

1 OLD ORCHARD BEACH PLANNING BOARD
2 Public Hearing & Regular Meeting
3 May 14, 2020 6:30 PM
4 Town Council Chambers
5

6 DUE TO COVID-19, THE PUBLIC WILL NOT BE ABLE TO ATTEND THIS MEETING IN PERSON.
7 PLEASE WATCH THE MEETING ON SPECTRUM 1301, OR GO ON-LINE TO WWW.OOBMAINE.COM
8 AND CLICK ON “MEETING VIDEOS” AND WATCH THE MEETING LIVE, AND IT WILL BE
9 ARCHIVED TO WATCH AT A FUTURE DATE.

10
11 For further information contact Assistant Town Planner Michael Foster at (207) 937-5636 and
12 mfoster@oobmaine.com
13

14 CALL MEETING TO ORDER
15 6:30 PM

16
17 PLEDGE TO THE FLAG

18
19 ROLL CALL

20 Vice Chair David Walker, Win Winch, Marianne Hubert, Robin Dube, Chair Linda Mailhot, and alternates Chris
21 Hitchcock, and Mark Koenigs

22
23 Approval of Minutes:
24 March 5 workshop and March 12 regular meeting
25

26 **MOTION:**

27 David Walker made a motion to approve both the March 5 and March 12 minutes, seconded by Chris Hitchcock.
28
29

30 **Public Hearings**

31 Chair Mailhot announced that public notices were sent to abutting property owners within 100 feet of the projects.
32 The notice requested abutters submit comments in writing due to meeting platform online this month. If
33 comments are received the Chair will read those within each public hearing item.
34

35 **PH 1**

36 Proposal: Conditional Use: Home Daycare
37 Owner: Timothy and Dorothy Rogers
38 Location: 4 Cardinal Ln (103-1-15); Zoning: RD
39

40 Chair Mailhot opened the public hearing at 6:33 PM

41
42 No public comments received.

43
44 Public hearing closed at 6:33 PM
45

46 **PH 2**

47 Proposal: Conditional Use: Installation of small cell antenna on utility pole
48 Owner: Central Maine Power; Agent: New Singular Wireless PCS, LLC
49 Location: ROW adjacent to 2 Bradbury St (205-19-14); Zoning: DD2
50

1 Chair Mailhot opened public comment at 6:34 PM

2
3 A couple comments were received.

4
5 Comments were submitted from Ken and Simone Sarnie of 4 Bradbury Street:
6 I'm owner at 4 Bradbury, I see they put a new pole up between Bradbury 2 and 4.
7 If this antenna is approved for this pole will the old pole be taken down at the same time?
8 I'm requesting the old pole be removed immediately. As far as the antenna will it emit any radiation?

9
10 Comment two submitted by Durant/Cole of 136 Ross Road:
11 Please pass these remarks along with the link below to the board. So, you are deciding to implement 5G without
12 any actual public input in the midst of a pandemic? Emailed comments do not substitute for real meetings. Many
13 communities are banning 5G. This is a dangerous new technology being rushed out in the midst of a pandemic.

14
15 This is an untested and dangerous new technology. We should support the recommendations of the 250 scientists
16 and medical doctors who signed the 5G Appeal that calls for an immediate moratorium on the deployment of 5G
17 and demand that our government fund the research needed to adopt biologically based exposure limits that protect
18 our health and safety. <https://blogs.scientificamerican.com/observations/we-have-no-reason-to-believe-5g-is-safe/>

19
20 Comment three submitted by Peter Hornby, 56 Randall Avenue:
21 How much radiation is emitted from this device? How will they monitor the radiation and how often? Also, is this
22 a precursor of more to come?

23
24 Public hearing closed at 6:36 PM

25
26 **PH 3**

27 Proposal: Conditional Use: Installation of small cell antenna on utility pole
28 Owner: Central Maine Power; Agent: New Singular Wireless PCS, LLC
29 Location: Adjacent to 23 Ryefield Dr, within Old Orchard Village (107-3-2); Zoning: R4

30
31 Chair Mailhot opened the public hearing at 6:36 PM
32 There were a couple of comments submitted. They were the same comments from two of the previous three
33 commenters.

34
35 Comment submitted by Durant/Cole of 136 Ross Road:
36 Please pass these remarks along with the link below to the board. So, you are deciding to implement 5G without
37 any actual public input in the midst of a pandemic? Emailed comments do not substitute for real meetings. Many
38 communities are banning 5G. This is a dangerous new technology being rushed out in the midst of a pandemic.

39
40 This is an untested and dangerous new technology. We should support the recommendations of the 250 scientists
41 and medical doctors who signed the 5G Appeal that calls for an immediate moratorium on the deployment of 5G
42 and demand that our government fund the research needed to adopt biologically based exposure limits that protect
43 our health and safety. <https://blogs.scientificamerican.com/observations/we-have-no-reason-to-believe-5g-is-safe/>

44
45 Comment submitted by Peter Hornby, 56 Randall Avenue:
46 How much radiation is emitted from this device? How will they monitor the radiation and how often? Also, is this
47 a precursor of more to come?

