Brian Cloutier, Marianne Hubert, Robin Dube, Vice Chair Erin Moriarty, Chair David Walker in attendance.
Kyle Duffy is absent. Roll Call by Michael Foster.

David Walker: For August 13th, 2026. My name is David Walker, and I will be your chair tonight. This meeting is now in order, and as with most meetings, we begin with a pledge of allegiance to the flag. Please join in if you can.

Members: 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. Thank you. Michael, you want to do the roll call? See, I called you, Michael, tonight.

Michael Foster: Thank you.

David: See that?

Michael: Brian Cloutier?

Brian Cloutier: Present.

Michael: Marianne Hubert?

Marianne Hubert: Present.

Michael: Robin Dube?

Robin Dube: Here.

Michael: Vice Chair Erin Moriarty?

Erin Moriarty: Yes.

Michael: Chair David Walker?

David: Yes. Do we still have Graham Roeber?

Michael: No, he's no longer on the board. He had moved, so he--

David: I thought I saw him. What about Kyle?

Michael: Yes, Kyle just started last month. He was here, and he's absent this month.

David: Okay, so he's excused tonight.

Robin: Do they get notices when we have a meeting or when to pick up packets?

Michael: Yes, we send out-

Robin: They do too?

Michael: -email notice to the board members, and then for those of you that request electronic copies, we also email those out, and I send electronic copies to him as well.

David: If you can **[unintelligible 00:02:36]** are you done with it?

Erin: There's a lot of things to fix in there, actually.

David: Did he have it?

Erin: He's not sure where it is.

David: Do you want to make a copy?

Erin: Yes, I can do it later.

David: Okay. All right. First order of business is a public hearing. Proposal, conditional use, shoreland zoning, non-conforming structure teardown, rebuild, 30% expansion. The applicant is Michelle Shields, and the location is 36 Free Street, MDL 320-9-3. This public hearing will begin, by my watch, at 6:32 PM. If anybody is here to speak on behalf of this proposal, please approach the mic, identify yourself, your place of residence, and know that you have five minutes to present your case. Thank you.

Michael: Just for the board, we didn't receive any email comments or any other comments submitted prior to the meeting.

David: Did we get any from any--

Michael: I didn't, no.

David: So, no. Otherwise, we'd read them into the record. It doesn't look like anybody's going to speak tonight, so I will close this public hearing at 6:33. We did receive minutes from the May meeting. Michael, if you looked at them, it looks like whoever was transcribing transcribed before the meeting was called to order. The first one, two, three, four, five lines weren't even part of the meeting. I'd like to strike those from the record.

Michael: Okay.

David: Otherwise, any other changes, amendments, corrections?

Marianne: No, I second the request.

David: Thank you.

Erin: I make a motion to approve as amended the minutes.

David: Okay, thank you. Motion by Erin.

Marianne: Second.

David: Second by Marianne. You want to call for a vote, please? Michael?

Michael: Brian Cloutier?

Brian: Yes.

Michael: Marianne Hubert?

Marianne: Yes.

Robin: Yes.

Michael: Robin Dube? Erin Moriarty?

Erin: Yes.

Michael: David Walker?

David: Yes. That motion carries 5-0. All right, regular business. Item one, proposal, conditional use, shoreland zoning, non-conforming structure, tear down, rebuild, 30% expansion. This action is a final vote. The applicant is Michelle Shields. The location, again, is 36 Free Street, MDL 320-9-3 in the R3 and RA zones. Michael?

Michael: Oh, yes. We had the public hearing tonight, and then last month, this was conditionally determined as complete, subject to receiving two items, which were: number one, applicant to submit a stamped and signed site plan, and we received that. Number two: applicant to update plans dated 6-18-2025 with proposed structure distance from the HAT and existing and proposed structure distance from the wetland. We did get the updated existing plan identifying the structure distance from the wetland area and from the stream, and updated proposed plan identifying structure distance from wetland area and distance from HAT and stream.

