

1 **OLD ORCHARD BEACH PLANNING BOARD**
2 **Public Hearing & Regular Meeting**
3 **November 9, 2023, 6:30 PM**
4 **Town Hall Council Chambers**
5

6 **CALL MEETING TO ORDER**

7 Chair Walker called the meeting to order at 6:30 PM and called for pledge.

8
9 PLEDGE TO THE FLAG

10
11 ROLL CALL

12 Chair Walker called for Roll Call:

13 Mr. Kelley – present

14 Mr. Winch – present

15 Ms. Dube – present

16 Vice chair Hitchcock – present

17 Chair Walker – present

18
19 Chair Walker Marianne Hubert is absent [excused] and Jay Kelley will be voting.

20
21 **Public Hearings**

22 **PH 1** open 6:31 PM

23 Proposal: Conditional Use/Shoreland Nonconformity: Remove, rebuild, 30% expansion single-family
24 dwelling

25 Applicant: Doyle Enterprises

26 Location: 9 Randall Ave, MBL: 324-13-1; R3, Zoning: R3, RA & HAT

27
28 Chair Walker invited the public to speak asking that they identify themselves and their address, and can say
29 anything positive or negative on this proposal.

30 No comments

31 Close public hearing at 6:32 PM

32
33 **PH 2**

34 Proposal: Conditional Use/Shoreland Nonconformity: Remove, rebuild, 30% expansion single-family
35 dwelling

36 Applicant: David and Vicki Keene

37 Location: 14 Colby Ave, MBL: 321-3-1, Zoning: R3, RA & HAT

38
39 Chair Walker opened the public hearing at 6:32 PM

40 No comments

41 Close public hearing at 6:33 PM

42
43 **PH 3**

44 Proposal: Conditional Use/Shoreland Nonconformity: Remove, rebuild, 30% expansion single-family
45 dwelling

46 Applicant: Peter Anania, Jr

47 Location: 44 Colby Ave, MBL: 320-2-9, Zoning: R3, RA & HAT

48
49 Chair Walker opened the public hearing at 6:34 PM

1 Peter Anania of 44 Colby Ave. It has been brought to this attention some confusion on his plans for the
2 project. He is a multifamily developer and investor but this property is in no way a development project for
3 him. It is a vacation home for him and his extended family. His development focus is on 24 unit plus
4 development projects. He puts any construction project on his business partners website even if it is a
5 personal project. He explained he has a personal loan for a second home. They may rent it out through town
6 regulations. They have been looking to become a part of the community for a long time.

7
8 Barbara Denker of 33 Colby Avenue is thrilled Mr. Anania is going to invest in the property that has been
9 an eyesore and unsafe. They are happy to see development of a single home and are welcoming him.

10
11 Douglass Dery of 33 Colby Avenue is glad to hear Mr. Anania has purchased this property. This property
12 has been in distress since they resided in Old Orchard going back to 2002. Earlier this year there was an
13 unfortunate death, followed several months later by a fire, making the essentially uninhabitable. Several
14 times OOB police and fire have visited the home. The previous person had to be removed from the property.
15 He is glad to see new development in the neighborhood.

16
17 Chuck Agan of 41 Colby Avenue. He wants to address the two versions of the plans he understands the
18 applicant has for rebuilding and using 44 Colby. The first is what he heard in a reply of the October 12
19 planning board meeting. The applicant said he and his wife had rented on Colby in the past and fell in love
20 with Ocean Park. The applicant said they planned to use 44 Colby as their family's vacation home to which
21 they would invite family and friends, and since other properties in Ocean Park are rented they may also rent
22 this as well. This sounded like a use that would weave into the fabric of Ocean Park and if the building plans
23 were compatible he would support it. Then a week or two later he became aware of the website for Beylin
24 Development that pertained to the applicant and 44 Colby. He read from under highlighted projects on
25 Beylin's website describing a luxury Airbnb.

26 Due to the promoting of the Ocean Park luxury Airbnb, potential for various uses of Airbnbs, and it appears
27 that the developer is appealing to investors, he is skeptical of the use of the property and accompanying
28 building plans, this second version sounds more like commercial use and has the potential to fray the fabric
29 of our community and he would not be in favor of that.

