ms. Dube; Chair Walker then
28 asked for the vote. Town Planner Jeffrey Hinderliter then called for the vote as follows:
29

30 Ms. Hubert YES

31 Mr. Winch YES

32 Ms. Dube YES

33 Vice Chair Hitchcock YES

34 Chair Walker YES
35

36 Chair Walker then stated that vote was unanimous. Chair Walker then asked for nominations for Vice Chair at which
37 point Ms. Dube nominated Mr. Hitchcock, and this was seconded by Ms. Hubert. Town Planner Jeffrey Hinderliter
38 then called for the vote as follows:
39

40 Ms. Hubert YES

41 Mr. Winch YES

42 Ms. Dube YES

43 Chair Walker YES
44

45 Chair Walker then stated that vote was unanimous.
46
47

48 Public Hearings
49

50 PH 1

51 Proposal: Ordinance Amendment: Amend Ch. 78, Art. VI, Sec. 78-517 and Ch. 78, Art. VIII, Sec. 78-1382 to
52 allow food trucks for Salvation Army events in the R2 District

53 Applicant: Salvation Army

54 Location: Property owned by the Salvation Army in the R2 District

1
2 Public Hearing was opened at 6:32pm. Chair Walker asked if anyone wanted to speak on this ordinance. Cheryl
3 Palapolous, of 42 Church Street, Director of the Seaside Pavilion (owned by the Salvation Army) spoke to the Board.
4 She stated that their hope was to expand some of the events that they hold, and by doing that, feels that they need
5 some sort of a food option, and that the food trucks would be a good option. Chair Walker asked if anyone else
6 wished to speak on this item, and seeing no one, closed the Public Hearing at 6:34pm.
7

8
9 PH 2
10 Proposal: Conditional Use: Shoreland Zoning nonconforming structure 30% expansion on a residential
11 building
12 Applicant: Paul D. Weinstein
13 Location: 10 Tunis Ave; MBL: 319-7-6; Zoning: R3 and RA
14

15 Chair Walker asked if anyone was wishing to speak on this proposal, and seeing no one, stated that this Public
16 Hearing was opened and closed at 6:34pm.
17

18
19 MINUTES: Chair Walker stated that Minutes from both 3/11/21 and 12/9/21 were submitted to the Board, and asked
20 for any discussion. Motion to approve the Minutes was made by Vice Chair Hitchcock and this was seconded by Mr.
21 Winch. Town Planner Jeffrey Hinderliter then called for the vote as follows:
22

- 23 Ms. Hubert YES
- 24 Mr. Winch YES
- 25 Ms. Dube YES
- 26 Vice Chair Hitchcock YES
- 27 Chair Walker YES

28
29 Chair Walker stated that carries 5-0.
30

31
32 Regular Business
33

34
35 ITEM 1

36 Proposal: Site Plan and Major Subdivision: 24-unit townhouse condo units and 1 single-family condo unit
37 Action: Request 30-day extension of final ruling time period
38 Applicant: Gorrill Palmer
39 Location: 2, 4, 8, 10 Little River Rd., MBL: 201-3-2, 4, 5 6; Zoning: RBD & Shoreland RA
40

41 Chair Walker stated that the Board just needed a motion to accept the 30-day extension, at which point Ms. Hubert
42 made a motion to accept the 30-day extension request, and this motion was seconded by Vice Chair Hitchcock.
43 Chair Walker then asked for the vote, at which point Town Planner Jeffrey Hinderliter called for the vote as follows:
44

- 45 Ms. Hubert YES
- 46 Mr. Winch YES
- 47 Ms. Dube YES
- 48 Vice Chair Hitchcock YES
- 49 Chair Walker YES

50
51 Chair Walker stated that motion carries 5-0.
52
53
54

1 **ITEM 2**

2 **Proposal:** Ordinance Amendments: Amend Ch. 78, Art. VI, Sec. 78-517 and Ch. 78, Art. VIII, Sec. 78-1382 to
3 allow food trucks for Salvation Army events in the R2 District
4 **Action:** Final Review; Council Recommendation
5 **Applicant:** Salvation Army
6 **Location:** Property owned by the Salvation Army in the R2 District
7
8

