

**Old Orchard Beach Planning Board Meeting & Public Hearings
Thursday, February 12, 2009 at 7:00pm in Council Chambers at Town Hall**

Call to Order at 7:00pm	Call to Order
Roll Call: Tianna Higgins, Mark Koenigs, Ken Mac Auley, Karen Anderson, Don Cote. Absent: Win Winch. Staff: Jessica Wagner, Gary Lamb	Roll Call
Ms. Higgins stated that since our Chair, Win Winch is not present and we have not elected a Vice-Chair, she nominates Don Cote to serve as acting Chair for the meeting. Mr. Mac Auley seconded the motion. <i>Motion carries 5-0</i>	Motion Vote
APPROVAL OF MINUTES	MINUTES
12/4/08 Workshop Minutes Mr. Mac Auley made a motion to accept the minutes from the 12/4/08 workshop. Ms. Anderson seconded. <i>Motion carries 5-0</i>	Motion Vote
12/18/08 Meeting Minutes Ms. Anderson made a motion to accept the minutes of the 12/18/08 Meeting. Mr. Koenigs seconded. <i>Motion carries 5-0</i>	Motion Vote
1/15/09 Workshop Minutes Ms. Higgins a motion to accept the minutes of the 1/15/09 Workshop. Mr. Mac Auley seconded. <i>Motion Carries 4-0 (1 abstain)</i>	Motion Vote
ITEM 1: Public Hearing: Amendment to a previously approved subdivision: Proposal to amend Regis Acres Subdivision (approved 11/8/2007). Located at Ross Rd. and Portland Ave. MBL 103-6-6 in the RD district. Applicant is Ronald Regis.	ITEM 1
Open Hearing at 7:02pm. Closed Hearing at 7:03pm.	
ITEM 2: Final Review: Minor Subdivision/Private Way Application: Proposal to divide 11 Patoine Place into a 3-lot subdivision and develop a private way to access a single lot in the subdivision. MBL 105-1-13 in the Rural District. Owner and Applicant are Tracy and Dean Plante, Agent is BH2M.	ITEM 2
Mr. Thompson (BH2M) submitted a new plan to the Board showing a subtle change in the driveway formation on the plan. Mr. Lamb pointed out that the peer review engineer suggested the driveway have a less sharp angle so that emergency vehicles could easily access the lot. Mr. Thompson explained the flooding issue that was brought to their attention at the December 2008 Planning Board Public Hearing. We have amended the plan in response to peer review comments and this design will ensure that we do not make the flooding problem any worse on the abutting property. This design includes a drywell as well as excavation on the Patoine's land giving the displaced water additional area to be stored. Mr. Cote stated that we have been asked to make a waiver for granite monuments in this subdivision. All markers in this subdivision are made of iron rods. This is something we have done before. Ms. Higgins made a motioned to waive the granite monument requirement for this application and allow the placement of iron rod survey markers. Mr. Koenigs seconded the motion. <i>Motion carries 5-0</i> Mr. Cote brought up the suggested traffic impact fee. This is not something required by Ordinance at this time, but we can require this impact fee be paid as a condition of approval.	Motion Vote