30 Chair Walker they have a copy of the Beylin website info.

31
32 Mr. Kelley through the chair asked Mr. Anania if this was going to be his residential unit or if he is going to
33 rent it.

34 Mr. Anania it is his second family home. Any investment property you put in an LLC. All his investment
35 property is in an LLC. This is in his personal name. All his loans for investment properties are investment
36 loans; this is a personal loan for a second family home. They wouldn't allow it for an investment property. It
37 was put on Beylin Development. We promote our personal projects.

38 Mr. Kelley asked if he heard him say they plan to rent it and if it will be his primary residence.

39 Mr. Anania like many places in Ocean Park they may rent to supplement. They live in Yarmouth, but it
40 doesn't matter. They can sell or rent it. This will be their vacation home.

41 Chair Walker the board can discuss more during regular business after public hearing portion.

42 Public hearing closed at 6:33 PM

43
44 **Minutes: 5/11/23**

45 Chair Walker the minutes are in the packet and are very professionally done.

46 Planner Hinderliter unfortunately they lost that person so there will be a delay with minutes.

47 Mr. Winch made a motion to approve.

48 Second by Vice chair Hitchcock

49 All in favor. Unanimous. 5-0

50
51 **Regular Business**

1 **ITEM 1**

2 Proposal: Major Subdivision: 21 single-family house lots; 3 open space lots; 4 condo lots with a total of
3 25 condo units
4 Action: Preliminary Plan Review and Determination of Completeness
5 Owner: Mark Bureau
6 Location: 139 Portland Ave, MBL: 104-2-3 & 23-31(portion of Red Oak Subdivision); Zoning: Rural/
7 RP

8
9 Chair Walker introduced the item.

10
11 Associate planner Foster briefed the board:
12 Last month the PB tabled this at the request of the applicant. A public hearing was held at the 14 September
13 meeting.

14 At the September meeting the PB recommended the applicant meet with Wright Pierce (WP) to discuss
15 comment responses. We did meet in September and went over each comment. Most of those have been
16 addressed and some remaining comments can be highlighted.

17 Between this meeting and the most recent submittal most peer review comments have been resolved.
18 The applicant has been provided a wastewater capacity letter for the DEP permit, dated October 11, 2023.
19 There are still a few comments remaining where feedback is needed from Public Works regarding sewer
20 main ground cover, sewer connection at proposed terminus manhole, and confirming size for proposed 8-
21 inch gravity line.

22 Overall those comments are pretty minor and shouldn't hold this back from a determination of completeness
23 but they will need to be resolved at some point. There was one question about road grade maximums at
24 intersections.

25 Sec. 74-309, references that the road maximum grade at intersections can't exceed 2%.
26 The applicant interpreted this as applying to the intersection leg with a stop sign, but the ordinance doesn't
27 specify, and WP wanted clarification on ordinance interpretation.

28 We asked WP what the concern is:
29 There are two concerns at the intersection – one is that grades allow for installation of crosswalks, etc. for
30 ADA compliance, the other is it improves sight distance. Red Oak Drive is the through street in this
31 intersection and there does not appear to be any reason for pedestrians to cross Red Oak Drive at this
32 intersection, so installation of crosswalks is not a concern; however, the vertical curve on Red Oak Drive
33 could impact site distance.

34 The applicant increased the K Value to improve sight distance at the intersection as recommended but the
35 PB should discuss the grade requirement. Still a comment on this exceeding the 2% grade.

36
37 **Town Department Comments:**

38 Assessing Department would like to see deeds that accurately describe each Property, map and address it.
39 Some other addressing comments and lot descriptions
40 Fire Department requested Emergency vehicle tracking. This had been submitted but is a remaining
41 comment. And questions about weight capacity of the box culvert and hydrant locations. Locations of
42 hydrants were updated on the last plan.

43
44 Associate planner Foster recommends a determination of completeness subject to receiving the
45 recommended items; responses to Wright Pierce memo comments, documentation requested by the
46 Assessing Department review, provide requested information to the Fire Department for review and updated
47 Sec. 74-2 subdivision criteria to planning staff.

48
49 Lucien Langlois with Atlantic Resource Consultants introduced himself.

