

Planning Board Meeting Minutes  
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David Walker: Good evening everybody and welcome to the Old Orchard Beach planning board meeting for October 9, 2025. My name is David Walker and I will be your chairman tonight. I would like to begin the meeting with the Pledge of Allegiance. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all. So folks, it was, a problem, or there could be a potential problem with audio output on our website. So, I'm just waiting to, may be now. I know the engineer in the back room is trying to work on so. We will just be patient.

Michael Foster: I guess the challenge is if we don't have a recording of the record.

David Walker: That's true.

Michael Foster: Which we'll need.

David Walker: Okay, we're on.

Erin Moriarty: All right.

Michael Foster: All right.

Erin Moriarty: It's working.

David Walker: All right.

Marianne Hubert: Very good.

David Walker: All right. So, we've done the roll call. First item of business is public hearing. Proposal: Conditional Use/Shoreland Zoning: Nonconforming structure tear down, rebuild, 30% expansion. Applicant: Jim Bernard. Location: 36 Winona Ave, MBL: 320-7-8. And we'll begin this on 06:30 and if you want to address, please come to the podium, state your name and address, and speak clearly. Anytime you want.

Chris Hitchcock: I can read input we got from Stuart Goldstein, who lives at 42 Winona Avenue.

David Walker: All right.

Chris Hitchcock: He wants to express his strong support of the request to tear down and rebuild the structure of 36 Winona (item 1 on the agenda for October 9). The property expansion will allow the owners to enhance their use of their home and continue to be a vibrant part of this community. That's everything Stewart had to say and needs to say.

David Walker: Well, thank you Stuart Goldstein for your input. All right, nobody else wishing to speak? We'll close this public hearing at 06:34. All right. We had two sets of minutes in our packet. And I'm *[inaudible]* [00:04:17].

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Erin Moriarty: I only have this one.

Chris Hitchcock: I make a motion to accept both sets of minutes.

David Walker: Motion to accept by Chris.

Marianne Hubert: I'll second.

David Walker: Second by Marianne. Do you want to call for the vote, please, Michael?

Michael Foster: Yes. Ms. Moriarty?

Erin Moriarty: Yes.

Michael Foster: Mr. Kelley?

Jay Kelley: Yes.

Michael Foster: Ms. Hubert?

Marianne Hubert: Yes.

Michael Foster: Vice Chair Hitchcock?

Chris Hitchcock: Yes.

Michael Foster: And Chair Walker?

David Walker: Yes. That motion carries 5/0. Okay. Onto regular business. Item one: Proposal: Conditional Use/Shoreland Zoning: Nonconforming structure tear down, rebuild, 30% expansion. Action is the final ruling. Applicant is Jim Bernard. Location: 36 Winona Ave, MBL: 320-7-8. Zoning in the Zoning: R3, RA, HAT. Michael?

Michael Foster: Sorry about that. So, at the September meeting, the board determined the application as complete. And when staff originally reviewed the September submission, a few items were requested, which included documentation showing the driveway meets the applicable driveway standards, lot coverage counts, revised elevation and cross section plans showing height measured in accordance with the Shoreland zoning definition of height, and draft flood hazard development permit. At the September meeting, the applicant followed up by submitting the requested items after the September meeting. Those items are in your October packet. And after reviewing the applicant's updated submission, we determine their proposal complies with the applicable standards, and there's no outstanding or new items to address. So, we recommend conditional approval, and you'll find the motion and conditions in the staff October memo, bottom of page three and top of page four.

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David Walker: Thank you, Michael.

Michael Foster: You're welcome.

David Walker: Yes.

Jim Bernard: Hi. Yes, I'm Jim Bernard. I have been working with the Burns along with staff trying to get the approval, the conditional use permit required. So I'm here for any questions if you have any. I think, I addressed most of it at the first meeting, but if you have anything else I'm here. And if you do have something, if you can speak loud, hard to hearing this, *[overlapping conversation]* [00:07:12] talk.

David Walker: Okay, Jim. Thank you. Anybody on the board have anything further on this item? Okay.

Chris Hitchcock: No.

Erin Moriarty: No.

David Walker: Do we have a motion?

Jay Kelley: Through the chair.

David Walker: Yes.

Jay Kelley: I make a motion to conditionally approve Jim Bernard's conditional use nonconforming structure in the Shoreland zone application proposing to remove an existing single family structure and build a new single family structure, including a 30% expansion, located at 36 Winona Avenue, MBL: 320-7-8, with conditions. One, the applicant or their representative shall secure approval of, yeah, applicable flood hazard development permits before construction begins. Number two, the first floor level 1 use shall be for garage space and storage purposes only. Hence shall not be used for any manner of occupancy.

David Walker: Motion by Mr. Kelley.

Marianne Hubert: I'll second.

David Walker: Second by Marianne Hubert. Do you want to call for the vote, please, Michael?

Michael Foster: Yes. Ms. Moriarty?

Erin Moriarty: Yes.

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Michael Foster: Ms. Hubert?

Marianne Hubert: Yes.

Michael Foster: Mr. Kelley?

Jay Kelley: Yes.

Michael Foster: Vice Chair Hitchcock?

Chris Hitchcock: Yes.

Michael Foster: And Chair Walker?

David Walker: Yes. And motion carries 5/0. You got off easy tonight.

Jim Bernard: Awesome. Thank you very much.

David Walker: All right. See you later. Item two. Site plan: Construct 4-story building with 11 dwelling units, 1 professional office, and ground floor parking. Action: Determination of Completeness, Schedule Site Walk, Schedule Public Hearing. The applicant is Trillium Engineering Group, and the location is 95 West Grand Ave, MBL: 313-3-4, Zoning in DD2.

Michael Foster: Yes, sir.

David Walker: Michael, before you begin, I do know that there are some neighbors in the audience. This will not be a public hearing night, so I'm sure you're just here to observe. Michael?

Michael Foster: Yeah. And I'll try to give some updates because it's been since April, since the board last took this up, and then I'll go over updates from the applicant as well. So this is 11 dwelling unit and one professional office proposal presented as a sketch plan in September 2024 and preliminary plan application review beginning in April 2025. At the April meeting, the planning board requested the applicant submit waiver request for any waivers and for a town peer engineer review before the application is determined as complete. The planning board also expressed concern with the overall mass and scale of the structure and potential impacts to the neighborhood. For October updates, the applicant has submitted a response narrative, including responses to site plan criteria, plans with attachments, and a narrative describing how the project design meets architectural design standards.

Overall, the plans appear the same with no visible modifications to the structured design. Rear setbacks have been updated to show the distance from balcony edge to the rear of the property line. Also included in your packet are application items received back in April, but after the deadline, and that includes a trip generation memo, site lighting

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specifications, and a photometrics plan. And for this month, the applicant's looking for determination of completeness on the application so the public hearing can be scheduled. After we sent out the planning board memo for this month, the applicant realized they didn't include the waiver requests in their comments dated 09/15/2025. So they submitted an updated response identifying two standards to be waived, and that's driveway location, site distance, and driveway location and spacing offset from intersections.

We're also at the time during site plan review, where the planning board needs to make a decision to determine application as complete or deny the application for failing to be designated as complete application within 6 months from the date of submission. After the last planning board meeting, the applicant met with planning staff and requested the site plan review application requirements, which is listed in section 78 (2) and (5) applications. So, updates for this month, for design review in April, the planning board had questions about the DRC review and feedback. It was reviewed at two different meetings on 11/04/2024 and 12/02/2024, and a summary of that was provided in your packets. And just to summarize, since it was questions they asked and applicant responses.

The DRC asked about siding materials, roof deck railings, roof drains and visibility, building color scheme, street facing building details, and roof styles that the applicant looked at for design building overhang details, building mechanical locations and visibility, shadow impacts on existing buildings, style of windows, and signs. Other updates on the curb cuts and driveways, the applicant, as I mentioned did submit the waiver request. It doesn't appear that the proposed site distance and offsets from intersections were included, so they should include that with future waiver request justification.