9 Town Planner Jeffrey Hinderliter updated the Board as follows:
10

- 11 • This item is a zoning ordinance amendment proposing to allow food carts, food trucks, and food stands on
12 property owned by the Salvation Army in the R2 District
- 13 • Currently, food carts, food trucks and food stands are allowed only in the AO (Amusement Overlay) and CO
14 (Campground Overlay) Districts and only for Council approved/sponsored events
- 15 • The amendments identify food carts, trucks and stands as a permitted use in the R2 District “on property
16 owned by the Salvation Army and serving only event attendees, event staff and performers, guests and
17 employees of the Salvation Army and not the general public.”
- 18 • At the December meeting the Planning Board scheduled a Public Hearing which was held this evening.
19 Also, the Board did not recommend any language changes.
- 20 • At tonight’s meeting the Board can make a recommendation to the Council
- 21 • You’ll see in our memo that we have one new comment. After review of the proposed language with other
22 department heads, we feel the ordinances should include an inspection and possibly a specific license
23 category for food carts, food trucks, and mobile food stands.
- 24 • If the Board agrees, one option is to add language to the current proposal. This language is included in the
25 first motion in your memo. This language covers the most important part of the staff comment which is
26 requiring an inspection.
- 27 • Another option is to continue with the language as-is and work on inspection and licensing changes on a
28 future date.
- 29 • A final option is to wait on a recommendation until other ordinances are developed. Note- this will delay the
30 proposal for at least a few months.
- 31 • We recommend the Planning Board choose the first option- adding the inspection language to the currently
32 proposed language, and recommending Council approval
33

34 Chair Walker then asked who would be doing the inspections, to which Town Planner Jeffrey Hinderliter replied that
35 it would be Codes & Fire Department. Chair Walker then stated that because there will not be events held there for a
36 number of months, he would prefer waiting for the ordinance and language changes. Jeffrey continued that there is
37 talk about allowing this in other parts of town, so he could see these issues expanding beyond this proposal. Ms.
38 Dube then stated that she feels that the Salvation Army should be the responsible party and should ensure that the
39 applicants are safe, insured, and that the Town should not be getting involved in that. Chair Walker then asked if this
40 were passed as is, would future ordinance changes be applicable to this ordinance amendment? Jeffrey stated there
41 may be a specific license process added, so it wouldn’t be a significant change. Mr. Kelley then asked if the food
42 trucks required a state inspection, so that they would be inspected by the State Fire Marshall’s office and also the
43 Department of Health & Human Services for a license, so that re safety issues, they wouldn’t be approved if they
44 didn’t meet the state qualifications; Jeffrey Hinderliter and the Board agreed that such was the case with food trucks
45 and carts. Ms. Hubert then asked if the food trucks that are allowed at the campgrounds are currently being approved
46 by the Town, to which Jeffrey Hinderliter replied no, they are not here by the Town but there are State standards.
47 Ms. Hubert then stated that if the inspection requirement were put on the Salvation Army and not on other locations
48 in town, that doesn’t seem to be quite right. Jeffrey then replied that may be one of the reasons to go with this as is,
49 to have faith in the State with their requirements. Chair Walker then asked if anyone had anything else to add or
50 wished to make a motion, to which Ms. Dube made the following motion:
51

52 Motion: I motion to recommend the Council approve the amendments to Ch. 78, Art. VI, Sec. 78-517 and Ch. 78,
53 Art. VIII, Sec. 78-1382 to allow food trucks for Salvation Army events in the R2 District.
54

1 The motion was seconded by Mr. Winch, and Chair Walker then asked for the vote. Town Planner Jeffrey
2 Hinderliter then called for the vote as follows:

- 3
- 4 Ms. Hubert YES
- 5 Mr. Winch YES
- 6 Ms. Dube YES
- 7 Vice Chair Hitchcock NO
- 8 Chair Walker YES
- 9

10 Chair Walker stated that motion carries 4-1.

11

12

13 **ITEM 3**

14 Proposal: Conditional Use: Shoreland Zoning nonconforming structure 30% expansion on a residential
15 building
16 Action: Final Ruling
17 Applicant: Paul D. Weinstein
18 Location: 10 Tunis Ave; MBL: 319-7-6; Zoning: R3 and RA
19
20

21 Assistant Town Planner Michael Foster updated the Board as follows:

22

23 At the December meeting this Conditional Use Shoreland Zone application for a 6' x 17' deck expansion at 10 Tunis
24 Ave was determined as complete, subject to submittal of the updated calculations reflecting the previous expansion
25 volume. There were also questions about the height of the existing deck and potential impact to parking in the
26 driveway.