1
2 Chair Walker asked how much trouble it would be for them to correct the grade on Red Oak where it meets
3 that intersection?
4 Lucien Langlois not much but in their experience this is something where they don't believe it would cause
5 an issue for site distance. They would recommend that we could involve a traffic engineer since Wright
6 pierce and they are civil engineers.
7 Chair Walker the ordinance was written in 1986 and they don't know what the intent was. Driving around
8 he doesn't recall coming to an intersection where the intersecting road had a crown on it. How much would
9 it cost to have third party traffic engineer as opposed to grading it down to 2%?
10 Lucien Langlois they are at 4% now and can make it work if that is what the board would like to see.
11 Mr. Winch thought he read where they improved the k-factor.
12 The board discussed the road grade.

13
14 Chair Walker the information the fire department needs for turning radius and culvert weight capacity is
15 pretty important.
16 Lucien Langlois senior engineer Tony worked with Jeffrey from planning and submitted a turning radius
17 and hydrant location exhibit. Box culvert will be HS-20 rated and they got response back. They will
18 confirm.
19
20 Planner Hinderliter there was some confusion with the [turning] template being used but they are using the
21 right one.
22 Lucien Langlois they have a few remaining comments with Wright Pierce, and will work with public works
23 and sewer department square those away. Items from assessing look simple and can be done before final
24 plan.

25
26 Ms. Dube why was the grade not brought up in the last two years?
27 Chair Walker it was in the Wright Pierce memos.

28
29 Vice chair Hitchcock made a motion to determine the application as complete for 21 single-family house
30 lots and 25 condo units, location 139 Portland Ave, MBL 104-2-3 & 23-31 (portion of Red Oak
31 Subdivision), Zoning Rural/ Resource Protection, owner Mark Bureau, subject to the following:
32 1. Provide response to Wright Pierce memo comments to the satisfaction of Town staff.
33 2. Provide Assessing Department with requested documentation including deed descriptions, condo
34 and HOA documents for review, and unit addressing.
35 3. Provide updated turning diagrams, hydrant information, and box culvert weight capacity for Fire
36 Department review and approval.
37 4. Provide Planning with updated responses to Sec. 74-2 subdivision criteria.

38
39 Second by Mr. Winch
40 Call for the vote:
41 Mr. Winch – yes
42 Mr. Kelley – yes
43 Ms. Dube – yes
44 Vice chair Hitchcock – yes
45 Chair Walker – yes
46 Motion carries 5-0

47
48 **ITEM 2**

1 Proposal: Conditional Use/Shoreland Nonconformity: Remove, rebuild, 30% expansion single-family
2 dwelling
3 Action: Final Ruling
4 Applicant: Doyle Enterprises
5 Location: 9 Randall Ave, MBL: 324-13-1; R3, Zoning: R3, RA & HAT
6

7 Chair Walker introduced the item.

8
9 Planner Hinderliter briefed the board:

10 The big issue is back in April/May of this year the concern was a front setback.

11 The applicant went to the zoning board of appeals, secured approval for a miscellaneous appeal to reduce
12 that front setback.

13 Everything we have requested has been submitted, and we feel the proposal can be conditionally approved.

14 With conditions related to securing Department of Environmental Protection coastal dune permit and flood
15 hazard development permit.

16
17 Ms. Dube made motion to conditionally approve Doyle Enterprises conditional use application proposing a
18 tear down, new construction, and 30% expansion of a nonconforming structure in the shoreland zone,
19 located at 9 Randall Ave., MBL: 324-13-1. With conditions:

20 1. Applicant or owner shall secure DEP approval before building permit submission.

21 2. Applicant or owner shall secure flood hazard development permit approval before building permits are
22 approved.

23
24 Second by Vice chair Hitchcock

25 Call for the vote:

26 Mr. Kelley – yes

27 Mr. Winch – yes

28 Ms. Dube – yes

29 Vice chair Hitchcock – yes

30 Chair Walker – yes

31 Motion carries 5-0
32
33

34 **ITEM 3**

35 Proposal: Conditional Use/Shoreland Nonconformity: Remove, rebuild, 30% expansion single-family
36 dwelling

37 Action: Final Ruling

38 Applicant: David and Vicki Keene

39 Location: 14 Colby Ave, MBL: 321-3-1, Zoning: R3, RA & HAT
40

41 Chair Walker introduced the item
42 .

43 Planner Hinderliter briefed the board:

44 The same as the last one. Single family removal, rebuild.

45 Two differences are the structure will be placed in same exact footprint as existing structure, so no
46 horizontal expansion. Also, this proposal did not require any additional approvals from the zoning board of
47 appeals.

