

**Old Orchard Beach Planning Board Minutes
Site Walk / Workshop / Meeting / Public Hearing
September 3, 2009**

Site Walk: 188 Portland Ave at 5:30pm

Conditional Use Application: Proposal to approve an existing Accessory Dwelling Unit at 188 Portland Ave. MBL 103-1-23 in the Rural District. Owner and Applicant is Janie Newcomb.

Roll Call: Mr. Winch, Mr. Cote, Mr. Koenigs, Mr. Weinstein. **Staff:** Mr. Lamb and Ms. Wagner. **Applicant:** Janie Newcomb.

Called to Order at 5:35pm

The Planning Board viewed the site, confirming that there was sufficient parking and the accessory dwelling unit was subordinate to the primary house.

Adjourned at 5:39pm.

Site Walk: Powder Horn Campground, 48 Cascade Road at 5:40pm

Conditional Use/Site Plan Review Application: Powderhorn Campground (MBL 104-1-1) proposes expand the maintenance area into MBL 104-1-11 in the Rural District, Applicant is David Ahearn, Agent is BH2M.

Roll Call: Mr. Winch, Mr. Cote, Mr. Koenigs, Mr. Weinstein. **Staff:** Mr. Lamb and Ms. Wagner. **Applicant:** David Ahearn, Jason Ahearn, Walter Pelkey. **Abutters:** Richard Morin (142 Portland Ave) & Claude Oullet (24 Cascade Rd)

Called to Order at 5:45pm

The Board drove from the gate to the back to existing Powder Horn Campground. The board walked the area that is mostly cleared today.

Mr. Walter Pelkey (BH2M) handed out maps of the site, and lead the Planning Board around the area proposed for the new maintenance area.

Mr. Lamb noted the natural berm and existing pine tree buffer in the rear of the site that will provide a natural buffer for the proposed maintenance area.

Adjourned at 6:05pm

Site Walk: Corner to Portland Ave & Ross Road at 6:00pm

Subdivision Amendment Application: Proposal to amend Regis Acres Subdivision (approved 11/8/2007, amended 3/12/2009) from a 4-lot subdivision to a 6-lot subdivision. Located at Ross Rd. and Portland Ave, MBL 103-6-6 in the RD district. Applicant is Ronald Regis, Agent is Northeast Civil Solutions.

Roll Call: Mr. Winch, Mr. Cote, Mr. Koenigs, Mr. Weinstein, Tianna Higgins. **Staff:** Mr. Lamb and Ms. Wagner. **Applicant:** Ron Regis, Lee Allen. **Abutters:** Mike Mailhot (4 Millbrook Dr.), King Weinstein (2 Millbrook Dr.).

Called to Order at 6:07pm

The Board viewed the site by walking along Ross Road.

Mr. Lee Allen (NE Civil) showed the Board the wetland areas and the staked out wetlands. He also showed the board the culvert area that had existing standing water on the proposed lot 5 area.

Mr. Mailhot stated that Mr. Regis would not be allowed to connect to his private sewer line. He added that he believes he is required to connect to the sewer line if he was located within 200ft of the sewer line.

Mr. Weinstein asked is he would be required to install sidewalks.

Adjournment at 6:20pm

Old Orchard Beach Planning Board Meeting + Public Hearing September 3, 2009 at 6:30pm Council Chambers at Town Hall

Called to Order at 6:40pm

Subdivision Amendment: discussion for Preliminary Review: Proposal to amend J & J Surfside Condominium (originally approved April 2006). Located at 180 East Grand Avenue, MBL 301-7-1 in the BRD district. Applicant is Scott Curley, Agent is Mitchell & Associates.

Ms. Higgins stated that her biggest issue is the curbing. She stated that she believes this was there for drainage reasons. She would like to see the plans.

Mr. Cote stated that construction was not done according to the plan. Applicants don't build projects according to plan and then applicants expect it to be taken care of in a couple of meetings. This is not right. I would like to see the minutes from the original approval process meetings.

