

Town of Old Orchard Beach
 Planning Board Public Hearing
 Town Council Chambers
 Meeting Minutes
 June 11, 2015

Call to Order: 7:05 pm	Call to Order
Pledge of Allegiance	Pledge of Allegiance
Roll Call: Chair Eber Weinstein, Mark Koenigs, Win Winch, Mike Fortunato. Staff Present: Jeffrey Hinderliter; Planner, Molly Phillips; Minute taker.	Roll Call
<u>Public Hearings</u>	
<p><u>ITEM 1</u></p> <p>Proposal: Conditional Use: Accessory Dwelling Unit Owner: Laura Alves and Derek Alves Location: 8 Neptune Rd., MBL: 103-1-304, RD District No one speaking for or against the appellant. The public hearing closed at 7:06 pm.</p>	<u>ITEM 1</u>
<p><u>ITEM 2</u></p> <p>Proposal: Conditional Use/Relocation of Non-Conforming Structures: Remove two detached residential units and replace with one residential duplex. Owner: Estate of Stanley Weinstein Et Al Location: 2 Puffin St., MBL: 303-7-2, BRD and Limited Commercial Districts</p> <p>Applicant King Weinstein, 198 W.Grand Ave. introduced himself to the Board Members. He is proposing to demolish 2 existing seasonal structures and replace with 1 duplex on the corner of Puffin St. and Derosier St. This will be more conforming than it is now, meeting setbacks and providing additional parking. He has permits from DEP and there has already been a site walk.</p> <p>Ben Leone, attorney from the law firm of Curtis Baxter, and who is representing Mr. and Mrs. Rohn located at 4 Derosier St. Old Orchard Beach, Me. Attorney Leone had sent the Planning Board Members a letter about this project and also wanted to cover a few more items. He began by stating that there seems to be a little confusion as to what is being applied for. The applicant has a Conditional Use Application, which is required under (1) of the provisions of the Shoreland Zoning Ordinance, however there are other provisions of the land use ordinance within the town that also applies. Attorney Leone asked that Chair Weinstein (relative of applicant) reclude himself not only from voting, but also from discussions with the proposal. Attorney asked why the Board was looking at this as a Conditional Use Permit?</p>	<u>ITEM 2</u>

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This is in the Shoreland Zone. The Shoreland Ordinances says that you cannot add to or expand a non-conforming structure unless you get a conditional use permit. Section 78-1181. Subsection C-1.

It talks about Shoreland Zoning provisions and the underlying regulations that apply to this lot which is located in the BRD (Beachfront Resort District). This is subject to the normal land use regulations for that district. It is also in the Shoreland Zone. Sections 1177 of the Shoreland Zone says this division applies to an overlay district known as a Shoreland Zone.

Normal regulations apply to BRD and then on top of these you have additional requirements as part of the Shoreland Zoning. Section 78-1180 explains that Land Use Requirements states that you cannot alter, construct, erect or expand any building or structure on a lot except in conformity within the regulations specified for this district which it is located.

It means that they are overlaying the regulations but you still need to comply with the regulations in the underlying district. Additional requirements include the additional 100' setback from a water body. There are other requirements as well.

Complying with requirements in the Shoreland Zoning alone does not absolve a property owner from complying with the condition requirements in the underlying zone as well.

The development proposed fails to comply with all of the conditions in the Shoreland Zone and fails to comply with all of the conditions on the underlying zone and those land use regulations because the plan does not meet those. If the applicant wants to have a project like this, both the Shoreland Zone and the underlying requirements for the underlying zone states that you have to ask for a variance.

Written submissions:

- The proposed development increases the building coverage on this lot. The lot size is smaller than the lot size required in this district. The requirements for the BRD require over 3,000 sq. ft. per family dwelling unit. This lot is 2,400 +/- sq. ft. Every structure that you have on this property is a non-conforming structure. Section 78-994. Lot coverage requirement for the building requirements is limited to 40%. There is already a 6.6% coverage. Looking at the plans as provided with the application, it states that the existing footprint of the 2 existing buildings is 1,365 sq. ft. the proposed is 1,360 sq. ft. plus a 198.5 sq. ft. deck. Decks are included in the building coverage. This increases the non-conformity of the lot.
- The proposed development creates a new non-conformity and that is the bulk and space requirements in the BRD. Lot coverage on this lot is just over 60%. Paving would also increase impervious surface coverage when adding 400 sq. ft. for parking spots in the rear of the building. When you exceed the maximum amount of lot coverage it becomes

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87%.