48
49 Public hearing closed at 6:38 PM

50
51

1 **PH 4**

2 Proposal: Conditional Use: Installation of small cell antenna on utility pole
3 Owner: Central Maine Power; Agent: New Singular Wireless PCS, LLC
4 Location: ROW adjacent to 72 Randall Ave (322-10-7), Zoning: R3
5

6 Chair Mailhot opened the public hearing at 6:39 PM
7 We received the same comments from the same individuals.
8

9 Comment submitted by Durant/Cole of 136 Ross Road:

10 Please pass these remarks along with the link below to the board. So, you are deciding to implement 5G without
11 any actual public input in the midst of a pandemic? Emailed comments do not substitute for real meetings. Many
12 communities are banning 5G. This is a dangerous new technology being rushed out in the midst of a pandemic.
13

14 This is an untested and dangerous new technology. We should support the recommendations of the 250 scientists
15 and medical doctors who signed the 5G Appeal that calls for an immediate moratorium on the deployment of 5G
16 and demand that our government fund the research needed to adopt biologically based exposure limits that protect
17 our health and safety. <https://blogs.scientificamerican.com/observations/we-have-no-reason-to-believe-5g-is-safe/>
18

19 Comment submitted by Peter Hornby, 56 Randall Avenue:

20 How much radiation is emitted from this device? How will they monitor the radiation and how often? Also, is this
21 a precursor of more to come?
22

23 Public hearing closed at 6:40 PM
24

25 **Regular Business**

26 **ITEM 1**

27 Proposal: Zoning Ordinance Amendment: Solar Energy Systems
28 Action: Review Draft Ordinance and Comment
29 Applicant: Town of Old Orchard Beach
30

31 Planner Hinderliter updated the planning board on the draft ordinance. It is not ready for May but there will be a
32 draft prepared for the 11 June meeting and no action is necessary from the planning board at this time.
33

34 **ITEM 2**

35 Proposal: Conditional Use: Home Daycare
36 Action: Discussion; Final Ruling
37 Owner: Timothy and Dorothy Rogers
38 Location: 4 Cardinal Ln (103-1-15); Zoning: RD
39

40 Assistant Planner Foster introduced the item. A determination of completeness was made in March on this item.
41 Last Thursday planning board members had a site walk. This month the applicant is seeking application approval
42 so they can move forward with state inspection and approval. We have received the follow up response from
43 Catherine Paglio with DHHS on 4/29/2020:

44 "Good morning Mike, Dottie is correct-she cannot be licensed until she receives a permit/approval from
45 the town. State employees are currently working from home and child care licensing only completes
46 inspections for emergencies or to open new childcare programs. I have not been back to see Dottie since
47 the last inspection-late February. She reached out to me this week to complete my inspection-I told her I
48 will wait until that has town approval and will then go to her home and complete my inspection. She has
49 been very cooperative with me and I don't anticipate anything that will not allow her to be licensed. Once
50 she has approval from OOB I will get right out to her and complete my inspection so we can get her
51 licensed. Stay well Thanks, Cathy"

1 Based on the response it seems DHHS is waiting for Town approval before completing their follow up inspection.
2 Some things to review that were checked out during the site walk. These were Rural District performance
3 standards, which address lighting, parking, signage, and buffering. At this point staff recommends application
4 approval for this conditional use if the planning board finds the applicant has satisfied the questions in regards to
5 site layout and fenced play area. If the planning board wants to record the number of children to be allowed and
6 cared for it should be included as the second condition. Group daycare homes defined by our ordinance are for the
7 care of 7-12 children. The applicant responses to the conditional use standards are listed in the packet along with
8 the recommended motion.
9

10 **MOTION:**

11 Robin Dube made a motion to conditionally approve Dorothy Rogers Roger’s Conditional Use Application
12 proposing a group day care childcare facility to be located in the existing single-family dwelling, located at 4
13 Cardinal Lane, MBL: 103-1-15, in the Rural District, with the following conditions:
14

- 15 1. Approval is dependent upon and limited to the proposal and plans contained in the application dated
16 January 22, 2020, and all supporting documents and oral representations submitted and affirmed by
17 the applicants and its agents, and conditions, if any, imposed by the Planning Board; any variation
18 from such proposals, plans, supporting documents and representations are subject to review and
19 approval by the Planning Board, provided that de minimis variation is subject to review and approval
20 by the Town Planner.
21
- 22 2. Approval is for the care of no more than 10 children.
23

24 Second by Win Winch.
25

26 Discussion:

27 Maryann Hubert asked if the limit is 12 children why is the motion no more than 10.
28

29 Assistant Planner Foster responded that because the Town definition allows 7-12 children, where this is a
30 conditional use you have the option to limit the number of children, otherwise up to 12 would be allowed.
31

32 **VOTE:**

- 33 Win Winch: Yes
- 34 Maryann Hubert: Yes
- 35 Robin Dube: Yes
- 36 Vice Chair Walker: Yes
- 37 Chair Mailhot: Yes
38

39 **PASSES:**

40 (5-0)
41

42 **ITEM 3**

- 43 Proposal: Subdivision: 34-Lot Cluster Subdivision
- 44 Action: Determination of Completeness; Schedule Site Walk and Public Hearing
- 45 Owner: Mezoian Development, LLC
- 46 Location: Ross Rd (105-2-7); Zoning: RD and ID
47

48 Planner Hinderliter explained this is the second preliminary plan submission for the 34-lot cluster subdivision.
49 The planning board was first introduced to this proposal in November of last year. Right now, there are four
50 primary issues identified:

- 51 1. This proposal requires a zoning district map amendment;

2. An access easement is needed to Ross Road. The Town Council has been considering this, no decision has been made, and it is scheduled for council May 19th.
3. The applicant is requesting a waiver of the central collection wastewater system, the common septic system, and proposing individual septic for each lot.
4. The proposal must meet all cluster subdivision standards.