<p>Mr. Lamb stated that a 60 day window should be put in place for the Applicant to pay this traffic impact fee.</p> <p>Mr. Koenigs asked if the Board feels comfortable with the drainage plan. He stated that we are setting a precedent in this case.</p> <p>Ms. Higgins stated that we are not responsible for setting a precedent in this case. They are just required to not make this situation any worse. The Applicant’s engineer and the Town’s peer review engineer agree that this will not make the flooding situation worse.</p> <p>Mr. Koenigs stated that in every heavy year there will be a pond in the front yard of Lot #3. Is the Board okay with this?</p> <p>Mr. Mac Auley stated that the Applicant’s efforts to remediate the existing situation will be sufficient. The observation that the flooding pictures taken in 2005 is representative of a 100-year flooding event is significant.</p> <p>Mr. Cote asked for a final motion to approve this subdivision project.</p> <p>Ms. Higgins made a motion to grant final subdivision approval to divide 11 Patoine Place into a 3-lot subdivision and develop a private way to access a single lot in the subdivision. MBL 105-1-13 in the Rural District with three conditions of approval:</p> <ol style="list-style-type: none"> 1. Traffic Impact fee letter from Gorrill-Palmer dated November 13, 2008 specifies traffic impact fee amount based on 2007 OOB Transportation Improvement Plan. <u>Within 60 days of approval, this amount (\$726.06) should be set in escrow to be used for traffic improvements in the specified Traffic Improvement Zone.</u> 2. Prior to the construction of this private way, the Applicant shall put money in an escrow account to be used for inspections by the Town’s engineer. This amount shall be 2% of the estimated cost of construction. 3. No building permit shall be issued for this third lot until this private way and site improvements are constructed as shown on the plans and approved by the Code Enforcement Officer and the Town’s Inspection Engineer. <p>Mr. Koenigs seconded the motion.</p> <p><i>Motion carries 5-0</i></p>	<p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p>
<p>ITEM 3: Final Review: Conditional Use - Appeal from restriction on a nonconforming use: A three unit apartment building at 60 Fern Avenue has been vacant for 7 years, and does not conform to the current density requirement in the zoning district. The Applicant requests to resume this legally non-conforming use as a Conditional Use per Ordinance Sec. 78-180. MBL 312-7-1 in the R-2 zone, Applicants are John & Elizabeth DeSimone.</p>	<p style="text-align: center;">ITEM 3</p>
<p>Mr. Cote stated that new information has been submitted by the Applicant at tonight’s meeting. Does the Board feels comfortable about making a decision based on the information submitted at this meeting?</p> <p>Mr. Koenigs stated that he is not comfortable with accepting information tonight without anytime to review and discuss it. That is what the workshop is for.</p> <p>Mr. Mac Auley stated that he would not feel comfortable either.</p> <p>The Board discussed the need for more information and agreed to accept the information submitted.</p> <p>Mr. Koenigs made a motion to accept the information submitted this evening.</p> <p>Ms. Anderson seconded the motion.</p> <p><i>Motion carried 3-2</i></p> <p>Mr. Cote stated that this item will be deferred to the end of the meeting, since he anticipates there will be considerable discussion, and it would be better to take care of the remaining items before hand.</p>	<p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p>
<p><u>PROPOSED ORDINANCE REVISIONS</u></p>	
<p>ITEM 4: Public Hearing: <u>Campground ordinance revisions:</u> Proposal to revise several sections in Chapter 18 and Chapter 78 relating to campgrounds in order to bring the Ordinance into compliance with current campground standards and Maine state regulations.</p>	<p style="text-align: center;">ITEM 4</p>
<p>Public hearing opened at 7:44pm. Public hearing closed at 7:45pm</p>	