And with waivers, it's just important to remember that the applicant needs to demonstrate that physical constraints to the site, make compliance with design standards, impractical or technically unfeasible, and modification of those standards will not create unsafe conditions for vehicles, or pedestrians. So, just has the applicant demonstrated this in the waiver request, and the planning board should identify any additional information, needed regarding the waivers. And then I'll highlight some items that the planning board asked about at that meeting in April, and then, for the full list, it is in your memo.

Regarding parking, the planning board shared concerns on exterior parking and potential vehicle overhang impacts to the sidewalk and access. It's noted on the plans that the two exterior spaces identified on the Camp Comfort Ave site for 93 West Grand Ave, they're shown as compact car spaces. Just what happens if they don't have compact cars? And then it was also discussed that exterior spaces shouldn't be assigned to units being used as short term rentals due to potential parking management issues. The use of the mixed use component came up. It's been identified as an office, but there are still questions as far as they don't know exactly what it's going to be, but hoping it's going to be associated with the building.

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Regarding stormwater, at the April meeting, the applicant mentioned that there is no stormwater systems in existing streets, and that stormwater sheet flows for the parking surface, and then will drain through roof drains for the building roof, and then infiltrate into the sand. The response to site plan criteria notes that stormwater management will utilize existing stormwater systems, so that should just be coordinated. And then to show that the site plan criteria is met for not producing additional peak runoff from the site during a 25-year storm, they should demonstrate that in their next submission.

And then as I mentioned, lighting and traffic information from back in April was included in your packet, so you have that now. The board did have questions about snow storage and removal. It wasn't clear if that was resolved, but snow storage areas don't appear to be identified on the plans if there are areas for snow storage. We didn't receive any town department comments for this month, but we did receive comments back in April from fire inspector Cotter, and those were summarized in your memo. And then this project has not had a town peer engineer review yet.

We discussed this proposal with the applicant after the April meeting and more recently it was recommended they submit what the planning board requested for waiver request and town-peer engineer review. It's my understanding they're looking for the determination of completeness, so they can hear from the public before taking the next steps with additional submittals. And this is why they focused and specifically responded to the site plan application requirements. I just want to highlight, it's important to remember that determination of completeness is not approval of the plan, but determination that the application contains all relevant information necessary to make a reasonable informed decision. Based on my review of the plenary site plan, application requirements and applicant narrative, it looks like they've addressed the required items. One, I guess, requirement that remains in question since the planning board asked for town peer engineer review is site plan application number 9, which is any other information requested by the planning board deemed necessary to make a reasonable and informed decision about the proposed project.

So with that, we see there being two options for the planning board to determine the application complete with conditions requiring the items that weren't submitted. This way, the required public hearing can be scheduled, or to determine the application as incomplete, because it's lacking data required by the planning board, and then deny it because it's not determined complete within six months. The recommendation is for conditional determination of completeness. There is a denial motion in your packets if you decide to determine it incomplete and deny it. And that's all for updates.

David Walker: Okay. So just to remind - sir, yes, your name?

Gordon Smith: My name is Gordon Smith.

David Walker: Hi, Gordon.

Gordon Smith: Hi. Nice to be in front of the board.

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David Walker: Thank you. Do you represent Trillium?

Gordon Smith: I represent the owner, Scott Doreko.

David Walker: Okay.

Gordon Smith: And Scott's here and we also have David Matero, the architect and Dubey from *[indiscernible]* *[00:19:00]*.

David Walker: Great job on the architecture. Really nice job. Yeah.

Gordon Smith: So, I'm an attorney representing Scott Doreko, and we're here for the completeness determination as...

David Walker: I'm sure you are.

Gordon Smith: And so I'd just like to quickly update, give another update.

David Walker: Sure. Yeah.

Gordon Smith: So, you know, it seems like that, you know, in terms of the enumerated submission requirements, the planner has found that those were made. And then the planning board has, in addition, asked for two other submission requirements, namely the waiver requests and the peer review. And as the planner stated, the waiver requests have been submitted. And we also wanted to say, and I communicated this with the planner, that the applicant is amenable to having the peer review conducted prior to, you know, the public hearing being scheduled as the board has requested.

David Walker: Yeah. The public hearing is supposed to be scheduled next month. We would have liked to have had the peer review now before we schedule the public hearing for safety purposes for the public. That's why we're here.

Gordon Smith: Absolutely. And I think, the ordinance can accommodate having the peer review completed not in the sense of all questions have been resolved by the peer review, but the initial peer review by the towns peer review engineer can be completed. And then once that's done, a public hearing can be scheduled following that.

David Walker: So, Michael, do we have any leeway in terms of postponing for another month? Pending the peer review? I think we're at the final month.

Michael Foster: One thing we discussed was the potential for the applicant to request an extension. I think it's best to save those extensions for other potential deadlines. I think with the determination of completeness and the next submission deadline, the way the motion's written that's in your packet or the updated motion that you were provided this evening, requires the things to be set up for peer review by the submission date, which is,

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I believe, October 27. Yep, yeah, October 27, and then that would give the normal timeline for peer review to occur before the public hearing in November if you choose to determine complete and schedule that.

David Walker: And following that, we will also rule on the waiver request?

Michael Foster: The way it's worked in the past is we have ruled and voted on the waiver request before the final vote.

David Walker: Yeah. Okay. So, Gordon, now you're requesting an extension or?

Gordon Smith: So, I think that the submission deadline for the November meeting is October 27<sup>th</sup>?

David Walker: Yep.

Gordon Smith: And the likelihood that peer review will be completed prior to the, if the town can engage the peer reviewer, and the peer review will be completed before then, I don't know, I would ask the planner.

Michael Foster: Yeah. Sorry, I may have misspoke. So, there's a motion in here, and it's that the following conditions shall be fulfilled by the applicant and submitted to the town on or before 27<sup>th</sup> October. So that's the submission deadline. And then peer review would occur once we have that submission or prior and the agreement for peer review. And then it would follow our regular deadline we go by with submissions, where our peer reviewer would have comments by the time of that November public hearing.

David Walker: So, what I was looking for was our engineers to give us some safety ideas about the waivers. I have concerns about the waivers, whether they'll be approved, granted or not. And I wanted to put that horse before the cart, if I could for you. Go ahead.

Gordon Smith: Well, that's an accurate characterization of putting the horse before the cart there. I mean, that's a substantive question of whether the board will grant the waiver request or not based on the site specific issues. That's not a precondition of a completeness determination.

David Walker: No. But it's usually a precondition that if the board asks for something that the applicant complies.

Gordon Smith: Yes. And that's what I'm here to say. We're willing to and want to comply with these requests and are complying with these requests.

David Walker: Sure. Any board members have any questions? I know you do.

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Erin Moriarty: I know, I do. Firstly, I apologize, I wasn't on the board in April. So this is my first pass of this project. But, can we discuss questions about the site plan itself? Or is this just to...

David Walker: You can ask anything you want.

Erin Moriarty: Okay. Good. I would like to know if there's been any accommodations for mail in the lobby area because it doesn't appear to be. And, as packages have gotten larger and more frequent in recent years, they tend to pile up. And I want to make sure there's safe passage with the staircase being right there.

Gordon Smith: Okay. That's a great question. If I may suggest that the board sort of take this in order where if the board wants to get into substantive issues, they first sort of get to the procedural vote of whether or not they're going to make a completeness determination. And then after...

David Walker: Okay. So we're here to discuss...

Gordon Smith: So we are here to discuss whatever you want. But I'm just saying in order to kind of keep things in order, so that we're not getting too confused, I would suggest the board can do obviously whatever it wants. That's just a suggestion that we just talked about whether or not to make a completeness determination conditioned on peer review being submitted, that the applicant is happy to pay for. That's teed up, I think, for the board. And then, if that determination is made, then we're happy to answer any questions.