These are discussed in more detail in the staff memo. The May preliminary plan submission addresses a number of the items identified in the March meeting, although some items still need to be addressed before the planning board votes on the preliminary plan. These are identified in the staff and Wright Pierce memos. One big item is the second access. This needs resolution before the planning board acts on the preliminary plan. Whenever you have 15 or more lots the ordinance requires a second access. If an easement is not granted it would be difficult to get a second access with this proposal. With this item outstanding it will be very difficult for the planning board to make a determination of completeness. We need the Council's decision.

The second item is traffic. We want to make sure that the planning board has enough data to allow for a positive finding, that the subdivision will not create unreasonable highway or public road congestion or unsafe conditions with respect to the use of highways or public roads. This is from the subdivision review criteria.

Third, is ensuring we have some firm commitment from the developer that he will put in place something that will bind future lot developers and future property owners to the buffer requirements, the green area perimeter strip, driveway location, staking out building footprints before permit approval, etc. We recommend the planning board provide more guidance on items mentioned in memos including the waiver request. There is also a recommendation for a site walk and public hearing to be held in June. This will be difficult because we don't know what the Town Council decision will be. If the access isn't approved this could change the proposal. We also aren't sure of the restrictions with COVID. We have received a considerable amount of comment for Town Council on this matter.

Steve Blake with BH2M introduced himself. For the 20-foot front and rear setbacks they are happy to work with the Town to establish a method to get these staked out and there is a means where the HOA documents can fit these in, we may specify the buildable area on the plan. For traffic impacts we have reached out to MaineDOT. They included a report from DOT in the original application. There are no high crash locations in this Ross Road area. The drive locations are located in areas with site distances greater than what is required. This is on the upcoming Town Council agenda.

Robin Dube stated there was a traffic study done in the same area not long ago and not much has changed. Wait till the council gives the easement and it's good to go.

David Walker added that progress has been made with submissions but the board is at a stalemate waiting for Council and for ordinance change. We haven't really moved from where we were when we tabled this without prejudice two months ago.

Chair Mailhot added in regards to traffic in relation to lots, this is on 29 acres, and with public water lot size is reduced to one acre per lot. Without cluster there could be 29 homes. One way to look at it is traffic wise this is only 5 additional homes versus what there could be on the 29 acres without the cluster. I don't see the additional 5 homes as having a big additional impact. A determination of completeness is not looked at favorably. It was asked that the Town Council should vote on easement before a decision is made. A site walk should be scheduled but not necessarily a public hearing. Seeing the site will be helpful and if it changes considerably another site walk can be held. COVID restrictions might not change by July either. The site walk is for the benefit of the planning board. We are under 10 people, and the public can go through with the applicant after, so groups are kept at 10 people and under.

1 Robin Dube added that there are rumors around Town that this is Town property getting built on. People don't
2 realize that this is privately owned. Whether it is this contractor or the next, this is not public land and being used
3 it is private property that is being sold.
4

5 Vice Chair Walker mentioned if there is a site walk to make sure it gets marked out because 29 acres is pretty
6 vast.
7

8 Mark Koenigs stated that as a Conservation Commission member he is very familiar with this property and it is a
9 very walkable piece of property. A site walk should be easy, there are a lot of sandy trails.
10

11 Linda Mailhot stated having the site walk for the benefit of the planning board, but no determination of
12 completeness made or public hearing scheduled. The site walk will be June 4th at 5:15PM.
13

14 **ITEM 4**

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

16 Action: Discussion; Final Ruling

17 Owner: Central Maine Power; Agent: New Singular Wireless PCS, LLC

18 Location: ROW adjacent to 2 Bradbury St (205-19-14); Zoning: DD2
19

20 In March a determination of completeness was made on this application. There are currently no outstanding items,
21 everything has been submitted and satisfied up to this point. Tonight, the public hearing was scheduled and the
22 planning board should be able to make a final approval if the applicant can address those question from the public
23 hearing. There was a discussion with the Chair prior to the meeting about reading the conditions and the board is
24 going to vote on the standards and conditions instead of doing a full read.
25

26 Michael Dolan from Brown Rudnick representing the applicant AT&T introduced himself. AT&T is proposing a
27 small cell installation here on top of a utility pole. This will be a replacement pole. AT&T needs this to deal with
28 rapidly increasing demand on its network. The small cell facility will be located on a CMP replacement pole.
29 AT&T engineers targeted this location due to high data demands on its network. The existing AT&T macro sites
30 in the area are not providing with the coverage their customers are requiring in this area of Old Orchard Beach.
31 This small cell installation will address that need. The facility consists of a small antenna on top of a pole. That
32 antenna is 25" in height by 10" in diameter, and there is an equipment cabinet affixed to the pole as well that is
33 23" wide, 39" height, 15" in depth. We have already installed one or two of these, and have submitted an image of
34 one in Saco, but it gives a good feel for the minimal visual impact of these facilities. To address comments raised,
35 our facility will comply with all FCC guidelines regarding radio frequency emissions. We submitted reports with
36 the applications from radiation safety specialist Don Haes. He did predictive modeling to demonstrate that these
37 facilities will emit radio frequency emissions that are a fraction of the FCC allowable limit. The equipment is set
38 up and tethered back electronically to a central network and to the extent there was any malfunction AT&T would
39 immediately get signal of that and get a crew out to take a look. There is no real risk for any malfunction either
40 that would cause those numbers to be outside of the FCC allowable limit. In regards to the removal of the old
41 pole, CMP does a good job, to the extent they don't have other fires to put out elsewhere where there are outages
42 and pole issues, they can get these out quickly once the equipment is moved over. It can be days to weeks, or a
43 couple months if there are issues where they are tied up elsewhere.
44