27

28 Applicant Paul Weinstein provided the following updates in his 4 January 2022 letter:

- 29 • The existing deck is 79.5 inches off the ground and provides sufficient room for an SUV the size of a Ford
30 Expedition to park underneath.
- 31 • The deck expansion is the same height and will have no impact on the existing parking.
- 32 • The proposed deck is adding square footage only and no volume.
- 33 • The volume calculations were shown in the memo and show that the previous expansion doesn't exceed the
34 volume by 30 percent or more.
- 35 • The provided expansion calculations match the previous building permits on file and show that the
36 expansions are under the 30% lifetime expansion for floor area and volume.

37

38 **Parking concerns:**

39 Based on the response in regards to the impact on parking, the height of the deck expansion will match the existing
40 deck and allow room for a vehicle to park underneath. This property is within the HAT setback, which the Town
41 currently regulates and requires Planning Board review, but the designation of the HAT or the ordinance could
42 change in the future. If the Planning Board doesn't have authority in the future to review an expansion proposal, what
43 would prevent the homeowner from enclosing this area under the deck? A large portion of the existing driveway is
44 located within the Town ROW, and any enclosure under the deck could restrict the ability to park outside of the
45 ROW. Planning staff recommends a condition to help ensure the ability to park below the deck isn't restricted in the
46 future without prior approval of the Planning Board.

47

48 **Recommendation:**

49 The applicant has provided the volume calculation and additional information to support that a vehicle can still park
50 in the driveway under the deck. Planning staff recommends final approval of this Conditional Use Shoreland Zoning
51 application with the condition that off-street parking will not be reduced without the prior approval of the Planning
52 Board.

1 The applicant responses to the Shoreland Zone and Conditional Use standards are included on pages 8 and 9 of the
2 memo, followed by the recommended motions on page 10 and 11.
3

4 Chair Walker then asked if the applicant had anything to report. The applicant, Paul Weinstein, addressed the
5 question about what the existing parking looks like at the property, and showed the Board members a drawing of the
6 current parking. Paul stated that the majority of the parking is in the Town ROW, and they do have the space under
7 the deck. He stated that the parking has been adequate for the last 20 years, the time that the current owners have
8 owned the property, and agreed that the condition proposed by the Board makes sense. Chair Walker then asked if
9 any Board members had comments. Ms. Hubert asked if the parking spaces in the street, in front of the building, are
10 Town parking spaces. Paul Weinstein replied that those spaces are used for occupants of nearby buildings or by
11 beach goers, and the ones that are highlighted on the drawing are the parking spaces that occupants of this building
12 typically use. Mr. Winch added that if this were a new application, there would need to be a total of 6 spaces, 2
13 spaces per dwelling unit, and the parking here is limited. Paul Weinstein reiterated that this was a proposal for an
14 expansion, with absolutely no impact on existing parking, and with the condition that the staff is recommending,
15 future parking issues can be prevented. Ms. Dube asked if this falls under the rules re new construction or under the
16 ordinance in place at the time the 3 units were established, to which Town Planner Jeffrey Hinderliter replied it
17 would be under the ordinance in place at the time of establishing the units. Chair Walker asked the Board if they had
18 any other questions or comments, or wished to make a motion. Ms. Dube then made the following motion:
19

20 I make a motion to conditionally approve this Conditional Use Shoreland Zoning nonconforming structure 30%
21 expansion application for a 6'x17' deck expansion, location 10 Tunis Avenue, MBL: 319-7-6, in the R3 and RA
22 Zone, applicant Paul Weinstein, with the following conditions:
23