As I said, those items address the two determination conditions. Then Maine DEP Natural Resources Protection Act permit application submission confirmation, that was also submitted. Then any final ruling decision to approve would need to include a condition that DEP permits be approved and submitted before construction begins. As far as the compliance with the shoreland zoning standards, basically any removal, rebuilding, and expansion of non-conforming structure in the shoreland zone needs to meet the specific shoreland zoning ordinance requirements.

Those include that the proposal conforms to 78-34E, which is the standard conditions in shoreland zone, and that the proposal conforms to the Section 78-1240 Conditional Use Standards. Responses to both conditions and standards were provided, and they begin on page five in your memo after the recommended motion. Then, removed and replaced structures must be relocated from the HAT and wetland setback to the greatest practical extent. After inquiring with Maine DEP and the applicant finding out they needed the NAPA permit by rule due to a stream that's not shown on our shoreland zone map, the proposed structure's been moved slightly, 5 inches to the left.

They're staying with that existing structure footprint on the left side because it's a non-conforming structure setback, so they really don't have more room to move it. Then the applicant also reduced the roof overhang from 12 inches to 10 inches to prevent it from becoming any closer to the stream than the existing structure. The proposed location increases the distance from the HAT and wetland compared to existing structure. In my opinion, this is relocated to the greatest practical extent, and it doesn't make the structure more non-conforming than the existing.

Number four for shoreland zoning is that you can't increase the non-conformity of the structure, such as locating it closer to water setbacks. It's considered non-conforming because it doesn't meet the setbacks from water resources. In this case, it's the HAT stream and wetland. If the new structure extends no closer to a resource than does any portion of existing non-conforming structure, it's not considered an increase in the non-conformity. The distances from each resource are on the plan submitted, showing that it doesn't increase. Then the other item is structure expansions can't exceed 30% in floor area and volume since 1989, when they started tracking.

Town records don't show any previous expansions. I couldn't find any previous DEP permits for expansions. Then floor area calculations are the same as presented last month and are on page eight of this memo. Those show that the expansion doesn't exceed 30% in floor area or volume. Then, as mentioned previously under the calculations, the structure is being designed to meet the flood standards with proposed flood vents. It will require a flood hazard development permit from codes, which is included as a recommended condition of approval. For recommendations for this month, in my opinion, the applicant has complied with the determination of completeness conditions.

The proposal complies with applicable shoreland zoning standards, and it's ready for final ruling. If the planning board needs more information to make a decision or has specific concerns, I recommend postponing final ruling until the applicant has a chance to address those concerns. Recommendation is to conditionally approve the proposal. The motion's on page four of the memo.

Robin: I'll make a motion. I don't think anybody else has anything to say.

David: There may be some questions or discussion from the board first. I thank Michael for his hard work. Appreciate it. We have Mr. B. The standards, shoreland and conditional use will be adopted as submitted, and if there are no questions on those by anybody, rather than reading them into the record, we'll just adopt them as presented. Are there any questions from any members?

Robin: No.

David: Erin? I know you have something.

Erin: There was one thing that I noticed during review that the scale that is presented on the site plan is not correct. I just wanted to make a note that the measurements that

are shown on the site plan and the measurements of front, side, rear, setback are correct, but that the scale included in the title block is not. Just for future reference.

David: Thank you. See, I can even read your mind.

Erin: I know.

David: Robin?

Robin: I'm just waiting to see if she has what you're looking for. I make a motion to conditionally approve Michelle Shields on behalf of Martha Griffiths, conditionally use non-conforming structure in the shoreland zone application proposal to remove an existing single-family dwelling and build a new single-family dwelling, including a 30% expansion located at 36 Free Street, MDL 320-9-3 in the R3, RA, and HAT zones with the following conditions. Number one, applicable Maine Department of Environmental Protection permits for this project shall be approved before construction activity begins. Two, applicable flood hazard development permits for this project shall be approved before construction activity begins.