48 We began this in October and there isn't a reason to not approve it. We recommend approval with the same
49 two conditions. That motion is on page 20 of the memo.
50

51 Chair walker asked if there were any comments from board members or the applicant.

1
2 Ms. Dube made a motion to conditionally approve David and Vicki Keene's conditional use application
3 proposing a tear down, new construction, and 30% expansion of a nonconforming structure in the shoreland
4 zone, located at 14 Colby Ave., MBL: 321-3-1. With conditions:

5 1. Owner shall secure DEP approval before building permit submission.

6 2. Owner shall secure flood hazard development permit approval before building permits are
7 approved.

8
9 Second by Mr. Winch

10 Call for the vote:

11 Mr. Kelley – yes

12 Mr. Winch – yes

13 Ms. Dube – yes

14 Vice chair Hitchcock – yes

15 Chair Walker – yes

16 Motion carries 5-0

17
18 **ITEM 4**

19 Proposal: Conditional Use/Shoreland Nonconformity: Remove, rebuild, 30% expansion single-family
20 dwelling

21 Action: Final Ruling

22 Applicant: Peter Anania, Jr

23 Location: 44 Colby Ave, MBL: 320-2-9, Zoning: R3, RA & HAT

24
25 Chair Walker introduced the item.

26
27 Associate planner Foster briefed the board:

28 This application for removal, rebuild, and 30% expansion was determined as complete last month subject to
29 receiving the following:

- 30 1. Responses to Sec. 78-34(e) Shoreland Zone conditions
- 31 2. HAT setback to existing/proposed rear structure corners
- 32 3. Existing and proposed front, side, and rear structure setbacks from lot lines
- 33 4. Additional details on each floor for the existing structure floor area/volume calculations
- 34 5. Update proposed floor areas on sheet A1.2 to match the total floor area of proposed structure
35 listed in the narrative.

36 The applicant did submit these with most recent submission

37 As far as relocation from HAT to greatest practical extent: With the required setbacks and HAT there is
38 really nowhere on the lot to relocate the structure that wouldn't make it closer to the HAT or more
39 nonconforming than the existing, and the HAT structure setbacks on the plan show the new structure will
40 not be any closer to the HAT than existing. As far as proposal not increasing the nonconformity of the
41 structure; The non-shoreland R3 district setbacks have been added to the plan. Regarding 30% square
42 footage and volume expansion, the proposal is shown to be under the square footage maximum allowed and
43 is under the volume max allowed.

44 Those calculations were included in the submittal and are highlighted on page 23 of the memo.

45 There was a comment on the driveway where it appeared to be two 6' wide driveways. Updated plans show
46 area shown as 6' was area to be removed and is part of construction. Updated plans show 11-12' driveway
47 maintained on one side and 12-13' driveway on the other. They are matching existing grades.

48
49 Chair Walker the minimum size is 12' not 11'. Is it still in plans to hot top the front yard and right of way.

1 Associate planner Foster the plans are still the same as what was submitted. The only other comment was
2 securing a flood hazard development permit should be included as a condition of final approval. Responses
3 to the standards are in there. There is a recommended motion to approve. There was feedback at public
4 hearing and there is an alternative motion depending on the board's opinion of that.
5

6 Jason Haskell with DM Roma Consulting Engineers introduced himself. All along the plan was showing 6'
7 wide strip that needs to be reconstructed to be able to install the foundation. This was shown because this
8 was area to be ripped out and be re-hot topped. They are trying to maintain existing driveways that are there
9 now. Width was a range because it isn't a straight line from when it was paved originally. One of the
10 recommended conditions of approval was for us to work with staff and it could be narrowed up. Mr. Haskell
11 in codes recommended it be narrowed up. They have no issue with that change.
12

13 Ms. Dube the minimum is 12'.

14 Chair Walker is driveway material is porous or nonporous?

15 Jason Haskell nonporous.
16

17 Chair Walker back to the original problem that Mr. Anania brought up. He was surprised when he saw the
18 fire on Beylin Development for this property. This looked like portfolio for much larger development
19 corporation. If this was an application for residential occupation that is one thing, but if it is for a business
20 that is entirely different. He spoke with the bank to find out if it was a residential or business loan.

