

TOWN OF OLD ORCHARD BEACH
PUBLIC HEARING/PLANNING BOARD MEETING MINUTES
March 8, 2012

Call to Order at 7:05 pm	Call to Order
Pledge to the Flag	
Roll Call: Chairman Win Winch, Carl D’Agostino, David Darling, Eber Weinstein, Mark Koenigs, Absent: Michael Russo Staff: Jeffery Hinderliter, Town Planner, Valdine Helstrom, Administrative Assistant.	
<p><u>APPROVAL OF MINUTES:</u></p> <p>Mark Koenigs made a motion to approve the February 2, 2012 Planning Board workshop minutes and the February 4, 2012 site walk meeting minutes with minor changes: In the February 4th minutes Connecticut Road should have read Oceana Avenue and including the tress should have read including the trees. Seconded by Dave Darling. <i>Motion passes 4-0 with Mr. Weinstein abstaining from the vote as he was not at the meetings</i></p> <p>Mark Koenigs made a motion to approve the February 9, 2012 Planning Board meeting minutes with changes: The vote should have read 5-0 instead of 6-0. Also on Page 2 at the bottom this should have read swale instead of swell. Seconded by Mr. D’Agostino. <i>Motion passes 4-0 with Mr. Weinstein abstaining from the vote as he was not at the meetings.</i></p>	<p>MINUTES</p> <p>Motion</p> <p>Vote</p> <p>(4-0)</p> <p>Motion</p> <p>Vote</p> <p>(4-0)</p>
<p><u>ITEM 1</u></p> <p>Proposal: Conditional Use: add 1 motel unit within existing building Action: Final Review Owner: Larry Pyle Location: 34 Washington Ave, MBL: 311-16-15, NC3 Zone</p> <p>Larry Pyle from 34 Washington Avenue introduced himself to the Board. The PB determined the application was complete but was conditioned upon receiving information concerning off-street parking. The applicant proposes to secure parking on an abutting lot, but as of yet they has not gotten this information. Mr. Pyle agreed that he will get this in writing and present it to the Board at their next meeting. Mark Koenigs made a motion to table this item until Mr. Pyle brings this back to the board, seconded by Dave Darling. <i>Motion passes unanimously.</i></p>	<p><u>ITEM 1</u></p> <p>Motion</p> <p>Vote</p> <p>(5-0)</p>
<p><u>ITEM 2</u></p> <p>Proposal: Convert existing plumbing building into 1-family home (30% Shoreland Expansion) Action: Final Review Owner: Robert Stevenson Location: 34 Oceana Ave; MBL: 320-9-2; RA Zone</p> <p>There were a few items from the last meeting that required further consideration:</p>	<p><u>ITEM 2</u></p>

Need to review sewer and water connections:

Jeffrey couldn't find anything specific to the sewer but he doesn't think that it is a major issue at this point.

DEP Approval:

Paula Stevenson introduced herself to the Board Members in regards to her father's proposal. Chair Winch asked if there was any new information regarding DEP requiring getting the Tier 1 permit? Ms. Stevenson stated that they are going to have it in writing on the 12th but she stated that she already has the approval and the permit.

Floodplain Management Ordinance Compliance:

Jeffrey informed the board members that the applicants are working on the Flood Hazard Development Permit Application. There is a surveyor associated with it to get an elevation certificate at this time and that it is all part of the Flood Hazard Development approval process so they are in the middle of complying with the applicable Flood Hazard Development regulations.

The removal of more than 50% of the structures market value:

Jeffrey informed the Board Members that the building is already there, but its still part of the Planning Boards responsibility to determine whether the structure complies with the shoreland setback to the greatest practical extent. Jeffrey stated that there is no where else that it can go. It is as close as it can be.

30% Expansion Calculations:

Jeffrey informed the Board that they have complied with this item.

Chair Winch stated that they won't be disturbing any vegetation, trees.

Mark Koenigs just wanted to make it clear and to understand that the fill will be going inside the foundation to bring it up to 2'. Then on the marsh side they were gong to fill that with an additional 2' on a 2/1 slope to protect that side of the foundation, and put Geo Textiles and then Rip Rap Armour on it only on that side and 4 yards of fill in the back.

Mark mentioned that the Engineer they hired for the DEP project stated that they will be using 4 yards of fill, but there will be more than that outside of the foundation. It will be more like 16 or 17 yards.

Chair Winch asked Jeffrey what is the situation with the displacement of the water that was in the basement?

Jeffrey stated that this is more of a floodplain regulation than a DEP issue. That is his understanding and it will be the applicants responsibility to make sure that they comply with these issues when it comes to the submission of the Flood Hazard Development Permits.

Paula Stevenson passed around the new elevation drawings.