David: Motion by Robin.

Erin: I'll second that.

David: Second by Erin. You want to call for the vote, please, Michael?

Michael: Brian Cloutier?

Brian: Yes.

Michael: Robin Dube?

Robin: Yes.

Michael: Marianne Hubert?

Marianne: Yes.

Michael: Erin Moriarty?

Erin: Yes.

Michael: David Walker?

David: Yes. That motion carries 5-0. Congratulations.

Member: Thank you. Thank you for your consideration.

David: Other business. Is there any other business? Hold on a minute.

Michael: Oh, thank you.

David: The Patriots are playing their first preseason game tonight, so at 7:30, we should be able to make that no problem.

Erin: Can we discuss this real quick?

Brian: I hope it doesn't interrupt my regular programming.

David: I hope not. Is there any other business tonight?

Erin: Yes. I would like to have a quick discussion about the planning board's procedures or rules of procedure and whether or not staff can find a copy for the next meeting. I thought it might be a good idea moving forward to have an established time limit for public comment in the event that we have a roomful of people. We've had it a number of times, and sometimes certain individuals have extended public comment. It's pretty standard in town council and other planning board meetings to have an established time limit.

David: I agree. Just for the record, even though it's not written, there is an established time of five minutes. I think it makes sense if everybody agrees to the five minutes-

Robin: Absolutely.

David: -to have it added in, too. Under the public hearing section on there? Is that what you'd like to see?

Robin: If they get up two, three times, you only get five minutes-

David: They're only allowed to get up once.

Robin: -add it all together.

Erin: They're only supposed to get up once.

David: You're only allowed to get up once. It's not a rebuttal. It's a statement. You're allowed to make your statement.

Michael: I'll look into where this lives in the ordinance or where it comes from and see what any amendment requirements are, and then I can provide feedback.

David: I could reach out to MMA and ask them what they have for a standard, but we've been using five minutes, so we may as well stick to it.

Michael: I thought I'd seen a time limit somewhere, but now I don't recall if it was just informative stuff and it's not official or if it is written down somewhere. I'll look into it.

David: Do you want to keep that in case you can't find it?

Michael: I have a copy.

Marianne: I have a question. This is the opportunity for people to voice an opinion about something that's happening in the town, and maybe five minutes is not enough. I feel like we approve rubber-stamps, projects, proposals, and maybe we don't listen enough to what people really feel out there. Is there a way to maybe open that communication better, so that people have an opportunity to voice their concerns and then maybe we listen?

David: Do you have an example that you're thinking of?

Marianne: One that I can think of is the-- a couple actually, was a house that they were rebuilding the storage garage or whatever it was, and the windows were going to be really close.

David: I need another one other than that one because that one's in litigation right now-

Marianne: Oh, it is?

David: -not to be discussed yet.

Marianne: Oh, so you see, there's no problem. Another one was the dune grass development behind my house. The people that were on the dune grass, they had some real issues with that development and worrying about the impact to the environment, and we blew them off. Which I had to agree that, yes, it is a concern, but I was a non-voting member anyway, so it didn't matter.

David: My understanding, Marianne, is that they can present those concerns, but we're not going to solve them when they present them. Then what we'll do is we put them together, and we make a decision afterwards based on their concerns, whether they're valid, whether there's something that we can do about them or not. A lot of times people come with stuff. There's nothing we-- no control we have [crosstalk]

Marianne: No, I agree, but we don't really listen to it or to say, "Yes, it is a real concern. We need to think about the future about this issue."

Robin: I think we quite well listen to it. It's just who doesn't focus on the conversation. We usually listen.

Marianne: We approve project based on the standards. I appreciate that, and we can approve any project based on the standards, but not listening to the outside picture, the thought that somebody has from the outside.

David: Fine. What would you like us to do?

Marianne: I don't know.