45 Vice Chair Walker asked Michael Dolan to address comments made about 5G.
46

47 Michael Dolan added that the technology is 5G evolution, which means AT&T is moving towards full 5G. This is
48 a branding thing where this is between 4G and 5G. The equipment being installed now is not true 5G equipment. I
49 have the radiation specialist Don Haes joining me tonight who prepared the reports. He can answer the question
50 about comments about 5G and related concerns about health and safety.
51

1 Don Haes introduced himself. He is an independent contractor who reports he has been providing consulting
2 services to the industry, military, health commissions, government, and educational institutions for over 30 years.
3 He has been involved in field of radiation safety for over 40 years. For the last 30 years he has been on the
4 committee that sets the exposure standards for radio frequency energy that has been adopted by the FCC. He is
5 also a volunteer member on COMAR, Committee on Man and Radiation. 5G is a very confusing term. It is more
6 branding than anything else. The first generation, although not called that, was the bag phone. This was a car
7 battery and a portable phone. That allowed up to 100 people per city to communicate through wireless and into
8 the regular phone network. People could listen in. The second generation, which wasn't called that, this is when
9 communication went digital so people with a household scanner couldn't listen in on conversations. The third
10 generation is what really introduced the phone to the general public. Not just communicating verbally but
11 exchanging pictures and using email and facsimile. That was the first generation to earn a name, 3G. The fourth
12 generation was a true stepping stone in wireless communication and allows us a taste of what is available. 4G has
13 allowed streaming and meeting like we are now. There are drawbacks, like latency, there are some issues with
14 sound quality, and issues with people talking over each other. Technology like autonomous vehicles need to have
15 zero latency. This isn't really a new technology and has been in use in our homes for years. We call it WiFi. To
16 make it work in our homes the FCC had to borrow a frequency, 2,450 MHz, or 2.45 GHz. This became so popular
17 a lot of WiFi routers went to their own frequency of 5 GHz. This has nothing to do with 5G, and it is a
18 coincidence that they are the same. 5G has nothing to do with frequency or power, it has to do with speed, 1
19 gigabyte per second is what they are looking for. To get that speed they need to use a frequency not used
20 anywhere else. For the small cell sites what AT&T is doing is they are using the unlicensed band, a low power
21 device like what is in your home, and provide that WiFi type service around that pole. This is similar to using a
22 task light to focus on a particular area. These small cells are designed to provide immediate connectivity to the
23 users there but they are not serving as a macro site would, which provides service to a whole area. The demand is
24 greater than what the macro site can provide. The FCC does have exposure limits that were recently readopted.

25
26 The board agreed that they would not read the conditions.

27
28 **MOTION:**

29 Vice Chair Walker made a motion to conditionally approve the Conditional Use Wireless Telecommunications
30 Facility- Architectural Siting small cell antenna, located on the utility pole located in the ROW adjacent to 2
31 Bradbury St, MBL 205-19-14, in the DD2 district, with the following condition:

- 32
33 1. Approval is dependent upon and limited to the proposal and plans contained in the application dated
34 January 17, 2020, and all supporting documents and oral representations submitted and affirmed by the
35 applicants and its agents, and conditions, if any, imposed by the Planning Board; any variation from such
36 proposals, plans, supporting documents and representations are subject to review and approval by the
37 Planning Board, provided that de minimis variation is subject to review and approval by the Town
38 Planner.

39
40 Second by Robin Dube.

41
42 **VOTE:**

43 Win Winch: Yes
44 Maryann Hubert: Yes
45 Robin Dube: Yes
46 Vice Chair Walker: Yes
47 Chair Mailhot: Yes

48
49 **PASSES:**

50 (5-0)

51

1 **ITEM 5**

2 Proposal: Conditional Use: Installation of small cell antenna on utility pole
3 Action: Discussion; Final Ruling
4 Owner: Central Maine Power; Agent: New Singular Wireless PCS, LLC
5 Location: Adjacent to 23 Ryefield Dr, within Old Orchard Village (107-3-2); Zoning: R4
6

7 In March a determination of completeness was made on this application. There are currently no outstanding items.
8 The public hearing was tonight and the planning board should be able to grant final approval if the public hearing
9 comments were addressed. The recommended motion is included in your memo.
10

11 **MOTION:**

12 Mariannee Hubert made a motion to conditionally approve the Conditional Use Wireless Telecommunications
13 Facility- Architectural Siting small cell antenna, located on the utility pole located in the ROW adjacent to 23
14 Ryefield Dr, within Old Orchard Village (107-3-2), in the R4 zoning district, with the following condition:
15

- 16 1. Approval is dependent upon and limited to the proposal and plans contained in the application dated
17 January 31, 2020, and all supporting documents and oral representations submitted and affirmed by the
18 applicants and its agents, and conditions, if any, imposed by the Planning Board; any variation from such
19 proposals, plans, supporting documents and representations are subject to review and approval by the
20 Planning Board, provided that de minimis variation is subject to review and approval by the Town
21 Planner.
22

