

TO: Old Orchard Beach Planning Board
FROM: Jeffrey Hinderliter, Town Planner
SUBJECT: June Planning Board Meeting Summary
DATE: 12 June 2014

*****APPLICANT NOTE- July PB meeting submissions due on 24 June*****

*****APPLICANT NOTE- Please remember the town needs digital plan submissions*****

*****PB NOTE- Workshop and Sitewalks fall on 3 July, should we reschedule?*****

Below is a brief summary of pertinent issues related to the June Planning Board Agenda items:

ITEM 1 & 2

Proposal: Site Plan: Removal of existing building and construction of a three story retail and residential 10,976 sq. ft. building
Action: Public Hearing, continued discussion and final review
Owner: The Harrisburg Group
Location: 11 East Grand, MBL: 306-3-3

As you know, both the PB and DRC have reviewed this for several months. Because we still have an open public hearing and issues still on the table, I thought it is best to gather all information, organize it, see how it relates to applicable ordinances, and then provide a more detailed response. After tonight's meeting, I will prepare my findings and send out within a timely manner.

RECOMMENDATIONS: I recommend the PB schedule final review for the 10 July meeting.

ITEM 3

Proposal: Private Way: Establish access to one lot across a paper street to develop a single-family dwelling
Action: Discussion, Schedule Site Walk and Public Hearing
Owner: Aeron and Eric Dupee
Location: Hemlock Street, MBL: 403-1-5

This proposed private way is brought before the PB to answer one primary question before a formal application is submitted- in order to establish a private way for access to MBL 403-1-5, which private way standards apply, the 1 lot or 2 lot standards? Further info below:

- The applicant/owner has a lot that they wish to develop into a single-family use.
- Currently, the lot does not have a formal, developed road/way to access the lot. Hemlock Street ends at the southern lot line. Hemlock continues as a paper street along the frontage of the lot associated with this proposal.
- As I understand, a private way must extend along the entirety of the lot frontage.
- There is another undeveloped lot across the paper street from this proposal. This lot is not part of the proposal and under different ownership.
- Because the private way must be extended across along the entirety of the lot frontage for the lot associated with this proposal, the other undeveloped lot will have the ability to use the private way for access.
- Since the other lot (the one not associated with this proposal) will have the ability to use the private way for access, does this mean the proposal must be constructed in

accordance with the 2 lot standards because both the applicant/owners lot and the other lot will have access to the private way?

- When considering which standards (1 or 2 lots) apply, I believe the key is what does “access” mean? Our ordinance does not have a definition of “access” (although access strip is defined), so I’ll refer you to Black’s Law Dictionary for a definition: “An opportunity or ability to enter, approach, pass to or from, or communicate with.”
- 78-1411 states, in part, “The Planning Board may approve the use of private ways to provide access to lots existing or proposed...”
- Considering the definition of access and the language in 78-1411, does the PB feel the proposed private way will provide 1 or 2 lots with the “ability to enter, approach, pass to or from, or communicate.”
- Please note there are other matters that must be considered when reviewing private ways that are not included in this memo. I only concentrated on the applicant’s question. The other matters will be reviewed upon submission of a formal application.

RECOMMENDATIONS: I recommend the PB determine which private way standards apply-those for 1 lot or those for 2. The PB may schedule a site walk and public hearing for July or may choose to wait until a formal application is submitted.

ITEM 4

Proposal: Site Plan: 1-unit, 1-story addition to the top of the Temple Ave structure (hotel), minor parking lot changes and re-construction of the primary exterior stair to make it code compliant with current building and life safety codes
Action: Discussion, Schedule Site Walk and Public Hearing
Owner: Billow House LLC
Location: 2 Temple Ave, MBL: 324-16-7

This proposal includes the addition of 1 unit to the existing Billow House hotel, off-street parking space and lot adjustments, re-construction of primary staircase, replacement of existing parking lot side porches, and some landscaping improvements.

I’ve met with the applicant a number of times and I’m confident this is a solid application as most issues have been addressed and became part of this submission. There are two outstanding items I believe the PB should consider: 1. On and off-street parking requirements; 2. Professional licensing.

A. Regarding on and off street parking requirements- This proposal is within the NC-1 district which allows on-street parking on public streets (78-871 (c) (1)). Waivers and other special approvals are not required to meet this standard, the applicant simply needs to establish how the proposal meets the language within the standards as part of the Site Plan submissions.

The applicant asked for clarification on this:

“Below is the parking text for the NC-1 that I mentioned seemed a little confusing.

(c) *Parking.* Notwithstanding the parking standards specified in division 4 of article VIII of this chapter, all uses in the neighborhood commercial districts, with the exception of residential and lodging establishments, shall conform to the following parking requirements:

(1) Where the town has established on-street parking on public streets within the neighborhood commercial districts 1, 2, and 3, new development of nonresidential properties fronting such facilities are exempt from the required amount of off-street parking specified under division 4 of article VIII of this chapter.”

My reply to the applicant:

“On and off-street parking. I believe you don’t need to request a waiver as long as: 1. You identify the ordinance allows on-street parking and 2. You establish, by plan and/or written documentation, that on-street parking is available within close proximity to the Billow House.”

B. Regarding professional licensing- 78-215 (c) (1) of the Site Plan Ordinance states, in part, “Proposed Site Plan...shall be sealed by a professional engineer, landscape architect, or a surveyor licensed in Maine.” The applicant is a Maine Licensed Architect. 78-215 (d) allows the applicant to seek a waiver of the above-mentioned standard.

