



Design Review Minutes

1
2 **Monday, December 4th, 2023 @ 6:00pm**
3 **Council Chambers - 1 Portland Avenue**

4 www.oobmaine.com/design-review-board
5
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8 Meeting opened at 6:00pm
9

10 **PLEDGE OF ALLEGIANCE**

11 Chair Don Comoletti opened with pledge
12

13 **ROLL CALL** (verbal roll call not taken; attendance noted)

14 Present: Absent:
15 Kim Schwickrath Richard Pelletier
16 Gary Luca
17 Frank Manduca
18 Chair Don Comoletti
19
20

21 **REGULAR BUSINESS**

22 Associate Planner Foster: Thank you for coming to this December 4th meeting.
23 No new applications on the agenda. Just to real quickly go over the agenda for
24 regular business, we have two previously approved applications. I tried to simplify
25 what was provided to us as far as the application by just giving the initial page
26 cover sheet from the application, the certificate approval, and then some before
27 and after photo and documentation for what was approved. And then continuation
28 of ordinance amendment discussion. And I didn't prepare the 5/1 or 11/6 meeting
29 minutes yet, so those will get moved to another meeting.
30

31 Kim Schwickrath: I'm sorry, about the 11/6 meeting. I zoned, I was on my way to
32 Florida. I wasn't going to leave the day earlier, but anyway, sorry.
33

34 Associate Planner Foster: Thank you we had enough for quorum.
35

36 **Item 1** – Review of Design Review approvals and construction 37

1 Associate Planner Foster: So, I thought, for multiple reasons, it would be good to
2 look at approvals and then how they've played out from what was presented to us,
3 what it previously looked like, to what they're at, or where they're at. I think with
4 both 71 West Grand and 93 West Grand. These have been under construction, and
5 are still under construction, so they're not completed to my knowledge. So there
6 may be some things that are incomplete, but just looking at them and kind of
7 thinking of what was approved and how we've been reviewing things, some things
8 stood out to me and I thought this would be good, especially with the ordinance
9 discussion, and considering how the ordinance translates to real life and kind of the
10 discussion we're just having at the beginning of a meeting about what happens
11 when it doesn't get built as approved; who's following up and reviewing it; what's
12 codes reviewing for building permits and how it all comes together?
13

14 Frank Manduca: There is no enforcement, right?
15

16 Associate Planner Foster: There is enforcement, but I think it needs to be, in looking
17 at this; for example, it would probably have to come from this committee as far as
18 something not matching. And then where we've never been through the full
19 process, I'd have to look at what the ordinance says.
20

21 Frank Manduca: Is it the building inspector that does the enforcement?
22

23 Associate Planner Foster: It would be the code enforcement officer.
24

25 Kim Schwickrath: At the C of O, right?
26

27 Associate Planner Foster: It depends, so usually there's a CO associated with it,
28 especially with some certain level of improvement with a commercial building.
29

30 Kim Schwickrath: So, is he looking at what we're looking at? I mean, does he take
31 what was approved and go on site?
32

33 Associate Planner Foster: Yeah, so usually there's nothing like that. They're more
34 inspecting the life safety and making sure it meets the codes requirements. I know,
35 this is usually like when there's a building permit associated with it, I'm aware of it.
36 I usually attach the design revenue certificate itself with the information for what
37 was approved, and then the whole packet's either saved electronically or in the
38 hard copy folder so that information is there. But there is no like, I don't believe
39 they're comparing this with the building permit. And there's definitely no after
40 construction review. So that's one reason why we're looking at them now, as far as
41 seeing where these two applications are at and then potential ordinance
42 amendments moving forward to try to address these issues.
43

44 Kim Schwickrath: All right, so what did, it looks like, it looks like they didn't do
45 anything here, am I missing something?
46

47 Associate Planner Foster: Yeah, so this first packet is the Ocean House, like I said,
48 just the two pages because that's their description of what they're doing for work.
49 And then I usually take the language right out of their responses to the design
50 criteria and that's what's in the certificate unless we change something.

1 And then these photos on these packets are before and after. I will say the second
2 sheet, I somehow swapped this.
3
4 Kim Schwickrath: This? What am I missing?
5
6 Associate Planner Foster: Yeah, so that first page, the left side is the before, that
7 whole building with the porch has been demoed and removed.
8 Kim Schwickrath: This is all gone?
9 Associate Planner Foster: Yeah.
10 Kim Schwickrath: Got it, got it.
11 Frank Manduca: The building is gone. That was the whole building there.
12 Associate Planner Foster: Yes.
13 Kim Schwickrath: And that was part of the ocean house?
14 Chair Comoletti: Yes.
15 Kim Schwickrath: So, it was rooms and stuff like that?
16 Associate Planner Foster: I think it was.
17 Chair Comoletti: It was a big old white building.
18 Associate Planner Foster: It was two or three units in it. It was an older building that
19 had been built around and added to.
20 Frank Manduca: Yeah.
21 Kim Schwickrath: It said four rooms.
22 Frank Manduca: It was a smaller house originally. They kept adding to the back of it.
23 Associate Planner Foster: Yes.
24 Frank Manduca: That is their original, all of it was in the front.
25
26 Associate Planner Foster: And this is kind of, this is actually a good example, 'cause
27 this one was a little unique and kind of shows some of the things we deal with.
28 Where originally, they came in for administrative for just the porch filling in there.
29 So, it was, it qualified for both site plan and admin, admin DRC and then they made
30 it a grander project. So that's when we actually brought it in to review it for the,
31 mostly the building demo, but there's also an accessible ramp that hasn't been
32 constructed yet that was approved.
33 And I know during construction, I believe at one of our meetings, Don had asked a
34 question about windows. So, I kind of tried to take a look at that and I guess I can
35 point it out just because it jumped out to me right off is, and looking at the two first
36 photos is that first they, they did change the windows on that upper left building
37 and actually added one.
38
39 Chair Comoletti: Yes, they did in a different style.
40 Associate Planner Foster: And a different style.
41 Frank Manduca: They filled in quite a bit.
42 Chair Comoletti: And they showed it with shutters, it doesn't have shutters, and I
43 suppose they could tell us what we just haven't done it yet.
44 Associate Planner Foster: Right, well that's why I did add in that they're not done
45 yet, so I don't know where it's at as far as that goes, or if the shutters were just... a
46 drawn-on design piece.
47 Chair Comoletti: On the right-hand way there should be a third window on the first
48 floor under the two walls. I can't be sure but I think if you look at this picture it
49 shows an entryway with the door I think the way the result is without the entryway.
50