23 Second by Robin Dube.
24

25 **VOTE:**

26 Win Winch: Yes
27 Mariannee Hubert: Yes
28 Robin Dube: Yes
29 Vice Chair Walker: Yes
30 Chair Mailhot: Yes
31

32 **CARRIES:**

33 (5-0)
34

35 **ITEM 6**

36 Proposal: Conditional Use: Installation of small cell antenna on utility pole
37 Action: Discussion; Final Ruling
38 Owner: Central Maine Power; Agent: New Singular Wireless PCS, LLC
39 Location: ROW adjacent to 72 Randall Ave (322-10-7), Zoning: R3
40

41 In March a determination of completeness was also made on this application. There are no outstanding items.
42 With the public hearing this month the planning board should be able to grant the final approval. The conditions
43 were included in the memo and the recommended motion is on page 30 with the conditions on page 31.
44

45 **MOTION:**

46 Mariannee Hubert made a motion to conditionally approve the Conditional Use Wireless Telecommunications
47 Facility- Architectural Siting small cell antenna, located on the utility pole located in the ROW adjacent to 72
48 Randall Ave (322-10-7), in the R3 zoning district, with the following condition:

- 49 1. Approval is dependent upon and limited to the proposal and plans contained in the application dated
50 January 17, 2020, and all supporting documents and oral representations submitted and affirmed by the
51 applicants and its agents, and conditions, if any, imposed by the Planning Board; any variation from such

1 proposals, plans, supporting documents and representations are subject to review and approval by the
2 Planning Board, provided that de minimis variation is subject to review and approval by the Town
3 Planner.
4

5 Second by Vice Chair Walker.
6

7 **VOTE:**

8 Win Winch: Yes
9 Mariannee Hubert: Yes
10 Robin Dube: Yes
11 Vice Chair Walker: Yes
12 Chair Mailhot: Yes
13

14 **CARRIES:**

15 (5-0)
16
17

18 ITEM 7

19 Proposal: Subdivision and Site Plan: 55-unit age restricted multi-family building
20 Action: Determination of Completeness; Schedule Site Walk and Public Hearing
21 Applicant: Terradyn Consultants, LLC
22 Location: 36 Portland Ave (205-1-29); Zoning: GB1, R1, HO
23

24 This proposal was before us in February as a sketch plan. For this month we have received formal applications for
25 Major Subdivision Review and Plenary Site Plan Review for a 55 unit, 4-story multifamily building. The
26 applicant is looking for a determination of completeness. This proposal is to be located behind the Old Orchard
27 Beach Funeral Home located at 36 Portland Ave. The proposed building will be located in the GB-1 District, but
28 the parcel does extend across the Historic Overlay District as well as across R-1 District. The proposed units will
29 be restricted to occupants whose head of household is age 55 or older and will be a mix of both affordable and
30 market rate rentals. This is being proposed as a PUD, Planned Unit Development, and is unique in comparison to
31 other PUD subdivision proposals that have been seen and approved by the board. Typically, PUDs have been seen
32 for single family home subdivisions and not a single multifamily building like this. This proposal will need to
33 meet the standards, specifically PUD standards. One option is for the planning board to alter area requirements.

- 34 • Will the PB alter dimensional and area requirements as requested?

35 Does the ordinance allow the PB approve a building in a PUD containing more than four dwelling units?

36 In regards to Subdivision standards:

- 37 • This requires subdivisions containing 15 lots or more shall have at least two street connections with
38 existing public streets. 55 units are proposed, but this is on one lot, so does this standard apply to a
39 proposal on one lot?

40 In regards to parking:

- 41 • The applicant is seeking a substantial reduction in the number of required parking spaces. Will the PB
42 accept the applicant's justification and grant the waiver request for reduced parking? And there were also
43 some questions in regards to the handicap parking standards.

44 There are three waiver requests for this proposal:

- 45 • We know the parking waiver is needed.
- 46 • The other one in question is the PUD Waiver. This isn't actually a waiver as you have seen in the past.
47 Sec 74-34 states that where the PB finds there are special circumstances of a particular plan, it may vary
48 this chapter so substantial justice may be done and public interest secured. This is in regards to standard 9
49 which doesn't allow more than 4-units in a building. We see that standard as being an issue for this unless
50 the planning board is willing to alter that section

- Specific to the PUD Ordinance, the planning board has made it clear how they stand on waivers. The first PUD criteria allows the PB to alter dimensional and area requirements without restriction, except height limitations. The applicant is requesting the minimum lot area per dwelling unit be reduced down to 1,500 SF/unit from 5,000 SF/unit. This is not a waiver like the PB usually sees, but where minimal lot area per dwelling unit is considered dimensional and area requirement, this PUD criteria allows the PB to alter this it as requested. The second criteria pointed out is for PUD criteria #9 that no building shall contain more than four dwelling units for the purpose of solar access and fire safety. For fire safety we recommended the applicant follow up with Fire Chief Fred LaMontagne. A letter dated 4/2/2020 from the Fire Department has been included in your packets, outlining the conditions to be addressed for approval in regards to life safety. To show access to solar, the applicant has provided a shadow study.

Handicap parking standards requires all parking lots serving the public to meet ADA standards and the standards of this section. The question is if this parking lot serves the public or not? With public areas for residents and an office component, it seems the parking area would need to meet these requirements. The handicap parking standards cannot be waived.