- 24 1. Conditional use approval is dependent upon and limited to the proposal and plans contained in the
25 application dated 26 October 2021, and all supporting documents and oral representations submitted and
26 affirmed by the applicant and its agents, and conditions imposed by the Planning Board; any variation from
27 such proposals, plans, supporting documents and representations are subject to review and approval by the
28 Planning Board, provided that de minimis variation is subject to review and approval by the Town Planner.
- 29 2. The off-street parking area and amount of parking spaces shall not be reduced, without prior approval from
30 the Planning Board.
31

32 The motion was seconded by Mr. Winch, at which point Chair Walker asked for the vote. Town Planner Jeffrey
33 Hinderliter then called for the vote as follows:
34

35 Ms. Hubert YES
36 Mr. Winch YES
37 Ms. Dube YES
38 Vice Chair Hitchcock YES
39 Chair Walker YES
40

41 Chair Walker stated that motion carries 5-0. Chair Walker then stated that he would read the Standards, to which
42 Town Planner Jeffrey Hinderliter stated that such would not be necessary as the vote was unanimous to approve the
43 project.
44

45 ITEM 4

46 Proposal: Amend Medical Marijuana Ordinance Dispensary Standards: Ch. 78, Art. I, Sec. 78-1, Medical
47 Marijuana Registered Dispensary definition; Ch. 78, Art. VI, Secs. 78-803, 904 and 1135; Ch. 78,
48 Art. VII, Sec. 78-1277
49 Action: Discussion; Schedule Public Hearing
50 Applicant: Town of Old Orchard Beach
51

- 52 • During December, the Council enacted a moratorium to address the regulation of medical marijuana
53 registered dispensaries.

- The reason is due to recent changes to the medical marijuana state laws and the potential impact the use could create as a result of these new laws. Also, the recently adopted adult use marijuana ordinances allow marijuana retail sales in the same district that allows medical marijuana dispensaries.
- Currently, the town regulates medical marijuana dispensaries through application of business license and zoning standards.
- In order to address the concerns identified in the moratorium, we are proposing language that removes medical marijuana registered dispensaries as an allowed use anywhere in town
- If the Board is not proposing any changes to the language, we recommend they schedule a Public Hearing for 10 Feb

Ms. Dube asked how this differs from what the Board just did last year, to which Town Planner Jeffrey Hinderliter replied that the work last year was re adult use, this is for medical use. Chair Walker then asked that the Public Hearing be scheduled for February 10.

ITEM 5

Proposal: Contract Zoning Application: Establish a Contract Zone, named Contract Zone-4, in accordance with Town of Old Orchard Beach Code of Ordinances Chapter 78, Article IX (Contract Zoning) for the property located at 60 Saco Ave., MBL: 206-10-1. The purpose of the Contract Zone is to allow the establishment of an 8-unit residential condominium building.

Action: Discussion; Schedule Public Hearing; Schedule Site Walk

Applicant: Land Matters, LLC

Location: 60 Saco Ave., MBL: 206-10-1; Zoning: GB2

Town Planner Jeffrey Hinderliter updated the Board as follows:

- This proposal is for the establishment of a contract zone for the property located at 60 Saco Ave (former post office)
- The contract zone proposes to allow an 8-unit condo building.
- The applicant is proposing a contract zone because the proposed density exceeds the density allowed by ordinance.
- With the density not allowed by ordinance, the applicant attempted other means of relief which were not successful. Contract zoning offered another option for the applicant which he decided to pursue.
- The Board began review of the applicant’s proposal at the November meeting.
- The Board tabled action and requested the applicant respond to comments and amend the agreement. One of the primary reasons for tabling was that the proposal did not meet the contract zoning ordinance three factors and the Board wanted to provide the applicant with an opportunity to revise and come back.
- The contract zoning ordinance includes standards the applicant must address when creating the contract zone agreement. These standards include three factors:
 - (1) Is consistent with the comprehensive plan;
 - (2) Is consistent with existing uses and allowed uses within the original zone; and
 - (3) Is subject to conditions sufficient to achieve the purposes of the Contract Zoning Ordinance
- The primary responsibility of the Board is to review these three factors when making their recommendation to Council. If the Board finds the proposal meets all three, a favorable recommendation can be made. If the Board makes a negative finding on any of the factors, the recommendation cannot support the proposal
- During November, it was pretty clear the Board would not support a favorable recommendation on all three factors.
- This month the applicant returns with a revised proposal. Overall, the proposal is an improvement and I believe the Board could find a favorable ruling on the first two factors.
- Regarding the third factor, it is our opinion the application should include additional conditions. These are discussed in your memo.