1 Kim Schwickrath: So, we approved this?
2
3 Frank Manduca: Well I used to play between the buildings there, it was just a little
4 narrow area. I forget now, there was latticework at the back.
5
6 Associate Planner Foster: the first drawing with the porch I approved and was
7 included in the second application. And I think I guess the main thing to highlight is
8 I think they were saying they weren't changing any windows besides the ones with
9 the porch.
10
11 Kim Schwickrath: Right, so they lied. I mean, I just, how else are you going to put it?
12 Whatever they want to do.
13
14 Associate Planner Foster: I think there's a lot of factors involved and that's why I
15 wanted to meet with this committee first before asking codes questions is, with all
16 projects, things tend to change from the approval till the design or from design
17 approval and then construction for whatever reason obviously it's a little different.
18 With this committee where we're really looking at the design and you know it needs
19 to match that.
20 Chair Comoletti: They could get into a wall and discover they got a smoke stack
21 going up, they want to put a window, so they say well I can move the window over
22 four feet.
23
24 Kim Schwickrath: Right but so what's the levels where they have to come back to
25 us or even just to go back I mean what's is it one change or do you know what I
26 mean to your point you open up a wall you know you find stuff, but if you're
27 opening up a wall and just going to put a wall back or something that's fine. But
28 now you put in a window or door now you're changing things.
29
30 Chair Comoletti: I think as a committee we've done a lot better in recent years
31 because we started telling people go find an architect and back to us will have
32 them do the work for you. Don't put on the back of a napkin and bring into this
33 meeting. And I think that's helped us a lot over the last few years.
34
35 Kim Schwickrath: Because remember they would have to come back and forth and
36 back and forth, you had to bring this, don't forget that. That was like in the old
37 days. That was terrible.
38
39 Associate Planner Foster: So yeah, the biggest thing that stood out really with this
40 to me was the change in the window on that top left and there wasn't even a
41 window before that they added.
42 Chair Comoletti: What about the entryway like that at that entryway I don't think it
43 was there.
44
45 Frank Manduca: No that was never there. that's been added.
46 Associate Planner Foster: Yeah, so I think the last picture, the last large picture
47 shows that area.
48 Frank Manduca: In the back, in the back of it.
49

1 Associate Planner Foster: I think it went on the other side. I forgot to include that
2 sketch in my packet.
3 Frank Manduca: They had to go in the front or way in the back of the building.
4
5 Kim Schwickrath: It shows the door and the step.
6 Chair Comoletti: Yeah, but look at this this is the whole entryway over here.
7 Frank Manduca: No, it never exists.
8 Yeah, that's the area.
9 Frank Manduca: There was never any porch there, just windows. -
10 Chair Comoletti: They didn't build a little foyer for it, they just have a little window.
11 Kim Schwickrath: Right, right.
12 Frank Manduca: There were just windows there, 'cause I broke one of them years
13 ago when I was playing there with the people that lived in the front building that's
14 gone.
15
16 Chair Comoletti: Some of these things I'm sure that either an administrator review
17 would approve them or even if they came back to this committee, we would
18 probably approve them without much conversation actually. But I think we need to
19 set the precedent that we've got to force them to come back. Because some things
20 aren't that simple.
21
22 Kim Schwickrath: So, we're not going to give you your permit, we're not going to
23 give you CO.
24
25 Chair Comoletti: I'm assuming they got a CO, this was in operation this summer
26 wasn't it?
27 Frank Manduca: They were in operation.
28 Associate Planner Foster: Yeah and there was some different stuff with this one so I
29 know they started to work and some was ongoing through summer but yeah, I
30 know they were open this summer.
31
32 Frank Manduca: They were open at night, they were working late at night.
33
34 Chair Comoletti: We've always thought that we have the capability of passing the
35 word to our building inspector. Do not give the CO for this particular job, you know,
36 don't allow them to open. You know, we would have the authority to be able to do
37 that, but nothing's ever happened. That never became a reality.
38
39 Kim Schwickrath: Or don't give them their business license.
40
41 Chair Comoletti: That's the other way.
42
43 Kim Schwickrath: But we've heard over the years, well, we don't want to discourage
44 business in the town. That's a BS answer. That's just passive -aggressive and not
45 dealing with something, you know. You have to deal with it because otherwise then
46 this town starts to look like..
47
48 Associate Planner Foster: I haven't actually, besides really looking at these, I haven't
49 gone, I haven't picked apart the application and compared it to what was built.
50

1 Chair Comoletti: Mike, I don't think we're saying that you've not got it done. I don't
2 think anybody is saying that you're the one that needs to do that. And I don't know
3 where the manpower is going to come to do it big picture. If you start laying stuff
4 on the building inspector, you're going to run into the same problem you always
5 have. That's he's too busy to do the jobs he's got.

6
7 Associate Planner Foster: So, I think one thing, and this might apply more to
8 administrative or both I guess, is making sure that we have all the details in the
9 beginning, which I know I've personally been a little more lax on that at times than I
10 probably should be. So, I'll take some responsibility for that but in general.

11
12 Frank Manduca: They may not tell you just the same until they get around
13 constructing. That whole back was all just windows there; there was never any
14 porch or entranceway. I don't think this one was there either. I think it was back
15 here somewhere. There was a trellis and you had to go through the trellis to get it
16 through the back. This is all new that was never on that building even a couple
17 years ago this whole business that never existed.

18
19 Associate Planner Foster: Oh, yeah, yeah, that was new.

20
21 Chair Comoletti: Were they hoping to do this as an administrative initially is that
22 what you so

23
24 Associate Planner Foster: It originally came with just this porch They wanted to add
25 this entrance to this side where the main building was and add that porch so it had
26 been. Actually, I believe it was reviewed and approved that way and then they
27 submitted an application for this other building to tear it down. And so, then that's
28 when we said, well, this is getting beyond what administrative is. So, brought it to
29 the committee.

30
31 Frank Manduca: That was a big change.

32
33 Associate Planner Foster: But so one thing that stood out to me in just looking at
34 the photographs is in this example, their application did have quite a lot of few
35 photographs of the building but it made me want to go back and check the
36 ordinance because I realized I only had photos of the side they were working on but
37 it seems like they were working on the whole building, so I don't know if there are
38 changes on the other side that we didn't have any applications for.