The lot coverage issue is a violation of both the Shoreland Zoning and the BRD space and bulk requirements.

There is some confusion on demolishing, replacing or relocating the structure. Section 78-178D. Relocating non-conforming structures.

As a relocation, it cannot be approved. As a demolition and reconstruction this too cannot conform to the regulations.

Sections 78-178C. Current regulations allow you to demolish and replace a non-conforming structure if that structure be solely within the footprint of the original structure and be vertically expanded as allowed.

But horizontally it says that you need to conform to the space and bulk requirements for the zoning district. He states that this impossible for a lot that is this small.

There is nothing in this ordinance that applies to the proposed project and without having something that specifically allows it, the project needs to be denied.

Charlene Weinstein owns both the properties in question. 2 Puffin Street and the abutting lot on Derosier St. Section 78-1811 states that provided that this lot is in separate ownership and not contiguous with any other lot in the same ownership and all provisions because she owns both lots, she cannot build on this non-conforming lot.

- Parking. The development needs to comply with the driveway and parking regulations. The building regulations limit the number of driveways along a local street to one driveway. Section 78-1466. Vehicle access way less than 500 ft. in length. There are 2 spots for vehicular access in 2 garage bays that face Puffin St. The regulations limit you to only one. Regulations don't permit it unless they apply for a variance. None of the parking lot requirements have been met.

Abutter Janet Rohn introduced herself to the Board Members and read a letter. **(letter is attached to these minutes).**

There being no one else speaking for or against this proposal, the public hearing closed at 7:42 pm.

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<p>submit the information we received tonight to our attorney.</p> <p>Mark Koenigs made a motion to table this item. Seconded by Win Winch.</p> <p><i>Jeffrey Hinderliter called for the vote:</i></p> <p>Mike Fortunato – Yes Win Winch – Yes Mark Koenigs – Yes Chair Weinstein – Abstained</p>	<p style="text-align: center;"><u>MOTION</u></p> <p style="text-align: center;"><u>VOTE</u></p> <p style="text-align: center;"><u>(3-0-1)</u></p>
<p><u>ITEM 5</u></p> <p>Proposal: Conditional Use Amendment of Approved Plan/Appeals from Restrictions on Nonconforming Uses (Overnight Cabins): Relocate and reconfigure detached overnight cabins to 3, 3 unit in each attached cabins, relocate parking, landscaping.</p> <p>Action: Review Submissions; Schedule Site Walk; Schedule Public Hearing; Determination of Completeness or Final Ruling.</p> <p>Owner: SRA Varieties Inc., D.B.A. Paul’s II</p> <p>Location: 141 Saco Ave., MBL: 311-1-10, GB2 District</p> <p>Jeffrey Hinderliter stated that back in 2012 this proposal came before the Planning Board to resume the overnight cabin use and the Board granted that approval under section 78-180. The cabins were not resumed at that time. The use did not change and there have been some changes to the lot. The ownership has been transferred to a new entity and they are now proposing to resume the use for overnight cabins, which is a specific land use according to our codes. It was last used from 2002-2004 according to business licensing.</p> <p>With the Planning Board’s 2012 approval, it was extended another 10 years to resume. Both codes and planning have been working very hard with the new owners to make improvements to the site. This being a very visible location to Old Orchard Beach, it is very important to get these improvements completed. At the previous Planning Board workshop, there were a number of concerns and comments that the Planning Board had which was forwarded to the applicant.</p> <ol style="list-style-type: none"> 1. Concerns primarily associated with the curb cut location at Union St. 2. Building design plan. 12 overnight cabins (which is the maximum allowed) as opposed to 15 cabins. 3. Planning Board felt that the number of conditional use compliance standards needs to be further addressed on the plans. i.e. screening, 	<p style="text-align: center;"><u>ITEM 5</u></p>

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buffering and drainage.