For this month we recommend the PB discuss the questions listed and review the waiver requests to provide the applicant with further guidance. The applicant would like a determination of completeness on the application be made this month. We understand there probably are remaining questions. They have provided a detailed application and provided the required responses to standards and criteria, but if there are remaining questions the PB should hold off on making a determination until those materials are submitted. One question remaining is in regards to wastewater and the Town is currently working on that.

Nathan Szanton, president of The Szanton Company, introduced himself. They are a small real estate development company based in Portland and specialize in developing high quality professionally managed rental housing that's mixed income. They introduced Kristin Martin, Szanton colleague and project manager; David Lloyd architect at Archetype Architects; and Adrienne Fine civil engineer at Terradyn Consultants. This project to be called Milliken Heights, named after the Milliken family who settled that part of Town going all the way back to the early 1800's and owned the land where this is proposed until about the mid twentieth century, will be a \$12,000,000 investment in the Town of Old Orchard Beach and that is just construction costs. The purpose of the project is to fill a very large need in Old Orchard Beach for high quality year-round affordable housing. Right now, the Town has a lot of seasonal housing, some in good repair and some in poor repair, but there isn't a lot of affordable handicap accessible year-round housing. That's what they are aiming to fill. The site is close to downtown and within walking distance to the grocery store, post office, bank, town hall, the beach, Old Orchard Street, and also on bus and trolley lines. 55 units proposed to be set aside for those whose head of household is age 55 or greater. 13 of the 55 units will be market rate, and 42 will be set aside for households whose annual income doesn't exceed 60% of the area median income. For a two-person household their income couldn't exceed \$44,500 and for one-person household \$39,000. Assets really hardly count at all towards the figuring of income. About 1/2 of 1% of capital a household has in the bank counts towards income. All the units are one bedroom. This is the greatest demand with their other rental projects. Market rate units would be about \$1,300 a month and include hot water, an off-street parking space, WiFi, a fitness center, community room, and heated secure bike storage. For income restricted units which would include all the same items just mentioned, would be about \$1,000 a month.

Kristin Martin explained their neighborhood outreach over the last few months. Shortly after the first planning board meeting they had a meeting at Town Hall with about 20 people and explained who they are, what they do, and the proposal. They have been working with neighbors to discuss buffering questions. They also met individually with abutters. They met with Pauline Barry in person and met with the Sylvestre's that own Brookside Cabins virtually. The landscape architect has made suggestions for buffering. In April they also had a virtual meeting. They put out flyers and put it on social media. People who have heard about it have called and there is a rental interest list from inquiries. They have received lots of positive feedback from the community. A parking study summary was submitted. They reviewed parking at properties in Portland and Biddeford. A company did the study and they looked at the number of cars in the parking lot at different times of day and on

1 different days. In downtown Portland a 28-unit age 55 plus apartment building had only 13 parking spaces being
2 used on average. That was a parking demand of .46 spaces per apartment. In Biddeford there were 55 apartments
3 and 40 parking spaces were being used. This is a demand of .73 spaces per unit. The concerns of the planning
4 board were heard and they have done a lot of work to maximize parking. Parking has been increased from 53
5 spaces to 60 spaces, for 55 apartments, 1 to 1, and 5 visitor spaces.

6
7 Adrienne Fine went over site design and zoning analysis for Milliken Heights. The whole site is 4.76 acres on the
8 western side of Portland Avenue. The Szanton Company recently purchased the property. The owner retained the
9 piece of land around the funeral home. The parking lot was included in the sale. The proposed development will
10 take place closer to the Portland Avenue side of the property. The building will be sited on the highest portion of
11 the site. The development area is approximately 1.76 acres and the area to remain undeveloped is approximately 3
12 acres and will remain forested. Existing parking lot access will be used with a formalized driveway. Sidewalks
13 will be extended into it. There will be landscaping along Portland Avenue. The existing parking lot will be
14 reconstructed, improved, and extended onto the site to provide 60 spaces, 10 of which will be ADA. This is one
15 space per unit plus five visitor spaces. This is less than the ordinance and they are requesting a waiver for a
16 reduction in the total number of parking spaces. There were questions in the memo about ADA parking. Does this
17 parking area serve the public? This is a residential parking lot that will be used just for residents and their visitors.
18 Visitor spaces will be defined on site and no public parking will be allowed. For a 60-space parking lot like this
19 the Town requires three ADA spaces, one van accessible. They are proposing 10 ADA spaces and all are van
20 accessible. This is because they are receiving Maine State Housing funding and they have their own standards.
21 The Town requires ADA spaces to be a specific distance for the door. Six proposed spaces meet this requirement
22 but the other 4 are the shortest accessible route to the door. The extra spaces go above and beyond the Town ADA
23 requirements. Access to the building will be on the northern side from a patio area adjacent to parking. They are
24 proposing an emergency access drive along the eastern side of the building and it will connect through to an
25 existing driveway southeast of the site. They worked on this with the Fire Department and they had a meeting and
26 site walk with them to determine the best location for this access to gain access to more sides of the building.
27 They also worked out the dimensions, stairwell locations, and water utilities with the Fire Department. The
28 conditions received from the Fire Department were pretty standard conditions, mostly having to do with the
29 specifics of mechanical systems. For stormwater management for the site, this will be with two Focalpoint
30 locations near the parking lot. These go down to underground storage. This was one of the ways they were able to
31 gain more parking. By using these smaller footprint proprietary stormwater management systems with large
32 chambers under the pavement more area was freed up. These are more expensive than using a surficial system,
33 but allows for more parking and looks nicer. The rear parking lot was also extended. The site will be served by
34 public water. Received ability to serve letter from ME Water. Comments received by Stephanie Hubbard with
35 Wright Pierce were addressed. This will be served by public sewer. They are waiting on a letter from public
36 works. Heat pumps are proposed, mostly on the roof, and buried propane tanks for water heating purposes. A
37 dumpster and snow storage will be located off the end of the parking lot. A patio and lawn area will be behind the
38 building including a stormwater management rain garden. Landscape architect Tony Mitch designed plantings to
39 buffer along property lines, with fencing along north and east property lines. Plantings will also be located along
40 wetland boundary, along stormwater management infrastructure, and to the southwest to make sure the buffer
41 remains. Along the northern side trees will be protected as much as possible and they will be adding trees along
42 the parking lot closer to Portland Avenue. Items to discuss are density request to reduce through PUD standards to
43 reduce to 1500 SF per unit to allow for the 55 units in this one building. The waivers for parking to allow for 60
44 parking spaces. The other item which isn't being considered a waiver but an alteration to the standard to allow for
45 more than 4 units in this building for the purpose of fire and solar access.

