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2 OLD ORCHARD BEACH PLANNING BOARD
3 Public Hearing & Regular Meeting MINUTES
4 June 9, 2022 6:30 PM
5 Town Hall Council Chambers
6
7

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

12
13 CALL MEETING TO ORDER

14 Chair Walker stated that for tonight's meeting, Vice Chair Hitchcock will be running the meeting so that he
15 may gain the experience with Chair Walker present.
16

17 PLEDGE TO THE FLAG

18
19 ROLL CALL

20 Chair Hitchcock then asked Town Planner Jeffrey Hinderliter for the roll call and Jeffrey took the roll call
21 as follows:
22

23 Win Winch
24 Robin Dube
25 Jay Kelley
26 Marianne Hubert
27 Vice Chair Walker
28 Chair Hitchcock
29
30

31 Public Hearing

32 Proposal: Conditional Use/Shoreland Zoning: Nonconforming structure replacement & 30%
33 expansion

34 Applicant: Diane Doyle

35 Location: 22 Temple Ave., MBL: 323-15-4; Zoning: R3 & RA
36

37 Chair Hitchcock asked if there was anyone who wished to speak on this proposal. Dana Howe, a member
38 of the Tennis subcommittee at Ocean Park, then spoke. She asked if there was going to be a drainage issue
39 with the expansion. Chair Hitchcock replied that such will be addressed during their regular business. Chair
40 Hitchcock then asked if there were anyone else wishing to speak, and seeing no one, stated that the Public
41 Hearing was open at 6:31pm and closed at 6:32pm.
42
43

44 Minutes: 5/5/22; 5/12/22

45 Chair Hitchcock stated that there are 2 sets of Minutes to accept – 1 from the May 5 Site Walk and 1 from
46 the May 12 regular meeting, and asked if any Board member had any comments or wished to make a
47 motion. Ms. Dube made a motion to accept the Minutes as written, and Mr. Winch seconded the motion.
48 The vote was unanimous.
49
50

1 Regular Business

2 ITEM 1

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

5 Action: Discussion; Final Ruling

6 Applicant: Diane Doyle

7 Location: 22 Temple Ave., MBL: 323-15-4; Zoning: R3 & RA

8
9 Assistant Town Planner Michael Foster updated the Board as follows:

10
11 This nonconforming structure replacement & 30% expansion Conditional Use application for 22 Temple
12 Ave, located in Ocean Park adjacent to the tennis courts, was first before you last month. This is before the
13 Planning Board because it is in the Shoreland Zone (SZ) and within the 100' Highest Annual Tide (HAT)
14 setback. For expansions within the SZ setbacks, the structure shall not be expanded, as measured in floor
15 area or volume, by 30 percent or more, during the lifetime of the structure. **Last month this application**
16 **was determined as complete subject to the following:**

- 17 1. *The applicant shall submit updated calculation descriptions showing the expansion is not more than*
18 *30% in floor area or volume of existing structure.*
- 19 2. *The applicant shall submit an updated proposed footprint site plan showing the setbacks.*
- 20 3. *The structure height meeting shoreland zoning criteria needs to be added to the plans.*

21
22 **For June we received the following updates:**

- 23 • Updated calculations showing the expansion is not greater than 30% or more, as measured in floor
24 area or volume, of the existing structures. On these calculations it appeared the amount allowed for
25 expansion was actually calculated using 33%. Although not included in your packets, the applicant
26 did submit these updated 30% calculations, and planning staff agrees they show the structure is not
27 being increased by 30% or more as measured in floor area or volume.
- 28 • Updated proposed footprint site plan showing the setbacks.
- 29 • We also received the updated plan showing the structure height. This was submitted after the
30 deadline so it wasn't in your original packets, but it does show the structure height at 33' 1".
- 31 • We provided these updates to you this evening along with an updated recommended motion
32 reflecting these updates.

33
34 The applicant has also submitted responses to both the SZ conditions and Conditional Use Standards which
35 begin on page 4 of your June memo.

36
37 **RECOMMENDATIONS:**

38 Planning staff agrees that the applicant's calculations show that this proposed structure will not be greater
39 than 30% of the existing structure. Planning staff supports conditional final approval. Other than the
40 maximum height condition, the conditions are standard with all Planning Board approvals and approvals
41 within the Flood zone.

42
43 If you want to add a condition to ensure the tennis courts are protected during construction, we recommend
44 you add that to your motion.