Mr. Koenigs made a motion to approve the final review to convert an existing plumbing building into a one family home within a 30% shoreland expansion at 34 Oceana Avenue, MBL 320-9-2 in RA Zone Robert Stevenson, owner, with the following 3 conditions to be met:

- 1.) A letter from the sewer department stating that they can hook up to the sewer.
- 2.) Get the Tier 1 permit in writing from DEP.
- 3.) Floodplain Management Ordinance Compliance permit.

Seconded by Carl D'Agostino.

Jeffrey Hinderliter called for the vote:

MOTION

EberWeinstein – yes
Carl D’Agostino – yes
Mark Koenigs – yes
David Darling – yes
Chair Win Winch – yes

Vote

(5-0)

Motion passes unanimously.

ITEM 3

Proposal: Residential Single Family Lot Subdivision
Action: Subdivision and Site Plan Sketch Plan Review
Owner: Beachmont Land Development, LLC
Location: Portland Ave., MBL: 103-1-30; RD/SP Zone

ITEM 3

Steve Blais from Blais Civil Engineers introduced himself to the Planning Board. He is here along with Cary Seamans, David Alves and the Soils Expert, John Toothaker from Tooth and Associates, LLC.

Mr. Blais informed the Board Members that since the last meeting, they have accomplished the following:

- **Completed a boundary survey.**
- **Performed preliminary soils testing.**
- **Performed a traffic assessment.**
- **Researched the Eastern Trail Connector which the Old Orchard Beach Conservations Commission is considering.**

Mr. Blais also informed the Board Members that they have updated the boundary survey since the last meeting and when they got that in place, they realized the lot was a little bit bigger than the map had showed and when they ran the density calculations again, it yielded 44+ lots.

But the big purpose for them being there tonight is to get a better feeling for the waiver using the cluster layout concept.

They also did some preliminary soils work. Cary Seamans and John Toothaker went out and did 25 test pits to get a better feel for what the soils are. They received good preliminary results. Well draining soils, depth of the water table and the ledge is very deep. So the new layout has 44 lots and the open space has 8.4 acres. They have also incorporated an infiltration basin to take care of a majority of the lots. A future question to the town is if they are going to want to take over the open space and would also ask if the town would take over the pond also.

They talked to Ginger McMullen at the Conservation Commission about the Eastern Trail connection.

Mr. Blais stated that they would like to connect the downtown area to the Eastern Trail. They are proposing to connect the public property on Portland Avenue to Garden Street and connect to the Eastern Trail. The Conservation Commission suggested that they proposed having a sidewalk or some kind of connection to the Eastern Trail. Mr. Blais stated that they would be in agreement with doing this.

Mr. Blais then talked about the MDOT traffic movement permit question. What triggers 100 trips in any peak hour (am/pm). Bill Bray from traffic solutions did a traffic assessment.

Within the 42 lots (44 lots now which would be slightly higher and will have to adjust his letter) the project will increase 32 morning and 42 evening. The trigger for a traffic movement permit is 100 so we are less than half of that.

Bill has also researched the DOT data on high crash locations. This is not listed as a high crash

location.

Eber Weinstein asked Mr. Blais when they did the traffic study, was this just for the additional traffic from this project or for the connecting roads?

Mr. Blais informed him that the increase does not account for cut through traffic, but we do look at it.

Mr. Blais stated that he can ask Bill Gray about more specifics.

Win Winch then asked Jeffrey if that connection was an emergency only, would that count as a second means of egress?

Jeffrey stated that in a subdivision ordinance, there are waiver provisions that allow the Planning Board to waive or modify pretty much anything in that ordinance. One of the requirements and why these plans show 2 means of egress out of it is because when you get over 15 lots, you are required to do that. Jeffrey also mentioned that there are some ideas that might be traffic calming measures to place at the intersection where it enters Homewood Park, but still allows public safety access. He also stated that the Planning Board has the authority to modify a provision, such as a breakaway gate that would prevent the traffic but would allow emergency vehicle access.

Mark Koenigs stated that we need to look at both subdivisions, the Homewood Subdivision and proposed Beachmont subdivision. Mr. Blais stated that they will have Bill look at this a little more comprehensively.

Mr. Blais also informed the Board that they met with DEP in a pre application meeting to discuss environmental aspects of the project and they reviewed the septic design in regards to the nitrates. Dick Sweets from Sweets Associates look at the nitrates and it is determined in these soils that nitrates travel about 125'.

Dr. Hopek's analysis is that we do not have to do a nitrate impact analysis for the whole site. We need to provide a calculation as to how we came up with 125' and apply it to the plan to see how this affects it.

They also talked to DEP about the open space. DEP wants to make sure that if we were to deed that to someone, that it didn't get developed without first going to DEP.