4. Surface material for the parking lot, something other than grass.

The applicant submitted an amendment to address these comments. This is being proposed as an amendment to the 2012 application. The Planning Board has several options with this, but what is most important is when the Planning Board makes a ruling, they must find that with this new proposal, the impact and effects of this amendment and a resumption of the overnight cabin use will not be substantially be different from or greater than the impact and effects of the non-conforming use before the proposed enlargement expansion, resumption or conversion. What is important to recognize with this is to be thinking of the potential impacts of this 2015 amendment compared to the 2012 amendment. The primary difference is that the 2012 had individual cabins and also had some of the parking located in the area that is now identified for the proposed parking and more parking in the front of Saco Ave. With 2015 amendment, they are combining the 9 units into 3 buildings and reconfiguring some of the existing grandfathered structures and concentrating on parking on the lower end of the lot with access from Union St. They are multi-unit buildings as compared to individual overnight cabins. The Planning Board should determine:

1. Do they have enough information to provide a proper review and ruling?
2. Does the Planning Board feel public hearing is needed?
3. Does the Planning Board feel a site walk is necessary?
4. If the Planning Board feels comfortable with the proposal as submitted, they could vote on it this evening.

Pierre Bouthiller introduced himself to the Board Members and provided the members a plan of the property.

Chair Weinstein was asked about the common space between units 2/3 & 8/9 that looks like it is a separate unit with a kitchen and bathroom.

Mr. Bouthiller stated that this is a requirement for the J-1 students who may require an extended stay. Mr. Hinderliter added that they have their own design criteria for that type of use.

From legalistic Planning Board standards, Chair Weinstein would like to get clarification whether this is considered another unit or not. According to our ordinance they are limited to 12 units.

Mr. Bouthiller stated that part of the season these cabins will be used for the J-1 students and the rest of the year they will use them for tourist and longer stay winter rentals and also use some of the % for year round rentals.

They are proposing compacted stone dust on the lower lot which will be

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restricted for the use of cottages and employees.

Chair Weinstein would like to have a rain water run off plan in writing from an engineering standpoint so that there is no adverse effect on the neighbors.

Mr. Hinderliter is concerned that the engineering on drainage and added that the run-off is the most critical part and Planning Board could tie that into a condition if they so choose to. Mr. Hinderliter stated that without the Planning Boards approval tonight, the 5 units that were grandfathered by code (1,4,5,6 & 7) can still be worked on because these are not part of the proposal.

Mark Koenigs asked about the curb cut on Union Ave.

Mr. Bouthiller had spoken initially with the former Public Works Director and he indicated that as long as it is 100' off the tangent of the intersection that it wouldn't be a problem. Then they looked up the requirements in the ordinance and need to be at a minimum of 100'. They are at 105' presently to opening portion of that curb cut, which is a 26' maximum allowable under the ordinance.

Mr. Koenigs asked under its current alignment are they were going to change the traffic plan that's in place.

Mr. Bouthiller stated that they were not going to change. There will be restriction for that lower lot for the cottages and employees and there will be signage accordingly.

Mr. Koenigs suggested that a higher quality site plan from an engineer be made that includes all of the features including a layout of the parking lot, property lines, curb cuts, signage, etc. Mr. Koenigs also asked about a stub on their property for the sewer and Mr. Bouthiller stated that they need to go straight out 10' into the street.

The sewer lines are internal and there is a new catch basin/manhole for the new structures. This wasn't part of the current approval however they will be doing it to code.

Mike Fortunato asked If there will be any fencing or shrubbery along Saco Ave. They intend to have a 6' – 7' Hemlock line along Saco Avenue on the side of unit #1.

There was discussion back and forth between the Planning Board and the applicant on whether or not this requires an engineered plan.

Amy Bates, one of the owners of the property wanted clarification if it was an engineer or architect who originally designed the plans/drawings? She also stated that they do not have the funds to hire an engineer and their goal when they bought the property was to improve the condition of the property, increase sales and make it look better for the community, and for them to make some money.

Mike Fortunato stated that he is still not sure about the run-off problem because of the change in the locations of the buildings.

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<p>Chair Weinstein mentioned that he had received a letter from a lady who was questioning the proposal to locate a solid waste facility for transferring solid waste downtown. She left her name and phone number if any of the Planning Board Members would like to contact her.</p>	<p>Other Business</p>
<p>Mark Koenigs was following up on the outcome of the stumpage/eyesore that is located at the new Fielders Choice ice cream location. Any plans to be cleaned up? Jeffrey Hinderliter stated that he will follow up on this and get back to the Planning Board.</p>	<p>Good & Welfare</p>
<p>Adjournment at 9:20pm</p>	<p>Adjournment</p>

I, Valdine Camire, Administrative Assistant to the Planning Board of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of nine (9) pages is a true copy of the original minutes of the Planning Board Meeting of June 11, 2015.