David Walker: Sorry, so it appears that the applicant is looking for a determination of completeness. Does anybody have a motion?

Jay Kelley: Through the chair.

David Walker: Yes.

Jay Kelley: I just have a question. If we deny this tonight, what's the next step from here on it? Where do we go from here?

David Walker: How long before they comply again, Michael?

Jay Kelley: I just need to get it clear in my head.

Michael Foster: There didn't seem to be a specific deadline for when they can submit again, as far as resubmitting in the site plan ordinance, when we went through it. And then I guess the other course of action would be if the applicant doesn't agree with denial, whatever steps they take out outside of planning board. But as far as the planning board goes in a future submission.

David Walker: So you're talking appeal?

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Michael Foster: That would be their option, yeah, if it was denied.

Jay Kelley: So, then, on the other hand, if we determine it complete, what about the issues that were all raised in some of this?

Michael Foster: I think the applicant would probably do what the typical process is, and take the planning board memo and address each item, provide the additional support for the waiver, and go from there. I think that's what we'd expect for a future submission.

Jay Kelley: So basically then, what should happen if we determine complete, we determine it complete because we want to go to a public hearing. Is that the only way to go to a public hearing?

Michael Foster: So in April, I had made a recommendation to schedule a public hearing, but the issue is the way the ordinance is, you'd still have to have a public hearing once it's determined complete. So, a public hearing wasn't scheduled. And the board requested additional information before scheduling that. So the way the conditional determination of completeness is set up is so that this stuff has to be submitted for the next submission deadline, and it specifically identifies supporting documentation to demonstrate the waiver request, meet the ordinance, and that the applicant submit, escrow agreement and payment for the initial town peer engineer review. So, application materials can be peer reviewed before the public hearing.

Jay Kelley: So, do we have the ability to table an item and push it onto the next month, without either a complete or deny?

Michael Foster: I don't think we can, because of that determination of completeness site plan, six-month time frame.

Jay Kelley: So that wouldn't take in that time that if we just did a table? Would the time stop, or would it carry over into where we need to go?

Michael Foster: We're at that six-month mark now. So, it would have to be denied.

Jay Kelley: The timeline would continue, even if it was tabled?

Michael Foster: Tabelaing doesn't seem to be an option. So, the other options we provided, I guess, the planning board didn't get as we mentioned options for the applicant could potentially be to withdraw their application prior to this meeting and resubmit or to request an extension. And they wanted to proceed with the determination of completeness.

David Walker: The applicant has already said they don't want to withdraw.

Jay Kelley: Yeah.

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David Walker: How they can proceed?

Gordon Smith: If I may address some of the issues that were just raised, tabling the application would be a functional denial that would result in the denial because of the six-month sort of the period in the ordinance where it says completion isn't made, determination isn't made within six months. It's an automatic denial.

Jay Kelley: So why are we on the edge of the timeline on this project? Why did it get to this point?

David Walker: Well, they waited since April before they came back to us.

Jay Kelley: Just wondering why.

Gordon Smith: The town staff and the architect and the engineer have had multiple contacts and been conversing with the project since April. So, it's not like nothing's been happening. I hear what you're saying, but the issue is that if the board says, look we don't want to grant this conditional completeness determination, we want to deny it based on the six-month rule. As the planner said, the applicant can just come in next week and submit a new application.

Jay Kelley: Okay.

Gordon Smith: So, that doesn't assist the board. Like, that doesn't assist anyone in actually obtaining a substantive review of the application.

Erin Moriarty: So, can I ask a question? The proposed motion, one of them includes a conditional determination of completeness so that the applicant has more time to submit some more material prior to the public meeting. If they don't submit on time, then at the next meeting is there an option to table? And it would be, you know, it's already been determined complete conditionally.

Michael Foster: Since it's conditional, if they don't meet the conditions, my understanding is it would have to be denied. Since it's specific.

Erin Moriarty: That would be the procedure.

Michael Foster: On those conditions.

Erin Moriarty: Okay.

Gordon Smith: And to clarify, there are two sort of outstanding items. The waiver request, that's already been submitted. So that's not an outstanding item. So the only outstanding item is for peer review to be conducted.

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Erin Moriarty: Well, that's the only one that has been listed so far, but we were still discussing other items of the site plan. And so we could, it's our purview to add additional requests.

Michael Foster: Yes, you are correct.

Erin Moriarty: So, I would be comfortable making a motion, but I'd like to discuss some of the other missing items.

David Walker: You can add items on if there are items you want to add is on the condition.

Erin Moriarty: Okay.

David Walker: If you have any additional conditions you want to add?

Erin Moriarty: Just going back to my original question, has there been any thought put into the processing and storage of mail?

Male Speaker 1: *[Inaudible]* [00:32:37].

Erin Moriarty: Okay.

Michael Foster: Yeah. And one thing I can mention to the board just because it came up is, would the six-month mark and the requirement for determination or denial, is I didn't realize we were at that time in review until I was doing the memo and writing this up. I discussed it with planner Hinderlite a little bit, and we couldn't recall a time that we've come up against the six-month mark, so it wasn't there in our heads during discussions with the applicant. I know we've shared the ordinance with them, and they have that. But as far as informing the applicant and being aware of this timeline, I didn't realize we're at the six-month mark until I was preparing the memo. So as soon as I finished the memo, I sent it to the applicant as we usually do and also gave them a heads up that this is what it looked like we're up against. And that's why I presented the options to them. Besides the options to the board, it only seemed on their side to either withdraw or request an extension, which, like I said, they wanted to push forward with determination to get to public hearing.

David Walker: All right. I'm going to make a motion. I'll make a motion to determine the application as incomplete for the construction of an 11 unit residential with one office unit mixed use building, located at 95 West Grand Ave. MBL: 313-3-4. The applicant Trillium Engineering Group. Owner, Durp LLC. The application is determined as incomplete for the following reasons. The applicant did not submit a waiver request from the standards of section 78-1466, driveway location, site distances, and section 78-1491 offset from intersections as requested by the planning board to make a reasonable and informed decision. The plan does not demonstrate that the driveway and access meet the ordinance requirements for sight distance and offset from intersections. This proposal

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does not add town peer review engineering as requested by the planning board, to make a reasonable and informed decision on those items. Part two, I make a motion to deny the application for construction of an 11-residential unit, and 1 office unit, mixed use building located at 95 West Grand Ave. MBL: 313-3-4.

Michael Foster: Can I just interrupt?

David Walker: Applicant Trillium Engineering, Owner Durp LLC.

Michael Foster: David?

David Walker: The application is denied for the following reason. As outlined in ordinance section 78-216, review procedure C, plenary site review procedure, one, determination of completeness application. Applications failing to be designed as complete application with six months from the date of submission to the planning board shall be denied by the board. Motion by Dave Walker.

Michael Foster: Chair Walker, can I just confirm, was that the updated motion or?

David Walker: No, that's not. That's the one that was in the packet. Shall I start with the new motion?

Michael Foster: Yeah. Sorry about that.

David Walker: That's all right. I make a motion to determine the application as incomplete for the construction of 11 residential unit with one office unit mixed use building located 95 West Grand Ave, MBL: 313-3-4, applicant Trillium Engineering Group, owner Durp LLC. The application is determined as incomplete for the following reasons. One, a preliminary, site plan review application does not contain all relevant information necessary to make a reasonable and informed decision. Two, this proposal has not added peer town engineer review as requested by the planning board on April 10, 2025. So the planning board cannot make a reasonable and affirm decision. Three, the site plan review application does not meet section 78-216 (D) criteria for approval. The identified a, section 78-216 (D) criteria number one. The proposed project conforms to all standards of the zoning district and meets or exceeds performance standards specified in the article A of this chapter.