21 Jason Haskell was working with Peter. He understands he is a developer who works with a partner. They
22 like to sell their product. Because Mr. Anania is using Mr. Beylin for construction of the house it was added
23 to the website as a potential project.

24 Chair Walker asked if it is part of their portfolio?

25 Mr. Anania the deed is in his personal name. There is zero connection, zero equity from Beylin
26 Development. Zero connection other than he is a business partner on much larger projects. He is helping
27 with building.

28 This will be a second family home for his family. This is not a portfolio property of Beylin Development.
29 The board discussed the website posting to what Mr. Anania was proposing.
30

31 Mr. Anania yes that was a mistake. There is zero connection between Beylin Development and this property
32 besides Simon as a business partner friend is helping him build it. That was wrong and won't happen again
33 and he apologizes.
34

35 Mr. Winch would like to see letter from bank and plans updated for the driveway width.

36 Ms. Dube asked if they can ask for banking information.

37 Planner Hinderliter part of conditional use criteria number 12 shows they must have financial ability to
38 complete the project.

39 Chair Walker they do have a letter from the bank and it is a residential loan for a second home.

40 Mr. Anania coming back in December is a challenge. This property is a safety issue. The police were there
41 on Monday. People are trying to get into it. We can continue to work with the planning department. We
42 have people ready to go.
43

44 Planner Hinderliter they have a demolition permit issued and can move forward with that.

45 Associate planner Foster planning staff recommended they wait on demo until after the public hearing was
46 scheduled.
47

48 Mr. Kelley has no problem with this project he just wanted to know if it was a residence or a rental and
49 should be presented as such.
50

1 Associate planner Foster to speak briefly on the driveway. The condition was added because codes had the
2 plan and question about driveways came up. The question was about two existing driveways, are they
3 grandfathered, do they need to meet driveway standards of today? Condition included because it wasn't
4 resolved in conversation with codes.

5 Jason Haskell they will make it 12 feet.

6
7 Vice chair Hitchcock wants to see something in writing that it is to remain a personal asset and not subject
8 to bringing on investors at a later date.

9 The board discussed driveway condition language.

10
11 Chair Walker made a motion for conditional final approval of this Conditional Use application for tear
12 down, new construction, and 30% expansion of a nonconforming structure in the shoreland zone, located at
13 44 Colby Ave., MBL: 320-2-9, Zoning R3, Shoreland zoning HAT/RA; Applicant Peter Anania, Jr, with the
14 following conditions:

- 15 1. Approval is dependent upon and limited to the proposal and plans contained in the application and
16 the oral testimony tonight dated 9/14/2023 and 11/9/2023, and all supporting documents and oral
17 representations submitted and affirmed by the applicant and its agents, and conditions imposed by
18 the Planning Board; any variation from such proposals, plans, supporting documents and
19 representations are subject to review and approval by the Planning Board, provided that de minimis
20 variation is subject to review and approval by the Town Planner.
- 21 2. The applicant shall secure a flood hazard development permit approval before building permits are
22 approved.
- 23 3. Driveway reconfiguration shall be designed to the satisfaction of Town Staff and as testified tonight.
- 24 4. Letter to planning staff affirming personal use residence and not an investment property.

25
26 Second by Mr. Winch

27 Call for the vote:

28 Mr. Kelley – yes

29 Mr. Winch – yes

30 Ms. Dube – yes

31 Vice chair Hitchcock – yes

32 Chair Walker – yes

33 Motion carries 5-0

34
35 Other Business

36 Chair Walker did watch council's workshop on the 61-unit contract zone. They put together a good package.
37 7 units will be affordable. There was also talk of crosswalk lights at crosswalk leading into the development.

38 Not sure if town accepted 9 acres of wetlands.

39 Planner Hinderliter it is up for discussion with council.

40 The board discussed the use of wetlands to the town. Traffic was also discussed.

41
42 ADJOURNMENT 7:32 PM

43
44 I attest the above are minutes approved by the Planning Board on 11 April 2024

45
46
47 
Jeffrey Hinderliter, Town Planner