Mr. Scott Curley (Applicant) stated that he will be the first to admit that there were several issues with this construction. There was a lot of oversight during construction. In part due to the builder and in part do to the fact that he was a first time developer. The curbing was not installed because it would have been difficult for snow removal. In regards to drainage, with the way that the site is pitched, over the past two years they haven't had a problem with drainage at all. The best thing to do would be to conduct a site walk. If more shrubs or plants are needed, they can plant them.

Mr. Cote stated that the reason the board required the shrubs and plantings on the plans was to green up the project area. As a board member and as a town citizen, they want to make sure this error in construction doesn't happen all of the time.

Mr. Curley stated that he assumed his project would look like the approval when it was done. Tim Swenson, the builder did not do it according the plan. The burden of completing it to plan has fallen back on him.

Ms. Higgins asked if the process had been started to amend the DEP permit.

Mr. Curley stated that they wanted to come to the workshop to see where the board was at before approaching the DEP.

Mr. Winch asked when he got the Certificate of Occupancy?

Mr. Curly stated that we received our COs the day the grand Victorian opened.

Conditional Use Application: Discussion for final review: Proposal to approve an existing Accessory Dwelling Unit at 188 Portland Ave. MBL 103-1-23 in the Rural District. Owner and Applicant is Janie Newcomb.

No new submissions, no comments.

Conditional Use & Site Plan Review: *discussion for final review:* Powderhorn Campground (MBL 104-1-1) proposes expand the maintenance area into MBL 104-1-11 in the Rural District, Applicant is David Ahearn, Agent is BH2M.

Ms. Wagner stated that this project is eligible for final approval, pending the plans are submitted on Datum.

Subdivision Amendment: *discussion for preliminary review:* Proposal to amend Dunegrass Section B from 76 multi-family style condo units to 24 single-family style condo units. Located on Wild Dunes Way, MBL 105A-1-B in the PMUD. Applicant is Ron Boutet, Agent is BH2M.

Mr. Lamb explained the project and the issues pertaining to sewer, water and ownership issues. He recommended this issue be tabled until the present sewer/pump station issues were sorted out.

Public Hearing: Proposal to revise the Town Ordinance to include Marina Standards pursuant to LD 1119.

Mr. Koenigs stated that he has an issue with the definition of a “private marina”. He has always envisioned a marina as a public entity, not a private apparatus that someone would own. In his mind, marinas only have a public use. He would call something for personal use a dock. The current proposed definition allows 5 slips... but who has 5 boats?

Ms. Higgins stated that she feels moorings would be a popular item to have. She thinks the town needs a harbor master first, and then allow these types of uses.

Mr. Winch confirmed that the only reason they are looking at this at all is to allow standards that are at least as restrictive as Saco.

Mr. Lamb stated that is correct. According to legal counsel, the town simply needs to have standards that are at least as restrictive as Saco, and do not need to have uses per LD 1119. The town can get away with providing only standards without declared uses, if that what the Planning Board and Council wish to do.

Mr. Weinstein stated he does not see the feasibility of a marina. He thinks a mooring would make more sense, so the town should have a harbor master in place and have moorings instead of marina standards.

Mr. Lamb read through the remainder of the proposed Ordinance draft, noting the changes that have been made since the workshop on the marina standards. He stated that after staff hears the comments from those here this evening, additional changes may be made.

Public hearing opened at 7:35pm.

Richard Redmond, OOB Pier stated that he is here to give his history in regards to the pier. In 1999, they were approved to do water sports in the bay. When he started this venture, there were some issues with ordinances, and he worked with the council and planning board to establish access to the bay from the pier. Along with that, they proposed a dock about 400ft off of the pier. He also had 4 moorings put in with the dock. They had a parasail boat and other recreational water sport activities. When I first came into town hall to get this all put together, there were no regulations in place. He came to Old Orchard Beach, and they sent me to Saco. When he went to Saco, they sent him back to OOB, and he finally went to the US Coast Guard and they connected him with the Maritime Commission in Washington, DC. In the end he put the moorings out beyond the pier with permits from the Marine Commission, but without any permit from the Town. He has learned that regular moorings are not strong enough to hold boats in the bay. Special mushroom moorings are needed. He has learned that there is a lot of information that this Town needs to investigate before allowing moorings and marinas out there in the bay. The weather can be so dramatic out in the bay, that they wouldn't leave their boats put there over night. They need to have someone monitoring this area in order for people to keep watercraft out there.