46
47 David Lloyd with Archetype Architects introduced himself. He explained the sun/shadow study. Winter solstice
48 impact was shown. The sun is its lowest. Even during these periods, a majority of the shadows are cast on their
49 own property. At 3PM winter solstice a shadow is cast on the cabins but you see even the little cabins are casting
50 long shadows. Spring equinox shadow is only on own property. For the summer solstice the small shadows are on
51 own property. With autumn equinox the shadows are also cast on their own property. This proves they are not

1 diminishing sunlight to the immediate neighbors. Drawings were shown to see street view onto project from road.
2 They chose to go with a 4-story building but build the 4th story into the gable roof allowing more residential
3 friendly architecture. This helps break down the overall mass of the building. They chose a black frame window
4 with white siding reminiscent of early cottage architecture style. A close-up drawing was shown. The entry way
5 and sloped roofs were highlighted. Building height is approximately 31' 6" from average grade to the eave.
6

7 Vice Chair Walker mentioned on the preliminary drawings there was talk about having a service road to the back
8 of the property for the ladder truck. Looking at the turning diagrams there isn't any way for the ladder truck to get
9 out except to back out. If they need to get people out the back of the building with the ladder truck it would need
10 to get back there.

11
12 David Lloyd explained they spent time with the fire chief and drove out to the site in the fire truck. They relocated
13 the stairwell for the ambulance.

14
15 Adrienne Fine explained that through discussions they determined that what they wanted was an emergency
16 access drive like they have on the eastern side of the building which will be for emergency vehicles only. An
17 ambulance can access the stairwell and they were given dimensions for what was wanted in that driveway. The
18 turning template shows an ambulance can get through that driveway and leave the site through the easement.
19 They did not want to bring a fire truck through there. They were satisfied with access from the parking lot and
20 patio areas near the main entrance. We have a turning template showing the fire truck can access the site.
21 Chair Mailhot stated they needed to go over the memo to and address comments to provide direction to the
22 applicant. Memo page 33. Questions, whether or not the planning board will alter dimensional and area
23 requirements as requested? This is regarding the square footage of the units per site and more than 4 units in a
24 building. Any issues with these? No planning board comment. The question regarding subdivision, two street
25 connection need to take place. Read as only one lot and this is not required. For parking clarification is this age 62
26 plus or 55 plus and do the spaces include employee spaces.
27

28 Kristin Martin explained that this is being proposed as 55 plus housing. This is through Maine Housing. There are
29 additional restrictions if they change the age which changes the project significantly. There are different
30 provisions that require every member of the household must be over 62. For employee parking those spaces do
31 include employee parking. We don't have many employees. The two employees will be spread out to cover
32 different days and then maintenance staff one day.
33

34 Chair Mailhot asked what the parking requirements for age 55 housing are. The next question is about handicap
35 parking standards regarding the public. Visitors are seen as the public, or delivering meals, or utilizing other
36 services. For the waivers requested, parking, number of units per building, and square foot lot per unit. We are
37 down to parking.
38

39 Assistant Planner Foster stated that for parking standards, residential parking standards are the same for single
40 family, two family, and multifamily, are spaces per unit, it doesn't differentiate between them. A 55-unit building
41 would require 110 parking spaces.
42

43 Nathan Szanton pointed out that a 59-unit non-age restricted project they did in Bath, ME required 84 parking
44 spaces. During the stay at home order on a weekday at 10AM there were only 40 spaces used.
45

46 Chair Mailhot reminded the board the waiver for parking would be a waiver of 50 spaces.
47

48 Win Winch added with his experience at similar properties they do have a less of a demand for parking.
49

50 Maryann Hubert asked who will be coming to live here. 55 and over could still be working people who are
51 working and active and driving.