45
46 Chair Hitchcock then asked if there were anyone who wished to speak on this proposal, at which point
47 Diane Doyle spoke. She mentioned that they are very aware of the tennis courts and the close proximity
48 and know that they cannot increase the flow of drainage onto the tennis courts; Diane also mentioned that

1 they have helped them (the tennis association) in the past with some grading and are more than willing to
2 help them in any way they can. Chair Hitchcock asked if any Board members had questions, and Ms. Dube
3 asked about the tennis courts and the prior question raised during the Public Hearing. Diane replied that
4 they do not plan on changing the grade, and during construction they will have silt fencing around the area
5 as she is very aware of the proximity of the courts to the area. Vice Chair Walker then asked if it would be
6 appropriate for an insurance guarantee from the builder to cover any potential damages; Assistant Town
7 Planner Michael Foster replied that he was not familiar with specifics re Site Plans but did think the
8 Planning Board could request a performance guarantee. Diane then stated that she wasn't familiar with a
9 performance guarantee, but stated that she would be responsible for any impact to the tennis courts. Ms.
10 Hubert then asked about the drainage on the building, to which Diane replied that there is no place to drain
11 the water to and that any grading will be done toward the street. Mr. Kelley then asked about the height
12 condition, to which Chair Hitchcock replied that such has been satisfied, at 33'1". Mr. Kelley then asked
13 about 1 of the responses re water pollution or erosion, and wanted to confirm that silt fencing will be
14 installed around the lot to which Diane replied yes, they will and are required to do that. Vice Chair Walker
15 then asked Ms. Howe, who spoke at the Public Hearing, if such was satisfactory, and Ms. Howe's response
16 was yes. Ms. Dube then made the following motion:

17
18 *I make a motion to conditionally approve this Conditional Use Shoreland Zoning replacement and*
19 *nonconforming structure 30% expansion application, located at 22 Temple Avenue, MBL: 323-15-4, in the*
20 *R3, RA, and HAT Zone, applicant Diane Doyle, with the following conditions:*

- 21
22 1. *Conditional use approval is dependent upon and limited to the proposal and plans contained in the*
23 *application dated 20 April 2022, and all supporting documents and oral representations submitted*
24 *and affirmed by the applicant and its agents, and conditions imposed by the Planning Board; any*
25 *variation from such proposals, plans, supporting documents and representations are subject to*
26 *review and approval by the Planning Board, provided that de minimis variation is subject to review*
27 *and approval by the Town Planner.*
28 2. *The structure height shall not be greater than 35 feet based on Shoreland Zoning height definition.*
29 3. *Flood Hazard Development Permits shall be submitted to the Code Enforcement Office before*
30 *construction begins.*

31
32
33 Ms. Hubert seconded the motion, at which point Chair Hitchcock asked Town Planner Jeffrey Hinderliter
34 to call for the vote. The vote was as follows:

- 35
36 Win Winch YES
37 Robin Dube YES
38 Marianne Hubert YES
39 Vice Chair Walker YES
40 Chair Hitchcock YES

41
42 Chair Hitchcock stated that passes 5-0. Chair Hitchcock then asked if all of the conditions submitted and
43 approved needed to be read for this item, to which Town Planner Jeffrey Hinderliter replied no, that wasn't
44 necessary as it wasn't a controversial item.

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1 ITEM 2

2 Proposal: Site Plan Amendment Congregate Care Facility: Amend building and parking layout,
3 infrastructure location and design, reduce by 2 units (72 now proposed)
4 Action: Discussion; Schedule Public Hearing (if necessary); Rule on Amendment
5 Applicant: CHA Builders, LLC
6 Location: Orange Pippin Dr. and Granny Smith Court, MBL: 107-3-1-01; Zoning: PMUD
7

8 Re this item, Chair Hitchcock stated that the Planning Board received a request to table this item as the
9 applicant had not received all of the comments from Wright Pierce and therefore hadn't been able to
10 respond to those. This item was pulled from the Agenda.
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14 ITEM 3

15 Proposal: Subdivision Amendment: Remove condition attached to subdivision lots 1 – 4 regarding
16 second access construction
17 Action: Discussion; Final Ruling
18 Applicant: Ross Road LLC
19 Location: 1 – 7 Mary's Way, MBL's: 107-1-401 - 404; Zoning: RD
20
21

22 Town Planner Jeffrey Hinderliter updated the Board as follows:
23

- 24 • This item is a proposed amendment to the Eastern Trail (ET) Estates subdivision located off of Ross
25 Rd, which we approved about 5-6 years ago. This proposal is requesting the Town allow
26 development of lots 1-4 before the second road access is constructed
- 27 • When ET Estates was originally approved, the Planning Board placed a condition on lots 1-4 which
28 tied development of these lots to creation of a second access
- 29 • The second access was to be included in a not yet approved extension of the subdivision which is
30 located in Saco
- 31 • The developer is preparing to move forward with Planning Board review of the Saco portion of the
32 subdivision which includes the second access
- 33 • The developer expects permitting for the Saco portion to be wrapped up sometime later this year but
34 is requesting development of lots 1-4 in the OOB portion before Saco Planning Board concludes
35 their review
- 36 • To do this the developer must receive approval from the OOB Planning Board to remove the
37 condition which ties development of lots 1-4 to development of the second access
- 38 • In this month's memo we provide 4 different options for the Planning Board to assist with their
39 decision
- 40 • My original thought was a decision could be made without a waiver or modification request but
41 after thinking this through, the fact is the Planning Board would allow development of these lots
42 without an approved second access. To allow this the Planning Board needs to grant a
43 modification. I say modification and not waiver because the Planning Board is not waiving the
44 requirement of a second access, they're modifying it to allow development while recognizing the
45 second access must still exist
- 46 • Because this is a modification, I believe the less restrictive of the two waiver/modification standards
47 apply. This standard states: "Where the planning board finds that, due to special circumstances of a
48 particular plan, the provision of certain required improvements is not requisite in the interest of
49 public health, safety, and general welfare or is inappropriate because of inadequate or lack of