Subset I, section 78-1491 driveway location and spacing, site distance, and offset from intersections. A, section 70-126 (D) criteria number 4, the project provides adequate stormwater management facilities to produce no additional peak runoff from the site during a 25-year storm event or any other event so required by the planning board and will not have an undue impact on municipal stormwater facilities or downstream properties. C, section 78 (D) criteria number 5, the proposed project will not have an angular on-site and off-site impact upon existing vehicular and pedestrian circulation systems within a community or neighborhood.

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Part two, I make a motion to deny the application for the construction of an 11 residential unit with 1 office unit mixed use building located at 95 West Grand Ave, MBL: 313-3-4. Applicant: Trillium Engineering Group, owner, Durp LLC. The application is denied for the following reason. One, as outlined in ordinance section 78-216 review procedures C: Plenary site plan review procedure, one termination of complete application, applications failing to be designed as a complete application within six months from the date of submission to the planning board shall be denied by the board. So, strike that first motion, and make this motion my first motion.

Michael Foster: One thing I might recommend is voting on the part one motion and part two motion separately, just because it's done in two parts.

David Walker: All right. Do we have a second for either part one or part two vote?

Jay Kelley: Second.

David Walker: Second by Mr. Kelley, vote counts?

Jay Kelley: Yes.

Michael Foster: Yep.

David Walker: You want to call for a vote on part one, Michael, please?

Michael Foster: Ms. Moriarty?

Erin Moriarty: No.

Michael Foster: Mr. Kelley?

Jay Kelley: Clarification. Yes, vote is?

David Walker: Denied.

Jay Kelley: Denied. Yes.

Michael Foster: Ms. Hubert?

Marianne Hubert: No.

Michael Foster: Vice Chair Hitchcock?

Chris Hitchcock: No.

Michael Foster: Chair Walker?

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David Walker: Yes. So that motion fails, 3/2. Is there another motion?

Chris Hitchcock: I'd like to clarify something so that we can maybe make one. The date of October 27 is when they'd have to get everything into us. And you were worried about the outside advisors giving us a review in time.

David Walker: Peer engineering.

Chris Hitchcock: But why can't it shift a month if they don't get it done? What's the criticality of doing it a month later?

David Walker: So, from my point of view, they had six months to do that.

Chris Hitchcock: That part I know, and that's behind this.

David Walker: Let me finish that sentence.

Chris Hitchcock: Okay.

David Walker: Okay? And I was going to use that information, all right, to further my understanding of safety concerns for this project so that when the public comes in, they can know that we've given them a project that they can talk to that has been complete.

Chris Hitchcock: That makes sense, but you're worried about the timing. I'm just wondering if the timing has to be as tight as we're talking about.

David Walker: It does in my sense, but it does not in yours, so that's okay. That's why we have this five member board.

Chris Hitchcock: No, I mean, what's going to happen in November if we do the other motion?

David Walker: Well, we're going to have all this material.

Chris Hitchcock: Yeah.

David Walker: Plus a peer engineering review, and then you know what will happen with peer engineering review is that we back and forth between our engineers.

Chris Hitchcock: So then we provide more time, and they can follow-up on?

David Walker: Yeah, but the public's going to come in, and we wouldn't have a complete...

Chris Hitchcock: Why do we have to do the public in November if we're not ready?

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Marianne Hubert: Can we schedule a public hearing for later?

David Walker: Look, I can delay the public hearing if that is what we want to do.

Chris Hitchcock: Well, that's what I'm – you're talking like we're constrained. We have to take your constraint really.

Marianne Hubert: I – may I...

Chris Hitchcock: I mean, the state – we've already taken five months, what's another?

David Walker: Yes, Mary?

Marianne Hubert: Yeah. I would like to add something is that we provide waivers. We are potentially going to give waivers for openings to own a street that is not legal. But then we can't waive the review of this, an extension? Why don't we waive an extension for this project? I don't know that I'll approve it because of the road opening, but I think that we should process through the project.

David Walker: That's fine. And then make a motion, and we'll do it. We have two options.

Michael Foster: I did try to write the conditional motion so it addressed the previous board concerns as far as having the peer review, and getting the additional waiver information. And that was for a public hearing in November. I guess I just have to check the timeline for if there is a change, because there are some timelines for when the public hearing has to be scheduled.

David Walker: If they did this, when I requested it, we wouldn't have those timeline constraints.

Chris Hitchcock: We all know it and feel it.

David Walker: Okay.

Erin Moriarty: I think the public hearing timeline starts after we determine it complete, Michael? If I can remember correctly, it's two months?

Michael Foster: Yeah. So the way it's written in the ordinance is the public hearings within 30 days of designating the application as complete.

Erin Moriarty: Okay.

Chris Hitchcock: Well, that's good rather.

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Gordon Smith: And the ordinance also allows for a request for extension of deadlines. Two 30-day extensions are allowed. So I don't know if an extension is going to be needed based on the peer review timeline, but certainly the board has the authority on the applicant's request to extend that 30-day deadline.

Chris Hitchcock: Well, that's the first positive thing that's been said all night.

Gordon Smith: Trying to keep positive.

Chris Hitchcock: Okay.

David Walker: If nobody wants to make another motion, can I move that we vote a second time on my motion?

Michael Foster: I think you can, since there's been some discussion. I don't know if anyone's changed their feelings on that.

David Walker: Well, they have to be emotions.

Michael Foster: Or their vote.

Gordon Smith: I didn't want to read the wrong page. No offense.

David Walker: I'm not a offended.

Gordon Smith: Okay.

Chris Hitchcock: Well, let's try this. If I'm going through the chair.

David Walker: Yeah.

Chris Hitchcock: I make a motion to conditionally determine the application as complete for the construction of an 11 residential unit with 1 office unit mixed use building located at 95 West Grand Ave, MBL: 313-3-4. Applicant: Trillium Engineering Group, owner Durp LLC. The following conditions shall be fulfilled by the applicant and submitted to the town on or before the October 27, 2025. One, the applicant shall submit supporting documentation to demonstrate waiver requests from the standards in section 78-1491 driveway location and spacing meets the requirements in ordinance section 78-1568, parking waivers. Two, the applicant shall submit an escrow agreement and payment for the initial town peer engineer review, so the application and materials can be peer reviewed before the public hearing.

Erin Moriarty: I'll second that.

Chris Hitchcock: We can discuss motions, can't we?

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Marianne Hubert: Yes.

Chris Hitchcock: Anybody like to discuss it before we go?

Jay Kelley: The only thing I want to say is, there's a whole list of things that they haven't done that did not get accomplished in this initial run. There's all of these things that are on this list, and there's also the timeline. It's not our fault that this is on the wire like this. And that's all I want to say about it is.

Chris Hitchcock: So, where are you reading from, Jay? He's putting out a piece of paper in his hand, and he's saying there's a long list here. So what is that page?

Jay Kelley: There is. All of the things that weren't submitted.

Chris Hitchcock: What page are you on?

Marianne Hubert: They're the ones that you just read.

Jay Kelley: Page 11.

Marianne Hubert: Oh. Oh, we're reading it from this sheet.

Chris Hitchcock: I get it. I get it.

Michael Foster: So one thing you could do is amend Chris's motion or Chris could amend it to add in requiring the memo items be addressed as well if that addresses those concerns? I think some of the items were addressed at the last meeting, during their discussion, and then this memo is kind of drafted from what was discussed at the last meeting. So, I would expect they would still respond to the items listed in the memo.

Chris Hitchcock: Is that a good assumption? Should we state that? I would state that.

Michael Foster: I'm saying if there's concern, I would add it as a condition to your determination.

Marianne Hubert: Excuse me. May I say something?

Speaker 1: Yes, you may.

Marianne Hubert: Instead of saying that we determined that the application is complete, how about me say we make a determination to give a waiver of two months to proceed and file the complete application? Maximum of two months or a month and then we come back and we look at it?