The applicant asked for clarification on this:

“Since I am a Maine Licensed Architect (ME Lic # 3313) and NOT a civil engineer or landscape architect, I don’t know if you feel it necessary to request a waiver for that formality. There were not enough plantings or site improvements to warrant hiring either in my view.”

My reply to the applicant:

“License waiver. I recommend you request a waiver from 78-215 (c) (3). To justify the waiver, please explain why you feel the requirement will not yield any useful info given the nature and scope of the proposed activity or the existing character of the site.”

RECOMMENDATIONS: I recommend the PB determine the Site Plan Review application as complete and schedule a site walk on ??? and a public hearing on 10 July. For the next submission, I recommend the applicant:

- A. Establish, by plan and/or written documentation, that on-street parking is available within close proximity to the Billow House and how this proposal meets the on-street parking standard.
- B. Request a waiver from 78-215 (c) (3). To justify the waiver, please explain why you feel the requirement will not yield any useful info given the nature and scope of the proposed activity or the existing character of the site.

ITEM 5

Proposal: Conditional Use: Establish a Tattoo Parlor and Body Piercing business within an existing building
Action: Discussion, Schedule Site Walk and Public Hearing
Applicant: Robert Johnson
Location: 10 Ocean Park Rd., MBL: 210-11-4

As you may recall, this proposal has some background concerning zoning changes. The Council recently approved an amendment to the ordinances to allow Tattoo Parlors as a Conditional Use within the GB-1 District. Conditional Use standards exclusively related to Tattoo Parlors were not adopted; therefore, the PB will review this proposal in accordance with the 12 standards identified in 78-1240. The 12 standards are as follows:

Sec. 78-1240. - Standards.

Before authorizing any conditional use, the planning board shall make written findings certifying that the proposed use is in compliance with the specific requirements governing individual conditional use and demonstrating that the proposed use meets the following standards:

- (1) The proposed use will not result in significant hazards to pedestrian or vehicular traffic, on-site or off-site.
- (2) The proposed use will not create or increase any fire hazard.
- (3) The proposed use will provide adequate off-street parking and loading areas.
- (4) The proposed use will not cause water pollution, sedimentation, erosion, or contamination of any water supply.
- (5) The proposed use will not create unhealthful conditions because of smoke, dust or other airborne contaminants.
- (6) The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard or unreasonably restrict access of light and air to neighboring properties.
- (7) The proposed use will provide adequate waste disposal systems for all solid and liquid wastes generated by the use.
- (8) The proposed use will not adversely affect the value of adjacent properties.
- (9) The proposed use will be compatible with existing uses in the neighborhood, with respect to the generation of noise and hours of operation.
- (10) The applicant's proposal must include any special screening or buffering necessary to visually obstruct the subject property from abutting uses or to ensure the continued enjoyment of abutting uses.
- (11) The applicant's proposal must adequately provide for drainage through and for preservation of existing topography within its location, particularly in minimizing any cut, fill, or paving intended.
- (12) The applicant must be found to have adequate financial and technical capacity to satisfy the criteria in this section and to develop and thereafter maintain the proposed project or use in accordance with all applicable requirements.

This proposal is actually quite simple as it does not include a building expansion (only interior work) and should not provide as much on and off-site impacts as related to vehicle traffic as its former use. When considering this proposal, I believe the following Conditional Use Standards are those the PB and applicant/owner should concentrate on:

- (1) The proposed use will not result in significant hazards to pedestrian or vehicular traffic, on-site or off-site.
- (3) The proposed use will provide adequate off-street parking and loading areas.
- (6) The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard or unreasonably restrict access of light and air to neighboring properties.
- (8) The proposed use will not adversely affect the value of adjacent properties.
- (9) The proposed use will be compatible with existing uses in the neighborhood, with respect to the generation of noise and hours of operation.

In addition to the 5 above-mentioned standards (and related to these), I believe it is important to recognize the importance of this building and location as part of the primary gateway to OOB. I have faith that the applicant/owner understands this and his intension is to have a business that contributes to the success and beautification of OOB.

RECOMMENDATIONS: I recommend the PB determine the Conditional Use application as complete and schedule a site walk on ???, public hearing and final review on 10 July. For the next submission, I recommend the applicant:

- A. Provide more detailed responses to Conditional Use Standards 1, 3, 6, 8 and 9 (stated above). This should include a sketch plan of the parking lot identify spaces directly associated with the Tattoo Parlor.
- B. If the PB feels appropriate, I recommend the applicant/owner provide a response as to how this use will contribute to the success and beautification of OOB.

ITEM 6

Proposal: Site Plan: Establish 9 new campsites within Paradise Park Campground

Action: Discussion, Schedule Site Walk and Public Hearing

Owner: Paradise Acquisition LLC

Location: 50 Adelaide Rd., MBL: 106-2-2

This proposal originally was submitted as an Administrative Site Plan Review as a 5 campsite expansion proposal. Admin Site Review allows town staff to review a project and, if acceptable, approve without PB involvement. The Campground Overlay District allows campground expansions by up to 5 sites per year through the Admin Site Review process. Part of this process includes abutter notification.

Typically, Admin Site Plan Review receives little (if any) abutter interest but there was concern (and possibly some confusion) concerning this proposal; therefore, I thought it should receive formal PB review.

As a result of the resubmission to the PB, the applicant increased the number of campsites to 9 but kept the sites in the same location. I need to perform a more detailed review which I will have ready for you during your July meeting.

RECOMMENDATIONS: I recommend the PB complete and schedule a site walk on ??? and public hearing on 10 July.

Other Business

1. Sign Legends Cove Subdivision Amendment Plans

2. Elect Chair and Vice Chair