- 1 • Also, we feel other info is needed.
- 2 • An example of other info is submission of engineered and structural plans. Contract zoning requires plans
- 3 but does state they must be engineered. As you may recall the proposal will require site plan review which
- 4 does require engineered plans. The Board should determine if this is needed during contract zoning review
- 5 or can it wait until site plan review.
- 6 • We recommend the applicant add conditions to the agreement and make other revisions identified in our
- 7 memo before the Board makes a recommendation. We do think it is ok to schedule a Public Hearing for 10
- 8 Feb. Also, the Board should consider a site walk. If one is scheduled, 3 Feb is available.
- 9

10 The applicant then spoke, and agreed to have the site plan done within 60 days. He also asked that the Public
11 Hearing be scheduled, and Chair Walker agreed that a site walk would also be scheduled. Mr. Kelley then asked if
12 they were just dealing with the contract zone at this point, but not dealing with the building and the structure. Town
13 Planner Jeffrey Hinderliter replied that in some respects, the building and structure is part of the contract zone, but
14 right now the task is to look to re-zone that property. Mr. Kelley then wanted to confirm that at some point, there
15 would be discussions about the building itself to which Jeffrey replied yes. Mr. Kelley then asked if the contract zone
16 would have height limitations, to which Jeffrey replied that just from what the ordinance already requires. The
17 applicant stated that the only deviation from the zoning is re the density, that everything else is conforming. Chair
18 Walker then asked about the handicapped parking, and if all units are ADA accessible, at which point the applicant
19 addressed the concerns. The Site Walk was then scheduled for February 3 at 4pm, and the Public Hearing was
20 scheduled for February 10. Chair Walker then asked if the Board had any further questions, to which the reply was
21 that there were none.
22
23

24 Other Business

25 Chair Walker asked Town Planner Jeffrey Hinderliter if he had yet submitted the Board's stipend request to Finance,
26 to which Jeffrey replied that no, he had not yet seen the request. Chair Walker thought Jeffrey was submitting, to
27 which Jeffrey replied that he thought they were going to meet to discuss numbers, etc., and it was agreed that they
28 would schedule a time to meet.
29

30 Good and Welfare

31 Chair Walker asked if anyone had anything for Good and Welfare. Ms. Hubert asked if there were anything that
32 could be done with the power lines in Town, if there were any way to not have those power lines in the center of
33 Town. Town Planner Jeffrey Hinderliter replied that one way to get others to pay for such a project would be to set
34 up an Impact fee, which would require writing an ordinance to legally charge others for the impact. The current
35 zoning ordinances don't really allow the Town to extend that requirement beyond a development site, unless
36 something was substandard, but to expand that would require an Impact fee ordinance, and then create a mechanism
37 to assess a charge to a developer to use for specific projects. Mr. Kelley then asked who would be assessed the
38 Impact fee, that most likely we wouldn't be able to charge the businesses in Town, to which Jeffrey replied that
39 would most likely be assessed on new developments. Jeffrey then stated that perhaps a percentage of a business
40 license fee could go to the Impact fee. Mr. Kelley then replied that perhaps the first step would be for CMP to give a
41 plan of what the cost would be to do the project. Jeffrey then stated that doing nothing gets us nowhere, so perhaps
42 they can create a mechanism for getting some of the beautification projects underway. Chair Walker then stated that
43 if there was no more Good and Welfare to discuss, he would entertain a motion to adjourn.
44

45 ADJOURNMENT

46 Motion to adjourn was unanimous. Meeting adjourned at 7:41pm.
47

48 *I, Laurie Aberizk, Administrative Assistant to the Planning Board of the Town of Old Orchard Beach, do hereby*
49 *certify that the foregoing document consisting of Seven (7) pages is a true copy of the original minutes of the*
50 *Planning Board Meeting of January 13, 2022.*
51

52
53 X 
54 Laurie Aberizk