39
40 Frank Manduca: I'll have to go look at the front when the swimming pool there was
41 never a swimming pool years ago, but the front of the building I don't know if
42 they've changed anything in the front because I have the pictures of it going back
43 to 1925.

44
45 Chair Comoletti: When you say front you mean the one on the roadway; you refer
46 to that as the front or beachside?

47
48 Frank Manduca: A lot of work, I see the lights on at night though. So maybe they
49 changed the front.

50

1 Associate Planner Foster: Yeah, I'm not like I said, so that's what that's one thing. I
2 realized looking at this I want to go back and look at exactly what the application
3 currently requires and if it. You know, I think the whole, it would be makes sense to
4 have the whole building documented as far as in an application packet even if
5 there's a side they're saying they're not doing work on so we have it in our file.
6 Because just with me trying to go take photos I realized I was comparing some
7 photos I took previously to make sure I had pictures documented. And then I went
8 and took the pictures of the construction done. And trying to line up photos and
9 match stuff up was a little difficult.

10 So, I think it's important to make sure that the applicants providing those initial
11 photos and as complete as possible. So, we have that piece of the documentation.
12 And then making sure that and I think if we really push what's existing in the
13 ordinance now or considering this moving forward with amendments is that we'll
14 want everything to be as detailed as possible and I say that because I think that
15 original drawing I had kind of shows these smaller crosshatch type windows and it
16 was nothing that ever really got looked at because it was never proposed as a
17 change as far as I know, going through the packet. So that's where I think the levels
18 of detail, I mean, that's also an issue where I know it was the designer who I believe
19 presented this to us and got it approved versus the owners and the people who are
20 actually doing the construction.

21
22 That shouldn't be the case and it should translate across the board and all, all a line,
23 but obviously it doesn't always. And I think sometimes people who do the design
24 piece don't always consider all the actual architectural, like structural things that
25 might come up that might change something.

26
27 Frank Manduca: Yeah, that's true. They're probably just artists.

28
29 Associate Planner Foster: And then maybe it's just making sure that the approval
30 spells out that you know any changes whatsoever need to come back to it the
31 committee or at least to staff for some sort of approval.

32
33 Frank Manduca: That was all done by hand that doesn't look like a draftsman's work
34 either the picture but if it was a draftsman he might have all the specs in there.

35
36 Associate Planner Foster: Yeah it was Katy Janelle I believe did the designs or some
37 of the designs for them.

38
39 Frank Manduca: Well, there are the Janelle's owned the Edgewater. I wonder what
40 the relationship there is now.

41
42 Associate Planner Foster: Yeah, I know they were doing some work for Ocean
43 House. And then the only other thing that stood out to me, I can't even tell you
44 what it is, but it's a question I had is, I don't know what these air duct holes or
45 whatever they are that were added on. They weren't, it seemed like they weren't
46 there before and I don't know if it was clear.

47
48 Frank Manduca: It was all just shingles, I mean clapboards. I see the little black holes
49 there at the two stories, they were never there.

50

1 Associate Planner Foster: I'll admit, so and I guess this is a good time to bring it up,
2 is the two lion statues that are in the front of the building that those were brought
3 up to me and I don't see where it is mentioned or discussed in our ordinance.
4

5 Chair Comoletti: Statuary.
6

7 Associate Planner Foster: They had those on part of their application and I told
8 them to remove them 'cause I didn't want them to get caught up in the committee
9 review. But of course, in doing that, they were kind of automatically permitted. So
10 as far as thinking forward, I know we've talked about this with statues and other
11 type of stuff.
12

13 Frank Manduca: Well, they had a great big storm fireplace in the front just before
14 you go to the beach, but part of that's gone. They used to have cookouts and stuff
15 there for the guests. It was big; it was over 10 feet tall. But it was all made of stone
16 in the front yard.
17

18 Associate Planner Foster: And this is another example of, so I was told about them.
19 I had an image in my mind. I'll tell you, when I saw them, they're a lot bigger than
20 what I expected. And I said, maybe those would be a design review thing. But our
21 current ordinance doesn't address it. And I think we've briefly brought it up in some
22 of our amendment discussions.
23

24 Chair Comoletti: The Waves that have that great big statue.

25 Associate Planner Foster: Yeah, the mermaid or something.

26 Chair Comoletti: And we looked at it, talked about it, realized we had nothing we
27 could say about it.

28 Associate Planner Foster: You know, there's kind of a, art to sign kind of mix but
29 then I guess you know these are big not everyone might like them I don't think they
30 look bad they're not super visible from the road but not appropriate for that
31 location here.

32 Kim Schwickrath: Like I could see like a seahorse or something but you know.
33

34 Frank Manduca: Where did they come from they were never there? They had those
35 special made, did they? What are those made of cement?
36

37 Associate Planner Foster: I'm not a hundred percent sure actually.

38 Frank Manduca: They look like they covered over.

39 Associate Planner Foster: No, that's I want to say they're like bronze or something,
40 but they, they have that appearance if they're not. I mean overall this is an
41 interesting one 'cause it's mixed. There are things that seem to match very well,
42 other things that kind of go off.
43

44 Frank Manduca: Well, see, the inside room is supposed to be historic. They bought a
45 lot of historic pictures from me because inside they are going to supposedly make
46 a historic room, one of the main downstairs rooms. Well, where did these lions
47 come from? No, I don't know, I never, they never mentioned anything to me about
48 it anyway.
49

1 Associate Planner Foster: And yeah, like for example, the, I guess, air holes as I'll call
2 them, I don't know what else you'd call it, but you know, having a couple there, I
3 mean, it does impact the look of the building. I guess, what do you do when there's
4 a couple like this verse, what if there was like eight more of them there and it would
5 really change the look? So that's the question I have that I'm going to ask Codes. I
6 would also think there's a way to make those holes a little less visible, but maybe
7 I'm wrong. I don't know. Like I said, we need to know what it is.

8
9 Kim Schwickrath: They might need to be certain size.

10
11 Frank Manduca: Well they got to be screened so birds and squirrels and bats don't
12 go up there, there's got to be something blocking them, and it should be white
13 instead of black.