They also wanted to put a 400ft extension on the Pier. After doing feasibility studies on the Pier, economically it didn't make sense at the time. This is not currently in the works, but it may be possible in the future for the Town to use the Pier as a port of entry.

To allow anything out there is crazy and dangerous. If someone has no legal access to the bay they should not allow them to have any access or rights to moorings or marinas in the bay. It is dangerous not to have anyone in the bay monitoring the activities out there.

Mr. Winch asked if the moorings are still there? Did the Army Corp of Engineers review?

Mr. Redmond stated that they are still here. Army Corp did not regulate marinas at that time.

Mr. Phil Denison, Saco Bay Committee stated that the State of Maine owns the land, the water, and the air above the water. Even if the town does approve standards and uses, they still need to go through a huge permitting process with the State. Some of the Saco Bay Committee did not want to adopt the new standards ordinance, however they received legal advice stating that this would not be in conformance with LD 1119. The committee has come up with some standards so that they can get the LD passed and get it done. They can then go back and change it as necessary. There is an existing moratorium until the end of the year, so there is no development can begin in the bay until then. They still have time to amend the standards to be even more restrictive. This is why they have asked Mr. Lamb to come forward with this proposed ordinance.

Mr. Winch asked if he is comfortable with the way it is written right now?

Mr. Denison stated that he is comfortable with the way it reads now, and he will be the first one in line to propose some changes once they pass this first round of changes.

Mr. John Bird, resident stated that he agrees with Mr. Koenigs. Marinas are seen as permanent floating structures. One could argue that Marinas are simply moorings, and with that interpretation they are not allowed by ordinance. He agrees with Mr. Redmond, that the environment of the Bay is not suitable for marinas or moorings. He would suggest that private marinas be moved from Permitted uses to Prohibited.

Mr. Gary Curtis, Saco Bay Committee stated that these proposed standards for the bay are based on the legal advice we received and LD 1119. The proposed ordinance seems to fit the bill. There is still sentiment on the committee that they make these standards as restrictive as possible. Once they pass these standards, it does not mean they should stop the review and ordinance development process. For now, the committee recommends that you be as restrictive as legally possible to comply with the legislative directions.

Mr. Winch closed the public hearing at 7:57pm

Final Approval: Vote to make recommendation to Town Council to revise the Town Ordinance to include Marina Standards pursuant to LD 1119.

Ms. Higgins stated the since the town does not have a harbor master, that should come first. The board should make everything prohibited until they change our ordinance and hire a harbor master.

Mr. Weinstein suggested that they pass this with the recommendation that the town look into hiring a harbor master.

Mr. Koenigs stated that it should also be in the recommendation that they want this to be amended with in a very short period of time. They should continue to engage in ongoing and continuous dialogue with the Town Council.

Mr. Cote suggested that they eliminate 'private marina' as a permitted use. If at a later time they want to change it they can. This will leave no permitted uses in the bay. They only have one in that category to begin with, but that one use is opening up a can of worms.

Mr. Weinstein stated that he would like to leave it the way it is to get started. They can then change it.

Mr. Koenigs asked if they could take out the uses from the ordinance and let the standards section stand alone. This would effectively remove everything as a prohibited use.

Mr. Lamb stated that the board could take out the permitted and prohibited sentences. They could also add prohibited in every definition in the definition section. They could also just take out the uses and have the standards stand on their own. This would meet the requirements of LD 1119.

Mr. Koenigs made a motion to make recommendation to Town Council to adopt the draft that we had before the board, with the condition that they have continuous and ongoing reworking of the ordinance and have the recommendation that they investigate hiring the harbor master.

Mr. Weinstein seconded the motion.

Mr. Cote stated he thinks the board should strike the uses all out. They shouldn't leave any room for people to put a marina in the bay.

Motion carries 4-1.

GOOD & WELFARE

Mr. Lamb explained Acorn Village would like to make a minor change to the size of the dumpster pad. Will discuss next week at the meeting.

Adjournment at 8:15pm

I, Jessica Wagner, Secretary to the Planning Board of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of five (5) pages is a true copy of the original minutes of the Planning Board Meeting of September 3, 2009.