ITEM 5: Vote on recommendation to Town Council for Ordinance revisions in ITEM 4.	ITEM 5
Ms. Higgins made a motion to recommend to Town Council the proposal to revise several sections in Chapter 18 and Chapter 78 relating to campgrounds in order to bring the Ordinance into compliance with current campground standards and Maine state regulations. Ms. Anderson seconded the motion. <i>5-0 motion carries.</i>	Motion
	Vote
ITEM 6: Public Hearing: <u>Site plan and subdivision revision:</u> Proposal to require Digital PDF files and Datum submissions for all plenary site plan and subdivision applications.	ITEM 6
Public hearing opened at 7:47 Public hearing closed at 7:48	
ITEM 7: Vote on recommendation to Town Council for Ordinance revision in ITEM 6.	ITEM 7
Ms. Higgins made a motion to recommend to Town Council the proposal to require Digital PDF files and Datum submissions for all plenary site plan and subdivision applications. Mr. Mac Auley seconded the motion. <i>5-0 motion carries.</i>	Motion
	Vote
ITEM 8: Public Hearing: <u>Revise exempt status for select nonconforming structures:</u> (1) Proposal to allow the exemption of accessibility ramps from nonconforming status; (2) proposal to allow the reconstruction of a nonconforming structure within the previously existing building footprint; (3) proposal to allow amnesty for structures with nonconforming locations constructed with a building permit prior to February 3, 1998.	ITEM 8
Public hearing opened at 7:49 Public hearing closed at 7:50	
ITEM 9: Vote on recommendation to Town Council for Ordinance revisions in ITEM 8.	ITEM 9
Mr. Mac Auley made a motion to recommend the proposed revision to Town Council to allow the exemption of accessibility ramps from nonconforming status; allow the reconstruction of a nonconforming structure within the previously existing building footprint; allow amnesty for structures with nonconforming locations constructed with a building permit prior to February 3, 1998. Ms. Higgins seconded the motion. <i>5-0 motion carries.</i>	Motion
	Vote
ITEM 10: Public Hearing: <u>Re-establish setback requirements for small sheds and membrane-covered structures:</u> (1) Proposal to establish a 5ft setback requirement for sheds 120sf or less; (2) proposal to define and establish setback requirements for membrane-covered structures.	ITEM 10
Public hearing opened at 7:50 Public hearing closed at 7:51	
ITEM 11: Vote on recommendation to Town Council for Ordinance revisions in ITEM 10.	ITEM 11
Ms. Higgins made a motion to recommend the proposed revision to Town Council to establish a 5ft setback requirement for sheds 120sf or less, and define and establish setback requirements for membrane-covered structures. Mr. Koenigs seconded the motion. <i>5-0 motion carries.</i>	Motion
	Vote
ITEM 12: Public Hearing: <u>Site plan review exemption for minor construction projects:</u> proposal to make commercial/multi-family construction 240sf or less with no impact on parking requirements exempt from administrative site plan review.	ITEM 12
Public hearing opened at 7:51 Public hearing closed at 7:52	
ITEM 13: Vote on recommendation to Town Council for Ordinance revision in ITEM 12.	ITEM 13
Ms. Anderson made a motion to recommend the proposal to Town Council to make commercial/multi-family construction 240sf or less with no impact on parking requirements exempt from administrative site plan review. Mr. Mac Auley seconded the motion.	Motion