14
15 Associate Planner Foster: So, there were some additional details I don't have in here
16 that I'll look at for this ramp on the side and I'll see where it shows the door. Yeah, it
17 was one of the things we approved for an accessibility thing is they wanted to add
18 a ramp. It's, it would be here to this door. Yeah, and the design stuff was included
19 with the approval. I just didn't print it off when I was going through here. I'm just
20 wondering if the, that plan that was included shows the door there or more like that
21 drawing sketch.

22
23 Frank Manduca: What are those holes though, they air or are they plumbing?

24
25 Associate Planner Foster: Yeah, I don't know that's what I'm going to ask. There
26 eyes.

27
28 Frank Manduca: Ventilation? Where are the vents that go up through the roof for
29 the plumbing?

30
31 Associate Planner Foster: There's one up on the top right but that's all I can see in
32 these pictures.

33
34 Frank Manduca: Well it depends how many toilet facilities they have I suppose or
35 lavatories. I haven't been in the building since the Abbots owned it. First the
36 Abbots, then the Sylvester's, I was in the building then. And then the Paul's. I know
37 all the owners that bought that.

38
39 Kim Schwickrath: Probably not. But the building department doesn't have that?

40
41 Frank Manduca: They bought it from the Paul's, I don't know. I believe, the Paul
42 estate when the woman died. Mrs. Paul, the husband died. He owns across the
43 street.

44
45 Chair Comoletti: There's inspection for plumbing, for wiring, and whatever.

46
47 Kim Schwickrath: But there the building Inspector.

48
49 Chair Comoletti: I know, but I think you tend to focus on what it is you came to do.
50 You might walk right by that and never even see it.

1
2 Kim Schwickrath: But somebody's got to be checking all these things. It's all it's up
3 to you know...

4
5 Chair Comoletti: Yeah, we've been talking about that for years, but...

6
7 Associate Planner Foster: Well, yeah, and I know there are, like, currently the
8 building permits do have spots, like when it's a DRC or, you know, DEP. So, there's
9 certain things that need to be checked and are marked, and it might just be a
10 matter of making sure those are more highlighted. So, when codes does review
11 them or goes for follow -up inspection. So that'll be a part as I discuss these with
12 codes and going through our ordinance amendments is how does this really work
13 when we get to this point, because if there's no follow up why are we going
14 through all this work to review and then have ordinances?

15
16 Chair Comoletti: you almost lost this committee a few years ago because that
17 happened so many times that several members of the committee were worried to
18 quit just because what we were doing wasn't about anything.

19
20 Associate Planner Foster: Well yeah and I've heard the other side of it where you
21 know and some of it's just like codes doesn't enforce covenants or like HOA
22 restrictions, so someone could come in and apply for an accessory dwelling unit
23 and if a HOA doesn't allow it but it's allowed in the district, codes could in theory
24 approve that building permit, and then it's really a private agreement issue. Of
25 course, these are a little different where the committee reviews it, but those are the
26 types of things, in that case, codes doesn't have to look at it, and they're not really
27 supposed to. Maybe that was a bad example, but just the types of things that
28 they're dealing with where sometimes you are double checking everything other
29 times you don't consider these things and making sure they're highlighted on
30 whatever they're using to do their review.

31
32 Chair Comoletti: Does our building inspector do plumbing inspections. How many
33 inspectors do we have?

34
35 Associate Planner Foster: Right now, we have three inspectors and a part -time
36 reviewer, or a combination of. I'd have to check what they all are because a couple
37 of them are newer to the office but I believe they're all certified across. But
38 plumbing, building, and electrical. Usually what happens is you end up with
39 someone with a specialty, so I think the code enforcement officer I think his
40 background is in electrical, so he's more in tune with electrical, but he does all the
41 inspections And I believe the two newer code officers that we have are certified
42 across too because you usually have to get all your certifications on either six
43 months or a year of employment for codes to be able to do that.
44 And then the one other picture I want to highlight is the, I think it's the one before
45 that last one in this packet. It's actually the building that was across the street, but
46 they were looking to eliminate their sign. It shows the big sign. They did take that
47 sign down as you can see in the picture and then they did make some minor I guess
48 changes.
49 I did notice on this that they had changed the light fixtures it's not super obvious. I
50 think they actually went with something more as far as what this committee's been

1 looking at and approving. It's hard to tell but the picture on the left looks like it's
2 like the enclosed like yellow plastic type of enclosure and these newer ones on the
3 right look like a more traditional sconce style light, and they did add a little sign on
4 there that I don't believe wasn't on there before just to mark the building in the
5 lower left. And then the landscaping, which was the other big piece, where they
6 actually eliminated a couple parking spots. Those are the same picture, just the
7 before and after.

8
9 Frank Manduca: Yeah, that's going beyond what we were looking at.

10
11 Associate Planner Foster: But this was included in that approval, so. And I'll tell you,
12 well this is on one of my walks I go on, so I've watched it progress and then when I
13 actually saw these shrubs I said oh those look new. I said I don't remember those
14 but I do remember parts of that building and then of course that was on the site
15 plan. I think overall this is a good example of where they cleaned it up. You know
16 I'm sure we could disagree with some of their choices, but overall I think it was an
17 improvement and is a good example for showing potential holes or areas to
18 strengthen up our existing ordinance

19
20 Frank Manduca: This is for sale now.

21
22 Associate Planner Foster: Yeah, and that's another weird one that I haven't figured
23 out, but it sounds like...

24
25 Kim Schwickrath: How much?

26
27 Associate Planner Foster: It looks like they've condo-ized it, and only the restaurant
28 parts for sale as of right now. I believe it is the person that owns this that has been
29 buying up, they bought a hotel and had converted it into condos, had done another
30 building split and then yeah somehow split this into a condo because of course
31 people can maximize what they can get for money if they can sell a portion of a
32 building, or two parts of a building, or keep one for themselves, and sell the other
33 part off.

34
35 Frank Manduca: What do they do when the roof needs repair?

36
37 Associate Planner Foster: Well, I would guess that's all spelled out in their condo
38 docs, but unfortunately, and I don't know how it works, I know assessing gets
39 involved, 'cause some of the assessing stuff, but I don't know what planning does
40 with that.

41
42 Frank Manduca: How does a condo association work when the restaurant doesn't
43 belong to the rest of the building?