Michael Foster: I think that would go against the ordinance. I don't know if the applicant would have to request an extension or if the planning board can just give it on their own.

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David Walker: So if we deny, they can come back next month and reapply. So, I don't see why anybody's worried about it.

Marianne Hubert: Okay. Then I agree with that.

Michael Foster: So, I thought a goal for the planning board, and I know for sure the applicant from discussing it was, to them was to get the supporting information that you're looking for, but also getting to hear from the public, and giving the public the opportunity to speak. I know there's been a lot of people here at the meetings, even when there hasn't been a public hearing. That's kind of why I suggested it last time in April, but I can also understand why the board wouldn't want to conduct two public hearings. So, I guess it could go either way.

Gordon Smith: If I may.

Chris Hitchcock: Well, there's a motion on the floor, and it's been seconded, and I made the mistake of saying let's discuss it. So, let's not.

Erin Moriarty: That is okay. No, we can discuss it.

Chris Hitchcock: Call the vote.

David Walker: So, Chris made a motion. Who is second?

Erin Moriarty: I did.

David Walker: Erin?

Erin Moriarty: Yes.

Chris Hitchcock: Clarify, please. Yes vote means it's complete.

David Walker: Right.

Chris Hitchcock: Okay.

Michael Foster: Mr. Kelley.

Jay Kelley: Yes.

Michael Foster: Ms. Moriarty.

Erin Moriarty: Yes.

Michael Foster: Ms. Hubert.

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Marianne Hubert: No. I want to say no. Yes.

David Walker: No, yes?

Marianne Hubert: Just want to say yes. Okay.

Michael Foster: Vice Chair Hitchcock?

Chris Hitchcock: Yes.

Michael Foster: And Chair Walker?

David Walker: No. Motion carries 4/1. Congratulations.

Erin Moriarty: If you could try your best to get it in before October 27, I think that would be appreciated by everyone.

David Walker: Yeah.

Gordon Smith: All those *[overlapping conversation]* *[00:51:02]* should be completed, I think.

Michael Foster: Just, did you...

Gordon Smith: Or on boarding in now.

Michael Foster: The other part of that was scheduling a public hearing for November 13.

Erin Moriarty: And also a site walk, I believe.

Michael Foster: And then the site walk is optional, but November 6 is the first Thursday of the month if the board wants to go on-site.

David Walker: Does anybody want to go on-site and do site review?

Chris Hitchcock: I've seen that spot not even one time.

Erin Moriarty: Yes. Yeah.

David Walker: You put the fire out and I can say we *[overlapping conversation]* *[00:51:29]*...

Chris Hitchcock: I did. I did.

David Walker: Yeah. Okay.

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Marianne Hubert: We can go on...

David Walker: I'm familiar with it. I walk by it every day, so.

Marianne Hubert: Yeah.

David Walker: We're good. We don't need a site walk. So, there will be a public hearing.

Michael Foster: The date was, November 13 at 06:30 PM, if you're going with November.

David Walker: Great. All right. We'll see you back next month.

Gordon Smith: But before we leave I just wanted to say thank you for addressing that procedural hurdle. And we the forum is open to discuss any substantive issues on the project. And if the board has questions we're all here, and we'd be more than happy to address any.

David Walker: Thank you. Thank you very much.

Chris Hitchcock: I do have one, at some risk. I think a lot of this was because, a, 5 months went by. We don't know what's going on in the background, but every time 5 months goes by, we find an applicant, maybe not this one, comes in and wants us to do something really quick. And we're in a bad mood at that point, some of us.

David Walker: I'm not in a bad mood.

Chris Hitchcock: No. You're not. No. No.

Erin Moriarty: No. It's me.

Chris Hitchcock: Second, when I read the packet, it said several things we were told in April were in the package, and that maybe they were done, but they weren't given to us, and they were submitted after the deadline. After the deadline to me is like kiss of death. You know, I worked with the federal government for a while. After the deadline is a non-starter. So, that wasn't a very positive way to start this meeting. So, I walked in and two things stuck in my craw. But we were hoping to get through it.

Gordon Smith: And I 100% agree with what you're saying and with the board's frustration and the delay and the lateness and I'm an attorney, deadlines are nonnegotiable. I want to say going forward, that that's going to improve.

Chris Hitchcock: And the 800-pound gorilla third thing, is that there was a difference of opinion about how this should proceed in April, in terms of you want to run on ahead. We want to walk on ahead.

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Gordon Smith: Okay.

Chris Hitchcock: We wanted to get some input on something that was important to us. And it was clear that the applicant didn't favor that opinion, and it's manifest itself in the packet here, which is we didn't get what we wanted except for the very last minute just to check the block.

Gordon Smith: That your feedback is heard and...

Chris Hitchcock: Pardon me?

Gordon Smith: Your feedback is heard and understood.

Chris Hitchcock: Okay.

Gordon Smith: Thank you very much. Yeah.

Chris Hitchcock: I don't know if it helped, but I feel...

Gordon Smith: No, but that does help. That does help. And, I mean, I can promise that if I'm involved in the project that you will get on-time submissions, and they will be as complete as possible.

David Walker: Thank you for facilitating.

Gordon Smith: Yeah. Thank you very much.

David Walker: All right. Next item is Certificate of Appropriateness Ruling. Install 34" x 34' take-out window for food service; 26 Old Orchard Street, MBL: 205-4-3; Zoning DD-1; Applicant is Moshe Agam.

Female Speaker: I think like we do not have – we have one *[inaudible]* [00:55:39] to address.

David Walker: Well, yeah. You can speak at the microphone if you'd like?

Female Speaker: I am? Well, I didn't know that.

David Walker: Yeah. But it's not a public hearing. It's not on a record.

Female Speaker: I know. I know that. But we don't know what they're going to do for garbage at this site.

David Walker: Okay.

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Female Speaker: And you guys never asked. There's no place...

David Walker: Well, we haven't had an opportunity for that.

Female Speaker: Right. But there's no place for garbage there.

David Walker: Yeah.

Female Speaker: So, I mean, that's a huge issue. I think you should make a site visit, so you can see when they turn out of there, what they're going to be turning into. Because people, when they're on vacation, they just don't pay attention to traffic. And people are going to get hurt. People are going to get hit.

David Walker: So, I would make a recommendation for you and your neighbors to put your concerns together.

Female Speaker: Yep.

David Walker: And mail them to Michael at the planning office. All right?

Female Speaker: Okay.

David Walker: And they can include them as part of our concerns and conditions for the applicant. There's a bunch of stuff that we haven't gone over with the applicant yet, but what we were doing tonight is just taking a look at what they've given us. Have they given us enough so that we can go ahead. We're not a bunch of engineers that's why we have engineers that are on contract with us. They'll look at it from an engineering standpoint, and they'll go over a lot of stuff that we wouldn't be.

Female Speaker: Okay.

David Walker: Necessarily covering.

Female Speaker: That's great. My daughter is a PA, civil engineer, and she wants to review this plan.

David Walker: Okay.

Female Speaker: How does she do that?

David Walker: She can get it from Michael down at the planning office. Any of the materials that we have made...

Female Speaker: Oh, *[overlapping conversation]* [00:57:23] available. What the review board will be looking at?

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Michael Foster: I have copies that can be emailed. We just might need a way – there's some issues with emailing the files, but we do have all the submittals.

Female Speaker: Okay.

David Walker: Michael, can she have a copy of our plans?

Michael Foster: Yeah. You can share that if you don't need it.

Female Speaker: We can see application too?

Michael Foster: Yeah. Sometimes the PDFs just don't email, so we need to find another way to submit them or, send them, something like that. We have used that in the past.

Erin Moriarty: Yep. I got them via email. So, I think we have it saved. I will say also, there is a spot designated for trash and recycling within the garage, whether it's large enough or not is – typically it's...