<i>5-0 motion carries.</i>	Vote
ITEM 3 REVISITED: Conditional Use: Appeal from restriction on a nonconforming use.	ITEM 3
<p>Ms. Higgins read the letter submitted by John DeSimone that evening</p> <p>Mr. DeSimone stated that he will have three parking spaces on site (shown in the mortgage survey with a parking plan) and three spaces in Saco (at his property on Ferry Road). This will create a total of 6 spaces needed to meet the parking requirements. There is nothing in the Ordinance that states how far away “off-street parking spaces” may be from the property. Since the Planning Board needs to uphold the Ordinance and can only go by what the Ordinance indicates, the Board should allow these spaces in Saco to count towards the required parking.</p> <p>Mr. Lamb read his memo to the Board.</p> <p>Ms. Higgins stated that she is concerned about parking in Saco. It is simply too far away to park there for tenants who live at 60 Fern Ave. It doesn’t make any sense.</p> <p>Mr. Mac Auley stated that although the mortgage survey shows that three spots are plausible, he does not believe that there enough room for the three parking spots on this lot. He has been to the site and there appears to hardly be one space available.</p> <p>Mr. DeSimone stated that this mortgage survey is based on geometry. The cars fit. Other lots in town do not meet these standards but they continue to exist. This lot should be allowed to as well.</p> <p>Mr. Cote stated that because this lot has been vacant for more than 2 years, it is held to a different set of standards.</p> <p>Ms. Higgins stated that the purpose of our Ordinance is to bring as many lots as possible into conformity.</p> <p>Mr. Mac Auley asked how the Applicant would control who parked on site and off site.</p> <p>Mr. DeSimone stated that he would control who will reside at this building. He will only provide one parking spot to the tenants of each unit and that will be all that is allowed.</p> <p>Ms. Higgins asked if he had considered going to a 2-unit apartment.</p> <p>Mr. DeSimone stated that we should only discuss what is in the application before the Board.</p> <p>Mr. Lamb stated that he is uncomfortable with the mortgage survey and he referenced Sec. 78-1240(3). A real survey is required in order to determine how many parking spaces are available onsite.</p> <p>Ms. Anderson asked what it would mean if a parking space ended up being partially on Town land (due to a lack of survey information).</p> <p>Mr. Cote stated that it would not be an off-street parking space if it was partially on Town land. Without a survey we cannot say whether or not there is enough room for three spots on this site.</p> <p>Mr. Koenigs stated that he would like to see something done with this building and he added that he lives at 38 Fern Ave, so he has a vested interest in what happens with this building. It is frustrating to me that Mr. DeSimone has not taken the time to get a survey and make a better presentation. However, I’m wondering why we need to hold up the improvement of this building based on requiring 6 parking spaces.</p> <p>Mr. Mac Auley stated that by not requiring a survey we are on a slippery slope.</p> <p>Mr. Koenigs asked if there is anyway that we can’t put a condition of approval requiring the applicant submit a survey showing that he has three parking spaces?</p> <p>Mr. Cote stated that we don’t have the staff power to follow up on conditions of approval, it is better if we do not go in that direction.</p> <p>Ms. Higgins stated that since Mr. Koenigs lives in the neighborhood, this information should have been revealed at the beginning of the discussion about this Item.</p> <p>Ms. Wagner suggested that the Board refer back to the Ordinance. If the Board determines that this application meets the conditional use standards, then it may pass. If the Board finds that it does not meet the necessary requirements, the Application should be denied.</p> <p>Mr. Cote read through the first three conditional use standards and the Board took a vote on each standard to determine if each standard has been met (no vote = does not meet standard, yes vote = does meet standard).</p>	
<p>78-1240(1) <i>The proposed use will not result in significant hazards to pedestrian or vehicular traffic, on-site or off-site.</i></p>	Vote

<p>Board vote: No 4-0 (1 abstain) 78-1240(2) <i>The proposed use will not create or increase any fire hazard.</i></p> <p>Board vote: Yes 4-0 (1 abstain) 78-1240(3) <i>The proposed use will provide adequate off-street parking and loading areas.</i></p> <p>Board vote: No 4-0 (1 abstain) 78-1240(4)-(12): the remaining 9 Conditional Use standards.</p> <p>Board vote: Yes 4-0 (1 abstain)</p> <p>Mr. DeSimone asked for clarification on 78-1240(1).</p> <p>Mr. Lamb stated that the parking spaces have not been defined within clear boundaries.</p> <p>Ms. Higgins added that based on the information we have, the parking situation may be a hazard.</p> <p>Mr. Mac Auley stated that one or more of the parking spaces shown on the submitted mortgage survey may actually be located in the Town right-of-way. This may pose to be hazard to pedestrian and vehicular traffic.</p> <p>Ms. Higgins made a motion to deny the appeal from restrictions on a non-conforming use as a Conditional Use per Ordinance Sec. 78-180.</p> <p>Mr. Mac Auley seconded motion.</p> <p>Motion carries 4-0-1. Application denied.</p> <p>Ms. Higgins stated that she did not mean for Mr. Keonigs to abstain from voting when she commented on the disclosure of his address in relation to the property in question.</p> <p>Mr. Keonigs stated that he felt more comfortable withdrawing his vote.</p>	<p>Vote</p> <p>Vote</p> <p>Vote</p> <p>Motion</p> <p>Vote</p>
<p>GOOD & WELFARE</p>	
<p>Mr. Lamb updated the Board on an item that will be before them in at the March meeting: the parcel containing the OOB Campground crosses the Town line into Saco. There is a project proposed on the Saco portion of this property, and we are required to have a joint Planning Board meeting between OOB and Saco. Since this has little to no impact on Old Orchard Beach, you will be asked to consider waiving the joint meeting. More information will be before the Board in March.</p>	
<p>Meeting adjourned at 9:05pm</p>	<p>ADJOURN</p>

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 February 12, 2009.