44
45 Associate Planner Foster: Yeah, I don't know how they figure that out, but it is a
46 good question. I haven't gone through this whole application and looked at it piece
47 by piece, but a couple of things did initially stick out to me. I will say one thing with
48 this was the takeout window that they originally wanted to put in was basically
49 going to make the difference between them requiring planning board review or not,

1 so they opted to eliminate the takeout window all together for now and then go to
2 the planning board in the future if they're looking to add it on.
3
4 Frank Manduca: I know they asked for it when they came here because they were
5 going to use the part of the sidewalk for their customers.
6
7 Associate Planner Foster: I think it should be the last pages. In general, I mean, I
8 think it looks like it's still under construction. I think they mostly stuck to the plan
9 here. You know, there are some differences.
10
11 Frank Manduca: Yeah, the left -hand door was going to be a takeout window.
12 Associate Planner Foster: Right, and I thought that window was still going in to look
13 the same, so I guess, you know, and it just wasn't going to be a takeout window,
14 but it looks like they eliminated that window altogether.
15 Frank Manduca: There was no door going there, only on the right.
16 Associate Planner Foster: Right.
17 Chair Comoletti: No, it was a door.
18 Associate Planner Foster: But we had approved it with a door.
19 Chair Comoletti: Yeah, it's in their plan.
20
21 Associate Planner Foster: Then the only thing that I guess I would say sticks out to
22 me is when they eliminated that window they had like even window spacing on the
23 front and now it's kind of it's yeah, and I something like that is where I more think
24 you know well that's a good example of why we probably have window openings
25 and fenestration and why we review it. And it's not a huge change, but they
26 definitely change that piece and I think looking at it that was one of the bigger ones
27 but I don't believe that was it. But it just shows, I guess, how things change. And I
28 think what would be important and where it would be important to have codes in,
29 is I think this committee would probably agree that if it's something that's forced
30 because of building design or something, it's a little different than someone just
31 saying, "Hey, let's not put in that window" or "let's move this over here".
32
33 Chair Comoletti: I would bet in this case, they already had ordered the two regular
34 windows. They probably had ordered the takeout window. Then they found out
35 they couldn't put it in. So now what do they do? If they put the two existing
36 windows in where they were shown, it would have been even worse. They had a
37 whole wall with no light. So, somebody said, "Well, let's just spread them out a little
38 bit." They did. "Until we have."
39
40 Frank Manduca: That's the way it looks is what they did.
41
42 Chair Comoletti: Which I would have done as well.
43
44 Frank Manduca: Well, they've got to have some leeway, I suppose.
45
46 Chair Comoletti: So... There's another one that is the same, too.
47
48 Frank Manduca: There's a lot of change after they've come to this building. They
49 just change their mind on things.
50

1 Associate Planner Foster: So yeah on the side they did bigger windows I think and
2 didn't split that, I don't know what yeah, I don't I'm sorry. I don't know, I should
3 probably be better with my terms about I don't know what you call it when it's a
4 one big window versus two windows.
5

6 Frank Manduca: That's the way we, when I used to have breakfast, they have. The
7 people that built Venetia's were still owned it then.
8

9 Associate Planner Foster: And yeah, I mean, so I, this, I believe they did provide like
10 a booklet with spec sheets. So that's one thing we can confirm when we're looking
11 at these.
12

13 Kim Schwickrath: That staircase is supposed to come off there to go up.
14

15 Associate Planner Foster: I mean, the staircase is still there, but I don't know why
16 that door is not there.
17

18 Kim Schwickrath: And then these windows, these two little windows that are made,
19 whatever those things are.
20

21 Frank Manduca: I don't know, I don't know how the inside of the building looks like.
22 I've never been inside other than the restaurant.
23

24 Chair Comoletti: Check the other one over there. If you go back to the proposed
25 right here, if you look up on the second-floor right hand end it shows the balusters
26 on that deck they put in. However, if you look on the next page on the back of the
27 sheet. You should still be able to see those balusters. But when you look at the as
28 built you notice you can't see them because ran the roofline all the way out there.
29 You have to look at the other views. You can see the balusters.
30

31 Associate Planner Foster: And I think what it is they actually, the roof was there and
32 they cut into it to put in that deck, but they obviously, for whatever reason, didn't
33 do it as the plan show.
34

35 Kim Schwickrath: They made it bigger?
36

37 Chair Comoletti: See the end of the building, the gable, the left-hand end? That
38 right there doesn't show up on the plan. I'm sure they were saving bucks wherever
39 they could.
40

41 Associate Planner Foster: Yeah, and this is another one that I identified, wanted to
42 take a look at, especially, and I guess this is maybe a bigger question is, this seems
43 to be more, well, I guess a lot of times people fix up a structure before they try to
44 sell it, but this is a little bit different where, and I think we're seeing more of this,
45 where people are doing things that try to move structures. But if the person who's
46 approved builds it and moves on then who's actually responsible for meeting that
47 approval, the new owner who is not even a part of it so? And I don't know how that
48 aligns with Codes and the current requirements of times too.
49

50 Gary Luca: There's got to be some kind of chain there.

1
2 Frank Manduca: It's a mess isn't it?
3
4 Associate Planner Foster: Yeah usually approval goes with the land um but yeah,
5 it's a little different if it's different owners. And how it goes...
6
7 Frank Manduca: I don't know. One of my properties they said whoever owns it has
8 to build a certain thing regardless of it changes hands was right in the building
9 inspector's...
10
11 Chair Comoletti: If we get to inspect these things and see that it's not built per the
12 description we have, then we would not give them a license or a certificate and that
13 would still hold true no matter who buys them so they think they're going to just
14 buy it and move in, you know it wasn't built they're just original requirements we
15 can't issue that.
16
17 Associate Planner Foster: I wonder if it would almost make sense to have someone
18 come back for like a final, like there's a design, like a construction design review
19 certificate and then a completion, which I feel like we shouldn't need to, but.
20
21 Chair Comoletti: But what, so the guy comes back, it's going to force us to go out
22 and look at the property, or get good pictures of it. It's going to take us on the
23 committee to go out in the field, or you to spend more field time, or the building
24 inspector to spend more field time.
25
26 Kim Schwickrath: We don't have that many. I could do it, you know what I mean?
27
28 Chair Comoletti: What about Florida?
29
30 Kim Schwickrath: I know. I don't want to go, trust me. I hate that place.
31
32 Associate Planner Foster: Yes, I think my question that I'll look at the ordinance and
33 try to figure out, is like I mentioned with the site plan for a commercial building or
34 subdivision, is we use Wright Pierce as the town's third-party engineer, but we do a
35 substantial completion and then a final completion walk through. And really the
36 only reason, it's hard enough to get people to do those, and it's their project that
37 they want final sign off on is because we're usually holding money back. And I keep
38 coming back to that because I'm pretty sure our current ordinance for DRC does
39 have stuff about performance guarantees and I think since I've been here, unless it
40 had site plan or other approvals associated with it we've never required that. It
41 makes it pretty easy to do if it's in the ordinance already and I guess the biggest
42 thing that we rely.
43
44 Currently when someone does it, it's for site plan related infrastructure stuff, so
45 Wright Pierce reviews it. They know the general numbers of what that stuff cost
46 and then they come back with this is a good cost estimate or they need to make
47 adjustments. I wouldn't even know what I'd be looking at. So, it would really be just
48 for someone to say what they're doing for work and what they'd be putting up for
49 money and going by that. But I think anytime we hold anything, it's easier to hold