Female Speaker: I don't think it is large enough though. So, yeah, I mean it's – the footprint really want them...

Erin Moriarty: Right.

Female Speaker: And also the parking in that side is moving toward a compact car and I see the variation *[inaudible]* *[00:58:32]* covers there. So what do you with the spaces to look, if the car is too large, then you just go into the room, Is that...

David Walker: We've already made that a concern.

Female Speaker: You have?

David Walker: Yeah.

Female Speaker: Okay. Well, that's good.

David Walker: Yeah.

Female Speaker: That's good. And then the last thing is the – we're not getting the sun in our houses all day, because there is such a huge, huge building up here in *[inaudible]* *[00:58:57]*, it's sort of a tenant, like, it was about from 11:00 to 04:00 every day we were having the sun on our house and stuff. You think there is any protection for us or something like that? I mean, that changes totally the nature of our property.

David Walker: So you can put those concerns down for the planning office. You can speak to them at the public hearing next week, okay? And then...

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Erin Moriarty: Next month.

Michael Foster: Next month.

David Walker: Month, and make all those concerns at that point. Making them now is not worthwhile because it's not on the record.

Male Speaker: It's worthwhile because it does put those information pieces in your head, including the piece that you talked about in April, which talked about a traffic study that was going to be conducted. The traffic study has not been conducted as far as we know and if we do a traffic study now it is pretty different doing it a traffic study in October, November, December versus doing a traffic study in July, August.

David Walker: All right. I'm going to put it in to the discussion now.

Male Speaker: Okay.

David Walker: Thank you very much.

Female Speaker 1: *[overlapping conversation]* [01:00:05] talk about and...

David Walker: You have questions?

Female Speaker 1: May I ask a question? I was out there. Is it approved complete or was it approved conditionally? Because there was a *[overlapping conversation]* [01:00:15] tried to point out...

David Walker: No. It's complete with conditions. It doesn't mean it's approved. It just means it's complete, which moves on to the approval process.

Female Speaker 1: And so I would just respectfully say this. It's not anywhere close to complete. So it's disappointing where we have a whole list, as you pointed out Mr. Kelley of things that have not been done.

David Walker: Yep.

Female Speaker 1: Right? That's just indicative of how this process has been going since April when we all came here. You know, it's concerning that we could sit here and hear that this is complete when all of us know it's not anywhere close to complete. I understand the desire to get pushed to a public hearing so we can, you know, have, but we don't have that information at this point, by the definition. Understanding it may be administratively inefficient to call it incomplete. Incomplete is incomplete. Complete is complete. And incomplete is incomplete.

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David Walker: During the public hearing, we can take your comments and make it a requirement that they address all those comments at the public hearing before we make a final rule.

Female Speaker 1: I appreciate that. But I'm just saying for this evening, complete is complete, and incomplete is incomplete. And I think we all know that was incomplete. And I think you respectfully have heard my comments.

David Walker: Thank you.

Female Speaker: And thank you for letting me talk about it.

David Walker: Yep.

Jay Kelley: Definitely go to the public hearing. Definitely.

David Walker: So is Moshe here?

Michael Foster: He's not, and I can provide an update on that if you want. Unfortunately, it's not much of an update. Yeah, so regarding the certificate of appropriateness for 26 Old Orchard Street, that's the proposal that install 34" x 34' take-out window for food service. MBL: 205-4-3. That's in the DD-1 District here. Applicant was Moshe Agam as you mentioned. So, I wasn't at the September meeting, but the questions were passed on to me, and I watched the meeting. So, I had specific questions for fire and codes, that the planning board wanted to update on the building's compliance with fire protection related matters, including if the fire department signed off on the use associated with the takeout window. And, for codes, planning board looking for update on permitting and licensing of the use.

So, I received the update from the code office, on September 23, and that was that codes has not signed off on Stuffed, which is the takeout window food name, Stuffed. Sprinkler report has outstanding deficiencies, and the owner knew he needed to provide codes with a clean sprinkler report months ago. And we didn't receive an update from fire, but I believe they're also looking for a passing sprinkler report. I also informed the applicant that the planning board requested that the owner or responsible party attend this meeting to answer questions, and the applicant notified me he was going to be out of state for the winter. So, I recommended in person and by email that they provide a letter to the planning board to address the questions I had, from the meeting, which was what is the open height elevation for the takeout window, that the planning board wanted to confirm there was clearance for foot traffic, and when was the store split and takeout food business added? And we have not, received a letter from the applicant.

So, the way I saw this is as three potential actions, table it until we get updates from the applicant and/or codes in fire, send it back to the DRC if it's an issue with the actual or conditionally approve the design review certificate as, previously recommended. And

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there were some other notes in the memo, but I won't read through those, just depending on, how you wanted to approach it.

Marianne Hubert: May I have a question now? What is it currently? What is this...

Chris Hitchcock: It's done. They put it in the next post talk.

Michael Foster: Yeah. Yeah. One of the challenges with this, or I guess confusing factors is that the work was done without permitting or without DRC approval. So, we found out about it through Codes, and approached the applicant. So, he submitted his DRC application. And I believe, I don't know, if they submitted for building permit yet because I don't believe that could be approved until they had the DRC approval. And it is kind of backwards because, like I said, the work has already been done.

David Walker: And as he said, summer's over.

Marianne Hubert: Yeah. Okay.

David Walker: So, is there discussion amongst board members in terms of which option you want to utilize? Table, send that to us.

Jay Kelley: Through the chair.

David Walker: I want to find them, they went away.

Marianne Hubert: Yeah.

David Walker: You know what I mean?

Jay Kelley: Through the chair.

David Walker: Yes, Jay.

Jay Kelley: Has anybody seen that? Have we all been down to take a look?

Erin Moriarty: Not while it's open. I have walked by the windows closed.

Chris Hitchcock: Yeah. Same here.

Jay Kelley: They went down there, and they punched a hole in the wall into a clothing store and decided to sell food out of it.

Marianne Hubert: So, there is no kitchen.

Jay Kelley: It looks well, all right, thanks, I got to be careful.

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Marianne Hubert: Yeah, because the fire, it's...

Jay Kelley: It's not – let me look. When I was on the council, we tried very hard to beautify Main Street a little bit as best we could.

Michael Foster: Yeah.

Jay Kelley: And this is not exact and this is not what we want, I guarantee it. I wish they were here because I'd be telling them to their face. I'm a no vote. So, we could go from there.

David Walker: But then we don't have a no vote.

Jay Kelley: Well, whatever I am.

Erin Moriarty: Well, we can. It's not written down.

Jay Kelley: I've been a little negative tonight. I don't know why.

Michael Foster: Yeah, I think...

David Walker: Shouldn't Code demand him putting back the way that it was? I mean, or is there an easy way out to have DRC approve it?

Michael Foster: So usually, we try to work with applicants on compliance before going straight to enforcement. So there was multiple, I guess, enforcement items going on there that Codes was waiting for. So I believe it was something that was impacting their business license. So I'd have to get clarification, but last I heard, I believe they were talking about, potential delayed opening of the business next year if they hadn't straightened the things out. But I'd have to get something in writing from Codes or Fire to confirm that 100%. And, yeah, just real quick, I know the use is in question. I didn't get into the file because we were hoping the applicant was going to be here, so I haven't researched this a whole lot. I do know that it was previously licensed and did have a food business in there, but it was without the takeout food window. The takeout food window was added this year, and the type of food business changed.

David Walker: I mean, so they are licensed for food?

Michael Foster: Currently, the business does not have a license because it was a change, and they didn't meet their requirements with Codes and Fire.

Jay Kelley: So what were they selling?

Michael Foster: So my understanding is it's a different concept, but it's like, they have almost like a sandwich press that, like, seals the food in. So, it's just like a burger bun that seals in sandwiches.

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Jay Kelley: What can you bring from your house?

David Walker: Press the roll, and way you go.