The next step is if the waiver is voted through tonight, then they would go forward to get a plan together to submit to the town as a preliminary subdivision as well as a full application to the DEP.

To do a cluster sub division there are standards. One of those standards is connecting to the public sewer and having a central sewer system on site. There is already public water there.

The preliminary soil tests were great. We have 25 test pits. Each system will be designed to State Standards.

Chair Winch stated that he still thinks the traffic issue is one of the most important stumbling blocks of this project.

John Toothaker from Tooth and Associates, LLC introduced himself to the Board. John stated that it is excellent property.

Mr. D'Agostina was concerned about the flooding issues in and around his neighborhood in the Homewood Subdivision.

Mr. Blais suggested that the Homewood Subdivision was developed some time ago and some settling of the ground may have taken place, along with the culverts and drainage not working because it is flat ground.

Mr. Weinstein asked Mr. Toothaker when they did the soil testing and wanted to know how they performed the testing.

Mr. Toothaker informed him that the testing was done on February 15, 2012 and he also stated that he and Cary Seamans used a back hoe. They had dug 4 plus foot test holes for the high intensity septic testing.

Mr. D'Agostino asked Mr. Toothaker what their expectations are in regards to the environmental

impact.

Mr. Toothaker informed him that the public water is the key out there. He stated that the lots are big enough, soils are good and there is public water.

Dave Darling stated that he feels very comfortable with having them do 2 test pits.

Chair Winch also added that overall he thinks the project is very good.

Eber Weinstein does not think that they have enough information for the preliminary approval to approve a waiver and he read section 74-207 #16.

Eber also agreed that if they meet all of the conditions that he would be fine with it.

John Toothaker stated that more important than anything is to put the no septic zone buffers on. That way if the Planning Board changes people or the Code Officer changes, you have it on a plan. It is on the plan and recorded. Put the septic tanks where they belong.

Mark Koenigs stated that he is in favor of the concept and what the Planning Board would be relying on is the applicant's engineer to be the expert. He was in favor of giving them a waiver to proceed with this kind of cluster development concept (with conditions).

Dave Darling also agreed to consider moving on a conditional approval for the waiver, subject to all of the criteria that the town requires.

Carl D'Agostino stated that the Planning Board has an established way of doing things and he finds no value in changing the established way that we do it just to be accommodating.

Jeffrey Hinderliter then stated that he felt the need to say something as the Town Planner. Jeffrey stated that it is no offense to Mr. D'Agostino, but in the previous conversations that he has had with Mr. D'Agostino, Jeffrey thinks that he really should recuse himself from being a Planning Board member with this application. It allows Carl to speak as an abutter, which he is, and it allows the Planning Board's decision to move forward in a fair no issue manner.

Mr. D'Agostino stated that he feels the need to speak for the citizens of Old Orchard Beach.

Chair Winch agreed that Mr. D'Agostino is directly impacted by this application. Homewood Park was done in the 1960's and back then there were none of these requirements, hence the current drainage problems. He also stated that if anything, this new development will improve the situation and it will facilitate drainage and it's going to be done right.

Dave Darling then asked what would be the next step?

Chair Winch stated that the applicant is obviously looking for some feedback and they also have some more homework to do. The Board seems to concur that each lot should have 2 test pits and meet the requirements for each lot.

Mr. Koenigs stated that the applicant has hired an engineer and the engineer has submitted a letter and basically tried to lay out what the sketch plan review is and one of the elements within the letter is dealing with the waiver request. Mark then referenced section 74-34B (subdivision regulations).

Chair Winch then read Section 74-34B to the Board.

Mr. Koenigs stated that for the waiver conditionally, you put the conditions on but you don't need all of the data. You get the data with the conditions and then it goes to the preliminary planning review. It gives the applicant the knowledge that they are going in the right direction.