Marianne: That would be that maybe we have a suggestion box that is independent from the planning boards and approving projects.

David: We have the planning office, and everybody has the right to go into the planning office and talk to the staff about any problems that they have. They just choose not to do that. It's easier to come up here and just throw them out at us. That's okay. I'm happy to listen to concerns that the public has, but one of the frustrations that I have is they come with concerns that we've already covered many times.

Marianne: No, I agree with this.

Robin: After the fact.

David: They come unprepared. We've been working on a project for three months, and we've done everything that we can on that project, and they come in unprepared and not understanding, but usually their concerns are personal and not project. You know what I mean? They have personal concerns, not anything that we can do. I'll give you one example. For example, they didn't want to put that big building down on West Grand Ave. They were dead set against the whole neighborhood.

Marianne: This was not in line.

David: There wasn't anything we could do about that.

Marianne: Yes, because it didn't meet the standards. I agree. This is why I'm saying is that we need to think outside the box that maybe in the future, what do we want Old Orchard to represent and to look like? Maybe we should look at this and say, "Yes, you want to save the bunnies in the field; maybe we need to put more land in conservation."

David: The bunnies were eating these tomato plants.

Erin: Plenty of bunnies.

David: Too many bunnies.

Erin: Marianne, that's the role of the comprehensive planning commission. They did the long-range plan. We're supposed to implement the ordinance.

Marianne: Yes, I know. We are not offering that. Maybe that's what we need to say if you have an issue with the overall impact on the town and the people.

David: My training is when they have a statement at a public hearing, it's just to accept it. Whether they have questions, I'm not answering their questions. This isn't a question-and-answer period. It's just an opportunity for them to give their concerns, and then the staff is here to address them when it's appropriate for staff to address them. It's just an opportunity for them to present to us if they don't want to go down to our planning staff. I'm not going to engage in a back-and-forth conversation.

Marianne: No, I concur with this. I agree. I'm saying that we need to have a channel. We need to have a real channel for those concerns that maybe don't necessarily address that project, to really address the concept or the idea.

David: Then I say, if everybody on the board agrees, you take control of developing that channel for us and proposing it to us, okay? I'm not against that. It's a good suggestion, but it's yours. You need to tell us what it is you want us to do.

Marianne: I don't know. Mike, is there a channel? Do you have to respond to this?

Michael: I was going to say I have a couple comments and suggestions. At first, I think the public process can always be improved. I don't know that adding more time is necessarily needed, but I think that process can always be improved. I don't have answers as to how. We do send out notice to abutters. One thing we've done to try to make it easier for people to access documents is we do have an active planning applications website that is linked through the planning website. It has been dormant since Jeffrey left, but I just got trained and access to it.

This application, for example, was on there, and we intend to put the future applications on there so you can look stuff up by address and have access to the documents. Then whenever there's a public hearing, we also print off the full package and have it in the office for review, so when those public notices go out, people can come in and look at it.

David: Do they come in?

Michael: Sometimes, but I'm surprised at how few do come in. I think often some of the comments that the board hears are people providing feedback based on the knowledge they have. Sometimes they don't have any knowledge of the project, so that's why you will hear comments or concerns about things that the board already addressed. I think I have mentioned this in the past: when public hearings are scheduled, stuff's already happened, so people feel like they missed that out because not everyone follows the agenda. Anytime anyone asks about Planning Board, I tell them they can sign up online to get emailed agendas.

You can scan through an agenda pretty quick and know if it's something that's near you that you should be concerned about or anywhere in town. Then the other opportunity, which I think we accept, is comments under Good and Welfare. I feel like the board's even taking comments that are about specific projects, which Good and Welfare isn't always for, but you've accepted comments then, so I think that's another opportunity for the public. Then what I was just going to suggest is when I look into the time limit, I can look at what other places use for time limits or what MMA recommends for a time limit. Maybe there's an option to extend it in certain circumstances.