Michael Foster: I mean, I suppose...

Jay Kelley: There was nothing appealing about that place at all, nothing.

David Walker: Okay. I think we need somebody on town council to take a call on that.

Jay Kelley: I hope.

Michael Foster: Yeah. And I guess the challenge is that's why I kind of tried to outline it in the memo, and I can read over this, but it seems like, I understand the board has the question about the use, and I would understand if you table it to get more information on that. But what's reviewed is just the design of the takeout window. So in just specifically looking at the design and not the use aspects, one option is to kick it back to the DRC because there's an issue with the design. I just thought it might seem like there should be a specific design standard reference. Like, for example, window and door layout, if you felt like it changed the building that would be fenestration. That's one of the design standards. I don't know if that benefits anyone, but that might address some of the concerns. Or, like I said, tabling it until those questions are answered, and I don't see anything that says you can't do that. I was just recognizing that this is for a design review certificate, and some of the questions were outside of that, but it makes sense to want to get those answered.

David Walker: So, the DRC feels that the design in this window is appropriate for any pos-talk case.

Michael Foster: The vote was 2:1...

Male Speaker: And it *[inaudible]* *[01:10:33]* for design.

Michael Foster: For design. Some people felt like, or one person felt like it was a change to the structure and didn't agree with it. And then other two board members thought it was okay.

Erin Moriarty: So, our options are to do a motion to approve or a motion to send it back to design review for re-review?

Chris Hitchcock: Or just table it.

Michael Foster: Or table it.

Chris Hitchcock: Until we get the ordinance.

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Michael Foster: Yeah. And I didn't write *[overlapping conversation]* [01:11:00] motions.

Erin Moriarty: Right.

David Walker: We won't get any information until next hearing.

Marianne Hubert: So, is it you...

Erin Moriarty: *[Overlapping conversation]* [01:11:06] something.

Marianne Hubert: I have a question. If a new restaurant is coming, we usually approve the building. We don't approve the kitchen, right. So, it's independent of the kitchen and the operation and the license to sell stuff. So why are we holding them hostage?

Erin Moriarty: My concern is still that the window is too low. So when it's open, it projects onto the sidewalk and someone can hit their head on it. It is a very thin window. There's not like an awning or anything that calls attention to it. And I asked for dimensions of the ground to the height of the window when it's open, and that wasn't provided.

Marianne Hubert: So, this is legit question. Yeah.

Erin Moriarty: That was my question.

David Walker: So, it's not an up and down, is it?

Erin Moriarty: It goes like this.

David Walker: Lowers downwards?

Erin Moriarty: Yeah.

Jay Kelley: Does it hang over the window, or does it go all the way up?

Michael Foster: It hangs out from when I've seen it.

Jay Kelley: So it's like an awning?

Michael Foster: Yeah. It opens up and then it's held up. So it was also a staff concern about potential clearance, which is why I recommended the DRC and their certificate putting, I'm sorry that the – I recommended that the DRC include the condition and the approval that the take out window shall not encroach in the town right of way. They didn't include that in my recommendation. But since the planning board is the one who

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makes the final say, I added that in to try to address that concern. And like I said, it's kind of weird because it's backwards because they still need to get permitting and licensing.

Jay Kelley: Let's vote on it.

David Walker: He could replace that little building up and down the window.

Erin Moriarty: There's a lot of things he could do. I mean, he could just make it more noticeable. It is a black window, it's serving late night to...

David Walker: Just make it nice for looking.

Erin Moriarty: A lot of people. And I don't want someone to hit their head.

David Walker: Well, I'd be happy again, we're back to DRC, *[inaudible]* *[01:13:07]* like they get enough to work on this.

Jay Kelley: I second that one.

Michael Foster: Do you want to do that and cite a specific design standard or just in general?

David Walker: Yeah, heighten up the window when it's open and same thing for people passing by the window also.

Marianne Hubert: And...

Erin Moriarty: Is there a list? Somewhere outside it, there is a list.

Marianne Hubert: And did you all appeal, because safety and appeal?

David Walker: Do you want me to go up to the ordinance and find a particular design?

Michael Foster: No. I was just mentioning, so what I was saying is, it's a design review certificate recommendation and not a project through regular planning board review. So, if there was questions about it meeting the design standards for new construction and building rehab, you can return it to the DRC to resolve those design conflicts. And I just said you should specify what design standards it conflicts with. Because it says, so here's the language from the ordinance. When the planning board determines that the applicant is in conflict with the guidelines in subdivision 2, division 7, article 6 of this chapter, which is the downtown design standards, the planning board may require the applicant to return to the design review committee for a resolution of the design conflicts. So that is within your power. I was just saying to help the design review committee if you specify what those things are. And I can tell you, they didn't include the conditional motion with the encroachment piece as I suggested because they thought that was stepping out of their purview of design review. And that was getting more into codes stuff.

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Chris Hitchcock: Why is that not a design issue?

Michael Foster: Because they were reviewing the design to the design standards, which I have here.

Jay Kelley: I mean, all it is a design issue.

Chris Hitchcock: It's just post talk. So, they didn't design it well?

Michael Foster: Yeah. We're just trying to get them to – so it's challenging sometimes when the design review committee drifts outside of the ordinance for what their review purview is. So we really try to stick to those standards.

Chris Hitchcock: Okay.

Michael Foster: I think this project's different, where it's not something bigger that is also coming to the planning board. It's an existing structure with alterations.

Erin Moriarty: Okay. So, I have an ordinance. This is section 78-353 performance standards for issuance. Standards for alterations.

Michael Foster: Yes. That should be it.

Erin Moriarty: So, I'll make a motion to request the Design Review Committee re-review the application for the takeout window for Stuffed at 26 Old Orchard Street based on section 78-353 subsection (A) four, which reads that contemporary additions and alterations shall not be discouraged provided the alterations or additions are compatible with the scale, height, color, and material character of the property and other structures in the district. I don't believe the window meets the other district standards of height and awning, shape and size.

David Walker: All right. Can I withdraw my motion?

Jay Kelley: That was a motion.

Erin Moriarty: That was a motion.

David Walker: Okay.

Jay Kelley: I'll second it then.

David Walker: We already got a second by Jay.

Jay Kelley: I'm sorry, I'll step on my second.

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David Walker: All right. I think it's unanimous. Everyone in favor?

Audience: Yes.

David Walker: Five yeses.

Michael Foster: So, it's five yeses.

Erin Moriarty: Thank you. Hopefully that's the right section that I go into.

David Walker: Other business. Any other business?

Erin Moriarty: Other business, I am out of town for November. Is that the right section of the agenda?

Michael Foster: Yes.

Erin Moriarty: Sorry, other business.

David Walker: That's fine. So you'll not be here?

Erin Moriarty: Yeah, I won't be here, so hopefully...

Chris Hitchcock: November?

David Walker: We'll miss you.

Erin Moriarty: Correct.

Michael Foster: Me either.

David Walker: We will miss you.

Erin Moriarty: Well, so many people have an ad hoc delay anyway.

David Walker: All right, so Chris and Erin will not be here.

Michael Foster: Sorry.

David Walker: Next month.

Michael Foster: Yeah. Just so it's clear, sorry, that is the right section, but it's certificate of appropriateness, which is Historic District, which is right here. So it's 78429 is where it goes into, sorry, actually, no, we've been trying to work on this ordinance.

Erin Moriarty: Well, that should be under the downtown district.

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Michael Foster: Yes. So that's the challenge. The standards for design review, the procedural stuff's in one section, and then the design standards are in the downtown district. So, I apologize for that. I think your tablet's faster than my flicking through this folder of ordinance?

Erin Moriarty: There's no list in the downtown district of...

Michael Foster: Yes, sorry.

Erin Moriarty: Items that need to be addressed.

Jay Kelley: Next month's meeting. Who's not – Chris and Erin?