<p>Mark Koenigs made a motion that we poll the Board, and that would give the applicant the sense of the conditional waiver that they are asking for in the central sewer system in the individual sewer system based on the conditions that they follow everything that has to do with the preliminary plan requirements. Seconded by Dave Darling.</p> <p><i>Motion passes unanimously.</i></p> <p>Mark Blais then stated that just to be clear, the septic systems have to be designed to meet those standards. He then thanked the Planning Board for giving them a stronger feeling with this project.</p>	<p>Motion</p> <p>Vote</p> <p>(5-0)</p>
<p><u>ITEM 4</u></p> <p>Proposal: Amend 2010 approval: Changes to perimeter fence Action: Review and Approval Owner: DGA Enterprises Location: Hid'n Pines Campground, 8 Cascade Road, MBL 104-1-30, RD Zone</p> <p>Jeffrey informed the Board Members that one of the representatives from the Fairview Farms Condominium Board came to visit him this past December and she expressed some concerns about a fence that was associated with Hidden Pines Campground expansion which was approved in 2010. Jeffrey then read the files and ordinance and he found that there is no absolute requirement that a fence needs to be part of a buffer requirement. Jeffrey looked into trying to create an amendment to what was approved in 2007 and keep all parties involved, make sure that their interests are maintained and make sure that there are no issues with their property rights. Jeffrey then developed a letter to address their concerns. Jeffrey worked with Ryan and Jason Ahern from Hidden Pines and he also worked with Gail Atkins who is from Dirigo Property Management who also represents Fairview Farms.</p> <p>There was one change to add an additional area of the fence to be removed which is by the Harris property. The parties directly affected by this change were in agreement to the letter and amendment so Jeffrey brought it to the Planning Board for their review.</p> <p>Chris Hudson, from Fairview Farms Association introduced herself to the Board. She is here representing the Association and stated that they have a vegetative barrier that no one can walk through. It is a great natural barrier and so she thinks that there is no need for a fence there. Ryan Ahern introduced himself to the Board and stated that they would be happy not to put up the fence. Chair Winch then read a memo from Linda Maloy whose concern that campers were coming onto their property and they were hoping for a strong fence that would run along the campsite.</p> <p>Dave Darling made a motion to amend the 2010 approval changes to perimeter of the fence on the boundary between Fairview Farms and Harris property. Seconded by Mark Koenigs.</p> <p><i>Motion passes unanimously.</i></p>	<p><u>ITEM 4</u></p> <p>Motion</p> <p>Vote</p> <p>(5-0)</p>

OTHER BUSINESS:

Jeffrey had an issue to bring to the Planning Board before he brought it to the Council in regards to the 2011 Shore land Zoning Ordinance.

There were questions on how the new Shoreland Zoning Ordinance was adopted.

Jeffrey did some research and it appears that the Shoreland Zoning Ordinance was officially adopted by the Council but as part of that adoption there was a DEP letter that sited specific conditions which included amended language for the ordinances. Part of that adoption was a letter from DEP stating certain standards in the ordinances that the town was required to adopt as part of that ordinance. Right now we have a Shoreland Zoning Ordinance with 97% of the correct language in the ordinance and the other 3 % was contained in a letter from DEP.

Jeffrey brought this to the Planning Boards attention and thinks that this needs to be changed. He will be going to council with recommended options and clean the ordinance up and make sure that it has all the language that was actually adopted.

Jeffrey also informed the Board Members that the Findings of Facts documents were available to sign, and that there were no Findings of Facts for private ways, so this is a brand new document.

GOOD AND WELFARE:

John Bird introduced himself to the Board and stated that a Shoreland Zoning permit will be required from the Code Enforcement Officer because it will have greater than 10 cubic yards of fill.

He also stated that he feels like another problem with Shoreland Zoning issue is that there is no definition of the zones on the maps.

There were a few from the audience that had concerns about the proposed Beachmont Land Development subdivision:

John Allen from 9 Date Street introduced himself to the Board and he is concerned with the traffic issue. There are a lot of people who walk the dead end street out there. He is also concerned with the drainage issue.

Troy Daigle from 40 Garden Street was concerned with developing this site with 40 more low income housing units.

Dave Goyette from 16 Garden Street was also concerned with fixing what they have there now, then come back with the study.

Bonnie from 36 Dayton Street was concerned with the holes in her backyard due to the drainage problems in the Homewood subdivision.

Chair Winch mentioned to the concerned Homewood Subdivision residents that they had never really engineered this subdivision back in the 1950's.

<p>Jeffrey mentioned that in the next couple of years he hopes to pursue grant opportunities to bring sewer lines up to Homewood Park.</p> <p>Cary Seamans just wanted to address some of the concerns here tonight. He is not looking for low income housing. He is not looking to change the demographics. In regards to the Topo, all of our land handles our own water and its going to treat our own water. We will not be putting water onto someone elses land. He also stated that the only reason why we had to attach Garden St. to Date St. is because we need 2 means of egress to exit there. Everything will be coming from Portland Avenue.</p> <p>Bill Smith lives on Garden Street asked if the Planning Board would recommend putting sidewalks in or widening the road in regards to the safety of families there.</p> <p>Chair Winch stated that is what will come out of this traffic study.</p> <p>There being no further business to conduct, the meeting adjourned at 9:15 p.m.</p> <p>ADJOURNMENT WINTHROP WINCH, CHAIRMAN</p>	
Meeting adjourned at 9:15 pm	Adjournment

*I, Valdine Helstrom, Secretary to the Planning Board of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of eight(8)and is a true copy of the original minutes of the Planning Board Meeting of **March 8, 2012.***

Valdine J. Helstrom