1 people to what they're getting approved and especially if we're talking about
2 getting them in here for any changes.
3 And yeah, in general, you know what the biggest thing that hung this up, which I'll
4 mention it because I think it's interesting is this overhang is, in looking at the site
5 plan and all that, it looked like the overhang hung into the right of way a little bit.
6 And there's some rules on that. Their argument was their fixing what's there
7 existing, not really replacing it. I think Codes was saying they were really fully
8 replacing it so they needed to be outside of the right of way. I don't know what
9 consensus they came to on this, but they put it on and it looks like it's in the same
10 spot. So, I think they were allowed to build what was existing. And the only thing
11 that really stood out with that is it looks like it has more support rods than what
12 was on the drawings. I don't know how much something like that matters. You
13 know, the bigger it is, it adds more. It does look different, but maybe it's a
14 requirement to support that. So, I don't know how much of that.

15
16 Frank Manduca: How did they support it before? Two by fours stuck out from the
17 whole inside the building.

18
19 Associate Planner Foster: Well, it's more traditional roof, yeah. I don't know how
20 the...

21
22 Frank Manduca: What do they do with those supports? Cut them off?

23
24 Associate Planner Foster: Yeah, it was in rough shape, yeah.

25
26 Chair Comoletti: I think aesthetically, we look at what they actually install and say,
27 aesthetically, it looks okay.

28
29 Kim Schwickrath: That looks nicer than this.

30
31 Chair Comoletti: It's not, but it's not what you said you were going to build.

32
33 Frank Manduca: Well, it doesn't shed, it's a flat roof. It's going to collect a lot of
34 snow and ice. That's a roof that doesn't shed, for heaven's sakes, the new one.

35
36 Chair Comoletti: True.

37
38 Frank Manduca: That's not very good.

39
40 Chair Comoletti: Probably why it has more supports.

41
42 Associate Planner Foster: Yeah, I'd be surprised if it's completely flat because of
43 that reason, but it does look pretty flat.

44
45 Frank Manduca: Well, it won't shed, not in this weather. That's what collapsed in the
46 Saint Lukes, for heaven's sakes. The architect did it, but the contractor got blamed.

47
48 Associate Planner Foster: And then outside of this committee, I do know that there
49 were a lot of things on the interior to this that they needed to do to really
50 restructure it and rebuild it to make it so they could even do this. Not that that

1 matters so much to this committee, but, and I think originally, they wanted to dig
2 more up in the front and they were told they couldn't do that to try to get some
3 machinery in there. So, they had to do things a little different.

4
5 Frank Manduca: They had the floor all ripped out right down to beach sand.

6
7 Associate Planner Foster: Yeah. But yeah, overall, I mean it mostly matches the
8 plan. The windows, I don't know why they would have opted to go for those larger
9 as opposed to the split or double windowing us versus single wide. And then the,
10 porch thing I guess that's the biggest thing and it looks like it's not done based on
11 the finish work up there but they're obviously not going to cut off the roof and
12 extend the porch so I'm kind of curious as to why it was designed that way or
13 changed from this. I'm also curious you know sometimes things change and codes
14 doesn't even know so I'm curious if the building plans that were approved show
15 that deck the way it looks on the plans we have or if it's different.

16
17 **Item 2** – Discussion on Design Review ordinance amendments Sec. 78-
18 426 through 429, and Performance Standards Sec. 78-686.

19
20 Associate Planner Foster: Yeah, and then as far as the ordinance amendment and
21 stuff I haven't, I mean one reason we haven't had meetings is just because I've been
22 busy and I feel bad because it's not this committee's fault I think we should still
23 meet regularly. That's why when I had the choice I wanted to still have this meeting
24 tonight even though we weren't reviewing any applications because I knew we
25 wanted to take a look at these and I think this is important for me to understand
26 thinking about our ordinance amendments. I will continue on ordinance
27 amendments. There's actually one in here with this which is specific to an
28 expiration. I will say this doesn't match what we've discussed, so I'll say that right
29 out front because I do hear what we talk about and I'm not trying to go against
30 what we talked about but originally when I drafted this, realizing there's some
31 connections to the planning board and how they approve it, and there could be
32 overlap with the site plan review, is I basically took exactly what that timeline says
33 and plugged it in here.

34
35 And I guess one thing I'm trying to figure out is, does that mean that the way this is
36 written, does that mean there could be three years from the original approval to an
37 extension to it being completed because that it seems like a long time. I'm sure
38 you'll probably agree when we've talked about this um, and some of it might be
39 tied to like the legalities of planning board site plan approval and there also might
40 be ways where this is separate with this committee to separate it out. I just wanted
41 to start by getting the language down because I tried to do this before and it didn't
42 seem to come out and then kind of go through it. But really what this does is you
43 know, there's one year to start the construction or the approval expires. And then if
44 it's not substantially complete within two years it expires and you can do a one -
45 year extension on administrative approvals.