1
2 Nathan Szanton explained that many residents will be in their 70s and 80s and will no longer drive. They will be
3 attracted because it is walkable and the bus stop is next door. These people will not be disabled but we know from
4 others managing these types of properties that the resident skew much older than 55, and car ownership is down.
5

6 Vice Chair Walker added that the ordinance is built on the development they are used to in town. We don't have
7 development like this. The applicant has experience and has down studies. Using this standard on this seems
8 inappropriate. In favor of a waiver.
9

10 Chair Mailhot asked about direction on a determination of completeness and scheduling a site walk and public
11 hearing.
12

13 Assistant Planner Foster responded that at this time if they are comfortable making a determination of
14 completeness they can, if you feel there are outstanding questions than you can hold off on the determination and
15 a site walk would be appropriate to schedule. A public hearing can be held but double check with Jeffrey.
16

17 Planner Hinderliter explained the site walk and public hearing can be held. For the determination the question is if
18 there is enough information for the board to decide. They worked with Stephanie to address engineering questions
19 early on. A determination can be made conditioned upon the final vote of those modifications and waivers if
20 necessary.
21

22 **MOTION:**

23 Vice Chair Walker made a motion to determine the subdivision and site plan complete for 55-unit age restricted
24 multifamily building, schedule site walk and public hearing to follow, at 36 Portland Ave, MBL 205-1-29,
25 conditionally upon receiving all items outstanding necessary to move forward.
26

27 Second by Robin Dube.
28

29 **VOTE:**

30 Win Winch: Yes
31 Marianne Hubert: Yes
32 Robin Dube: Yes
33 Vice Chair Walker: Yes
34 Chair Mailhot: Yes
35

36 There will be a site walk on June 4th at 5:40PM, and the Public Hearing on June 11th at 6:30PM.
37

38 ITEM 8

39 Proposal: Large Scale Solar Energy Facility
40 Action: Conceptual Plan Review
41 Applicant: TPE OO01, LLC
42 Location: Ross Rd, Portion of MBL 105-2-7; Zoning: RD & ID
43

44 This proposal is for a 5-megawatt solar facility. Megawatt makes it sound like a lot but it is a common utility
45 grade size solar facility. If you compared it to Maine Yankee, although nuclear and a strange comparison, it
46 produced about 900 megawatts. It is a large-scale solar facility. The total area is about 25 acres and the access is
47 off of Ross Road. The proposed location is adjacent to the proposed 34 lot subdivision discussed earlier. Currently
48 this is a conceptual plan. No decisions need to be made. This is an opportunity to provide thoughts, ID red flags,
49 and give some guidance. Page 38 of the staff memo a number of things are discussed. Important to note that when
50 this proposal comes back formal review will be using the new solar facility ordinance. Don't look at current
51 ordinance because the standards will change.

1
2 Vice Chair Walker asked if the applicant is aware of the ordinance to be drafted.
3

4 Planner Hinderliter responded that they are aware of it but there was nothing to provide them where it isn't
5 written yet. This will probably be similar to some other Maine solar ordinances. We have to go through each
6 district to see where different size facilities will be permissible.
7

8 Robin Dube inquired if this would impact the subdivision proposal in any way and if it can be seen or heard from
9 that project.
10

11 Steve Blake with BH2M representing Turning Point Energy introduce himself. Jordan and Michelle are here
12 tonight with Turning Point Energy.
13

14 Michelle Carpenter with Turning Point Energy introduced herself. They are a company that has been in business
15 since 2013. They are a development, advisory, and investment firm. Focused on community solar projects. These
16 allow residential customer who can or don't want to site solar on their roof to sign up. This gives them the
17 opportunity to sign up and subscribe to receive electric savings from local clean energy. These are distributed
18 generation projects designed to be integrated into the community. These were enabled by LD 1711, which allows
19 projects like this. The closest project this size is in Rhode Island, because these weren't previously allowed in
20 Maine.
21

22 Marianne Hubert stated based on the submitted plans there doesn't appear to be any roads or access to panels for
23 maintenance. What is the spacing between units and fence. What buffering will be used and how will it be
24 maintained.
25

26 Jordan Belknap introduced himself. Typically, they have a gravel access road that enters the solar site and it is
27 surrounded by a perimeter fence. There is room for a cart or pickup truck. They try to minimize the impervious
28 surface at these facilities. Once its built access will be by foot or motorized cart. We will work with local
29 authorities or fire marshal to make sure whatever access is required is built into the site. They like to put a 20-foot
30 spacing which gives a nice clearance. You get into issues with electric code which requires grounding the fence if
31 closer than 10 feet. The proposed access road was pointed out on the plans.
32

33 Michelle Carpenter added that for buffering they use a mixed evergreen screening. They go with something of
34 lower permanent stature or a pine that can be trimmed as needed. The side of concern for shade and needing lower
35 growth will be the southern side.
36
37

38 Other Business

39 Vice Chair Walker asked about the water tower and having it on the blight list. It looks terrible. Where are we at
40 with this.

41 On Union Ave there were questions about parking and using the abutter lot. Before granting occupancy should
42 this be looked at.
43

44 Planner Hinderliter mentioned on the latter item in regards to parking our third-party engineer helps with site
45 inspections and they have the same plan approved by the board. They can take a look. For the water tower the
46 owner was approached before COVID hit and he reported that he intends to get it painted this year.
47

48 Chair Mailhot added that they granted a waiver on parking for 21 Union. They got a right of way deeded for snow
49 storage but not parking. After daycare item, item 2 the conditional use and approval criteria were not read. We
50 will poll to make sure the members are comfortable with how that vote went. Are the members satisfied and in
51 agreement with the criteria and not reading it.

1 VOTE:
2 Win Winch: Yes
3 Marianne Hubert: Yes
4 Robin Dube: Yes
5 Vice Chair Walker: Yes
6 Chair Mailhot: Yes
7
8 Good and Welfare
9 none
10
11 ADJOURNMENT
12 9:20PM