There also are examples where I think we've had two public hearings on projects.

David: Since I've been chair, there have been numerous public hearings. I've never called anybody on the five-minute rule. Some people have run over. I think there was a run-over on Vinatias down on West Grand, but she had a lot of points to make. I felt that

she wasn't controlling the meeting; she just had a lot of stuff that she wanted to present, so I let her continue. If it got repetitive, I would have cut it off. In another instance, not one that I'm going to talk about, when it becomes confrontational, I immediately would shut it down. That's what needs to be done in that instance.

Robin: We as a planning board can't predict the future. We all would love something to stop and not grow and not do this or anything. If we've got something in front of us and everybody has their men in a row, their papers in a row, we can't say,"No, you can't do that," because you've followed the guidelines.

Marianne: Yes, but this is the problem is that it's so cap and dry and you're looking at the past. Approving stuff is like looking at the past.

Robin: That's what we're here for. We're here for that.

Marianne: It's not looking at the future.

Robin: We can't. We have to go by what's in front of us.

Marianne: I agree, but there should be a channel for looking at the future. Another example is I have a friend; she commented on the project on Smithwheel there, the big one. I don't remember what the name [crosstalk]

David: 175 units?

Marianne: Yes. She had a real worry about the traffic. I know that was voiced. Knowing the street now and the access to Saco, they are putting a light there. That has been long due. I guess it's the lights going there, right?

David: I haven't heard anything.

Michael: They're doing secondary review now. We got some funding from GPCOG to go into next phasing of planning for the traffic stuff. That's for Smithwheel. Also, that contract zone, when that comes back to us, due to the number of units and trips, that'll trigger a traffic movement permit from DOT as well.

David: Which we have no control.

Marianne: Yes, I know. This is the thing is that we need to open those channels to business. Maybe that's not one that is valuable.

Robin: I feel the same as you do. I'd love to put a five-year moratorium on no more projects. You know what I mean? Just slow down a little, but we can't. We have to--

David: That comes from council. If council wants to start building, council needs to--

Robin: You know what I mean?

Marianne: I think we're getting overpopulated.

Erin: I think the avenue that you're talking about, Marianne, actually is council. There is a public hearing at every town council. It doesn't have to be relevant to anything that's on the agenda. That's when people should be voicing any of those long-term concerns.

Robin: They would have to come up with it, definitely.

David: People will show up and talk about beach access and the wear time and stuff.

Robin: Right. It's beyond us.

Marianne: I agree that there's a limit and there needs to be a structure. It's just that there needs to be opportunities to maybe make a difference for the better in the future.

David: They can always come and volunteer for a committee assignment.

[laughter]

David: Anyways, I agree with you. I just don't think it's the **[unintelligible 00:28:39]** responsibility.

Marianne: I understand. It's just that we need to open that channel or be able to tell people, "This is a discussion you need to take with the town council **[unintelligible 00:28:51]** historical preservation or whatever."

David: Conservation.

Marianne: Conservation.

Michael: People can always come to the planning office and talk to me as well. I'll just say I'm the only staff in there right now, so be patient if that's the approach you take. We're available.

Marianne: Thank you for listening to me.

David: Thank you. Any other business?

Michael: Oh, I'll just announce that the assistant town planner position has been posted. That's out there. We are getting applications in. I think it's on Maine Municipal, Indeed, and the town website.

David: If I want to apply, I better hurry up, huh?

Michael: Yes. You have some board experience. That's good.

Erin: It's true. If you need some committee interview.

David: I hope you don't want a 75-year-old grouchy old man like me.

Michael: No age discrimination.

David: All right. Motion to adjourn?

Marianne: Adjourn, yes. Motion to adjourn.

David: It's unanimous. All right, great.

Erin: Thank you.

David: Good stuff, people.

[00:30:06] [END OF AUDIO]

I attest the above minutes were approved by the Old Orchard Beach Planning Board on 8 October 2026.



Town Planner