Valdine Camire

To: Old Orchard Beach Planning Board
Date: June 11, 2015
From: Janet Rome and the Rome family
Re: Proposed Duplex at 2 Puffin Street

My name is Janet Rome. My family owns the home at 4 Durocher Street, directly across the street from 2 Puffin St. As abutters, my family is very opposed to this project.

Our house was the first one built on Durocher St., way back in the 1930's. We have a 2-story house. It started as a single-story house and a second story was added in 1976. We are now in the fourth generation of our family enjoying our home there. We have a nice view of the ocean and the beach from the second story of our house, which are bedrooms facing East. Everyone knows that a house with a water view is worth more than a house without a water view. If this project at 2 Puffin St. is allowed to proceed, then we will lose our ocean and beach view. In addition, our living room and kitchen will never get sunlight, as a 45' tall building will block the sun and we'll be in the dark all the time. The sun rises in the East. A 45' tall building will throw a shadow over our house. We will lose the breeze that comes into our kitchen, via the space between those two cottages. Instead of a view of the ocean, we'll be looking at the side of a building and two more cars. How would you feel in our shoes?

We have the most to lose, of all the abutters. Years ago, a giant house went up behind ours. At the time, we did nothing to stop it. We deeply regret that inaction. We don't want what happened behind us to now happen in front of our noses. It'd be even worse.

In the OOB Building Code, Sec. 78-1181 under Relocation: (2), it states:
"In no case shall as structure to be relocated in a manner that causes the structure to be more non-conforming. In determining whether the structure relocation meets the setback to the greatest practical extent, the planning board should consider the size of the lot, the slope of the land, potential for soil erosion, the location of other structures on the property and on adjacent properties."

This project will have a great adverse impact on our house, both from a financial point of view, as our house will be greatly devalued from the loss of view and loss of sunlight, and, from an emotional point of view, as our enjoyment of our property will be severely diminished, which is completely unfair to us.

There are two homes on Durocher St. that have been built up to 45' tall. Both of them are on the corner of Durocher St. and East Grand Ave, and did not obliterate or detract from any neighbor's existing ocean view. The fact that the Weinstains are totally disregarding their neighbor's existing enjoyment of their current status shows me that they care about nothing but their own financial gain. It'd be one thing if they needed to build a place to house their families to live, but this is being done only for monetary profit. No one benefits from this except the Weinstains, not us or our neighbors, most of whom have been there for decades longer than t a reason to destroy a neighborhood.

When King Weinstein began his presentation at the site walk last Thursday, he began his talk with, "These cottages have outlived their usefulness." I beg to differ. Our house is just as old as their house, yet, our house has not "outlived its usefulness". Every summer we come up and every summer, those cottages are rented. Those cottages are functional and serviceable. The only reason that the Weinsteins want to tear them down and build a 45' tall duplex is that they're not happy with the amount of rent money that they're getting. Again, greed is not a good reason to destroy a neighborhood.

In the Amendment to the OOB Zoning Ordinances re: Shoreland Zoning, Page 12 of 51 in Section 78-2, under "Purpose" (b), "Chapter is designed to:", there is a list of 23 different items, listing the "mission" of the rules. The Planning Board needs to honor their commitment to upholding the intent of these guidelines. Some of the 23 that apply in this situation are as follows:

- #1 - Encourage the most appropriate use of land throughout the town. (This 45' tall building is not an appropriate use of such a small lot.)
- #3 - Promote public safety. (Puffin St. and Durocher St. is a bad busy corner in the summer. The corner of our road was taken off by a truck a few years ago when the truck made the right too sharply. In the summer, there are kids on skateboards and bikes coming quickly around the corner.)
- #4 - Provide adequate light and air. (What about our light and air?)
- #5 - Prevent overcrowding of real estate.
- #16 - Control building sites, placement of structures and land uses.
- #18 - Conserve natural beauty and open space.
- #23 - Anticipate and respond to the impacts of development in shoreland areas.

The Planning Board has a duty to protect the rights of existing homeowners and landowners. My family and I want to preserve the benefits that we now reap from having our house at the beach. It's not all about getting tax money for OOB. I hope that you will respect the job that you volunteered to do, and represent the interests of the abutters as much as you do the building developers.

Sincerely,

Janet Rome and The Rome family