46
47 Frank Manduca: How long can you do a one year?
48

1 Associate Planner Foster: You mean how many times? I usually, it's one, or it goes
2 back to the committee.
3
4 Frank Manduca: That keeps track of things anyway.
5
6 Associate Planner Foster: But so my plan is to look at this and see if you, so my
7 research of the ordinance stuff I've gone way back to before I started because
8 those some of it overlaps with the overlay stuff as far as what we wanted to look at.
9 And I wanted to make sure that I understood it all and had it all documented so
10 some of it goes way back to like 2017 which isn't as much as you think it is because
11 this committee doesn't meet every month but there's a lot there over the last few
12 years, and one of the things came up about if this committee could issue their own
13 certificates and that was a question I had. I think it was in one of the minutes I
14 found it said something about because this is a committee and not a board that it
15 can't issue its own certificates or something
16
17 Kim Schwickrath: Didn't we try to get changed to a board
18
19 Associate Planner Foster: Probably based on charter and then it's, I'm sure it's tied
20 into something else.
21
22 Chair Comoletti: And I guess we all felt like a slap in the face when that happened,
23 but when the planning board started realizing what it was laying on them, it was
24 kind of, "Oh, no, no, no, you can keep it."
25
26 Frank Manduca: It used to be the council that would do everything. Years ago, the
27 selectman and the council did all of this stuff, and now we've got a local
28 bureaucracy.
29
30 Kim Schwickrath: But do you want more people involved in touching these things?
31 Because you have the same five people doing the same thing. Their personal
32 interests become you know.
33
34 Frank Manduca: This is hard on the regular population when you have so much
35 bureaucracy. This is one of the problems. We've got too many unelected officials
36 that have too much to say about the lives of other people. This is not good. And
37 then the elected officials say "we didn't know that such a thing a thing could
38 happen". Well, they're the ones that instituted it. They did it on purpose. It's really
39 getting ridiculous, especially on a federal level. Now we're seeing it on a municipal
40 level. We're not even 10,000 people yet, and we still have quite a big bureaucracy
41 compared to 10 years ago. Granted, it's volunteered a lot of it, which is nice. That's a
42 nice aspect but it still makes it very difficult for a person to come before all these
43 committees trying to get something done.
44
45 Kim Schwickrath: Well that's because you want to control what's going on you
46 don't want this town to look the way it has, it's come a long way in the 20 years
47 since I have come here.
48
49 Frank Manduca: I know but everything should be as simplified as possible.
50

1 Kim Schwickrath: Yeah, I think we're pretty simple come prepared and it will help
2 you.

3
4 Associate Planner Foster: I will say I've seen the different from someone who comes
5 with like a complete Packet with drawings and all the information verse someone
6 coming in with more an idea and not being that developed yet and having that level
7 of detail and it does really make a difference.

8
9 I think the Last the 17 Imperial one we did was a good example really there, their
10 proposal was pretty big if they were coming to the planning board they'd probably
11 need to come the next level up with some of the site plan and stuff but that's being
12 done administratively because of the changes that they're doing are really fairly
13 minor and then they'll be expanding those buildings but that you know there wasn't
14 a ton of questions and it was a one meeting approval, so I think when it's someone
15 has all, all their information together and really went through it and has someone
16 helping them, it's not just someone who would typically come in and apply for a
17 building permit. You know, it's the full package, that it's fairly straightforward and
18 can be somewhat simple for someone.

19
20 Chair Comoletti: To show the value that it adds to the applicant, somebody came in
21 here once, one of the buildings right down the hill here, and they brought an
22 engineer, an architect in with them, and presented a whole thing of what they
23 wanted to do. And the committee here looked at him and said, "No, you don't like
24 that at all." Well, the architect said, "Well, what do you think of this?" He brought a
25 rev two, and it was perfect, which is what we wanted. That's the case with the
26 architect knew what to bring and show, whereas the owner, he had his own vision
27 of what he wanted that wasn't going to work. The architect knew better.

28
29 Kim Schwickrath: And that's what happened all over the years, right? You sit in
30 these meetings. These people would come back three or four times, you know.

31
32 Chair Comoletti: And then they're more frustrated and angry with us.

33
34 Kim Schwickrath: But you're giving me something that's on a piece of a napkin. I
35 don't know what that means. You know.

36
37 Chair Comoletti: And it costs money to get an architect there. It saves you money. I
38 think it saves the applicant money.

39
40 Frank Manduca: The architects could be more artistic and practical. This is what
41 happens and then the contractor gets stuck sometimes when the architect should
42 be the one that sold.

43
44 Chair Comoletti: Being somebody that installs sprinkler systems in architect design
45 buildings. buildings, you're absolutely right.

46
47 Associate Planner Foster: So yeah, that piece being said, I think this is a good time. I
48 wish we actually had gotten more work and I had gotten more work done with the
49 ordinances because I think we're going into the time where we'll want to have
50 those. It seems like things have slowed down a little bit, but there's been a lot of

1 properties changing hands. A lot of money seems to be out there where people
2 looking to invest in properties or sell them off and if people are going to start doing
3 that especially with thinking about changes in state law, you know what does that
4 mean for downtown districts that we currently, this committee oversees historic
5 district but beyond that in the corridors that were previously talked about. And so,
6 the comprehensive plan committees back up and meeting. I know I mentioned this
7 last month, so they are meeting now. We'll still have more meetings, but I think it
8 would be good to get something in at least the comprehensive plan committees'
9 hands, if not something maybe direct for the plan, to make sure that they know that
10 this what this committee does and what we do and the desires moving forward.
11 And then that way hopefully something would get put right into the comprehensive
12 plan to keep things moving forward beyond us or beyond me with that plan.

13
14 Basically, recognize that the corridor corridors are important and that design
15 should be considered and also in these downtown areas as growth happens as
16 change happens to have some sort of consistency or whatever the desire is for
17 design.

18
19 Frank Manduca: All wood frame buildings and paint all white and they have to be
20 pitch roofs and that's tent roofs and that's good.

21
22 Chair Comoletti: And dark [inaudible] shutters.

23
24 Frank Manduca: They all look sort of much antique.

25
26 Associate Planner Foster: And I think that's, you know, what is right, right? 'Cause it
27 is, you know, it's funny, 'cause things come up with a comprehensive plan, you
28 know, what is Old Orchard Beach, and I've heard this before, like, it's a hodgepodge
29 of things, or words like honkytonk.

30
31 Kim Schwickrath: It used to be honkytonk.

32
33 Associate Planner Foster: Well, that's why I said it, and that's why it's like, well
34 something works, we have had people putting more investment in their properties.
35 So, people want them to look better.

36
37 Frank Manduca: Yeah, but that's because of the beach.

38
39 Chair Comoletti: The responsibility for that's put on to this committee and we've
40 been you know, honkytonk is something we've dealt with as an issue. And I think
41 we've always had enough committee members with enough varied opinions that
42 it's not like "my god no we have to get rid of honkytonk and it needs to look like
43 Freeport, you know, or Cape Elizabeth". I think we've always had a good vision, kind
44 of, you know, you could have a committee here that wants us to look like
45 Kennebunkport that's the direction you'd rather go. going and that's the nature of
46 committees.