1 connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such
2 requirements, subject to appropriate conditions.”

- 3 • So, if the Planning Board chooses to approve the amendment, I recommend the decision is tabled
4 until next month to allow the applicant prepare a response to the waiver/modification standard
5

6 Vice Chair Walker then asked about the modification, if they were asking for modifications re the
7 foundation or complete build, to which Jeffrey replied to chat with the applicant about that. Bill
8 Thompson, of BH2M Engineers, then spoke to the Board. He stated that they have the 16 lots with
9 infrastructure in place, and is asking the Board to allow the applicant the ability to put the 4 houses in on
10 those lots as an early step. Bill stated that other projects in town are ongoing without a second access, so he
11 is asking the Board to release that condition. Ms. Dube then asked if Easy Street, intending to be an exit,
12 was a private way, to which Bill replied yes, that he has an easement and Kevin Beaulieu of Ross Road
13 LLC has rights to it. Kevin Beaulieu then spoke to the Board, and stated that he has been maintaining that
14 road (Easy Street) for over 20 years, and has full easements to use and upgrade that road. Chair Hitchcock
15 then asked if there were any other questions, to which Ms. Hubert stated that an option is to use the existing
16 egress for emergency, but that with 3 of the lots being on Ross Road, could those 3 lots be built on? Ms.
17 Dube then asked the applicant about tabling the proposal. Town Planner Jeffrey Hinderliter stated that the
18 ordinance states that if there are more than 15 lots, 2 means of egress to a public way are necessary and the
19 Planning Board is required to follow the ordinance. In order for the Planning Board to grant the
20 development of those 4 lots, the Board must waive or modify that standard, and the tabling would be
21 required to obtain the applicant’s response as to how the proposal will not impact public health, safety, or
22 general welfare, and provide an explanation for the answer. Vice Chair Walker then asked the Board if
23 they wished to modify the requirement or not. Chair Hitchcock stated that first he wanted to know if there
24 were anything from earlier meetings that should be considered. Mr. Winch answered no and then asked
25 about why it hasn’t gone before the Saco Planning Board earlier. Bill answered that it’s due to economics.
26 Chair Hitchcock then asked the Board for a straw vote, whether it should be tabled or not. Vice Chair
27 Walker then made a motion that they do not vote to modify the requirement for a second means of egress.
28 Mr. Winch seconded the motion. Chair Hitchcock then asked if there were any discussion, and seeing
29 none, asked Town Planner Jeffrey Hinderliter for the vote. Jeffrey called for the vote as follows:
30

31 Win Winch YES
32 Robin Dube NO
33 Marianne Hubert YES
34 Vice Chair Walker YES
35 Chair Hitchcock YES
36

37 Chair Hitchcock stated that motion passes 4-1.
38

39 Other Business

40 Chair Hitchcock asked if there was any new business; there was none.
41

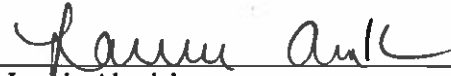
42 Good and Welfare

43 Chair Hitchcock asked if there was anything re Good and Welfare. Town Planner Jeffrey Hinderliter stated
44 that re adult use marijuana, the ordinances are finished and the next step is the Council workshop on June
45 28th. In the draft form, there are only 2 changes that will affect the Planning Board, so if the Council gives
46 the green light on the ordinance amendments, I expect you will see those amendments at your July meeting.
47 Mr. Walker then thanked Mr. Hitchcock for running the meeting tonight.
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50 ADJOURNMENT

1 Vice Chair Walker made a motion to adjourn, seconded by Ms. Hubert. Vote was unanimous. Meeting
2 was adjourned at 7:09pm

3
4 *I, Laurie Aberizk, Administrative Assistant to the Planning Board of the Town of Old Orchard Beach, do hereby*
5 *certify that the foregoing document consisting of Six (6) pages is a true copy of the original minutes of the Planning*
6 *Board Meeting of June 9, 2022.*

7
8
9 X  _____
10 Laurie Aberizk