David Walker: Chris and Erin.

Jay Kelley: I'm hoping to be council and the board. What will I do for...

David Walker: *[Inaudible]* [01:19:17] have a grant.

Jay Kelley: *[Overlapping conversation]* [01:19:21]. Okay. So that will be quorum?

David Walker: Yeah. Yeah.

Jay Kelley: Okay.

David Walker: I'm hoping *[overlapping conversation]* [01:19:29]...

Michael Foster: 78686 is the standards.

Erin Moriarty: You have to quit like right off if you...

David Walker: Yes.

Erin Moriarty: You need to?

Jay Kelley: Sure.

Erin Moriarty: Oh, we'll miss you.

Jay Kelley: Well, I hadn't been left yet.

Erin Moriarty: Yeah, it's so far.

David Walker: Are you still *[overlapping conversation]* [01:19:47]?

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Marianne Hubert: So is it *[indiscernible]* [01:19:52]?

Erin Moriarty: This is under districts?

Michael Foster: This is...

Marianne Hubert: 78...

Michael Foster: This is where it goes into...

David Walker: Listen to my mind, it'll be...

Michael Foster: The list.

David Walker: Early night when we have two *[inaudible]* [01:19:58].

Erin Moriarty: If I say it is pretty good, okay...

Michael Foster: 7686.

Erin Moriarty: 686, yeah.

David Walker: Because you said that before.

Jay Kelley: And then you went for the juggler under denied.

David Walker: Oh, second.

Jay Kelley: Are we adjourned?

Erin Moriarty: No, we are not.

Michael Foster: No, I didn't realize. I was trying to look it up while she was saying that motion, and it was the historic standards that was referenced. So, I just want to make sure the motion references the correct section when we send it back.

David Walker: Can we authorize you to fix it?

Erin Moriarty: So, I'd like to make an amendment to my motion on 26 Old Orchard Street.

Jay Kelley: Just make it a friendly motion. Friendly amendment. Then I can, then the second, it's the green and you are done.

Erin Moriarty: Right. To amend the section of the ordinance reference to section 78-686, subsection B4, fenestration windows and door arrangements.

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Michael Foster: Okay. I think that's the right section. That was the one I referenced.

Erin Moriarty: That is the one that you referenced, and there is still something in here for window dimensions construction should be complementary to the architectural character and where appropriate the historical period of the structure. So we'd like them to take a look that the window meets the character of the neighborhood and safety.

David Walker: And we thank you for your help.

Erin Moriarty: Does the second agree with my amendment to my motion?

Jay Kelley: I certainly do.

Erin Moriarty: Okay, great. Thank you so much.

Michael Foster: And then does everyone else agree as well?

David Walker: Yes.

Michael Foster: So that's 5/0 again.

Erin Moriarty: 5/0.

Michael Foster: Okay.

David Walker: All right.

Erin Moriarty: Can I make another comment in the other business category of the agenda?

David Walker: Yeah. Absolutely.

Erin Moriarty: So, previous boards, the whole determining complete of an application is different here than it is in other boards I've sat on, where, staff used to just determine something that's complete and the board would then ask for more material. So, it's kind of a different process that we're following here than.

David Walker: I'm sure that other places do business differently.

Erin Moriarty: Okay.

David Walker: But it isn't uncommon for us to request a peer review.

Erin Moriarty: Peer review, I understand.

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David Walker: Okay.

Erin Moriarty: I'm actually more concerned with the fact that the public hearing occurs prior to the introduction of the project. So for instance, last meeting, there were people here in the audience that wanted to speak towards one of the Shoreland zoning housing. Just single family homes.

David Walker: Yeah, I wasn't here.

Erin Moriarty: But, it was just kind of like the public hearing happens and, like, someone can come up and make a comment. But we hadn't discussed the project yet. So there were some people in the audience that then were asking questions about the project that would have been answered.

David Walker: Yeah. No. They should know how to ask questions. And then we know what seems weird, because that's a contract zone. So they will have a public hearing with us and we will recommend to the council.

Erin Moriarty: Well, sure. I understand.

David Walker: I also organize the public hearing.

Erin Moriarty: Right. I think that's what we told them.

Michael Foster: I think I understand what you're saying though. Like, the public has to provide their comments before they get the most recent update. So unless they've approached staff or got the memo...

Erin Moriarty: Correct.

Michael Foster: They're speaking, but then hearing the stuff after.

Erin Moriarty: Correct.

Michael Foster: I don't know if this addresses it, but we are reviewing our ordinances with, Southern Maine Regional Planning. And site plan was one we identified to look to try to improve the process. I know we've talked about in the past, sometimes it seems like the public hearings just late too. I mean, we want the application to be as complete as possible, but sometimes based on public comment, it sounds like they feel it's late in the process when they get to provide feedback.

Jay Kelley: That's a great question.

Michael Foster: So we're just kind of looking at the whole ordinance and ways to improve it for the board, for applicants, for the public.

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Erin Moriarty: Right. Because, I mean, the members of the public that were here tonight were obviously not happy with the outcome. But I'd prefer to hear their official comments before we, you know, discuss the application further. So, it is kind of a weird sequence.

Chris Hitchcock: Well, we have tried to have too, but then the applicant gets tired and calls the town manager. She tells us to shut up and pass the damn file.

Michael Foster: I think and I don't know if this is how you have experienced, but the way I have seen it done in other places is like you'd have item 1 and then the public hearing on item 1.

Erin Moriarty: Correct.

Michael Foster: And then item 2 and then if there was a public hearing then you would have the public hearing on item 2 instead of all the public hearings front loaded at the beginning of the meeting.

Erin Moriarty: Yeah.

David Walker: I could go with either way, because we represent the public first. And we want to make sure that everything is done and possibly can be done to provide a complete and safe project. And then hear their concerns if they have concerns. And a lot of times, they've just, well, I never heard anything. This is the first I'm hearing of. I'm like, what's the communication process, why didn't they hear about these meetings? Why don't they follow them? You know? And then when they do come, they'll come with a lot of personal concerns that really can't address by all of us or by us, you know?

Erin Moriarty: Sure.

David Walker: So I prefer them on the back end because I don't want them money in the water until we've done everything we can do to make sure that it's a complete, 100% ready to go project, and then listen to what they have to say. If they want to get up front, they can come and join the planning board.

Erin Moriarty: No they can't. We're full.

Michael Foster: I think it's worth discussing ways to improve it. And I the reason why I think it works the way it does now is it does give the applicant after the opportunity to address those concerns, after they hear them from the public, but...

David Walker: We have done that, we have asked before determination of final approval. That you need to come down and address those concerns from the public before we go any further.

Erin Moriarty: Okay. So we don't always vote on it on the night of the public hearing?

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David Walker: No, no. If there are a number of valid concerns by the public, we'll let the applicant go back and respond to those concerns and meet with us the following month.

Erin Moriarty: Okay. Great.

David Walker: Okay?

Erin Moriarty: Yes. Thank you for that clarification.

David Walker: All right. Good and welfare. Adjourned.

Erin Moriarty: Motion to adjourn.

Marianne Hubert: Adjourned already.

David Walker: A 100% unanimous. We are done. Good night everybody. Thank you for being here.

Michael Foster: Thank you.

Marianne Hubert: So I wish I could vote it with you. I wish to and....

David Walker: I wish you had though *[overlapping conversation]* [01:27:09], but...

Marianne Hubert: You know, because in the second...

Male Speaker: We're still live.

David Walker: We're still live. But it is what it is.

Marianne Hubert: It is what it is. It was okay.

David Walker: Yeah. And then the applicant seemed pleased. I don't think the public understood what completeness *[overlapping conversation]* [01:27:31].

Marianne Hubert: The problem is it's the same issue.

**I attest the above minutes were approved by the Old Orchard Beach Planning Board on 11 December 2025.**

***Jeffrey Hinderliter, Town Planner***