47
48 Associate Planner Foster: I think what's good is finding the balance between what's
49 recommended and what's required because when I think we lose support from
50 some people when the requirements get too heavy, like planning board for

1 example, verse where it's like more of a, and you got to, obviously if we suggested
2 it, it would never happen so we got to find that balance of like required and
3 suggested, and then what's the in-between because people won't go beyond that
4 if there isn't some requirement, so.

5
6 Frank Manduca: But we could stick to something that's typically New England
7 instead of some of the monstrosities that are going to be built.

8
9 Associate Planner Foster: We also want to balance it out 'cause I think there's
10 people, you know, we don't want to, to completely hold people back but to some
11 extent you don't want you know the next awful design.

12
13 Chair Comoletti: We approved a climbing wall last month, that wouldn't happen in
14 Kennebunkport.

15
16 Associate Planner Foster: Well yeah, we're working towards it, we never got there
17 but we were yeah, I mean I think we could have got there. Well there's other things
18 that, like there's a lot, there's bathroom requirements and stuff that held people up,
19 site plan with planning board. So, a lot of times what happens is unfortunately when
20 you think all this stuff for next summer would be coming in now, it doesn't come
21 until March or April. So, I don't know, for whatever reason I don't know if people are
22 just figuring it out now or it takes that long to get it together but a lot of the stuff
23 we see happening in early next year to get ready for that year should really be
24 happening now.

25
26 Frank Manduca: Money. Yeah but if the banks ever been on time on an agreement
27 of sales no they're always late so the person is stuck.

28
29 Associate Planner Foster: And so, I've gotten better about not worrying about you
30 know it's not our fault that someone waited till summer and is starting to try to do
31 this. So how much is it my responsibility to get this approved verse their
32 responsibility if they have to wait. And then how do you find that balance? I've
33 probably been a little more generous than I should be recognizing those things you
34 know it is summer things do come up but at what cost should we be doing that and
35 I think it should be at none for someone else. So, finding that balance to make sure
36 someone because how do you let someone move forward without approving it?
37 Because then once it's approved, it's hard to go back and say what was what
38 temporary approval or something So it doesn't really work that way.
39 And then the one other thing I want to highlight is I'm sure you've heard and I've
40 mentioned it with the state law change relative to LD 2003 and basically allowing
41 additional units on houses owned for single family allowing, at least one accessory
42 dwelling unit on lots with existing single family, and then two and a half times
43 current density for projects that qualify as affordable housing projects, and the
44 town council is having a public hearing on those draft amendments tomorrow
45 night, just so you're aware. So, there's kind of three parts to the ordinance for
46 affordable housing, what they call a dwelling unit allowance, and then accessory
47 dwelling units. And that has a lot of potential for changes as well.

48
49 Frank Manduca: It's a lot of seasonal rental is very important in this town.
50

1 Associate Planner Foster: Yeah, and this ordinance, because there's some concerns
2 about parking and the state's purpose is really to drive up housing creation.
3 There're affordable pieces tied into it, but it's really to build supply of housing to
4 meet some of the demand. And I think hopefully that helps relieve some of the
5 costs at the same time. So, there is some restrictions on short-term rentals in this
6 ordinance, specific to accessory dwelling units or the additional dwelling allowance
7 for units created under this ordinance. That's basically under the state law.

8
9 Frank Manduca: All buildings should be first law should be parking if they don't
10 already have enough land. You can't park everything on these narrow streets.

11
12 Associate Planner Foster: It's true yeah, so parking's been a hot topic with this so
13 I'm sure you'll hear some about that at the public hearing.

14
15 Frank Manduca: These streets are so narrow.

16
17 Associate Planner Foster: But I'll have more updates on this as it moves forward
18 and probably gets approved here. We'll see what happens I know there's been
19 some pushback but there's also a January 1st deadline where basically if the town
20 doesn't approve it, it goes by the state law anyway so there's some interesting
21 overlap in things that could happen. But I'll be updating you on those changes as
22 we see them. And that's all I have.

23
24 Chair Comoletti: Nice job.

25
26 Associate Planner Foster: Thank you. And then yeah, I'll try to get those minutes
27 done for the next meeting.

28
29 Chair Comoletti: I've been wanting to thank you for calling the business group. Can
30 we get an item to our usual agenda with a title of like recap of administrative
31 actions taken?

32
33 Associate Planner Foster: Yes.

34
35 Chair Comoletti: So, whether you approve or decline somebody who comes in. That
36 we can look and see what came or went. And if we make it part of our usual
37 agenda,
38 it forces you to do more work.

39
40 Associate Planner Foster: Yeah, sometimes I just don't want to admit to what I've
41 done. So, I keep it off there as long as possible. No, yeah, I can do that. And I know
42 we've talked about that in the past, and I've kind of slowly brought them in as we've
43 had them, but I think we could probably add it on regular just as a reminder.

44
45 Chair Comoletti: As I drive through town, I see things and I think to myself, Mike
46 must have seen something on that. You see a change, you realize it wasn't
47 significant, but I'm assuming they've come to you, maybe they haven't, and we
48 need to catch those.

49

1 Associate Planner Foster: All right, yeah. Yeah, there's been a few, not a ton, but
2 yeah, I can get them together. I started making a list when I was doing these, so. I
3 was actually recognizing it was the end of the year and we hadn't done any
4 overview for a while and then these were the first that had popped up so I thought
5 it'd be good.
6
7

8 **ACCEPTANCE OF MINUTES**
9

10 Accept the meeting minutes of the 5/1/2023 & 11/6/2023 meetings
11 *(Minutes not prepared for meeting)*
12

13 **GOOD & WELFARE**

14 Chair Comoletti: any other good and welfare?
15

16 **ADJOURNMENT**

17 Kim Schwickrath: Motion to adjourn.

18 Gary Luca: Second.

19 Chair Comoletti: All in favor.
20

21 Adjourn 7:05pm
22

23 *I, Michael Foster, Town of Old Orchard Beach Associate Town Planner, do hereby certify that the foregoing*
24 *document consisting of Twenty Two (22) pages is a true copy of the original minutes of the Design Review*
25 *Committee Meeting of December 4, 2023.*

x 

Michael Foster

26